State of Nevada
Governor's Finance Office
Division of Internal Audits

Draft Minutes

From the Executive Branch Audit Committee Meeting
January 19, 2016

STATE OF NEVADA
EXECUTIVE BRANCH AUDIT COMMITTEE MEETING

Draft Minutes

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The Meeting of the Executive Branch Audit Committee was held on January 19, 2016 at the Capitol Building Annex, Guinn Room, Second Floor, 101 N. Carson Street, Carson City, Nevada. The meeting was video conferenced between the Capitol Building Annex and the Grant Sawyer State Office Building, Governor's Office, 555 East Washington Avenue, Las Vegas, Nevada.

These minutes are in draft form and have not yet been approved and are subject to revision at the next scheduled meeting.

MEMBERS PRESENT:	Governor Brian Sandoval, Chairperson
	Lieutenant Governor Mark Hutchison (via Las Vegas location)
	Secretary of State Barbara Cegavske (via Las Vegas location)
	Treasurer Dan Schwartz
	Controller Ron Knecht
	Attorney General Adam Paul Laxalt
	Trudy L. Cross, CPA, Public Member
DIVISION OF INTERNAL AUDITS STAFF PRESENT:	Administrator, Steve Weinberger Executive Branch Audit Manager, Warren Lowman Executive Branch Audit Manager, Vita Ozoude Executive Branch Auditor, Lynnette Aaron Executive Branch Auditor, Ashwini Prasad Executive Branch Auditor, Lisa Sherych Executive Branch Auditor, Dennis Stoddard Executive Branch Auditor, Catherine Brekken Financial Manager, Lori Hoover Deputy Attorney General Jennifer Chisel Administrative Assistant, Connie Boynton
OTHERS PRESENT:	Copy of sign-in sheet available, contact Connie Boynton, administrative assistant IV at cboynton@admin.nv.gov

The agenda for this meeting was posted in accordance with the Nevada Open Meeting Law and was mailed to groups and individuals as requested.

Call to Order
Chair, Governor Brian Sandoval, called the meeting to order and welcomed those present. Lieutenant Governor Mark Hutchison and Secretary of State Barbara Cegavske were at the Las Vegas location via teleconference.

1. **Public Comments**
Governor Sandoval addressed the public for comments in Carson City and Las Vegas.

There were no public comments.

Governor Sandoval said for everyone's benefit he would like to jump to item 10 on the agenda first because there may be several people that were waiting for this. He said they would go back to agenda item number 2 in a moment.

For Possible Action – Discussion and Approval of Proposed Regulation Changes to Nevada Administrative Code 353A.100 LCB File No. R101-15

Governor Sandoval stated item 10 was discussion and approval of proposed regulation changes to the Nevada Administrative Code (NAC) 353A.100, LCB file R101-15.

Mr. Weinberger said the information for agenda item 10 was attached, and introduced Lori Hoover, Financial Manager for the division.

Ms. Hoover described this was an adoption hearing to receive comments on an amendment to NAC 353A, which required internal controls training for agency heads and employees who administer budgetary accounts. She said the current regulation requires agencies to notify the Division of Internal Audits of any new fiscal staff, but did not require they actually be trained in any specific time frame.

Ms. Hoover said one of the changes would require training within 90 days of starting their position. She said the reasoning for the 90 days was that new employees needed time to take their other required state trainings, and internal control training was based on fiscal concepts they needed time to become familiar with.

Ms. Hoover explained that employees needed time to understand their basic responsibilities and requirements before fully appreciating the information within the Internal Controls class. In addition, she said the other proposed changes would allow more flexibility to train those they believed needed the training.

Ms. Hoover said they chose to remove the every five-year requirement because they had seen an increase in the test scores for the Internal Controls training classes in the last couple of years and required refresher classes are no longer needed. They added a requirement that agencies attend training upon Internal Audit's request.

Ms. Hoover stated they wanted to focus their resources on agencies that had known internal control issues through audits and reviews. Therefore, they would like to require those agencies to attend the Internal Controls training class, and heads of agencies could still request the training for any of their staff when they believed it was necessary.

Ms. Hoover said they held a workshop on October 29, 2015 and most of the comments centered on the 90-day training requirement. She said they were concerned there would be employees who would not be able to complete the training in the required time frame. She discussed this internally and determined that with any time frame there would be individuals who could not attend based on various circumstances. Therefore, she said they would like to keep the requirement of the 90-day training, and employees would simply need to attend the earliest class they could.

Ms. Hoover stated they should have received a handout and commented they had approved regulation wording from the Legislative Counsel Bureau (LCB) included in the packet, however, they were requesting two additional changes that were highlighted in the green wording in the handout.

Ms. Hoover said the first one was section 1(a). She said they would like to add at the very end of that sentence "unless already have taken the training". She said since the regulation will require employees to attend training within 90 days of assuming their position, employees would need to take the training every time they move to accounting positions with other agencies unless they put the wording in.

Ms. Hoover said the change in Section (b) was to replace the "upon recommendation" to "upon requirement" so agencies understand this is a requirement and not a recommendation.

This concluded Ms. Hoover's presentation and she asked if there were any questions.

Governor Sandoval asked Ms. Hoover if she had notified all affected agencies via email, and received comments from representatives of four agencies.

Ms. Hoover said that was correct.

Governor Sandoval asked if anyone had a better way to describe, "Unless already taken" in grammatical terms.

Ms. Cross proposed, "unless the employee has already taken the training."

Governor Sandoval agrees, and asked for any objection to the change.

Governor Sandoval said he also questioned the grammar. "Upon requirement by the Division of Internal Audits following the review or audit." He asked if someone had a suggestion.

Treasurer Schwartz replied "as required"

Governor Sandoval replied if you would delete "upon requirement" and insert "as required." He believed they were okay.

Governor Sandoval had no other suggested changes and asked for any comments with regard to the policy of change.

Mr. Weinberger stated per NRS 353A, Executive Branch officers were exempt from the training, but they could offer training to them upon the officer's request.

Governor Sandoval asked the committee for any questions.

There was none.

Governor Sandoval asked for any public comment to the proposed regulation change. There were no comments in either Carson City or Las Vegas.

Governor Sandoval asked for a motion to adopt the amended language to NAC 353.100A.

Motion: Motion to adopt the amended language to NAC 353A.100 with the additional language modifications noted by the Committee.
By: Controller Knecht
Second: Attorney General Laxalt
Vote: Motion passed unanimously.

Governor Sandoval thanked Ms. Hoover.

2. For Possible Action – Approval of the June 22, 2015, Executive Branch Audit Committee Meeting Minutes.
Governor Sandoval asked for comments on or changes to the proposed minutes previously provided to the committee.

There were none.

Motion: Move for approval of the minutes of the June 22, 2015.
By: Attorney General Laxalt
Second: Ms. Cross, CPA, Public Member
Vote: Motion passed unanimously.

3. Presentation of the Division's Audit Reports Pursuant to NRS 353A.085

A. Department of Business and Industry, Taxicab Authority, Report No. 16-01 – Warren Lowman, Executive Branch Audit Manager.

Representing the Department of Business and Industry was Director Bruce Breslow and Taxicab Authority Administrator Ron Grogan. Mr. Lowman believed that representing the Taxicab Authority Board (TA Board) were board members Dean Collins and James Campos.

Mr. Lowman stated the Taxicab Authority (TA) was established in 1969 to regulate the taxicab industry in Clark County. He said all other transportation services in Nevada, including those in Clark County are regulated by the Nevada Transportation Authority (NTA).
Mr. Lowman said the audit focused on two objectives:
- ✓ Can the TA Authority Board more effectively serve the public.
- ✓ Can the Department of Business and Industry more effectively serve the public.

Mr. Lowman said they made six recommendations to support achieving the objectives.

Mr. Lowman said the first recommendation was the TA Board and staff adhere to their statutory roles and responsibilities, recommendations 2 through 4 addressed rescinding Board decisions on taxicab fees and fares in order to correct the fee structure, which could benefit the local economy by over $47 million annually.

Mr. Lowman said the last group of recommendations was to Director Breslow and Administrator Grogan to help reduce government spending and enhance regulatory efficiency and effectiveness by aligning the Authority's enforcement practices with statute and Nevada Administrative Code (NAC). In addition, he said, the audit recommended eliminating the TA as a separate state regulatory agency.

Mr. Lowman thanked the Department and the TA Board and staff for their help and cooperation during the audit.

This concluded Mr. Lowman's audit.

Governor Sandoval said there was a lot more to this audit and asked for more detail. He said, in his experience on this committee, he was not aware of a more critical audit and thought it was important that they go through the entire audit for the record.

Mr. Lowman replied in the first objective they looked at TA Board decisions regarding the taxicab fee structure, and decisions that were made by the TA Board in its appellate role for decisions made by the Administrator.

Mr. Lowman said he would go through each one of them.

Mr. Lowman said they first noted there was a problem with the working relationship between the Board and the staff.

Mr. Lowman said as they looked at the cause of the problems, they noted that folks were stepping outside of what their statutory roles and responsibilities were.

Mr. Lowman said they noted specifically, the TA Board had re-prioritized when taxicab inspections were to take place, and rearranged the schedule the Administrator had already established.

Mr. Lowman stated inspections for taxicab companies that had followed the correct procedures were preempted by others companies in order to allow them to place cabs in service on New Year's Eve of 2014.

Mr. Lowman stated they looked at the TA Board's appellate decisions, and that the Administrator at the time had made some very clear decisions about who could and could not drive a taxi in Clark County.

Mr. Lowman said those decisions were overturned by the TA Board, allowing two drivers that had not met the criteria under the NAC, to continue to be allowed to drive.

Mr. Lowman said they then looked at the fee structure and found in this past summer there were two requests from the industry for fare increases, specifically a fuel surcharge.

Mr. Lowman said the TA Board approved a fuel surcharge. He said they noted this was at a time when economic conditions were improving, the price of gas was declining, and yet, there was still a fuel surcharge allowed to occur.

Mr. Lowman stated after the original decision there were a series of meetings. He said there was an agency-industry work group that took place, and the $0.20 per mile fuel surcharge was reallocated; it became a $0.12 per mile surcharge, and an $0.08 increase in the fare per mile.

Mr. Lowman said the $.08 was a permanent increase as opposed to the fuel surcharge which was contingent the cost of a gallon of gas.

Mr. Lowman said they noted that there was little documentation to support not only the original fuel surcharge but also, the reallocation that occurred after that.

Governor Sandoval asked how much money they were talking about here.

Mr. Lowman said annually they were talking about a little over $16 million with the $0.12, and with the $0.08, that became permanent, almost $11 million.

Governor Sandoval asked if that was the 27 million noted in the report.

Mr. Lowman replied that was correct.

Mr. Lowman said they looked at the surcharge and what it really meant to the industry. He said in the report they laid out several exhibits that show really, what the impact for the industry was as a result of the surcharge and the reallocation.

Mr. Lowman said if they looked at page 15 of the report, they could see that roughly 55 percent of the cost of the fuel was being charged to the public and in general, almost $23 million was being shifted to the public as a result of this surcharge.

Mr. Lowman noted that other taxicab regulatory agencies, not only in the state of Nevada but also in the western United States, had not approved a fuel surcharge over this time frame or any other recently. He said this was an unusual development in the sense of what the public was being asked to pay.

Governor Sandoval asked if there was any consideration for when fuel costs go up and down or was it just permanent.

Mr. Lowman stated the surcharge remained in effect. He said they had criteria that he believed was between $3.25 and $4.25. He said if fuel had dropped below the $3.25, then the fuel surcharge would come off with the Administrator having the authority to take off the surcharge.

Governor Sandoval asked what the status was today.

Mr. Ron Grogan, Administrator for the TA said the $0.12 of the fuel surcharge was rolled back in November.

Mr. Lowman stated the second part of the pricing was the credit card fee, and what they found was that the credit card fee was roughly 17 percent of an average cab ride in Clark County. He added that was a large number.

Mr. Lowman said they looked at what the state was paying when a credit card was used to pay fees throughout the state and what other taxicab companies were allowed and paying in other states. He said they found a large discrepancy between what would be a normal credit card fee and the fee being charged in Clark County.

Mr. Lowman said using the highest percentage they found, to be conservative, 5 percent, suggested that the credit card fee should be lowered immediately to $0.90 per transaction to get it more in line with what other entities were paying for the use of a credit card.

Mr. Lowman said they looked at breakout of the credit card costs from the testimony to the Legislature in 2011 where the industry testified they would use the credit card fee for all those items.

Mr. Lowman noted there were four areas; the vendor fee, equipment and infrastructure, and administrative allowance and the allowance for un-collectibles, the allowance for what you might not collect. He said they compared that to fees charged by other entities and found the other entities rolled all costs into one fee and do not break them out.

Mr. Lowman explained what they did see is that each one of those areas, as it was laid out, became a profit center for the industry. He said he noted how it was handled elsewhere and made a recommendation to lower the fee.

Governor Sandoval asked what amount of money they were talking about here.

Mr. Lowman said they were talking about excess fees paid by the public of over $14 million annually.

Controller Knecht stated in presenting part of the recommendation, he recalled that Mr. Lowman suggested that the credit card fee be a maximum of $0.90, and the carrier would be allowed to charge less all the way down to zero. He asked if that was correct.

Mr. Lowman stated they recommended to lower it to $0.90. He said after that they would leave it to the TA Board to determine what would be appropriate.

Controller Knecht expressed his impression was the mileage rate was actually a prescribed rate not a maximum rate.

Mr. Lowman replied that was correct.

Controller Knecht Asked if Mr. Lowman thought they should stick with a prescribed rate or should they go to maximum rates, or at least allow the regulatory authority to go to maximum rates instead of prescribed rates when making the recommendation for new legislation.

Mr. Lowman replied if it transitioned to the NTA, their practice had been not to allow a credit card fee, which was part in their view, of doing business and was absorbed by the industry.

Controller Knecht stated he was fine with that on a credit card fee. He asked if they had a recommendation as to whether the mileage rate should have a prescribed or maximum rate.

Governor Sandoval expressed he wanted Mr. Lowman to get through the entire presentation, then to the recommendations, and then take questions.

Controller Knecht said he would come back to it.

Mr. Lowman explained when they looked at the total fee structure, they were looking at not only mileage rates, but also the fuel surcharges and the credit card fee; they came to a conclusion that these were unsupported costs to the public. He said the fact they were there and many folks knew they were there, generated some questions about the TA Board's ability to regulate the industry in Clark County.

Mr. Lowman explained the second objective dealt more with the department and what it could do to more effectively serve the public. He noted they had two areas they wanted to highlight.

Mr. Lowman described how the enforcement policies, procedures, and practices of the TA, which they noted were inconsistent with statute and the NAC.

Mr. Lowman said they were looking at field investigators, who are Category II peace officers, they were not Category I peace officers such as in the Nevada Highway Patrol (NHP) or the Sheriff's Department. He added their role was restricted to the industry they were regulating and the kind of activities that they should be performing.

Mr. Lowman said they noted several examples of practices that had been taking place to include patrol operations which are things Category II peace officers should not be doing. He explained according to the NAC those practices were in line with the training standard for a Category I peace officer.

Mr. Lowman said unfortunately, the enforcement entity over time had rather come to be seen as an auxiliary police force supporting the Clark County Metropolitan Police Department (Metro).

Mr. Lowman said there was a section where they noted comments by Metro and the officials that they spoke with. He added they were aware of the situation and if they were to take a more substantial role, then they had a question about ensuring they were adequately funded to be able to do the sorts of policing activities that in, general, they were comfortable with field investigators doing.

Mr. Lowman stated they looked at what was in place in the state. He thought there was a model for how the regulatory process should take place, and it is under the NTA. He said in the last Legislature, the NTA was given authority to regulate the network transportation companies.

Secretary of State Cegavske mentioned the video equipment froze in Las Vegas but said they might be fine.

Mr. Lowman said the last point he wanted to make on this section was that they believe there is an opportunity for the Department and the Administrator to clarify what appropriate enforcement activities they expect to see taking place in the TA.

Mr. Lowman said by doing that, they would also hope that they would guide more appropriate funding for the activities that take place there.

Mr. Lowman said the last section they looked at was the regulatory agency overall and recommended that the TA be eliminated as separate state regulatory agency.

Mr. Lowman said they were not suggesting the industry did not need regulating but a separate entity they felt was not necessary given that the NTA was already in place. He added it was working and its authorities had just been expanded by the Legislature.

Mr. Lowman stated the NTA has some expanded responsibilities, and was working through the Uber/Lyft requirements. He said this was an opportunity to reduce government spending, reduce red tape, and roll this agency at the state level into the NTA.

Mr. Lowman stated if Clark County wanted to take this on to include all of the revenues that go with it, and it became a county agency that was certainly a possibility, and an option for the Director to pursue.

Governor Sandoval thanked Mr. Lowman for his willingness to give more detail on the audit.

Controller Knecht asked in the event the NTA takes over this function and given the possibility that you have proposed additional legislation to more precisely specify the scope and nature of regulation in the next Legislature, do you have a position on whether it would be preferable to stick with prescribed rates or allow the maximum rates.

Mr. Lowman said what they suggested in the audit was that in the specific example of a fuel surcharge was to have a graduated mechanism, a graduated increase, instead of a full-blown surcharge upfront. He noted the NTA does allow a fuel surcharge for limousines and that theirs was a graduated rate and not all at once.

Controller Knecht stated in the case of franchised utilities, especially energy utilities, there was a great regulatory reform to move from prescribed rates to maximum rates. He said it increased competition and benefitted the public.

Controller Knecht commented his concern was for advocacy for a change in the regulatory regime there. He said he would continue after he heard what the agency had to say.

Attorney General Laxalt wanted clarity on the fuel surcharge. He said they just heard the $0.12 was rolled back in November, but asked about the other $0.08, and what they thought the recommendations were presently. He commented that it was not a surcharge any longer, but a mileage rate increase.

Mr. Lowman said they would stand by their recommendation that the original $0.20, even as it was reallocated, was unsupported, and that the $0.08 permanent increase in the fare should be rescinded.

Treasurer Schwartz thanked Mr. Breslow and his staff for boldly looking after the interests of the public. He thought they were extraordinary recommendations and deserved a commendation.

Ms. Cross asked how the meetings were done in the industry. She asked if there was a requirement for a Board member to be independent of the industry.

Mr. Breslow said ethically it was a requirement that you make decisions based on information, policy and what was presented. He added they do not represent one side or the other.

Ms. Cross said she was trying to draw analogies with the Gaming Control Board (GCB), because that was familiar to her. She added GCB people had to be independent of the industry.

Mr. Breslow said that would be terrific if it was possible for all their Boards and Commissions to be independent.

Governor Sandoval explained all their Boards are independent and are quasi-judicial, and this Board, like many other Boards and Commissions in the state, hears the evidence and makes an independent decision. He added if there is an aggrieved party, that aggrieved party has the ability to seek reconsideration, and if they are not satisfied with that, they could seek judicial review.

Governor Sandoval said that process remains the same and the TA was no different, in his perspective than the GCB or the Public Utilities Commission (PUC) or anyone else.

Ms. Cross asked who in Reno sets the rates.

Mr. Lowman explained that rates were proposed to the NTA Board, and then the NTA Board makes a decision if it is an appropriate rate.

Ms. Cross asked what Board in Reno would set the rates.

Mr. Lowman replied the NTA, and for the rest of the state.

Ms. Cross asked if that was published anywhere.

Mr. Lowman deferred to Mr. Breslow.

Mr. Breslow replied they were public record and there is not a separate Board. He explained there are three Commissioners that sit as administrative law judges and hearing officers at the NTA, and they look at the evidence and make their own decisions.

Ms. Cross asked if there was legal counsel for the TA Board.

Mr. Breslow replied yes, there is the Attorney General Counsel for the agency and Attorney General Counsel for the TA Board. He said sometimes there is a separate Attorney General Counsel, and was not sure what the third one was for. He said Mr. Grogan could answer that.

Governor Sandoval asked if there were any questions from the south.

Lieutenant Governor Hutchison wanted to go to the heading on page 17 "Credit Card Fee Exceeds Costs".

Lieutenant Governor Hutchison said it appears the $3 fee was addressed in the Legislature, and it was hard to tell just from the way it was written, but asked if the Legislature approve the $3 fee. He said the credit card was covered by a $3 fee with the vendor services and equipment, administrative allowances, and allowance for uncollected fees.

Lieutenant Governor Hutchison said the Legislature approved the elements without specifying a dollar amount. He added it sounded like the $3 fee was discussed during the course of that testimony. He said he was trying to understand if the $3 fee was vetted by the Legislature.

Mr. Lowman stated the record shows from the legislative testimony that the $3 was discussed, but the Legislature only approved the ability to charge a fee. He said it was then the TA Board that subsequently approved the $3 fee.

Lieutenant Governor Hutchison asked if the $3 fee came up during the course of the hearings and was discussed with the legislative committee.

Mr. Lowman replied that was correct.

Lieutenant Governor Hutchison said okay and turned to page 23 of the audit report. He stated that this was one of the most troubling parts of the report, in the way which the Category II peace officers were acting like Category I peace officers and asked how did we get here.

Mr. Lowman deferred to Mr. Grogan.

Mr. Grogan stated he had been the administrator only for the past 120 days. He stated Chapter 706 of the Nevada Revised Statute (NRS) has been enforced since 1969 and it had evolved into this.

Mr. Grogan stated we need to recognize we're talking about 27 million meter drops, 10,000 cab drivers, 16 businesses and that was a lot to manage.

Mr. Grogan agreed the Category II peace officers in his opinion get outside their lane from time to time. He said in the 120 days that he has been there he has disciplined three officers for that kind of behavior.

Mr. Grogan explained it was something that they agreed upon in the audit and intended to try to change that behavior.

Mr. Grogan said it was true that Metro called and wanted their people to go on bike patrol during a concert, but said no because it was outside of their lane.

Mr. Grogan said he thought it was an evolutionary issue and one that would be difficult to change. He added making structural changes would go a long way towards changing attitudes, because you cannot take something that has been in existence for 40 years and now say stop and expect people were going to change that behavior.

Mr. Breslow stated that Administrator Grogan was selected over other qualified candidates that had more experience in the taxicab industry for his experience with conflict resolution, personnel and other matters as the head of the Equal Employment Opportunity (EEO) for the State of Nevada.

Mr. Breslow said he has dealt with a lot of issues and challenges and almost 90 percent of their issues came from this agency. He said Mr. Grogan knew what was going on and was hired to create a cultural change.

Mr. Breslow said they did not want field investigators in a high-speed chase when they could hand drivers a ticket at their place of work later, and did not want field investigators to put their hands on a taxicab driver unless they were threatened. He added that they were not a police department, they were peace officers.

Mr. Breslow stated that it was a cultural change to bring on Mr. Grogan and he would have started sooner, but in looking at the recommendations, he thought this would be a good learning tool to deliver the message and the changes on that issue.

Lieutenant Governor Hutchison wanted to follow-up. He said what prompted his question was what was in the report, in effect, the Authority was acting and investigators were acting like an auxiliary local police force. He wondered if this was a cultural thing where Category II peace officers think they have more authority than they have.

Lieutenant Governor Hutchison said if it was a matter of getting Metro involved or getting the city involved or whoever was making the requests, then that would be part of the solution. He said on the other hand, was this really more of an internal cultural thing where you have a bunch of cowboys and cowgirls running around thinking they have more authority than they do.

Mr. Breslow said he summed it up loosely, but appropriately, with the second half of the comment.

Lieutenant Governor Hutchison commented that they have people who think they have a lot more authority than they do, and they have been acting in that manner for years, so they need a cultural shift and educational shift. He asked if it was not a matter of Metro asking for increases in resources, it really was more of an internal organizational problem.

Mr. Breslow replied yes, and said there is the NTA, which wears khakis and golf shirts, that hands out tickets and works appropriately, sometimes in uniform, and he said he has another one (the TA) that is in starch blues who feel they need a batman utility belt and every other kind of weapon. He added it was a cultural thing, and that was something they intend to tackle with the hiring of Mr. Grogan and with his support, and the recommendation of this audit.

Lieutenant Governor Hutchison thanked Mr. Breslow and had one last question. He said there was a recommendation to eliminate, and transition the TA's statutory responsibilities to Clark County or the NTA. He asked during the course of the audit if they understood why these two agencies were separate to begin with, and if that was a consideration with the recommendation to keep them separate or not.

Mr. Lowman said they considered all that and went back and looked at the history. He explained that Mr. Weinberger and he worked diligently to uncover why this occurred, and as the audit pointed out, times have changed. He said we are in a different environment now than 40 years ago.

Mr. Lowman explained there are now new companies, new entities, new transportation services coming into service throughout the state, and this was an opportunity to reduce some government bureaucracy and either allows the local jurisdiction to take control, which he added is how it is done in most other localities, or to roll it into the NTA.

Lieutenant Governor Hutchison asked if they had a recommendation to which they should consider more heavily Clark County or the State.

Mr. Lowman replied he did not but told him in virtually all other jurisdictions that they looked at; the taxicab industry was regulated by the local government entity, which was either the city or a county. He said there were no other state agencies with jurisdiction limited to a county or city.

Lieutenant Governor Hutchison thanked Mr. Lowman.

Secretary of State Cegavske went back to the discussion on the credit card fee. She said she was there during the 2011 session, and remembered they did not discuss the dollar amount, that was something done by the agency.

Secretary of State Cegavske said her question was with the amount of money that was on page 28 of the audit report. She asked where was the 14 to 20 million being used and what are they using it for. She said if it was intended to cover the cost to use a credit card, which was indicated on page 28, what was the additional money being used for and what had they been doing with the money.

Mr. Lowman said the money was going to the industry. He explained some portion of it they were using to pay the legitimate, appropriate vendor fees and the rest is what we have called unsupported revenue to the industry.

Secretary of State Cegavske said she got that but wanted to know what other things they used the money for. She said it says vendor services, equipment, administrative allowance or an allowance for uncollectible fares. She said she wanted a breakdown of the money spent.

Governor Sandoval thought the statement was none of it goes to the state, that all of it goes to the industry.

Secretary of State Cegavske understood, but wanted to know how and what the money was being used for.

Governor Sandoval stated the findings in the audit showed that some of it pays for the actual fee the credit card companies charge, the rest went to profit.

Secretary of State Cegavske asked if the audit found where the excess money goes.
Governor Sandoval said that was a question for the taxicab industry.

Mr. Weinberger said they did not have access to the cab companies' books, so they could not verify how the funds were spent.

Secretary of State said they would ask them. She said she did agree with a $0.90 charge for a fee because there should be something to cover the credit card cost. She said she appreciated the audit and the information they brought to them.

Governor Sandoval explained there was another finding that Clark County is the only one that passes on the credit card fee in Nevada. He said the rest of the state whether it is a limo or taxi in Washoe County, absorbs the fee.

Attorney General Laxalt wanted to follow up on the incident where Category II peace officers, in a major tourist area, were wearing masks and potentially using excessive force. He asked if that was coming from staff who were encouraged to take that extra step. He asked if they were encouraged by the Board.

Mr. Grogan said that took place before he arrived so he deferred to Mr. Breslow.

Mr. Breslow said it was during an illegal Transportation Network Company (TNC) investigation, before TNC's were legal. He said some officers rolled up as back up, and they had been acting as undercover officers and did not want to expose their identities to the public, so they used masks.

Mr. Breslow said it obviously looked very bad when it was almost a staged incident. He said all the media and the press were there waiting for them. He said the wearing of the masks was discontinued with a quick phone call after they found out that actually occurred.

Mr. Breslow said he did not want to color the entire enforcement staff with what was discussed earlier. He said there were a handful of folks that sometimes cause issues. He said they deal with them through the Nevada rules and regulations, and policies and procedures they have.

Mr. Breslow expressed it was not everybody, but they do not need high speed chases, and they do not need to put their hands on a cab driver unless someone is defending themselves.

Attorney General Laxalt asked if they were rogues, individual agents stepping out on their own, or was the staff or Board at any time directing them to take those extra steps of enforcement.

Mr. Breslow said according to the Administrator at the time, no one had ever directed that to occur, and it was quickly brought to everyone's attention that it should never occur again.

Controller Knecht wanted to follow-up on the Lieutenant Governor's and the Attorney General's concerns.

Controller Knecht addressed Mr. Breslow and Mr. Grogan and said they were doing a good job managing the issue as well as the rest of it. He wanted to follow-up on an observation.

Controller Knecht stated they had the same problem of Category II verses I peace officers both in K-12 and in higher education. He said to answer the Lieutenant Governor's original question, it did not originate, it was not idiosyncratic to this agency, and it did not seem to be anything that policy makers directed or management directed.

Controller Knecht said it seemed to be inherent in the use of agency personnel as Category II peace officers, and he did not mean by saying that, as Mr. Breslow pointed out, it was all the officers, but it did seem to pop up every time they had Category II peace officers in other agencies. He added they want to be real cops.

Controller Knecht wanted to hear from Mr. Grogan and then had some final questions.

Governor Sandoval said he thought Mr. Lowman was finished with his presentation and this would be a good time for Mr. Breslow and Mr. Grogan to present their response. After their response there would be time for additional questions.

Mr. Breslow said he appreciated the compliment from the Treasurer and returned compliment to the Governor's staff.

Mr. Breslow said the best way to look at the troubling situation for which they could not affect change on their own, was to have an audit look at things.

Mr. Breslow stated when decisions are made, typically, an agency analyzes data, and studies surrounding states and makes a series of recommendations based on that data that is presented to the Board and then the Board will vote.

Mr. Breslow said what he was seeing that was so troubling in the last year and a half was that the agency was not being used for that, the industry was bringing a study to the Board and the Board was voting on the industry recommendation.

Mr. Breslow said when the Legislature looked at the credit card fee; it was the industry that brought that to the Legislature, not the agency. He commented he had a $7 ride and received a $3 credit card fee.

Mr. Breslow said he sent in a request for an explanation of how the charges worked to the Chair of the Board and became frustrated when he did not hear anything back.

Mr. Breslow stated not only did the audit find that only a $0.90 fee was justified, they were not allowed to look at the cab companies' advertising revenue from credit card machines. He said that the audit was not able to determine how that would offset the cost of the equipment.

Mr. Breslow said with 27 million rides per year that would more than cover the cost of buying the equipment. He said, based on experience as Director of the DMV, credit card companies charge between 1.45 and 2.1 percent per transaction. He added many times the credit card companies will offer the equipment for free in exchange for getting a percentage of the credit card swipe. He said the auditors needed to look at that, but were denied access.

Mr. Breslow mentioned the fact that staff thoroughly vetted and denied two licenses to two drivers. He stated one had a violent criminal history and the other was deemed a sexual predator. The audit noted staff's decisions were overturned without vetting it properly. He added they were not appealed decisions, they were overturned, and said they could not have these types of things occurring.

Mr. Breslow indicated although they only had those two cases documented, it concerned him the process was not working.

Mr. Breslow added if you have unsubstantiated fees, and staff that is not being used, the system then does not work for the TA. He said he did not fault the board members, they volunteer and get paid $80 a meeting and he said they work as hard as they can.

Mr. Breslow stated until they quantified this, they could not explain the level of unsubstantiated costs that were being charged. He added they really wanted to find a better way to solve the problem.

Mr. Breslow explained, he accepts the recommendations and he accepted recommendation 6 to eliminate the TA, but that cannot happen without working with the Governor's Office and the Legislature.

Mr. Breslow commented the transportation industry was changing quite a bit. He stated they needed to look at the entire regulatory structure for transportation and then make a well-thought-out decision.

Mr. Grogan said when he applied for the Administrator job he did not actually know the audit was going on, but thought the audit was a gift coming into his new position.

Mr. Grogan wanted it on the record that they had some hardworking people at the TA. He said he did not want to leave here with the impression that people were not working hard and were really trying to do the right thing. He added not everyone was a problem at the TA. He said he had the luxury of working with most state agencies, and did not think they were out of line in terms of the number of issues they had.

Mr. Grogan explained the audit was very timely for them and him particularly because there were some things that needed focus.

Mr. Grogan stated he responded along with Mr. Breslow to accept the audit recommendations made by the auditors, and some things absolutely had to change. He added there needs to be a better working relationship between TA staff and the TA Board, and he has already been working on that.

Mr. Grogan said he had met with every current TA Board member one on one to talk about their working relationship and the way they communicate and what information they would like to have from the TA. He said he specifically talked about some of the licensing situations that Mr. Breslow discussed where they actually gave licenses to people that it was his job to reject.

Mr. Grogan stated he was not going to allow them to compromise the safety and convenience of the riding public at a time when the taxicab industry should be concerned about the fact that they are in competition.

Mr. Grogan said they would vigorously evaluate the recommendations and work with the staff to implement the changes that made sense. He commented it was bigger than a breadbox, and it is a huge business in Las Vegas and just asked that the TA and Board be thoughtful and consistent as they go through and make the changes.

Mr. Breslow said they could address only the issues within the agency and any future policy. He said any changes in the fee structures and credit card charges were issues that the TA Board legislatively has the authority to take up, not the agency.

Mr. Breslow said Mr. Grogan has put this audit as a discussion item on their next Board meeting agenda. He said they could not talk about the audit because it did not become public until this day, and could not share it with anybody.

Mr. Breslow said it would not be on their next agenda for them to take action. He said but they will have plenty of time to vet this and look at the information, and it will be up to the Board to make any changes that they wished.

Governor Sandoval asked for clarity if Mr. Breslow and Mr. Grogan accepted all of the recommendations of the audit.

Mr. Breslow replied yes.

Governor Sandoval asked if the committee members had any questions for Mr. Breslow and Mr. Grogan and then he said he was going to ask if Board members Collins or Campos had a presentation they would like to make.

Controller Knecht said that 25 years ago he took his first course as an advanced undergraduate student in transportation regulation and economics and 33 years ago he lead a review for reform and deregulation in part at the California Public Utilities Commission of transportation regulation. He said over decades he has testified numerous times as an expert witness in transportation economics policy and regulation policy in general. He said he learned a few things in order to qualify what he was about to say.

Controller Knecht explained regulated agencies have the following things on their agendas. One, maximizing prices; two, minimizing the cost of service and also the quantity of services; and three, in support of both of those, capturing their regulators.

Controller Knecht said therefore what happens in general in transportation regulation is that the regulators tend to help maximize prices and minimize quality and quantity. He said it becomes a scratch-my-back and I'll-scratch yours.

Controller Knecht thanked the Division of Internal Audits and said they did a remarkable job on this matter. He said if anything it could have gone a little farther, but they certainly captured the situation in detail as well as consistent with the big picture of the transportation regulatory issues, and it was very timely that they did so because they were going through a major ferment with the rise of network-based transportation services.

Controller Knecht thanked Mr. Breslow and Mr. Grogan for the constructive response in all of this.

He said whatever is proposed in the next Legislature would do well to focus on the real ratemaking and practices reform, and to move away from the prescribed rates to maximum rates or some other regime that would benefit the public and the public interest and the traveling public much more.

Secretary of State Cegavske asked if Uber/Lyft that came onboard this legislative session were also paying the $3 fee, plus were there any additional fees that they paid that were different from what the taxicab companies paid.

Mr. Breslow replied he thought she was talking about the fee that was passed by the Legislature, and he may not be correct, but everyone paid that fee, the taxicab companies and the network transportation companies. He added it was the same fee equal to each company.

Governor Sandoval recalled he thought it was 3 percent, and the first five million went to the highway fund, with the rest going to the general fund. He said the NTC's do not charge for a credit card fee.

Secretary of State Cegavske said okay and said Uber/Lyft did not have a $3 fee on theirs. She was asking because she did not know how it worked.

Governor Sandoval said it might have been that it was included as part regular fare, but there was no separate credit card charge.

Mr. Grogan said it was in the app, so they did not know what the actual fee was.

Lieutenant Governor Hutchison told Mr. Grogan he was looking at page 30 of the report, where the recommendations were accepted, specifically recommendation 6, and the recommendation to eliminate the TA. He replied that Mr. Grogan's response states Business and Industry has recognized that for many years the TA has been unable to institute the best practices of the industry due to a complex regulatory structure and add on laws. He said he would appreciate a comment.

Lieutenant Governor Hutchison stated the way he read it, the complex regulatory structure was put in place by the TA. He asked if the TA was unable to implement best practices because they put in too complex of a regulatory structure themselves.

Mr. Breslow replied he wrote the response as it was up to the Department of Business and Industry to respond to that recommendation and Mr. Grogan was kind enough to autograph his response to get it out quickly.

Mr. Breslow said over time, agencies would change their regulations with the approval of the Legislative commission. He said the statutory authority to do that lies both with the Board, which has equal authority as the Department of Business and Industry, and the agency. He commented it was a very different setup than any other Board or Commission he had seen.

Mr. Breslow stated there had been changes that the NTA, which originally came out of the Public Service Commission, did that were completely different from the changes the TA did. He added as the industries changed, each of them went different ways.

Mr. Breslow said all of the proposed regulations were proposed either by the Board or the agency and then codified by the Legislative Commission.

Lieutenant Governor Hutchison said it struck him as perplexing that the TA would come up with a complex regulatory structure and that would prevent them from instituting best practices. He said it was their own doing, and they were implementing regulations that they could not follow. He asked if that was the conclusion, Mr. Breslow had reached.

Mr. Breslow replied not exactly, they had different rules and regulations for two different agencies that regulated the same thing. He said one of the agencies has a Board and an agency that can propose regulations by themselves, the TA. This caused the inconsistency between the two.

Mr. Breslow said the two agencies have grown apart and changed. He agreed one agency would be a much simpler way to do it. He said the other complexity is the transportation network companies operate now under a different chapter.

Mr. Breslow said this was a moment in time he thought they could re-evaluate everything they are doing and try to best serve the traveling public and the health of the industry and the health of the public. He concluded that is why he wrote his response as he did.

Lieutenant Governor Hutchison asked if the TA was self-funded or funded through general funds, and how many employees were currently with the TA.

Mr. Grogan replied it was self-funded, the funds come from the industry itself, and he said the current authorized head count he believed was 63.

Secretary of State Cegavske wanted anyone who takes over to have them look at what other states do regarding credit card fees. She said they could talk to the Treasurer's office on that. She said when they look at the transaction of the credit card; they were usually based on whatever the amount was. She asked would the $0.90 cover if the charge were $5,000 or $5. She asked that be looked at to make sure the amount of the credit card fee was being covered

Ms. Cross said, as she understands, the agency does the background checks of the taxicab drivers and issues some type of permit.

Mr. Grogan replied that was right.

Ms. Cross said it has been her experience in other local governments that it was done by the local government. She was not sure Clark County had the ability to take that on. She said she would not want to see that go away.

Ms. Cross said her concern with taxicabs was getting in a car with someone you did not know. She added that maybe it was something that could stay with the Taxicab Authority and then have the Board be the appeal section. She said as far as the rates she liked the fact that there was a central agency that does all.

Ms. Cross stated she liked the idea of having a central agency approving rates. She asked if the background checks for the Category II employees are as thorough as the background checks for Category I employees.

Mr. Breslow explained the agency did the background checks and the fingerprints were then sent to the FBI. He said if they deny someone, they had the right to appeal. He said in addition the agency could appeal and that would go to the Commission or the Board.

Ms. Cross said there were so many other employee positions that governments deal with in background checks that she was not sure they could take that on.

Ms. Cross said overall if they had a dedicated revenue stream already in place and the agency was funded by the industry, she wanted driver background checks to continue.

Mr. Grogan said yes, there were some corrective actions that needed to take place and they needed to be thoughtful with those actions. He added this was one function that was very important.

Mr. Grogan stated the taxicab companies did not want people driving their cabs that should not be interfacing with the general public. He said that was something that would continue to exist.

Governor Sandoval wanted to move on to the TA Board members in the Las Vegas location.

Secretary of State Cegavske stated there were no TA Board members present and no one was there indicating they wanted to come forth.

Governor Sandoval asked Mr. Breslow if the TA Board members knew of the time and place of this meeting.

Mr. Breslow said he sent them an invitation with the agenda and time, and the audit staff sent one out too. He said two of the Board members told him personally they would be there today, and added those were the ones the Governor mentioned earlier.

Mr. Breslow stated the Chair refused to attend and said this audit had no authority over their Commission.

Mr. Grogan personally spoke with three of the Board members when the meeting was scheduled to be in December, and they weren't going to attend then. He said they were absolutely aware of the meeting.

Governor Sandoval said the Chairwoman would probably be the best candidate to provide a response. He asked if she was made aware of the time and date.

Mr. Breslow replied yes, he personally discussed it with her.

Governor Sandoval asked Mr. Breslow what she said.

Mr. Breslow replied that she said the auditors had "no authority" over her Commission, and that she would "not be attending". He believed she also told some of the other Board members, and advised them not to come, and some of those Board members told him that they were told this was going to be a witch-hunt and to stay away.

Mr. Breslow stated it was not a witch-hunt and they were trying to find a fair way to regulate. He said there was also a Sunset Subcommittee meeting on February 9, 2016 at the Legislature, for which they had also requested her attendance. He said they also got an "I will not attend" from the Chair.

Governor Sandoval said technically she was correct, in terms of not being bound by this. He said he would have appreciated, given that most of this had to do with Commission decisions, to hear its side or its position or its observations.

Governor Sandoval wanted to make it clear for the record the Board members had been aware of the time, date, and subject of this meeting.

Mr. Grogan replied, yes.

Governor Sandoval asked if there were any questions.

There were none.

B. Department of Agriculture, Report No. 16-02 – Food and Nutrition Division, Lynnette Aaron, Executive Branch Auditor

Governor Sandoval reminded the Committee that audits are information items and the Committee would not be taking action.

Ms. Lynnette Aaron, Executive Branch Auditor presented the audit. She presented Mr. Jim Barbee, Director for the Department of Agriculture, Mr. Dale Hansen, Fiscal Administrator and Donnell Barton, Division Administrator.

Ms. Aaron said the audit focused on the Food and Nutrition Division's management of the commodity food distribution program for Nevada's school districts.

Ms. Aaron stated the division was established during the 2013 Nevada Legislature and combined the commodity food distribution programs, which was managed by the Purchasing Division, the child nutrition programs, which was managed by the Department of Education, and the Nevada Dairy Commission, which was previously under the Department of Business and Industry. She said this allowed the State to more efficiently and effectively manage federal food and nutrition programs.

Ms. Aaron stated they made one recommendation. She said the Department should submit a new fee plan to the United States Department of Agriculture (USDA) to adequately and accurately allocate costs to Nevada's school districts for managing the commodity food distribution program. She added this would benefit the state by approximately $339,000 annually.

Ms. Aaron thanked the department's assistance and cooperation throughout the audit.

Mr. Barbee thanked the Division of Internal Audits audit staff for the good work and relationship they had during the audit. He said they agreed but did want to do one point of clarification as they looked at the final findings.

Mr. Barbee explained in one section on page 6 of the audit, it identified that savings within the Commodity Food Distribution Program (CFDP) budget of $150,000 were from overcharges to the urban school districts.

Mr. Barbee said in terms of fairness, he would agree with the statement, and that is how he read it the first time, but wanted to be clear that they did not overcharge school districts.

Mr. Barbee said the fee schedule is based on the USDA approved fee schedule that he thought had been in place for something like 20 years before they brought the program in from the Department of Administration two years ago. With that said, he completely agreed with the

recommendation and they looked forward to engaging with their stakeholders and the public and working out a fee structure that meets their needs, as well as the USDA.

Governor Sandoval asked how that would be implemented in terms of process.

Mr. Barbee replied they would work directly with the school districts, which were the largest stakeholders because they were the ones making the money.

Mr. Barbee said some of the things they are concerned with is that although they had a larger fee portion handled by the urban school districts, part of that was because of concerns of what rural districts could handle. He said they would work with the financial staff at each one of the school districts and consolidate an open meeting type process, as well as with the rural school districts, and to come to a fee system structure that worked.

Mr. Barbee said they would additionally use some of the examples that were provided in the audit from other states.

Mr. Barbee explained they did a food distribution research study approximately one year ago, and engaged those stakeholders in that process for the first time in many years. He added they were well on their way there, and he said some of the data drawn in the audit came from that initial study that they did approximately one year ago.

Governor Sandoval asked if there were any questions.

Secretary of State Cegavske asked if they worked with all 17 school districts.

Mr. Barbee believed it was the Eureka and Esmeralda School District that did not participate in lunch. He thought that it went back to size and available resources in those individual districts and the situations they were in. He said for the largest percentage, yes, they engage with all the students in the school districts.

Secretary of State Cegavske stated that on page I of the Executive Summary it showed they were increasing the rural's carrier delivery fee from $2 or $2.50 per case to $9.36 per case. She said it appears they were subsidizing the other areas of the state.

Mr. Barbee replied yes and said that was the perception of fairness they talked about earlier.
Controller Knecht stated the fee structure had approximately been in effect for 20 years and wanted to know if it was established on some cost study or cost basis. He wanted to know how it was actually established.

Mr. Barbee replied it pre dated his service with the state so he could not give an answer.

Mr. Hansen replied when they first took on food commodity, they did ask for backup, because this issue had come up before, and they could not find any back up. He said he actually called his fiscal connections at USDA and they did not have a record of it either. He said they have no idea how the initial fees were ever set.

Governor Sandoval said they might have to look at the Department of Education, because they were who had it previously.

Mr. Barbee stated the program was actually under Department of Administration, under Purchasing.

Controller Knecht said that that in competitive private markets real costs go down over time. He added he was not completely surprised, although they were talking about nominal costs. He commented he was curious if there was some cost study basis for this.

Mr. Barbee asked when the last fee increase was and if the cost had actually been maintained.

Mr. Hansen stated they were surmising and the last one in statute was in 1990, and they all had to submit cost claims, so they were guessing around that time. He added everything seems to be about 20 to 25 years ago.

Mr. Barbee stated the cost of operations have gone up but the fees have stayed the same. He added this is why it's time to reevaluate the fees.

Governor Sandoval asked if they accepted the findings in the audit.

Mr. Barbee replied, yes.

C. Department of Health and Human Services, Child Welfare Services Report No. 16-03
Ashwini Prasad, Executive Branch Auditor

Ashwini Prasad, Executive Branch Auditor, presented the audit. Representing the Department was Administrator, Kirsten Coulombe from Division of Child and Family Services and Deputy Administrator Jill Marano for Child Welfare via Las Vegas.

Ms. Prasad said the audit focused on the Division's Child Welfare Service's fiscal oversight of the state court jurisdiction program funding and the allocation of the federal adoption incentive grant. They made two recommendations supporting two objectives.

Ms. Prasad said the first objective was: Could the division improve oversight of the state court jurisdiction program funding? Ms. Prasad said they recommend the division establish criteria on how funds are spent and collect data to monitor and assess the results of the court jurisdiction program.

Ms. Prasad said the second objective was: Could the division better allocate the federal adoption incentive grant? Ms. Prasad said they recommend the division modify the formula for the federal adoption incentive allocation to consider costs for special needs children in foster care in the rural counties. She said this could potentially benefit the state by $443,000 annually.

Mr. Prasad appreciated the division's assistance throughout their audit and thanked them for their time and consideration.

Ms. Coulombe thanked the audit staff and said they accepted both recommendations.
Ms. Coulombe said the court jurisdiction program that Ms. Prasad detailed started in 2012. She said it is always good to revisit to see how they were working with the programs and what the initial goals were. She said they started the process of looking at their policy.

Ms. Coulombe said they were looking at utilizing a current federal survey tool that they were using for the independent living program. She said the survey was used to look at what their employment was, and other resources aside from this program, permanent relationships with adults, their housing and access to insurance. She added they had also reached out to the child welfare agencies.

Ms. Coulombe thought it was always a good opportunity to have feedback because sometimes it is hard when they are running the program and getting into the details to see the overall big picture.

Ms. Coulombe said as far as recommendations that potentially need changes to statutes; they had reached out to Senator Hammond for the Interim Committee on Child Welfare and Juvenile Justice to work with him.

Governor Sandoval asked about the second recommendation.

Ms. Coulombe said state supervises the county operated child welfare agencies in Washoe and Clark, and actually operates child welfare services in the rurals. She said they were cognizant that they had higher rates than the urban counties. She said it was due to the challenges that were identified in the rurals as far as having access to services.

Ms. Coulombe added they appreciated having the supporting documentation to look at addressing the funding formula they currently have, and it came timely because they anticipate some reduction in their federal grant for the adoption incentive.

Ms. Cross asked how the children go about getting the funds and was there an agency that doles them out in regards to the court jurisdiction program. She added that in the past it seemed the children were dropped off the face of the map at age 18 and was curious as to how it worked.

Ms. Coulombe explained the program was unique. Some states have extended foster care over the age of 21. She said this was actually a court jurisdiction program. She added they have authority over the child welfare case until it actually ends, and then the court has the jurisdiction, and they have oversight.

Ms. Coulombe said they were actually an intermediary agency to provide the funds, but added it had inherent challenges to it.

Ms. Cross asked if it was done through the courts.

Ms. Coulombe said they worked with the court on turning it in to a written plan for the youth, but it was really the court with the assistance of their attorneys who request to extend the court jurisdiction up to age 21, and then they will work with them on providing those services. She said she had her Deputy Administrator for Child Welfare, Miss Marano with her who might be able to provide more detail or said she could contact Ms. Cross later.

Governor Sandoval asked that they wait until after the meeting because it was not germane to the audit.

Ms. Coulombe and Ms. Cross agreed.

Governor Sandoval asked if there were any further questions.

Controller Knecht said as a member himself of the board of directors of Court Appointed Special Advocate (CASA) of Carson City for more than 10 years he was little bit familiar with some of the problems faced in Division of Child and Family Services (DCFS) and the support given to children that they help. He said one of the problems they had in Carson City in particular, was as he understood it, the ability to hold on to case workers and social workers because they get brought up to Washoe County where they receive higher pay.

Controller Knecht asked if that was part of the problem or was it entirely separate.

Ms. Coulombe stated that had historically been a challenge for them, but they had been successful in retaining workers, being a little more competitive in their salary and having an internship program, and working closely with the CASA partners as well. She thought it was always a challenge not unique to their division by any means, but they were looking to be creative and have shown some success in Carson City.

Ms. Coulombe said more specifically it was the rural counties that had those challenges. She said they just met with staff in Winnemucca and Elko, where there is a problem getting access to resources and health care providers.

Controller Knecht thanked Ms. Coulombe for working closely with the CASA's, and thanked her on speaking up for the least fortunate members of the community.

Ms. Marano said she did not have anything to add but would be happy to answer any questions.

Governor Sandoval asked if they accepted the recommendations.

Ms. Coulombe accepted the recommendations.

D. Office of the Attorney General Report No. 16-04 Vita Ozoude, Executive Branch Audit Manager.

Representing the Office of the Attorney General was Nick Trutanich, First Assistant Attorney General, and Mike Mersch, General Counsel from the Las Vegas Office

Mr. Ozoude stated they were requested by the Attorney General to review the constituent complaint process and offer recommendations to help ensure constituents complaints were processed timely and effectively.

Mr. Ozoude stated they made two recommendations:
- ✓ Centralize management of Constituent Service Unit (CSU) staff, and
- ✓ Replace the CSU database

Mr. Ozoude said the recommendations would help ensure consistency between the two offices and result in timely and effective handling of these complaints.

Mr. Ozoude thanked the Office of the Attorney General staff for their cooperation and assistance and that concluded his overview.

Governor Sandoval asked if there were any questions.

Mr. Trutanich on behalf of the Attorney General's Office and his colleague Mr. Mersch, who was at the Las Vegas location, thanked the members of the committee for authorizing the Division of Internal Audits to conduct the voluntary audit that was requested, and specifically thanked Mr. Vita Ozoude, the audit manager for conducting a thorough and professional audit. He said the Attorney General's office accepted and welcomed the recommendations.

Mr. Trutanich said since taking office last year, the Attorney General has made an effort of reorganizing and professionalizing the office and in addition, the office had undergone no less than two audits of preexisting organizational structure.

Mr. Trutanich stated the first audit was from the National Association of Attorneys General (NAAG). He said it was a management review audit and the second audit was this audit, which the AG voluntarily requested during the early part of his term and was approved by this committee in June 2015.

Mr. Trutanich described how they saw this audit as an improvement to the office and it specifically relates to the constituents response unit. He added that was how the public interfaces with their office. He said they could call and report crime trends and/or speak their mind to the AG office.

Mr. Trutanich said for that reason, they wanted to make sure the constituent response unit was running professionally, and he thought by centralizing the management of the consumer response unit, and using the Elite Pro Law database, which was currently being used by their lawyers in the office to memorialize those responses in perpetuity, it was a way that they could better interact with the public.

Mr. Trutanich confirmed they accepted the recommendations.

Governor Sandoval said thank you for being so thorough and asked if there were any questions. There were none.

4. **Presentation of of the Division's Six-Month Follow-Up Status Reports. (NRS 353A.090)**
   A. **Department of Agriculture, Report No. 15-04-** Board of Agriculture and Fiscal Administration - Warren Lowman, Executive Branch Audit Manager

Mr. Lowman said the Department of Agriculture had fully implemented four of five recommendations. He said they assessed the remaining recommendation, which could be found on page 4 of the report, as no action because the Board of Agriculture considered the recommendation at its September 2015 meeting and decided the public process should guide adding a representative of the general public. He added the public process time frame for determining implementation of the recommendation will be limited through the end of the upcoming 2017 legislative season.

Mr. Lowman said Director Barbee and Fiscal Administrator Hansen were available to answer questions the committee might have.

Governor Sandoval asked if there was any opposition to adding a public member to the Board.

Mr. Barbee stated there is not opposition but there were a couple of concerns. He said he was translating from what he garnered from the meeting and their conversation; they felt uncomfortable because the recommendation was directly related to their size and their composure.

Governor Sandoval understood and asked how many members they have.

Mr. Barbee replied 11 Board members.

Governor Sandoval stated, "So you would have 13".

Mr. Barbee said somebody has to be voted, "off the island" or some kind of shift or change there. He thought it created a little discomfort.

Mr. Barbee stated from a practical point, the Board of Agriculture over the last five years before this, would have two-three day long meetings.

Mr. Barbee stated they have become much more efficient and effective in the time utilized in those Board meetings and specifically focusing on things that should be focused on.

Mr. Barbee said the Board felt like they have public representation because the Board is so diverse, from the petroleum industry, the livestock industry, to crop production and the urban side. He said they do not see themselves as just Agriculture representatives as a whole.

Mr. Barbee said a public member would be welcomed if it was not someone that was anti-agricultural of an animal agricultural type advocate, and the impact that would have on the extent of the meetings.

Mr. Barbee said they felt that was out of their authority and needed to come from the Legislature or the Governor.

Controller Knecht asked for clarification about the representation on the Board of stakeholders or interests, that there was not a consumer/advocate or public representative on the Board.

Mr. Barbee explained he thought they were coming from the idea that if it was a consumer issue around a specific agriculture or petroleum sector, the other members would be kind of the public representation.

Mr. Barbee said for example, one of the things that most recently did bring a fair amount of controversy, organics. He said the petroleum and the sheep representative were dissenting votes on the majority vote to eliminate the program at the state level. He said they slide into those shoes of being the public representative because they did not have a horse in the race so to speak.

Controller Knecht assured them he held no grief for any of the special interests that he had referred to in his two comments who might have had grievances against some part of the Ag industry. He commented they had too many grievance advocates in public process, regulatory and legislative in general.

Controller Knecht asked if there was a representative on the board of public interests as opposed to a representative of some stakeholder group within Agriculture.

Mr. Barbee replied no.

Controller Knecht wanted to see a public interest representative and not just someone from the industry.

Mr. Barbee followed-up and expressed the Board did not come out and say they were opposed to a public member being added. He thought the conversation settled in the meeting with what they felt like was outside their authority and should rely on the legislature and through process of the Governor's office.

Mr. Barbee stated the Board itself was supportive of open public dialogue. He added they do take public comment on each agenda item. He said it takes longer but he feels their operation was more open and transparent.

Governor Sandoval asked if there were any questions. There were none.

B. Department of Business and Industry, Report No. 15-05 – Division of Insurance, Enforcement Investigations -Vita Ozoude, Executive Branch Audit Manager

Mr. Ozoude said they made three recommendations that were fully implemented. He thanked the division for their cooperation and assistance. Representing the Division was Deputy Commissioner Earl McDonald and Deputy Commissioner Nicole Lamboley.

Governor Sandoval asked if they wanted to add anything.

Ms. Lamboley stated they looked at the recommendations and felt they were achievable in the short time frame. She said Mr. McDonald oversees the office for which the recommendations affect. She said he had found it a useful tool, and let him respond to how it was working, as they had added to and trained the staff.

Mr. McDonald stated they had implemented all three of the recommendations, and found it helpful to have everyone lined up the same. He said initially they did not have any procedure desk manuals for those individuals, but they do now.

Mr. McDonald said the audit had been good for them because they are now getting those cases out in a timely manner and also taking care of the ones that had been there a long time. He commented it was a big issue when he first came there. He added everyone was engaged in the new processes they put in place.

Governor Sandoval asked if there were any questions. There were none.

C. Department of Motor Vehicles, Report No. 15-06 – Motor Carrier Division -Vita Ozoude, Executive Branch Audit Manager

Mr. Ozoude said the division fully implemented two of the three recommendations. He said the remaining recommendation could not be fully implemented at this time because of lack of information technology resources.

Mr. Ozoude introduced Wayne Seidel, Administrator for the Motor Carrier Division.

Mr. Seidel replied they did not comply with recommendation number 2, which was breaking out the Liquefied Natural Gas (LNG) column within their tax return. He stated they could get this done this summer and based on their IT resources and their system modernization, for which they were looking for a vendor, but had not been able to do that. He added it might have to happen under maintenance with the staff they have.

Mr. Seidel stated they had done a service request and were writing business rules to break out that column. He said if they did not get it done, it would happen in system modernization, which is a four-five year cycle through 2020. He said that would be the longest it would take.

Governor Sandoval commented he had circled 2020.

Mr. Seidel explained it was based on IT resources, and if they could not get it done with the existing maintenance IT staff they now had, it would have to happen in the modernization. He added they did not want to do it twice and it was on their list to be accomplished.

Governor Sandoval asked if they were going to get it done long before June 2020. He added they would have to keep coming back there until it was accomplished.

Mr. Seidel replied they were hoping to with the resources.

Governor Sandoval asked how much money were they talking about, and he knew DMV just received a big chunk of money and wanted to know if that was included.

Mr. Seidel replied yes it was included, and that would be the modernization part of it.

Mr. Seidel explained that currently for the Motor Carrier track, which was the IRP registration as well as the fuel industry team where they collect tax, they have one and-a-half IT people dedicated to that, so they were working on the day-to-day maintenance of the system. He said the service requests are for them, and he could not give the exact number of hours. He said it was above and beyond what they were doing on a day-to-day basis additional capacity.

Mr. Seidel explained that was why they put in the date of 2020 as the maximum amount of time. He said the worst case scenario is, it will be done with the system modernization.

Governor Sandoval replied, "We have got to do better than 2020".

Governor Sandoval asked if there were any questions.

There was none.

5. **Presentation of of the Division's Annual Follow-Up Status Reports**
   A. **Outstanding Recommendations Status Matrix** – Steve Weinberger, Administrator for the Division of Internal Audits

Mr. Weinberger pointed out Tab 5-A and C was a matrix of prior audit recommendations that were still outstanding as of today, and what he meant by outstanding is they had not verified

that the agency had fully implemented the recommendation. He said there is a column of outstanding recommendations, 38 in total.

Mr. Weinberger said they had some follow-ups currently in progress, for which agencies had represented eight recommendations were fully implemented, which left them with 30. He said they were verifying that those were fully implemented.

B. Reports Containing Outstanding Recommendations
C. Reports Containing Only Fully Implemented Recommendations – Steve Weinberger, Administrator for the Division of Internal Audits

Mr. Weinberger pointed out Tab-B included reports where they determine that there is one or more recommendations that had not been fully implemented, and 5-C were reports where all the recommendations had been fully implemented.

Mr. Weinberger explained these were reports that they had done since the last time they addressed outstanding recommendations, which would have been at the December 10, 2014 EBAC meeting.

Mr. Weinberger asked if the committee had any questions.

Ms. Cross asked how does it happen that the Department of Agriculture has had outstanding recommendations since 2007 to develop their policies and procedures.

Mr. Weinberger stated they had been making progress, and in the audit, they had several recommendations. He said all had been fully implemented, but that one had remained.

Mr. Hansen explained when the recommendation was first made; he believed nothing had been done for several years. He said now that Director Barbee is there they had started writing up policies and procedures for their personnel and payroll issues. He added over the last two years he has written several policies and procedures.

Mr. Hansen stated from they were making progress and it helped them operate more efficiently.

Governor Sandoval asked how far along they were.

Mr. Hansen replied they still needed to write up policies and procedures on grants, sub-grants and revenues. He added they were about 50 percent complete.

Ms. Cross asked if they could look at policies and procedures from other departments to use as examples.

Mr. Hansen replied they have.

Treasurer Schwartz congratulated whoever compiled the information in Tab 5, because it was well done and impressive.

Mr. Weinberger replied thank you.

Governor Sandoval asked if that completed agenda item 5.

Mr. Weinberger replied yes.

6. **For Possible Action – Approval of the Division's Annual Audit Plan Pursuant To NRS 353A.045** – Steve Weinberger, Administrator for the Division of Internal Audits

Mr. Weinberger stated this agenda item required committee approval.

Mr. Weinberger was requesting approval to perform two audits at this time:

- ✓ Department of Transportation

The division wants to look at their purchasing procedures statewide.

- ✓ Department of Health and Human Services

Specifically the Division of Welfare and Supporting Services as requested by Richard Whitley, Director of DHHS.

Mr. Weinberger explained the bottom section of the matrix includes the audits that had been previously approved by this committee and are currently ongoing. He said on the far right he has the estimated date they would be presented.

Governor Sandoval said he had no problem with any of the audits and asked what their capacity was if they requested other audits.

Mr. Weinberger explained at this point there was a wait list as several audits have been requested.

Governor Sandoval said it was important for all the other members to know because they do not want to overload them with audits.

Governor Sandoval asked if there were any questions.

Controller Knecht remembered the auditors reached out to the new constitutional officers and offered performance-oriented audits to help them where they might fall short with the operations they inherited and has been valuable and appreciated by all.

Governor Sandoval appreciated what he was saying because there is a transition period and there are historical procedures that perhaps needed examination, and it was chance to look at them and get a fresh look.

Secretary of State Cegavske said she was grateful for the opportunity to have this audit, because they have so many divisions and entities. She said it has been helpful. She thanked them for coming in to talk to them several times to make sure they were hitting the points, and looked forward to the results.

Motion: Move for approval of the Division's Annual Audit Plan
By: Attorney General Laxalt
Second: Controller Knecht
Vote: Motion passed unanimously.

7. **For Possible Action – Approval fo the Division's Annual Report Released September 30, 2015 Pursuant to NRS 353A.065** – Steve Weinberger, Administrator for the Division of Internal Audits

Mr. Weinberger explained this was the annual report for fiscal year 2015. He said it outlined their accomplishments and performance measures. He said it covers the three sections of the division.

Mr. Weinberger said the first section is the Internal Audits section and those were the audits that were presented today.

Mr. Weinberger said the second section is the Financial Management section which was responsible for training state employees on internal controls.

Mr. Weinberger said the third section was the Post Review section and that had historically gone out in the field, looked at transactions from state agencies, and verified them for compliance with state regulations.

Mr. Weinberger directed the committee to page nine. He said that is where the performance measures are for the Internal Audit section. He said, if they can, they quantify the fiscal impact of their recommendations once fully implemented. He said they determine a return on the cost by dividing the amount of recommendations that had been fully implemented by the cost of the Internal Audit section. He said for every dollar spent on the Internal Audit section for fiscal year 15, the state and its citizenry benefited $84.

Mr. Weinberger explained Lori Hoover is responsible for the Financial Management section and her performance measures were on page 13. He added Ms. Hoover stated they test employees on their knowledge of internal controls. He said it looked like in general there is a trend that state employees were becoming more knowledgeable on internal controls, and they were happy to see that.

Mr. Weinberger said the Post Review section is responsible for reviewing state agency expenditures and this would be the last time they would use the words "Post Review." The section will now be called "Compliance Review" He said the two staff that held the Post Review positions were promoted to Executive Branch Auditors. He said, the scope of reviews performed by this section will be increased when the vacant positons are filled.

Mr. Weinberger said instead of just reviewing transactions; they will do walk-throughs of procedures and review their internal controls. He said that would be reflected in the 2016 report.

Treasurer Schwartz replied that on page 15, under post review, it states post review sampled 1,679 transactions with an average error rate of 18.4 percent and asked if the error rate seemed high.

Mr. Weinberger said that included various types of exceptions, including less significant exceptions such as transactions posted to the wrong account. He added it included other errors such as the same person ordering the merchandise had also signed for receiving it.

Mr. Weinberger explained when they chose their sample of transactions to review; they select things that look out of the ordinary or a vendor they had never heard of. He said he would love to see the error rate go down; however, based on the selective sampling procedure they use, the chance of finding errors should be higher than if they used a strictly random sample, and 20 percent is about the norm.

Controller Knecht wanted to go back to page 9 the $84 return for every dollar spent. He said in public administration and policy, you regularly hear about multiplier effects, about cost effectiveness ratios, et cetera. He said sometimes not only do they make your head swim, but the implication that is suggested by some people, not by them but by some people, can be a little taxing.

Controller Knecht stated what they were saying for the $1 gets $84 here. He said if he understood correctly it is on a backwards looking basis, on an effective rated based on what they had spent on their activity; we had received the $84 back. He said what they were not saying that on a going-forward marginal return to the marginal dollar basis, that if we gave you another $10,000, you will come back with $840,000 more for us; is that right?

Mr. Weinberger explained the support for the calculation was in Tab A. Mr. Weinberger said as far as the question, it is somewhat related to the amount of audits they did. He added the more audits they did the greater the possibility for them to come up with savings. He added it is not a direct correlation, because it's kind of like going fishing; sometimes you catch something and sometimes you don't.

Mr. Weinberger said the audit benefits are estimates, not exact numbers. He said the estimates are verified with the agency before they issue the report to make sure they are in the neighborhood. He commented it was kind of like an analytical review result of the benefit of their recommendations.

Controller Knecht appreciated that, and said he presumed that they prioritize their activities according to the activities that would yield the most results. He said so there is an inherently diminishing returns to scale effect build into this as they do not avoid or wait on doing their next audit to wait for the best audit they could go after and do that one first.

Mr. Weinberger said they normally try to select audits, which can result in significant benefits. He said when selecting their audits they use a risk base analysis, and it's based mainly on budget materiality, and general fund is the highest weighted factor. He said then they look at total funding. He added they put their limited resources towards the agencies that had lots of money. He added that requested audits take priority, and due to the large amount of recent requests, he has not been able to use the risk analysis for a while.

Controller Knecht replied that was good management and thanked the audit team.

Ms. Cross said she thought what could not be quantified was the amount of benefit you get just by having the audit function in place. Because having it was a deterrent in some manner. She said you would never be able to quantify that.

Governor Sandoval said Ms. Cross was right; there were some intangible benefits there. He said for instance Agriculture that was just here, when Director Barbee started there were no policies and procedures in place but due to the audit recommendation, they were in the process

of getting that done. He said developing polices would result in a much more efficient operation.

Mr. Weinberger replied that was correct, and he said as a matter of fact, there were several recommendations they made which did not have a fiscal impact, such as recommendations to help agencies comply with federal and state guidelines.

Mr. Weinberger said they have a performance measure that shows almost 90 percent of their recommendations have been implemented which includes all recommendations, those with dollar values and those without.

Governor Sandoval said if there were no further comments or questions, they would move to approve.

There was none.

Move for approval of the Division's Annual Report released September 30, 2015
By: Attorney General Laxalt
Second: Lieutenant Governor Hutchison
Vote: Motion passed unanimously.

8. **Presentation of the Estimated Benefits to Nevadans from the division's Recommendations** – Steve Weinberger, Administrator for the Division of Internal Audits

Mr. Weinberger explained this is the support for the $84 calculation. He said they itemized all the recommendations on this schedule. He asked the committee if they had any questions and explained that this was as of June 30, 2015 so benefits realized from annual follow-ups presented today would not be included.

There were no questions.

9. **Presentation of the Contract Audit Plan** – Steve Weinberger, Administrator for the Division of Internal Audits

Mr. Weinberger stated at the last legislative session they were approved two new Executor Branch Auditor II positions for the purpose of auditing state contracts. He said he filled those positions by promoting his two Auditor III positions. He added one has a Master's Degree and the other is a Certified Public Accountant (CPA), who were more qualified for these positions and were willing to work with the agency, so he promoted them. He introduced Catherine Brekken as one of the auditors he promoted and the other, Jaynalynn Seley was not present.

Mr. Weinberger said he split the contract audit plan it into two different phases. He said phase one is to look at the preapproval process which included basically the solicitation, the Request for Proposal (RFP), the negotiation and award process.

Mr. Weinberger said in the second phase, they would audit contracts currently in effect, and the audit would be guided more towards contract management, and making sure the contractor was performing as required in the contract. He said they would also incorporate their findings into training for employees.

Governor Sandoval explained they had a multibillion-dollar contract coming up with an RFP, and he said they have to get it right. He said it had to do with Medicaid and managed care and asked if auditors had the ability to go right in or if they have to wait until the RFP is done.

Mr. Weinberger said they could participate in the RFP at any time. He said right now they were speaking with other states and have talked with Budget personnel and said they also had a meeting with the Purchasing Division coming up. He added they were trying to come up with good criteria and how other states were doing it, and what the best practices were for that portion of the contract process. He said as soon as they came up with good ideas, yes, they could volunteer to help out in any way they could.

Controller Knecht mentioned that they had a few contracts worth tens of millions coming up over the next few years in terms of replacing the Advantage system, and he would like to just mention that on record to the extent of help they could give himself, Mr. Wells and Mr. Cates who were overseeing it real-time help on it. He said they would welcome any help they could give them. He said they want to make sure they get it right because they were going to have to live with it for the next 15 to 20 years, because it fundamentally central to all operations.

Mr. Weinberger replied they would be happy to help.

Treasurer Schwartz asked if the contract audit plan meant they would audit all contracts with all agencies.

Mr. Weinberger replied no, as far as auditing contracts they would hit the big contracts, he said there was no way they would be able to do all the contracts.

10. For Possible Action – Discussion and Approval of Proposed Regulation Changes to Nevada Administrative Code 353A.100 LCB File No. R101-15

Item number 10 was discussed after Item 1 "Public Comments".

11. Committee Member's Comments/Public Comments

Governor Sandoval asked if there were any questions or comments from the North or the South.

Governor Sandoval noted there were no questions or comments.

12. Adjournment

Governor Sandoval noted there were no questions or comments.

Motion: Move for approval of motion of adjournment.
By: Attorney General Laxalt
Second: Secretary of State Cegavske
Vote: Motion passed unanimously for those present.

The meeting adjourned at 3:21 p.m.

Respectfully submitted by,

Steve Weinberger, CPA
Administrator
Governor's Finance Office
Division of Internal Audits