

# MINUTES

## MEETING OF THE BOARD OF EXAMINERS

August 13, 2013

The Board of Examiners met on Tuesday, August 13, 2013, 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:**

Chris Smith, Division of Emergency Management  
Irene Navis, Division of Emergency Management  
Chris Nielsen, Department of Taxation  
Richard Whitley, Division of Public and Behavioral Health  
Dr. Tracey Green, Division of Public and Behavioral Health  
Bryan Nix, Victims of Crime Program  
Steve Hill, Office of Economic Development  
C.J. Bowden, Silver State Health Insurance Exchange  
Julia Teska, Department of Education  
Robin Prowley, Department of Education  
Lisa Reimers, Department of Education  
Pete Anderson, Nevada Division of Forestry  
Dave Prather, Nevada of Forestry  
Deonne Contine, Taxation  
Rick Gimlin, Taxation  
Mary Walker, Truckee Meadows & Sierra Fire Districts  
Vicki Van Buren, Truckee Meadows & Sierra Fire Districts  
Mary Woods, Department of Health and Human Services  
Ron Hood, Nevada Division Emergency Management  
Vicki Leigh, Business and Industry  
Debra Crowley, Attorney General's Office  
Leah Lamborn, Department Health Care Finance and Policy  
Barbara Weisenthal, Department of Public and Behavioral Health  
Katie Armstrong, Attorney General's Office  
Kimberlee Tarter, Purchasing  
Julie Kidd, State Public Works Division  
Teri Preston, State Public Works Division  
Lisa Figueroa, Business and Industry  
Lisa Koehler, Business and Industry  
Julia Peek, Department of Public and Behavioral Health  
Sumiko Maser, Taxation

Steve Aldinger, Nevada Real Estate Division  
Clark Leslie, Attorney General's Office  
Rob Forderhase, Department of Health and Human Services  
Ellen Crecelius, Department of Health and Human Services  
Vanessa Alpers, Department of Public and Behavioral Health  
Jim deProsse, Business and Industry  
Sandra Cherub, Associated Press  
Vincent Cherpeski, Taxation  
Jefferey Menicucci, Attorney General's Office  
David Gustafson, Enterprise IT Services  
Richard Vineyard, Department of Education  
Kareen Prentia, Attorney General's Office  
Karlene Johnson, Department of Employment, Training and Rehabilitation  
Shannan Canfield, Department of Employment, Training and Rehabilitation  
Tamara Nash, Department of Employment, Training and Rehabilitation  
Brandon Taylor, Department of Employment, Training and Rehabilitation  
Joseph Strolin, Agency for Nuclear Projects  
Susan Lynch, Agency for Nuclear Projects  
Sue Smith, Division of Welfare and Supportive Services  
Michael McMahon, Division of Welfare and Supportive Services  
Kurt Green, Department of Public and Behavioral Health  
Clayton Bussiere, Department of Public and Behavioral Health

## 1. PUBLIC COMMENTS

### Comments:

**Governor:** All right. Good morning, ladies and gentlemen. I'd like to call the Board of Examiners meeting to order. Can you hear me loud and clear in Carson City?

**Clerk:** Yes, we can, Governor.

**Governor:** All right. Thank you. We'll commence with Item 1 of the Agenda, public comment. Is there any member of the public here in Las Vegas that would like to provide comment to the Board? Any public comment in Carson City?

**Clerk:** I don't see anybody coming, Governor.

**Governor:** Thank you.

## \*2. FOR POSSIBLE ACTION – APPROVAL OF THE JULY 9, 2013 BOARD OF EXAMINERS' MEETING MINUTES

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

**Motion By:** Attorney General

**Seconded By:** Governor

**Vote:** 2-0

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### Comments:

**Governor:** We'll move on to Agenda Item No. 2, approval of July 9, 2013 Board of Examiners meeting minutes. Have the members had an opportunity to review the minutes and are there any changes?

**Secretary of State:** Governor, I was not present, so I'll be abstaining on this Agenda item.

**Governor:** All right. Madam Attorney General, would you wish to make a motion for approval?

**Attorney General:** Yes, I'll move for approval of the minutes.

**Governor:** I will second the motion. Any questions on the motion? All in favor, please say aye.

**Attorney General:** Aye.

**Governor:** Aye. Okay. Motion passes two to zero. And if you would mark the Secretary of State as abstaining from the vote.

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

**A. Department of Taxation – \$78,390**

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 of Taxation is requesting authority to pay four refund requests totaling \$78,390. This results in a remaining balance of \$567,978 in mining claim funds eligible for reimbursement.

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

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

**Comments:** Removed from agenda.

**Governor:** All right. Agenda Item No. 3, Mr. Mohlenkamp, I understand there was a calculation error. Is this item being removed from the Agenda?

**Clerk:** Governor, thank you. Yes, it is. We have -- actually, it wasn't a calculation error. It was the way it was agendaed. The actual amount of the claims coming forward were \$267,880. You'll see that on Page 1 of your materials. But since it wasn't agendaed properly, we will need to defer this until next month, and you will see -- you will see these claims come on before the Board in the next -- the next BOE.

**Governor:** Is that number still good, Mr. Mohlenkamp, with regard to the amount that will be -- that'll -- the balance that won't be used, the \$300,000 number?

**Clerk:** It is. On Page 1 of your detailed materials is an accurate number, the \$300,098 is the amount that was ultimately not claimed by the -- by the different companies.

**Governor:** And will that amount of money revert back to the General Fund?

**Clerk:** It will. It will be monies that are unspent from the General Fund and be available for other uses.

**Governor:** In this budget cycle or the next one?

**Clerk:** Sadly, it will have to wait. We can't reappropriate these funds. That's a legislative responsibility, so those funds will go back to the General Fund and will be available for the next -- the next budget.

**Governor:** Members of the Board, do you have any questions or comments on this Agenda item?

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

**Governor:** All right. Then we'll move on. This item, again, is removed from the Agenda.

**\*4. FOR POSSIBLE ACTION – SALARY ADJUSTMENTS**

The 2011 Legislative Session made appropriations from the General Fund and the Highway Fund to the Board of Examiners to meet certain salary deficiencies for fiscal year 2013 that might be created between the appropriated money of the respective departments, commissions, and agencies and the actual cost of the personnel of those departments, commissions, and agencies that are necessary to pay for salaries. Under this legislation, the following amounts from the General Fund and/or Highway Fund are recommended:

BA#	BUDGET ACCOUNT NAME	GENERAL FUND ADJUSTMENT	HWY FUND ADJUSTMENT
1130	Business & Industry – Real Estate Division	\$3,249	
	<b>Total</b>	<b>\$3,249</b>	

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

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

**Comments:**

**Governor:** We'll move on to Agenda Item No. 4, salary adjustments. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board, as you're aware you've seen these last couple months, we have a request from Business and Industry, the Real Estate Administration Division, for \$3,249. As you recall, this is the difference between what was legislatively approved dollars and what the amount actually came out to be. This is pretty standard and it's a very small dollar amount. I'm very glad to say I don't think we're going to see much in the way of salary adjustment requests coming forward the remainder of the biennium. There's still a couple months out there where we'll still see a little bit more coming forward.

**Governor:** And how does your -- what has been requested match up with the amount that had been allotted for that?

**Clerk:** So we are far under what was initially requested or allotted. It was over \$14 million that was put in the Salary Adjustment Fund initially. And so far I think you've seen claims of less than a couple hundred thousand dollars come before the Board. I think that at the end we had planned on in our budget projection for the upcoming -- this biennium that we're currently in as fairly significant reversion from this fund and, in fact, we're seeing that that's exactly what's happening.

**Governor:** That's good news.

**Clerk:** Those funds are being allocated in this current biennium, because we planned on having a good amount of those funds not be spent.

**Governor:** All right. Members of the Board, do you have any questions with regard to Agenda Item No. 4? If there are none, the Chair will accept a motion for approval of the salary adjustment in the amount of \$3,249.

**Secretary of State:** Move for approval.

**Attorney General:** I'll second the motion.

**Governor:** Secretary of State has moved for approval. The Attorney General has seconded the motion. Any questions on the motion? All in favor, please say aye.

**Secretary of State:** Aye.

**Attorney General:** Aye.

**Governor:** Aye. Motion passes three to zero.

**\*5. FOR POSSIBLE ACTION – REQUEST FOR DELEGATION OF CONTRACT APPROVAL AUTHORITY**

**A. Department of Administration – Board of Examiners**

Pursuant to the Governor's approval of AB 41 of the 2013 Legislative Session, the Clerk of the Board is requesting delegation authority to approve all contracts for amounts less than \$50,000.  
**\*Relates to Action Item #6\***

**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. 5, request for delegation of contract approval authority. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. During the legislative session, Assembly Bill 41 was passed. And it took on a few different turns as a lot of bills do. Initially, the request was for the Board to be able to set its own thresholds with regard to contract approval levels. It turned out that through the legislative process that they approved it to go from \$10,000 to a maximum of \$50,000. So before the Board is the first step on Item No. 5, does the Board choose to authorize the Clerk of the Board, in this case, I currently serve in that role, to approve contracts up to

\$50,000? And that's what you see before you under Item No. 5. No. 6, which we'll talk about in a moment, essentially codifies that into SAM if, in fact, the Board approves Item No. 4 -- No. 5.

**Governor:** And if you would, Mr. Mohlenkamp, obviously this is an efficiency issue for the Board and there's some inflation. I mean, this, in terms of the operation of the Board, will enhance things. But would you go into some detail as how do you see it working out in the future?

**Clerk:** You know, I'd be happy to. I think this originated out of our Department, Department of Administration. And the goal is it's in line with your stated objective, and that is to reduce some of the regulatory and red-tape burden. A while back, Governor, you had us go out to the business community at large and spend some time, the cabinet members, with a variety of different businesses and talking to them about their concerns and how we could -- how we could make government work more efficiently so that they could interact with us better.

One of the things that we heard on -- a few of us heard when we went out was that the BOE process, specifically the contracting process, it created some uncertainty and certainly some delays that they found to be awkward and difficult to manage with. And so this is an attempt to try and move in the direction of simplifying some more processes. We've been at the \$10,000 level for an extended period of time. I don't have the dates in front of me, but I know it's been for many years that we've been limited at 10,000. During that time the State budget has grown and grown and grown in size and scope. And we're trying to modify this to allow for some of these smaller contracts to reduce that red tape to speed up the contracting process and allow the Board to focus more directly on those larger contracts and, you know, reduce the size of the Agenda, but make that Agenda a little bit more manageable for the Board as well.

So that's the reasons before you. Like I said, initially we wanted the Board to be able to set the threshold targets. The legislation ultimately came out that you can go up to 50,000 if the Board so desires.

**Governor:** Thank you, Mr. Mohlenkamp. And I believe I mentioned this at a previous meeting, but we have similar delegation of authority on the State Board of Transportation. But the Board does receive, as part of its packet, an information item that sets out all the contracts that were entered into by the Director of that Department. In this instance, Mr. -- or Director Malfabon. So would we have a similar piece of information for the Board of Examiners just so we know what the contracts that were approved?

**Clerk:** You know, we can absolutely do that. It wasn't -- it's not, I don't believe, contemplated in the SAM changes that you have in front of you. But we can absolutely bring an informational item to the Board identifying the contracts that were approved by the Board -- or by the Clerk and, for that matter, those that were not approved. We can -- we can do that. Clearly there is, and you'll see under Item No. 6, there is going to be an ability and appeals process which, I believe, the Board was interested in having in the event that there was a denial by the Clerk that, you know, people would have an avenue to have a reconsideration. And we can certainly include any of that on an informational item as well.

**Governor:** Thank you. I have no further questions. Board members, do you have any questions with regard to Agenda Item No. 5?

**Secretary of State:** No.

**Attorney General:** No, Governor.

**Governor:** If there are none, the Chair will accept a motion for approval.

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

**Secretary of State:** Second.

**Governor:** The Attorney General has moved for approval of Agenda Item No. 5, which is the request for delegation of contract approval authority consistent with Assembly Bill 41 of the 2013 legislative session, which in essence gives the Clerk of the Board the ability to approve or reject contracts for amounts less than \$50,000. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All in favor, please say aye.

**Attorney General:** Aye.

**Secretary of State:** Aye.

**Governor:** Aye. Motion passes three to zero.

**\*6. FOR POSSIBLE ACTION – STATE ADMINISTRATIVE MANUAL**

The State Administrative Manual (SAM) is being submitted to the Board of Examiners' for approval of additions and revisions in the following Chapters: **\*Relates to Action Item #5\***

**A.**

- **0310 – Department of Administration – Clerk of the Board of Examiners – Requested Changes to the State Administrative Manual**
- **0316 – Department of Administration – Clerk of the Board of Examiners – Approval of Interlocal Contracts**
- **0322 – Department of Administration – Clerk of the Board of Examiners – Independent Contract Review**

**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. 6, State Administrative Manual. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. With the passage of Item No. 5, No. 6 provides in the State Administrative Manual for three separate sections for the threshold to be increased. Section 0310 details cooperative agreements. And these types of agreements are entered into between various bodies of governmental bodies. Now, this allows -- the current threshold is up to \$10,000. This would require it to go -- this would allow up to \$50,000 before it would require the Board of Examiners approval. So it essentially extends that delegation.

Under 0316, this is interlocal contracts. It does the same thing from \$10,000 up to \$50,000. And in 0322 is for the independent contracts, which is the vast majority of what you see before the Board on a regular basis, bringing that threshold again up to \$50,000. And so this is that extension. You do see under 0322, it's in your materials, the language that provides for an appeal process. So if somebody is denied at the Clerk level, they can appeal to the Board to have a reconsideration of any denial. And I think, hopefully, that addresses the questions that were raised at the last meeting.

**Governor:** Thank you, Mr. Mohlenkamp. And this is consistent with what you represented in Agenda Item No. 5. Just a minor question which is at the bottom of -- or on 0322 there's a handwritten on a subsequent Board of Examiners Agenda. Will that be in typed form when this is approved?

**Clerk:** Yeah, it's our intention to allow this to be put on a subsequent Agenda. It may not necessarily make the next Agenda, depending on the circumstances, and that's why we wanted to give some flexibility. But the language that we had put in there would be subsequent Agenda. And that would be the final language if it's approved by the Board.

**Governor:** All right. I have no further questions. Board members, do you have any questions with regard to Agenda Item No. 6?

**Attorney General:** No, Governor. Move for approval.

**Secretary of State:** Second.

**Governor:** The Attorney General has moved for approval of Agenda Item No. 6, which are the proposed changed to the State Administrative Manual. Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye.

**Attorney General:** Aye.

**Secretary of State:** Aye.

**Governor:** Aye. Motion passes three to zero.

**\*7. FOR POSSIBLE ACTION – NOTIFICATION OF INTENT TO FILE FOR A GRANT OR LOAN FROM THE DISASTER RELIEF ACCOUNT WHICH REQUIRES AN EXTENSION TO COLLECT DATA**

**A. Department of Public Safety – Division of Emergency Management – Clark County Flood**

Pursuant to NRS 353.2755, the Division of Emergency Management on behalf of Clark County is requesting additional time to the original extension due to the time needed to identify all costs associated with the flood damage repairs and to identify potential insurance claim offsets to the various departments and agencies with damage to structures and facilities. Clark County respectfully requests an extension to the original request of September 11, 2013 to March 31, 2014.

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

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

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**Comments:**

**Governor:** We will move on to Agenda Item No. 7, which is notification of intent to file for a grant or loan from the Disaster Relief Account which requires an extension to collect data.

**Clerk:** Thank you, Governor. Under No. 7 is -- and you will become familiar with seeing these. No. 8 is actually fairly new. But Item No. 7 is the Clark County flood. They had made a request in the required timeframe to be able to avail themselves of disaster relief funds. The request before the Board is for an extension of time from September 11, 2013 to March 31<sup>st</sup> of 2014, and this is for them to have the additional time. As you know, there’s been -- from time to time we’ve seen subsequent extension requests come forward, but, you know, this is that first step in trying to make sure that they have the time to get through the entire process. And we have representatives from emergency management that can answer any questions.

**Governor:** And I see Chief Smith there. Did you have any comments that you’d like to make?

**Chris Smith:** Good morning, Governor, Madam Attorney General, Secretary. Chris Smith for the record. Just simple comments, and that is that we are still working with Clark County to help them identify their potential insurance claim offsets, and we fully support the extension of this to March 31, 2014.

**Governor:** Thank you. We’ve got Irene Navis with us today as well. Do you have any comments you’d like to make?

**Irene Navis:** Just very briefly, Governor. Thank you, and thank you Board members. Irene Navis, Plans and Operations Coordinator for Clark County’s Office of Emergency Management. We are starting to get in revised numbers on -- from the various agencies that we’re coordinating on behalf of. And we anticipate that we will be able to wrap the application up in short order. One of the things that we want to do is, of course, verify any insurance offsets and make sure that what is being requested is actually allowed under the Nevada Revised Statutes. So once we

do that, we'll be able to submit the information to the Division of Emergency Management and move on with the application. Thank you for any additional time you provide us to do that.

**Governor:** And thank you. And this question may be for either Chief Smith or Ms. Navis. But is there any type of jeopardy that attaches to your ability to recover the money by providing these extensions?

**Irene Navis:** I don't think so, unless Chief Smith is aware of anything. I don't believe so.

**Chris Smith:** No jeopardy, sir.

**Governor:** All right. I have no further questions. Board members, do you have any questions with regard to Agenda Item No. 7?

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

**Attorney General:** No.

**Governor:** If there are none, the Chair will accept a motion for approval.

**Secretary of State:** I move for approval.

**Attorney General:** I'll second the motion.

**Governor:** The Secretary of State has moved for approval of Agenda Item No. 7, which describes the extension sought by Clark County. The Attorney General has seconded the motion. Any questions or discussion? All in favor, please say aye.

**Attorney General:** Aye.

**Governor:** Aye.

**Secretary of State:** Aye.

**Governor:** The motion passes unanimously three to zero. Thank you very much.

**Irene Navis:** Thank you, sir. Thanks everyone.

**\*8. FOR POSSIBLE ACTION – REQUEST FOR FUND ALLOCATION FROM THE DISASTER RELIEF FUND**

**A. Department of Public Safety – Division of Emergency Management –  
Caughlin Fire - \$267,547.32**

Pursuant to NRS 353.274, the City of Reno, Sierra Fire Protection District, and the Truckee Meadows Fire Protection District are requesting reimbursement from the Disaster Relief Fund (DRF) due to the Caughlin Fire, which occurred on November 18, 2011.

City of Reno	\$162,548.75
City of Reno-Non-FMAG	\$ 42,330.57
Sierra Fire Protection District	\$ 23,132.00
Truckee Meadows Fire	\$ 39,536.00
<b>Total</b>	<b>\$267,547.32</b>

**B. Department of Public Safety – Division of Emergency Management –  
Washoe Drive Fire - \$116,164**

Pursuant to NRS 353.274, Sierra Fire Protection District and Truckee Meadows Fire Protection District are requesting reimbursement from the Disaster Relief Fund (DRF) due to the Washoe Drive Fire, which occurred on January 19, 2012.

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

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

**Comments:**

**Governor:** We’ll move on to Agenda Item No. 8, which is a request for fund allocation from the Disaster Relief Fund. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. So since I’ve been in this position we’ve had a lot of requests for extension, but not an actual claim that’s come before the Board. And so this is a claim, actually, for reimbursement out of the Disaster Relief Fund. As you’re probably aware there’s several steps involved in this process. First of all, there needs to be a declaration of a disaster. The parties need to make a claim within the required timeframe. They can request extensions and, in this case, there were extensions requested. Then there’s verification of validity of the claims that’s done by emergency management, a financial review that’s done by the Department of Taxation to determine if the jurisdiction has the financial capabilities with all -- to sustain the cost themselves or if their request for relief is reasonable, and then finally the payment process, which is coming before the Board today.

And so before the Board you’ll see that there, under Item A and B, A being the Caughlin Ranch fire and B being the Washoe Drive fire, are requests for relief and reimbursement out of the

Disaster Relief Fund. And once again Chief Smith is here to be able to speak directly to that process. And I understand that Taxation is here as well to be able to respond to their part in this process as well.

**Governor:** And perhaps my first question -- well, Chief Smith, did you have a presentation you'd like to make first before I start asking questions?

**Chris Smith:** No, sir. I'll go ahead and yield time, and go ahead and begin your questions.

**Governor:** No, I think better to have you make a record first, so why don't you proceed, please?

**Chris Smith:** Okay. Awesome. Well, the Division of Emergency Management conducted our review, and so that everybody understands these events were federally declared disasters as well. So there was a federal fire management assistance grant. And that means that 75 percent of the costs will be picked up by FEMA, 75 percent of the allowed costs, and 25 percent of the allowed costs are to be picked up by the local jurisdictions. So our facts, as we came to the Caughlin fire, there were -- there was considerable time going through each one of the applicants to ensure that it met the standard that the State uses. And the State uses FEMA policy in determining if these funds are reimbursable or not or they meet the standard given that -- since FEMA sets the line for federally declared disasters and it's a -- it's a pretty reasonable standard, we apply those same standards to our State reimbursement process as well.

In conducting that review, there were two items that came up on the radar that may not meet that threshold, and those were reimbursements for East Fork fire and REMSA. While we then took a deeper dive into examining what those -- what the events were that surrounded those reimbursements, the East Fork fire reimbursement was really what we feel like legitimate cost, that East Fork was contacted directly by the City of Reno in the heat of the initial phases of the fire by dispatchers. And that is not necessarily the statewide mutual aid fire assistance agreement that we have, but it was missed by only 15 minutes. So we didn't feel like there was any type of nefarious intent to work around the system and feel like we should help reimburse those funds for East Fork fire.

Additionally with REMSA, REMSA is the emergency medical assistance technicians up in the Washoe County area. And REMSA was part of the incident, was assumed to be part of the incident by the incident commander even though there wasn't necessarily a mission number assigned to REMSA to be a part of the incident. They were still providing their service, and their service was essential. And so we feel that despite the fact that it didn't meet the claims -- or meet the standard of the FEMA standard of potentially a resource that had self-deployed, we feel in this instance, in fact, that the incident commander did, at the scene, authenticate and verify that he wanted to have REMSA there, we should go ahead and allow for those costs as well. And so that's my summary, sir, on the Caughlin fire.

**Governor:** All right. There's a note in here on City of Reno for \$11,803.65 about -- that was in question. Do you have that in front of you, Chief Smith?

**Chris Smith:** I see a total of 30,000 total for -- disallow for Reno and for the City of Reno, which includes the REMSA claim and East Fork fire, but we recommend that those are approved.

**Ron Hood:** This is the amount he's talking about right here. It's part of the...

**Chris Smith:** Okay. And now I see that part here, too.

**Governor:** And, Mr. Mohlenkamp, I don't know if you've shared with Chief Smith the copy of your memo dated July 1, 2013, but it had broken down the three requests that were in question for East Fork in the amount of \$7,508.72, one from REMSA for \$23,018.20, and then there was a City of Reno \$11,803.65.

**Ron Hood:** That was what was recommended to be allowed.

**Chris Smith:** Okay. I can speak to that, sir. Chris Smith for the record. Governor, the three items that you see there on the Agenda or the memo, City of Reno for \$11,803.65, we recommend that that be allowed to be reimbursed as well as our recommendation holds for East Fork fire for \$7,508.72 and REMSA for \$23,018.20.

**Governor:** Okay. And I understand with regard to REMSA they had self-deployed, but given that the incident commander had said that they stand by and then with the East Fork they had also been requested by City of Reno to assist, what is the background on the City of Reno request for \$11,803? In other words, you recommended...

**Chris Smith:** Yes. Yes, sir, those -- go ahead.

**Governor:** No, I just was going to say that why is -- why was that one in question?

**Chris Smith:** Those funds were not in question. Those were just allowable costs that we had concurred with the City of Reno. Those costs are allowable. Although I do understand what the language says above it. They weren't eligible for the FMAG. They are eligible for the State Disaster Relief Account.

**Governor:** All right. And so are you recommending approval for the entire amount sought?

**Chris Smith:** Yes, sir.

**Governor:** Okay. Is there anything else that you wanted to provide to the Board?

**Chris Smith:** No, sir.

**Governor:** All right. Is there any representatives there from City of Reno and such that wanted to make any kind of comment for the record?

**Chris Smith:** They don't feel like they need to make comment at this time, sir.

**Governor:** You covered it pretty well, Chief. All right. Board members, do you have any questions with regard to this Agenda item?

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

**Attorney General:** Governor, I do, just for Jeff. Jeff, the Disaster Relief Fund, how much money do we have in it for the biennium? Because I know we have a number...

**Clerk:** I should have that at my fingertips. I do not. It's a couple million dollars. I'll have to get that number for you.

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

**Governor:** All right. And I do have a question for Chief Smith. On these -- at least with regard to East Fork and REMSA, although they didn't meet the letter of the requirements, we are consistent with any kind of regulatory requirements in terms of paying these, correct?

**Chris Smith:** We are. We're in line with the ability to pay them at this time. And we believe that there -- as this process -- as Mr. Mohlenkamp has stated, this is the first time he's gone to this level to allow for request for fund allocation. And it's been a while for us to do that as well, so we'd like to tighten up the process and ensure that everybody understands that some of these standards of self-deployment and moving resources outside the plan need to be all considered as part of the decision making process in the future.

**Governor:** No, and that's why I like having this discretion because perhaps, you know, as time moves on we lose a little bit of perspective in terms of how catastrophic that was and how they wanted to get that response in such a short amount of time. And so, you know, having seen it for myself, you know, you want REMSA on the premises or nearby. You want as much -- they wanted as much fire assistance as they could get to protect lives and property and those things. So I am glad that we can have this discretion so that we can make -- approve these. Although, if somebody really wanted to get hyper-technical about it, we could reject them as well.

**Chris Smith:** Absolutely.

**Governor:** So in any event, Board members, do you have any other questions or comments with regard to Agenda Item No. 8?

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

**Governor:** And, Chief, did you cover 8-B as well?

**Chris Smith:** No, sir. I can give a quick summary of 8-B if you'd like, for the record.

**Governor:** Yes, please.

**Chris Smith:** All right. The Washoe Drive fire is 8-B. Again, this was an FMAG, a fire management assistance grant from FEMA where 75 percent of the costs were covered by FEMA and 25 percent by the local. Everything went according to our process as far as moving the request for extensions along the line. Everybody complied with those requirements and has had comprehensive review by both Taxation and the Division of Emergency Management. And at this time we recommend a payment of \$116,164, which essentially covers the 25 percent cost share borne by the local entities to battle the Washoe Drive fire.

**Governor:** And I have no questions regarding Agenda Item 8-B. Board members, do you have any questions with regard to that issue?

**Attorney General:** No.

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

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

**Attorney General:** Governor, I'll move for approval of Agenda Items No. 8-A and 8-B.

**Secretary of State:** Second.

**Governor:** Attorney General has moved for approval of Agenda Item 8-A and B, which is a reimbursement in the sum of \$267,547.32 associated with the Caughlin fire, and \$116,164 reimbursement associated with the Washoe Drive fire. The Secretary of State has seconded the motion. Any questions or comments? All those in favor, please say aye.

**Attorney General:** Aye.

**Secretary of State:** Aye.

**Governor:** Aye. Motion passes three to zero. Thank you very much, Chief Smith.

**Chris Smith:** Thank you, sir.

**\*9. FOR POSSIBLE ACTION – APPROVAL TO PAY A CASH SETTLEMENT AND ISSUE TAX CREDIT**

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 Taxation – \$7,644,336**

Pursuant to NRS 41.037, the department requests the approval of a settlement agreement with several companies regarding sales/use tax for complementary patron and employee meals. In this



agreement the Department of Taxation requests the approval to pay a cash settlement in the amount of \$4,500,000 for taxpayers who are no longer in business and provide tax credits in the amount of \$3,144,336 for taxpayers who are still in business.

**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. 9, approval to pay a cash settlement and issue tax credit. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board is a request by the Department of Taxation for a settlement in the amount of \$7,644,336. This would provide a settlement for the comp food case. And this would provide for both the State share and local shares which would then be reimbursed through methods that we'll describe, but basically we would be recapturing those local shares through a tax deferral or withholding process. So this amount is the full amount of the settlement, both the cash portion and the credit portion.

In conjunction with this, AB 506 was passed in this last session by the legislature, unanimous approval, which changes the legislation to make it clear that there will not be future taxation on these comp foods. And there's also in the settlement agreement a provision that provides that if a future legislature changes that, that the parties that basically are settling with us have the ability to claim a breach. I'm not the attorney, so I'm going to defer to the attorneys on exactly what that means. But the bottom line is that this settles the matter unless a future legislature changes the law that makes those foods -- comp foods taxable. And we have Chris Nielsen here at the table to be able to speak. And I understand legal counsel is there in Las Vegas to be able to address the legal questions.

This was brought before the legislature late in the session, and as I mentioned it did receive unanimous approval. So the leadership of the legislature is well-informed on not only the nature of this settlement agreement, but also what was required legislatively in order to make it happen.

**Governor:** And thank you, Mr. Mohlenkamp. And perhaps Mr. Nielsen is going to talk about what the potential tax liability to the State was in the event that the State lost the case at the Nevada Supreme Court.

**Chris Nielsen:** Absolutely. Thank you, Governor. Good morning, Governor and members of the Board. For the record, Chris Nielsen, Director of the Department of Taxation. As Mr. Mohlenkamp summarized, this is -- we are seeking approval to pay a cash settlement and credits to settle this matter. By a way of background, refund claims were logged with the Department of Taxation beginning in approximately 2001. Litigation ensued. The aggregate amount of refund claims through 2008 was approximately \$233 million. The matter went to the Nevada Supreme Court and they issued an adverse decision to the State in 2008, ruling that use tax on the cost of the food ingredients used -- which are used to provide patron meals and employee meals was not subject to the use tax. However, they did leave -- the Supreme Court did leave open the door on

a sales tax theory, so to speak, that these items could be subject to sales tax if “consideration could be shown.”

So that’s the approach that the Department took in conjunction with the -- our legal counsel in 2008, and additional litigation ensued. In 2012, with this -- one of the lead -- the lead case was ruled on by the Nevada Tax Commission. They ruled that both the patron comps and the employee meals were subject to tax. However, subsequent to that two different district court issued decisions essentially ruling the same thing in that the meals to patrons were subject to taxation, but the meals to employees were not.

In that regard, in given the \$233 million liability that had been hanging over the State for over a decade, I worked with our legal counsel and the stakeholders and crafted an agreement that was presented -- that was presented to a public -- to a public meeting at the Nevada Tax Commission in May of -- earlier this year, where it was approved by the Nevada Tax Commission. And as Mr. Mohlenkamp said, as part of this agreement it was contingent upon legislation passing and that legislation, which is AB 506, passed unanimously before the legislation and signed into law, which effectively stated prospectively that these meals would not be -- would not be subject to taxation in that regard.

So essentially that the \$233 million liability, this is the final piece in settling it. It’s for -- \$4.5 million is attributable to certain properties that are no longer in business. And then the balance of it is attributable to certain what we call nongaming comps or taxes that were erroneously paid. For example, coupons. Those will be taken in the form of credits. So with that, Governor and members of the Board, I’d be happy to answer any questions.

**Governor:** All right. And, Mr. Nielsen, will you break out the difference between the employee piece and the patron piece, and then also a little bit more background on where the case is postured right now?

**Chris Nielsen:** Yeah. Absolutely, Governor. The two pieces that were subject to these refund claims, the first piece is the cost -- or the meals that are provided to patrons in -- by a way of a comp food program. And it varies from property to property, but in the ones that we’d audited, it was approximately 50/50 in that about half of the refund claims were attributable to the comp food claims and about half the refund claims were attributable to employee meals. The larger properties, the mix varied. Obviously, there were certain restaurants that provide employee meals that do not have gaming, so obviously 100 percent of their claims were employee meals. And to answer your Governor -- or your question, Governor, it’s about 50/50 between the two. And that’s what the court had -- the courts had split upon.

And the posture of it is, is we have two different district court decisions; one in the First Judicial District up here in Carson City and one in the Eighth Judicial District down in Clark County that are on appeal to the Nevada Supreme Court. And both of those decisions say that employee meals are not subject to taxation and patron meals are. And upon approval of payment of this cash refund and credits here today, those cases will be withdrawn and the matter will be concluded.

**Governor:** And what is -- I mean, if we were to -- we being the State of Nevada were to lose this case and the court were to find in favor of the plaintiffs, that's \$233 million. What's the interest clock that's ticking on that?

**Chris Nielsen:** Right now, Governor, the interest clock is ticking at 3 percent per year, but given the dollar -- I believe the principle is approximately \$155 million. So we're looking at -- even at 3 percent a year, we're looking at, you know, close to \$5 million in interest per year. So it's not an insignificant sum.

**Governor:** We also would be subject to attorney's fees and costs in prosecuting the action, if we were to be unsuccessful?

**Chris Nielsen:** Yeah. Absolutely, Governor. I don't know -- we would certainly expose ourselves to paying attorney's fees and costs if we would go to the Supreme Court and lose. I would certainly expect the plaintiff -- attorneys for the plaintiffs to seek attorney's fees and costs.

**Governor:** All right. Then will you go into a little bit more detail with -- I mean, you briefly commented on it, but it's paragraph 2.8 of the settlement agreement in terms of if a future legislature were to adopt a tax.

**Chris Nielsen:** Right, Governor. As Mr. Mohlenkamp had briefly gone over, Provision 2.8 is kind of a damages clause, and this is something that we -- is not unprecedented. My understanding is the -- in settling the master -- the tobacco settlement agreement, there was something similar to what was done in that settlement context. But what Provision 2.8 does is obviously an agreement -- any agreement can't bind future -- a future legislature. No one has that authority. But what this does is this is a damages clause that's prorated through the next two legislative sessions, all the way to January 31, 2019. So this would cover the 2015 regular session and the 2017 regular session, and in theory any special sessions that could arise.

But how -- mechanically how it works is if the legislature, say, in next session would repeal AB 506, the State would be on the hook for a prorated share of the amount of refund claims that we're settling today. So, in other words, less interest. So the principle would be -- in \$255 million, if the legislature would rescind AB 506 in two years, you would apply the 4-6 multiplier to come up with the damages clause. If the legislature would do something in four years from now, you would apply a 2-6 multiplier times that \$155 million principle amount. How it would be -- if this clause were ever to be triggered, the -- how it would be -- it wouldn't be drawn from the State Treasury, it would be so-called paid in the form of tax credits going forward to these properties. I hope that answers your question, Governor.

**Governor:** It does. And, you know, it's interesting now that I look at it, but it says a legislature enacts legislation, but that would assume that a Governor signed the bill, wouldn't it?

**Chris Nielsen:** Yeah. Absolutely, Governor. As Mr. Mohlenkamp said, I was, you know, the bill did -- was heard for the first time the day before the session ended before a joint taxation committee and they were privy to this agreement as part -- it was submitted to the legislature's

online system. I fully briefed them on -- specifically on this 2.8 clause, so they are fully aware of what we're trying to do here today.

**Governor:** And I also see on -- as part of the settlement agreement that Douglas County and City of Henderson are signators to that?

**Chris Nielsen:** Yes, Governor. How it works in a tax refund setting is we're -- by statute the Department is obligated whenever there's some sort of significant refund claims or even just significant tax litigation to -- if there's tax money that the local governments are entitled to, for example, sales tax, because sales tax is made up of local government components and General Fund components. We are obligated to notify those local governments asking them if they want to participate in the litigation. And we did that in these cases. And the City of Henderson and Douglas County were the two local governments who chose to intervene in the case, so essentially they became parties to the litigation. And obviously in settling this case, Governor, we worked extensively with Douglas County, their attorneys, the City of Henderson and their attorneys and we are all on the same page with respect to settling this.

**Governor:** And then just trying to bottom line this a little bit is -- at least in your opinion -- I guess I'll ask your opinion, that that \$7,644,336 is money that we would probably have to pay anyway?

**Chris Nielsen:** Yeah, Governor, just to maybe clarify a little bit better. You're right. Of the 7.6 million, 3.1 million is -- which is the credit component in Section 2.5, that's money that we would have paid anyway. These aren't true comps in the sense of the word. In other words, they weren't part of the litigation. They were paid erroneously and categorized these comps by some of the properties throughout the years. And after digging deeper, so to speak, and auditing these claims, that portion we would have refunded or credited regardless of whether we were here today or not. And so really the true settlement is really the \$4.5 million piece. And so essentially we're settling for \$4.5 million, a \$233 million liability, which in my opinion I think is prudent given the dollar amount.

**Governor:** And just to game this out a little bit, is if the State were to lose both on the patron and the employee pieces of this litigation, the State would be looking at a \$233 million liability which would be payable to the taxpayers?

**Chris Nielsen:** That's absolutely correct, Governor. And while not 100 percent of it directly impacts the General Fund, there's a significant portion that impacts the school districts, because a portion of the sales tax is made up of money that goes to the school district. So if the State would pursue litigation and lose both pieces of it, it's not just the State would be hit pretty hard. The school districts would be hit as well.

**Governor:** And do you have an approximate number on what the jeopardy to these school districts would be, school districts?

**Chris Nielsen:** Yeah, the sales tax -- the rates have varied a little bit over the years, but it's about 25 percent to the State General Fund of the total claims. With the balance split evenly

between the school districts and the local government. So about a third of it would be a hit to the school districts.

**Governor:** That's \$70 plus million?

**Chris Nielsen:** Yeah, that sounds right, Governor.

**Governor:** Okay. And just moving forward, and I know you did testify to this today, is the State liability, at least the liability piece of our balance sheet is decreased by \$233 million, but we won't be collecting or have the opportunity to collect any of that tax in the future unless the legislature were to approve it?

**Chris Nielsen:** That's correct, Governor. And this is a revenue stream that the State has not received the benefit of since 2008, since that Sparks-Nugget decision issued by the Supreme Court that ruled that refunds were due on the use tax theory. So this is not something that has been considered or relied upon by the State in any way for the last five years. But you are correct, the legislature could resurrect this revenue stream if they would rescind AB 506 and put something in its place.

**Governor:** Thank you, Mr. Nielsen. And just a quick question for Mr. Mohlenkamp. As Budget Director, how does it make you feel to be removing a \$233 million liability from our balance sheet?

**Clerk:** Governor, I'm pleased whenever a liability is removed. And in this case, that school district amount really is a State liability as well, because if the school districts come up short in the LSST, which is that portion of the sales tax, the State has to make them whole. And so it's -- yes, it hurts the school districts, but then it hurts the State budget very directly as well. So I'm absolutely pleased to get this off the books.

**Governor:** And in the event -- again, this is a hypothetical, but had we lost the case in that the State had to make that money up in the middle of a school year, what would we likely have to do in order to find the money to make up for it?

**Clerk:** Governor, we'd be calling a special session. There's no ability to make up that kind of dollar volume in the current budget setting. We would have to -- we would have to be able to either reduce costs significantly in order to come up with the money, but in order to make that level of money, you'd probably be looking at a special session.

**Governor:** Okay. Thank you, Mr. Mohlenkamp. I have no further questions. Board members, do you have any questions with regard to this Agenda item?

**Attorney General:** Governor, I do. I just have some clarifications. And I appreciate, Chris, you coming here and thank you. So clarification, the only thing that the Board of Examiners is really ruling on today or voting on today is the amount of the refund. We're not voting on the adequacy of this agreement, whether it should be entered into or not or what the legislature did or

the policy provision by the Governor to settle this. What we're voting today is whether or not to seek a refund or allow that refund in the amount of \$7 million; isn't that correct?

**Clerk:** You are approving the cash payment and the credit payment associated with the settlement. That's what you're approving.

**Attorney General:** Okay. So that 4.5 million, where is that money coming from, which account?

**Clerk:** So the \$4.5 million will initially come out of the General Fund. And the portion that is the State's portion will be essentially a payment out of the General Fund that's been budgeted -- I worked with our legislative counterparts to have that money set aside within the budget. And then the portion that is the local amount will be on a basis, an incremental basis, reduced from the amount of money they would normally receive from taxation. So their portion will be essentially over a period of time. We won't hit them lump sum because that would create some cash flow issues. But over a period of time we will reduce the amount of allocation that they'll get to make up their portion of that \$4.5 million.

The General Fund portion, as Mr. Nielsen had mentioned, is a little over 1.2 million. The LSST portion is almost 1.4 million. And then the rest is very directly local government.

**Attorney General:** Okay.

**Clerk:** And so that's that portion of the 4.5. And then as he mentioned the credits will be essentially credits against future taxation for that portion of the settlement.

**Attorney General:** Thank you, Jeff. And so -- and, Chris, thank you because you came and briefed me. I appreciate that. And I should have caught this when we talked. I have a quick question though for legal. We can approve the 4.5 million because it's coming from the General Fund, but the 3.1 million is essentially tax credits. I don't know what authority we as a Board of Examiners have for approval over tax credits. I thought that was the Tax Commission and their province and authority to approve or disapprove of tax credits. But I don't recall us ever -- maybe we have, but it's just a question for legal. Do we have the authority to approve tax credits as a Board of Examiners?

**Katie Armstrong:** Let me get out of the sun. Thank you. General Masto, I believe you are correct. This Board has authority to approve claims against the State, not necessarily tax credits going forward. So you may have a point.

**Attorney General:** So I don't know if we need further clarification of that or what you need to do. I'm assuming the Tax Commission has already approved that amount, \$3.1 million; is that right?

**Chris Nielsen:** Yeah, General Masto, you are correct. The Tax Commission -- and back to your first question. Yes, the Tax Commission did approve this agreement. And we worked with your staff in bringing this to fruition. You are -- we are here today just to deal with the cash payment

and the credit issue. I think in the interest, though, since this is such a large settlement and we're trying to globally settle everything and dot all the ties -- or dot all the I's and cross all the T's, I think we -- maybe we went a little step too far with respect to the credits. So I...

**Attorney General:** No, no, no. And I appreciate that and I appreciate the background, and I just wanted clarification on that. So right now you already have the approval with the 3.1, so we don't have to worry about that. It's really the issue of the 4 million that we're here to approve today, correct?

**Chris Nielsen:** I think that's technically correct. And I think even if you look at the agreement itself, 2.4 refers to the Board of Examiners and that's the \$4.5 million figure. And then 2.5 which is the credit piece of it doesn't specifically refer to the Board of Examiners.

**Attorney General:** Okay. So then back to legal, is that an open meeting law violation? Do we have to have concerns about any type of open meeting law issues?

**Katie Armstrong:** No, I believe it still complies with open meeting law because the Agenda has the larger amount that the Board can take a vote on the lesser amount...

**Attorney General:** Okay.

**Katie Armstrong:** ...that you have authority over.

**Attorney General:** Okay, great. Thank you. I appreciate that. Those are the only questions that I have.

**Governor:** If there are no further questions -- so, Madam Attorney General, would you suggest that the motion only be for the \$4.5 million -- or excuse me -- yes, yeah, the \$4.5 million?

**Attorney General:** Yes, Governor, that would...

**Governor:** And...

**Attorney General:** ...that would be my recommendation.

**Governor:** All right. Then the Chair will accept a motion for approval to pay a cash settlement in the amount of \$4,500,000 for taxpayers who are no longer in business as described in Agenda Item 9.

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

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

**Governor:** The Attorney General has moved for approval of Agenda Item No. 9, cash payment in the sum of \$4.5 million. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All in favor, please say aye.

**Attorney General:** Aye.

**Secretary of State:** Aye.

**Governor:** Aye. Motion passes unanimously. Thank you very much.

**\*10. FOR POSSIBLE ACTION – REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE CONTINGENCY FUND**

**A. Department of Taxation – \$529,226**

Pursuant to NRS 353.268, Department of Taxation, requests an allocation of \$529,226 from the Interim Finance Committee Contingency Fund to implement the excise tax imposed from SB374, Section 24.4 in the 77th Legislative Session, relating to the sale of marijuana, edible marijuana products and marijuana-infused products.

**B. Attorney General – \$3,008**

Pursuant to NRS 353.268, Office of the Attorney General – Crime Prevention, requests an allocation of \$3,008 from the Interim Finance Committee Contingency Fund to cover a revenue shortfall of License Plate Charges.

**C. Department of Health and Human Services – Division of Public and Behavioral Health – Southern Nevada Adult Mental Health Services – \$3,093,226**

Pursuant to NRS 353.268, the Division of Public and Behavioral Health, requests an allocation of \$3,093,226 from the Interim Finance Committee Contingency Fund to renovate all of building #3 at Southern Nevada Adult Mental Health Services as shown in the revised CIP 13-C08.

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

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

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**Comments:**

**Governor:** And, Mr. Nielsen, I would believe that you're here for Agenda Item No. 10, as well, but I'll start with Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. So before the Board are three claims for allocation from the Interim Finance Committee Contingency Fund. Item No. 1 or No. 10-A is the Department of Taxation. And I'm assuming you're going to want to take these one by one; is that correct, Governor?



**Governor:** Yes.

**Clerk:** Okay. So Item A, Department of Taxation, \$529,226 for the Department of Taxation to do what they need to do to implement an excise tax on -- that was imposed by the session, 77th session, and signed into law by the Governor relating to the sale of marijuana, edible marijuana products and marijuana infused products. And Chris Nielsen is here to be able to speak to directly to what their needs are to implement that.

**Governor:** And that's for medical marijuana, correct, Mr. Mohlenkamp?

**Clerk:** It doesn't say it in here, but I believe it is.

**Governor:** Okay.

**Chris Nielsen:** Yes, you're correct, Governor. It absolutely is medical marijuana. There was another bill that died that was recreational, but we're here today to implement the medical marijuana legislation that was passed via Senate Bill 374.

**Governor:** Do you have a presentation, Mr. Nielsen?

**Chris Nielsen:** I can give you an overview, Governor. Absolutely.

**Governor:** Yes.

**Chris Nielsen:** We're here today just to ask money to implement the tax piece of what's contemplated in Senate Bill 374. This was a -- SB 374 was a -- just a dispensary bill with no tax component. Up until, I believe, the last -- second to last day of session where an amendment was put in in work session that imposes a 2 percent tax on the wholesale transaction to the dispensary, and then an additional 2 percent tax, excise tax on the sale of the -- from the dispensary to the individuals seeking medical treatment.

So what we're asking here today is we're asking for \$529,000 in FY '14 for -- this is largely attributable to one time programming costs that will be incurred by the department to put -- place this new tax type into our unified tax system. How we would accomplish this -- how would we accomplish this? We'd be going to the master service agreement and contracting out personnel. We would not be -- in other words, we would not be bringing on a third-party vendor or additional full-time staff, IT staff. We are requesting, however, one tax examiner beginning January 1<sup>st</sup>, and that would continue beyond the implementation phase.

So for fiscal year '14, we're asking for \$529,226. And then I plan -- I imagine we'll be back in here next year at this time asking for an additional authority to go to IFC for \$54,136 and that would be attributable to just that one permanent tax examiner position.

**Governor:** And the reason why this wasn't funded in the legislative session is because of -- it came up in the second day -- second to last day of the session?

**Chris Nielsen:** Yeah, to be honest, Governor, we were -- the department wasn't requested to do a fiscal note. This wasn't necessarily a bill that we were tracking because, as I stated, this was a dispensary bill, not a -- it was a zero tax component in it, and we issued a fiscal note in that other bill I touched on earlier. And this fiscal -- or this -- the money that we're seeking here is consistent with that fiscal note. And so to be honest, it's just one of those things that happens at the end of the session sometimes. And so that's why we have -- my understanding, why we have this process and the ability to come to you today and then go to the IFC.

**Governor:** And there was a time where you thought it might be a little more than \$2 million?

**Chris Nielsen:** I thought initially that it could be upwards of a million. And we -- I worked with, you know, our IT staff and really emphasized that we need to be as precise as possible. It's always just an estimate, especially on the IT thing. Things can come in higher and every now and then things come in lower. But, you know, we whittled it down as best we could, and we really need this to put into our what we call, again, the unified tax system as, there's a distribution component. A part -- 75 percent of it goes to K through 12 funding. 25 percent of the tax revenue will go to Health and Human Services. And we just simply can't have certain taxpayers filling out tax forms by hand and then they're -- and them paying sales tax and modified business tax electronically or sending it somewhere else. We need to have some consistency where, you know, from the taxpayers' standpoint where they may have to fill out three different forms or go to one website, but they can do it all at once and not piecemeal it.

And so with this money, this would allow us to make the required programming changes to have this tax type administered similar to how we do the sales tax and the modified business tax and other tax types.

**Governor:** And do you anticipate that the revenue raised from this program will make up for this amount that we might approve today?

**Chris Nielsen:** To be honest, Governor, I have no idea what the amount of sales would be. I know the number of dispensaries is limited by statutes statewide, but I believe it's 60. But given that there's an excise tax, not just imposed on the sale by the dispensaries, but there's going to be sales tax on top of that as well. So you're really looking at a -- if the sales tax rate in certain counties is 8 percent and the excise is 2, you're looking at really a 10 percent retail tax. And then, of course, at the 2 percent wholesale tax and there could be an infinite number of growers and edible products, bakeries. And so I -- to answer your question, I have no idea how much revenue is going to generate, but I suspect it's going to more than cover the cost of what we're asking for here today.

**Governor:** Thank you. I have no further questions. Board members, do you have any questions with regard to Agenda Item 10-A?

**Secretary of State:** How many total locations are allowable under the statute between cultivation facilities, the manufacturing facilities and then ultimately the dispensaries?

**Chris Nielsen:** Secretary Miller, with regard to the number of dispensaries, again, I believe it's either 50 or 60 statewide.

**Sumiko Maser:** I believe that there's a maximum allowable per county, which gets us to that 60 amount, but off the top of my head, I don't have that number, but we could follow up and find that information.

**Chris Nielsen:** Yeah, we could certainly get back to you. I mean, that's really, I think, more of a question pointed to Health and Human Services, actually. I mean, unfortunately, you know, whether there's 50 dispensaries or 150 or 2,000 of them, the cost to do the programming is the same. Certainly it's going to -- the Health and Human Services Department, I imagine, is going to incur more costs the more locations there are, because they're doing the licensing piece of it. But we can certainly circle back with you and get that information to you.

**Secretary of State:** But you requested one tax examiner to oversee all these locations, so wouldn't the number of locations be relevant to that issue? I mean, is the number of locations, in other words, that you anticipate this tax examiner having oversight over comparable to other industries?

**Chris Nielsen:** Secretary Miller, I mean, I see your point, but we know that the -- we don't -- first of all, this program doesn't get off and running until the first -- it can legally be sold to dispensaries in April of 2014. I've been told by -- that it's going to take a while for the maximum number of dispensaries to get the proper licensing. There's a licensing requirement through the State, and then they have to go to the local governments. In other words, the full program isn't going to be up and running, we don't believe so, until we're into the next session. And so I think we'll have to reevaluate our needs at that point. I just know that we need at least one person dedicated to overseeing this. We may need a couple more depending on -- it's not the number of dispensaries I'm worried about. It's, you know, if all of a sudden we have 2,000 growers out there, so to speak, then, yeah, we may need additional staff or two. But I think we'll know by the time I'm building our budget for next budget cycle. We'll know. We'll have a much better idea. And I didn't want to overshoot at this point.

**Secretary of State:** Okay. Thank you. I don't have any further questions. Thank you.

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

**Attorney General:** No, Governor, I do not.

**Governor:** Okay. Then I think what I'll do is take all of these items on Agenda Item No. 10 together, so we'll just move on to Agenda Item 10-B. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board is a request from the Attorney General's Office for \$3,008 to cover an anticipated shortfall as a result of license plate charges coming in lower than were budgeted. This is basically triuing up of their revenues to their expenditures, and they find that they're a little short. And that's the request before the Board and then we'll go before the Interim Finance Committee if it's approved.

**Governor:** I have no questions regarding Agenda Item No. 10-B. Board members?

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

**Attorney General:** No, Governor.

**Governor:** We'll move on to Agenda Item 10-C. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board is a request for an Interim Finance Committee allocation from the Contingency Fund, and it's to be approved by the Board first, in the amount of \$3,093,226. This would provide for, essentially, an enhancement to a capital improvement project that was part of the budget and was approved through the legislature. That capital improvement project provided for, essentially, a restoration of one-half of the old Stein Hospital, which is commonly known as building -- unit 3 on the Stamps Campus. Through processes, which will be explained by the experts here, we determined that it was prudent to expand the entire Stein Hospital to make that ready for full licensure and for access for all the needs of the -- of the division and the department going forward.

So what you have before you is taking the initial CIP and then retrofitting the remainder of the Stein Hospital, which is on the Stamps Campus, to make both first and second floor totally available. Initially, we were looking at having -- I think it was 13 or 19 beds that were going to be available as a bridge to help Stamps as they were working on their discharge process. This will make the whole building available for both forensic uses, as they'll explain, and also for uses in civil bed commitments to deal with overcrowding in the emergency rooms. And with that I'll defer to the experts. Mr. Whitley and Dr. Tracey Green are here to be able to speak more directly to what this does for them and how it addresses their concerns.

**Governor:** Yeah, and also before you begin, Dr. Green and Mr. Whitley, this also has a connection to the IFC's last meeting in terms of them not approving some money for a shift from Lake's Crossing to Stein; is that right?

**Richard Whitley:** Correct.

**Governor:** Okay. Well, why don't we just take it from the top and then I have several questions.

**Richard Whitley:** Great. For the record, Richard Whitley. I serve as the administrator for the Division of Public and Behavioral Health. If it would be okay, I think it would be helpful to give a little bit of history of Lake's Crossing. I think it kind of identifies how we got to this point. Lake's Crossing is a 66-bed facility forensic hospital located in Reno. It serves the entire State. The primary challenge has been transportation from Clark County Detention Center, but that's been since the beginning of the hospital.

Interestingly, Lake's Crossing was actually created out of a lawsuit prior to the hospital being built. Restoration for clients who were in the criminal justice system ordered for restoration

from a judge were sent to the Department of Corrections. As a result of a lawsuit related to the kind of treatment and where the treatment was occurring, the Lake's Crossing facility was built. And it was built as a 56-bed hospital. In 2005, there was a lawsuit related to the timeliness of admission to the hospital in the referrals from the judges, primarily from Clark County Detention Center. As a result of that lawsuit, a settlement agreement was reached in 2008, and the agreement was that Lake's Crossing would receive court-ordered clients within seven days. That worked -- as a result of that then 10 additional beds were built at the Dini Townsend Hospital, and we call that the Lake's Crossing Annex.

Those 10 additional beds have worked over the years in terms of keeping up with the referrals. Typically what happens is Clark County Detention Center will fly six new clients to Lake's twice a month and return six clients once a month. That process had been working. When we built our budgets, there were three to six clients waiting in the detention center for transfer. Again, with the process of transport that seemed to be working, so we didn't ask for any additional changes in this budget or additional beds. But in January of 2013, that waiting list rose to 15 clients waiting approximately 30 days for a transfer.

So we requested in June, and the legislature approved funding for an additional 10 beds to basically take another empty wing at the Dini Townsend Hospital in Reno and create another annex. Adding the 10 beds in the past had worked in terms of easing the wait time, and given the 15 at the time it seemed like a reasonable strategy to solve the wait time. But then after the session ended on June 24<sup>th</sup> of 2013, the public defender in Clark County sued us for not timely taking clients, and at the time there were -- of the lawsuit there were 32 clients waiting for transfer to Lake's Crossing.

Both Dr. Green and I, as well as our Deputy AG, met with the public defender and her attorney to see, you know, how to resolve the issue. In general terms there seemed to be an agreement that there's a short-term strategy which is the addition of the 10 beds at the Dini Townsend, and then a longer term strategy which would be to open a facility or a unit in Las Vegas which would help alleviate, one, the delay for transportation, but also this increased number of clients that are being referred to Lake's Crossing for evaluation and restoration. On August 26<sup>th</sup> then we went to the legislative Interim Finance Committee, and at the time what we did was request a redirection of existing capital improvement projects. Included in our budget, which was approved by the legislature, were some capital improvement projects for Lake's Crossing.

What the goal has been and it's been recommended by the executive branch auditors, is that Lake's Crossing as a hospital could be billing Medicare. But in order to bill Medicare, it has to be certified. And so in order to be certified, it needs to meet some standards. It wasn't built as a hospital, the current Lake's Crossing. And so the CIPs that were approved during the session included life safety and security, updating the security system which is pretty antiquated. These requests have been brought forward during the past two legislative sessions in order to -- and didn't really make it very far in terms of getting approved.

And so when we looked at what resources we had available to us, there is authority to shift capital improvement projects around. And so we took that to the IFC. They did not approve that and, in fact, referred us back to the Board of Examiners to request contingency funds with the

intent to go back before them at their -- at the August 29<sup>th</sup> IFC. And so that's what we're here before you today to request is the contingency funds, replacing the reconfiguration of the CIPs that we had recently taken before the Interim Finance Committee. I'd be happy to answer any questions.

**Governor:** Great. Thank you, Mr. Whitley. And just -- do you have any idea why the number of referrals for the competency evaluations went from 6 in November to 32 currently?

**Richard Whitley:** I think there's not a single factor. I think it's -- there are multiple factors. There were some delays in the winter time with air transport, which put us behind, but there's also a new judge that is making referrals. It would appear that more people are being referred. We've not done analysis of the data to identify if the criminal justice system in Clark County is, in fact, identifying and arresting more people with severe mental illness. We do know that the clients within the Clark County Detention Center are new to the mental health system. You know, in most of our jails, Washoe County, Carson City, where we've looked at the data, approximately 20 percent of the people in jail are known to the State mental health system.

In Clark County it's different. It's around 10 percent. And so what's happening in Clark County is they're the first encounter a lot of times with somebody who's mentally ill. They're not known to the State system. But I can't pointedly say there's any single factor that increased these numbers, other than we see a different population in Clark County who are mentally ill who get involved with criminal justice, and there is a new judge, and we had the delay. Those are the variables that we've identified contributing to the increase in the wait time.

**Governor:** All right. And then with regard to Stein, what this will do if we approve this today, it will add 42 new forensic beds in Stein once the capital improvements are completed?

**Richard Whitley:** Correct. It actually will add a total of 58 beds. Our intent would be to use 16 of those beds as civil beds. The requirements for the hospital are the same. The entire building will be -- the term that Public Works has used is hardened, but made secure. So the entire building will be made secure to take folks at all security levels. But the total bed count would be 58; 42 for forensic and 16 for civil.

**Governor:** Yeah, and two points I wanted to make on that -- on those figures is, A, that'll be 42 less people that have to be flown from Southern Nevada to Northern Nevada for treatment, correct?

**Richard Whitley:** Correct.

**Governor:** For evaluation I should say, evaluation and treatment. And then with regard to the 16 civil beds, that will be 16 more beds that are available for the patients or clients of Rawson-Neal.

**Richard Whitley:** Correct. We believe that that will help with offloading some of the weight in the ER by expanding the capacity of the civil hospital.

**Governor:** And do you have any idea what -- can you quantify that a little more? I'll put it that way.

**Richard Whitley:** The wait time? Yeah. Again, there's not a single factor for why clients are waiting in the ER. That number has gone up during the past several months. We're implementing multiple strategies as, you know, as you supported in your budget and was approved. We've opened an urgent care. That's one strategy. Rather than go to the emergency room, come to the urgent care. That is not 24 hours yet. It was funded to be 24 hours. And so we believe that that will offload ER congestion. But we also do need these extra inpatient beds to turn so that clients who need to be admitted can be and that our admission and discharge has greater capacity.

So we believe that those strategies together will reduce the emergency room wait time, diverting from the ER. Most ER transfers occur from law enforcement, then ambulance and then walk-in. Where Dr. Green has been working with law enforcement to do direct transport to our urgent care, thus avoiding the emergency room visit. We do medical clearance on site. And so, historically, there's been a need to go to the emergency room first to be medically cleared, then wait until admitted to Rawson-Neal Hospital. So all these variables together we believe will reduce the ER waiting time. Just in the -- since July 1<sup>st</sup>, since we opened the urgent care, we actually have seen a decrease of, you know, we are at, like, around 140 of people waiting on a given day in ERs across the valley. And as recent as last week we were under 80 people waiting. And so we've almost saw an immediate reduction when we opened the urgent care and could have people come directly to that site.

**Governor:** And so these 16 beds will hopefully help that as well. And this -- what we're considering today is also in addition to what was approved at IFC last week, Mr. Whitley?

**Richard Whitley:** Correct. We did -- we received approval for reserve funding, some of which we've put -- we requested to be put towards this capital improvement, as Mr. Mohlenkamp indicated. We had approval for partial opening of the Building 3, the Stein Hospital, and then we added some additional dollars from what was available to us in reserve, and then the remaining is what we're asking for here today to come from contingency funds.

**Governor:** Okay. And then just a quick question for Dr. Green. Dr. Green, my understanding is we still have a State health provider in the emergency rooms to assist with expedite in the triage of mental health patients in the emergency rooms?

**Tracey Green:** For the record, Dr. Tracey Green, Chief Medical Officer, Division of Public and Behavioral Health. That is correct. We actually have a team of both contract and State employees in all of the emergency rooms in the valley currently.

**Governor:** And how is that working out?

**Tracey Green:** It's actually working out very well. We have multiple different tools that we're using. So we have psychologists in some of the emergency rooms. We have a team of social workers and psychologists. And we also have some psychiatrists doing direct admissions from

some of the busier emergency rooms. And so what we have created is a new system for allowing direct access to our inpatient hospital as well as access to the urgent care. And we have seen a continued decrease in the numbers.

**Governor:** And that's something that we haven't done before and we just found that it's much more efficient to have somebody right there at the hospital?

**Tracey Green:** That's right. You know, one of the things that we have seen in the data is that over half of the clients in the emergency rooms are not requiring acute inpatient admission. And so by having a team in the emergency rooms, we're actually able to triage the clients appropriately. And one of the approvals at the last IFC was for a drop-in center. So we also believe that we're going to have a new access point for clients that need housing, which is probably the predominant issue for our indigene population who are seriously mentally ill. And so we will be able to move those clients not requiring acute inpatient nor requiring acute medical attention that really need community resources to alternative places on our campus.

**Governor:** And, Dr. Green and Mr. Whitley, we've done a lot in a short amount of time. When do you anticipate with the capital improvements and I know there's a lot of hiring that has to take place as well, but when will everything really begin to gel with the improvements and additional funding that we've got?

**Richard Whitley:** This is Richard Whitley. As it relates to Lake's Crossing, we've requested to expedite the 10 beds at Dini Townsend so that -- and we've already started the recruitment of the staffing for that unit. So that in the next 60 to 90 days should alleviate some of the immediate backlog for the forensic clients. As it relates to the ER issues in the valley, I think that as we expand, as Dr. Green indicated, those services that divert folks from the ER that we will continue to see -- I think just as rapidly a reduction in that wait time as we're seeing now as we expand it. I mean, what's happening is in our limited time of being open in the urgent care we see that the ERs do get backlogged because they're not -- because we're not open 24 hours. And so as we open that up, we would expect to see the numbers go down even more.

**Governor:** And when all is said and done we will have almost double the amount of forensic beds, both North and South?

**Richard Whitley:** Correct.

**Governor:** All right. That covers my notes. Members of the Board, do you have any additional questions with regard to Agenda Item 10-C?

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

**Clerk:** Governor, this is Jeff Mohlenkamp. I just wanted to make one comment for the record, just so everybody was aware that while we're adding the facilities and making that available, it still will require staffing, and that'll be something that'll be coming before for your decision and ultimately a legislative decision as well in the future. And so the bed capacity for Building 3, the Stein Hospital, is being curated if it's approved and if the legislature subsequently approves the



allocation of funds. The staffing necessary to run that will be a separate decision that'll have to be made in the future.

**Governor:** And actually I just thought of another question for Mr. Whitley. And I know you're not legal counsel, but what effect is this approval going to have on the litigation that's been filed by the public defender?

**Richard Whitley:** Again, Richard Whitley. Dr. Green, myself and our Deputy AG, as I indicated, have met with the public defender and their counsel. They did, in general, seem agreeable of this short-term strategy with Dini Townsend 10 beds, and with the longer term strategy of opening the 40-some beds in Clark County. They seemed very clear that they wanted a facility in Las Vegas because of the issues you identified of transportation. And this has been an ongoing issue for years. And a cost that actually is felt by Clark County Detention Center in so much as they are responsible for the transportation. And so they did seem, in general, agreeable to this as a strategy.

**Governor:** And they do appreciate that the number of clients has increased by 500 percent in nine months, I mean, at least the waiting list.

**Richard Whitley:** They did acknowledge that. And they also did agree that -- to facilitate a meeting with the judge with us to discuss -- you know, there are some things that we've identified that could assist. Like right now we're reliant on the plane that delivers to be the plane that returns. We have offered to transport clients back. Sometimes the clients are ready for return before the plane comes. And so there are some other strategies that we are in discussion with that could be implemented immediately.

**Governor:** Yeah, and this will help Clark County as well fiscally because, A, they won't be paying the cost of that transport but, B, they won't have those clients waiting in the jail on the wait list.

**Richard Whitley:** That's correct. It would expedite the process so the turnover of evaluation and restoration, I think, could be achieved more quickly and that would be a savings.

**Governor:** Okay. I'm sorry, I asked a bunch more questions. But Board members, do you have any other questions or comments with any of the items described in Agenda Item 10-A, B or C?

**Attorney General:** No, Governor.

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

**Governor:** Hearing none, the Chair will accept a motion for approval of Agenda Item 10-A, B and C.

**Secretary of State:** I move for approval.

**Attorney General:** I'll second the motion.

**Governor:** The Secretary of State has moved for approval of Agenda Item 10-A, B and C. The Attorney General has seconded the motion. Any questions or comments? All in favor, please say aye.

**Attorney General:** Aye.

**Secretary of State:** Aye.

**Governor:** Aye. Motion passes unanimously three to zero. Thank you very much.

**\*11. FOR POSSIBLE ACTION – STATE VEHICLE PURCHASE**

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

<b>AGENCY NAME</b>	<b># OF VEHICLES</b>	<b>NOT TO EXCEED:</b>
Department of Public Safety – Investigation Division	3	\$68,292
Department of Public Safety – Highway Patrol	199	\$10,936,337
Department of Conservation and Natural Resources – Division of State Parks	6	\$145,013
Department of Wildlife - Operations	3	\$97,468
Department of Wildlife – Fisheries Management	6	\$207,549
Department of Wildlife – Game Management	4	\$110,402
Department of Wildlife – Habitat	3	\$78,836
Department of Wildlife – Law Enforcement	7	\$182,872
Department of Wildlife – Conservation Education	1	\$28,015
Department of Wildlife – Diversity	2	\$47,050
<b>Total:</b>	<b>234</b>	<b>\$11,901,834</b>

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

**Motion By: Attorney General**

**Seconded By: Secretary of State**

**Vote: 3-0**

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**Comments:**

**Governor:** Okay. We'll move on to Agenda Item No. 11, State vehicle purchase. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board are several requests. As you know, we just finished the legislative session so the new budget is here. And before the Board is a total of 234 vehicles. The vast majority of those are within the Highway Patrol. They're doing a fairly significant replacement of their vehicles and all of those have been approved in the budget through the legislative process and signed into law by yourself. So there's nothing else I have to add other than these were all thoroughly vetted during the budget process. All of these vehicles meet the required replacement, whether it's a year and mileage or a give and take between those two.

**Governor:** I have no questions regarding this Agenda item. Board members?

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

**Attorney General:** No, Governor. I move for approval.

**Secretary of State:** Second.

**Governor:** The Attorney General has moved for approval of Agenda Item No. 11. The Secretary of State has seconded the motion. All in favor, please say aye.

**Attorney General:** Aye.

**Governor:** Aye.

**Secretary of State:** Aye.

**Governor:** The motion passes three to zero.

**\*12. FOR POSSIBLE ACTION – VICTIMS OF CRIME FY 2013 4<sup>TH</sup> QUARTER REPORT AND FY 2014 1<sup>ST</sup> QUARTER RECOMMENDATION**

NRS 217.260 requires the Board of Examiners to estimate available revenue and anticipated claim costs each quarter. If revenues are insufficient to pay anticipated claims, the statute directs that claim payments must be reduced proportionately. The Victims of Crime Program Coordinator recommends paying the Priority 1 & 2 claims at 100% and Priority 3 claims at 100% of the approved amount for the 1st quarter of FY 2014.

**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'll move on to Agenda Item No. 12, victims of crime FY 2013 4<sup>th</sup> quarter report and FY 2014 1<sup>st</sup> quarter recommendation.

**Clerk:** Governor, I believe Bryan Nix was supposed to be in the office there to be able to explain Item No. 13. No. 12 is the standard report that you have. The Board has become accustomed to seeing and there is a recommendation for 100 percent payment of all Priority 1, 2 and 3 claims on Item No. 12.

**Governor:** Why don't we go ahead and take No. 12. Mr. Nix, did you want to make any kind of record with regard to Agenda Item No. 12 before we go to 13?

**Bryan Nix:** No, I don't.

**Governor:** Okay.

**Bryan Nix:** I'll just sit here in case you have questions.

**Governor:** I have no questions regarding Agenda Item No. 12. Board members?

**Attorney General:** No, Governor.

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

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

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

**Secretary of State:** Second.

**Governor:** The Attorney General has moved for approval of Agenda Item No. 12. The Secretary of State has seconded the motion. Any questions? All in favor, please say aye.

**Secretary of State:** Aye.

**Attorney General:** Aye.

**Governor:** Aye. The motion passes unanimously.

**\*13. FOR POSSIBLE ACTION – VICTIMS OF CRIME PROGRAM (VOCP) APPEAL**

Pursuant to NRS 217.117 Section 3, the applicant or Clerk of the Board may, within 15 days after the appeals officer renders a decision, appeal the decision to the Board. The Board shall consider the appeal on the record at its next scheduled meeting if the appeal and the record are received by the Board at least 5 days before the meeting. Within 15 days after the meeting the Board shall render its decision in the case or give notice to the applicant that a hearing will be held. The hearing must be held within 30 days after the notice is given and the Board shall render its decision in the case within 15 days after the hearing. The Board may affirm, modify or reverse the decision of the appeals officer.

**A. Stacy Howell**

The issue before the Board is the appeal of a denial for VOCP assistance due to late reporting of crimes to police. Ms. Howell has filed multiple requests for hearings and appeals. Ms. Howell failed to submit appeals timely and failed to appear at several hearings.

**Clerk's Recommendation: I recommend to uphold the denial of this claim.**

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

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**Comments:**

**Governor:** We'll move on to Agenda Item No. 13, victims of crime program appeal.

**Clerk:** Thank you, Governor. Before the Board is an appeal -- I'm sorry, I jumped the gun. And this is -- Stacy Howell has made an appeal before the Board with regard to their claim, and this was denied due to a combination of repeated late filings and not following the standard protocols. And I think Mr. Nix can speak more directly to this process and how it got to where it is.

**Governor:** Please proceed.

**Bryan Nix:** Thank you, Governor and members of the Board. Yeah, you have the packet, the record on appeal in this matter. This applicant for assistance -- the primary reason for the denial in addition to the -- all the other inconsistencies was that she didn't file this police report within five days as required by the statute. The police report, in this matter, was filed two months late. This is not something that can be waived by the program or by the appeals officer, so it's a pretty straightforward matter. And under NRS 217.142 -- or 112 rather -- I'm sorry, 210, we denied it for the failure to file a police report within five days.

This Board has an option available to it which at first we recommend upholding the decision of the appeals officer. It was a very thorough review of all of the facts in this case. Even though the applicant had filed the appeals late and had not shown up for multiple hearings, the appeals

officer took all of the factors into consideration, essentially waiving those inconsistencies and I think gave a very thorough consideration of the law in this case and concluded that the failure to file these claims -- or the police reports timely was fatal to the claim. And we just ask that you uphold that decision.

**Governor:** Okay. Board members, do you have any questions? Is Ms. Howell present? Ms. Howell -- is she present up North?

**Secretary of State:** No, Governor, it doesn't appear so.

**Governor:** All right. Board members, do you have any questions or comments with regard to this Agenda item?

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

**Attorney General:** No, Governor.

**Governor:** Hearing none, the Chair will accept a motion.

**Secretary of State:** I'll move to uphold the decision of the appeals officer and deny the appeal.

**Governor:** Okay. The Secretary of State has moved to uphold the appeals officer's decision to deny the claim. Is there a second?

**Attorney General:** I'll second the motion.

**Governor:** Attorney General has seconded the motion. Any questions or discussion? All in favor, please say aye. Aye.

**Secretary of State:** Aye.

**Attorney General:** Aye.

**Governor:** Oppose no? Motion passes three to zero. Thank you very much.

#### **\*14. FOR POSSIBLE ACTION – LEASES**

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

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

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

**Comments:**

**Governor:** Agenda Item No. 14, leases. Mr. Mohlenkamp.

**Clerk:** Thank you, Governor. Before the Board are 10 leases for consideration. As I mentioned, I think, at a meeting or two ago the savings that we had been seeing for so long, it finally ended over the last couple of meetings, and I think that's a real good sign for our economy and certainly our real estate environment. So there's 10 for consideration. I do understand that there are members from Welfare who are here to be able to discuss those new offices they're opening, if you wish.

**Governor:** Okay. I have no questions regarding the leases. Board members?

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

**Attorney General:** No, Governor. I move for approval.

**Secretary of State:** Second.

**Governor:** The Attorney General has moved for approval of Leases 1 through 10 as described in Agenda Item No. 14. The Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye.

**Secretary of State:** Aye.

**Attorney General:** Aye.

**Governor:** Motion passes three to zero.

**\*15. FOR POSSIBLE ACTION – CONTRACTS**

One Hundred 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:** We'll move on to Agenda Item No. 15, contracts.

**Clerk:** Thank you, Governor. Before the Board are 100 contracts for consideration. I believe the -- you had identified a few that you wanted to have testimony and I did not receive anything from the other two members for this Agenda.

**Governor:** All right. I'll go ahead and go with my holdouts. They were 38 through 46 with Governor's Office of Economic Development, number 47, 53, 54, 56, 58, 60 and 61, and 73. Oops, and 91 and 94. Begin with 38 through 46. I have Mr. Hill here today. Welcome, Mr. Hill. And I don't have any real questions with regard to the agreements themselves, but I just -- kind of an overview of what we're doing and the Office of Economic Development and what these contracts will accomplish.

**Steve Hill:** Yeah, certainly. Thank you, Governor and members of the Board. My name is Steve Hill. I'm the Director of the Governor's Office of Economic Development. Just a little history on the contracting process with the Regional Development Authorities. In 2011, in AB 449, the legislature changed the process for how we help fund the Regional Development Authorities. In the past, for the larger redevelopment -- or the Regional Development Authorities, the money would go straight from the General Fund to those RDAs. It now goes through our office. We go through an RFP process with them, which is fairly extensive. They all do quite a bit of work in order to present to us. And then we have that reviewed by in-house - - by some of our people as well as other organizations that deal in economic development, be that the university system or the Department of Employment, Training and Rehabilitation, which are all partners in our effort.

They make recommendations, help score these RFPs and then we reach agreement and contract with the organizations. This is the second cycle that we have done this. We did this last year about this time for a one-year process. We are contracting with them now for a two-year process to match it to the budget cycle as we know what our funding will be for the next two years. Before you today are eight contracts. There is a ninth with the Las Vegas Global Economic Alliance. There was a technical change that needed to be made for their contract, so we will be coming back for approval with the LVGEA during the next Board of Examiners meeting.

This is -- the number of Regional Development Authorities is down from 14 two years ago. It was 10 during the last cycle. We have 9 that are funded now. That is primarily the result of consolidation, which we've encouraged but not mandated in some of the rural communities and counties. We think that combining those resources allows the RDAs to be more effective and take on bigger issues, make more of an impact. So we've applied that consolidation. We think it's been helpful.

There are several factors that go into determining the amounts; the population served, the performance of the organizations, the content of their RFP response. There's really kind of a minimum level of financial support that we feel is appropriate in the rural areas of the State. If we go below that we really think that we will not only proportionately handle the economic development effort, but even more than proportionately hamper that, as well as the historical amount of funding. Now, the organizations have been set up based on the funding they've received in the past, so quick and substantial changes may harm them as well.

As a part of this process we have 12 standard metrics that we now measure for each of the development authority to provide consistent accountability across the board. That ranges from jobs that have been assisted and their creation to the wages, number of companies pursued, really everything along the pipeline for recruiting, connecting companies to the education system, as well as a metric that is certainly new to the effort and I think helpful that measures the number of companies that were referred to a different Regional Development Authority. So we're measuring the collaboration between the development authorities.

When we determine the amounts of these contracts, we only had nine months of that data. It's the first nine months that that data has been collected. So the quality of the data was -- started off relatively inconsistent. It has gotten more consistent as we have collected it, and I anticipated



that will be even more so in the future. We really look at if there are outliers, and I'm certainly happy to say that I know that our office and I think all working with the Regional Development Authorities are pleased with their efforts across the State, the collaborative efforts, the level of energy that they're putting out, and I think we're seeing that in the results. The recruiting pipeline has grown approximately threefold in the last 18 months both from the number of leads, the number of site visits to the State, as well as the number of jobs associated with that effort. And credit for that goes to everyone involved in that process, not only the economic development process, but certainly the companies that are creating those jobs, the leadership here and the legislature.

The most significant change we had in the amount. And the amount that we're giving on an annual basis is identical to the amount and total that we have given in the past year, which is \$2.8 million. The amount that will be provided to the Las Vegas Global Economic Alliance was increased by \$100,000 from 1.375 million to 1.475 million annually. The amount that the Economic Development Authority of Western Nevada, which is really Washoe County and EDON as they're commonly known, has been reduced from \$675,000 annually to \$600,000 annually. That is largely based on the population that are served in those two areas. And there may be some more evolution along those lines. I will say that it is in no way a reflection of the performance that EDON has provided to the region and the State. They were the leader in the number of jobs that they assisted during the last cycle which allows them actually to get really a higher than proportional amount still.

So, Governor, I'm happy to answer any questions that you or the Board may have, but I appreciate your consideration of these contracts today.

**Governor:** No, and thank you, Mr. Hill. And that was extremely thorough. I think it was just a good opportunity to describe what's happening. From my recollection there was some resistance to this model, but I think all the economic development authorities have embraced this and, as you say, are working extremely well together.

**Steve Hill:** They would all like more money, Governor, but, yes, they have.

**Governor:** Yes. Board members, do you have any questions for Mr. Hill?

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

**Attorney General:** No.

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

**Steve Hill:** Thank you, sir.

**Governor:** In the interest of time, I'm going to skip over some of these that I held out, and I can get that information later. But I did want to move on to Contract 61. Is there somebody here for that from DHHS?

**Clerk:** Governor, we have some representatives from the department here.

**Governor:** Is that Dr. Green there?

**Tracey Green:** It is, Governor. Good morning.

**Governor:** Okay. Good morning. Dr. Green, just a little bit of background on this contract.

**Tracey Green:** Absolutely. This is actually an expansion of a current contract that we have. It's primarily to provide standardized coordinated efforts with resident teaching and training in both the Southern Nevada and Northern Nevada adult mental health hospitals. Currently, we have a rather large program in the South, using residents for on-call for high risk rounds as well as psychiatric after-hours evaluations. This request actually expands the program to Northern Nevada to Dini Townsend and also increases the opportunity for more residents to use our facilities as part of their teaching program.

**Governor:** All right. That's all I had. Thank you, Dr. Green. Board members, any questions?

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

**Governor:** All right. And, Dr. Green, while you're there, I was going to move on to Agenda Item No. 73.

**Clerk:** Governor, Mr. Whitley has come to the table as well.

**Governor:** All right.

**Richard Whitley:** So the purpose of this work program is to increase the budget authority at the Rawson-Neal Psychiatric Hospital to enhance inpatient services to actually implement some corrective actions that were identified by both the joint commission, the national accrediting body for hospitals, as well as the centers for Medicare and Medicaid from a recent inspection. Specifically, this contract expands internal medicine services, and within that histories and physicals for the psychiatric patients who stay briefly in our psychiatric observation unit. As you may know, the Rawson-Neal is a 190-bed hospital. We have 30 of those beds are designated as psychiatric observation unit beds. And since 2006, when this hospital was built, this psychiatric observation unit has not -- because of the short duration of stay, most of the clients are referred from the emergency room.

We've never been told by CMS or joint commission that we're required to do histories and physicals on the patients who stay from a matter of a few hours to up to 72 hours. But because this was a deficiency cited, we actually -- this is a retroactive request, because at the -- we implemented upon the identification of this being a deficiency. So it is to do histories and physicals of the 30 patients who come through our psychiatric observation unit.

**Governor:** And in your opinion, this should resolve the concerns of CMS and the joint commission?

**Richard Whitley:** Yes. This specifically relates to the deficiency and it is the corrective action that we submitted to them.

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

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

**Attorney General:** No, Governor.

**Governor:** Thank you very much. I may not have mentioned this, I'm going to skip over a couple of the others that I held and I can get my questions answered on those. But the final one was Contract 100 with Silver State Health Insurance Exchange, KPS-3.

**Clerk:** Governor, I don't see them coming to the -- oh, there they are. Never mind. Mr. Bowden is here to answer your questions.

**Governor:** Okay. First, just a very brief overview of the purpose of this contract.

**C.J. Bowden:** This contract -- for the record, C.J. Bowden. I'm the Communications Officer with the Silver State Health Insurance Exchange. This contract is for the marketing and advertising of Nevada Health Link, Nevada state base exchange to the public. The overall goal of this contract is to reach 84 percent of eligible Nevadans a minimum of 24 times. When looking through the matrix, this contract amendment would increase the overall budget with KPS-3 for marketing from \$6 million \$7.35 million. This contract is fully funded by Federal Exchange Establishment grants, and we have been awarded the funds to take care of this contract. The additional \$1.35 million will be used to supplement the advertising we currently have. \$883,500 will extend the timeframe of television advertising by four weeks, and we'll also add two weeks to radio campaign advertising. The additional \$466,500 will be used for one to two extra door-to-door informational campaigns much like the census conducted. The overall rate of return as we see moving into this with purchasing media around the holidays suggested that we add to the overall value of the contract.

**Governor:** Thank you. And, you know, I can't help but ask this question. Are we on schedule and ready to go for October, is it 31?

**C.J. Bowden:** October 1<sup>st</sup> Nevada Health Link will be open and ready for enrollment.

**Governor:** All right. Board members, do you have any questions with regard to Contract 100?

**Attorney General:** Just curious. Who gets the commissions on the media buys?

**C.J. Bowden:** The commissions on the media buys go to KPS-3.

**Attorney General:** Okay. Thank you. Are we -- are they also paid an additional fee on top of that?

**C.J. Bowden:** Not on the overall contract, but different line items have management fees associated with them and then there are staff that places the marketing as well, yes.

**Attorney General:** Okay.

**Governor:** Board members, thank you very much. Do any of you have any questions with regard to Contracts 1 through 100 as described in Agenda Item 15?

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

**Governor:** If there are none, the Chair will accept a motion for approval.

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

**Secretary of State:** Second.

**Governor:** The Attorney General has moved for approval of Contracts 1 through 100 as described in Agenda Item No. 15. The Secretary of State has seconded the motion. Any questions or discussion on the motion? All those in favor, please say aye. Aye.

**Attorney General:** Aye.

**Secretary of State:** Aye.

**Governor:** Motion passes three to zero.

## **\*16. FOR POSSIBLE ACTION – MASTER SERVICE AGREEMENTS**

Five 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 16, master service agreements.

**Clerk:** Thank you, Governor. Before the Board are five separate master service agreements for consideration. Four of the five relate to -- oh, I'm sorry, three of the five relate to manage print services. One is another one. I told you there was going to be another grant -- grants administration contract coming through. That's item number four. And then you have consulting services for third-party consulting energy related for Celtic Energy under MSA number one. And I don't recall that there were any questions on these items.

**Governor:** And just -- and I have a quick one, Mr. Mohlenkamp, is on number four. Will this Board get some feedback as to whether this has increased the amount of grants the State receives?

**Clerk:** Yeah, I hope so. You know, this is new for us. This is the fourth of these. We had three that came forward on a previous Agenda. I believe there will be one or two more of these. You know, it's new. We don't have to go with this. We don't have additional matching dollars, you know, if you will, to seek out. So it's going to require some creativity on the part of the agencies, but now we have groups out here that specialize in specific type of grants and we have a conduit, a resource to use to try and secure grants that maybe we would have not really sought before. My hope is that, you know, sometime around the end of the year I'll be able to give you some initial feedback as to how often we're using these contracts and the effectiveness of those, whether we're actually getting the grants that we seek. So I think in a few months I'm hoping to be able to give some initial feedback.

**Governor:** Thank you very much. Board members, any questions with regard to Agenda Item 16?

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

**Attorney General:** No. I'll move for approval.

**Secretary of State:** Second.

**Governor:** Attorney General has moved for approval of the master service agreements described in Agenda Item 16, 1 through 5. The Secretary of State has seconded the motion. Any questions or discussion? All in favor, please say aye.

**Secretary of State:** Aye.

**Attorney General:** Aye.

**Governor:** Aye. Motion passes three zero.

## **17. INFORMATIONAL ITEM**

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

Pursuant to NRS Chapters 111, Statutes of the Nevada, 1989 at page 263, the Division of State Lands is required to provide the Board of Examiners quarterly reports regarding lands or interests in lands transferred, sold, exchanged, or leased under the Tahoe Basin Act program. Also, pursuant to Chapter 355, Statutes of Nevada, 1993, at page 1153, the agency is to report quarterly on the status of real property or interests in real property transferred under the Lake Tahoe Mitigation Program. This submittal reports on program activities for the fiscal quarter ending December 31, 2012 (reference NRS 321.5954).

### Brief description

- **1989 Tahoe Basin Act**
  - The agency reports there were no transfers of lands or interests in lands during the quarter
  - There were no acquisitions of lands or interests in lands during the quarter.
  
- **Lake Tahoe Mitigation Program**
  - There was one transaction finalized in this quarter. The transaction included 1,467 square feet of environmentally sensitive land coverage from a private homeowner in the Stateline area of Douglas County. That transaction was completed on May 21, 2013.

**Governor:** Mr. Mohlenkamp, Agenda Item 17, information on Department of Conservation and Natural Resources - Division of State Lands.

**Clerk:** Thank you, Governor. Standard report, in this case, there were no land transfers or interest in lands. There was one transaction for the Lake Tahoe Mitigation Program with regard to -- you can see that agendaed 1,467 square feet from a private homeowner. And that is the sum total of the report for this particular meeting.

**Governor:** Okay. Board members, any questions on Agenda Item 17?

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

**Attorney General:** No.

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

**Governor:** Okay. We'll move on to Agenda Item 18, public comment. Is there any public comment in Carson City?

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

**Governor:** Public comment in Las Vegas? No? Any Board member comments?

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

**\*19. FOR POSSIBLE ACTION – ADJOURNMENT**

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

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

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**Comments:**

**Governor:** All right. We'll move on to Agenda Item 19. Is there a motion for adjournment?

**Secretary of State:** Move to adjourn.

**Attorney General:** Second.

**Governor:** The motion by the Secretary of State, second by the Attorney General. All in favor, please say aye.

**Secretary of State:** Aye.

**Attorney General:** Aye.

**Governor:** Aye. The motion passes unanimously. That completes our Agenda. Thank you, ladies and gentlemen. Have a great day.

**Attorney General:** You too.

**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