

# MINUTES

## MEETING OF THE BOARD OF EXAMINERS

April 3, 2012

The Board of Examiners met on Tuesday April 3, 2012, in the Guinn Room on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 10:00 a.m. Present were:

### **Members:**

Governor Brian Sandoval  
Attorney General Catherine Cortez Masto  
Secretary of State Ross Miller  
Clerk Jeff Mohlenkamp

### **Others Present:**

Dave Prather, Department of Health and Human Services, Mental Health and Developmental Services  
Mark Teska, Department of Public Safety  
Tracy Larkin Thomason, Department of Transportation  
Dennis Taylor, Department of Transportation  
Jeff Menicucci, Attorney General's Office  
Charles Duarte, Department of Health and Human Services, Health Care Financing and Policy  
Pete Anderson, Department of Conservation and Natural Resources, Forestry  
Jim Wells, Public Employees Benefits Program  
Roger Rahming, Public Employees Benefits Program  
Dennis Gallagher, Attorney General's Office  
Richard Nelson, Department of Transportation  
Pierre Gezelin, Attorney General's Office  
Donna Lopez, Public Employees Benefits Program  
Megan Sloan, Public Employees Benefits Program  
Ana Andrews, Department of Administration, Risk Management  
Maureen Martinez, Department of Administration, Risk Management  
Lt. Col. Rick Blower, Office of the Military  
Jennifer McEntee, Office of the Military  
Susan Hart Office of the Controller  
Carolyn Misumi, Department of Taxation  
Leo Drozdoff, Department of Conservation and Natural Resources  
Mike Willden, Department of Health and Human Services  
Tracey Green, Department of Health and Human Services, Mental Health and Developmental Services  
Haydee Meeker, Office of the Controller  
Gina Session, Attorney General's Office  
Matthew Furedy, Department of Transportation  
Steve Hill, Governor's Office, Economic Development  
Mike Skaggs, Governor's Office, Economic Development

Tom Wilczek, Governor's Office, Economic Development  
Bill Chisel, Department of Taxation  
Brody Leiser, Department of Taxation  
Clark Leslie, Attorney General's Office  
Mike Torvinen, Department of Health and Human Services  
Tina Gerber-Winn, Department of Health and Human Services, Aging and Disability Services  
Lynn Carrigan, Department of Health and Human Services, Health Care Financing and Policy

**PRESS**

Geoff Dornan, Nevada Appeal  
Sandra Chereb, Associated Press  
Ed Vogel, Las Vegas Review Journal  
Sean Whaley, Nevada News Bureau

## 1. PUBLIC COMMENTS

### Comments:

**Governor:** Good morning, ladies and gentlemen. I'd like to call this Board of Examiners Meeting to order. Can you hear us in Las Vegas?

**Female:** Yes, we can.

**Governor:** Perfect. We will begin with Agenda Item No. 1, Public Comment. Is there any member of the public who would like to provide public comment to the Board here in Carson City? Is there anyone present in Las Vegas that would like to provide public comment? No?

**Female:** No.

**Governor:** Okay. Thank you. Before we take on Agenda Item No. 2, Mr. Mohlenkamp, I understand that you want to make a comment with regard to the consent agenda.

**Clerk:** Thank you, Governor. Yes. A couple meetings ago, you had requested that we look at moving to a consent agenda to try and appreciate the time spent here, or the time that doesn't need to be spent here by the executives of the state. In doing so, we issued a policy directive, which is essentially an all-agency memo on March 27. So I wanted to make sure that everyone is aware of that. The goal behind this is to make sure that those people that do not need to be here to provide testimony can come -- it's optional, you can still come, but you're not gonna be spending time here unnecessarily. So the process is delineated in the memo, but basically the Board members provide to me a listing of items that they want to have testimony on. We will then convey that to you so you'll know in advance of the meeting whether you need to be here or not. It's a pretty straightforward process. The agenda will still go as we normally do it, but that process is in order to make sure that people that are not required to be here have an advance notice of that. So thank you.

**Governor:** So, Mr. Mohlenkamp, for everyone's benefit that's here, no news is good news in terms of not having to attend?

**Clerk:** Yes, absolutely. In order for us not making 50 unnecessary calls, we will only be contacting you if you need to appear. So if you don't receive a call and an email, I've asked for both an email and a call, then you can rest assured that you're not supposed to be here. Board members clearly have the ability to make last minute decisions, and if that's the case then we will obviously notify you at the last minute if that's necessary, but that's the way the process would generally work.

**Governor:** All right. Thank you very much.

## \*2. FOR POSSIBLE ACTION – APPROVAL OF THE MARCH 13, 2012 BOARD OF EXAMINERS' MEETING MINUTES

**Clerk's Recommendation: I recommend approval.**

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

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**Comments:**

**Governor:** We move on to Agenda Item No. 3, Mr. Mohlenkamp.

**Clerk:** Governor, did you want to approve the minutes on Item 2 first?

**Governor:** I apologize. Moving too quickly. Members of the Board, have you had an opportunity review the minutes of March 13, 2012?

**Attorney General:** Yes.

**Governor:** Any changes or deletions?

**Attorney General:** No.

**Governor:** The Chair will accept a motion for approval.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** There's a motion by the Attorney General for approval of the Meeting Minutes of March 13, 2012, a second by the Secretary of State. Any questions or discussion the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

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

**A. Department of Taxation – \$117,150**

Pursuant to Senate Bill 493, Section 16.7 of the 2011 Legislature, the Department of Taxation must submit mining claim refund requests to the Board of Examiners for approval. The Department is requesting authority to pay four refund requests totaling \$117,150.

**Clerk's Recommendation: I recommend approval.**

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

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**Comments:**

**Governor:** Agenda Item No. 3, Mining Claim Refunds. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board is yet another round of claims through the Department of Taxation, a payment of mining claims totaling \$117,150. This brings the total claims to \$16,927,788. So we're getting near the end of this. The max available is a little over

almost \$18.2 million. So we're getting close to the end of this. Of course, it could trickle in for quite a while, but as far as the dollar volume.

**Governor:** Thank you, Mr. Mohlenkamp. Any questions from Board members?

**Attorney General:** Mr. Mohlenkamp, just remind me again, is there a timeframe within which they have to petition for the refunds?

**Clerk:** Yes, there is. Through the end of the biennium they can make the requests, and then at the end of fiscal year 2013, they can no longer make requests.

**Attorney General:** Thank you.

**Governor:** The Chair will accept a motion for approval of the mining claim refund requests in the total amount of \$117,150.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** The Attorney General has moved -- made a motion for approval. The Secretary of State has seconded. Are there any questions or is there any 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. Department of Transportation – Administration – \$13,585,417.81**

The Nevada Department of Transportation (NDOT) is requesting settlement approval in the amount of \$13,585,417.81 as compensation to Ames Construction, Inc., for delays and extra work, due to alleged contract delays and plans and specification deficiencies related to a portion of the Carson City Freeway from 5<sup>th</sup> Street to East Lake Boulevard (Phase 1B). Both parties desire to avoid the cost and inconvenience of continued litigation and mutually settle any and all claims without admission of liability or fault. Upon approval of this settlement and payment to Ames, the parties will jointly file with the Carson City District Court all pleadings necessary to dismiss with prejudice the Lawsuit and all claims, counterclaims, and causes of action associated with this matter.

**Clerk's Recommendation: I recommend approval.**

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

**Comments:**

**Governor:** We will move on to Agenda Item No. 4, which is approval to pay a cash settlement with regard to the Department of Transportation in the sum of \$13,585,417.81. Is there a representative here? Good morning.

**Rick Nelson:** Good morning, Governor and members of the Board. For the record, my name is Rick Nelson. I'm the Assistant Director of Operations for the Department of Transportation.

**Pierre Gezelin:** Good morning, Governor and the Board. My name is Pierre Gezelin. I'm the Deputy Attorney General representing the Department of Transportation.

**Governor:** Will you provide a history and a summary and what's led to this settlement, please?

**Rick Nelson:** Yes. The settlement is regarding Contract No. 3154, which was a project to construct a portion of the Carson City freeway on the north end of Carson from U.S. 395 to Highway 50. The bids were opened and awarded on July 17 of 2003. We had six contractors and Ames was the low bidder. The first date for work was September 15 of 2003. And as the project got started, there was a desire from the Department of Transportation's point of view to complete the southern end of the job first as quickly as possible to allow for subsequent contracts to commence. And part of that project required the relocation of utilities by Carson City. Those utilities had to be relocated out of the way in order for our contractor to come in and perform their work. And there were delays in those utility relocations that caused a delay to our contractor. We tried to work around that as best we could through some resequencing of work, through some additional payments that were made to the contractor in order to allow them to move forward. However, it came to be that those weren't sufficient in the eyes of the contractor.

There were also some other issues that cropped up during the project that we had discovered at a later date, and that had to do with the way the contractor had proposed to obtain his material sources and sequence his work, which worked towards the contractor's disadvantage as well. As much as we would hate to say it, job management became an issue. There was quite a bit of turnover that took place on this job, both from the contractor's point of view, they changed project managers several times, and of course each time a new project manager comes onboard they've got different ideas about how they'd like to see the work prosecuted. Our resident engineer retired midway through the job, and so we had to make some adjustments there.

There were several disputes that arose on the construction project that were handled traditional means, (inaudible) escalation ladder. We did impanel a dispute resolution team to handle more significant disputes. And there were two disputes that were heard from by the dispute resolution team and resolved during the course of the contract. After the completion of the contract, and the contract was open to traffic, Ames submitted to us notice that they were in fact preparing a global claim, sort of a total cost claim. They did lose money on the job. But bearing in mind that this is a low bid job, and, you know, we're bound by the unit prices that they bid, nevertheless, they put us on notice that they were going to be submitting to us a claim in the \$20 million range. They had made an appointment to come actually deliver the claim to us and canceled at the last minute. This was about a year later. They indicated to us that they would be actually coming back and delivering a claim to us about six months after the initial appointment was made, when in fact they never showed up and in fact we were served with a lawsuit. So they

skipped around the administrative remedies that were available to them and they went straight to court.

And so through the process of litigation and discovery and so on, we had tried to negotiate with Ames, with the construction company, but it becomes it becomes very difficult when we're in this adversarial relationship in court to have any meaningful discussions, but nevertheless we did. We worked at the staff level to try to close out the project, to come to resolution on the quantities as best we could as we went through the process. However, Ames refused to sign any change orders to actually, you know, reach an accord and satisfaction with those issues. We paid them unilaterally anyway because we knew we owed them the money, and we did in fact close out the contract.

Through the discussions with Ames, we decided that it would be to everyone's mutual benefit if we did try to employ some kind of alternative dispute resolution mediation, and we agreed upon a mediator. Ames had recommended this particular mediator and we agreed to use them. In order to prepare for mediation, we agreed with Ames that we would do some limited discovery and that we would exchange expert reports. As happens so much of the time, two sets of eyes are looking at the same problem only differently, and we believed that the exchange of these expert reports would go a long ways toward making the mediation successful. At the end of February we did mediate. We mediated for two days with Randy Wulff who is located in Oakland, and we were able to reach an agreement with Ames pending approval by the Board of Examiners in the sum of \$9.8 million plus interest. The interest is \$2.8 million, which is required by NRS. I believe it's NRS 99 point something.

**Pierre Gezelin:** 040.

**Rick Nelson:** 040. And so in order to resolve this matter completely to put the lawsuit to bed and to put this to bed, we're requesting the Board of Examiners' approval to make this settlement payment.

**Governor:** And I appreciate that's a great history. Now, at this juncture, why is this a good result for us? Why should we approve this settlement?

**Rick Nelson:** When Ames made their initial notification to NDOT, they had estimated their global claim to be in the \$20 million range. When the lawsuit came, of course there was no number in the lawsuit, but Ames had requested to us to submit their claim to NDOT. And while we weren't compelled to accept that claim because they had jumped over the administrative remedy, we thought it was a good piece of strategy to see what their claim was. And when that claim came in, it was just shy of \$40 million. Now, when we went to arbitration, that \$40 million claim had grown to about \$48 million with the interest. And then secondly, in examining their expert reports, they actually lost \$18 million. That was hard money that they had lost in executing that work. They had spent about \$6 million in legal fees themselves pursuing this matter, so they were out hard cash about \$24 million. So, you know, I believe the \$13.7 compared to the potential exposure should we have gone to court of \$48 million and growing because of interest does in fact reflect a good position on this case.

**Governor:** And the other piece of that is -- and this is something that came up at Board of Transportation, is the amount of attorney's fees. And we have expended \$5-plus million in attorney's fees in this case, and this will be a question for later, but we also approved another million in the event that this case was not resolved during mediation. But had we gone to trial, how much more in attorney's fees could we have possibly incurred?

**Rick Nelson:** Well, that was one of the questions the mediator posed to us when we were mediating. And just sitting around, we believed it would probably be another 2 to \$2.5 million should we take it all the way to trial.

**Governor:** And we've expended out a certain amount. Have we gotten into that amount of money that was approved by the Board of Transportation for future attorney's fees, or are we still within that initial budget?

**Pierre Gezelin:** Well, within that budget there have been expended about 800,000 of that. There was an additional million I think that -- no, 600, excuse me. I think it was 600.

**Governor:** So we're another 600 into that million that we approved, or are we...

**Pierre Gezelin:** No. I think that the total amount is what, 5...

**Rick Nelson:** 5.9.

**Pierre Gezelin:** 5.9, and that includes the amount going to the mediation.

**Governor:** Okay. And today is not the day. I still have my concerns about the amount of attorney's fees that we've expended, especially considering in here that there was limited discovery conducted in terms of depositions, although there was a review of a million pages of documents. I understand that piece of it and I understand the expert costs, but that seems like a lot of money to me. But in any event, I don't have any further questions for now. Board members, do you have any questions?

**Attorney General:** Just one follow up, in the memo you cite to that NDOT actually analyzed the claim and determined that Ames provided justification to support payment of approximately 3.5 million, and that NDOT further found approximately 8 million of additional claims that could possibly be supported with additional justifications. So the amount we are paying out is technically what we found they probably were owed and what we claimed over the years that we would be willing to pay them; is that correct?

**Rick Nelson:** That is correct. And because we can justify that amount, if the Board of Examiners approves this settlement, we will be advancing this to the Federal Highway Administration and a request that we're able to use federal funds for this.

**Attorney General:** Sure. And then finally, at the end of the day, although hindsight is 20/20, and, sure, we would have loved to have decrease the time we spent in litigation, it requires both parties to be able to want to do so, and can you kind of talk to us a little bit about the defendants?



Were they willing to come to the table sooner? Were they willing to negotiate with us prior to -- earlier? Or was this something that was just protracted because we couldn't get both parties to the table to agree?

**Rick Nelson:** I had several personal communications with the area manager with Ames. We actually put together one meeting with the director and without the attorney's present. And during that meeting Ames was resolute of their \$40 million claim. We thought we were coming together to begin some rooms for negotiation, so maybe we could move this thing forward without litigating, and Ames would not budge. The fact that we were trying to resolve these quantity issues and so on by change order, which they refused to sign, further goes to that, that it wasn't until, you know, the mediation that they finally began moving on that. So we had had several meetings in an attempt to try to resolve this earlier, but Ames wouldn't move.

**Attorney General:** Thank you.

**Governor:** Secretary, do you have any further questions? And I've reviewed the Settlement and Release Agreement, but I just want to ask you, we're done, correct? There's a full Release of All Claims and in terms of this project we're completed with regard to litigation?

**Rick Nelson:** We will be completely done.

**Governor:** All right. Thank you very much. Board members, any further questions with regard to Agenda Item No. 4? Chair will accept a motion to approve to pay a cash settlement in the sum of \$13,585,417.81 to Ames Construction, Inc.

**Attorney General:** Move for Approval.

**Secretary of State:** Second.

**Governor:** There's a motion for approval by the Attorney General, a second by the Secretary of State. Are there any questions or further discussion on the motion? Hearing none, all in favor of the motion, please say aye. Motion passes. Thank you, gentlemen.

**\*5. FOR POSSIBLE ACTION – REQUEST TO WRITE OFF BAD DEBT**  
**NRS 353C.220** allows agencies, with approval of the Board of Examiners, to write off bad debts deemed uncollectible.

**A. Office of the Controller on behalf of the Department of Health and Human Services – Health Care Financing and Policy – \$1,174,170.73**

The Office of the Controller is requesting authority on behalf of the Division of Healthcare Financing and Policy (DHCFP) to write-off debt totaling \$1,174,170.73. All of these accounts represent debts incurred prior to March 2008, past the four year statute of limitations for collections pursuant to NRS 353C.140 and have been deemed uncollectible.

**Clerk's Recommendation: I recommend approval.**

**Comments:**

**Governor:** We'll move on to Agenda Item No. 5, Request to Write Off Bad Debt. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board, the Office of the Controller is requesting authority on behalf of the Division of Healthcare Financing and Policy to write off debt totaling \$1,174,170.73. In the write-up you'll see that the four-year statute of limitations has expired, and they've made all the efforts they can to collect this. I believe it's no longer collectible at this point.

**Governor:** I do have one question with regard to this item. Is there somebody here from Health and Human Services? Good morning.

**Charles Duarte:** Good morning, Governor. For the record, Charles Duarte. I'd be happy to answer any questions, and with me is my Chief Financial Officer, Lynn Carrigan.

**Governor:** Good morning and thank you. I'm sure you know what question is coming. The one that jumps off this page is there's one provider that was paid \$1,164,210, Love and Care, Inc., and those were overpayments; is that accurate?

**Charles Duarte:** Governor, actually what those were, those were advance payments associated with problems that we had in 2003 with the implementation of a new claims system. In October of 2003, a new fiscal agent who was administering our claims system implemented a new claims engine for us, and there were some significant problems with payments to providers that continued for approximately six months. Some providers, like Love and Care, and there were others, were providing services and were unable to get their claims adjudicated by the system. And so we were put in a position of having to basically support them with advance payments in order to keep their doors open and their employees working. The services that Love and Care provided, these are in-home services to individuals who have problems with basic activities of daily living, bathing, grooming, dressing, et cetera, that keeps them out of nursing homes. And so in order to keep their employees working and serving these clients in their homes, we needed to provide them with these cash advances. The goal was that as the system came online and was able to adjudicate these claims, that this balance that we had associated with advanced payments would be reduced. As each claim paid, we would actually keep the money and reduce the debt associated with these advance payments.

What happened with Love and Care specifically is that they were providing services, and we had systems in place to make sure that was occurring, but they were hit with an IRS lien for non-payment of the 971 taxes, their employment taxes, and that was over a million dollars. We believe that that promulgated the filing of the Chapter 7 bankruptcy in 2004, and we were one of the debtors that were listed for that bankruptcy. After 2004, we worked with the bankruptcy Trustee, representatives from the Attorney General's office, representatives from our fiscal agent, First Health Services, and my staff worked with the Trustee for as long as possible to try to get claims in to reduce the debt, and what you see here is the remaining balance that we

weren't able to write off associated with the claims. What happened was the Trustee could no longer afford to pay for a biller or an accountant, and so basically they were unable to file any further claims to write down this debt. So this is what's remaining, and we do need to write this off.

**Governor:** Do we have all the systems in place now so we're not making these advance payments?

**Charles Duarte:** For the record, Charles Duarte. Our claims systems are working. We went through a major system conversion. There are some issues. We do make occasional advance payments, but in terms of the scope of what occurred back in 2003, the scope of problems that we had were far, far greater than anything we've experienced subsequently, and so, you know, the volume and type of advanced payments we make are far, far fewer and smaller.

**Governor:** No. And I agree. I mean, when I look at the spreadsheet that you have, most of these are in the hundreds of dollars versus a million dollars. There is a reference in your memo though with regard to Las Vegas Kidney Clinic for over \$3 million.

**Charles Duarte:** Again, for the record, Charles Duarte. We are going to be bringing forward another write-off I believe at the next Board of Examiners meeting. Las Vegas Kidney Clinic does have an uncontested balance that we transferred to the controllers in March of 2011. I believe at the time it was \$3.4 million, and it is currently 3.3. What occurred there was, there was a legislative audit in 2007 that focused on both national and independent providers in Nevada of kidney dialysis services, a very high-cost service. And as a result of that audit, we did subsequent reviews and audits of almost all the providers and found and substantiated that the LCB findings were indeed a problem in terms of many of these providers improperly billing Medicaid. It was reviewed by the Attorney General's office. There was no fraud involved, but we did enter into a lot of activities with some of these national companies, as well as independents like Las Vegas Kidney Clinic, to recover overpayments for improperly billed services.

And in the case of Las Vegas Kidney, what happened was, in the timeframe from 2008 forward, the marketplace had changed. A lot of national chains are buying out companies in Las Vegas, these dialysis centers, their patient base shrank, and so we had them on a payment plan, a repayment plan for this, but their ability to repay us diminished as their patient base shrank. And so they met with us as well as the Controller's office last year, starting last year, and the options presented to us were either they file bankruptcy or we enter into some sort of settlement agreement. At the time we believed that -- I believed that it was a good idea for us to discuss settlement with them through the Controller's office. And what they presented to us was a settlement contract which the Controller's office is primary on. We are a third-party signer on this. But essentially it's a contingent contract on the sale of the clinic to a national chain, and we hope to get 1.5 million recovered as a result of that. We view that as better than a sharp stick in the eye, the bankruptcy option. So that settlement agreement is in place. We are waiting for the sale of the contract. I don't know if you want to add anything to that.

**Haydee Meeker:** Good morning, Governor. Good morning everybody, the members of the Board. So this is Haydee Meeker of the Controller's office. We are planning to receive about \$1.5 million probably in the next couple four months. We don't know exactly when, but, yeah, the settlement is already signed by the Controller's office, by the agency and by the AG's office.

**Governor:** But we -- and that's great news by the way. Thank you. What we need, is that going to be on an Agenda because of that FMAP issue, so that if we -- I guess my question is this. If we approve this to write that off and later on you're able to recoup that money, where does that put us?

**Lynn Carrigan:** Lynn Carrigan for the record. We are writing this off because we have an agreement with CMS that we are going to clear all of our unclaimed debt by July 1, 2012. If the debt is truly uncollectible, as these debts have been deemed to be, then we are no longer responsible for the federal share. That makes it imperative for us to write off the Las Vegas Kidney debt prior to June 30, 2012. If subsequently we collect on that money, then we will split the recovery with the federal government in accordance with the FMAP that was in place at the time the debt was incurred.

**Governor:** Thank you. Great presentation. Any further questions from Board members? Thank you very much. The next item is Office of the Military in the sum of \$46,284.

**Secretary of State:** Governor, do you want to take a motion on Item No. 5?

**Governor:** Oh, yes, I'm sorry. I keep moving around. Chair will accept a motion with regard to Agenda Item No. 5, the request to write off bad debt in the sum of \$1,174,170.73.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** There's a motion by the Attorney General for approval, a second by the Secretary of State. Any questions or discussion on the motion? Hearing none, all in favor of the motion, please say aye. Motion passes.

**\*6. FOR POSSIBLE ACTION – REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE CONTINGENCY FUND**

Pursuant to NRS 353.268, an agency or officer shall submit a request to the State Board of Examiners for an allocation by the Interim Finance Committee from the Contingency Fund.

**A. Department of Conservation and Natural Resources – Division of Forestry – Fire Suppression Account – \$2,199,387**

The Nevada Division of Forestry is requesting an allocation of \$2,199,387 from the Interim Finance Committee's Contingency Fund to cover claims that pertain to expenditures incurred in

the Forest Fire Suppression account. This allocation will provide sufficient funding for estimated emergency response costs for the remainder of this fiscal year.

**Clerk's Recommendation: I recommend approval.**

**Motion By:**

**Seconded By:**

**Vote:**

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**Comments:**

**Governor:** Go back to Agenda Item 6A, Department of Conservation and Natural Resources, Division of Forestry. Good morning, gentlemen.

**Pete Anderson:** Good morning. Pete Anderson for the record, State Forester, Nevada Division of Forestry. Today we're here requesting an allocation of \$2,199,387 from the Interim Finance Committee's Contingency Fund to cover expenditures from our fire emergency account, as well as estimate costs between now and the end of the federal fiscal year -- or state fiscal year, excuse me. So I'd be happy to answer any questions you might have.

**Governor:** My question is backing up to the Collin and the Washoe Drive fires. We are in the process of seeking FEMA reimbursement, correct?

**Pete Anderson:** That's correct. We actually had four FEMA fires this past year.

**Governor:** So given that's part of the reason why you need to request this money now is because of the money that was used to suppress those fires, and when that FEMA money comes back, that will be helpful in this budget account?

**Pete Anderson:** The Division actually had state lands burn in the Washoe fire. No state lands were burned in the Collin Ranch fire, although we are the sub-grantee for city of Reno and Washoe County, so the FEMA grant for Collin will actually go straight through to those local governments. The other fire that the state experienced losses on was up in Elko County, and that was the Indian Creek Fire, and happened earlier in the year. So we'll be expecting a (inaudible) dollars on both of those events.

**Governor:** But otherwise, hopefully this will cover you for the rest of the year, correct?

**Pete Anderson:** For the rest of this state fiscal year is our estimate, between now and the end of the state fiscal year. It's difficult because our fire seasons overlap two fiscal years each summer, but we will then start fiscal year 2013 with a \$2.5 million infusion plus our carry over.

**Governor:** And I know that it's an inexact science, but given the climate conditions, there's a higher fire concern moving forward for the rest of the year?

**Pete Anderson:** Yes, Governor. It's one of those years that's definitely going to be challenging, I'm afraid. If you look back, we're very cyclic, between wet years and dry years, and we're coming off a very wet last year that produced a lot of fuels, fine fuels particularly grasses, and those have dried and cured as you have seen throughout the course of the last few months. We're actually suppressing fires every month this year, and continue to, so

unfortunately it does look like we're gonna be very busy this summer depending upon what the weather does bring.

**Leo Drozdoff:** Governor, Leo Drozdoff for the record. I would just add to that, that we've had, if you would, two or three what I would call sort of smaller or less expensive fire seasons. But if you go back to '07 and '08, we've had fire seasons where the cost greatly exceeded what was in the suppression account, maybe four or five times as high. And so really this is a forecasting tool taking a look at the estimates from those kinds of years and the conditions in those kinds of years, and it's a forecasting tool to make us ready.

**Governor:** Thank you. And I have no further questions, but I did want to publicly compliment you, Pete, on the job that you've done in these past fires where I've seen you in action, and I know you're doing this year round, but it's quite remarkable the job that you've done and I appreciate it.

**Pete Anderson:** Well, thank you, Governor. It's a credit to our employees. They do a fantastic job.

**Governor:** Questions from other Board members? Thank you, Gentlemen.

**Pete Anderson:** Thank you.

**B. Office of the Military - \$46,284**

The Office of the Military is requesting an allocation of \$46,284 from the Interim Finance Committee Contingency Fund to provide for projected utility expenditures for the remainder of the fiscal year.

**Clerk's Recommendation: I recommend approval.**

<b>Motion By:</b>	<b>Seconded By:</b>	<b>Vote:</b>
<hr/>		
<b>Comments:</b>		

**Governor:** Okay. We will move on to Agenda Item No. 6. And because the military has taken the table, I'll skip from A to B, but I'll ask Conservation Natural Resources to come back after that. Mr. Mohlenkamp, do you have any preliminary comments?

**Clerk:** Thank you, Governor. The Office of the Military is requesting an allocation from the IFC Contingency Fund of the amount of \$46,284, and this is to address a shortfall in their ability to cover their utility bills.

**Governor:** Good morning.

**Jennifer McEntee:** Good morning. Governor and members of the Board, for the record I'm Jennifer McEntee, the Administrative Services Officer of the Office of the Military. I'm accompanied by Lieutenant Colonel Richard Blower, the Staff Judge Advocate, and Lieutenant

Colonel Clayton Chappell, the Construction Facilities and Maintenance Officer from the Nevada National Guard. Thank you for hearing our request today.

**Governor:** And my question is this. Taken straight from your memo, the solar generation is currently more expensive than purchasing power from the utility companies and has increased the cost of electricity at these sites. So right now it's costing us more to operate this project and we're short \$46,284. I understand that. I guess what I'm concerned about is how is this going to go in the future? Is there going to be repeat requests that this continues on this path in terms of the costs of generation?

**Jennifer McEntee:** One really good thing about this is we know our pricing for the next 20 years under this contract, so we did not have production data. It didn't go into effect until January of 2011. So now we have one full year of data, so we know what to anticipate and we're closely monitoring and it'll be included in future budget requests.

**Governor:** Is it going to continue on this? So when you say budget requests, are you going to be asking for more money to essentially make up that difference between the cost of generation and the purchase power cost?

**Jennifer McEntee:** The cost currently is more for the solar than what we would pay commercially. And initially with the RFP process, it was anticipated that utility rates would increase and that we would have an earlier break-even point. That has not happened, so I would anticipate that we're going to pay more, at least the next couple years, until the commercial rates increase.

**Governor:** But you're still banking on commercial rates increasing. If they were to stay flat, then we'd be upside down on this contract for an indefinite period of time?

**Jennifer McEntee:** That's correct.

**Governor:** Is there an option to turn it off?

**Jennifer McEntee:** There is not an option to turn it off. There are some other options such as purchasing the equipment itself after a certain period of time, and we could certainly explore that if it continues to go with the utility rates going down where it looks like we're paying a lot more for electricity than we need to. But the purpose behind it was to get off of the grid-based energy, and so we were really a pioneer in that, and we were able to get off the grid almost 100 percent at these locations.

**Governor:** No. And I'm not being critical of that policy part of it, but it was also contemplated at the time we entered into the contract that we wouldn't be upside down like this.

**Jennifer McEntee:** Right. The break-even point was anticipated to be much sooner.

**Governor:** So when you say budget-wise, so that does that mean in your budget requests you're going to be seeking more money for power to make up this difference rather than seeking assistance from the contingency fund?

**Jennifer McEntee:** Correct. We would try to do that within our cap, absolutely, and only go outside of that if we needed to, but we do know what to expect for an amount now.

**Governor:** And also, you are seeking this from the contingency fund. There are funds available within your budget to help with this, but your concern is that that would have a negative effect on your maintenance; is that accurate?

**Jennifer McEntee:** That's accurate. We are actually projecting a 74,000 shortfall all together, and so we've managed to take some savings in other categories to put towards this so that we're only asking for the 46,000 from the IFC Contingency Fund. And when we got our production data, we could see that we were going to run short, so we've withheld that internally so that we could monitor throughout the year, find savings where possible and ask for the difference, but it is hindering our operations and we really do need the funds for maintenance and operating.

**Governor:** Back to that contract, there was no hold harmless or anything in the event that this happened?

**Jennifer McEntee:** No, sir.

**Governor:** And this contract was entered into December 31 of 2010; is that...

**Jennifer McEntee:** And the effective date was actually September of 2009.

**Governor:** Board members, do you have any further questions?

**Secretary of State:** Remind me who the contractor was.

**Jennifer McEntee:** Sierra Solar One.

**Secretary of State:** Is that Sierra Nevada Corporation?

**Jennifer McEntee:** They are partnered with Sierra Nevada Corporation.

**Governor:** Is there an opportunity to renegotiate?

**Lt. Col. Rick Blower:** Sir, this is Lieutenant Colonel Rick Blower. We actually spent probably about six months with the representatives of Sierra Solar attempting to renegotiate. We actually did reach some concessions. For example, the contract called for payments in advance for the year. At this point Sierra Solar has agreed to monthly payments, which eases the burden to us. Their position had always been that they had invested certain millions of dollars to build this system and that the income strain was what made it possible for them to build the project with their funds with no state funds or federal funds, and that it would defeat the whole purpose from



their business perspective to reduce payments on the front end. So to answer your question, we've been down the road. Now, is it always possible to renegotiate, to talk to them again? I guess that's possible. I would represent that we -- I think we've reached the end of the line with them with where we can go with the contract.

**Governor:** And perhaps this is a conversation for another day, but there is an equity issue here, and I would imagine that part of this contract was based on their projections that we relied upon.

**Lt. Col. Rick Blower:** Yes, and our own projections. And actually, our projections were more generous. It was anticipated that from the state's perspective that we would reach a break-even point at about year two. When they submitted their RFP, they said, no, we don't think you're gonna reach break-even point until about year six. So from their own projections in their Request for Proposal before we entered into the contract, it wasn't anticipated that we would begin saving money until year six of this 20-year contract. So from an equity standpoint, I think the argument would be, well...

**Governor:** That's a no-go, right?

**Lt. Col. Rick Blower:** Yes, sir.

**Governor:** So essentially we relied upon our expertise at the time and thought in year two that's when we'd break even and we built our budget that way. It's looking more like it was along the lines of what they proposed, and now we built our budget based on what we thought it was going to be versus what they thought it was going to be.

**Lt. Col. Rick Blower:** I'd defer to Ms. McEntee as to how we built the budget.

**Jennifer McEntee:** That's correct, Governor. And actually, our utilities overall for the Office of the Military are \$198,000 less than the base year. It's just because of the mix of the federal-state funds at these locations that we've increased. Overall our utilities have only increased about \$33,000, but our state share has upped.

**Governor:** Further questions, Board members?

**Clerk:** Governor, if I might add that just in this particular issue, there is a large scale RFP that is out there, and there's been an awarded bidder for additional solar projects for the state. And while I was in Corrections, I had the opportunity to look at a lot of these, and certainly since I've been in this job. We are very careful on a going forward basis to look at this carefully to make sure that the state will not be upside down in any future arrangements. So I can assure you that we are looking very carefully at any future awards that we give out.

**Secretary of State:** Director Mohlenkamp, what's the status of those RFPs?

**Clerk:** The contract has been awarded, but we have not negotiated -- the bid has been awarded, but we have not negotiated any specific contracts at this point. I have met with the vendor. In fact, I believe the vendor is the same one that worked on this contract. And we have met with

them on several occasions. There are two things that are really -- these things don't pencil out if you don't have two things. One, you have to have the rebate from NV Energy, and, two, you have to have the credits from the federal government, and they are in the process of trying to secure both of those. There are some sites that they believe can pencil out where we can actually get a rate reduction. And in any of those we would ask to make sure that we are never over whatever the current rate is. But those negotiations on actual contracts have not started yet because they haven't been able to get them to pencil out.

**Secretary of State:** As I recall, there were certain tax credits that were under consideration and could have a potential impact on their ability to make these projects pencil out. In fact, so much so that they had requested a special Board of Examiners meeting shortly after the Governor took office because they couldn't afford to wait the two weeks for these contracts to get finalized so that they could bring these projects to fruition. Can you give us an update on where those tax credits stand?

**Clerk:** You know, I don't know specifically. I know that that the federal tax credits, the contractor, the awarded bidder is actually the one trying to secure the federal credits. I know that they're in the process of trying to do that. I believe there's a time window, and I'm not certain, I know the Energy Office couldn't be here today, but there's a time window that they have to meet in order to secure those credits. But these projects do not pencil out without those credits, and that's fairly clear. And even with that, only certain locations in the state will probably pencil out and work for the state in order to enter into contracts. It looks like there was about 40, 50 sites they were considering, somewhere in that range, and roughly a third of them looked like they might pencil out if they get the rebates and the credits.

**C. Department of Public Safety – Division of Investigations - \$45,000**

The Division requests \$45,000 from the Interim Finance Committee's Contingency Fund to support costs associated with excess fuel costs and to demolish the property located at 2855 S. Jones St., Las Vegas, NV.

**Clerk's Recommendation: I recommend approval.**

**Motion By:** \_\_\_\_\_ **Seconded By:** \_\_\_\_\_ **Vote:** \_\_\_\_\_

**Comments:**

**D. Supreme Court - \$10,000**

The Supreme Court requests \$10,000 from the Interim Finance Committee Contingency Fund for the costs of filling vacancies (seven currently anticipated) for fiscal year 2012.

**Clerk's Recommendation: I recommend approval.**

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

**Comments:**

**Governor:** I have no further questions with regard to Agenda Item No. 6. Board members, any further questions? Okay. The Chair will accept a motion for approval of Agenda Item 6A, B, C and D.

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

**Secretary of State:** I'll second it.

**Governor:** Mr. Mohlenkamp, do you need a more specific motion or is that appropriate?

**Clerk:** No. I believe Item 6A, B, C and D is adequate. I mean, they're delineated in the Agenda, unless the Attorney General has any different opinion.

**Governor:** No? We're good? All right. Attorney General has made a motion for approval of Agenda Item No. 6, Items A, B, C and D, those being Conservation and Natural Resources, Office of the Military, Department of Public Safety and the Supreme Court, second by the Secretary of State. Are there any questions or further discussion on the Motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

**\*7. FOR POSSIBLE ACTION – SALARY ADJUSTMENTS**

**Distribution of retirement buyouts and terminal leave for eliminated positions to Departments, Commissions and Agencies, pursuant to Assembly Bill 487 of the 2011 Legislative Session.**

**The 2011 Legislative Session made appropriations from the General Fund and the Highway Fund to the Board of Examiners to meet certain salary deficiencies created by the elimination of positions resulting in a layoff and consequently a payment for employee retirement buyouts and terminal leave payouts. Under this legislation, the following amounts from the General Fund and/or Highway Fund are recommended:**

<b>BA #</b>	<b>BUDGET ACCOUNT NAME</b>	<b>GENERAL FUND ADJUSTMENT</b>	<b>HWY FUND ADJUSTMENT</b>
1130	Office of the Controller	\$150,000	
3743	Department of Public Safety – Investigation Division	\$492,625	
	<b>Total</b>	<b>\$642,626</b>	

**Clerk's Recommendation: I recommend approval.**

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

**Comments:**

**Governor:** Agenda Item No. 7, Salary Adjustments. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board are requests from the Office of the Controller and the Department of Public Safety, the Investigations Division, for retirement buyouts, terminal leave payments for positions that were eliminated during the 2011 legislative session, and they have identified Assembly Bill 487 as the identifying bill that authorized this. So you have a total of \$642,626. \$150,000 is for the Office of the Controller, and \$492,625 for the Department of Public Safety.

**Governor:** Thank you, Mr. Mohlenkamp. And do you know where we are in terms of the balance on the \$3,300,000? I know I didn't ask you this question before, so this is \$600,000. I mean, have we done -- have we approved others that have come off that amount?

**Clerk:** You know, Governor, I actually don't have that information with me now. I do know that there was a sizeable amount authorized. We're not gonna use anywhere near the full amount, but I don't have the details. I will get that for you.

**Governor:** Okay. And then my other question was with regard to the Controller's office amount. That was based on a temporary position. That was an RF-funded position where there was -- it was temporary, that there was a retirement in the subsequent buyout. Do we review those positions so that we might be able to anticipate if it's a temporary position and then there would be a buyout of this nature?

**Clerk:** That is an excellent question. I don't -- having looked at the statute, I don't believe there's any provision in there for whether the position eliminated is permanent or temporary. In this particular case, I believe the individual was a long-term state employee, been with the state for 20 some odd years, and maybe even longer than that. So the fact that they were in a temporary position, they had a long-term position with the state, and I'm not sure how that factors in. I can look into that. It might be more of a legal question (inaudible) whether there is any differentiation between a temporary and a permanent position. But we can look into that and find out if there's (inaudible) delineate that, but I did not see anything in statute.

**Governor:** I have no further questions with regard to Agenda Item No. 7. Board members? Okay. The Chair will accept a motion for approval.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** Attorney General has made a motion for approval of Agenda Item No. 7, salary adjustments in the total sum of \$642,626. There is a second by the Secretary of State. Any questions or further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

**\*8. FOR POSSIBLE ACTION – AUTHORIZATION TO CONTRACT WITH A FORMER EMPLOYEE**

**A. Department of Health and Human Services – Division of Mental Health and Developmental Services – Southern Nevada Adult Mental Health Services**

Pursuant to Assembly Bill 240, Section 1, Subsection 2 - 3 of the 2011 Legislature, the Division of Mental Health and Developmental Services requests to contract with three former employees on an emergency basis to provide internal medicine services for the Rawson-Neal Hospital. The request covers February 27, 2012 through June 5, 2012.

**B. Department of Health and Human Services – Division of Mental Health and Developmental Services – Southern Nevada Adult Mental Health Services**

Pursuant to Assembly Bill 240, Section 1, Subsection 2 of the 2011 Legislature, the Division of Mental Health and Developmental Services requests to contract with a vendor, Family First, that employs three former employees to provide internal medicine services for the Rawson-Neal Hospital.

**Clerk's Recommendation: I recommend approval.**

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

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**Comments:**

**Governor:** Agenda Item No. 8, Authorization to Contract with a Former Employee.

**Clerk:** Thank you, Governor. Before the Board is -- well, this is interesting, I'm not gonna try and explain the whole thing. I know there's representatives here, but there is a request to contract on an emergency basis with three former employees to provide internal medicine services at the Rawson-Neal Hospital. And I believe this is the result of a contract that had been negotiated that didn't carry through. And I think you have experts here to talk about that.

**Governor:** Good morning, Dr. Green and Mr. Willden. And perhaps to short circuit this, so you can go through -- I understand the background of why this RFP was originally let -- or had and that we had somebody come in who responded to it that was not able to provide the services anticipated, and the number two came in and provided those services, and this seeks to have that number two made permanent I guess for the length of that contract. My concern is this. The reason we went to the RFP was because this entity that we're reviewing now had an issue with regard to time spent at the facility. And I want to ensure that this new contract contemplates that the hours billed will equal the amount of time spent at the facility. And if I'm wrong on any of that, please let me know.

**Mike Willden:** Thank you, Governor. For the record, I'm Mike Willden and I serve as the Director of Health and Human Services. And with me at the table is Dr. Tracy Green who wears many hats, but today she's the statewide Medical Director for our mental health system, along with other tasks. So let me provide just a little bit of correction to your comments and statement there. If you recall back to the 2011 session, the Department Mental Health Division did request the elimination of five medical positions, internists and psychiatrists. We used that bundle of money which we explained in the December Board of Examiners meeting to -- that saved us about 975 to \$980,000 per year. So we eliminated those five positions of which these three

employees we're talking about today were part of those five positions eliminated, and our intent was, and we follow through with that intent, to go out with a contract to bring on, if you will, a private entity to provide internal medicine within the hospital. We did that. You processed the Wexford health contract at the December BOE. Wexford was to start in January. Working with Dr. Green, we had problems in January, we had problems in February. Dr. Green can elaborate on those. Long story short, Wexford's contract was ended I think February 22. They agreed to not provide the services because they couldn't do it. So we've been scrambling, the ongoing saga providing health care in the Rawson-Neal Hospital.

So these three doctors had been let go, along with others at the end of the session. These three physicians created a company called Family First, and they're in the community private sector. So they were the second-place bidder on the internal medicine. To go specific to your question, these three physicians to my knowledge are not and were not part of the internal audit work that's been done in the Rawson-Neal Hospital. We have had problems with attendance and performance, and Dr. Green can elaborate. I think we finally have that fixed we're hoping, but these three physicians were not part of that internal audit sample. I'm not gonna guarantee you 100 percent that there weren't problems with these physicians, but they were not part of the audit sample. And they are working today and they are performing and they are billing on an hourly rate and they are accountable.

**Governor:** And I apologize. I mixed the two. I was just concerned because of what we discovered with regard to that other audit that I wanted to ensure that we had people on the ground taking care of patients and doing what they needed to do, and if they were the same people, I had some concerns about that. But given that they are not, I have no concerns whatsoever.

**Mike Willden:** So, Governor, I just want to be clear. These three doctors are working under the authority of NRS 284 as four month emergency appointees under the power in that statute where I have bring them in under the emergency provisions under that statute. And so I guess the action today is sort of a confirmation that my action was appropriate and that's what the statute says we're supposed to do today and that ongoing you're okay with these three physicians working for us and ultimately you'll see, I assume at the next BOE, a contract with an organization called Family's First of which these three physicians are employees of that organization, and also ex-employees of ours.

**Governor:** So this today is just to allow them to continue to work that they're doing, and then after that temporary period of time, will there be another RFP, or we'll be approving Family First for after that?

**Mike Willden:** This would approve our decision to bring them on in February and continue to work through June while we're getting the contract signed for them ongoing. So there will not be another RFP. We simply went to the second place bidder when we bid the -- awarded it to Wexford. So there's a temporary four-month period that they're working for us until we get the ongoing contract signed and before you -- and then I hope this all goes away and we will have a stable work force at Rawson-Neal, at least as stable as we can have. And Dr. Green, I just would want to say to the Board, has done yeoman's work. She personally flies down there several

times a month, a week, and provides direct services in addition to her statewide medical directorship, and really probably without her assistance and work, we would be a lot more trouble in Rawson-Neal than we are today.

**Governor:** And, Dr. Green, and I saw that in the materials. I mean, that truly goes to service above self that you're willing to go down there and provide that direct care to those patients and ensure that they get the attention that they need, so I want to thank you personally. I don't know if you wanted to make any comments, Dr. Green?

**Dr. Tracy Green:** For the record, Dr. Tracy Green, and thank you very much. I did want to share though and put on the record the system that I've established in order to track all physicians at Rawson-Neal, and we will be expanding this to track all physicians within state service and contract. This not only looks at single point of entry key-card documentation which was the only source of our data from the previous audit, but also reflecting time sheets, leave, non-key-card activities, as well as any court time, meetings, and you'll see in the final column on this spreadsheet, if there's any discrepancy in hours, there is a supervisor meeting. We now have an established medical director at Rawson-Neal, Dr. Linda White, and she meets with the individual physicians, both internal medicine and psychiatry, if there are any discrepancies in their hours. So I think this moving forward will assure that we don't have an accountability problem.

**Governor:** Thank you, Dr. Green, and that is a great result, so I appreciate your putting those controls in place. Board members, do you have any questions with regard to Agenda Item No. 8?

**Secretary of State:** Very quickly, Governor. I know today is not the day to approve these contracts, but what is the potential comparison of the contractual rate for these former employees as compared with the amount that we were paying them when they were in fact employees?

**Mike Willden:** I can try to answer that. If you look at -- or I can provide the detail to you. The decision unit in the 2011 legislature was decision unit E663. We saved, as I indicated, 975 to \$980,000 a year to provide the services. This contract is for about \$800,000 a year. The specific hourly rate I believe is \$135 an hour on a weekday, \$155 an hour on a weekend day, and they are accountable per hour worked, and that hourly rate is full benefit, everything. That's, you know, there's not benefits on top of that. \$135 or 155 is the hourly rate. Very comparable if we were out on what we call the local market or the other ways we get physicians to work for us market.

**Governor:** Mr. Willden, if I may follow up. So how does that net out at the end of the day?

**Mike Willden:** Well, the net out is we saved about \$175,000 going forward per year we believe in contracting this out versus having in-house physician services.

**Governor:** If there are no further questions, the Chair will accept a motion for approval of Agenda Item No. 8, Authorization to Contract with a Former Employee.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** There's a motion for approval by the Attorney General, a second by the Secretary of State. Are there any questions or further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

**\*9. FOR POSSIBLE ACTION – LEASES**

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

**Clerk's Recommendation:** I recommend approval.

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

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**Comments:**

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

**Clerk:** Governor, before the Board are three leases. The first is Nevada Board for Regulation of Liquefied Petroleum Gas. There is a Division of Health Care, Financing and Policy within DHHS, and also Division of Welfare and Supportive Services. In your write up, you will see that that third contract resulted in a net savings of almost \$162,000 for the contract. Thank you.

**Governor:** I have no questions with regard to Agenda Item No. 9. Board members, any questions? The Chair will accept a motion for approval of Agenda Item No. 9.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** There's a motion by the Attorney General for approval, second by the Secretary of State. Are there any questions or further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes unanimously.

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

Seventy-seven independent contracts were submitted to the Board for review and approval.

**Clerk's Recommendation:** I recommend approval.

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

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**Comments:**

**Governor:** Agenda Item No. 10, Contracts. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board are 77 contracts for consideration. I want to point out that Contract No. 2 and Contract No. 35 have been withdrawn. Also, Contract No. 75



should be stated the state agency should be the Attorney General's office. This was an error that we will correct going forward, but I have been assured by the Attorney General's office that we can make the correction here and proceed with that item. Is that correct?

**Governor:** That's correct. We can proceed.

**Clerk:** Okay. All right. So then you have 75 contracts with the exclusion of Item No. 2 and Item No. 35 for consideration.

**Governor:** If I have the hold outs correct, Mr. Mohlenkamp, mine were 26 through 31, which are all the Governor's Office of Economic Development, 71, 76 and 77. I know the Attorney General had some as well.

**Attorney General:** Thank you, Governor. The items that I would like to pull out for discussion is Item No. 32, Items No. 38, 39 and 40, and then 75, the only reason I had it pulled out was to address the issue that you just talked about, so we do not need to pull that one.

**Governor:** Mr. Secretary, did you have any contracts -- all right. Then we'll proceed with 26 through 31. I see Mr. Hill is here.

**Steve Hill:** Governor, Secretary, General, thank you for the opportunity to be here today. You move quickly and caught me by surprise. I will as well. Would you like me to deal with all five of the -- five or six contracts that we have before the Board today one at a time or...

**Governor:** Why don't you take them all at once because I know there's a theme here and that's essentially what I'm looking for.

**Steve Hill:** Okay. Great, thank you. With me today is our Deputy Director Mike Skaggs and Tom Wilczek in the audience with our Air Space and Defense area, and Margene Stenger is our Budget Director, so thanks for being here. As you all know, we put out a state plan for economic development approximately two months ago, and have started to work on that. That has involved somewhat restructuring our office, adding some people in the specific sectors that we think offer the most opportunity for Nevada going forward. We've also added a research director. The Brookings study pointed out that information in Nevada was not readily available for businesses looking to either move to the state or grow within the state, and he's working with other state agencies to come streamline that process and get that centralized on our website and our database so that that information's available. And we've been working with DETR as well as the Department of Taxation and the Gaming Commission to get that information reported in the same way, so that it is not a labor intensive process to have that data available.

We recently approved through the Nevada Commission on Economic Development the policy and procedure for the catalyst fund, so the catalyst fund is now available and launched and that's about two weeks old at this point. The regions are somewhat visibly restructuring their economic development through an RFP that we recently issued for regional development authorities. We've asked that their missions and economic development be expanded. And the response across the state has actually been great, and a lot of work going on in the regions in

order to make that happen. And then parallel with that, they're doing regional economic development planning throughout Nevada and trying to coordinate the efforts in the region with what we're doing at a state level and with the state plan.

The contracts that we have today mostly deal with what we've been calling cluster acceleration projects, trying to quickly move forward understanding the urgent situation we have in Nevada with respect to the need for jobs, and employing relatively small contracts, but in areas that we think can be helpful quickly for those all across Nevada. The first today is a contract with the city of Carson City which is actually with their business resource center in partnership with the Northern Nevada Development Authority looking at the agricultural sector, primarily across northern and rural Nevada. We have a growing industry there. We have a lot of interest primarily in food processing, and we've seen some success there. We've also seen some areas where we had hoped to have success that we didn't quite get to the finish line on, but we see an awful lot of opportunity in agriculture. It's one of the state's leading exports and it is an area that we can improve our exports quickly which brings good jobs and investment into the state. So that is the first request that we have.

The second is with a consulting contract with Ted McAleer, and I think most of you may be aware of Ted or have dealt with him before. Ted is the Director of the USTAR Program in Utah, and has been a good friend of Nevada, has given us quite a bit of information and advice along the way, spent time with many of us here in Nevada to help us move that technology commercialization process in Nevada forward. We think that it's important to bring Ted in on a part-time basis for the next three months. We are in the process, and actually tomorrow will, I think, hire a technology commercialization manager in our office who will actually be embedded in the university system to help bring our office and our efforts more closely aligned to what is happening in our research institutions. But Ted has the experience of having done this for six years, having gone through some learning curves and I think can shorten that process for us here in Nevada, so that's our second request.

Tom Wilczek and others across the state have been working very diligently on the FAA process that they will be issuing an RFP in a couple of months to designate unmanned aerial vehicles in six centers of excellence across the country. We think that it is a great opportunity for Nevada as well as an important step in moving our aerospace and defense sectors forward. So Tom has worked with our staff to put an RFP out and we would like to award that to Hurt Norton which is a defense consultant. Many of their people came from Sam Nunn's staff, the former defense secretary and member of Congress who was very involved in military areas. This RFP will be around basically two issues. One is looking at the base reductions and how Nevada can strengthen its positions there as well as potentially take advantage of that opportunity during a consolidation process, and the other is around the unmanned aerial vehicle issue. I saw a description of that contract that included the phrase advocacy and lobbying, that is inaccurate. That's just not part of this contract.

The fourth request that we have is for an RFP to be awarded to the Nevada Adventure Accelerator or NVA 250 as they're somewhat otherwise known. They have done work with a number of organizations including the Small Business Administration on supply chain mapping in the manufacturing sector. And throughout this area of Nevada and frankly many places in

Nevada, but we have I think a strong cluster in the Carson City, southern Reno, Gardnerville, Minden area. This is more than just a yellow page list of companies in the manufacturing area around the state. It takes the time to interview these manufacturers, understand what they're areas of expertise are, what their capabilities are and what their capacities are, and loads that information into a Google-like database that can be searched by original equipment manufacturers. That allows them to look at the organizations that are in this database for somewhat proprietary or prototyping products where they don't have to disclose the patentable information they have, but they can look for suppliers who have the ability to weld a certain kind of metal or forge a certain type of product or assemble a certain amount of materials without having to disclose that proprietary information. And it gives Nevada manufacturers kind of a leg up in dealing with some of these much larger national and international companies. This is a part of what we think we can do for the manufacturing sector in Nevada, but we think this has some pretty exciting potential.

The next contract is with RCG Economics. I think maybe many of you know John Restrepo who is the principal in that company. The 2011 legislative session gave our office the responsibility for writing a plan for inland ports in Nevada. And there's a broad set of conceptions on what an inland port is. There are also many across the state who would like to be involved in the conversation and potentially with one of those concepts of inland ports. So we felt that it was important to bring in a consultant who not only understands this area somewhat, but can also coordinate the efforts of those outside of Nevada who have an interest in this area in order to help our office learn what it takes in order to do real inland ports in Nevada. At this point we don't have that expertise in-house. This has been done in very big ways and in a very high-profile way in areas like Dallas and Atlanta, and what's currently going on in Charlotte. So reaching out to the companies involved there we think is important. And also involving the major private sector firms such as Fed Ex or UPS who have a lot of expertise in this area as well we think is something that we need to do and need somebody to do that for us at this point, so we think John Restrepo is a good choice there.

And then finally in our film office there's a small contract to just change our web hosting company. It's about \$11,000. So I guess those are just kind of a high profile of the requests that we have today and some of the activity that we have going on in the office, in addition, frankly, to just working on what is kind of an ever-increasing over the past four or five months interest in the state. I know I am personally involved in probably eight or ten conversations a week that are new opportunities for Nevada. That certainly does not include the rest of our staff who are working in different areas. So we think that we'll start to see some real benefit from what we're doing. So thank you.

**Governor:** Thank you, Mr. Hill. And I know that you are working hard and it's very gratifying to hear the number of inquiries have increased, and not just inquiries, but people that are very serious about coming to our state. And I appreciate the detail that you've provided with each of those contracts that shows how strategic you are thinking and how we're focusing and taking advantage of not only the plan, but the Brookings study as well. One last question, and it's perhaps a stray question, but I toured a business in southern Nevada, and it was a bakery and they're going to be expanding to 40,000 feet. And they took me on a tour and their warehouse was full of pallets of Montana wheat and Montana protein. And I didn't know where to direct

them to see if there is a grower in Nevada that grows the particular type of wheat that they need and perhaps grows that type of protein, or perhaps be able to connect with a grower who would be willing to grow that particular type of wheat or protein or, you know, perhaps the soil or the climate doesn't allow for that, but at a minimum I wanted to make that connection so that we could continue to encourage Nevada to buy Nevada and that helps everybody. So that's what prompted that thought when I saw this first contract with regard to agriculture. But in the future, is there somebody that I can reach out to within your office in terms of putting them in touch with that baker in Las Vegas?

**Steve Hill:** Well, I appreciate you bringing that up, Governor, and, frankly, we're always happy to take your call, so, yes, please feel free. But others should as well. And I think our office hears something new maybe every hour which I think is a great thing. And so I think we can serve as kind of a focal point when people don't necessarily know how to ask. We can -- if it's not us, we're happy to reach out to the other organizations in the state or in the private sector that can answer that question. And it is very much on point, that specific example with our first contract request. What we're asking the Business Resource Center to do is to research soil, climate, what areas of agriculture look the most promising going forward and where we might have the best opportunities and help to try and match those examples.

**Governor:** But from that baker's perspective, he said, this will save me money because I don't have to pay the cost of shipping from Montana. And then like I said, it will help the local agricultural industry as well. So I will provide the specifics on that and see what we can do.

**Steve Hill:** Thank you.

**Governor:** Okay. I have no further questions with regard to 26 through 31. Other Board members have any questions?

**Secretary of State:** Director Hill, with regard to Contracts 28, 29 and 30, it looks like the contract amount is about \$25,000 to \$30,000 in each case per month. How did you arrive at that amount?

**Steve Hill:** Well, I think the answer is probably different in each case, but maybe I can defer to Mike who -- I don't have the list of actually the contracts in front of me.

**Mike Skaggs:** Mr. Secretary, would you mind repeating your question? I'm not sure I got it.

**Secretary of State:** With regards to Contracts 28, 29 and 30, how did you arrive at the contract amount? I note that with regard to Contract 28, it's a contract that amounts to about \$25,000 per month which, you know, is often higher than what you're often paying an hourly rate. Contract No. 29 and 30 also if you calculate that out, for what we would be paying these contractors on an hourly rate, I'd suggest probably substantially higher than what you typically pay.

**Mike Skaggs:** Mr. Secretary, based on the work, we talked to some other states and other organizations like ours that have put contracts out to get some idea of generally what they were having to pay.

**Steve Hill:** Yeah, and if I could just add to that after I saw the list, I apologize, we talked to several other states and several other organizations about what we had in mind to do, and the timeframe in which we needed to get it done. So from an hourly rate standpoint there's in each of these occasions, and particularly the first two, there are a number of people working in these areas in a relatively short timeframe because we needed to get them done very quickly.

**Secretary of State:** Can I just back up? On Contract No. 28, I know you mentioned that the purpose of the contract was to look at opportunities with regard to base reduction and the unmanned vehicle issue. What are the specific deliverables? I know you said that advocacy lobbying and marketing weren't really related to the services of the contract, but would they be issuing a written report that would be provided to the Board or for your use in continued refinement of the plan?

**Steve Hill:** I will defer that one to Tom Wilczek. He's been working directly with them.

**Tom Wilczek:** Good morning. For the record, Tom Wilczek, Aerospace and Defense Industry Specialist. In answer to your question in terms of deliverables, it all falls into this three month time period, and specifically the urgency in which we need to respond to you've heard Director Hill mention the FAA Center of Excellence for UAVs. That has an extremely short timeframe, and it's extremely data rich in terms of the amount of information we need from Capitol Hill, specifically from the FAA as they position themselves in releasing the RFP that we're going to respond to. So in that regard, I mean, Mr. McGuinness has done an excellent job in terms of providing us with information, but the amount of -- I'll use a nonscientific term of churn that happens up there in D.C. right now with this effort, we really need many more feet on the ground who have the insider's perspective in terms of what's going on there. So in that particular case the deliverable in many ways is timely and consistent data fed to this office that we can react to, number one.

And number two, that does all fly into the marketing and strategic plan that they're going to deliver for us. And secondly, I do anticipate that as the RFP is issued from the FAA that this company will be doing -- working with us to do some of the lifting that we're going to need to be doing to develop the business case. And I think that's most important from our perspective is that we do need that assistance in developing the business case so that when the RFP is issued by the FAA, we are ready to move forward on that.

**Secretary of State:** What's the timeline on the RFP?

**Tom Wilczek:** Again, the FAA has not issued any statement, but this is where the value from this particular company comes from, and the fact that they have told me that they anticipate the FAA has sent out signals that the RFP should come out sometime in mid to late summer of this year.

**Secretary of State:** Can I ask a question about No. 29, kind of on a related field? You had mentioned this Google database and I'm somewhat familiar with, but which would be a search engine for equipment manufacturers. Is the contract deliverable to pay for the development of

that system in which case this would eventually be the property of the state, or is it for consulting or just specific outreach or use of that system?

**Steve Hill:** The deliverable here is both some further development of the program and the state will then have access to that program as well as paying those with expertise in manufacturing to spend the time that it takes working with the manufacturers in Nevada to document their capacities and abilities.

**Secretary of State:** Okay. But if the contract's only for 90 days, are we gonna be able to use this system once the contract expires?

**Steve Hill:** Yes. Once the contract expires, both our office and the manufacturers themselves will be able to update that database going forward.

**Secretary of State:** Okay. And finally, Contract No. 30, can you describe a little about the contract deliverables in that instance also, whether or not it's a report or consultation providing information about the inland ports?

**Steve Hill:** I'll defer to Mike.

**Mike Skaggs:** (Inaudible), Mr. Secretary, it is an outreach to a lot of different customer groups, the transportation companies to get a definition of, one, do we want inland ports, is it desirable, because there's still that question out there, but also then what features would they have, and for such things as will they associate with the airports to the extent that that customs designation can be shared. You know, the overall (inaudible) in a lot people's minds in doing this was to try to set up a situation where containers could be offloaded off ships in both northern and southern California ports, railcar'd to Nevada, and then do the break bulk here and have the custom inspection here. So that is the highest desirable state that we could achieve under this scenario. So it's to test that scenario, see if it's doable, and then figure out states that did do it, how they paid for it -- how they paid to build the inland ports.

**Secretary of State:** So the scope of work as defined in the contract would require some type of written summary?

**Mike Skaggs:** It will be full report, sir, with these examples from other states about what they did, and also the input tables from why people say they want it as far as the features and characteristics (inaudible). It'll help our logistics industry substantially.

**Governor:** Thank you, gentlemen. We'll move on to Contract No. 32, Department of Taxation. Good morning, Mr. Chisel, and I'll defer to the Attorney General.

**Attorney General:** Good morning, Mr. Chisel. So this is a contract that's been before us a couple of times for the Board of Examiners, and one of the concerns we had was that the lockbox should be here in Nevada. But first of all, thank you for coming back again, because I know we had asked that you put this out for an RFP and it looks like you have.

**William Chisel:** That's correct.

**Attorney General:** And the J.P. Morgan Chase Bank is the bank that has been chosen for this RFP. But can you address the issue of whether the lockbox is here in Nevada, number one, and number two is J.P. Morgan Chase Bank the same contractor we had contracted with previously?

**William Chisel:** Yes. We did put this out to bid, and we received four responses, all of them were outside of the state of Nevada, so there was no one within the state of Nevada that bid for this contract. J.P. Morgan is in Phoenix and it is the same contractor we had before. We're looking at a reduction in cost as a result of this contract of about \$196,000 for the next year because of the new contract.

**Attorney General:** Thank you. You answered my question. I appreciate the hard work on this.

**William Chisel:** No problem.

**Governor:** Next is Contract 38 which is Aging and Disability Services Division.

**Tina Gerber-Winn:** For the record, I'm Tina Gerber-Winn, and I'm Deputy Administrator for Aging and Disability Services Division.

**Attorney General:** Ms. Winn, thank you. And you can address this for all three contracts. I was just curious the amount of the contract has increased tremendously, and it's to provide additional service to an existing client base. So could you just address that issue and maybe the services that we're expanding into?

**Tina Gerber-Winn:** Absolutely. In March of last year we were advised by St. Mary's that they were no longer going to be able to support our personal assistant service program, and we have been contracted with them to run a program for about 150 individuals with disabilities who require personal care. So at that time we did first level amendments to all our provider contracts to add the scope of service so that those providers could address the needs of this client load. And at the time we had no idea of the number of hours that each agency could be delivering. We did have fairs in north and south and individuals on the program met with the providers and chose the providers that they wanted to receive services from. So in doing that, we increased the client load to the three providers that are listed on this contract list. That would (inaudible), ADL Home Care and Medical Services of Nevada. And since that time, we noted that these clients that we added to the program, while the services were similar to the ones already provided, the number of hours that they required was much higher. Generally the seniors on the program might need five hours a week. For individuals with disabilities it's 35, so that increased our amount of service payments incredibly in these contracts.

So what we did was, after we had some experience and the clients picked their providers, we projected the amount of costs per month. I'm not sure if we added the methodology when we submitted these contracts, but we looked at the current client loads that were with these providers. In some instances they added 40 clients, in some instances 66. So we projected the monthly cost based on the client load they had through the end of each contract, and projected

the amount of expenditure if they're client load stayed about the same. So that's why it went up so substantially and for (inaudible) as well as Medical Services of Nevada, because they were serving additionally 40 to 60 clients at a level of service about five to seven times higher than our original clients, if that makes sense.

**Attorney General:** So was the contract that you had originally you said with St. Mary's for all three of these contracts?

**Tina Gerber-Winn:** Actually, I'm sorry, St. Mary's was a sole-source provider for the PAS program, the Personal Assistance Program. And when they withdrew from the program, we had to provide access to care for all those clients, which was about 150. So we added additional scope to the other contracts that we had, the home care providers we already had, so that they could take on these additional clients.

**Attorney General:** Okay. So that makes sense to me then. So these were existing contracts, you just expanded the scope of the contract to cover the services that were no longer being provided by St. Mary's?

**Tina Gerber-Winn:** Correct.

**Attorney General:** Okay. Thank you very much.

**Governor:** I had one question. So I understand the numbers, so essentially you're shifting what we were paying St. Mary's to these other three providers?

**Tina Gerber-Winn:** These three providers, correct, as well as about 20 others that we had already in existence.

**Attorney General:** But the net is the same amount of money, correct?

**Tina Gerber-Winn:** Correct.

**Governor:** Okay. That's it. Thank you. Next is Contract 71, Department of Transportation and Jacobs Engineering.

**Tracy Larkin-Thomason:** For the record, I'm Tracy Larkin-Thomason, the Assistant Director of Planning for DOT. And with me is the Chief of Intermodal Planning, so if there's any more questions on this. Do you just want a brief overview?

**Governor:** Well, I'll try to ask a more specific question so you know where I'm going. I understand there's not one penny more of cost in this contract, but I was glad to see, and I'm sure the Lieutenant Governor is glad to see that there is an expansion in the scope of work to include a development of a Reno-Tahoe Winter Games addendum to the Nevada State Rail Plan. So I was looking for a little bit more detail with exactly what's contemplated with that expansion.



**Tracy Larkin-Thomason:** Okay. Basically, and also just in conjunction with that, there were some additional savings. This actually was a project, a planning one that came in under budget, so we still have additional savings of about 85,000 in there. The project here is to particularly look at what it would take to look at the 2022 Olympic bids, what it would take with existing rail, kind of looking there, what it would take to add on and bring in people. And it's not so much necessarily -- some of it would be infrastructure, looking at opportunities there, but it would also be looking at how it would connect with other parts of transportation because you are talking a lot of people in a small amount of time, is this really can be done. And they would most likely be coming from Salt Lake City, Sacramento and other areas. What type of even operational improvements working with the railroads, what -- is there even an opportunity to explore this faction for the Olympics? I mean, obviously we're looking at all sorts of different forms of transportation. We're looking at different aviation opportunities and so on, but those are being looked at. Well, in conjunction, they're not part of this, but there is an overlap of how they relate to each other. Is that clear?

**Governor:** It is. And when will they complete that portion of the study?

**Tracy Larkin-Thomason:** At this point we -- this contract expires currently in September of this year, so the intent is to have something in place and a general plan so we can include it in the bid.

**Governor:** I have no further questions. Board members?

**Secretary of State:** No, Governor.

**Governor:** Thank you very much. Next are 76 and 77, public employees benefits.

**Jim Wells:** Good morning, Governor, Mr. Secretary, Madam Attorney General. For the record I am Jim Wells, the Executive Officer for the Public Employee's Benefits Program. And with me this morning is Donna Lopez who is our Quality Control and Contracts Officer.

**Governor:** Thank you, Mr. Wells. And anytime we have a contract with that many zeroes, I like to get some detail. This is a contract for \$217,200,000 with Health Plan of Nevada. As I've said before, we get one page, and I know there's a lot more behind this than that. I guess I'd like a brief overview of how they're doing and what's contemplated by this contract.

**Jim Wells:** Absolutely, Governor. The HPN, Contract No. 76, provides for a fully insured health maintenance organization option for four southern Nevada counties, Clark, Lincoln, Nye and Esmeralda. So the northern 13 counties are covered under a separate contract with Hometown Health. So this provides an alternative to our participants, both active employees and retirees, to the high-deductible health plan option. They have been our provider for over 20 years now, HPN has. Our client base that has with them is relatively loyal to them. They have fairly good marks, and they were in fact the sole bidder. The southern Nevada market really has become very consolidated in the healthcare arena, and HPN was the only bidder for these services in southern Nevada. But, again, we have about 6,000 of our participants that are participating in HPN and for the most part are very happy.

**Governor:** And that was going to be my next question. When you say for the most part, I mean, I know there's always gonna be a few bumps in the road, but overall you're very happy with the performance of Health Plan of Nevada?

**Jim Wells:** Yes. And the southern Nevada HMO is a much more traditional HMO than what you see in the north which we call open access. So you can pretty much self-direct yourself to a referral in the north. In the south it's much more managed care, so you have to get referrals from your primary care physician to specialists or to get tests. We do hear complaints every once in awhile that access to the primary care physicians is limited. We have discussed this with HPN and they assure us that there are sufficient numbers of available appointment slots to meet our population.

**Governor:** I have no further questions with regard to 76. Board members? And then on 77, this U.S. Preventive Medicine. Will you provide some background and detail with regard to that contract?

**Jim Wells:** Certainly, Governor. The U.S. Preventive Medicine Contract, we're closing in on year two of a four-year contract. That contract provides two services to our agency. The first is a wellness program, and the second is a disease-management program. The wellness program gives us the annual health assessment questionnaire and biometric screenings that we use to incent our participants into more healthy behaviors. So we have about 8400 people, or about 32 percent of the eligible population participating in the current fiscal year. This is the first fiscal year in which our participants have been able to get premium credits or discounts toward their monthly contribution amount. And they have in fact gotten those monthly premium credits this year, and that is based on behaviors that they performed last year. So what we do is during the year they do the biometrics screening, the health assessment. They follow up with getting their preventive screenings and testing. They also look at challenges to get exercise. They look at education materials in order to basically improve their health status.

And so one of the things that we have found is that we have seen a reduction from year one to year two in the number of people that participated in both years from both the high-risk and the moderate risk categories. So they are in fact seeing some movement in people who are participating year after year in the improvement of their health status. So we're encouraged by some of that. There is no return on investment performance guarantee until year three of the contract. So after the end of year three we will look at some return on investment guarantees, basically are they getting -- are people healthy, are the people who are participating healthier than our population who isn't.

**Governor:** You know, and I'm about to become -- I'm going to participate in that because I want to see it for myself, so I've got an appointment coming up here. But is it correct to do the math, 8400 people into \$20 million to get a cost?

**Jim Wells:** So the \$20 million is over a four-year period, and certainly one of the things that we continually evaluate is whether or not this particular wellness program is reaching the people that need to be reached. So some of the early indications from their own customer service -- or

customer satisfaction survey are that the people who are participating are healthy already. So are we in fact reaching that population that is not healthy, so we are working with the vendor for a target and see if we can get a better participation from those people who it is that we are really trying to reach. And so, again, we constantly evaluate this and whether or not this was the right wellness program. Wellness is the key buzz word in our industry right now, and wellness attitudes and behaviors control, supposedly, long-term costs in medical care. So it's key for us to catch some of the things up front.

We do hear some anecdotal information. You'll hear of a person who went to get one of the screenings that was on their list and found that they had a disease and that because they caught it so early the treatment not only improved their life outcome, but it was much cheaper than had they waited, not gotten that test and then had to have the catastrophic illness failure.

**Governor:** And I agree, you can't put a price on that. That's an incredible result. I guess, does part of that contract make sure that everyone's aware that this is available? Is that another issue that people just don't know, or state employees don't know?

**Jim Wells:** So the contract includes a significant communications campaign. I think I've personally gotten three or four pieces already as we approach this particular open-enrollment period. So, yes, communication is a key. We see that more on the diabetic-care management side, because the diabetic-care management, which is the other piece of this contract, and that is to basically assist our diabetic population with controlling their disease. We only have about a 37 percent participation rate with the diabetic care management program. But there are also some significant incentives for participating in that. So you get your -- and correct me if I'm wrong, you get two doctor visits with a primary diagnosis of diabetes. You get discounts on your medication. You get discounts on your diabetic supplies. So the fact that we only have 37 percent when there are all these other ancillary benefits, I don't know why we're getting that low of a turnout, so we have actually done a survey to our population. The survey closed Friday, and so we're hoping to get some feedback from our participants as to why they do or do not participate in the diabetic care management program.

**Governor:** Not only that, but everything. I mean, it's free. I mean, it's an opportunity to essentially get a free physical and blood testing and all those things. I'd love to see a way that we could get that 32 percent number up, and if people were aware of that. And then -- so one of the benefits is, is if I check out good, in a year from now or next summer I would get a deduction in my premium that I pay. Are there any other incentives for participants?

**Jim Wells:** No. The first year we tried an incentive to actually go and get the tests, a \$25 gift card if you went and had the biometrics screening done and filled out the health assessment questionnaire. We found that they weren't particularly incented to go and do that, and we had a lot of people who got the \$25 gift card who actually never redeemed it, so we didn't see that as a positive benefit. So you get a larger percentage of our population are looking for that monthly premium credit in the subsequent year. And Donna would like to add something.

**Donna Lopez:** Thank you, Governor and Board members. For a historical perspective, I wanted to add that PEB has provided wellness benefits for many years, primarily through the

form of benefit design, meaning that certain types of wellness and preventive screens were paid at 100 percent. But when we compared our population to national benchmarks, we were always substantially lower than national benchmarks with the exception of childhood immunizations. So we struggled through that, changing our wellness benefit, increasing the benefit that was offered. We started out when I first started at PEB with a \$300 annual benefit, increased it to \$600 and subsequently increased it to \$2500 to reach the folks who needed the more expensive screenings like colonoscopies. But that said, even with the 100 percent benefit that was offered, we still had such a small population of people who took advantage of the benefit. So what we decided to do then was let's create an RFP where we could solicit bids from vendors who could provide a structured wellness program that would provide, outside of the benefits, wellness tools and education and the annual HRA, health risk assessment, and biometric screenings to get that information out to individuals. Not only do you get 100 percent benefit for quite a few screening tests, but you also have these tools available to assist you with whatever questions you may have about how do I get better, what can I do to prevent things from happening to me in the future. So that's the reason why we brought U.S. Preventive Medicine onboard with PEB as a contractor.

Now, I think we all know, you read it every day in the newspaper, that the situation that not only Nevada is in, but the United States is in, did not happen overnight. This process of getting unhealthy has taken decades for us to get to this point, and it's going to take a long time for us to kind of reverse that mindset with quite a few people. One bite of the elephant at a time is what we're taking and we know it's not going to fix itself overnight. It's going to take quite a long time for us to get the information out to our participants and to get them motivated to make the healthy changes that they need to take in order to live a healthier and hopefully longer life.

**Governor:** And we all want that. I'm just -- I guess I'm intellectually curious as what is that motivating factor. Is it, you know, access to nutritionists, discounted health club memberships? I don't know, but I'd love to see that number come up for the benefit of everybody.

**Jim Wells:** So you talked about the participation percentage. The contract has performance guarantees in it for participation percentage. The first year was supposed to be 60 percent and we were just shy of 40. The second year was actually supposed to go to 65 percent. It has not gone up, and in fact has actually retracted a little bit. And so one of the things that we have talked to this vendor about is what are their other clients doing that are better at incenting participation and so that we can look to adopt some of the things that are working with other employers that apparently are not -- the incentive structure we have now is not driving the participation that we would like to see. So we actually are working with the vendor to try and identify if there are things that we could do differently, incentive structures that we could put in place that would be different from what you see today that would basically encourage that 68 percent to participate in the wellness program.

**Governor:** And you did say given this low participation, there's an opportunity to renegotiate in terms of how much we're paying?

**Jim Wells:** We get a -- there's a penalty associated with not meeting the performance guarantee, and so I believe that for the first year we'll get just over \$200,000 back, and then we haven't done the calculation for the second year.

**Governor:** Because like I said -- and maybe we'll have a conversation another day, because I want to get a little bit deeper into that, because that seems like a lot of money, and if our participation is 50 percent off of what we thought it was, they're not having to spend on their end either.

**Jim Wells:** Keep in mind, Governor, the contract maximum is predicated on participation percentages. So we pay a fixed amount per person.

**Governor:** Oh, okay.

**Jim Wells:** So if we don't get the participation, we don't hit the contract maximum.

**Governor:** Gotcha. All right. I have no further questions. Board members? Thank you very much. The Chair will accept a motion for approval for Agenda Item No. 10, Contract 1, 3 through 34 and 36 through 77.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** There's a motion by the Attorney General for approval, second by the Secretary of State. We have held out Contracts 2 and 35. Are there any questions or further discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

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

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

**Clerk's Recommendation: I recommend approval.**

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

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**Comments:**

**Governor:** We will move on to Agenda Item No. 11, Master Service Agreements. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board are two Master Service Agreements. One for Kelly Services, increases the contract amount by 2.5 million, and similarly for Manpower, which is also temporary services, increases that contract again by \$2.5 million.

**Governor:** And those increases are due to utilization or...

**Clerk:** I'm sorry, Governor. The increase is due to a continued need for services, so I think we're extending the contract, but then we're also covering some additional costs associated with unemployment costs that our contractors are bearing and it's being passed on to us.

**Governor:** Thank you, Mr. Mohlenkamp. Questions from Board members? The Chair will accept a motion for approval of Agenda Item No. 11, Master Service Agreements No. 1 and 2.

**Attorney General:** Move for approval.

**Secretary of State:** Second.

**Governor:** There's a motion by the Attorney General for approval, second by the Secretary of State. Are there any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes.

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

**Comments:**

**Governor:** Are there any Board member comments? Is there any public comment? Is there any member of the public here in Carson City that would like to provide public comment to the Board? I don't see anyone in Las Vegas. I did see Frank there. I don't know if Frank's still there. But is there any member of the public in Las Vegas who would like to provide public comment? Hearing none, the Chair will close the public comment portion of the Agenda.

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

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

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**Comments:**

**Governor:** The Chair will accept a motion for adjournment.

**Attorney General:** Move for adjournment.

**Secretary of State:** Second.

**Governor:** Motion by the Attorney General, second by the Secretary of State. Any questions or discussion on the motion? Hearing none, all in favor, please say aye. Motion passes. Thank you very much, ladies and gentlemen.

**Respectfully submitted,**

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JEFF MOHLENKAMP, CLERK

**APPROVED:**

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GOVERNOR BRIAN SANDOVAL, CHAIRMAN

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ATTORNEY GENERAL CATHERINE CORTEZ MASTO

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SECRETARY OF STATE ROSS MILLER