



STATE OF NEVADA EXECUTIVE BRANCH AUDIT COMMITTEE

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MINUTES

DATE AND TIME: January 16, 2018 1:00 PM

LOCATION: Old Assembly Chambers of the Capitol Building
101 N. Carson Street,
Carson City, Nevada 89701

VIDEO CONFERENCE LOCATION: Grant Sawyer State Office Building
555 E. Washington Avenue, Ste. 5100
Las Vegas, Nevada 89101

MEMBERS PRESENT:

Governor Brian Sandoval, Chairperson
Lieutenant Governor Mark Hutchison
Secretary of State Barbara Cegavske
Treasurer Dan Schwartz
Controller Ron Knecht
Attorney General Adam Paul Laxalt

1. CALL MEETING TO ORDER, ROLL CALL, REMARKS

Governor Sandoval called the meeting to order.

2. PUBLIC COMMENT (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The committee may place reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint.)

There was no public comment.

3. FOR POSSIBLE ACTION – APPROVAL OF THE JUNE 20, 2017 EXECUTIVE BRANCH AUDIT COMMITTEE MEETING MINUTES (TAB 3)

There were no changes.

Motion: Move for approval of the minutes of June 20, 2017.
By: Attorney General Laxalt
Second: Controller Ron Knecht
Vote: Motion passed unanimously

4. INFORMATION ITEM – PRESENTATION OF THE DIVISION’S AUDIT REPORTS PURSUANT TO NRS 353A.085 (TAB 4)

- A. Department of Corrections, Report No. 18-01 – Correctional Officer Overtime Management, Ashwini Prasad, Executive Branch Auditor; Warren Lowman, Executive Branch Audit Manager.

Ashwini Prasad introduced herself and representatives from the Department of Corrections; John Borrowman, Deputy Director, Scott Ewart, Chief of Fiscal Services, and David Tristan, Deputy Director.

Ms. Prasad explained, at the request of the Committee, the Division of Internal Audits performed an audit of the Nevada Department of Corrections’ (NDOC) overtime management at its correctional facilities. She explained, overtime at the NDOC correctional facilities has increased by an average of over 30 percent a year for fiscal years 2015 through 2017, but the inmate population has only increased an average of 2 percent for the same period.

Ms. Prasad stated examples of overtime issues noted include one correctional officer at Southern Desert, which is one of the four correctional facilities with the lowest vacancy rates, was paid \$97,000 in overtime with a total compensation of over \$150,000 compared to the second highest correctional officer who was paid \$42,000 in overtime and also compared to the remaining correctional officers who averaged \$7,000 in overtime in the same facility in fiscal year 2017. Additionally, 20 percent of correctional officer timesheets included instances of leave taken and overtime worked within the same work week. For example, a correctional officer used leave for eight hours and subsequently worked eight hours of overtime at time-and-a-half on the same day. It is believed that better overtime management would address these issues and may help reduce cost for the Department.

In general, overtime hours should equal vacant position hours; however, the audit found a discrepancy between what NDOC paid in overtime compared to vacancy hours at its correctional facilities. Four of seven NDOC correctional facilities are almost fully staffed with a vacancy rate of 4 percent or less and are located within urban areas with access to a large employee pool, yet these facilities pay the most overtime compared to the rest of NDOC correctional facilities. Most of the facilities either paid overtime in excess of vacant position hours, some upwards of 600 percent of its vacant position hours, or did not incur enough overtime to cover its vacant positions. Some overtime is for hospital coverage, which NDOC is not adequately staffed for; however, other overtime is for covering vacancies and holidays that could have been accounted for during scheduling to avoid overtime. Our comparison of average overtime hours per correctional officers shows Florence McClure Correctional Facility in Las Vegas has the second highest average overtime hours per correctional officer, but has the lowest vacancy rate of 2 percent.

Florence McClure in High Desert paid approximately 40 percent of overtime for hospital coverage compared to the average of other facilities of 10 percent.

Ms. Prasad stated four recommendations are being offered to improve management of overtime for correctional officers. First, it is recommended that NDOC schedule overtime eligibility on hours worked, not on hours paid. The sample testing of correctional officer timesheets showed 20 percent of each work week included instances of leave taken and overtime worked within the same work week. For example, in a standard Monday through Friday work week, a correctional officer has leave on Monday, worked Tuesday through Friday, and worked Saturday at the overtime rate of time-and-a-half. Had NDOC scheduled someone who had not taken leave or had not worked 40 hours, NDOC could have avoided paying four hours of overtime. Currently, correctional officer schedules are not finalized until two weeks prior to being effective. Longer term scheduling may offer more visibility on staffing needs to effectively schedule correctional officers to minimize the use of overtime, specifically, in southern Nevada, where three facilities are near full staffing levels. Longer term scheduling may benefit NDOC by up to \$1.4 million by avoiding overtime at the fully staffed facilities.

Secondly, it is recommended that NDOC establish a strategy to encourage increased number of overtime volunteers, including conducting a Division of Human Resource Management, or DHRM, climate survey to help reduce the amount of mandatory overtime and create a better work environment. It was found that 7 percent of correctional officers are receiving 23 percent of total overtime pay in fiscal year 2017. NDOC states the 7 percent of correctional officers are those who volunteer for overtime. The remaining do not and are assigned mandatory overtime when deemed necessary. NDOC practices may contribute to the low number of volunteers for overtime opportunities, as the best shifts are given to the most senior correctional officers, and the least desirable overtime shifts are left for junior correctional officers and non-volunteers. A DHRM climate study could help determine why 93 percent of correctional officers do not volunteer for overtime.

Third, it is recommended that NDOC reassess staffing to determine appropriate correctional officer needs at each facility. NDOC is experiencing challenges hiring correctional officers in the rural areas. The Ely and Lovelock Correctional Facilities have the highest vacancy rates, although they paid the lowest overtime hours when compared to vacant position hours. NDOC's vacant authorized correctional officer FTE positions in Ely and Lovelock may be overstated by 25 percent and 43 percent respectively, which could benefit NDOC by up to \$576,000 by eliminating or transferring positions to other facilities and help reduce overtime.

Lastly, it is recommended that NDOC implement part-time and critical needs correctional officer positions for hospital coverage and other needs to help lower overtime costs. Capital police initiated a three-prong strategy to meet its peace officer requirements and to eliminate use of overtime payments; private security officers used during non-business hours, part-time positions that are not full-time equivalents, and critical need positions manned by employees who are full-time equivalents. These are, in general, Nevada retired peace officers seeking to supplement retirement pay without working a full-time job.

This strategy allows capital police to take advantage of a non-traditional workforce available in Nevada and reduce overtime pay by approximately 20 percent. A similar strategy in NDOC may help lower growing overtime costs in the state's correctional facilities and provide opportunities for retired correctional officers to continue to use their experience. As an example, providing correctional officer security for hospitalized inmates was 18 percent of NDOC's overtime cost in fiscal year 2017. By implementing part-time or critical needs correctional officer positions for hospital coverage and other needs, NDOC would benefit by about \$500,000.

Governor Sandoval asked the Department of Corrections to proceed with its response to the audit.

Mr. John Borrowman introduced himself as the Deputy Director of Support Services for the Department of Corrections. He noted that he appreciated having the opportunity to have worked with the Audit Committee, they are very professional and ask a lot of good questions.

Mr. Borrowman stated, I'm hoping that we can work through the nuance of the business and be able to understand some of the limitations on this. One of the things that is important to understand when talking about the Department is the budget to do activities within the Department of Corrections. That includes not only the incarceration; it also includes programming. It also includes medical, the full scope of what it would take to be a host for an individual in our responsibility.

One of the things that has been very problematic for the Department is not being budgeted to do all of the things that are required. For instance, if there is an inmate that requires imaging or some type of outside services, the Department must transport two officers with that inmate to drive them to the outside medical provider. There are very few officers actually dedicated to the transport of inmates when they go see an outside provider. In fact, there's less than 20, and on any particular day, the High Desert State Prison could have as many as 60 involved with transporting inmates to outside providers. Where do the other 40 officers get funded? It is on overtime because the Department does not have a position that is legislatively approved to support the workload of transporting all of those inmates to outside providers.

Additionally, if the inmate is taken to the hospital and the hospital staff determines that they require being admitted into the hospital, then coverage is required at the hospital room as well. The Department has less than 20 officers that are legislatively approved to watch those inmates in the hospitals. Florence McClure had, at one point, 12 ladies in the hospital because they were pregnant and expected to deliver. Twelve inmates were admitted to the hospital. For each person that is admitted to the hospital, we have two officers for eight hours. There are three shifts of eight hours. That's six officers per inmate, times 12 inmates. There were 72 officers at the hospital watching the inmates, and Florence McClure was budgeted for four, not even enough to watch one inmate for a 24-hour cycle.

The other 60-plus officers come from unbudgeted overtime. If you look at the top driving reasons for overtime in the Department of Corrections, it is for medical transport. It is for hospital coverage, and it is for vacant posts. We have clearly got a problem with vacant posts, not only with our vacancies, but also with the way that we collect the data on overtime. For instance, if there is a guard tower that does not have an officer in that guard tower doing that function, the sergeant will call someone in on overtime and say, I need coverage in the guard tower. The Department tries to make sure that the officer understands the reason why he's providing overtime coverage in the guard tower is because the person who's supposed to be in the guard tower is driving an inmate to the doctor or stationed at the hospital to watch the inmate, but the person that provides that overtime coverage doesn't always get that coded correctly on the timesheet. Therefore, we don't have the best data possible on why we have vacant coverage. It isn't always because of a vacancy rate. It could be because the post was vacant, and that's what the officer, in his best effort, marked on his timesheet.

The reality is a substantial portion of that vacancy post is really allocable to providing coverage for training, providing coverage for medical transport, providing coverage for hospital admissions, and then also, vacancies. As mentioned, we are closing the gap on the vacancy issue, but some of those facilities with the large overtime, particularly, Ely and Lovelock, had low overtime, but high vacancies, and then Florence McClure had low vacancies, but high overtime. It is because of the nature of the inmate and their location to medical services. When the Department knows that an inmate is going to require medical services, it is attempted to relocate them temporarily to the High Desert State Prison; therefore, High Desert State Prison having a medical facility in its area can try and treat them, but where it requires outside services, High Desert State Prison has a disproportionate share of inmates going to the outside medical providers and therefore has a disproportionate share of the overtime.

Moving the female prisoners at the Florence McClure Women's Correctional Center to any other prison is not possible. Therefore, Florence McClure is solely responsible for all of the medical transport for the inmates that are in their facility. And while they are approaching full employment, the reality is the female inmates require more medical services than a male inmate. Florence McClure is burdened with more overtime to provide these services that are unbudgeted, but yet are required to provide.

If it is understood that that is a foundation for our budget, and we have services that we must provide, but yet don't have positions to provide. We understand that we are going to incur overtime to provide those services. Those service levels are very unstable. In one particular month, Florence McClure had 1.5 inmates per day on average at the hospital. On another month, they had over 25, making assigning FTE to it often times problematic.

Governor Sandoval asked, do you take any responsibility for this problem that we have?

Mr. Borrowman answered, absolutely. In the agency request and the budget, we did ask for additional positions. We asked for additional positions specifically for transporting inmates and to provide this medical coverage. Unfortunately, it didn't make it through

session, but we understand that continuing to provide this service on unbudgeted overtime is problematic.

Governor Sandoval asked, those positions were originally included in the executive budget, correct? Mr. Borrowman confirmed.

Governor Sandoval asked, the legislature didn't approve those? Mr. Borrowman confirmed.

Governor Sandoval stated, right now, the Department is \$15-plus million over budget. It is not even close to any other department. What happened during the legislative session where you weren't able to make the case that those transport positions were necessary?

Mr. Borrowman answer, the discussion went something like; we have a lot of vacancies and what is the point of giving us more vacancies? The reality is we were asking for positions for NNCC up here in Carson City and High Desert State Prison down in Las Vegas. We are approaching zero vacancies at those facilities. I should say that a natural vacancy rate in this industry is around 5 percent, anything less than that is unnatural. Anything less than that is an extensive focus of resources to get below that, but due to the nature of our business, it's generally around 5 percent. We are less than 5 percent vacancy at High Desert, less than 5 percent at Northern Nevada. There wasn't an extensive discussion about that. Instead, the comment was if we can't fill the vacancies we have, what's the point of giving us more vacancies? It would be one thing if we weren't trying to make some improvements to our vacancy rate, but the Governor recommended budget included a one-grade increase for the correctional officers. The competing agencies were also anticipated to reach fuller employment during this fiscal year, and both of those things came to fruition. Both of those things have been very positive for our recruitment rates. The vacancies have gone down to functional levels, and the Department could have benefited from additional positions in those facilities had they been approved.

Governor Sandoval questioned, these internal controls with regard to some of the correctional officers taking comp time, and then in the same week being able to stack some overtime on top of that.

Mr. Borrowman stated, are they gaming the system? Are they using leave that would be discretionary so that they can trade it with their buddy and both of them would be paid overtime? You cover my shift. I'll cover your shift. We'll both be paid overtime for the same amount of hours. The Department already has in place that if an employee has any sick leave in a pay period, that you are ineligible to perform any overtime for that pay period; however, annual leave is unlike sick leave.

Mr. Borrowman continued, sick leave, an employee is allowed to accrue as many hours as they want. The Department never forces an employee to use it, in fact, there is a financial incentive when an employee retires for unused sick leave. In the case of annual leave, the Department states an employee cannot carry more than 240 hours, and if you do not use

your 240 hours, you will lose your 240 hours. There is a limit on how many hours an officer can accrue. If that's the case, then an officer must use at least as much hours as they accrue that year if they're at the upper limit, and if we're telling someone that you should not use your annual leave so you are eligible for overtime, then they defer their annual leave, and then it creates a big problem towards the end of the year when everyone is trying to burn their leave. Instead, we have said use your annual leave for the entirety of the year, and one of the recommendations talks about no long-term scheduling.

Mr. Borrowman explained, the reality is, the Department allows the employee to bid their shift in December so that they know what their shift is for the next 12 calendar months. At that same time, the Department asks them to submit their annual leave so that we know that it's being used throughout the years, and we do deny annual leave when it exceeds the amount of coverage that we have available. We are forcing people to use their annual leave for the entire calendar year. Now, if someone works Monday, Tuesday, Wednesday, Thursday, and then they're off Friday, Saturday, Sunday, Monday, and then they work Tuesday, Wednesday, Thursday, Friday, it would make sense that they would try and have annual leave towards their long weekend to extend that. If they were to work on a Monday and they claim annual leave on a Monday, we want them to do that. We want them to use their annual leave, because not only do we want them to, they have to use their annual leave in the year or they lose it. We feel there are times when it's legitimate to use annual leave and earn overtime in the same week or pay period. Now, if someone is going to call in sick so their buddy can do it, the Department already prohibits that, but they're entitled to their annual leave. How they spend that annual leave is completely irrelevant to the Department.

Governor Sandoval stated, I guess I understand your philosophy, but the State is not an ATM, either. You're \$15 million outside of your budget right now and on track to be \$22 million over your budget in the first year. It is nice to have that policy, but you don't have the money, and where is the State supposed to find that money, because right now, it will completely deplete the Contingency Fund, 100 percent from one department. It also begs the question, why, in the first four years we had overtime, but not even close to the degree that we have it now. What has changed because we have added positions and salary? Why is it, so far out of control?

Mr. Borrowman answered, we have seen a substantial increase in the number of Medicaid days, 1,500 increase in Medicaid days, each of those requiring officers to provide coverage. That is above the base year. We have also made a progressive move towards preserving the programs, the education, and the visitation. Our reaction in the past in order to eliminate overtime was for every officer, they had to be on the road to transport an inmate to an outside medical provider, we would compromise some of those other things that we were budgeted to do. Since we have had this new Director, we're really trying to push the programming, the rehabilitation of the inmates, and those are competing interests. We have looked at our operations.

Mr. Borrowman further explained, the Department has tried to find ways that we could make concessions internally, and we do believe that we have ways to substantially reduce

that projected overtime, but they come at a cost. There is a consequence to not doing what we are supposed to be doing, and in the case of medical transport, we have many more visits now than we did in the past. Several contributing factors, but we're responsible to provide the medical coverage that we are providing. It is a different experience today than it has been in the past.

Governor Sandoval stated, reading your response, my impression is it is just defiance and basically saying we do not know your business and that we know what we are doing, and this is how much it is going to cost, and you just got to live with it. But as I said, as it stands now, if we were just to say, okay, we agree, the Contingency Fund is gone, and then we have to find money in other places to make this happen. We need a plan, because you cannot go on like this, we are physically incapable of doing that. Right now, what I am hearing is you want a blank check, and we do not have a blank check.

Controller Knecht noted of the \$2.5 million estimated benefits in this audit, the vast majority, about 58 percent, comes from recommendation number 1, schedule overtime based on hours worked, not hours paid, and that's the only one of these four recommendations on which your response begins, NDOC does not agree with this recommendation. What portion of that \$1.443 million that is estimated could be achieved by this recommendation? Are you willing to take responsibility for and say, this is on us and this is something we need to do and can do? In view of your response, what portion of that particular recommendation really accrues to your management?

Mr. Borrowman stated, it's a difficult question. The recommendation is saying that if you don't work the first 40 hours, that you don't get paid overtime. The reality is, coverage is needed. If I was to exclude an employee who is volunteering to work four days later on the weekend where normally he would be scheduled off, and exclude that employee from participating in overtime when the coverage was necessary and mandate someone else to do that overtime, did I save any overtime dollars or did I instead exchange a volunteer with a mandated person to do it? The question is by mandating an employee to provide that coverage instead of using a volunteer, how much money would I save for the same amount of overtime? If you look at strictly the math of it, there is no savings by refusing to use volunteer and starting to mandate an employee. That inherently doesn't generate any savings.

Controller Knecht asked, you are saying that there's no portion of this \$1.443 million that you can take responsibility for and say that you can make reforms that will reduce your costs by some portion of that?

Mr. Borrowman stated, if we are saying about implementing this particular recommendation, it would not generate any savings. If we are talking about does management take responsibility for the overtime and are they reviewing the general operations for opportunities, absolutely. We had a meeting this morning to go over some of those possible options to make sure that they are feasible, but there are some proposals that we are considering in order to reduce this overtime that has a possibility of being much more than this amount.

Controller Knecht stated, let me try to offer one recommendation, and this is offered somewhat innocently, because I don't know all the constraints you operate under. You tell us that for every eight-hour shift when somebody's in the hospital, you need two officers per inmate in the hospital that's been admitted. Is it possible that you could make some judgments and cut that down in some cases, maybe many cases, to one officer monitoring that inmate in the hospital?

Mr. Borrowman answered, that is, in fact, one of the considerations that we have. NDOC handles inmate oversight in a hospital at a much higher security level than a municipality. There are arguments for and against doing that, there is a difference between what a municipality does and what NDOC does with the inmates. We've looked at the history of it and what generated our current policy of two, and we are reviewing that current policy, and that is one of the considerations that is on the table for us to impact this overtime.

Treasurer Schwartz congratulated the Audit Committee for a fairly thorough audit of the agency. He stated, I've tried to follow your testimony, and truthfully, I've kind of got lost somewhere in the mechanics there, but what appears to me is that it's pretty easy to game the system. And per the Governor's comments, that's what seems to be happening. You know, you've set these various constraints and regulations, which everyone knows about. Certainly the guards know about it, and probably the inmates know about it. I don't know in management who's responsible, but clearly, it's just gone on far too long. I think the Audit Committee has been fairly restrained in their recommendations, but I think you really need a thorough overhaul of how you pay your staff. Do you think that the system is being gamed by the guards?

Mr. Borrowman answered, it would be naive to think that the system is not being gamed. I am positive that there is collusion going on in order to generate schedules that would result in feathering one's nest, but at what point in time do we implement a policy that is harmful to the collective in order to address those that are gaming the system? How do you isolate those? How do you identify those? And we're reviewing the practice. We're reviewing the patterns.

Mr. Borrowman further explained, one of the things that we are pursuing is to get a staffing scheduling software. Right now, we have a very unsophisticated software to allow us to do any analytics, and in our legislatively approved budget, we do have a staffing scheduling software technology investment request that was approved and funded. With that implementation, we will have access to substantially more analytics, canned reports, as well as the option for custom reports where we will be able to identify some of these patterns that are more prevalent and try and handle those with the individuals that are doing this. From a policy matter, do we prevent a volunteer from performing overtime so that we would mandate an employee to work overtime and still incur the same mandated expense? Again, it was not determined that the coverage was excessive. The coverage was valid. What they found was could we find someone other than a volunteer to have worked that overtime. Yes, we are looking at our policies.

Treasurer Schwartz stated, if I understand the Governor correctly, I think he's saying is you don't have a choice. This is \$15 million on your way to \$22 million over, it's just not acceptable and I think you have to do more than just hope and wish.

Governor Sandoval stated, it's not real hard to figure out who's making all the overtime. We don't need software to tell us that, and so I'd like to see, not a little, a lot more action, and now rather than waiting for the purchase of software and the implementation of software to tell us what we already know. You can't go on like this. There's a room full of other departments, Education, Health and Human Services, that have needs, and you're going to wipe it out, gone, 100 percent. And if they have some type of a contingency that happens, do I have to call a special session because the Department of Corrections is over \$22 million in a year? It really concerns me, and I don't feel a sense of urgency from your testimony, and that's what concerns me the most, is that we're at this point now. I would like to see more specifics in terms of we're doing this right now. We're doing this tomorrow. Here's our plan. I haven't heard a plan. We're studying. We're reviewing. We're looking. That's not good enough.

Attorney General Laxalt asked, this principle rebuttal, do you accept that? We haven't actually come back to you and give you the opportunity to say whether you agree or do not agree with their statement.

Mr. Steve Weinberger answered, we agree we did not find the shifts unnecessary, but what we did find is some of these facilities are at a 4 percent vacancy rate or better, and our thoughts are there's got to be a way to do some better scheduling to decrease some of the overtime hours that we experienced. Specifically, the one person that we singled out works at Southern Desert, and Southern Desert is 4 percent, so it is basically filled up. I think you were saying that 5 percent or less is almost abnormal for a correctional facility. We understand there's some major challenges for places like Ely where the vacancy rates are higher than normal, but at these locations that are about 4 percent, usually next to a big labor pool close to Las Vegas, we're thinking that with some better scheduling, there should be a way to cut down on some of that overtime.

Attorney General Laxalt asked, as to a few of these recommendations, would this capital police model that was discussed, is that something that would work for corrections?

Mr. Borrowman answered, number one, one of the results of the model is to keep them at a step one, keep them from getting permanent status. I think that it would probably work in areas where people want a part-time job. What I would put out there is that we have pursued a critical needs designation, critical higher designation for a couple of our locations. We do employ that strategy, and I see that as being similar to be able to access the resources that are out there that are willing to come and work for us. It's been problematic trying to get some of them on board, but nonetheless, we have had several that have been successful and has been quite a relief in our system.

Mr. Borrowman further stated, in the recommendation for looking at non-traditional employee base, absolutely, we're pursuing it. We want to utilize that, but I also want to be

realistic about the expected outcome. If they are required to do two weeks of training a year and then one week of training thereafter, and then the range qualifications twice a year, there are a lot of demands to be a correctional officer and to do that on a part-time basis. It already compromises the benefit of doing that, but if someone is willing to work enough hours to make it worthwhile, absolutely.

If half of the time they are willing to commit is to training so that we can reduce some overtime, you really got to think about the payback. How many hours are we going to require as a minimum in order to justify the investment that it requires, the ongoing investment it requires. There is a payback. There is a benefit for that, and we will pursue that part-time employee base in order to help us out, but it is probably not going to be that beneficial at High Desert, in Las Vegas, or in Carson City, because we have, essentially, an effective 5 percent or less vacancy rate. The places that we would use the overtime would be out at Lovelock, would be out at our conservation camps. Most of the people who work at those institutions don't live in that area, and it's uncertain how far a part-time employee would travel in order to go to those locations on a part-time basis, but nonetheless, it's going to be an offer. It's going to be something that we would pursue.

Mr. Borrowman further explained, in the case of Ely, we haven't really received feedback saying that they only want to work part-time. We would take anybody, and if they want to work part-time, we would take them part-time. If they want to work full-time, full-time. The nature of the beast out at Ely has been some difficult competition, and, again, I'm just trying to be realistic. I'm not sure what the payback would be, but our commitment is we would publicize that. We would pursue that actively to see if we could get some type of benefit from it. So, we did not turn any of that down. We just want to be realistic about it, but we are interested in pursuing that.

Attorney General Laxalt asked, I don't know that I completely understand the volunteer, why is there a 93 percent not volunteer? Do you need a program that gets more people in the system?

Mr. Borrowman answered, again, this goes back to part of my comment. Is a volunteer cheaper than a mandated employee? No. It's still overtime expense. So, why would we not want to allow someone to volunteer for whatever personal gain that they want versus mandating someone who does not want to work overtime and say you must work overtime? It doesn't save money. What it does do is it distributes the overtime over a larger base. Could that help with employee burnout? Could it help with a variety of things? It is possible, but if someone's volunteering, that's generally presumed to be a better condition than mandating someone who does not want to work overtime, mandating them to come in and provide that coverage.

Attorney General Laxalt asked, a larger volunteer base wouldn't decrease overtime? I guess that's your principle contention. Mr. Borrowman answered, that's my point.

Attorney General Laxalt asked, do you agree with that?

Mr. Warren Lowman answered, the short answer is no, we do not agree with that, that by expanding the volunteer pool, you end better scheduling. You're going to be able to schedule correctional officers who may not have met the 40 hours yet during what is now an overtime period, or what have you, and it's more of a holistic approach here where you're looking at who gets the best shifts, who doesn't get the best shifts, which then creates the overtime necessity in terms of the part-time force that we recommended. We really intended for that to be focused on where much of the overtime problem is with hospital coverage. Why not put part-timers covering hospitals rather than, I'll say, frontline officers?

Attorney General Laxalt asked, is the Department looking for opportunities to hire people locally to cover hospitals or potentially to transport.

Mr. Borrowman answered, in particular with the part-time, we need to start with the understanding that the riskiest part of our business is when we take an inmate outside of the facility. In the facility, we have infrastructure controls for those inmates. We have safety and protocol. We have backups. We have response teams. We have resources that can provide for safety and security very rapidly, but at the point in time that they leave the facility, they become an autonomous satellite which is controlled by two officers and could be anywhere from one to many more inmates in that van.

Mr. Borrowman continued, taking those to the doctor's office or taking those to a hospital puts us in an environment that is much different, much less controlled than, say, the regional medical facility that we would have in one of our institutions. We're now in the middle of the public, and all of our protocols inside the institution are now challenged if we try to use those out in the public. We cannot use our guns in the middle of a very public area, and so the sophistication and the control, the professionalism, the expertise to handling an inmate outside of our institution is at its highest risk, highest need, and that is not the place to be using a part-time person that is not focused on this as their primary job, as their primary focus. If we use part-timers, it would not be in a facility that is the highest risk to the State.

Attorney General Laxalt stated, going back to the spreading out the base that seems to make perfect sense to me. I think we're all sensing a very large resistance to that. I would just ask the auditors to speak to Department again and see if there's any way that you can have a meeting of the minds, because it does seem to me that if we spread it out, that we would be paying less overtime.

Lieutenant Governor Hutchison stated that the Audit Report notes that the policy of the Department of Corrections is different than federal law labor standards. The Federal Labor Standards Act permits jurisdictions to consider overtime pay based on hours worked rather than hours paid, but under our Nevada Administrative Code, paid leave status is considered as time worked in calculating overtime. Can the Department solve a lot of these problems simply by changing our code to be consistent with the federal law, that is, that our code then would allow us to calculate overtime based on hours worked rather than hours paid? Would you support such a change in the code?

Mr. Borrowman stated, I believe that this is a statewide decision. It is not something that NDOC could make autonomously. It would have to be consistent for all employment in the state, and if that's the direction that the State went, absolutely, we would comply. We would try and maximize the benefit from that.

Lieutenant Governor Hutchison asked, if the State of Nevada said, why don't we come in conformance with federal law and simply calculate overtime based on hours worked rather than hours paid? You would be just fine with that?

Mr. Borrowman answered, absolutely. There is quite a bit of policy discussion behind that, and if that's determined the direction, we would absolutely support that.

Lieutenant Governor Hutchison noted, because then that would allow your concern with incentivizing people to take annual leave, they just wouldn't be given credit for that when it comes to overtime calculation. It actually would be the best of both worlds for you. You would be able to incentivize that annual leave, and you wouldn't have to pay overtime if, in fact, they do it within the same time period.

Mr. Borrowman agreed and added, that would allow them to use annual leave and not necessarily qualify for overtime.

Lieutenant Governor Hutchison stated, that would then address the bulk of what the recommendations call for, and that is to schedule overtime based on hours worked, not on hours paid. The bulk of the \$2.5 million audit findings would be embraced by that, but changed in the administrative code. How long does it take for somebody within the Department of Corrections to accrue six weeks paid leave?

Mr. Borrowman apologized and stated, I do not have that information available.

Lieutenant Governor Hutchison asked, based on your long experience there at the facilities, would you expect that we're talking two years, or more like ten or 20 years?

Mr. Borrowman replied, interestingly, we do have geographic differences in the way that they approach their leave. We do use leave more aggressively in the south and more conservatively in the north. They would probably accrue that six weeks within three years in the north, and again, very average. Then in the south, it would be a much longer period in order to do that.

Lieutenant Governor Hutchison asked, what is the policy in terms of employees accruing sick leave?

Mr. Borrowman answered, they accrue sick leave just as any other employee in the state. In terms of generating a balance, again, in the south, it's used more aggressively, and in the north, it's more conservative. The difference with sick leave, though, is that we don't have a use it or lose it cap, and so they are allowed to accrue as much sick leave as they wish, whereas with annual leave, we do say you can't exceed the 240 hours, and then that

puts an artificial pressure on the employee to make sure that they use annual leave every single year.

Lieutenant Governor Hutchison asked, how long do I have to be employed with the Department of Corrections before I accrue a benefit of six weeks paid leave? The day that I start at Nevada Corrections, am I entitled to six weeks paid leave? Is that just a benefit I get day one when I start or do I have to work there a certain number of years?

Mr. Borrowman answered, as with all state employees, you're not allowed to use any annual leave for the first six months, but I do believe sick leave, that you can use immediately upon accruing that leave.

Lieutenant Governor Hutchison asked, for purposes of just staying focused on the Department of Corrections, the first day I start working for the Department of Corrections, I can start using sick leave?

Mr. Borrowman answered, we actually have to have you go through a payroll cycle before it goes on the books before you can use it. It is a couple weeks down the road, but yes.

Lieutenant Governor Hutchison asked, and then after six months, I get six weeks off paid leave? Mr. Borrowman answered, no.

Lieutenant Governor Hutchison asked, how long do you have to work for state government to get six weeks paid leave?

Mr. Borrowman answered, you get about one day of leave per month. If you never used your annual leave, you would get approximately 12 days in a year.

Governor Sandoval asked, how do you build up your comp time? How long does it take you to build up 240 hours of comp time from the day you start?

Mr. Borrowman answered, we had an issue where we didn't have enough coverage, and so we were allowing the employee to take overtime either as paid or as comp time. And then if they take it as comp time, if they worked an hour, they're credited an hour-and-a-half of comp time, and then at some point in time, they're going to use that comp time. So, they're going to take an hour-and-a-half off. Well, if I still need that coverage, now I need an hour-and-a-half of overtime. And so, we implemented a policy last year that said that any custody officer where if their leave would generate overtime either for coverage or would generate overtime in order to catch up from the leave, that it would be paid overtime, not comp time.

Mr. Borrowman continued, in particular with the custody, they no longer are allowed to claim compensatory time. It is all paid time, because I'd rather pay it at a time-and-a-half once than to give them a time-and-a-half off and now have that exacerbate to time-and-a-half of overtime at time-and-a-half. In order to stop the cycle, all custody officers must take paid leave. The exception is if they provide overtime services on a holiday, statute

requires us to give them the opportunity to decide do they want to take it as compensatory time or do they want to take it as paid time. In terms of right now, how long would it take to accrue those hours in comp time, the custody officers do not have the capacity to earn comp time unless it's for holiday services, and that would take quite a few years to ever accrue that much, especially since our use policy is you must use the comp time before you use your annual leave in order to keep those liabilities in check.

Secretary of State Cegavske asked, the Department is okay with the four recommendations that I see on page 25, and those are the ones that they are going to be working towards. Am I correct? Lieutenant Governor Hutchison answered, the Department said, no, to Recommendation No. 1. Secretary of State Cegavske, Recommendations No. 2, 3, and 4 are acceptable?

Mr. Borrowman answered, we do have and accept Recommendations No. 2, 3, and 4, and I do apologize if I haven't expressed the urgency of the review the Department is doing. We are actively working on these solutions, and some of them take time to implement. Some of them take coordination to implement, and I apologize if I haven't expressed that. But we do understand that it is our responsibility to live within our means and are making every effort to do so.

Secretary of State Cegavske asked, the Department is still not convinced that Recommendation No. 1 is appropriate?

Mr. Borrowman confirmed and added, that doesn't preclude us from looking at other opportunities, but as recommended, we still stand by that.

Lieutenant Governor Hutchison asked, why not implement a policy where when you need some overtime, you look at who has actually taken paid leave during that pay period and say, you're not eligible for overtime, so don't even volunteer for it?

Mr. Borrowman answered, I believe that is the recommendation, is that if they have taken any leave during that pay period, which they would be ineligible to volunteer for overtime.

Lieutenant Governor Hutchison asked, wouldn't that just by itself increase this 93 percent who aren't volunteering?

Mr. Borrowman confirmed and added, that's our position, we do believe that that policy would reduce the amount of eligible volunteers, would increase the number of instances where we mandate officers to provide that coverage, but our concern is that that doesn't inherently save any overtime. That just changes the incumbent that's providing that overtime service.

Controller Knecht thanked the auditors for a fine job. He asked, in terms of part-time help in Lovelock and one or two other places, and I certainly understand, being familiar with those places, the challenges of getting part-time help out there, but what you said was something to the effect that if somebody indicated an interest, we would look at the number of hours, et cetera. It would seem to me it's easy enough for you to go to each

place and do a quick calculation of the threshold number of hours someone would need to offer in order to make that worth your while and that if you had that information, you could disseminate it and attract people that way. Can you do that, and will you do that?

Mr. Borrowman answered, that is absolutely something we can do, and that is absolutely something we want to do. It is one of the recommendations that we accepted, that we would pursue looking at utilizing this alternative labor pool.

Mr. Steve Weinberger stated, as far as Recommendation No. 1, there are four facilities with vacancy rates of 4 percent or less, and we think there's got to be something we can do as far as changing the scheduling around, and we even say in the report that we understand there will be situations where you just can't prevent scheduling someone for overtime who's taken time off in that week, but we do think there is room for improvement.

Governor Sandoval asked, is it unprecedented to have a member within your audit division to be ensconced within the Department to ensure that things are happening in a prompt way?

Mr. Weinberger answered, by statute, we have to do a follow-up in six months, but beyond that, I will lend all my resources. I hope Deputy Director Borrowman knows that. We're here to help in any way we can.

Governor Sandoval asked, have you ever seen an audit like this where a Department is upside-down \$15 million in seven months since we closed the budget? Mr. Weinberger answered, no, and we can start assisting the Department at any time.

Governor Sandoval stated, I'm trying not to be flip, but this is an emergency. This is a fiscal emergency, and it has to be all hands on deck, and I'm not going to wait six months to find out we're \$25 million underwater. I want to feel comfortable so that when I go to bed at night, that I feel like something is happening over there to help right this ship. Mr. Weinberger replied, I'll get together with Deputy Director Borrowman as soon as possible and see what we can do as far as taking some kind of action. The Department has had this audit since last October, as you know, so I know they've had some time to think about this.

Governor Sandoval reiterated action is needed right away. Treasurer Schwartz asked, can you assign someone from your committee now to supervise what's going on there, a specific person now to be over there? Mr. Weinberger replied, I definitely can do that.

Controller Knecht stated, I think the record makes clear what it is the Governor is asking, and I think the record further makes clear the support of the entire Committee for what he's asking.

Governor Sandoval stated, Mr. Borrowman, you have had better days. I understand, but I have to be sure that we're doing everything we can to try and help you. That's what this is

about, is helping you, not punishing you, but helping you and helping the Department to try to find every dollar we can to try to make up for where we are right now.

Mr. Weinberger thanked the Governor and stated, we're currently in the field right now with the Department of Corrections. We're looking at offsite medical. We're looking at even more ways to hopefully save some money for the Department, but I will assign somebody right away on this overtime issue and coordinate with the Department and hopefully look for some type of action we can start taking right away.

B. Department of Health and Human Services, Report No. 18-02 – Division of Health Care Financing and Policy, Catherine Brekken, Executive Branch Auditor; Warren Lowman, Executive Branch Audit Manager.

Ms. Catherine Brekken introduced herself and representatives of the Division of Health Care Financing and Policy; Administrator, Marta Jensen, Surveillance and Utilization Review Manager, Candy Wilkin, and Behavior Health and Pharmacy Chief, Duane Young.

Ms. Brekken explained, at the request of the Committee, an audit was performed on the Division of Health Care Financing and Policy (HCFAP). The audit focused on two objectives, ensuring Medicaid fee for service, behavioral health outpatient treatment clients receive the appropriate level of care, and better assisting providers to understand Medicaid Service Manual requirements and standardizing documentation to enhance HCFAP's reviews and audits.

During the audit, client files were sampled, which revealed almost 50 percent were missing required documentation or required information on the documentation. Due to this lack of documentation, it would be nearly impossible to determine if the clients are receiving the appropriate level of care or if the services provided are included in their mental health plan. It is recommended to hold providers accountable for not following Medicaid Service Manual requirements to help ensure clients receive the appropriate level of care.

During the sampling process, entire client files were reviewed, including assessments, mental health plans, and service documentation. HCFAP currently uses a data analytics tool to target improper payments, but generally only reviews those specific billings which they believe could be improper. By not reviewing the entire file of clients sampled, HCFAP may be missing up to \$7.4 million in improper payments which could be recouped. In addition, by only targeting billings identified by the data analytics tool, HCFAP may not get a broad view as to whether the client is receiving the services necessary to improve or sustain their level of behavioral health as outlined in their mental health plan. It is recommending that HCFAP perform more in-depth reviews of files to help ensure clients receive the appropriate level of care.

Additionally, during the sampling process, providers indicated they are often times confused as to which Medicaid Service Manual requirements apply to them and that additional trainings and templates could help them ensure they follow all requirements. It is recommended that HCFAP increase trainings and templates to better assist providers in

understanding the Medicaid Service Manual requirements. By assisting providers with trainings and templates, it will help ensure client file documentation is complete, which will help to determine if clients are receiving the appropriate level of care. In addition, templates could help standardize client files throughout the state, making HCFAP reviews and audits more efficient.

Controller Knecht asked, under perform more in-depth reviews of client files, you say that doing so may result in additional recoupments of up to \$7.4 million annually. Can you give us a better feel for how much we might expect? What's the distribution from zero to 7.4?

Ms. Brekken answered, that is the amount based on the total amount that they pay out. So, it will depend on the number of reviews they can go out and do, and of course, every review is different, but you can expect to find something similar to what's on Page 7 where there was about 15 percent of billings. Depending on how big the sample is, you could guesstimate based off of that.

Governor Sandoval asked, can you give me a sense with regard to the audit? Are you concerned? Is this reasonable from what you found? In terms of degree of concern, where are you with regard to this audit?

Mr. Warren Lowman answered, working with HCFAP, we would say that what we found is not unreasonable and that they have a plan, and have at least talked with us about the best way forward using their existing processes to get to much of this.

Treasurer Schwartz asked, what is the contribution of the State versus the federal government to Nevada's Medicaid program?

Ms. Jensen answered, the basic services are around 65 percent from the federal government, 35 percent for the State for the medical services. If you are talking in administrative, it would be a 50-50.

Treasurer Schwartz asked what's the total budget for Medicaid, both federal and State? Do you know that offhand?

Ms. Jensen answered, \$4.2 billion per year.

Treasurer Schwartz asked, do you expect any changes over the next couple of years in not only the gross amount, but the allocation between state and federal within that budget?

Ms. Jensen answered, yes, I would expect, depending on what happens with the Children's Health Insurance Program (CHIP) reauthorization or non-reauthorization, there will be a change there, and then every year, there is a change in the FMAP. They notify us. I think it is October of every year, and so it can go up or it can go down.

Treasurer Schwartz asked, what is that based on?

Ms. Ellen Crecelius, CFO for the Department of Health and Human Services answered, the Federal Medical Assistance Percentage (FMAP) is based on a three-year lagged average of Nevada's personal income per capita compared to the rest of the country. If we tend to have a higher personal income per capita than the rest of the country, we have a lower FMAP rate.

Governor Sandoval affirmed that our FMAP is less because our economy is doing better. Governor Sandoval asked Ms. Jensen for her response to the audit.

Ms. Jensen thanked the Audit Committee and stated, they were exceptionally professional and diligent in their efforts, and I really appreciate that. I use this as a free gap analysis on where we can improve to give you a little history on our surveillance and utilization review unit. Right now on the Medicaid program, we have approximately 28,000 providers. We process over a million claims per month, and we have about 650,000 recipients that are on the Medicaid program. Of that, around 478,000 are on the managed care. Their review, I believe, entailed the fee for service population, which is around 175,000, or 176. Of that, the Surveillance and Review Unit, they are required, through the federal government as an overseer of our claims and our processes to ensure program integrity. Currently, our state has 17 individuals that are within our SUR Unit, and of those 17, 14 are actually the reviewers of the individual cases.

Ms. Jensen further explained, how they review cases, it depends on the area. We try to spread across our entire provider base. We're not allowed to focus on one provider type through the regulations. We're discouraged from doing that, but when we also try to spread it across the full provider base. It has more impact in the sense of making sure that people are educated on the processes. They know what the rules and regulations are. Once you educate them, any negative action on their part, you can then look at it to see if it's more of an intentional fraud versus just a waste or abuse.

Of the providers that we're looking at or that they looked at in their review, we have 5,000 individual mental health providers in the state. How they get the reviews for SUR is, typically, it's a referral. So, somebody either files an anonymous complaint, they can call it in, email it, and then we also have data software that does data mining where it's looking for issues in the claims database to say that seems unusual. That many services can't be provided in a 24-hour day when you're claiming 30 hours, and so we do have certain activities in effect that identify where we need to put our time. The difficulty that we have is 14 reviewers for this many providers. We do try to put a higher emphasis on the providers that we consider high risk.

High risk typically is our behavioral health and mental health. Sometimes our home health services, or personal care services, your durable medical equipment providers, that tends to be the group, so we try to maintain a presence in that marketplace. The other areas, like I said, depending on how the tips come in, we shift our focus and try to address that issue if we can to get them noticed that you're doing this wrong. If we have to tell you twice, it is intentional, and then we pursue a different route through our Medicaid Fraud Control Unit.

We did agree with all of the recommendations that they put forward. We do have a couple of concerns on 1 and 2. We agree that looking at the level of care to make sure that the recipient has the appropriate level of care identified so they receive the services that they need. The challenge that I have is I don't have clinical staff within the surveillance unit. I have one individual who is a nurse, but this isn't her specialty area, so she's not qualified at this point to do that clinical review. And then I think on the second recommendation is where we talked about doing a more in-depth review, and we would love to do that, but what happens from a provider perspective, depending on how far back you want to go, you don't want to create so much harm that you end up charging this huge overpayment. They thought they were doing it right. You charge a huge overpayment; they may go out of business. I need them to provide services for our recipient. So, sometimes you educate. You do take some money back, and then you watch going forward to make sure that it doesn't happen again. With 14 staff, it does make it hard to cross that gamut, but I think an in-depth review is a good idea. But what happens is if you do that on a particular provider type or a provider case, it will take the time away from another group that we are also trying to watch. It just kind of depends on where you want to put the efforts.

I think the SUR team has done an incredible job to date in state fiscal year '18. They've already collected \$8.3 million in overpayments. That has steadily increased. I think it was—was it 2.5 in '16? I think it went to 5.4 in '17. We're currently halfway through the year, and we're already at 8. So, their efforts are working. We're finding what we can. Can we do more? Absolutely, but I'll need some resources for that. So, we thought that we would analyze what would that look like. Can we shift responsibilities? What's the risk on that? Can we ask for additional staff in the next session? What do we need to do?

Ms. Jensen further explained, we did receive an additional four staff members for this unit in the last session in '17; however, those positions were identified to handle the providers that are billing through the Aging and Disability Services Agency. So, they're not really captured in my group because they're identified to work a specific provider base.

On Items 3 and 4, we again agree with the recommendations, that we could do more in the training and we could also put some templates together. We don't want to make it mandatory, because some of our providers already have systems, and they're well-versed in the marketplace. So, we would want to put a template together that we can offer to help them.

We do take seriously that they don't have all of the documentation within the file, but if a piece of paper is missing, it doesn't prove that they didn't provide the service, and we have found challenges when we've tried to attempt a recoupment, and we go forward with a hearing, and we have lost in a hearing because they're saying, but prove to me they didn't provide a service to one of your recipients. What we tried to do is shift our process to make sure that, okay, we've educated. We may take an overpayment. We may not, but we definitely educate them on what the requirement is going forward, and then we'll do a look back after we've made that education to make sure they're following the rules going

forward, because really, we want compliance, but I also need these providers to see my recipients.

As for the training, we did indicate that we would add an additional training in the afternoons, but we were sending out a survey to our providers, the mental health, behavioral health providers, and unfortunately, we got a dismal response, less than a 1 percent response. We have 5,000 providers, and it was less than 100, and so we didn't want to create a training program just to check the box we got one. Really, what we want to do is now reach out to the people that did not respond and find out, okay, what are your needs? What kind of training are you interested in? Is there a better date or time? Currently, we provide a webinar every month, the second Wednesday of the month, and I think the most that we ever had attend is 12 percent. So, we have to do things differently, and we are open to that. We just have to explore what is that. What will get the information to them so we can lessen the discrepancies within the case records and the services going forward.

The survey was sent as indicated. We received responses back in October. We have taken a look, and now figured out we need to do something different, and are trying to figure out how to get to the providers that did not respond. And then again, on Recommendation 4, we agree that we can provide the templates. We will start working on that this month, trying to put that together and then align it with one of those trainings to say here is a template that's available for your use, not mandatory, because again, we have providers that already have their system working, and we do not want to disrupt them, but we do agree with that recommendation as well.

Controller Knecht stated, the objective is to better assist providers to understand Medicaid Service Manual requirements and standardized documentation to enhance HCFP reviews and auditing of client files. We are talking about helping providers to understand what the Medicaid Service Manual requirements are, et cetera. That would seem to me to be very basic, that they should understand, without a lot of help, what the requirements are, but there has been such a metastasis of documentation and procedural requirements, especially with Medicaid. Is that the point here, that they do not understand that because they're trying to catch up to the burgeoning federal requirements or why do we have to help them understand what they ought to be doing?

Ms. Jensen replied, from the Medicaid Service Manual, there would be the two chapters. There's the 100 Chapter, which details what you need to do to become a provider on Medicaid. Chapter 400 is the chapter that they should be familiar with. What we are finding is there is an incredible growth where somebody may have started in a company as a therapist or somebody that was performing the service, and then they find out, I think I can do this better. I can do it differently. They will open up their own company, but they do not always understand all of the rules.

Mr. Young added, additionally, with providers, Medicaid kind of walks a fine line, is that we cannot tell providers how to document. We cannot tell them how to write their prior authorizations. As a payer, what we have realized as part of the overall Department of

Health and Human Services, we do have an obligation for these providers, and so part of the recommendations that we respond is that we have to link with our sister agencies, the Division of Public and Behavior Health, and then do better training throughout DCFS and ADSD, Aging and Disability Services, as well to have them help us engage their providers and help them to understand. I think while the policy is very straightforward, a lot of providers do not necessarily understand what is the best assessment tool, how to document the assessment tool, how to do prior authorizations. My unit has four people in the behavior health side. We do take the time to meet with providers that request it, but with the understanding that we cannot do that for all 5,000 providers, because every hour that we take to meet with the provider to go over their prior authorizations is every hour that is taken away from another project. We do recognize that we have to continually engage them, but part of that is reaching out to our community partners and our sister agencies as well.

Controller Knecht noted, the proliferation of federal regs and mandates and details, and so forth here, is certainly something that is a continually increasing burden to the providers, but it is also, while not an unfunded mandate to the State, it becomes effectively the same thing by being a burden to us to help them know what they need to do and to help them comply. Mr. Young agreed.

Governor Sandoval asked, if there is an obvious fraud, but you always have the discretion to refer the matter to the Attorney General's Office in the Medicaid Fraud Unit, correct?

Ms. Jensen answered, absolutely, and we do so. We have a good relationship with them whenever we believe that it is fraud, and sometimes it is so blatantly obvious. Those will go immediately to them. Sometimes they can accept them. Sometimes they cannot, depending on what their workload is, but they have also, it's my understanding, been instructed that they also cannot focus in on one provider area. They have to cross multiple provider types.

Governor Sandoval stated, when you are doing your budget requests, you might want to throw in a couple more people, if we can show a couple more people can recoup millions of dollars. Ms. Jensen agreed.

Treasurer Schwartz asked, the entire Medicaid budget was about \$4.2 billion; and 35 percent of that, about \$1.5 billion, was paid by the State, is that correct? Ms. Jensen confirmed.

Treasurer Schwartz asked, we're talking about \$7 million in overpayments here possibly? We have about \$2 billion for education. You have got roughly about \$3.5 billion in between education and Medicaid, which leaves about another \$500 million for everything else, and we are talking about \$7 million, trying to recoup just through overpayments; is that correct?

Mr. Weinberger confirmed and added, the thought is compare that to how much it would cost to get some more SUR people out there and put us in a plus situation.

Attorney General Laxalt asked, does each body pay for itself at this stage of the game? Ms. Jensen answered, absolutely.

Attorney General Laxalt asked, we're doing 20 new bodies. Are we now into the tens of millions of dollars recovered very likely? Ms. Jensen answered, depending on the depth of the review, yes, they pay for themselves and then some.

Lieutenant Governor Hutchison thanked Ms. Jensen for her extraordinary work for your workload. The audit stated, there is not enough documentation in client files to ensure clients are receiving the appropriate level of care. What's your sense in terms of just what's going on? Do you feel this has been your experience, that those Medicaid recipients of behavioral health care outpatient treatments are getting the care they need?

Ms. Jensen answered, I think some of them are. I think some of them are not. In some cases, where there is absolutely no document, obviously, we would collect on those, but when there is a piece of paper missing or two or three out of the whole thing and we can see services were provided, in that case, we have reimbursed, and we have not charged an overpayment in some of the cases. If it is a provider that we call frequent flyers, they seem to show up on our list all the time, we watch them very closely, and they do not get as much leeway, but I would say that yes, some people are getting the services that they need. They're doing better. They are making progress, but I do believe there are providers that are not providing the service, and the recipients may or may not be getting any service. They are billing just because they have a Medicaid ID, and that is really what we are trying to get to the bottom of. We are not interested in doing business with anybody that wishes to fraud the State, but I have to be very careful and walk that fine line that I have providers to provide the service. And if they made an administrative error, we need to educate and fix it, because I need that partnership. But if they are intent on frauding us, I have no interest in doing business with them or I will do everything I can to get rid of them.

Lieutenant Governor Hutchison asked, approximately how many providers of behavioral health care outpatient treatment do we have in the state? Ms. Jensen answered, we have around 5,000, 5,198 as of August of 2017.

Lieutenant Governor Hutchison asked, and was that 5,000 the one that you had indicated earlier that when you put out a training call, that about 100 of them participate and that was it? Ms. Jensen confirmed.

Lieutenant Governor Hutchison stated, it is not a problem of not having enough providers, we have 5,000 providers, if they are not doing their job, if they are not keeping the documentation, and the State should have no problem cutting them loose. With that many providers, why do you have to walk a fine line?

Ms. Jensen answered, not all of the providers provide the same service. Some of them can do a more in-depth. It can be a facility. Some of them are individuals. It just kind of

depends on what that provider mix is. When we pulled the numbers, that is where we got the whole group, facilities plus individuals.

Lieutenant Governor Hutchison asked, the report says that 2 percent of the billings were for a different service code than documentation, and that could represent the \$600,000 of improper payments. Those could be improper or they just could be the wrong documentation. It is just a matter of coding. In medicine and with all the different Medicaid code requirements, did you come across actual instances where you saw that the services that were being provided were in fact, based on the documentation, fraudulently documented or was this just a discrepancy in terms of just plugging in the wrong code and it was more innocent than it was fraudulent?

Ms. Brekken answered, no, there were not any instances that we would say were fraud, but there were times where, it could have been an administrative error where they put the wrong service code and were paid for a different code or it was a 30-minute session and they got paid for 60. So, no, I wouldn't consider it fraud.

Lieutenant Governor Hutchison asked, did you find any instances or have any instances where there is somebody out there that is billing Medicaid and they don't have documentation because they're not providing services?

Ms. Brekken answered, we had times where there was no documentation for services that were paid, but we did not give the providers a chance to get that documentation if it were not in the file.

Secretary of State Cegavske asked if the agency has accepted the recommendations. Ms. Jensen confirmed that all four recommendations have been accepted.

Secretary of State Cegavske asked, have you started on any of those recommendations yet or is it something that you are making plans for? Ms. Jensen answered, for Recommendations 1 and 2, we have to look at our staffing analysis. We would be requesting additional positions in the upcoming budget. Recommendation 3 is for additional training. That is where we did the survey, and because we did not get a really good result, I did not want to just implement a training just to check the box to say there, it is offered, if I did not think anyone was going to attend or it was not worthwhile. We are retooling that to see if we can get a different level of participation from the providers, and then on Recommendation 4, for the templates, we are starting that this months.

Secretary of State Cegavske asked, how many vacancies do you have in the SUR Unit? Ms. Jensen answered, in the SUR Unit, we are fully staffed, and then of the additional four positions, I think we have offered on one, which is the supervisor position. Unfortunately, they turned us down, and so we are going through the recruitment process again. So, I do not believe we have hired any of the four yet, but those are designated specifically for the Aging and Disability Services Division based upon an audit.

Governor Sandoval asked, if you have identified a provider out of these 5,000 that routinely overbill, is there a jeopardy in terms of continuing services for that treatment

provider? In other words, do you tell them, hey, there is a problem here, but if they continue to do that, do you remove them as a provider?

Ms. Jensen answered, yes, we would send a termination letter. Depending on what the issue is, we will revert to the Medicaid Fraud Control Unit, and then they could take it from a criminal perspective.

Governor Sandoval asked, what if it doesn't rise to that level? Ms. Jensen replied, we will just send a termination letter.

C. Department of Health and Human Services, Report No. 18-03 – Division of Welfare and Supportive Services and Division of Public and Behavioral Health, Trust Fund Accounts, Vita Ozoude, Executive Branch Audit Manager.

Ms. Vita Ozoude stated, at the request of the Committee, we audited state trust funds managed by the Division of Welfare and Supportive Services, State Collections and Disbursements Unit, SCADU, and the Division of Public and Behavioral Health and Northern Nevada Adult Mental Health Services, (NNAMHS). Representing the agency are the Deputy Administrator of Welfare and Supportive Services, Nova Murray, and Brenda Berry, Administrative Services Officer. Also, representing Public and Behavioral Health, Administrator, Emmie Roukie.

Ms. Ozoude stated, we concluded based on the audit, both SCADU and NNAMHS can strengthen controls over funds received. Additionally, NNAMHS can strengthen controls over disbursements to clients. SCADU can strengthen controls over funds received by involving more than one staff member in the opening of mails containing child support payments, opening all mail in the account room and depositing funds accumulating to \$10,000 or more by the next business day per statutes. The Division of Welfare and Supportive Services can help strengthen controls over funds received by recording bank deposits and disbursements timely in the state's accounting system, Advantage. While recording deposits and disbursements timely in Advantage has no effect on issuing child support payments, it provides timely bank reconciliations, which can help detect questionable bank charges in a timely manner.

Strengthening controls over funds received will ensure child support payments are adequately safeguarded and available for distribution and show compliance with statutes and provide timely bank reconciliations. NNAMHS patient account can strengthen controls over funds received by reconciling logs of incoming checks to deposits and ensuring accumulated funds of \$10,000 or more are deposited within the next business day in compliance with statutes. Additionally, NNAMHS can strengthen controls over disbursements by restricting access to unused checks, and the financial software, namely, QuickBooks and Positive Pay.

Strengthen controls over disbursements will ensure client funds are sufficiently safeguarded. If controls over financial software cannot be strengthened, NNAMHS should

evaluate using the State's Advantage accounting system to manage trust funds in order to provide adequate safeguards for client funds.

Ms. Nova Murray, Deputy Administrator of the Division of Welfare and Supportive Services stated, we actually have two separate agencies here at the table. Three of the findings belong to the Division of Welfare. We accepted the findings at the exit interview and we made all accommodations, and procedures are in place immediately to fix the problems. We were also afforded, through this last legislative session, an automated process that will fix some of these even to a better end. It is an automated opener, scanner, indexer, batcher, and deposit. Most of our things will be able to be done immediately in the bank, and it solves the problems on the division side for welfare.

Governor Sandoval asked, it's my impression at least, is that everything is done? Ms. Murray confirmed.

Ms. Amy Roukie thanked the Committee Members, Vita and the Executive Audit Committee for the information related to our audit of our client trust fund accounts at NNAMHS. Ms. Roukie continued, we have implemented all of the appropriate responses provided in these recommendations with the exception of Recommendation No. 4. We have been evaluating the use of Advantage rather than our current system. We have increased our internal control so that we are more response; however, at this point in time, the use of Advantage would require changes in our electronic payment system coming from the Social Security Administration, a process that would take approximately a year and would create quite a bit of confusion for both our agency and for the Office of the Controller accepting these payments. We act as a representative payee for these clients, so we accept their funds and then manage their basic needs through this process. So, we are paying for food, clothing, shelter, and assuring that their personal needs are cared for. With these increased controls, we believe that we can comply with the request of this audit.

Secretary of State Cegavske asked, is the money deposited in a safe on a regular basis or just once a day? Ms. Murray answered, the money goes into the safe as it is processed. It goes in all day long. As it batches, it goes into the safe, and we have an armored car that picks it up.

Secretary of State Cegavske asked, what about bad checks? Are you able to scan those checks so you do not receive or you know whether or not they have the funds in the account immediately? Ms. Murray answered, we currently do not have that ability. The OPEX machine that we currently are in the process of bringing on through the joinder recently signed January 31st, that machine does have those additional abilities. Depending on how far we go with this particular provider, they have the ability to get us to that point where we will know if the money is in the account. We generally do not take personal checks. We take business checks. We take cashier's checks.

Secretary of State Cegavske asked, do you do debit cards as well? Ms. Murray answered, we do not. We currently take credit cards over the phone. We do not take debit cards. I

do not know that we would know the difference, but we are not seeing a high volume of returned checks. This audit is just specific to making sure that we are touching the money appropriately and have enough eyes on it as it comes in. We do not have a high volume of returned checks.

Secretary of State Cegavske asked, was the biggest problem was the armored car coming to get the cash? Ms. Murray answered, the biggest problem we have is that the influx of our money is due on one day. So, through the month, we have plenty of staff to take the daily volume, and then all of a sudden at the end of the month when everything is due, we get swamped with thousands and thousands of boxes of checks that have to be processed, and you have to get them to a certain point before you send them to the bank. We actually take copies. We scan them into the system. All of that audit record has to be put in there before the check goes to the bank. This system that we will have in place on January 31st will resolve that same day.

Lieutenant Governor Hutchison noted that he is satisfied with the Department's response to all of the recommendations.

Controller Knecht stated, I did want to take this opportunity, since you all did such a good job, to state what at least one member of this Committee believes the format for response letters from the agencies and departments should be, and this is from my time as the Audit Committee Chairman twice for the fourth branch of government. What I said was I would like to see a clear statement, such as yours, about whether you agree in its entirety with the audit findings and recommendations, and if not, specifically, which ones you disagree with and why, secondly, exactly what you are going to do about it. It is easy when you have already done it, and third, who's going to do what, and who's going to be held accountable for doing what, and fourth, what timeframe it will be done, et cetera. Any other comments are helpful, but I would hope that the agencies would provide that kind of particular detailed and on-point response in every case, and I just take the opportunity to put on the record what I expect. There are other people on this Committee, but I think that is good practice.

Treasurer Schwartz asked a question directed for Attorney General Laxalt, we seem to be dealing with potential complaints here, and I guess both under C and B, in other words, Medicare fraud complaints. Have you been asked to investigate any sort of types of complaints or frauds or checks that have not been deposited?

Attorney General Laxalt answered, our Medicaid fraud unit works regularly alongside this agency, and we have a large volume of successes and prosecutions.

Treasurer Schwartz asked, you have indeed received complaints, and you are prosecuting them? Attorney General Laxalt confirmed.

D. Department of Veterans Services, Report No. 18-04 – Trust Fund Accounts, Vita Ozoude, Executive Branch Audit Manager.

Mr. Ozoude introduced himself and noted, at the request of the Committee, an audit was completed on the trust funds managed by the Department of Veteran Services. The agency was represented by Director, Katherine Miller, and Amy Garland, Executive Officer.

Ms. Ozoude continued, based on the audit, we conclude the Department should segregate the duties of receiving and recording funds at the Veterans Home and also restrict access to the checkbook. We noted the staff member who receives funds also records the funds in each resident's account in the ADL accounting system. In addition, two employees who perform the recording function in the ADL system also have access to the checkbook. Segregating trust fund receipts and recording functions as well as restricting access to the checkbook will ensure trust funds are adequately safeguarded and available to residents. We would like to thank the Department for their cooperation and assistance during the audit.

Ms. Kat Miller introduced herself as the Director of Veteran Services and stated, I'd like to say thank you to Mr. Ozoude. This audit, like all the others, we have immediately implemented the recommendations and found it made our processes stronger and made me personally feel like we were better protected. The recommendations were implemented with one minor detail, moving the safe. Moving the safe will require physical changes around the facility, which should be done by the end of April.

E. Department of Motor Vehicles, Report No. C18-01 – System Modernization Project, Jaynalynn Seley, Executive Branch Auditor; Steve Weinberger, Administrator.

Ms. Jaynalynn Seley introduced herself and representatives of the Department of Motor Vehicles, Director, Terry Albertson, SYSMOD Manager, Izzy Hernandez, and Project Manager Arman Sethy

Ms. Seley explained, at the request of DMV, we performed an audit of the system modernization, or SYSMOD project contract. In our audit, we focused on one objection, how DMV could help ensure information technology projects performed by contractors progress timely. During the audit, DMV represented that the SYSMOD project was not progressing as expected due in part to the contractor not fulfilling representations made in its RFP response. Specifically, the contractor did not provide a cohesive project delivery team with the level of expertise in motor vehicle system modernization, nor did the contractor provide team members proficient in written English; however, DMV did not ensure compliance with established contract requirements, protocols, and procedures, such as the requirement to amend the contract with an approved master project plan, protocols for the deliverables submission and review process, procedures for the resolution of issues, and miscellaneous requirements related to the use of the state resume form by contractor and subcontractor personnel and identification of subcontractors.

Adherence to these contract requirements, procedures, and protocols may have mitigated delays to the SYSMOD project by enforcing project deadlines and holding the contractor responsible for performance shortfalls. As a result of the audit, one recommendation was made, to improve the effectiveness of project management. Improving the effectiveness of its project management and ensuring compliance with the established contract requirements, protocols, and procedures will help DMV to ensure information technology projects performed by contractors progress timely and are completed as authorized.

Treasurer Schwartz asked, if I am hearing you correctly, it seems to me that there is work to be done in assuring that this contract is carried out the way it should be carried out. Ms. Seley confirmed.

Director Albertson thanked Steve, Jayna, and Mark for their hard work on this project, and added, it is a high profile, high risk information technology project. It was done at our request that they come in and complete this audit in order to allow the Department and the vendor to reset and evaluate where we were at that point in time. The audit was completed, actually, in August of last year. As a result of that, the Department submitted and agreed to the recommendations, and we have eight corrective action items that we submitted in response to the audit. I am happy to report that as of today and as we indicated in our September 14th response, that we would have had these items completed by December 31st. We have successfully done so. So, the project plan has been amended.

We have hired an administrative assistant to provide support services to the program manager to allow him to more effectively manage the project on a wide scale. We have updated and implemented the deliverable signoff process to ensure compliance with the RFP. We are continuing to use the issue resolution process log in order for both the Tech Mahindra vendor as well as the SYSMOD team to record and respond to the issues as they come up during the project. We have also updated the Tech Mahindra onboarding process to ensure compliance with the RFP and that they would utilize the state resume form in onboarding their resources, and again, probably the biggest point of this is that we did amend the contract to include the detailed project plan to ensure compliance with the RFP, and that was approved by the Clerk of the Board on December 19th, 2017.

Director Albertson continued, we have changed the decision escalation process by providing project management tools to the DMV division administrators to expedite the resolution process. We have changed the existing project management tools to provide additional metrics and dashboards for the project management office to better track deliverable and milestone dates, and lastly, we have initiated the process with state purchasing to hire the independent verification consultants to provide a project assessment with best practices. As a result of that, we did hire the Gartner Group, who are in the process of completing that study as we speak today. We anticipate that we will have their recommendations no later than January 29th.

Governor Sandoval asked, how much is the contract? Director Albertson answered, \$115 million.

Governor Sandoval asked, is Tech Mahindra, the vendor, in compliance as we speak with the terms of the contract?

Director Albertson responded, I would say there are still issues that need to be worked on with the vendor. I want to be honest in my response to that. Again, Tech Mahindra has committed to the Department that they will provide us with the resources that are necessary to ensure the success of this project.

Governor Sandoval stated, it concerns me very much because of the lack of performance by the vendor on this contract. Kind of similar to our first Agenda Item, I hope there is a sense of urgency, because at some point, we get to a place where we have to move on depending on the contents of that contract, but there is a lot at stake here with regard to DMV, because the DMV touches every person in our state, practically. The audit was done last August. There has been a significant period of time within which the vendor has had the opportunity to catch up. Do you see progress on the part of the vendor that they are coming into compliance, because, obviously, they were not?

Director Albertson answered, I would say yes, as we sit here today, I believe that the vendor has demonstrated their desire to improve the effectiveness of the delivery of this system modernization effort, but there continue to be issues.

Governor Sandoval asked, is there actually action coming on here where you are coming into compliance with the performance of this contract?

Attorney General Laxalt interjected and stated, given the scope of the contract, I think it would probably be better that we just evaluate this offline before we necessarily lock ourselves into any position as a State on how they are performing or not performing.

Governor Sandoval stated, I think she can talk generally about this, because it is important. I don't want to see it get into a litigation mode and someone to say Director Albertson said on the record at the Audit Committee Meeting that we said we were doing okay when we really were not. They obviously have not been in compliance with the requirements of the contract, and I just want to see if there is an earnestness, or a sense of urgency to come into compliance.

Director Albertson answered, there certainly is on behalf of the Department, and again, I think that the report we are going to receive from the Gartner assessment by January 29th is going to provide further details for us to make that final determination.

Controller Knecht added, Pages 9 and 10 in your letter, you give the kind of detailed response with Items 1 through 8 that I want to see. What you did not do was say exactly who within DMV is responsible. I suppose on something this large, you are ultimately responsible, and everything gets bucked up to you anyway, but if you do not put the burden on somebody in particular by position or name, it will accrue to you always in the

future. Good job. Keep it up, and thank you. Director Albertson thanked Controller Knecht.

Treasurer Schwartz asked to the auditors, are you satisfied with the answers you have gotten from Director Albertson? Mr. Weinberger answered, in general, yes, definitely. It looks like some of these specific measures they've mentioned are along the lines of what we were expecting.

Treasurer Schwartz asked, how about in specifics? Mr. Weinberger answered, a lot of that is to be seen. We will see how it goes with the remainder of the contract, but we were not auditing the vendor. We were auditing the state agency, and I think they got the message of what we were looking for.

Treasurer Schwartz asked, I assume that this Gartner report on the 29th will be an important step in evaluating the contract? Director Albertson answered, the Audit Committee is not involved in that part of this particular assessment. The Gartner Group is reporting directly to me as the Director on their independent verification and validation of not only the DMV process, but as well as the vendor, and so they will come forth with what they have identified as issues with the project if there are any and also a recommended plan of action. That finalized report is a critical piece to this particular modernization effort, and like I said, we expect that by the end of January.

Treasurer Schwartz added, maybe per the Governor's suggestion of holding a meeting next month, as that might be something you put on the Agenda for any sort of special meeting of EBAC. Director Albertson replied, we would welcome the opportunity to come back to the Committee next month with an update on the status of that health assessment.

Lieutenant Governor Hutchison asked, the audit says that as of July 2017, DMV has expended \$13.5 million on the SYSMOD project. How much currently has DMV spent? Director Albertson answered, at this point, we're approximately \$27 million in.

Lieutenant Governor Hutchison stated, it is much better to get out sooner than later. If they are not performing, then somebody needs to make that decision quickly, get out, cut your losses, have the Attorney General do what he is going to do on a legal standpoint and find someone who can.

I read this as a lawyer and say this is a bait and switch. You put everything in the RFP that you think the State wants. You make all the promises, and we accept all those promises, and then they just do not deliver. They say they are going to give us 25 A-Team members, they have given us six a year into the project. Three of them didn't start until April of 2017. A fourth was removed after two months. A fifth was then removed and returned to project several times. A sixth assumed multiple responsibilities. They were supposed to be providing us proficient communication. It was so bad, that we had to edit their documentation for grammar and spelling. They promised us that people would be proficient in communicating and speaking and reading English. It was not written in those

kind of clear manners to the point where we had basic grammar and spelling. I mean, is that too much to ask for?

Lieutenant Governor Hutchison continued, to me, that is a red flag, I don't know how this is all going to turn out. All I'm going to tell you is this looks like a big problem to me. Your \$115 million project may be best served by cutting your losses, and I think the Department would be well-served to figure that out very quickly in terms of whether they can perform. And I don't know if that is going to be something that you are going to learn from the Gartner Group or not, but my view on this is you should not be thinking we are going to be with these guys for five years given the current projection.

Unless there has been huge performance changes, my suggestion as a member of this Audit Committee and just following up on a basic report from our auditors is this is a major breach of contract, it is a major bait-and-switch, and unless there are major performance improvements within say 30 days, you have got to make a change. You have got to send them a demand letter and say, here are the following 18 things you have got to do to perform, and if you do not perform those within 30 days, we are hereby terminating our contracts. We will mitigate our damages, and we will go find somebody who can do the job. That is my observation, not a question. Sorry to lecture you on that, but that is just looking at the basics on this.

Director Albertson thanked the Lieutenant Governor for his statements and commented, yes, we are very aware of the serious nature of this project and also the high profile and importance of this to the State of Nevada, and I just want to assure the Committee that we are doing our due diligence to work with our contractor to ensure delivery of the system modernization effort, but again, recognize the concerns and the issues that you brought forth, and that is actually what initiated this audit in the first place, was because we were made aware by staff, internal and external, of some issues that potentially were going on with this project, and so again, with the assistance of the audit team and now with the Gartner Group, we hope to have a point in time very soon where those decisions will be made, and we will move forward.

Secretary of State Cegavske asked if this project had anything to do with the elections upgrade. Director Albertson replied it did not.

- F. Governor's Office of Economic Development, Report No. 18-05 – Catherine Brekken, Executive Branch Auditor; Warren Lowman, Executive Branch Audit Manager.

Ms. Catherine Brekken introduced herself and representatives from the Governor's Office of Economic Development (GOED) Director Steve Hill, and Deputy Director Cory Hunt.

Ms. Brekken explained, at the request of the Committee, we audited the Governor's Office of Economic Development, or GOED's procedures for approving and monitoring transferrable tax credits for and abatements of taxes on qualified economic development projects. In September 2014 and December 2015, the legislature approved requirements

a participant must meet in order to receive transferable tax credits and abatements for projects that invested \$3.5 billion and \$1 billion, respectively.

The legislation also included protections such as the choice to set aside the abated taxes in a trust fund. In regards to the \$1 billion project which qualified in southern Nevada, GOED used the trust fund option to prevent tax dollars from being committed before all requirements were met. Even though the \$1 billion project was not realized, the State benefited by \$11 million. Although the policies and procedures employed by GOED ensured all statutory requirements were met, one recommendation was made to improve procedures for approving and monitoring qualified projects. We recommend GOED develop a consolidated due diligence checklist. GOED has a process for ensuring statutory requirements are met; however, GOED does not have a formalized document that identifies what documents were reviewed, who reviewed the documents, and the date of review. A consolidated due diligence checklist which documents who reviewed whether the application satisfied all applicable requirements, what documentation was reviewed, and the date of review will increase accountability and transparency and allow GOED leadership to track the documentation and review process.

Director Hill thanked the Audit Department for their significant work on this effort and expressed appreciation for the recommendation that was received, and noted that the recommendation has been implemented. He further stated, to follow-up and address the Controller's point, we certainly consider qualified projects, and qualified project has to be at least \$1 billion or more to be the responsibility of the Executive Director. We also have a Director of Business Development who would do a significant portion of this work, and those would be the two people responsible for following through with the project and signing off on the checklist.

Treasurer Schwartz noted he has some disagreements with the recommendations and asked, there is nothing in here that suggests that you are looking at any sort of financial reports or financial plans from any of the recipients of the tax abatements that you have offered. Is that a correct understanding? Director Hill answered, there is no legal requirement that we do that. In each of the two cases that we have had, we have looked at the financial records of the company.

Treasurer Schwartz stated, that seems to be contrary to what is in the audit report where they say that no audits were done because the project had not progressed far enough. Director Hill replied, in consideration of the company's application and what we present to the Board, we looked at the financial statements of each of the two qualified project companies. Following that approval and the implementation of the project by the company, there are requirements for audits periodically. It is annually, although they are permitted to do them more frequently. In Tesla's case, they have performed and submitted a number of audits. In Faraday's case, they did not reach the stage of an annual audit before withdrawing from the project.

Treasurer Schwartz asked, why did they did not reach the stage of your requesting an audit? The Treasurer's Office was asked to provide some financing. We got a verbal

request for that, but we never got anything formally, why is it that you think they never provided those audits?

Director Hill stated, GOED did not request from your office financing on this project at any time. I don't know if someone else did. We did not.

Treasurer Schwartz stated that it was an informal request by someone else but they did not continue to request it because the project continued to be incomplete? It's just difficult for me to see how you can possibly monitor when you do not have financial reports.

Director Hill replied, I would invite you, if you would like, to come and talk about how we do that. The legislation, I believe, is very clear. There are criteria that companies need to meet in order to be eligible for either tax abatements or transferrable tax credits. We have everything that we need at our disposal, including company-paid audits, in order to both monitor that and determine what has been earned and granted and the timeframe for that. In the particular case of Faraday, we created a trust fund so that they would not receive those abatements until they met all of the criteria they needed in order to earn them. So, no, I do not feel that we are handicapped, and I feel that both projects, while one is proceeding very well and the other did not, the outcome for the State of Nevada was not negative in either case.

Treasurer Schwartz stated, just looking at one of the exhibits on Page 17 of 18, it says financial statements are not required by statute. I'm just mystified how GOED can award these abatements and these tax benefits and funding if, for example, in the case of Faraday, it has been years since you have seen a financial report. The written record suggests that there are no audits, every two years or every five years. I understand that financial statements are not required, but I cannot understand how you can really monitor the projects that you approve.

This report focuses on Faraday and Tesla, but there is a whole raft of other commitments that you make. Treasurer Schwartz asked the auditors, did you look at any of these other commitments? Was that within the scope of the audit? Mr. Warren Lowman answered, the scope of the audit was simply for the \$1 billion and the \$3 billion investments.

Treasurer Schwartz stated he is speaking outside the scope of the audit, any venture capital, any private venture capital group, anyone who has anything to do with this type of funding, and in this case, tax abatements, you can do an audit or even a compilation. We obviously can't talk about everything else that's out there, but there are just no controls on your agency, and, you know, you can respond to that, but I just don't see them.

Director Hill noted that he disagreed with Treasurer Schwartz.

Treasurer Schwartz stated, I understand you don't agree, but there is no proof of why you disagree. You cannot understand what is happening within the agency when you receive absolutely no written verification, no written reports of what is happening financially.

Director Hill responded, let's make sure that at least the facts are clear. We receive audits from Tesla on a very regular basis.

Treasurer Schwartz stated, I'm not talking about Tesla. I'm talking about Faraday and the others.

Director Hill stated, in this particular set of audits, there are only two projects, the other being Faraday. The reason we did not receive an audit from Faraday is the project was suspended and the abatements withdrawn prior to their responsibility to turn in that first audit. If they had proceeded forward, we would have received that audit. With respect to every other project that we provide incentives, the Department of Taxation audits those companies after year two and five, and all of that information is available on our website.

Treasurer Schwartz stated, I'm suggesting an audit every two years or every five years is wholly inadequate for what your agency is supposed to do and what should be doing. Again, I know this probably goes to statutory language, but it just baffles me that you would be able to award the abatements that you do, that you would be able to award the incentives you do, that you would be able to give whatever financing that you do without that information. I think there ought to be an audit follow-up that suggests that GOED really pay attention to how these companies who receive benefits from GOED report to you.

Governor Sandoval responded, any implication or suggestion that all this was done in a black box or without any information before it was considered by the GOED Committee is just simply untrue. And the scope of this audit, was at your request. We did this audit and audited these two items in that threshold at your request. There was no suggestion otherwise. Director Hill, without exception have we ever approved a project without having, not just sufficient, but more than sufficient financial information before any type of abatement or tax credit was provided? Director Hill stated, no, we have not.

Treasurer Schwartz stated, I would beg to disagree with you on Faraday, but that is another question for another time, but I am also talking on an ongoing basis, is that you have awarded the abatements. You have awarded the tax benefits. There should be some criteria, and there should be some basis that you can audit to understand that these companies are performing and have merited the incentives you have given them.

Director Hill stated, those criteria are outlined in law, and we follow each one of those criteria on every company that we both bring to the GOED Board, and that is what those audits show. The criteria for earning those abatements are measured in that two and five-year timeframe, which is why we audit those two and five-year timeframes.

Treasurer Schwartz stated that he has made his point. Governor Sandoval stated that he did not understand what that point is.

Treasurer Schwartz replied, my point is that there's no transparency here, that GOED does not have the financial reports that enables them to monitor the progress of the companies that they have given these incentives to, and I think that if GOED wants to be a venture capital firm or private equity firm, they need to do that. A two-year and a five-year audit is wholly inadequate, and they are not even done. If you look here, it says audit pending. Whatever small amount of financial reporting is required has not even been done. I was trying to find out what the total amount of incentives that you have given are. Maybe you had that information, but, you know, again, there's no accountability. There is no transparency, and again, no personal disrespect intended, but you go about happy as a clam giving these abatements, giving these incentives, and we as taxpayers have no idea as to whether they were earned, whether the companies that you have given these to should receive these benefits, and actually, whether the taxpayers and the people of Nevada have done a good job, and that's my point.

Director Hill stated, again, let us make sure the facts are correct. You know, we can disagree about what our role is. Every one of these companies is audited. That is completely reported. It is available on our website. All of those audits are on our website. That is all outlined in law, and it is followed in every instance.

Treasurer Schwartz asked, the question is when are they audited? Director Hill stated, the idea that there is no transparency or accountability to the law is incorrect. That information is available. If you would like us to send it to you, we can do that if you do not want to look at it on our website.

Treasurer Schwartz stated, I'm not disagreeing that there is an audit. The question is when is it, and an audit two, three, four, five years later, and maybe what you are saying is that that is the statutory requirement, to me, is wholly inadequate for you to do the job that you have been mandated to do.

Director Hill stated, the incentives that we provide companies are performance-based. The two and five-year periods are the time in which they have to perform in order to actually earn the incentives

Treasurer Schwartz stated, and I would submit to you that were this a private venture capital or private equity group, they would not only disagree with you, they would say, we want to see this every month. And again, I agree that that is probably overkill, but what you have set out is your paradigm, to me, does not seem to meet the mandate that you've been given.

Director Hill responded, I don't know if the implication is that you think we have been given a mandate to be a private equity firm. That is not the case. It is not the role that we play, and we don't pick winners and losers along those lines, which is what a private equity firm would do. Our responsibility is to make sure that the company meets the criteria that they have to meet in order to earn the incentive. We do not pick winners and losers as a private equity firm would do.

Lieutenant Governor Hutchison stated, it may be helpful, so that the record is clear, for you to just describe whether or not any tax dollars concerning abatements or incentives for Faraday were ever at risk based on Faraday's performance or failure to perform or provide audits or documentation. If you could just maybe capsulize how it was that GOED handled tax dollars and the steps that GOED took to ensure the safeguarding of tax dollars, I think that may be helpful for the record.

Director Hill responded, yes, we recognized, and Faraday understood, that there was risk associated with their project. We thought that the potential benefit was great and that if we could eliminate the risk associated with Faraday from a state standpoint, the potential benefit was worth moving forward. As we pointed out, we also have a pretty significant deficit in southern Nevada when it comes to large parcels of ground. So, the project would also open up a big portion of Apex for development for other projects, which was important, too. Because we recognized that risk, we asked the legislature, and they agreed to put the trust fund concept into law and allowed us the discretion to structure that trust fund to minimize or eliminate the risk to the State.

Director Hill continued, we had, at one point, \$16,000 that had been kept by Faraday. It was a partial abatement of the Modified Business Tax. All of the other taxes that would potentially be abated were paid to that trust fund. We asked them to repay that \$16,000 that they had kept as an abatement, which they did. They wrote a check to the trust fund. Other than that \$16,000, there was never a risk to the State. In addition to that, we required that Faraday perform all the engineering work for the infrastructure that would have been put in at Apex. The alternative would have been to have the agencies front that engineering cost, and the way that typically works is the engineering is done when the bonds are issued, and it takes engineering work in order to get a cost estimate so that you can go bond the project.

Typically, then that engineering work is repaid as a part of the bond funding. Because we weren't sure that we would get to the end of the road on this project, we asked Faraday to pay for that engineering work. If that bonding had taken place, if North Las Vegas had filed an economic development financing proposal with us, if our Board had approved it and if then we had asked the Treasurer and his office to issue bonds, then Faraday would have been eligible for a repayment of that engineering expense. That obviously has not happened. We do have the benefit, though, of having that engineering work done, and we still are optimistic that we can find a qualified project in the Apex area and follow through with that bonding.

Lieutenant Governor Hutchison stated to Director Hill, I have heard you repeat, essentially, what you just stated for us as an Audit Committee publicly before. You brought it before the Board of Economic Development in the same basic idea, the basic light. That information, I have heard you repeat it repeatedly throughout the course of the Faraday project, to the public on numerous occasions. From one-member standpoint, transparency has never been an issue. For Director Hill or for GOED on Faraday, accountability has never been an issue from my perspective, because the tax dollars were placed in trust funds, completely accounted for. Faraday did not get the benefit of those incentives until

they performed, and all of the requirements of the statutory scheme that was put in place so that this state could come out of the great recession and benefit and be blessed with the jobs and the opportunities that the state has seen I think have been satisfied, and I think that the results of the tax abatement program, the tax incentive program, the way it's been administered by GOED, the way it's been managed by the Governor's Office as well as the Board of Economic Development and the transparency that has taken place speaks for itself.

Lieutenant Governor Hutchison continued, we have had a tremendous amount of success in incentivizing companies to create jobs for Nevadans. When this GOED concept was developed, we were praying for 50,000 jobs, and now we have got five times that amount. And the taxpayers have been well-served. There has been transparency. There has been accountability. There has been financial prudence, and I have sat on that Board. The Governor has directed it from the beginning. Mr. Hill has directed it from the beginning, and I just want to applaud you, Director Hill, for a job well done. We are going to be losing you soon, and Nevada is a much, much better place and a much stronger place because of your service. Thank you.

Attorney General Laxalt stated, I just want to make a distinction that in the case of a private equity firm, they are actually putting the money out in the front end, and that is why they would be tracking much more diligently as they decide to continue to reinvest throughout the course of a project. In this case, certainly for Faraday, all the money was held. Nothing was given out. It makes sense that, at least structurally, these are set up in a different way.

Controller Knecht stated to Director Hill, I am sure it wouldn't surprise you if I said that these matters are of great public interest and somewhat controversial from time to time and that the public taxpayers, people, maybe even the press, would like to look closely into them, and not just at the two and five-year mark, to see whether an audited report shows that the participants have done everything they are supposed to and have gotten only what they are supposed to, et cetera, but on a prospective basis at the time the decisions are made by GOED to make these commitments, the Attorney General says we are not putting money up front. That is true, but we are making commitments, and we are incurring risks thereby. And so, my question is this. If I'm just John Q. Taxpayer and I go to your website, which you referred to a couple of times that the information is there, on any one of these projects, can I find a full compilation from beginning to end of what information was provided to the State and what information and documentation GOED and the State relied on in making these commitments and entering into these agreements and providing these abatements? Can someone find a full file on any one of these projects so that they can review it from beginning to the current day?

Director Hill answered, yes, that information is on our website. It is a matter of public record because we post it ahead of the GOED Board meetings. It is presented to the GOED Board, and it is a part of the permanent public record.

Controller Knecht suggested continuing this item to the next agenda to be reported on again.

Governor Sandoval stated, it's beyond the scope of this Agenda Item, so I don't see any reason to continue it.

Treasurer Schwartz stated, contrary to what Mr. Lieutenant Governor said and what the Attorney General said, had we issued those \$175 million in bonds, and we didn't, but had we done it and the Treasurer's Office was urged to do it by Faraday, they would have defaulted on July 10th. The taxpayer would have been out \$175 million in general obligation bonds. Again, this is money that would have been invested by the people of this state, and had the Treasurer's Office been less concerned about what was happening, we would have been on the hook for \$175 million.

Director Hill responded, Faraday may have asked, but they had no standing to ask. The bonding process requires an economic development financing proposal from a local jurisdiction, a city or a county. It has to come through us. It has to go through the Board of the Governor's Office of Economic Development and then go to the Treasurer. So, Faraday, I don't dispute that they may have asked, but that shouldn't have been a concern.

Treasurer Schwartz stated Faraday asked and assumed the bonds would be issued.

G. Department of Education, Report No. 18-06 – 2015 Education Initiatives, Lynnette Aaron, Executive Branch Auditor; Warren Lowman, Executive Branch Audit Manager.

Ms. Lynette Aaron introduced herself and also representatives from the Department of Education, Superintendent, Steve Canavero, and Deputy Superintendent, Roger Rahming.

Ms. Aaron explained, the audit focused on improving the efficiency and effectiveness of the grant management process for the 2015 education initiatives. In 2015, the legislature approved almost \$335 million in general funds through various grant programs to support the Department's education initiatives in early learners, modernizing the Nevada plan, middle school and high school, and investing in change. In 2016, an independent evaluation was performed to evaluate seven of these programs in areas such as quality of educators, student achievement and growth, school safety and climate, and technology use and education. The evaluation recommended continued funding for all programs because they were achieving the educational outcomes intended by the initiatives. Thus, our audit evaluated the grant management process for 12 state general fund grant programs by focusing our review on recipient monitoring. Seven of the 12 grant programs were reviewed to evaluate their fiscal controls.

Based on the review, three recommendations were offered. First, the Department should develop a Department-wide risk assessment for grant management. This will provide a framework for evaluating grant programs and help allocate limited resources and grant management. None of the 12 grant programs had written procedures for assessing risk

during the pre-award and post-award phases of the grant process. Additionally, the Department does not have sufficient staff and travel fund resources to fully monitor the 12 grant programs we reviewed. Legislation provided the Department with resources to monitor some of the grants; however, the Department had to absorb costs associated with monitoring other grants. Using a risk assessment would help the Department determine which grant programs and recipients weren't using their limited funds for monitoring activities as part of their grant management responsibilities.

Ms. Aaron continued, second, the Department should develop a Department-wide recipient monitoring policy to ensure grant programs are achieving goals and objectives. Monitoring recipients allows program offices to ensure effective and consistent management protocols within grant programs. The Department does not have a standardized Department-wide policy for recipient program monitoring. Recipient monitoring is a responsibility of each program office, and each program office has its own policies and procedures for monitoring its respective grant programs. Based on our review, the procedures for performing recipient program monitoring varied in scope or were not performed at all in the program offices we interviewed and/or visited. Five of 12 programs did not perform any on-site or desktop monitoring. One of 12 programs had areas in which on-site or desktop monitoring could be improved. Recipient monitoring did not start until fiscal year 2017 for that program. Without monitoring, program offices are not able to identify deficiencies within the grant program and report those deficiencies to recipients. Meeting criteria such as on-site desktop monitoring, providing audit and performance reports, and requiring corrective action plans as well as consistent reviews helps ensure grant programs are achieving goals and objectives.

Third, the Department should improve fiscal monitoring. Improving fiscal monitoring will help ensure recipient expenditures are allowable, valid, and appropriate based on program goals and objectives. Recipients are not providing sufficient expenditure documentation to the Department to ensure expenditures are appropriate based on program goals and objectives. Additionally, the Department is inadequately reviewing documentation received from recipients. Improving fiscal monitoring will also help ensure contractors are properly classified and adequately monitored. The Department misclassified relationships with two vendors receiving grant funds as recipients rather than contractors. Not properly classifying these two vendors as contractors resulted in state general funds awarded without following state contracting requirements to include Board of Examiner's approval.

The Department does not have a standardized Department-wide policy in place for contract monitoring. Consequently, the Department did not monitor recipients to ensure they were following state contract procurement guidelines and did not review contractor invoices when reimbursing recipients for contract expenses. Improving fiscal monitoring will also ensure grant funds issued to recipients are properly accounted for. The Department did not reconcile recipients' annual reports of revenues and expenditures for state grant programs to the state accounting system to ensure funds issued to recipients were properly accounted for. Without reconciling recipient's annual reports of revenues and expenditures to the state accounting system, Department may be unaware of whether

recipients spent all of the funds awarded to them. In one program, nine of 13 recipients did not provide an annual report of revenues and expenditures for fiscal year 2016.

By having effective management protocols and tools, the Department can ensure grant programs are achieving goals and objectives efficiently and funds are being spent appropriately.

Mr. Steve Canavero introduced himself as the State Superintendent, Public Instruction, and thanked the Audit Committee for their work. He stated, I think I surprised them when I had about 20-ish people at the exit meeting, principally, because this matters. It matters to the Department on two levels. The first, at the end of the 2015 legislative session, we knew that we were obligated to ensure that the programs increase outcomes for kids. The performance in the categorical programs was something we began working on and continue to work on today, and I think it is validated by the external disinterested third party who conducted the review and will continue to conduct the review, and our internal analysis also shows that much of the grant work in discussion here in this audit are improving the lives of our kids in our schools and our school system. But it also matters because we knew at the same time with the increase in categorical investments, it was going to press the Department. It was going to press the Department in our ability to ensure that our grants unit and our program side, whether it be communication or processes and policies, would be put to the test with the given workload and the given demand upon us. And I think the new investments, which I am incredibly grateful for, did demonstrate some cracks in our systems.

Mr. Canavero continued, in early 2016 into early 2017, we leveraged our federally funded regional lab to come in and provide expertise and expert consulting on how to develop grant systems that are both in consideration of the recipient. Many of our recipient school districts have publicly testified at how difficult it is to apply for grants with the agency and how many different grants there are. So, trying to increase the efficiency of that process while not sacrificing our obligation as financial stewards of those dollars, and we are grateful as well for the additional individuals that came with those categorical programs in 2015, most of which are program professionals, folks to help support districts in the standing up of these programs.

I'm confident, based upon where we are, the advice that we have been given, and the direction with this audit. The good news is it reconciles very much with what we know we need to do and what we have been working on. There are no real surprises here for us, and we are actively pursuing the three core recommendations here. We obviously accept and acknowledge the recommendations and are working to clear those. As of July 1st of 2018, we will have the system stood up to ensure we have a uniform risk assessment, ensure we have a uniform monitoring policy across the Department and sure up the fiscal monitoring systems that include the contracts as well. A lot of it is in the rearview mirror, but we still have work to do, and we are committed to getting that work done. I'll close with that and move on to questions.

Governor Sandoval asked, we just approved some contracts last week that are consistent with what is discussed here. My impression is those would be complementary to the audit that was just completed here by internal audit?

Mr. Canavero replied, the contract you approved at the Board of Examiners meeting is regarding performance; are students learning; are there more teachers in classrooms; is the pipeline for teacher education expanding. That is the contract performed by the disinterested third party and deals with work outcomes for kids. This contract is complementary to this audit which looked at our fiscal controls and our fiscal systems, not outcomes for kids.

Treasurer Schwartz thanked the Audit Committee for their work and asked Mr. Canavero, why are we at the bottom of every report on education, any insights?

Mr. Canavero answered, I think for a variety of reasons. You are actually going to see another report that is coming out at midnight tonight with no change for Nevada, principally because it is looking in the rearview mirror. It is actually looking at 2015 data. It is a constant rearview look at where our education system has been, I think acknowledged by the legislature, acknowledged by the Governor in the increased accountability and investments that have been made in 2015 and then continued in 2017.

Mr. Canavero continued, I see a bright future. All of our leading indicators show that we are making progress towards the state's goal to be the fastest improving state in the nation. We see improvement in mathematics with our smarter balanced assessment. We see comparisons like the categorical program to support children in poverty. The Victory schools are outperforming their similarly situated peers, meaning a Victory school that receives the investment clearly outperforms a school with similar levels of poverty that does not receive the investment. We see expanded gate programming. We see expanded results for AP (Advanced Placement Program). We know we are one of the top states in growth for AP tests, and that is just not in giving, but also passing, which are two indicators you seldom see together, which means to me that we are beginning to capture some of the capacity within our kids that has been on the table for quite some time. We see growth in African-American black students in access and pass rates to AP as well as our Native American students, which are two groups that we specifically target with funding from the College and Career Readiness Grant, one of the grants that we see here.

If you look at the report that will be released tonight by a national group, we are, 39th in K-12, or pre-K through 12th grade education. Aggregate, though, we are at the bottom, but again, the most recent data is 2015, which does not recognize the new investments that were made in 2015 and again in 2017 and does not recognize the increase in academic achievement based on NAEP (National Assessment of Educational Progress).

Governor Sandoval stated, a future Governor is going to see the benefits of this, because when you look back at the gains that were made in post-2015 that we all know that are happening, you are going to be able to see a dramatic change. I mean, we can talk about

the graduation rates and the improvement of the graduation rates that we reported was plus 80 percent statewide. What was the exact number, Mr. Superintendent?

Mr. Canavero replied, I think it was 80.9 percent, almost 81 percent.

Governor Sandoval stated, I think we were at 59 percent not too long ago.

Mr. Canavero stated, as far back as 2012, it was 60 percent

Governor Sandoval stated that in a current analysis, we are seeing improvements.

Controller Knecht asked, looking at page 18 of 19 under Corrective Action No. 3, the second bullet and the fourth bullet do not tell me when to expect something reported back on them. Can you give me some feeling for a timeframe on the second and fourth bullets?

Mr. Canavero answered, the Corrective Action response is under No. 3, we believe build off of 1 and 2 concurrently July 1st, 2018.

Controller Knecht asked, we will be coming back to this in six months, and will we have some more detailed reports on the second and fourth bullets at that time?

Mr. Canavero answered, I am confident you will. We hope to engage the audit staff in some of this work. In working with the audit staff, it is very important to understand the target, we can all agree that risk assessment is important and monitoring is important. Terms of materiality are important, and those are some of the levels of detail that we are getting to, and we would love to continue to engage with the Governor's Finance Office and the auditors as we develop our systems to make sure that for the next audit we are hitting the mark and target. So, yes, we will have it to you.

Controller Knecht stated, this question of what we have done and progress we are making, and where we are. I am glad to hear that we have eclipsed, as of midnight tonight, the 40 mark and moved into 39th, and I say that in all sincerity, because despite the fact that some people find it amusing or find it suitable for their political purposes, and I am not referring to the Treasurer, to say that we are last in everything, good and first in everything bad, we are not, and K-12 education in Nevada is not. Unfortunately, where we are has been roughly 41, 42, 43 on a sustained basis, and that is not good. It is not what we want for the future of our state and our economy and our children especially, and I realize that you all are working hard to improve that, and please do.

The other part of this is one assembly member a few years ago said that in his time here, he had witnessed the systematic destruction of K-12 education in Nevada due to underfunding. That is simply not true, either. In fact, in the last ten years, K-12 is the only state funding that has increased in real terms except for health and social sciences, and you have increased substantially as the incomes of Nevada families and businesses have gone down by about 8 percent or 9 percent per person in real terms. On the same basis, K-12 funding has gone up something like 16 percent, 17 percent, or 18 percent, and that

has been documented here, and it will be documented again in this year's report, which will be out soon. Since the fact is that we have contributed substantial new resources over an 11, 12-year period, but we have not seen much progress, can you tell me why we are hopeful that more resources contributed in the last two years will turn the corner?

Mr. Canavero answered, I agree with all of what you just said and appreciate you putting that out there. The reason why I am optimistic looking forward, is it is empirically looks that way. There is good reason to look at the numbers, and the numbers that we see are strong, and whether that is early learners with access to high quality early learning centers or whether that is students who speak a language other than English and how quickly they acquire English. The numbers are there, and perhaps it takes a significant amount of time in order to see that type of change with our school districts and with our classrooms and with our kids.

Mr. Canavero continued, the other reason why I think we are seeing a pretty quick turn here on some of these investments is due to the Governor and his leadership balancing investments with accountability. And so, the dollars flow out in a categorical, meaning that they are sort of fenced in dollars that can be used for very specific purposes. Those purposes, or things, that school districts can buy or how they can serve their children are enumerated in a bill, and some of the districts do not like that, but at the end of the day, it provides a very clear opportunity for our districts to serve kids consistent with the law and then allows us to measure that. It allows the State to establish performance targets, which the State Board has done. Just couple of examples, our Zoom schools and our Victory schools, Zoom with high English learner populations and Victory with poverty, it allows us to put a clear emphasis on student outcomes that I think has somewhat been obscured by the State Department of Education's role, which 9, 11, and 13 has changed dramatically, and I think in 15 and 17, we have shown that when we talk about kids and talk about outcomes, we actually mean it, and we have the data and the accountability provisions.

Mr. Canavero explained, I think that is one of the promising practices that we can learn from as a state going forward and then knowing when to turn that accountability off when the system has been built at the district. Again, kind of zooming way out to look at the 10 or 11-year plan on sort of modernizing the Nevada plan, and then incorporating those dollars into the actual formula.

Controller Knecht asked, in referring to 39 through 44, most of the time people are talking about the NAEP results which measure what we ought to be measuring, which is outcomes, outputs, not inputs. Utah does a great job with much less inputs, but using NAEP and other measures, and you can tell me any others, based on what we are doing and what we have done in the last two years, what kind of results and improvements can we expect in the next four or five years? If we are sitting here five years from now, four years from now, what should we expect and hope to see as a result of what we have done the last two years?

Mr. Canavero answered, my hypothesis on the NAEP is going to be continued growth. Just as a point of fact, in the last NAEP assessment, our eighth-graders were called out,

and our state was called out for our eighth grade students for the gap closure, the distance between our eighth graders and the nation. We are one of three states to close it significantly. My hypothesis over the next, let's say, five years, if we continue to stay the course, and by stay the course, we don't talk about massive significant shifts, and we can demonstrate that the system that is in place now will work, is that we will see NAEP climb. If we are meeting our measures to be the fastest improving state in the nation, we will be there in five years. We will be the fastest improving state in the nation within five years, and what we use to measure that are nationally or a consortium of states. It is not just Nevada compared to Nevada, but it is Nevada compared to all of those states in our testing consortium, all of the AP, things that are the nation measures and that we can see across the nation and compare. That is our strategic plan. I think we can get there in five years.

Lieutenant Governor Hutchison noted, the audit report says that the Department does not have sufficient staff and travel funds resources to fully monitor the 12 grant programs we reviewed, and it was very candid in terms of saying adequate staffing and travel funds are necessary to ensure proper oversight of the grant programs. The audit cites that grant programs on average have 15 recipients and even quoted one staff member as saying that she managed 23 recipients of grants, and that included over 300 schools during fiscal year 2017. That is a tall order for you, Mr. Superintendent, and so it is just really a practical question for you. You have been good to accept the recommendations of the Audit Committee to set forth corrective actions, but how are you going to do that in light of what the audit reveals or what you know, and that is just limited resources?

Mr. Canavero replied, a very real tension that you point out between what the Audit Report is asking and the depth of reviews. Even when I read the review related to the contracts and the chain of custody of state dollars as they move down and through the system, how far we have to sample or where our obligation starts and stops. We are hopeful as we continue to build out the real detail with the monitoring and engage with GFO and the audit team, we have to find efficiencies, plain and simple. We have to find efficiencies.

Mr. Canavero continued, to the extent that we can find efficiencies, I do believe there is going to be a difference. There is going to be a delta between that which we believe we can professionally manage and that which we cannot and then what types of shortcuts, if you will, for lack of better term, that we can or cannot make and what that might do. Just the work we have done in the last year has put a tremendous load on the grants team as we review and develop new policies and procedures for grants management. I am not going to say there has been some overtime after listening to the first item, but there has been a little bit of overtime, because it is tough to manage all of those balls in the air at the same time. Whether or not it results in a request for the legislature to consider in a budget I think would be left to future discussion for us as we dig in and really figure out the efficiencies that we can eke out of the system and those that we cannot.

5. INFORMATION ITEM – PRESENTATION OF THE DIVISION'S SIX-MONTH FOLLOW – UP STATUS REPORTS PURSUANT TO NRS 353A.090 (TAB 5)

A. Department of Health and Human Services, Report No. 17-01 – Division of Child and Family Services, Child Mental Health Services, Warren Lowman, Executive Branch Audit Manager.

Mr. Warren Lowman introduced himself and representatives of the Division of Child and Family Services Administrator, Kelly Woodridge, and the Deputy Administrator, Cara Paoli.

Mr. Lowman explained the Division has partially implemented both recommendations from the February 2017 Audit Report. The Division is making sub-grants from its \$11 million system of care implementation grant as well as asserting leadership within the community of providers to implement our recommendation and transition state-provided specialized foster care treatment group home services to community-based providers when cost effective.

The Division reports continued efforts to expand community-based providers, to monitor the need and efficiency of state-operated treatment group homes, and to coordinate policy with Clark and Washoe Counties. The Division anticipates diminishing the reliance on state-operated facilities and expects to fully implement the recommendation by September 2019. The second recommendation is to stratify licenses for specialized foster care, treatment group home community-based providers is partially implemented as the Division works to develop a strategic plan and sustainable funding that ensures children's needs are met across the acuity spectrum. The Division reports working with Clark and Washoe Counties and the Division of Health Care Financing Policy on program and funding issues. The Division expects to fully implement this recommendation by September 2019.

Governor Sandoval asked, do you have any concerns with regard to the agency's action in the six-month follow-up?

Mr. Lowman replied, no.

Ms. Kelly Wooldridge, Administrator for the Division of Child and Family Services, stated, as Mr. Lowman indicated, this is part of our larger strategic plan for our system of care implementation grant to not only increase access to services for kids, but also improve the quality of services for kids and families, and we are right on track.

B. Office of the Secretary of State, Report No. 17-02 – Securities Division, Warren Lowman, Executive Branch Audit Manager.

Mr. Lowman introduced himself and representatives of the Office of the Secretary of State, Chief Deputy Secretary of State, Scott Anderson; Deputy Secretary of State for Operations, Cadence Matijevich, and Deputy Secretary of State for Securities, Diane Foley.

Mr. Lowman advised, three recommendations were made in the February 2017 Audit Report of the Securities Division. The office has fully implemented two of the recommendations to modify statute to designate a portion of registration fees to find

enforcement operations and to modify statute to exclude penalties and fines from funding enforcement operations. The intent of both recommendations was achieved through the budget process rather than specific changes to statute as recommended in the audit. The office has partially implemented the recommendation to improve documentation and monitoring of enforcement cases and is working to modernize the case management system. The Securities Division expects to fully implement the recommendation by July 2019.

Governor Sandoval asked, are you satisfied with the six-month follow-up? Mr. Lowman confirmed.

Mr. Scott Anderson stated, we want to thank you, the audit staff, for the tremendous work that they did, and also the Governor's Office of Finance for the support of our budget request that allowed us to comply with recommendations 1 and 2, and we are happy to report that we are well underway and much further along than our report has reflected in that we are complete with Phase 1 of our modernization of our case management tracking system and well underway with the development of Phase 2. We are ahead of schedule.

Lieutenant Governor Hutchison commented, Madam Secretary had to leave, as you know. She asked me, though, to thank Mr. Weinberger personally. He and his staff have been terrific to work with, and she appreciates his help and professionalism and said that she was looking forward to the next audit on the election division. Thank you.

C. Office of the State Controller, Report No. 17-03 – Vendor Management Services, Vita Ozoude, Executive Branch Audit Manager.

Mr. Ozoude introduced himself and the representative from the Office of the State Controller Mr. Jim Smack, Chief Deputy Controller.

Mr. Ozoude explained that two recommendations were made. One is fully implemented, and the other is no longer applicable. A recommendation to provide DocuSign training to all vendor desk employees is fully implemented. The office negotiated a new contract which included one-year online training. Access to the training was provided to all vendor desk employees. In addition, the office plans to schedule classroom training in DocuSign in Las Vegas for all agencies willing to participate in fiscal year 2018. The recommendation to reduce DocuSign envelopes purchased is no longer applicable. Due to the new contract negotiated for fiscal year 2018, reducing the number of envelopes purchased below 5,000 envelopes would double the cost per envelope.

Mr. Smack thanked Ms. Ozoude and Administrator Weinberger and the rest of the audit team for all of their assistance. This was very helpful.

Treasurer Schwartz asked, what was this going to be used for? This is DocuTell or DocuSign?

Mr. Smack answered, DocuSign is an automated way for vendors to submit their information as opposed to doing it manually by fax or by mail. They can submit their W-9 information and all that information that we need, that we require as the state, in order to register them as a vendor with the state.

Treasurer Schwartz asked, was this a new program that you were implementing?

Mr. Smack answered, it was a program that we had already implemented and one of the recommendations was to negotiate a contract with DocuSign to try to reduce the number of envelopes we are paying for, but the way DocuSign works, they give us a volume discount for 5,000 envelopes. If we order any envelope in the fiscal year 18 contract for 5,000 envelopes it comes out at \$3 per envelope. The recommendation was to go to about 3,500 envelopes, which was closer to our usage, but that would be at the per envelope price of \$6 per envelope, which is what any envelope over 5,000 would cost us now. So, if we reduced it to 3,500 at \$6 per envelope, we would actually be paying more. We did not figure that would be a prudent move on the part of our office.

Treasurer Schwartz asked, you are keeping it at 5,000?

Mr. Smack confirmed and added, additionally, we are trying to find some additional uses within our office to utilize more of the envelopes, get closer to that 5,000 mark, but yes, we are keeping it at 5,000. It's the best overall value right now for our office.

D. State Procurement Process II, Report No C17-01 – Vita Ozoude, Executive Branch Audit Manager.

Mr. Ozoude introduced himself and presented a follow-up of the Purchasing Division State Procurement Process II. Ms. Ozoude was joined by representative of the Division, Jeff Haig, Administrator.

Ms. Ozoude explained, the five recommendations from the audit are partially implemented. The first is to establish criteria for solicitation with eligibility. The Division established criteria in coordination with the Office of the Attorney General. The criteria will become part of the automated checklist to be implemented in the State's eProcurement system, which will be available to agencies in April 2018. The second is to include the criteria in legislation or the State Administrative Manual (SAM) the criteria are currently undergoing review prior to being included in the Division's procurement manual, which would be linked to SAM. A draft of the procurement manual will be presented to the Board of Examiners for approval in March 2018.

Third is to include supporting documentation and agency head authorization requirement in SAM. The Division revised the procurement manual to require agency head authorization. Agency head authorization will be automated in the State's eProcurement process, which will be available in April of 2018. The fourth is to modify Nevada Administrative Code to allow waivers for commodities. The Division hired its own in-house counsel, and their working with the Office of the Attorney General to allow waivers for commodities and anticipate full implementation by July 2018. The last recommendation

was to track expenditures made to vendors. The Division represented this would be incorporated into the eProcurement system, which is anticipated to be operational in April of 2018.

Governor Sandoval asked, the response was six months ago, so it has been a year, and in the letter, it indicates that you were looking forward to completing the recommendations by February 2018, which is a couple weeks away. So, where are you post-July 7th?

Mr. Haig answered, as noted in Vita's comments, the additional criteria have been created. They were done shortly after the initial audit meeting. We have made the decision to wait to allow us to automate this process through the State's new eProcurement system. We felt that that would provide greater controls and insight into this process, and although disappointed this is not live as yet, I think the product that we will be rolling out will be much better, will be much more user-friendly, and we will have a higher degree of confidence that we are following the process as designed.

Governor Sandoval asked, when do you expect it to go live?

Mr. Haig replied, aspects of the system went live in December of last year. The vendor self-service portal went live in December. The eProcurement system will go live to state purchasing on January 23rd of this month. We were shooting towards April 2018 to go live for state agencies, and in going live on April of 2018, it would have been without integration into the State's financial system and would have required some manual practices by the State Purchasing Team to be able to facilitate what we need out of this technology, and coincidentally, to be able to deliver on the audit reports that we are discussing this afternoon.

Mr. Haig continued, we have been working with the Controller's staff over the last couple of months on a potential integration into the state's financial system, Advantage. And just on Thursday of last week, we concluded with the technology provider, the Controller's staff and state purchasing that we can integrate into Advantage with a very routine integration, no customization, and by doing that, we will allow what is referred to as a full Rec-to-Check process within the eProcurement system. Basically, that automates the buying process from start to finish, and that integration would alleviate the manual entries that would allow us to capitalize on Recommendation 3 here, which is to track more vendor data and expenditures. The tentative timeline for full integration with Advantage would mean that eProcurement for state agencies would not go live until July.

- E. Department of Administration, Report No. 17-04 – Division of Enterprise Information Technology Services, Warren Lowman, Executive Branch Audit Manager

Mr. Warren Lowman introduced himself and the representatives for the Department of Administration and EITS, Shannon Rahming, Chief Information Officer, and David Haws, the Deputy Administrator of the Division.

Mr. Lowman explained that four recommendations were made to improve the Technology Investment Request, TIR, review process. All four recommendations are partially implemented. First, it was recommended EITS brought on the TIR review to include subject matter experts. EITS reports subject matter experts will become involved in the process to include assessing and rating TIR submittals from agencies. EITS anticipates fully implementing the recommendation by the end of this month, January 2018. Secondly, it was recommended that EITS formalize policies and procedures for TIRs. EITS reports TIR policies and procedures were being modified and formalized, including use of a new form, the Technology Investment Notification, or TIN, that agencies will be required to submit to start the TIR process. EITS anticipated fully implementing this recommendation by the end of last month, December 2017.

Third, it was recommended that EITS update the applicable NRS, NAC, SAM, and EITS TIR instructions to reflect the changes in procedures and better define requirements for the agencies. EITS reports the NRS revised wording is in review, and the formal procedures required to revise the NRS, NAC, and SAM sections will begin after finalization of the TIR policies and procedures. EITS anticipates fully implementing the recommendation in July 2019. Fourth, it was recommended that EITS collect summary data from all TIRs and TIR waivers to help identify enterprise-wide opportunities. EITS reports that a share point website has been created to capture and store TIN and TIR information. This information will assist in identifying enterprise-wide opportunities. EITS anticipates fully implementing the recommendation in July 2019.

Governor Sandoval asked, you are satisfied with the progress?

Mr. Lowman confirmed and added, time will tell, but we are confident in the direction that Director Cates and Ms. Rahming has taken, and we think we will be fine.

Governor Sandoval asked if there was presentation from the Administration.

Ms. Shannon Rahming, Chief Information Officer, stated, I want to thank the Audit Committee very much. We actually are on point, and we are on track. In fact, with No. 4, we are almost done, and that is supposed to be for July of 19. So, we already have our subject matter experts going through and looking at all of the Technology Investment Requests. We also have submitted all of our procedures for the budget book which needed to be submitted in December, and we are right on track.

6. FOR POSSIBLE ACTION – APPROVAL OF THE DIVISION’S ANNUAL AUDIT PLAN PURSUANT TO NRS 353A.038 (TAB 6)

Mr. Weinberger introduced himself and stated, we are requesting one new audit, and we have a status update on some of our audits going on right now. This does supersede the audit plan that was in the October book, and we did not actually request any audits in October. It was just kind of moving things around, and it was based on the request to move up the Board of Commissions audit, and that is scheduled to be presented this June.

So, this is an action item. The Committee may wish to request additional audits or revise the schedule.

Governor Sandoval asked, are you at full capacity right now with regard to your audits?

Mr. Weinberger answered, yes, we are. We had two vacancies and just filled one of them. We have one other vacancy.

Mr. Weinberger introduced Mr. Craig Stevenson, noting that Mr. Stevenson is an Executive Branch Auditor II and today is his first day. Mr. Weinberger further stated, we do have one other vacancy. Recruitment should end in about a week. We are hoping to get back up to full staff as soon as possible.

Controller Knecht stated that he only had one problem with the revised audit plan and commented, earlier today when we were talking about the GOED audit, I requested that it be put over based on a request I made to Mr. Hill and that he said he would provide information. That issue was outside of the scope of the audit. The problem we therefore have right now is how shall a Board Member know the scope of the audit if it is not made explicit, and I do not see it made explicit here, and so that we do not have those kind of problems in the future, how can we handle that and have a clear understanding by each member of this seven-member Committee as to what it is we are approving and what we can expect?

Mr. Weinberger answered, on the GOED audit, I think the scope was discussed. In fact, I even issued a letter to everybody on this Committee and specifically said it was limited to those two statutes that dealt with the Faraday and the Tesla projects. If we have an audit requested of us, for the most part, we know what our scope is because it is based on the request. If I pick an audit just off of my risk assessment, then it is open scope. It's really hard for me to say right now we're going to audit a huge department and tell you exactly what our scope will be if it hasn't been discussed and it hasn't been part of a request.

Controller Knecht stated, I certainly appreciate that having been not the victim, but the beneficiary of that process where, at the Governor's suggestion, you came to me within the first week that I was in office and said, would you like to be audited, and of course, like any normal human being, I said, what? And then it took about a nanosecond to say, hey, what a blessing and say, yeah, come on in and cover everything. You were not quite able to do that, but you focused on the important parts. I guess if you are putting together the audit and trying to find out where the issues are and where the productivity is in the audit, you are going to have to do that as you go. I still do have this problem in that I thought that the question that I asked about how could the public reassure itself, get the right information, and be able to make its own judgments about a matter such as GOED's efforts and its successes, I still think that is a reasonable one, and I will just say I will vote to approve this, but at some point, we need to, especially on requested audits, we need to have a clear statement so that we do not run into a misunderstanding and a misapprehension. Thank you.

Motion: Move for approval of the Division's Annual Audit Plan Pursuant to NRS 353A.038 as presented in Agenda Item No. 6
By: Attorney General Laxalt
Second: Lieutenant Governor Hutchison
Vote: Motion passed unanimously

7. ACTION - APPROVAL OF THE DIVISION'S ANNUAL REPORT RELEASED SEPTEMBER 30, 2017 PURSUANT TO NRS 353A.065 (TAB 7)

Mr. Weinberger introduced himself and stated, this is our annual report for 2017. It details our accomplishments and performance measures. It is split up into three sections, Executive Branch audits, our financial management section, which is mainly training, and our compliance review section, which they do more compliance-type reviews.

Governor Sandoval stated he had no questions but wanted to compliment Mr. Weinberger's whole staff. He further commented, I think you guys do wonderful work, and it is incredibly beneficial, and the results that you achieve for the state are monumental.

Motion: Move for approval of the Division's Annual Report released September 30, 2017, as presented in Agenda Item No. 7
By: Attorney General Laxalt
Second: Controller Knecht
Vote: Motion passed unanimously

INFORMATION ITEM – PRESENTATION OF THE ESTIMATED BENEFITS TO NEVADANS FROM THE DIVISION'S RECOMMENDATIONS

Mr. Weinberger stated, one of our performance measures is basically a rate of return. When possible, we calculate the value of our recommendations if fully implemented, and we are at \$65 to one right now, and this is the support for the \$65.

Governor Sandoval stated, great work, and it is obviously a massive savings to the people of Nevada, so I truly appreciate it.

Treasurer Schwartz asked Mr. Weinberger to repeat himself. Mr. Weinberger stated, what we do is we accumulate the estimated dollar benefit of our recommendations, and we take our cost for the annual rate of return.

Treasurer Schwartz thanked Mr. Weinberger for the clarification.

Controller Knecht asked, is that a 65-to-1 ratio?

Mr. Weinberger confirmed and added, for every dollar spent on us, the estimated benefits are \$65.

Controller Knecht asked, are you suggesting by that, that it is also the marginal ratio and that for every new dollar you get, you will also produce \$65?

Mr. Weinberger answered, I am not really suggesting anything. That is just based on our history. When I was questioned on this, and I did a lot of research to see what other audit shops do, and we are the only one that I actually found where we do not take credit for something unless we can verify it was implemented. Everybody else accumulates what they call identified savings, which means you have identified it, but does not mean that you have verified it was implemented.

Controller Knecht asked, there is 7.4 potential savings, but how much can we expect? And the answer would be we do not use the 7.4. We used what's documented after the fact.

Mr. Weinberger answered, a better example would be to use your audit, the collections audit. We had identified several million dollars in that, but to date, we have not verified they have been implemented yet. If you look at my schedule, I am not taking any credit for any of those estimates, where other shops call it identified and do take credit for it.

8. INFORMATION ITEM – PRESENTATION OF THE STATUS OF THE DIVISION'S OUTSTANDING AUDIT RECOMMENDATIONS

Mr. Steve Weinberger stated, this is self-explanatory. These are some of our outstanding recommendations. By statute, we have to go out in six months and follow-up on these, and then after that, we try and hit these annually, and these are the ones that, as of June 30th of last year, have not been fully implemented.

Governor Sandoval asked, any concerns for you in there?

Mr. Weinberger answered, it is a challenge for us, because when it comes to our resources, this is probably the lowest thing on our priority, but I always make an attempt somewhere throughout the year to take at least one auditor and assign them to nothing but following-up on these old recommendations. Some of these become no longer applicable, and some of these recommendations, surprisingly, go two or three years where it looks like nothing is going to happen, and then all of a sudden, something breaks and we get closer to actually fully implementing these.

10. INFORMATION ITEM – PRESENTATION OF THE DIVISION'S AUDIT RISK ASSESSMENT (TAB 10)

Mr. Steve Weinberger explained, we are subject to the standards of the Institute of Internal Auditors, and one of the standards requires us to disclose my risk assessment to the Committee, and that's what this is. It is based mainly on budget numbers, because that is kind of our main objective, is to try and save money for the state. So, that is how it is weighted. I also have some information regarding hotlines, too, where if I see something that warrants us getting in there right away, I will give it a high, medium sooner than normally scheduled. It's an item we'll consider at our next scheduled audit.

Controller Knecht asked, you mentioned costs to the state, do you think you have any way of looking at value to the state and value to the taxpayers of things that might not show a cost reduction, but a performance improvement?

Mr. Weinberger answered, actually, I do kind of have a catchall. I mentioned specifically the hotline, but if something else comes to our attention through a different avenue, I would definitely put some weight on that and try and get that audit done sooner than scheduled.

11. COMMITTEE MEMBER'S COMMENTS/PUBLIC COMMENTS (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The committee may place reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint.)

There were no comments.

12. PUBLIC COMMENTS (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The committee may place reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint.)

Mr. Jim Wells, Director of the Governor's Finance Office, stated, I just wanted to clarify a couple of things that were said earlier under the audits. Specifically, for the Medicaid audit, the percentage of the general fund that is relative to the total funding for Medicaid, so the state invests about \$700 million to get a \$4.1 billion budget. About 17 percent of the funding is state money, the other 83 percent, federal money, and that's because there are different breakdowns of percentages of federal share depending on the population. The children under the Children's Health Insurance Program is right now at 98 percent. The new eligibles are at 94.5 percent, and most of the rest of the population is at 66 percent. With the administration, it's split either 50-50 or 75-25. That is kind of the breakdown of the state versus federal costs as it relates to the Medicare. So, it is not a one-third, two-thirds split.

Treasurer Schwartz asked, what is the state's contribution to Medicaid?

Mr. Wells answered, In Fiscal Year 18, the state's contribution is \$681.5 million.

Treasurer Schwartz stated, that's considerably less than \$1.5. Mr. Wells replied, that is why I wanted to make sure that that was put on the record.

Treasurer Schwartz thanked Mr. Wells for the correction.

Mr. Wells further stated, the second thing that I will put on the record is relating to the Department of Corrections audit. We will be creating a technical assistance team to work with the Department of Corrections on a corrective action plan to get that under control. It will consist of people from my office, as well as the budget office, as well as the internal audits office. We have a meeting scheduled on Friday.

Governor Sandoval thanked Mr. Wells and asked to member of the public to come forward.

Mr. Keith Young stated that he had questions regarding the SYSMOD project. He asked, how was it was funded? Is it from the Highway Fund, the General Fund?

Governor Sandoval reminded Mr. Young that this time is for public comment and if he has questions, the Board would be happy to have somebody respond to those questions.

Mr. Young agreed.

13. FOR POSSIBLE ACTION - ADJOURNMENT

Motion: Adjourn the meeting.
By: Controller Knecht
Second: Attorney General Laxalt
Vote: Motion passed unanimously

Governor Sandoval adjourned the meeting.

We are pleased to make reasonable accommodations for members of the public who have disabilities and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Dale Ann Luzzi at (775) 684-0223 as soon as possible and at least two days in advance of the meeting. If you wish, you may e-mail her at daluzzi@finance.nv.gov. Supporting materials for this meeting are available at: 209 E. Musser Street, Suite 200, Carson City, NV 89701 or by contacting Dale Ann Luzzi at (775) 684-0223 or by email at daluzzi@finance.nv.gov.

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4. Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
5. Grant Sawyer Building, Capitol Police, 555 E. Washington, Las Vegas, NV 89101

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