**MERIT AWARD BOARD**

**November 18, 2014 – 9:00 a.m.**

**Blasdel Building, 209 E. Musser Street,**

**1st Floor, Room 105**

**Carson City, Nevada 89701**

**And**

**Grant Sawyer State Building**

**555 East Washington Avenue**

**Room 1400**

**Las Vegas, Nevada 89101**

**The sites will be connected by videoconference. The public is invited to attend at either location.**

**MINUTES OF MEETING**

**(pending Board approval)**

**Merit Award Board**

**Members**

**Present:** Rosa Mendez - Chairperson and Representative, Governor’s Office

Angelica Gonzalez – Representative, Division of Human Resource Management (DHRM) and Secretary to the Merit Award Board

Lesley Henrie – Representative, Dept. of Administration, Budget Division

Neil Lake – Representative, American Federation of State, County and Municipal Employees (AFSCME)

Harry Schiffman – Representative, American Federation of State, County and Municipal Employees (AFSCME

1. **CALL TO ORDER – Chairperson Rosa Mendez:** Called the meeting to order. She completed a roll call for the members. Several guests, all state employees introduced themselves and confirmed they were in attendance to receive training on note-taking.
2. **GENERAL BUSINESS**
3. **Discussion of NRS 285 – Awards to State Employees**

**Chairperson Mendez:** Referred to an email she sent out in which she referred to certain sections of NRS 285 that they might want to review. She noted that they needed to look at the process and how it could be improved or revised and added that she would like to hear from board members on that subject.

**Lesley Henrie**: Stated before the discussion began that she felt was important to note that all board members with the exception of the current Chairperson had come on to the board at the same time and this was directly after NRS 285 was changed in 2011. She noted that when the changes were made they were significant as it mapped out many details that had previously not been included. She noted that speaking for herself, it had been a learning experience as they had not had a structure to default to or learn from and it was substantially different than what it had been before. **Chairperson Mendez**: Added that once the changes were made in 2011 that it had made a significant impact on how the board was run but also after an additional marketing push had resulted in a significant increase in the number of suggestions put to the board. **Lesley Henrie**: Added that the changes, in addition to outlining criteria also affected the award amounts with a cap of $500 pre-NRS 285 to a cap of $25,000 post-NRS 285. She noted that changes resulted in renewed employee interest in the merit awards.

**Chairperson Mendez**: Stated that she would just begin with some of the sections that she had commented on. She referred to NRS 285 – 010 – Definition of Adoption. She noted that adoption literally meant the putting of an employee's suggestion into effect. She added that for her this meant implementation. She said that when she had discussed it with staff at DHHS (Department of Health and Human Services) they had indicated that this was a section that they wanted the board to discuss as there was some misunderstanding as to whether adoption meant accepted and/or approved. It was noted that it might mean accepted and/or approved but not necessarily implemented so there was some degree of uncertainty. **Lesley Henrie**: Agreed that this could create some issues. She suggested that it could take a while for the process as it might be approved by an agency but might not be implemented until a significant time later. This period could affect the establishment of certain time periods and therefore the calculation of savings for the suggestion.

**Chairperson Mendez**: Agreed and said it was important to have it clarified as it would affect Section 070 concerning the presentation of the award as it also stipulated that the cost savings would have be shown at that same time. **Lesley Henrie**: Agreed with Chairperson Mendez who brought up the issue of testing any new suggestion to determine any cost savings. She said that after testing it might be determined that they would not adopt the suggestion so therefore it would have been tested but not implemented. She said that the word "adoption" needed to be carefully defined. **Chairperson Mendez:** Added that there was a lack of clarity about what adoption did mean in that some people clearly felt it meant implemented, hence the need for a clear definition including elaborating on any testing process that might need to happen.

**Harry Schiffman**: Wondered if the role of the Merit Board was changing from its original intent. He said he thought that they would be reviewing suggestions sent to the board or agency and the employee would have done their due diligence as far as explaining the cost savings. He said the agency would then review it and then it would come to the Merit Board for review and a decision. He stated that he felt the board was now turning into the arbiter and waiting until the suggestion was put into place with the savings already evident. He said the board would then wait for the agency to come back in that the agency would be taking the lead in determining if the savings were there. The board would then decide if there was an award or not.

**Lesley Henrie:** Said the reason for the discussion was that the board was running into issues where they were being asked to make decisions on varying opinions. She added that she had been asking similar questions, wondering if the board was overstepping their boundaries. She said she would defer to NRS 285 – 040 which puts the board in the position where it has to facilitate some of the questions when problems arise and she noted it said, *"That the board shall investigate, review and evaluate the merits of* *each proposed employee's suggestion in the manner set forth".* She noted that the board members are tasked with investigating, reviewing and evaluating. She added that some of these problems and questions fell under 'investigating'. She stated that she did not believe that they had to do that before. She said many of the earlier suggestions were fairly cut and dry with agency support. She added that some of the more recent suggestions are more complicated with differing opinions from the employee and agency and the board was now being drawn into these types of issues in the areas of investigation and evaluation. She stated when there is disagreement between agency and employee the board might be drawn in, in its capacity as an investigator. She added the discussion about the statute is extremely important and all members have to have to a clear understanding about what the statute says and means and adhering to it.

**Chairperson Mendez:** Agreed with many of the points raised and reiterated again the importance of having the definition of adopted clarified. She asked about the types of suggestions previously submitted to the board. **Lesley Henrie**: Confirmed that they were simpler and there were approximately 6 to 8 per year and the cap was then $500. She noted when the statute changed with a cap of $25,000 it attracted a much larger number of employees hoping to win the award. She added after their marketing and promotion of the program it went from 8 a year to 137 in one quarter which was significant. She noted that the suggestions also showed an increasing level of complexity.

**Neil Lake**: Added that previously with the smaller award it was more a reward for an idea whereas now the object in the suggestions is to have a significant cost savings. **Chairperson Mendez**: Agreed that the earlier suggestions took the form of an idea and were simpler whereas the later suggestions required that there should be proof of cost savings. The latter was more complicated if it required a certain period of testing to determine any savings.

**Lesley Henrie**: Referred to a recent situation, as an example, where an idea was put into place in approximately April/May 2014. She said it qualified because it was put into effect in that year and by the end. According to the statute 30 days after the end of the fiscal year the very first payment needed to be made to that employee. She noted that by the time the idea got to the board and they reviewed it they had run into some issues with it, the first question being, was it implemented? And they asked for more information. The board asked if it was the role of the employee and they asked for more information. She said the board got all their information and went to a second meeting. She said they were then in June and were good with all the information they had gathered. Then the evaluation on the cost savings brought up some issues, forward-thinking versus actual, projected figures.

The board could not substantiate certain things that they needed to for the award. The board went back to the agency and were faced with new staff and a new fiscal year. The statute states the payment needs to be made in 30 days so the board was now in violation of the statute. She said the board had adhered to the statute. She said she was bringing the case forward because the process itself could be lengthy yet it was working with a 30-day deadline. She noted that at times it could not be done in the stipulated timeframe. She said although this did not happen in every case, for times when it did it was an issue. She stated again that for situations that were extended

it could have financial issues especially if an agency had closed the end of a fiscal year and the resulting payment would come from the following year.

**Harry Schiffman**: Asked if an agency was experiencing such a delay, would they be accountable to the Merit Board for explaining the reasons for the delay. He wondered whether the board should know what the reason(s) are so they could make that decision. **Chairperson Mendez**: Stated that it would depend on what the reason would be. She added that most agencies did keep the board informed of any delays in the process including issues surrounding a cost estimate or in the area of interpretation. She added that it had been her experience that agencies would call the board if they needed to but also clarified many issues in-house. She said the board could not be involved in everything that the agencies did. She said they usually let the board know although not always formally. She stated that she did not want the board to be involved in too much detail in every aspect as it was not the board's role. She noted that the issue that was coming up was the definition of 'timely' as it applied to the process.

**Harry Schiffman**: Agreed and stated this is what he was concerned about. He said the board has to deal with the suggestions and if an agency is delaying the process for one reason or another it would make it difficult for the board to make a determination as to whether it would go forward or not**. Chairperson Mendez**: Agreed and noted Lesley Henrie's comments that the statute in that aspect of timing was very limiting. She wondered if they should introduce language to address that issue, for example, the period of 30 days. She said it had been suggested a preliminary 30 days followed by an additional 90 days. She asked the other members for their opinions. **Lesley Henrie**: Stated that scheduling issues with IFC (Interim Finance Committee) and for an array of other reasons the 30-day period was not workable. **Chairperson Mendez**: Asked for confirmation that for any award in excess of $5,000 they should therefore tack on at least another 30 to 60 days. **Lesley Henrie**: Agreed. **Chairperson Mendez**: Stated that the statute appeared to have been written for the majority of earlier suggestions/awards that the board had received not the others that were more complex.

**Lesley Henrie**: Suggested that a language change could be made that would leave in the stated periods but then would add the intention "as much as possible". She noted this was not the correct legal language but with that intent so that there was no violation of the statute. She also considered it important that what the statute stated and for any revisions made that that information should be made known to employees who would expect payment as per the statute. **Chairperson Mendez**: Stated it was important that the process be streamlined in that the agencies should maintain some communication with the board to keep members advised of any delays or issues within reason. She thought all board members should have easily accessible information regarding any employee suggestion that had been put forward.

**Chairperson Mendez**: Referred to NRS 285 – 060, section 2B-1 which talked about when a suggestion is actually put into effect as defined under adopted. She noted there were many variables under the statute which could determine whether the award could be made within the 30 days.

**Lesley Henrie**: Asked the Chairperson what she considered would be the best way to move forward. She said that there was a fair amount of language in the statute currently that needed some clarification or at least some evaluation of whether it needed revision to help the process including setting expectations from both the agency, the employee and the board's perspective. She noted that they could still operate as a board without making the changes but they would still have to deal with problems because of the language.

she considered that there was one significant problem in the statute that she felt needed to be changed and that concerned the payment back to the General Fund. For an example she related details of an earlier suggestion coming out of the DMV (Department of Motor Vehicles). She said the realised savings in that case would go into the Highway Fund not the General Fund. In the statute it said the savings should revert to the General Fund. But in that case they could not mix the two funds so there was an issue with that. She stated that that was the only language that had to be reviewed and revised. She asked Chairperson Mendez how she wanted to proceed.

**Chairperson Mendez**: Asked what had the board done previously? Had they been involved in the changes to the statute? **Lesley Henrie**: Responded the board had not been involved. She stated that if they had had some major issues the board could have gone to the Executive Branch and asked for them to do a bill direct request to clean up language. She said it would be a policy change because there was no fiscal impact. There was some uncertainty here though as they were dealing with the different funds. She added they might be able to submit it as a budget bill which had a later deadline, approximately the end of December/January 2015. She noted that they would have to propose the language changes and it would need to be approved through the Budget Office as part of the board's budget. She said if the board could not proceed that way, if it was deemed to be a policy not a budgetary bill then they would have to get a sponsor from the Legislature or Governor's Office might be able to assist. She said they could also meet with Senator Legislature or Governor's Office might be able to assist. She said they could also meet with Senator Smith and discuss some of the recommended changes to see if she would sponsor a bill to amend the language.

**Chairperson Mendez**: Noted that regarding the process of having these changes made to the language, she wanted the board members to give their opinions and thoughts regarding language to her so it could be reviewed and unified. She asked for everyone's comments. **Lesley Henrie**: Agreed and said when she had read over the Chairperson's comments it was basically the same as what she had on her radar. She said in addition there were only one or two other items and observations. She asked members Harry Schiffman and Neil Lake if they would review the NRS to see if they had any comments. **Neil Lake**: Agreed that he would review it to see if there was anything that needed attention. **Chairperson Mendez**: Noted that the discussion had raised some important points and areas and asked if they could give attention to those areas it would be helpful. She added after all members had reviewed the statute they could then compile all the comments. She asked Angelica Gonzalez if she could put them all together and then they could all review them. **Lesley Henrie**: Agreed and said the members would then come up with an edited bill draft request that would include any changes in language.

**Chairperson Mendez**: Added that they would also need to have legal counsel look at it before it went forward. She said they needed to put members' comments together quickly as there were different steps to go through. **Lesley Henrie**: After being asked by the Chairperson she explained it would be up to the Budget Office to determine whether it qualified as a budget bill. She said if they did then she would submit it to the board's budget analyst, Eric King, who would review it to see if it qualified. She added if they said no to the budget bill then they would have to check with the Governor's Office or Senator Smith to get it through as a policy DBR.

MOTION: Moved that board members review NRS 285 and provide comments to the Merit Board.

BY: Chairperson Mendez

SECOND: Harry Schiffman

VOTE: The vote was unanimous in favor of the motion

1. **Review and Possible Adjustment to Notification Process for Agency, Employee and Board.**

**Leslie Henrie**: Indicated that for this agenda item she wanted board members to go through the process from the inception to the end including discussion on the most complicated, lengthy processes. She indicated that it was the intent that members walk through the process pausing at each step to review and ask if it needed to changed or improved. She said for example, there were assumptions made along the way that the agency would be notifying the employee where in fact this might not be the case. She said the question would be did they want to do that as a board or should they instruct the agency that they must inform the employee. The intention in doing this would be to improve the communication process. She asked Angelica Gonzalez if she would like to start the discussion.

**Angelica Gonzalez**: Stated that when the board receives a suggestion they use a form letter to address the agency for a formal response to the suggestion. She explained that the agency has 30 days to provide the board with a response. She added that she does send a formal acknowledgement to the employee that their suggestion has been received by the board and would then be forwarded to the agency for formal review. She noted that this communication is all usually done via email. If the employee does not have an email address communication is done through regular mail.

She said when they receive a response from the agency stating that they do not support or cannot implement the suggestion then she sends the response to the employee together with an acknowledgement from the board thanking them for their idea, stating management did not support the idea and finally encouraging them to continue to submit suggestions. She added that some agencies in addition to their response also include a memorandum explaining their decision in more detail.

**Chairperson Mendez**: Noted that she thought the memorandum was an excellent idea and thought that all agencies should be asked to supply a memorandum. **Lesley Henrie**: Agreed and added that a memorandum would also be good if the suggestion was approved. **Angelica Gonzalez**: Noted that the suggestion review form was developed and utilized when they had started to receive an increased number of suggestions because agencies could not keep up with more formal memoranda. She suggested that since the suggestion review form was optional and agencies could just send their response via a formal memo, could she stop sending out the suggestion review form? **Lesley Henrie**: Agreed. She added that it could still be sent advising the agency that the form was a tool that could assist them but the board did require that they send a formal decision on their letterhead. If the decision was no, then with an explanation and if it was yes, then what the next steps would be to move forward with implementation.

**Angelica Gonzalez**: Stated that the board did not know what communication was happening between the employee and the agency with regard to the suggestion. **Lesley Henrie**: Asked if the suggestion is approved what would happen from that point. **Angelica Gonzalez**: Responded if it did move forward and the agency supported the suggestion then that would be when she would communicate to the agency that the board needs figures, real life savings on the suggestion. She said then the agencies start to send in information. She added that some agencies prior to that send in estimates of savings. She said once the agency had decided that they will implement the suggestion then she would notify the board members and provide the employee's estimated savings. She said that would be how she would keep track of the suggestion and also providing

board members with any other information that the agency was sending in support of that suggestion.

**Lesley Henrie**: Stated that the gap she was seeing was that the employee did not know all the details and status of his approved suggestion, the timeline of implementation, if there was need for any further review by the board and if it was over the threshold amount did it need to go to IFC? She noted that the agency may not be informing the employee of all those details. She thought there should be some guidelines. If it is under $5,000 and the board knows the agency has approved it and it is being implemented the board would then communicate it a certain way. If the board knows the agency has approved it but it has not been implemented then the board would need to communicate back to the employee saying it has not been implemented and you should be in touch with your agency. When it is then implemented come back to the board and it would then be sent to a meeting for final payment. She stated that it should be clear guidance for everybody to understand the steps and differences between implemented and not implemented. She said if it concerned one that was over the $5,000 amount that there would be completely different steps and the board would need to guide employees on that as well.

She asked members if providing this information or guidance to employees should take the form of a letter. **Chairperson Mendez**: Suggested a digital memorandum that looks like the board stationery or it could also take the form of a hard copy of a memorandum. She agreed it was a key phase of the process and it was important to keep both parties the employee and agency, informed of next steps. **Lesley** **Henrie**: Suggested it could take the form of a template letter and it would be necessary to create four template letters, under $5,000 implemented and not implemented and over $5,000 implemented and not implemented.

She said she wanted to bring up the fact that she had been in contact with the Budget Office over some recent approvals. She said there was a part of the statute that referred to the idea of, in consultation with the Budget Office, and they had requested that their involvement be early in the process. She said the Budget Office indicated they would review any idea that would require a payment when it had been approved by the agency but before the board had approved it to move forward. She said the reason was that it was felt the earlier on their input was given it would be better guidance to the board in terms of what the impact would be. She said the Budget Office wanted to have that input as part of something that the board would look at, as part of the overall package. She said they would also do some analysis, for example, they might identify things that the board had previously identified in other words they would serve as a second set of eyes.

She said it wasn't that the board would be communicating with the Budget Office but they would have to be a part of the review before it reached the step of getting to the board. She explained that that was why she was commenting on the process. She wanted to make sure that the board agreed. She said if the agency said yes then this would be good to go over to the Budget Office for review. They would give their input. It would then come to the Merit Board and the members would make a decision as it whether it would go forward, yes or no.

**Chairperson Mendez**: Agreed with that change to the process. **Lesley Henrie**: Explained she was bringing this up because this would also have to be shown as one of the steps on the four template letters. **Harry Schiffman** and **Neil Lake**: Agreed that it would be beneficial to obtain this review by the Budget Office. **Chairperson Mendez**: Asked if the board had questions about any responses from the Budget Office could the board contact them with question at a meeting or a conference call. **Lesley Henrie**: Agreed and said she felt that the Budget Office would have no problem with that. She added that if the board had a discussion at one of their meetings about a

suggestion that the Budget Office had reviewed then a budget analyst from the Budget Office would attend the meeting and could respond to questions to their feedback or analysis.

**Angelica Gonzalez**: Stated that she wanted to revise some of the procedures in the Merit Award binder. She stated that some of the procedures were too repetitive and she thought it might be easier to have just the four letters as suggested by Lesley Henrie. She stated that she wanted to reduce the steps and streamline the process. **Lesley Henrie:** Suggested that she and Angelica work together. She said she would draft the template letters and Angelica could look at the process. She noted that they could bring several things back to the board at the same time, their review of the NRS, the refinement of the streamlining of the process plus the template letters. She said if board members agreed they could then implement that process immediately and with the board's approval.

MOTION: Moved that the board research and analyze the existing process and develop revisions or updates to the process, including changing the application process flow with accompanying documents to be presented at the following board meeting for approval

BY: Chairperson Mendez

SECOND: Harry Schiffman

VOTE: The vote was unanimous in favor of the motion

**Chairperson Mendez**: Reviewed the process that had been discussed and summarized how they would be proceeding. **Lesley Henrie**: Noted one point that if the award was over $5,000 the board would be communicating through one of the template letters that everything looked good but would be dependent on IFC approval, expected to take 60-90 days approximately. She stated that even though the board would have approved it, it would always be contingent upon IFC approval. She stated that if IFC made a decision not to move ahead that was the final decision. **Chairperson Mendez**: Asked if there was an appeal process the employee could take. **Lesley Henrie**: Confirmed no, not within the current statute. **Chairperson Mendez:** Suggested that once the process had been revised that it be put on the website. She thought that seeing the process flow visually would be very helpful for many employees. All of the members of the board agreed and felt it would also be easier for board members to follow the process through.

1. **Agency Feedback of Merit Award Program**

**Lesley Henrie**: Stated that since 2011 they had realized what was and what was not working. She thought what might be of value would be to obtain some input from the agencies as it could help refine the actual process. She noted that she was not sure of the best way to achieve this but thought it might be a good start to approach the agencies that they had already dealt with and that had submitted large numbers of suggestions, contact some of their key personnel and ask their opinions about the process. She thought they could gather big-picture input but also input relating to the board facilitating the process with a view to knowing future adjustments, recommendations for statute changes or establishing regulations. **Chairperson Mendez**: Thought that was an excellent idea. **Lesley Henrie**: Thought that a roundtable discussion might be useful to begin the process. **Chairperson Mendez**: Suggested also some other contingencies or a digital option in case they could not attend a meeting.

MOTION: Moved that the board coordinate a meeting with involved agencies to gather feedback regarding the Merit Award Program with the date and time to be determined

BY: Chairperson Mendez

SECOND: Lesley Henrie

VOTE: The vote was unanimous in favor of the motion

1. **ADOPTION OF MINUTES – OCTOBER 28, 2014**

**Chairperson Mendez**: Asked if there were any comments. There were none.

MOTION: Moved that the Merit Award Board minutes dated October 28, 2014 be approved

BY: Chairperson Mendez

SECOND: Angelica Gonzalez

VOTE: The vote was unanimous in favor of the motion

1. **PUBLIC COMMENT** – (Note: No vote or action may be taken upon a matter raised during public comment until the matter itself has been specifically included on an agenda as an item upon which action may be taken. Comments will be limited to five minutes per person and persons making comment will be asked to begin by stating their names for the record.)

**Chairperson Mendez:** Asked if there was any public comment and there was none.

**Lesley Henrie**: Stated that she wanted to review the fact that they did have Mr. Theron Huntamer's suggestion going to IFC on December 9, 2014. She noted that she had been working with the Budget Office to get it submitted. She said they had requested that their Chairperson be there to speak as it was an information and action item. She noted that they would be looking for additional information prior to their determination. The board has also requested that the agency be there. The IFC had requested that Mr. Huntamer also be present. The board would be advising Mr. Huntamer shortly that he had been requested to attend the IFC meeting.

**An unidentified attendee:** Asked Lesley Henrie about this issue. She said that Mr. Huntamer had sent an email wanting all information that was going to be submitted to IFC. She asked if she should reply to him or would she, Lesley Henrie give that information. **Lesley Henrie**: Confirmed she would provide it but needed to check as there was some question about the release of certain IFC items.

1. **ADJOURNMENT**

MOTION: Moved that the Merit Award Board meeting be adjourned

BY: Chairperson Mendez

SECOND: Not identified

VOTE: The vote was unanimous in favor of the motion