

**STATE OF NEVADA
PERSONNEL COMMISSION**

Gaming Control Board, Conference Room, 1919 College Parkway, Carson City, with videoconferencing
to Las Vegas at the Grant Sawyer Building, Gaming Control Board, Room 2450,
555 E. Washington Ave.

**MEETING MINUTES (Subject to Commission Approval)
May 6, 2011**

**COMMISSIONERS PRESENT
IN CARSON CITY:**

Ms. Katherine Fox, Chairperson
Mr. David Read, Commissioner
Mr. Mitch Brust, Commissioner

**STAFF PRESENT IN
CARSON CITY:**

Ms. Cameron Vandenberg, Deputy Attorney General
Ms. Shelley Blotter, Division Administrator, Department of Personnel
Mr. Peter Long, Division Administrator, Department of Personnel

**COMMISSIONERS PRESENT
IN LAS VEGAS:**

Mr. David Sánchez, Commissioner

**STAFF PRESENT
IN LAS VEGAS:**

Ms. Teresa J. Thienhaus, Director, Department of Personnel
Mr. Mark Anastas, Division Administrator, Department of Personnel

I. OPEN MEETING

Chairperson Katherine Fox: Opened the meeting at 9:05 am, and took roll call.

II. *ADOPTION OF THE AGENDA

MOTION: Move to adopt the agenda
BY: Commissioner Read
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion.

**III. *ADOPTION OF MINUTES OF PREVIOUS MEETING
February 18, 2011**

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MOTION: Move to adopt the minutes of previous meeting dated February 18, 2011
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.

IV. *APPROVAL OF PROHIBITIONS AND PENALTIES

A. State Treasurer's Office

Amy Davey: Personnel Analyst for the Department of Personnel. These Prohibitions and Penalties have been revised and updated since last being approved in September of 2009. Steve George, Chief of Staff for the State Treasurer worked with the Department of Personnel to ensure these revisions are consistent with others approved by the Commission. Steve was there to answer any specific questions from the Commissioners.

Commissioner Brust: Had a question regarding item number 23 under job performance. In regard to the penalty phase for the theft of property, the only option is termination. Asked if there are cases where you might want a less severe penalty and would it work?

Steve George: Stated that originally they were thinking more large scale theft. He would consider putting a monetary figure on it. Some agencies have used the sum of \$25.00 as kind of a benchmark.

Commissioner Brust: Reiterated that if someone stole items valuing an amount greater than \$25.00 then they would be terminated.

Amy Davey: She indicated that what other agencies have done is provide a range of discipline associated with a monetary value. For example under the \$25.00 amount the range might be a 2 to a 4 and greater than \$25.00 might be a 5.

Commissioner Brust: Asked Steve George if he wanted to rework this issue and come back to the Commission or settle this today?

Steve George: Answered that he is prepared to solve it today.

Commissioner Sánchez: He also was concerned about theft of small items such as pencils. The issue of \$25.00 and above would satisfy this concern.

Commissioner Read: Also agreed about the \$25.00.

Shelley Blotter: Suggested that amounts under the \$25.00 limit be a range of 1-4 and anything over \$25.00 be a range of 5.

Chairperson Fox: Asked where do you refer to types of corrective action and talk about the letter of instruction. Because the letter of instruction is outside of the disciplinary process, where is it kept? Is it placed in the personnel file?

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Amy Davey: Letter of Instruction is a term commonly used by agencies as a coaching type of tool. Letter of Instruction is only maintained in the agency personnel supervisory file. It is a document on a coaching session or a training session.

Steve George: He indicated that currently the letter of instruction is kept in the supervisors working personnel file.

MOTION: Move to approve the Prohibitions and Penalties for the State Treasurer's Office with revision to item number 23 under job performance to provide for theft of property of less than \$25.00 1-4 and greater than \$25.00 the penalty would be a 5.
BY: Commissioner Brust
SECOND: Commissioner Read
VOTE: The vote was unanimous in favor of the motion.

B. Economic Development

Amy Davey: Kristen Anderson from the Commission on Economic Development worked with Department of Personnel staff throughout the construction of their P&P's and Kristen is present to answer any of your questions.

MOTION: Move to approve Prohibitions and Penalties for Economic Development
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.

V. ***APPROVAL OF PROPOSED REGULATION CHANGES TO NEVADA ADMINISTRATIVE CODE, CHAPTER 284**

Mark Evans: The first proposed regulation for temporary adoption listed under Section 1 LCB File No. 187-09, Unpaid Furlough leave. This regulation contains the same language as the current furlough regulation which is set to expire on June 30, 2011. He submitted the regulation as a contingency measure in the event that the Legislature approves the continuation of furlough. He asked that adoption be made conditional on the Legislature's actions. Extension of the current furlough regulation will eliminate the need for the Personnel Commission to approve an emergency regulation in the event furlough is extended. Making the adoption of the regulation contingent on legislative action will allow the regulation to expire if furlough is not extended.

Commissioner Brust: Is the extension of the Furlough a statutory provision, so they would have to continue the statute?

Chairperson Fox: It was her understanding the statutory change not only provided the furloughs to State employees but also had some language around the PERS piece where they were perceived as working 40 hours in the week when they took furlough.

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Mark Evans: He answered yes to Commissioner Brust' question and yes it does not affect the employee's retirement to Chairperson Fox.

MOTION: Move to approve LCB File No. R187-09
BY: Commissioner Brust
SECOND: Commissioner Read
VOTE: The vote was unanimous in favor of the motion.

Mark Evans: He indicated that the next are two temporary regulation changes pertaining to compensation. The Central Payroll Section Manager Adam Drost requested that these changes be approved to go into effect on June 27, 2011 to coincide with the first payroll period of the new fiscal year.

The regulation change under Section 2, NAC 284.218 Compensation for standby status was proposed by the Department of Personnel's Central Payroll Section and is recommended for adoption. The amendment removes the provision that allows compensation for standby pay to be made in the form of comp-time. Pay for standby is reportable to the Public Employees' Retirement Systems (PERS). However, this compensation may not be appropriately reported to PERS in certain situations when employees are given comp-time in lieu of cash. This regulation change will help ensure that employees' compensation is reported correctly.

Sec. 3 NAC 284.256 Holidays: Compensation for working was also proposed by the Department of Personnel's Central Payroll Section and is recommended for approval as well. This amendment removes the provision allowing for comp-time instead of pay for Holiday Premium Pay. As with standby pay, the use of comp-time for Holiday Premium Pay could result in an employee's earnings not being accurately reported to PERS. This regulation change will prevent such an error from occurring.

MOTION: Move to approve NAC 284.218 and NAC 284.256 to be effective 6-27-11
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.

Amy Davey: Sections 4 & 5 modify language having to do with an employee's request for appeal in two sections of NAC and are nearly identical. She requested amendment of LCB File No. R063-09 and NAC 284.778 in order to require use of a Department of Personnel form by an employee requesting a hearing to appeal a dismissal, suspension, demotion or involuntary transfer. Currently, use of a standardized form is optional and only very minimal information is collected. By requiring use of a specific form we can gather more thorough information from an employee that may help agencies resolve appeals prior to a hearing and support the Department of Personnel's efforts to improve the appeal process.

In section 4, language would be amended for LCB File No. R063-09 where the process for requesting a hearing before a hearing officer is described. The amended language would require use of a form provided by the Department of Personnel and directs appeals to be addressed to the Director of the Department.

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Section 5 amends similar language in NAC 284.778 to clarify that a request for hearing must be submitted on a form provided by the Department of Personnel.

Commissioner Sánchez: Asked if these forms have been drafted and ready to go?

Amy Davey: Yes. She said they submitted the suggested format to several interested people, including the Attorney General's Office, members of the Employees Associations and representatives'. They developed a form after all of the input from these various agencies.

Shelley Blotter: Indicated that it is currently available on the Department of Personnel's website as an optional form. This would just require using it.

Chairperson Fox: Asked to see the form. Asked also, the seasonal and temporary employees do have the right to appeal a dismissal, suspension, demotion or involuntary transfer?

Amy Davey: Indicated that under certain conditions, seasonal employees when they have been employed over a number of years have obtained permanent status and would have rights. She was not sure about temporary employees. Part of the reason why they decided to collect this information was to help on the front end to identify people who may or may not be involved in the correct process. The whistle blower form is a different form and has always been a required form in regulation.

MOTION: Move to approve LCB File No. R063-09 and NAC 284.778
BY: Commissioner Brust
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion.

Carrie Hughes: The Department of Personnel is proposing a temporary amendment to NAC 284.882. The U.S. Department of Health and Human Services guidelines provide standards on issues to include, for example, cutoff testing levels and laboratories. The standard regarding laboratories is consistent with NRS 284.4067 that requires screening tests to be performed by a laboratory that is certified by the United States Department of Health and Human Services. However, also adopting the procedures does not allow for flexibility in the State's drug and alcohol testing program. This amendment will allow the Personnel Commission to adopt procedures and supplementary standards that reflect the State's unique testing challenges while maintaining a basis for the testing program with the federal standards. This could potentially allow for testing for substances that are not on the federal controlled substance schedules but have been placed on a State of Nevada controlled substance schedule. The Department of Personnel is currently researching procedures and standards used by other public entities.

MOTION: Move to approve NAC 284.882
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.

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Carrie Hughes: The Department of Personnel is proposing a temporary amendment to NAC 284.888. Testing on the basis of circumstances related to a motor vehicle accident as outlined in subsection 2 of NRS 284.4065, does not require following the procedures outlined in subsection 1 of NRS 284.4065. This amendment will bring NAC 284.888 into alignment with NRS 284.4065.

MOTION: Move to approve NAC 284.888
BY: Commissioner Brust
SECOND: Commissioner Read
VOTE: The vote was unanimous in favor of the motion.

VI. *APPROVAL OF PRE-EMPLOYMENT SCREENING FOR CONTROLLED SUBSTANCES

Carrie Hughes: NRS 284.4066 provides for the pre-employment testing for controlled substances of applicants for positions affecting public safety. This law requires the appointing authority to identify the specific positions that affect public safety, subject to the approval of the Personnel Commission. The Department of Conservation and Natural Resources, Division of Forestry has requested, and the Department of Personnel recommends, approval of pre-employment testing for the following positions:

Seasonal Fire Control Dispatcher I, Class Code 1.824, all positions
Seasonal Fire Control Dispatcher II, Class Code 1.823, all positions
Seasonal Firefighter II, Class Code 1.829, all positions

She indicated that a representative from the agency is available to answer any questions they may have.

MOTION: Move to approve Seasonal Fire Control Dispatcher I & II and Seasonal Firefighter II for Pre-Employment screening for controlled substances.
BY: Commissioner Brust
SECOND: Commissioner Read
VOTE: The vote was unanimous in favor of the motion.

VII. *APPROVAL OF OCCUPATIONAL GROUP STUDY REVISED CLASS SPECIFICATIONS

Rachel Baker: Personnel Analyst with the Department of Personnel's Compensation and Classification Division. She stated that she worked closely with subject matter experts, and the Department of Personnel recommends removing the Forester IV, grade 37, from the Forester series.

Forester IV's are responsible for the fire management program in an assigned geographic region and supervise fire staff, operations and activities. For this reason, we felt the class is more appropriately aligned with classes in the Firefighter series that manage, supervise and

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participate in structural and wild land fire suppression activities. The Firefighter series was approved by the Commission in February. Incumbents in the Forester series perform professional duties in forestry, natural resource management and conservation, and related areas. Additionally, incumbents plan, organize, manage and participate in forest management functions including harvesting, fuel management and prescribed burning activities. They also provide natural resource educational information to the public regarding best management practices for forest health, forest stewardship, defensible space, fuel reduction, and fire-safe landscapes. The Department recommended that the series and class concepts be expanded to reflect the scope of work and level of responsibility that has always been associated with these positions. Minor revisions to the knowledge, skills and abilities and minimum qualifications were made to all levels in the series to clarify the type of acceptable and relevant experience necessary.

Chairperson Fox: Asked if Foresters are involved in a prescribed burning activities, are Firefighters on standby in case that prescribed burn get out of control?

Rachel Baker: Answered yes.

Commissioner Brust: How many incumbents are in the Forester IV?

Terry Hack: Answered that there are currently 2 people in the Forester IV class that will be moving into the Fire Management Officer, at the same grade level they currently have.

MOTION: Move to approve Agriculture & Conservation Occupational Group
Subgroup: Conservation - *Forestry Series*
BY: Commissioner Brust
SECOND: Commissioner Read
VOTE: The vote was unanimous in favor of the motion.

Rachel Baker: The Nevada Division of Forestry has reorganized the Conservation Camp program. As a result, the Assistant Conservation Camp Supervisor class is no longer being used and is no longer needed. The Department of Personnel recommends that the class be abolished. Incumbents in this series supervise the inmate work program at an assigned conservation camp facility or a geographic area. They are responsible for budget maintenance, project planning, community relations, camp resource and fire suppression programs, security planning, and supervision of assigned personnel including emergency response firefighters. The Department of Personnel recommends modifications to the minimum qualifications to both the Conservation Camp Area Supervisor and Conservation Camp Supervisor. We removed the Assistant Camp Supervisor Qualifying statement from the Conservation Camp Supervisor MQ's and provided a way for the Conservation Crew Supervisor III's to qualify for each remaining level. She respectfully requested approval of these class specifications effective today.

MOTION: Move to approve Agriculture & Conservation Occupational Group
Subgroup: Conservation – Conservation Camp Supervisor Series
BY: Commissioner Brust
SECOND: Commissioner Read

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VOTE: The vote was unanimous in favor of the motion

Frank Steinberg: Personnel Analyst, Compensation and Classification Division. As part of a routine review of job classes in the Fiscal Management and Staff Services Occupational Group, we looked at the single position class of Investment Analyst, grade 43, which is located in the Office of the State Treasurer. The Investment Analyst assists the Deputy Treasurer for investments in managing the state's investment portfolio, which exceeds two billion dollars and is composed of both short and long term investments. They consulted with the Chief Deputy Treasurer, and no needed changes to the class specification were identified. Therefore, we have designated this class as "reviewed no change" and request your concurrence.

MOTION: Move to approve Fiscal Management and Staff Services Subgroup:
Administrative & Budget Analysis - 7.605 *Investment Analyst*

BY: Commissioner Brust

SECOND: Commissioner Read

VOTE: The vote was unanimous in favor of the motion

Brenda Harvey: She stated she worked on the revisions to the Compliance/Audit Investigator series. Compliance/Audit Investigators perform investigative and auditing functions to monitor compliance and detect violations of State and/or federal laws or regulations pertaining to a specific program or regulatory area such as Securities, Medicaid, or Workers' Compensation. Previously, the Chief Investigator Compliance/Audit was described on a separate class specification. The title was changed to Chief, Compliance/Audit Investigator and consolidated with the Compliance/Audit Investigator into one class series. The class concepts and knowledge, skills and abilities were described for this level. The minimum qualifications were modified to reflect more appropriate degree disciplines. Minimum qualifications for the Compliance/Audit Investigator I, II and II levels were defined to clarify the number of years and types of experience required at each level. If approved, the changes will become effective today, May 6, 2011.

MOTION: Move to approve Regulatory & Public Safety Subgroup:
Investigation & Inspections - *Compliance/Audit Investigator Series*

BY: Commissioner Brust

SECOND: Commissioner Sánchez

VOTE: The vote was unanimous in favor of the motion

**VIII. *APPROVAL OF LEAVE WITHOUT PAY IN EXCESS OF ONE YEAR PER NAC
284.578**

Lisa Friend: Personnel Technician with the Department of Administration, Personnel Services. Their office handles personnel for the State Public Works Board.

The State Public Works Board is here today to request approval to grant an employee a leave of absence for longer than one year in accordance with NAC 284.578(2) which states:

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“The Commission may grant leaves of absence without pay in excess of 1 year for purposes deemed beneficial to the public service.

State Public Works submitted a letter for the Personnel Commission’s review prior to this meeting explaining why this request was necessary. Chris Chimmits and Dennis Nolan are here, if you have any questions or would like any additional clarification to the information that was provided.

Commissioner Brust: Asked for clarification, the person in the position, are there a number of Building Construction Inspectors below this position? Or are they vacant?

Chris Chimmits: This position supervises 2 Senior Building Inspectors who in turn have in Las Vegas 2 Building Inspectors and in the north have 3. Supervision is being provided for the lower level employees.

MOTION: Move to approve extended leave of absence for Denis Nolan
BY: Commissioner Brust
SECOND: Commissioner Sánchez
VOTE: The vote was unanimous in favor of the motion

IX. DISCUSSION OF HEARING OFFICER RECRUITMENT - SOUTHERN NEVADA

Shelley Blotter: she indicated that there are 2 vacancies in the South. Due to the change in procedures there is a panel of 6 and currently have 4 Hearing Officers and would like to recruit to fill the two vacancies. We would like the recruitment process to be complete and for your consideration and interview of Hearing Officer candidates at our next meeting.

Chairperson Fox: Asked if the same process will be followed with the posting of the position in Washoe County and Clark County and publications?

Shelley Blotter: Due to the positions being in Clark County, we will be posting in the Clark County and the Nevada State Bar Association publication.

Chairperson Fox: Will you be submitting only qualified individuals?

Shelley Blotter: Last time we provided the Commission a full list of candidates and then made recommendations on which ones were most qualified.

Commissioner Read: If a Commissioner is needed for the process, he volunteered to be on the panel.

X. SPECIAL REPORTS

Frank Steinberg: Personnel Analyst with the Compensation and Classification Division. A question was raised at the last meeting regarding the distinctions among categories of Peace Officers. Nevada Revised Statutes define three Peace Officer categories for purposes

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of training requirements. These are applicable to both State government and political subdivisions. Category I Officers have unrestricted duties and are otherwise not included in Categories II or III. Examples would be Nevada Highway Patrol Troopers, Metropolitan or Municipal Police Officers, and Sheriff's Detectives and Patrol Deputies. He asked to skip over Category II for a minute. Authority of Category III Officers is limited to Correctional services, including Correctional Officers, but not including the Inspector General of the Nevada Department of Corrections and her Criminal Investigators, who were placed in Category II by the 2009 Legislature. Category II covers 24 Peace officer variations whose enforcement powers pertain to particular activities or employing agencies. Examples would be Arson Investigators for local Fire Departments, Legislative Police, Enforcement Division agents of the Gaming Control Board, and commissioned Deputy Brand Inspectors of the State Agriculture Department. The statutes direct the Commission of Peace Officers' Standards and Training – POST- to establish minimum standards of training for each category, which it has done by regulation. Currently, the standards total 480 hours for Category I, 200 hours for Category II, and 160 hours for Category III. POST specifies and periodically updates detailed requirements for curricula in each Category. All mandatory subjects for Category II are also prescribed for Category I. In addition, Category I training includes courses relating to patrol, community policing, traffic laws and stops, accident investigations, DUI detection, operation of emergency vehicles, searching of buildings, and laws governing coroners. The Category III curriculum includes some of the Category I and II subjects but is heavily oriented toward the correctional environment. Note that some officers may have completed training beyond that required for their positions, such as Category II personnel having received training to the I level, but this does not affect compensation or classification. Also, some agencies, particularly the ones with few Peace Officer positions, do not pay for POST training and require previous course completion at the time of hire. This is a complicated statutory and regulatory area with many nuances. Where needed to make distinctions or provide clarification in describing job duties, references to the categories have been included in class specifications.

Commissioner Sánchez: Asked what about school police and police officers at the Universities and Colleges?

Frank Steinberg: The school district police officers are in category II, the Nevada System of Higher Education officers are in Category I.

Commissioner Brust: Asked about the movement of the Probation Officers to Category I and the additional training that will be required, is that going to be funded?

Frank Steinberg: Does not have that information. He indicated that many of the officers will have been trained to the Category I level, by virtue of having gone through the full police academy.

Chairperson Fox: Asked what category is Parole and Probation and the Nevada Division of Investigations?

Frank Steinberg: Parole and Probation are technically in Category II, but there is a bill in the Legislature that would move all sworn officers in the Department of Public Safety

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regardless of division, into Category I. That bill has passed the Senate at a vote of 21 to 0 and reported out favorable by the Assembly committee responsible for that subject area. But, it has not gotten a vote from the Assembly yet. Nevada Division of Investigations Officers are Category I.

Chairperson Fox: Asked the Department at the conclusion of Legislature that they get a report that relates this item and other changes that may impact State employees.

Teresa Thienhaus: Updated Commission on the bills that the Department of Personnel is currently tracking during this legislative session. AB-37, revises the provisions relating to the hours of operation of State offices, eliminates language that says that all State offices must be open 8 am -5 pm Monday through Friday, so it provides greater flexibility. There was an amendment that the Department of Personnel was involved in that the agencies are required to post their hours of operation. AB-59 makes various changes to the Nevada Open Meeting Law; the Department remains neutral on this bill. However, she indicated that we will need to make some changes to the Personnel Commission and the EMC agendas to comply, which means we would have to place the term in quotations "For possible action" next to appropriate items and provide other informational notices. There is a monetary penalty also for the members of the body that take action in violation of the Open Meeting Law. AB-179 is a bill that revises provisions governing State employment regarding disciplinary proceedings, and the Department is taking a favorable position on this bill. She indicated that there has been considerable amount of work on this bill. She recognized Amy Davey, Mark Evans and Shelley Blotter for working with employee associations to get the language acceptable to everyone. At this point, the bill is at the Senate side. If the bill passes we will be making some changes to our regulations. AB-211 prohibits discrimination in regards to gender identity; this is one of the several bills out there on gender identity or expression. Department of Personnel is neutral on this bill. This bill, if it passes, will require some additional training to employees and supervisors and could possibly add some workload to our EEO Section that investigates discrimination complaints. AB-354, makes various changes governing the State Personnel System. Initially this bill proposes to eliminate the EMC and replace it with an arbitration system, under NRS.39, which would be expensive and cause employees extra work in the process. They are also working with the employee associations on this bill and have recommended some changes to the bill itself, and possibly our regulations and the rules governing the EMC. We put a fiscal note attached to this bill and it would cost \$75,000 for the biennium. AB-395 was from last session, the collective bargaining bill that passed and at the end was vetoed after session closed by the Governor. This bill was not presented again this session to override the veto. And no other collective bargaining bill is being presented this session. AB-479 is a bill that would provide for cost saving work schedule of a 4-10 workweek. There are some technical problems with the bill, the language causes some issues with holiday pay, part-time employees and we worked with the bill sponsor to make some changes. SB-7 revises some provisions governing the adoption of emergency regulations, and we are neutral on this bill. It would require posting a notice of intent to adopt an emergency regulation.

Shelley Blotter: Indicated that SB-7 is at Assembly Government Affairs and no action has been taken at this point.

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Teresa Thienhaus: She went on to state that SB-286 will authorize awards to State employees allowing them to retain a portion of the savings to the General Fund, when the suggestion is made to do something that would provide a greater savings or efficiencies. Department of Personnel is neutral on this bill. This system, under this bill, will take the Merit Award Board and turn it into a Merit Award Board under the Interim Finance Committee. They will review all suggestions and also they will suggest the award. Some of the suggested awards are providing 50% of the savings to go to the General Fund and the employee's agency will retain the remaining 50% of the savings. There are limitations on the suggestions and by whom. SB-331 revises provisions relating to unlawful discrimination and places of accommodations, this is another gender identity or expression bill. This bill will provide that there is no discrimination against transgender individuals, so we would have additional training to employees and supervisors. SB-427 is the bill that would provide for the merger of State agencies into the Department of Administration, including the Department of Personnel. There is some language work still being done on this bill and the name of Department of Personnel will need to be changed to the Division of Human Resources Management.

XI. COMMENTS BY THE GENERAL PUBLIC- ACTION MAY NOT BE TAKEN ON THE MATTERS CONSIDERED DURING THIS PERIOD UNTIL SPECIFICALLY INCLUDED ON THE AGENDA AS AN ACTION ITEM.

There were no public comments from the North or South.

XII. SUGGEST DATES FOR NEXT MEETINGS: August 19, 2011 and December 9, 2011

XIII. *ADJOURNMENT

MOTION: Move to adjourn the meeting at 10:22 AM
BY: Commissioner Read
SECOND: Commissioner Brust
VOTE: The vote was unanimous in favor of the motion.