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Patient's Compensation Fund Advisory Board Meeting

Moderated by William Ritchie, M.D., FAAOS

Friday, October 11, 2024

1:59 p.m.

Office of Superintendent of Insurance

6200 Uptown Boulevard Northeast, Fourth Floor

Albuquerque, NM 87110

Reported by: James Cogswell

JOB NO.: 6916663

A P P E A R A N C E S

List of Attendees:

William Ritchie, M.D., FAAOS, Board Chair

Kathleen J. Love, Board Vice Chair (by  
videoconference)

Ray M. Vargas II, Board Member (by videoconference)

Ellen Stevens, Board Member (by videoconference)

Carmela Starace, Board Member (by videoconference)

Alfonso B. Martinez Jr., MSN, FNP-BC, Board Member (by  
videoconference)

Mike Dekleva, Board Member (by videoconference)

Troy Clark, Board Member (by videoconference)

Vincent Ward, PCF Attorney (by videoconference)

Nick Autio, JD, Board Member

Stephen Thies, OSI Attorney (by videoconference)

Jennifer Fetherolf, Integrion (by videoconference)

Chris DeWald, Integrion (by videoconference)

James Willett (by videoconference)

Sarah Koob (by videoconference)

Jennifer Romero, OSI (by videoconference)

Debbie Luera, Integrion

Annie Jung, New Mexico Medical Society (by  
videoconference)

Debra Alvarez, OSI (by videoconference)

Sandra Duncan (by videoconference)

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A P P E A R A N C E S (Cont'd)

Taskeen Naz, OSI

Samantha Reiss (by videoconference)

Timothy Vigil, OSI (by videoconference)

James Willett (by videoconference)

Joseph Herrera, OSI

Melissa Robertson, OSI

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P R O C E E D I N G S

DR. RITCHIE: So let's call the meeting to order on time. It looks like we have enough people here, and so let's start with a roll call, please.

MS. ROBERTSON: Melissa Robertson, Office of Superintendent of Insurance.

DR. RITCHIE: Okay. Do we have -- usually --

MS. LUERA: I can do it, Dr. Ritchie.

DR. RITCHIE: Yeah? Okay. I don't have it in front of me.

MS. ROBERTSON: I think Debbie has it.

DR. RITCHIE: Yeah. Debbie usually does --

MS. LEURA: Chairman Ritchie?

DR. RITCHIE: Present.

UNIDENTIFIED SPEAKER: I don't know when they're going to call me.

MS. LEURA: Vicechair Love?

MS. LOVE: Present.

MS. LEURA: Mr. Clark?

MR. CLARK: Present.

MS. LEURA: Mr. Autio?

MR. AUTIO: Present.

MS. LEURA: Mr. Dekleva?

1 MR. DEKLEVA: Present.

2 MS. LEURA: Mr. Martinez?

3 MR. MARTINEZ: Present.

4 MS. LEURA: Ms. Starace?

5 MS. STARACE: Present.

6 MS. LEURA: Ms. Stevens?

7 And Mr. Vargas?

8 DR. RITCHIE: Okay. I think we have a  
9 quorum. Therefore, onto the next item, approval of  
10 agenda. Do I hear a move to approve the agenda?

11 MR. AUTIO: I move to approve the  
12 agenda.

13 DR. RITCHIE: Second?

14 MS. LOVE: Second. This is Kathy Love.

15 DR. RITCHIE: Thank you. Any  
16 discussion, addition, subtractions? Okay. Any  
17 objection to then the approval of the agenda? All  
18 right. Hearing none, the agenda is approved.

19 Next, the approval of minutes from the  
20 last meeting which was Wednesday September 11, 2024.  
21 Do I hear a motion on the minutes from September 11th?

22 MR. CLARK: This is Troy Clark. So  
23 moved.

24 MR. AUTIO: This is Nick Autio.  
25 Second.

1 DR. RITCHIE: Any discussion? All  
2 right. Hearing none, any objection to approval of the  
3 minutes? Okay. Minutes are therefore approved.

4 On to item number 2, discussion  
5 regarding evidence presented during the surcharge rate  
6 hearing. Okay. So before we get to the actual  
7 subcommittee's recommendations or written report, is  
8 there any discussion regarding the evidence that we  
9 had available and that we want to comment on now  
10 before looking at the report?

11 All right. Hearing none --

12 MR. CLARK: Actually, Mr. Chair, this  
13 is Troy Clark. Just one quick clarification. At the  
14 last meeting where we received the addendum that had  
15 the exhibits for the calculations excluding the batch  
16 provision, did that get included in the -- did that  
17 get admitted in as an exhibit? I couldn't recall if  
18 it did or not.

19 Because I believe our recommendations  
20 come from that, so we need to make sure that those two  
21 pages got included with the rest of the report.

22 MR. WARD: This is Vince. I can speak  
23 to this.

24 DR. RITCHIE: Thank you. Yes, sir.

25 MR. WARD: So that exhibit was attached

1 to the record. So if out just an abundance of -- this  
2 isn't noticed as a hearing, this meeting, so my view  
3 is that that summary document has been admitted into  
4 the record and it's something that you all can rely on  
5 for your recommendation.

6 MR. CLARK: Perfect. Thanks, Vince.

7 DR. RITCHIE: Thank you. Thank you for  
8 the clarification. Any other discussion?

9 All right. Proceeding on to item  
10 number 3, the advisory board's recommendation decision  
11 regarding the 2025 surcharge rates.

12 So I'd like someone from the  
13 subcommittee to present the recommendation report.  
14 Please just real briefly, you know, what was decided  
15 especially since a lot of people didn't have a chance  
16 to look at this except for a few minutes.

17 MR. AUTIO: Ray or Mike, you want to  
18 take it? Or I'm happy to do it also. Whatever you  
19 prefer.

20 MR. VARGAS: Nick, since I'm on the  
21 phone, I'd ask that you do it.

22 MR. AUTIO: Yeah. No problem.

23 MR. VARGAS: Thank you.

24 MR. AUTIO: So this is Nick Autio, for  
25 the record. We had a subcommittee of three members:

1 Mike Dekleva, Ray Vargas, and myself. And I want to  
2 thank Ray first for taking the lead on drafting these  
3 proposed findings, conclusions, and recommendations.

4 The entire subcommittee had a chance to  
5 review, offered some brief revisions, and we agreed on  
6 all the language that is in the report that I hope is  
7 in front of everyone. I hope everyone has had a  
8 chance to review.

9 First, you know, walking through really  
10 paragraphs 1 to 8 of the report, a lot of that is  
11 really focused on, you know, the law surrounding the  
12 advisory board and what our duties are as an advisory  
13 board throughout this surcharge rate setting process.  
14 So that's just really a recitation of what occurred.

15 And then as you'll see in paragraph 8  
16 there, there's a brief discussion regarding  
17 Mr. Walling's report that was prepared and admitted  
18 into evidence at the surcharge rate hearing. And  
19 we've also kind of set forth the data sources that  
20 Pinnacle relied on in paragraph 9 there.

21 Next, because, you know, a large focus  
22 of what we do here is on ensuring the solvency of the  
23 fund, we had a discussion of the deficit. We've  
24 highlighted the fact that the independent  
25 practitioner's deficit has fully been paid off.



1                   And then we looked at, you know,  
2                   between the actuary analysis and the report we  
3                   received on December 31st of 2022 and in the  
4                   subsequent report, which is the report that we heard  
5                   evidence on as part of this rate setting process. We  
6                   went through a brief history of what has happened with  
7                   the deficit, and you'll see that in paragraphs 10 to  
8                   17 of the draft.

9                   And then we really concluded there that  
10                  the fund's deficit position as of December 31, 2023,  
11                  was estimated to be \$73.6 million, which is consistent  
12                  with the evidence that was presented to us.

13                  It should be noted that that fund  
14                  deficit of 73.6 million is a decrease of 22 million  
15                  since the prior analysis that was finalized by the  
16                  actuary on December 31st of 2022. So although the  
17                  deficit is still --

18                  MS. CHRISTOFFERSON: I found this one  
19                  for 30 bucks, ships for 30 bucks.

20                  DR. RITCHIE: I'm sorry. Please mute  
21                  yourself if you haven't already.

22                  MR. AUTIO: So, you know, still a  
23                  substantial deficit, but we are making improvements.  
24                  Next we moved into a discussion that was focused on  
25                  future risk.

1           We started that discussion in paragraph  
2 18 by looking at the statutorily mandated adjustment  
3 for CPI that's applicable to independent physicians  
4 and surgeons. We went through a discussion of that  
5 CPI increase in a manner that's consistent with the  
6 evidence we received.

7           And then we also had a similar  
8 discussions of the CPI adjustment that's applicable to  
9 the independent outpatient healthcare facilities.  
10 Once again, those are the numbers taken directly from  
11 the actuarial report that was provided by Pinnacle.

12           Next, we went into a discussion  
13 regarding the allocation of the deficit between the  
14 independent physicians and the hospitals. That can be  
15 seen from paragraph 21 going down to paragraph --  
16 well, 27 arguably and really looking at, you know,  
17 what's happened with the deficit allocation there.

18           And then, you know, in that same  
19 subsection, we begin discussing, you know, the actual  
20 surcharge rates that are going to be set.

21           As you'll see in paragraph 21, because  
22 there isn't any deficit surcharge for independent  
23 physicians and surgeons and really the independent  
24 practitioners overall in the fund, there's the  
25 proposed increase of 8.6 percent that was agreed upon

1 by the board. That's for independent surgeons and  
2 physicians.

3 Now, that 8.6 percent is at an expected  
4 level. If there's a 75 percent confidence level  
5 applied, that would be 17.9 percent.

6 And then in paragraph 22, we have  
7 discussed, you know, the ongoing process of basically  
8 charging an additional 10 percent of the collective  
9 surcharge from any practice and having that be the  
10 entity surcharge which has been occurring for some  
11 time, so nothing's changed with that.

12 Next, we go into focusing on the  
13 hospitals. As I mentioned before and as can be seen  
14 in paragraph 23, \$52.4 million of the deficit has been  
15 allocated to hospitals.

16 After that, we go into in paragraph 24  
17 looking at proposed deficit surcharges for the  
18 hospitals. It'd be 19.7 percent at an expected level  
19 and 29.8 percent at a 75 percent confidence level.  
20 Those are numbers taken directly from Pinnacle's  
21 report.

22 Moving on, you know, we continued to,  
23 you know, discuss in both paragraphs from 25 to 27, we  
24 continued to discuss, you know, potential surcharges  
25 and then also the class assignment changes that we

1 heard evidence on from Pinnacle and that were  
2 documented at page 21 of Pinnacle's report.

3 Mr. Vargas was handy enough to include  
4 the actual table from Pinnacle's report in paragraph  
5 25 regarding those different class assignments.

6 And then in paragraph 28 we moved on to  
7 discussing the independent outpatient healthcare  
8 facilities. As everyone might recall in the prior  
9 policy period, we basically treated outpatient  
10 healthcare facilities as we treat other entities, just  
11 basically doing a surcharge based on 10 percent of the  
12 collective surcharge of all of the employee and  
13 qualified healthcare providers in that entity.

14 Pinnacle has recommended that we change  
15 that approach. We had an extensive discussion of that  
16 both during the hearing and after the hearing. And in  
17 paragraph 28 you can see a breakdown of the new  
18 independent outpatient healthcare facility rates, and  
19 we've also included a table there that was taken  
20 directly from Pinnacle's report.

21 And so after going through all of the  
22 evidence that was presented to us and that is in the  
23 record, we've used that evidence to reach several  
24 findings. Those findings can be found from page 5 to  
25 page 6 of the report.

1 First and most importantly -- well, not  
2 most importantly in the conclusions, but just  
3 addressing the conclusions themselves is pursuant to  
4 the votes that were taken during our previous hearing,  
5 the board in this report if accepted by the board  
6 would be recommending an increase of 8.6 percent for  
7 surcharges for independent providers that are  
8 qualified under the act.

9 For hospitals we're recommending the  
10 accepted rate increase proposed by the actuary at an  
11 expected level, which would be 19.7 percent, and that  
12 would include the deficit surcharge. So just to be  
13 clear, that's both, you know, dealing with the  
14 underlying surcharge but then also the surcharge for  
15 their deficit reduction. So that would be a 19.7  
16 increase for hospitals.

17 We have recommended keeping the, you  
18 know, independent, you know, provider-owned entities,  
19 keeping them at that assessed 10 percent of  
20 accumulative individual QHP surcharges for those QHPs  
21 who are with another practice.

22 And then we have also adopted the class  
23 assignment changes that were recommended by the  
24 actuary. That can be seen in subparagraph D.

25 And then lastly as we've discussed and

1 heard evidence on, we have -- in subparagraph E we  
2 have suggested adopting the actuary's recommendations  
3 regarding surcharge rates for independent outpatient  
4 healthcare facilities.

5 And we've actually to simplify things  
6 and to keep things as accurate as possible, we have  
7 just really copied and pasted the table that was  
8 provided by Pinnacle in its report regarding those  
9 surcharge rates for the independent outpatient  
10 healthcare facilities.

11 Lastly, and based on a discussion that  
12 the board had and voted on, we in paragraph F have  
13 recommended that the PCF shall keep data on a per  
14 procedure basis as it does for hospitals, you know,  
15 for use in determining future surcharges for  
16 independent outpatient healthcare facilities. So  
17 that's the last recommendation included in the draft  
18 report.

19 Once again, just want to thank  
20 Mr. Vargas for putting together this report, and I'm  
21 sure if anyone has any questions, one of the members  
22 of the subcommittee can hopefully answer them. Are  
23 there any questions on it?

24 MR. VARGAS: Mr. Autio, Chairman  
25 Ritchie, this is Ray Vargas. I just want to add a

1 couple of things. One is that we have two blanks for  
2 the exhibits in paragraphs 3 and 8, and that's just  
3 because I didn't have written down what was -- what  
4 exhibits were admitted. So if Ms. Luera could help us  
5 fill those in, I'd appreciate it.

6 And in reviewing this prior to the  
7 meeting today, I noticed that we have a blank  
8 paragraph number 29 we just need to delete.

9 DR. RITCHIE: Right. I see that.  
10 Okay. Then when we vote on this, we'll vote on it  
11 with those edits. But any further discussion,  
12 questions about the report, please?

13 MS. STARACE: This is Carmela. I have  
14 a question, and I'm sorry. I am an attorney, but  
15 basically I just draft wills, so I'm the patient  
16 representative and I have questions concerning  
17 paragraphs 10 through 17.

18 DR. RITCHIE: Go ahead.

19 MS. STARACE: So it looks like there  
20 was -- on paragraph 17, it says there was a decrease  
21 in 22 million since the prior analysis in the deficit,  
22 but above that it says that 32 million came from the  
23 legislature.

24 So it really feels to me like a \$10,000  
25 deficit -- a \$10 million deficit because we got 32

1 million from the taxpayers, but we still have this --  
2 and we only gained 22 million back from the deficit.

3 So I'm wondering does the proposals  
4 anticipate that there will be more legislative  
5 assistance or is this based on going forward without  
6 having to go to the legislature?

7 MR. AUTIO: This is Nick Autio. I'm  
8 happy to take a stab at that. My understanding is  
9 that the proposed surcharge rate increases set forth  
10 in the draft report are not accounting for any further  
11 legislative infusion. So these recommended surcharge  
12 increases are made on the assumption that we will not  
13 be receiving any further legislative infusion.

14 MS. STARACE: Okay. Thank you so much.

15 DR. RITCHIE: Thank you for that. Any  
16 other questions, corrections about this report or  
17 other input?

18 MS. LUERA: Hi. This is Debbie Luera.  
19 I would just request if the board agrees to do so, on  
20 page 5 under the recommendations for B for hospitals,  
21 it would be helpful just to break out what the actuary  
22 recommended for a surcharge increase or decrease and  
23 then another percentage for the deficit repayment.

24 Just because when we are putting in the  
25 new surcharges for the carriers, we take the surcharge



1 increase decrease first and then we multiply that  
2 based on the factor for the deficit reductions. So I  
3 think just for clarity and ease I guess selfishly on  
4 my part, it would be easier to have both of those  
5 numbers spelled out in the recommendation.

6 MR. CLARK: So Ms. Luera, this is Troy  
7 Clark. Are you asking us to just break the pieces out  
8 in the verbiage to say a minus 5.7 percent I guess  
9 would be a reduction as opposed to an increase on the  
10 base level with a whatever that difference is on the  
11 math? I think it's 28.6 percent increase or surcharge  
12 for the deficit for the total of 19.7. You just want  
13 to see the three parts?

14 MS. LUERA: Yes, please. That would be  
15 really helpful.

16 MR. CLARK: I'm fine with that if the  
17 rest of the committee is.

18 DR. RITCHIE: Thank you. I wondered  
19 about that, breaking that down. So thank you for  
20 clarifying that, Ms. Luera. That makes it simpler and  
21 cleaner for rate setting, et cetera. I agree  
22 wholeheartedly.

23 But are there any objections to that or  
24 further comments on that? We need to amend the report  
25 to say that. Do we have the actual math, then, to put

1 in this? Is that correct, Mr. Clark, Mr. Vargas,  
2 Mr. Autio? We want to be accurate --

3 MR. CLARK: This is Mr. Clark. I just  
4 pulled up the schedule. The numbers are for the base  
5 rate in this case a decrease of 5.7 percent and a  
6 surcharge of 26.8 percent combined for an overall 19.7  
7 percent increase. That comes straight from Exhibit 6  
8 page 1 which was the supplemental exhibit I referred  
9 to earlier provided by Mr. Walling.

10 DR. RITCHIE: And I would propose that  
11 we put in that reference as well into the report of  
12 where that comes from.

13 MS. LOVE: Nick, are you acting as the  
14 scribe on this?

15 MR. AUTIO: Yeah. You said Exhibit 6,  
16 Troy?

17 MR. CLARK: It says the exhibit is  
18 titled -- let me get back to it to make sure I read it  
19 right. Yeah. For hospitals, it is Exhibit 6 page 1  
20 which was the second page of the two additional pages  
21 that he provided without the batch.

22 MR. AUTIO: Yeah. And so just to be  
23 very clear on your request, Ms. Luera, you would like  
24 us to include that breakdown really of how we come up  
25 with the 19.7 percent increase. You would like us to

1 include that breakdown in paragraph B on page 5?

2 MS. LUERA: Yes, please.

3 MR. AUTIO: Okay.

4 MS. LUERA: I believe that's how it was  
5 done in previous years. Don't quote me on that, but  
6 it just makes it easier for us when we're having to do  
7 the calculations to set the new surcharges, provided,  
8 you know, the superintendent accepts your  
9 recommendation.

10 MR. CLARK: Since the minutes are to  
11 transcription, you will be quoted on that, just FYI.

12 MS. LUERA: Yes.

13 MR. AUTIO: I don't have any objection  
14 to making that change at all.

15 DR. RITCHIE: And we could just include  
16 that table too like we've done other tables, this  
17 table from Exhibit 6 because it's very straightforward  
18 in there.

19 MR. AUTIO: Yeah. I mean, we could  
20 take a screenshot of that and insert it also.

21 Would that work for you, Ms. Luera?

22 MS. LUERA: Sure. That would be great.  
23 Thanks.

24 MR. AUTIO: Okay. We will do that if  
25 there's no objection.

1 DR. RITCHIE: Yeah. Any objection to  
2 that from the committee, the board? Hearing none,  
3 let's then edit it. Make that edit to it. Any  
4 other -- anything else from the board as far as edits  
5 to this report?

6 MS. STARACE: This is Carmela again.  
7 I'm not trying to beat a dead horse. I just want to  
8 talk about the deficit section one more time to say  
9 one other thing because I think that the percentage  
10 increase is large, but I support it and I think it's  
11 the right thing to do.

12 And I think paragraph 17 could be a  
13 little misleading because it says in the last sentence  
14 "This is a decrease of 22 million since the prior  
15 analysis." I feel like that sentence should have a  
16 comma at the end of it and say "but that deficit was  
17 paid down in part by the 32 million that we had from  
18 the legislation."

19 Because I think people could read this  
20 and think why do we need, you know, such a high  
21 surcharge increase when it's going down anyway?

22 And if the subcommittee is saying these  
23 decisions are not based on anticipating future  
24 legislative gifts or appropriations, then I think that  
25 anybody -- any layperson reading this should be able

1 to read 17 and not say, "But look, it's going down.  
2 We don't need an increase this high."

3 DR. RITCHIE: Any comment from the --

4 MR. VARGAS: Ray Vargas --

5 DR. RITCHIE: Yeah, Mr. Vargas?

6 MR. VARGAS: Yeah. And I guess my only  
7 comment is we don't have Mr. Walling here to ask him  
8 if that number included the legislative infusion or  
9 didn't include the legislative infusion.

10 I understood him to tell us that that  
11 was a decrease irrespective of the legislative  
12 infusion, but again without him here, I'm not sure.  
13 So we just took the data from his report.

14 MS. STARACE: Right. And I understand.  
15 If we don't know, we can't put it in a final draft. I  
16 was just going off paragraph 13 which said "inclusive  
17 of the 32.5 million."

18 DR. RITCHIE: A point, Mr. Vargas,  
19 Mr. Clark, since the infusions effectively put the  
20 deficit due to private practice positions et cetera,  
21 the entire deficit is based on the hospital deficit  
22 currently.

23 And therefore, the changes are not  
24 inclusive of the legislative infusion because we're  
25 just dealing with the hospital deficit which was not

1 affected by that.

2 MR. AUTIO: And this is Nick Autio just  
3 to I guess give my thoughts on the issues. I tend to  
4 agree with Mr. Vargas. We tried very carefully in  
5 drafting this report to really just rely on what  
6 information, what evidence we had received from the  
7 actuary.

8 You know, and the actuary very  
9 specifically discussed this \$2 million decrease we're  
10 discussing. And that can be found at page 2 of the  
11 actuarial report.

12 And I do hear the concern regarding --  
13 I mean, of all people I hear the concern regarding,  
14 you know, the increases that hospitals and physicians  
15 are going to be seeing.

16 But at the same time, although we have  
17 seen that \$22 million reduction, you know, there still  
18 is an estimated \$73.6 million deficit as of December  
19 31st of 2023. So progress is good but, you know,  
20 there's still a significant deficit.

21 So I'm comfortable with that, and if  
22 people have questions as to why there is an increase,  
23 I think, you know, that can be answered by looking at  
24 paragraph 16.

25 MR. CLARK: Mr. Chair, this is --

1 MS. STARACE: I appreciate it.

2 MR. CLARK: This is Troy. I might be  
3 able to add one more item. And since I'm only working  
4 on one screen -- I'm not in the office today. I have  
5 not looked for it, but I feel confident that Mr. Autio  
6 did give the correct answer.

7 I asked a similar question for a  
8 different reason, Carmela, in the transcript. So I'd  
9 have to go back and find it in the transcript, but I  
10 specifically asked the actuary if the infusion of  
11 dollars was included in the calculations and the  
12 deficit repayments were including the calculations.

13 Because I asked on a basis of a concern  
14 that if he include the deficit repayment from last  
15 year from the hospitals, the way his math worked on  
16 the calculations of his estimates for the current  
17 years that that would overstate the need.

18 And he was very clear to say the  
19 deficit reduction both from the legislative infusion  
20 and from the hospitals was excluded from the model.  
21 So I feel very confident that the same question was  
22 answered from a different question that I had asked  
23 and Mr. Autio is representing that correctly.

24 MS. LOVE: And I think you're --

25 MS. STARACE: Thank you, Troy. I

1 actually now do remember you asking that. So I  
2 appreciate everybody giving me some education on this.

3 MR. CLARK: Not a problem. It's  
4 almost --

5 MS. LOVE: Also you're doing better  
6 than the federal government, so good for you. Our  
7 debt's smaller than that.

8 MR. MARTINEZ: This is Mr. Martinez. I  
9 think probably what we could add to that statement for  
10 Carmela is that there is a need for them to have a  
11 zero balance with the hospital deficit by the year  
12 2027, and that's why the rates are increasing because  
13 we do have to get that solvent by that time when the  
14 hospitals leave the fund.

15 MR. CLARK: Just to clarify on that,  
16 Mr. Martinez, I believe it's 2026, by the end of 2026.

17 MR. MARTINEZ: Okay. I think by 2027,  
18 so yeah, at the end of '26.

19 MR. AUTIO: And this is Nick Autio.  
20 And we've included that statement in paragraph --  
21 well, in paragraph 7, subsection B.

22 So, you know, if people are reading  
23 this report in that level of detail, they will see  
24 that very exact statement that Mr. Vargas quoted from  
25 41.5.25 F regarding the need to pay down the



1 hospital's deficit by the end of 2026. So we've got  
2 that in the report.

3 DR. RITCHIE: Okay. Any other  
4 comments? Okay. So we have before us an edited  
5 report. Is anyone unclear on the edits we've made  
6 today?

7 MR. CLARK: Mr. Chair, this is Troy.  
8 I'm prepared to make a motion to accept it with the  
9 changes, but I want to make sure because I do that  
10 that Carmela's comfortable or if there is still in her  
11 opinion need to modify paragraph 17 in any way before  
12 I make that motion.

13 MS. STARACE: No. And I reread it  
14 again, and I think that it's pretty clear that that  
15 96,000 debt is inclusive of the legislative  
16 appropriation. So that -- I just -- I don't think I  
17 read that as it was written, so I hope I didn't take  
18 us on a wild goose chase.

19 MR. CLARK: Not at all.

20 DR. RITCHIE: No, not at all.

21 MR. CLARK: If you're comfortable,  
22 then, Mr. Chair -- this is Troy Clark -- I would make  
23 a motion that we accept the report as drafted with the  
24 modifications that we have noted for alteration, which  
25 I believe are the insertion of the two exhibit

1 numbers, letters to complete the ranges; and the  
2 removal of paragraph 29; and then the insertion of the  
3 chart -- I'm trying to flip back and forth here, so  
4 bear with me -- on paragraph -- well, I guess it's  
5 letter B on page 5 that we're going to include the  
6 chart which shows the breakdown of the 19.7 percent  
7 into its two components of the minus 5.7 percent and  
8 the 26.8 percent resulting in the 19.7 percent. I  
9 apologize for that being a novel of a motion.

10 DR. RITCHIE: And I have that down as  
11 the Exhibit 6 of the addendum. Is that the same  
12 chart?

13 MR. CLARK: Exhibit 6 is the reference  
14 that we were going to I think include as a screenshot  
15 for that last paragraph B. I think Nick Autio was  
16 going to be making the -- was going to be scribing  
17 these changes. We just can't see his screen to see  
18 it, so I've tried to verbalize all of those.

19 DR. RITCHIE: You comfortable with  
20 that, Nick?

21 MR. AUTIO: Yeah. Yeah. I will make  
22 all of those changes and I will send it to Ms. Luera  
23 with all board members copied if that is acceptable to  
24 everyone else. But I would also ask Ms. Luera just to  
25 send me those exhibits letters and/or numbers,

1       whichever it is.

2                       DR. RITCHIE:   Okay.   So then let's hold  
3       that vote now, but I'm going to ask Mr. Ward about  
4       going forward since we have not seen this in writing,  
5       is there anything that we need to do to further verify  
6       that or not?

7                       MR. WARD:   Given the nature of the  
8       changes, I'm comfortable with the board acting based  
9       on the motion as accepted and not having to reconvene  
10      another meeting to look at those edits.

11                      DR. RITCHIE:   Thank you.

12                      MR. WARD:   Does that make sense?

13                      DR. RITCHIE:   Thank you.   Yes.

14                      Okay.   So I've heard the motion.   I  
15      don't think I've heard a second yet.

16                      MR. MARTINEZ:   I'll officially second  
17      that.

18                      DR. RITCHIE:   Thank you, Mr. Martinez.

19                      So let us have a roll call vote,  
20      please.   Ms. Luera?

21                      MS. ROMERO:   I can do that for you.

22                      Dr. Ritchie, do you approve?

23                      DR. RITCHIE:   Approve.

24                      MS. ROMERO:   Vicechair Love?

25                      MS. LOVE:    Approved.

1 MS. ROMERO: Mr. Clark?  
2 MR. CLARK: Approve.  
3 MS. ROMERO: Mr. Autio?  
4 MR. AUTIO: Approved.  
5 MS. ROMERO: Mr. Dekleva?  
6 MR. DEKLEVA: Approve.  
7 MS. ROMERO: Mr. Martinez?  
8 MR. MARTINEZ: Approved.  
9 MS. ROMERO: Ms. Stevens?  
10 Mr. Vargas?  
11 MR. VARGAS: Approved.  
12 MS. ROMERO: And Ms. Starace?  
13 MS. STARACE: Approved.  
14 MS. ROMERO: I do see Ms. Stevens  
15 online, but I didn't hear her for the record.  
16 Ms. Stevens?  
17 MS. STEVENS: Can you hear me now?  
18 MS. ROMERO: Yes, ma'am.  
19 MS. STEVENS: Okay. Yeah, approved.  
20 MS. ROMERO: Thank you.  
21 DR. RITCHIE: Thank you, Ms. Romero.  
22 Appreciate that. Okay. Therefore -- Yes, sir?  
23 MR. CLARK: Mr. Autio, I just forwarded  
24 the e-mail that has the full report plus the extra  
25 file. It has Exhibit 6 in it to you.

1 MR. AUTIO: Perfect. Thank you. I was  
2 actually just searching my e-mail for it, so I  
3 appreciate that, Troy.

4 MS. LUERA: Mr. Autio, I looked at the  
5 transcript of the rate hearing. We had Exhibits A and  
6 B, so there were just the two exhibits and Exhibit B  
7 is the actuarial study.

8 MR. AUTIO: And was Exhibit A the CV of  
9 Mr. Walling?

10 MS. LUERA: Yes, it was.

11 MR. AUTIO: Okay. Great. Thanks.

12 DR. RITCHIE: Excellent.

13 MS. LUERA: You're welcome.

14 DR. RITCHIE: Excellent. Excellent.

15 Okay. So it sounds like we're ready to move on to  
16 item 4, discussion of process to prepare the report to  
17 the legislature, our last order of business for this  
18 year's items.

19 So in the past we have put together  
20 another committee or had the same committee do this  
21 and meet and have this ready by end of December,  
22 beginning of January to be ready for the first day of  
23 the legislature.

24 Mr. Ward, am I correct in that or have  
25 I misspoken?

1 MR. WARD: No. You're right. We have  
2 to get this legislative report done, and I think  
3 typically we've met in early January. I would propose  
4 if possible meeting a little earlier since we've  
5 completed the report sooner than usual.

6 DR. RITCHIE: Excellent. We're getting  
7 better at this. This is good. So I totally agree  
8 with that. Does anyone have any objection to that or  
9 comments? Then how about beginning of December or we  
10 could even do it in November since we have this done.

11 MS. LOVE: I'd prefer early December.

12 DR. RITCHIE: Ms. Love, okay. I think,  
13 say, the first week of December. How does that look  
14 for people?

15 MR. CLARK: I will be out of the  
16 country until the 8th of December.

17 DR. RITCHIE: All right. Hopefully  
18 somewhere good.

19 MR. CLARK: Hopefully.

20 DR. RITCHIE: Hopefully.

21 MS. LOVE: How about the 9th? Well, so  
22 first of all, is the purpose of the meeting in  
23 December -- just help me remember -- is when we will  
24 discuss the items that we want to include in the  
25 report and then a committee will convene and then

1 introduce the report or propose a report to the group,  
2 and then we'll approve it in early January?

3 DR. RITCHIE: I believe that is what  
4 we've done in the past.

5 MR. WARD: I believe that's correct.

6 MR. CLARK: I believe that's happened.  
7 As Mr. Ward has mentioned that we're done with the  
8 report early, Mr. Chair, would it be possible that we  
9 name a subcommittee to draft that report and present  
10 it to us as a board on the 9th of December?

11 That would -- everybody's schedules  
12 just get so busy from Thanksgiving holiday through the  
13 end of the year through, you know, January 2nd or 3rd.

14 And I'd even volunteer if I need to be  
15 on that committee to help draft it to report it by  
16 then, I can do such. But I'm not sure what the rest  
17 of the board's feelings are, but it would nice not to  
18 have to meet twice in December is what I'm trying to  
19 avoid.

20 DR. RITCHIE: Precisely. Concur. Any  
21 other discussion?

22 Yes, Ms. Love?

23 MS. LOVE: I am happy to help draft it.  
24 And I'm looking at November since Troy will be out,  
25 and I could do November 19th if that would work for

1 anybody else in the afternoon.

2 DR. RITCHIE: So do --

3 MR. CLARK: Is that for a subcommittee  
4 gathering? Is that what you're speaking of, Ms. Love?

5 MS. LOVE: Well, I was thinking for --  
6 if you want to try to just put together a committee to  
7 draft the report and then present it to the group, we  
8 could present it to the group on the 19th.

9 MR. CLARK: And then making edits and  
10 finalize --

11 MS. LOVE: But if I'm hearing you  
12 correctly, it sounds like we're trying to condense the  
13 process a bit.

14 DR. RITCHIE: I think there's --

15 MR. CLARK: I'm okay with that. It  
16 sounds like you're suggesting that we meet on the  
17 19th, get the input from the board --

18 DR. RITCHIE: For the subcommittee.

19 MR. CLARK: I'm sorry, for this  
20 subcommittee, present the draft to the board, and then  
21 work through any edits to finalize on December 9th?

22 MS. LOVE: Well, that's fine too.  
23 That's actually not what I was proposing, but that's  
24 fine.

25 MR. CLARK: Oh.



1 MS. LOVE: I mean, does everybody feel  
2 like we need to have two meetings around this? Do we  
3 need to meet to talk about what goes in the report and  
4 then have a committee put the report together and then  
5 meet again to talk about what is in the report and if  
6 we like it and change it? Or can we skip that first  
7 meeting and put the subcommittee together?

8 We kind of have -- I mean, I know last  
9 year we had some dispute about, you know,  
10 philosophical perspectives about what belongs in this  
11 report. I assume that we will have that  
12 representation on the committee to discuss that.

13 But otherwise, in terms of the report  
14 to the legislature just like with the, you know, we're  
15 getting better with the process with the rate  
16 recommendations, hopefully we're getting better with  
17 the report to the legislature.

18 And so I was kind of proposing we put  
19 the committee together, draft the report, and then  
20 come together and hash it out.

21 MR. CLARK: That was my original  
22 thought, so I would prefer that.

23 MR. DEKLEVA: And this is Mike  
24 Dekleva --

25 MR. WARD: And can I just jump in?

1 MR. DEKLEVA: I'm sorry. Go ahead.

2 MR. WARD: I'm sorry. Can I just jump  
3 in really quick?

4 DR. RITCHIE: Yes, Mr. Ward.

5 MR. WARD: I just -- I want to say that  
6 I'm fine with that approach. I just want to remind  
7 everybody about the significance of avoiding a rolling  
8 quorum, and I think that when you have the two  
9 meetings, I think that it potentially reduces the  
10 likelihood of a rolling quorum.

11 So I think if the committee's going to  
12 meet before, I think the subcommittee needs to be very  
13 diligent about ensuring that you're only talking  
14 amongst yourselves since there isn't a quorum of that  
15 group.

16 And what that means is that maybe  
17 there's a little less certainty as to what the group  
18 may think, you know, when you meet after the  
19 subcommittee meeting.

20 So I'm fine with the approach. I just  
21 want to caution everybody about the rolling quorum  
22 requirement.

23 DR. RITCHIE: I appreciate that.

24 MR. CLARK: Mr. Ward, this is Troy  
25 Clark again. Let me ask and see: Would it be

1 acceptable if that subcommittee group meets -- and  
2 this is not a knock on anything about the work that  
3 was done for today because I appreciate everybody, but  
4 if we send out to the entire board that draft ahead of  
5 that meeting on December 9th to the entire board, that  
6 should avoid a rolling quorum issue; right?

7 So everybody else gets to see it and  
8 has time to review it in more than enough time coming  
9 to that December 9th meeting.

10 MR. WARD: Well, the bigger -- the  
11 rolling quorum would mean that when you circulate it,  
12 there shouldn't be any communication about the draft  
13 of that report that would indicate any decisions being  
14 made.

15 So I'm happy if it's -- it's fine if  
16 it's circulated. It's fine if it's reviewed. I think  
17 that helps people prepare for the meeting on the 9th.

18 But the important point is we can't  
19 have, like, e-mails going back and forth among each  
20 other with certain agreements or let's do this or  
21 let's do that prior to the meeting on the 9th.

22 MR. CLARK: Understood. And my thought  
23 was ahead of time meeting like a normal agenda where  
24 you have three or four days to review it as opposed to  
25 a very short period of time.

1 MR. WARD: But you're not suggesting  
2 two meetings. Are you? You're not suggesting two  
3 full meetings, though; right?

4 MR. CLARK: No.

5 MR. WARD: Yeah. So my advice is the  
6 same. I'm okay with the approach. We just -- the  
7 subcommittee needs to remain separate and apart from  
8 the full board, and it should refrain from engaging in  
9 any substantive communications that could be construed  
10 as an agreement about the content of that report prior  
11 to the meeting on the 9th.

12 MS. LOVE: I think that warning is very  
13 well taken, Vince. Thank you for that. It's a good  
14 reminder.

15 MR. CLARK: Yeah. I agree.

16 MS. LOVE: On anything this board does,  
17 we have to be careful not to create side agreements.

18 MR. DEKLEVA: And this is Mike Dekleva.  
19 I'm just going to say that I agree with the plan that  
20 Kathy has put together.

21 You know, the subcommittee can draft  
22 the report, circulate it, maybe even with an express  
23 statement in the e-mail saying here's a copy of the  
24 draft report. Please do not, you know, discuss prior  
25 to the meeting. Then we have the meeting. The 19th

1 of November's fine for me, by the way.

2 And I don't know if there was a third  
3 member of the committee. I think Troy said he would  
4 do it, Kathy said she would do it. Maybe Chairman  
5 Ritchie or Nick could be the third member.

6 But I just wanted to get on the record  
7 that I'm in favor of doing it in a way that Kathy Love  
8 presented.

9 MR. AUTIO: Yeah. This is Nick Autio.  
10 I'm happy to volunteer for the committee, and the  
11 process that's been discussed seems to make sense to  
12 me.

13 DR. RITCHIE: And Mr. Ward, the maximum  
14 size of that committee is three as I recall so as not  
15 to violate the quorum?

16 MR. WARD: So I'm a lawyer because I  
17 don't do math, but as long as we don't have a majority  
18 of folks that would constitute a quorum, we're fine.

19 MR. AUTIO: So we could have up to  
20 four, then, because it's a nine-person board.

21 MS. LOVE: So I would propose that  
22 we -- sorry. I was going to propose -- this is Kathy.  
23 I would propose that we add a patient representative  
24 to this since we've got a hospital medical society,  
25 trial lawyers.

1 MR. AUTIO: Makes good sense to me.

2 MR. CLARK: I concur. It would be  
3 great to have Carmela or Ellen join, even though we  
4 have people have experience, they make it quicker and  
5 faster, they may give a good insight like Carmela's  
6 questions were that we might want to highlight to the  
7 legislation -- legislators. I'm sorry.

8 MS. LOVE: Carmela, are you willing to  
9 do it?

10 DR. RITCHIE: Yes.

11 MS. STARACE: I'd be happy to.

12 MS. LOVE: Thank you.

13 DR. RITCHIE: Excellent. All right.  
14 Are there any objections to the people who volunteered  
15 for this, to the makeup of that subcommittee?

16 Okay. Then we are looking at the  
17 meeting being November 19th to go over the  
18 recommendations of that subcommittee, the report of  
19 that subcommittee with presumably obtaining the  
20 results of that subcommittee by the end of the week  
21 before. Does anyone have an objection or problem with  
22 November 19th? It's a Tuesday.

23 MR. CLARK: Do we have a proposed time,  
24 Mr. Chair?

25 DR. RITCHIE: I would like to do it

1 about three o'clock or something, you know, later  
2 afternoon. But how about the rest of the committee?  
3 People have any times they can't do it?

4 MR. MARTINEZ: That'll be fine for me.

5 DR. RITCHIE: Okay. Hearing no  
6 problems with that, let's try three o'clock on  
7 Tuesday, November 19th at three o'clock.

8 MR. HERRERA: Will that be here on  
9 site, sir?

10 DR. RITCHIE: And I -- yes. I am going  
11 to presume that we'd like to do it in person if  
12 possible and here at the OSI offices with the option  
13 to do it by Zoom but obviously in person is  
14 preferable. All right. Any comments?

15 So now onto the second item number 4,  
16 other matters of the board. Any other new or other  
17 business?

18 MR. CLARK: Mr. Chair, just to clarify,  
19 that would be the location of the OSI offices in  
20 Albuquerque for the 19th?

21 DR. RITCHIE: Thank you, Mr. Clark.  
22 Yes. Where we are now.

23 MR. CLARK: Perfect.

24 DR. RITCHIE: Where we are now. Not  
25 you, but where we are now.

1 Ms. Love? Yeah.

2 MS. LOVE: This is Kathy. For the  
3 report, the recommendations to the OSI, I remember  
4 last year we had a little bit of a glitch where we  
5 didn't get it signed. And so let's -- can somebody  
6 make sure that that goes to me and Chair Ritchie and  
7 get signatures on it and then we can get it back to  
8 Jennifer.

9 I assume, Jennifer, you'll be  
10 submitting that. Is that right?

11 MS. ROMERO: Yes. That's correct. If  
12 it's preferred, if you send me the draft, I can  
13 circulate it to you both to be signed and DocuSigned  
14 if that's acceptable, and then I can file it to the  
15 record.

16 DR. RITCHIE: That's acceptable to me.  
17 And doing this earlier this year, as we keep moving it  
18 up --

19 I'm sorry, Kathy, you're really  
20 garbled.

21 MR. CLARK: Yeah. That really broke  
22 up.

23 MS. LOVE: Yeah. I -- virtual  
24 connectivity interruption -- keep me in the loop and  
25 I'll sign what I need to sign.



1 DR. RITCHIE: I'm sorry. We lost most  
2 of that. Something about what you used to sign when  
3 you need to sign?

4 MS. LOVE: Sorry. I'm having audio  
5 glitches, obviously.

6 DR. RITCHIE: It's good now.

7 MS. LOVE: I didn't hear any of what  
8 Jennifer suggested, but I will sign whenever I get it.

9 DR. RITCHIE: Okay. Jennifer talked  
10 about DocuSign.

11 MS. LOVE: Sure. That's fine.

12 DR. RITCHIE: Okay. Excellent. And  
13 doing it this far ahead of time will certainly give us  
14 plenty of time to get that signature in so it can be  
15 submitted before the start of the legislature.

16 MS. LOVE: Well, and I'm talking about  
17 the report on the recommendations, the surcharge  
18 recommendations, which needs to be turned around  
19 pretty quickly.

20 DR. RITCHIE: That too.

21 MR. AUTIO: And this is Nick Autio.  
22 Mr. Chair and Ms. Love, I've just sent the revised  
23 report documenting what we've discussed today to the  
24 entire board.

25 It should -- I just replied all on the

1 e-mail Ms. Love sent earlier, so everyone should --  
2 and I just checked, and it has been sent, so everyone  
3 should have that in their inbox making the three  
4 changes: changing the exhibit letters, eliminating  
5 paragraph 29, and then revising paragraph B on page 5.  
6 I made those changes.

7 It's in your inbox if anyone, you know,  
8 has any revisions, I suppose let me know. But it  
9 might be worthwhile everyone looking at it now so we  
10 don't run into a rolling quorum issue if, you know,  
11 there is an issue. It's in everyone's inbox.

12 MS. LOVE: May I suggest that we give a  
13 deadline of Monday at five o'clock and if we don't  
14 have any changes that then Jennifer knows she can go  
15 ahead and finalize it. And Chair Ritchie and I will  
16 sign and get it sent over to the OSI because I know  
17 that they need some time to finalize their order.

18 DR. RITCHIE: That --

19 MR. WARD: Can I just -- I'm just --  
20 I'm sounding like a nervous Nellie lawyer today. I  
21 just want to remind everybody that on whatever when  
22 you review, it's for the purpose of just making sure  
23 that the intention of the motion to amend is reflected  
24 and that there aren't any other additional substantive  
25 changes to the --

1 DR. RITCHIE: Didn't come through on  
2 mine.

3 MR. WARD: Yeah. I'm not seeing it  
4 yet, Nick.

5 DR. RITCHIE: Yeah. Neither have I.

6 MS. LOVE: I've got it.

7 MR. AUTIO: Yeah. It sent. That's all  
8 I can do, unfortunately, y'all. I don't know if it's  
9 a --

10 MS. ROBERTSON: It just came through.

11 MR. AUTIO: Oh, good. It just came  
12 through, apparently.

13 MR. VARGAS: And this is Ray. I agree  
14 with Kathy that let's just make close of business  
15 Monday the deadline.

16 DR. RITCHIE: Yes. Wise. I think  
17 that's wise. And that gives us plenty of time before  
18 our deadlines.

19 Okay. Any other matters? Okay.  
20 Hearing none, we've already done the next meeting  
21 date. So unless there's any other comments from the  
22 board or any of the guests, then we will stand  
23 adjourned.

24 I want to thank everyone for their  
25 participation, their help.

1 Ms. Romero, thank you for sticking  
2 around, helping us out on this --

3 MS. ROMERO: Of course.

4 DR. RITCHIE: -- with the OSI helping  
5 out.

6 And I really thank the subcommittee  
7 that came up with this report very much. Excellent  
8 work once again, and I look forward to us finalizing  
9 everything in early November and having a great  
10 holiday. So we'll see everyone then. Thank you very  
11 much.

12 MR. CLARK: Thank you, Mr. Ritchie.

13 Ms. Love, will you be sending out a --  
14 do you want to take the lead in sending out a notice  
15 to the four of us who are going to do the subgroup for  
16 the legislative report?

17 MS. LOVE: Yep. You got it.

18 MR. CLARK: Perfect. Thank you.

19 MS. LOVE: Thanks, everybody. Have a  
20 good weekend.

21 MR. AUTIO: Thanks, everyone.

22 DR. RITCHIE: Thanks, everyone.


23 (Whereupon, the meeting concluded at  
24 2:57 p.m.)

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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JAMES COGSWELL  
Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, JENNA STERN, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JENNA STERN

[1 - add]

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<b>1</b> 8:10 18:8,19 <b>10</b> 9:7 11:8 12:11 13:19 15:17,25 <b>10,000</b> 15:24 <b>11</b> 1:5 5:20 <b>11th</b> 5:21 <b>13</b> 21:16 <b>16</b> 22:24 <b>17</b> 9:8 15:17,20 20:12 21:1 25:11 <b>17.9</b> 11:5 <b>18</b> 10:2 <b>19.7</b> 11:18 13:11,15 18:6 18:25 26:6,8 <b>19.7.</b> 17:12 <b>19th</b> 31:25 32:8 32:17 36:25 38:17,22 39:7 39:20 <b>1:59</b> 1:6	<b>3</b>	<b>6</b>	<b>5</b> 12:24 16:20 19:1 26:5 42:5 <b>5.7</b> 17:8 18:5 26:7 <b>52.4</b> 11:14
<b>2</b>	<b>4</b>	<b>7</b>	<b>6</b> 12:25 18:7,15 18:19 19:17 26:11,13 28:25 <b>6200</b> 1:10 <b>6916663</b> 1:17
<b>2</b> 6:4 22:9,10 <b>2022</b> 9:3,16 <b>2023</b> 9:10 22:19 <b>2024</b> 1:5 5:20 <b>2025</b> 7:11 <b>2026</b> 24:16,16 25:1 <b>2027</b> 24:12,17	<b>3</b> 7:10 15:2 <b>30</b> 9:19,19 <b>31</b> 9:10 <b>31st</b> 9:3,16 22:19 <b>32</b> 15:22,25 20:17 <b>32.5</b> 21:17 <b>32311</b> 45:16 <b>3rd</b> 31:13	<b>8</b>	<b>7</b> 24:21 <b>73.6</b> 9:11,14 22:18 <b>75</b> 11:4,19
	<b>4</b>	<b>9</b>	<b>8</b>
	<b>4</b> 29:16 39:15 <b>41.5.25</b> 24:25	<b>8</b> 8:10,15 15:2 <b>8.6</b> 10:25 11:3 13:6 <b>87110</b> 1:11 <b>8th</b> 30:16	<b>a</b>
		<b>9</b> 8:20 <b>96,000</b> 25:15 <b>9th</b> 30:21 31:10 32:21 35:5,9 35:17,21 36:11	<b>ability</b> 45:10 46:7

[addendum - back]

<p><b>addendum</b> 6:14 26:11</p> <p><b>addition</b> 5:16</p> <p><b>additional</b> 11:8 18:20 42:24</p> <p><b>addressing</b> 13:3</p> <p><b>adjourned</b> 43:23</p> <p><b>adjustment</b> 10:2,8</p> <p><b>admitted</b> 6:17 7:3 8:17 15:4</p> <p><b>adopted</b> 13:22</p> <p><b>adopting</b> 14:2</p> <p><b>advice</b> 36:5</p> <p><b>advisory</b> 1:1 7:10 8:12,12</p> <p><b>affected</b> 22:1</p> <p><b>afternoon</b> 32:1 39:2</p> <p><b>agenda</b> 5:10,10 5:12,17,18 35:23</p> <p><b>agree</b> 17:21 22:4 30:7 36:15,19 43:13</p> <p><b>agreed</b> 8:5 10:25</p> <p><b>agreement</b> 36:10</p> <p><b>agreements</b> 35:20 36:17</p> <p><b>agrees</b> 16:19</p>	<p><b>ahead</b> 15:18 34:1 35:4,23 41:13 42:15</p> <p><b>albuquerque</b> 1:11 39:20</p> <p><b>alfonso</b> 2:9</p> <p><b>allocated</b> 11:15</p> <p><b>allocation</b> 10:13,17</p> <p><b>alteration</b> 25:24</p> <p><b>alvarez</b> 2:24</p> <p><b>amend</b> 17:24 42:23</p> <p><b>analysis</b> 9:2,15 15:21 20:15</p> <p><b>annie</b> 2:22</p> <p><b>answer</b> 14:22 23:6</p> <p><b>answered</b> 22:23 23:22</p> <p><b>anticipate</b> 16:4</p> <p><b>anticipating</b> 20:23</p> <p><b>anybody</b> 20:25 32:1</p> <p><b>anyway</b> 20:21</p> <p><b>apart</b> 36:7</p> <p><b>apologize</b> 26:9</p> <p><b>apparently</b> 43:12</p> <p><b>applicable</b> 10:3 10:8</p> <p><b>applied</b> 11:5</p>	<p><b>appreciate</b> 15:5 23:1 24:2 28:22 29:3 34:23 35:3</p> <p><b>approach</b> 12:15 34:6,20 36:6</p> <p><b>appropriation</b> 25:16</p> <p><b>appropriations</b> 20:24</p> <p><b>approval</b> 5:9 5:17,19 6:2</p> <p><b>approve</b> 5:10 5:11 27:22,23 28:2,6 31:2</p> <p><b>approved</b> 5:18 6:3 27:25 28:4 28:8,11,13,19</p> <p><b>arguably</b> 10:16</p> <p><b>asked</b> 23:7,10 23:13,22</p> <p><b>asking</b> 17:7 24:1</p> <p><b>assessed</b> 13:19</p> <p><b>assignment</b> 11:25 13:23</p> <p><b>assignments</b> 12:5</p> <p><b>assistance</b> 16:5</p> <p><b>assume</b> 33:11 40:9</p> <p><b>assumption</b> 16:12</p>	<p><b>attached</b> 6:25</p> <p><b>attendees</b> 2:2</p> <p><b>attorney</b> 2:13 2:15 15:14 45:14 46:10</p> <p><b>audio</b> 41:4 45:8 46:3</p> <p><b>autio</b> 2:14 4:23 4:24 5:11,24 5:24 7:17,22 7:24,24 9:22 14:24 16:7,7 18:2,15,22 19:3,13,19,24 22:2,2 23:5,23 24:19,19 26:15 26:21 28:3,4 28:23 29:1,4,8 29:11 37:9,9 37:19 38:1 41:21,21 43:7 43:11 44:21</p> <p><b>available</b> 6:9</p> <p><b>avoid</b> 31:19 35:6</p> <p><b>avoiding</b> 34:7</p> <hr/> <p style="text-align: center;"><b>b</b></p> <hr/> <p><b>b</b> 2:9 16:20 19:1 24:21 26:5,15 29:6,6 42:5</p> <p><b>back</b> 16:2 18:18 23:9 26:3 35:19 40:7</p>
---	---	--	---



[balance - class]

<p><b>balance</b> 24:11  <b>base</b> 17:10 18:4  <b>based</b> 12:11  14:11 16:5  17:2 20:23  21:21 27:8  <b>basically</b> 11:7  12:9,11 15:15  <b>basis</b> 14:14  23:13  <b>batch</b> 6:15  18:21  <b>bc</b> 2:9  <b>bear</b> 26:4  <b>beat</b> 20:7  <b>beginning</b>  29:22 30:9  <b>believe</b> 6:19  19:4 24:16  25:25 31:3,5,6  <b>belongs</b> 33:10  <b>best</b> 45:10 46:6  <b>better</b> 24:5  30:7 33:15,16  <b>bigger</b> 35:10  <b>bit</b> 32:13 40:4  <b>blank</b> 15:7  <b>blanks</b> 15:1  <b>board</b> 1:1 2:3,4  2:6,7,8,9,11,12  2:14 8:12,13  11:1 13:5,5  14:12 16:19  20:2,4 26:23  27:8 31:10</p>	<p>32:17,20 35:4  35:5 36:8,16  37:20 39:16  41:24 43:22  <b>board's</b> 7:10  31:17  <b>boulevard</b> 1:10  <b>break</b> 16:21  17:7  <b>breakdown</b>  12:17 18:24  19:1 26:6  <b>breaking</b> 17:19  <b>brief</b> 8:5,16 9:6  <b>briefly</b> 7:14  <b>broke</b> 40:21  <b>bucks</b> 9:19,19  <b>business</b> 29:17  39:17 43:14  <b>busy</b> 31:12</p>	<p><b>carriers</b> 16:25  <b>case</b> 18:5  <b>caution</b> 34:21  <b>certain</b> 35:20  <b>certainly</b> 41:13  <b>certainty</b> 34:17  <b>certificate</b> 45:1  46:1  <b>certify</b> 45:4  46:2  <b>cetera</b> 17:21  21:20  <b>chair</b> 2:3,4 6:12  22:25 25:7,22  31:8 38:24  39:18 40:6  41:22 42:15  <b>chairman</b> 4:15  14:24 37:4  <b>chance</b> 7:15 8:4  8:8  <b>change</b> 12:14  19:14 33:6  <b>changed</b> 11:11  <b>changes</b> 11:25  13:23 21:23  25:9 26:17,22  27:8 42:4,6,14  42:25  <b>changing</b> 42:4  <b>charging</b> 11:8  <b>chart</b> 26:3,6,12  <b>chase</b> 25:18  <b>checked</b> 42:2</p>	<p><b>chris</b> 2:17  <b>christofferson</b>  9:18  <b>circulate</b> 35:11  36:22 40:13  <b>circulated</b>  35:16  <b>clarification</b>  6:13 7:8  <b>clarify</b> 24:15  39:18  <b>clarifying</b>  17:20  <b>clarity</b> 17:3  <b>clark</b> 2:12 4:21  4:22 5:22,22  6:12,13 7:6  17:6,7,16 18:1  18:3,3,17  19:10 21:19  22:25 23:2  24:3,15 25:7  25:19,21,22  26:13 28:1,2  28:23 30:15,19  31:6 32:3,9,15  32:19,25 33:21  34:24,25 35:22  36:4,15 38:2  38:23 39:18,21  39:23 40:21  44:12,18  <b>class</b> 11:25  12:5 13:22</p>
	<p><b>c</b></p>		
	<p><b>c</b> 2:1 3:1 4:1  <b>calculations</b>  6:15 19:7  23:11,12,16  <b>call</b> 4:2,4,18  27:19  <b>careful</b> 36:17  <b>carefully</b> 22:4  <b>carmela</b> 2:8  15:13 20:6  23:8 24:10  38:3,8  <b>carmela's</b>  25:10 38:5</p>		

[cleaner - deficit]

<p><b>cleaner</b> 17:21  <b>clear</b> 13:13  18:23 23:18  25:14  <b>close</b> 43:14  <b>cogswell</b> 1:16  45:2,17  <b>collective</b> 11:8  12:12  <b>combined</b> 18:6  <b>come</b> 6:20  18:24 33:20  43:1  <b>comes</b> 18:7,12  <b>comfortable</b>  22:21 25:10,21  26:19 27:8  <b>coming</b> 35:8  <b>comma</b> 20:16  <b>comment</b> 6:9  21:3,7  <b>comments</b>  17:24 25:4  30:9 39:14  43:21  <b>committee</b>  17:17 20:2  29:20,20 30:25  31:15 32:6  33:4,12,19  37:3,10,14  39:2  <b>committee's</b>  34:11</p>	<p><b>communication</b>  35:12  <b>communicati...</b>  36:9  <b>compensation</b>  1:1  <b>complete</b> 26:1  <b>completed</b> 30:5  <b>components</b>  26:7  <b>concern</b> 22:12  22:13 23:13  <b>concerning</b>  15:16  <b>concluded</b> 9:9  44:23  <b>conclusions</b> 8:3  13:2,3  <b>concur</b> 31:20  38:2  <b>condense</b> 32:12  <b>confidence</b>  11:4,19  <b>confident</b> 23:5  23:21  <b>connectivity</b>  40:24  <b>consistent</b> 9:11  10:5  <b>constitute</b>  37:18  <b>construed</b> 36:9  <b>cont'd</b> 3:1  <b>content</b> 36:10</p>	<p><b>continued</b>  11:22,24  <b>convene</b> 30:25  <b>copied</b> 14:7  26:23  <b>copy</b> 36:23  <b>correct</b> 18:1  23:6 29:24  31:5 40:11  <b>corrections</b>  16:16  <b>correctly</b> 23:23  32:12  <b>counsel</b> 45:11  45:14 46:7,10  <b>country</b> 30:16  <b>couple</b> 15:1  <b>course</b> 44:3  <b>cpi</b> 10:3,5,8  <b>create</b> 36:17  <b>current</b> 23:16  <b>currently</b> 21:22  <b>cv</b> 29:8</p> <hr/> <p style="text-align: center;"><b>d</b></p> <hr/> <p><b>d</b> 4:1 13:24  <b>data</b> 8:19 14:13  21:13  <b>date</b> 43:21  <b>day</b> 29:22  <b>days</b> 35:24  <b>dead</b> 20:7  <b>deadline</b> 42:13  43:15  <b>deadlines</b> 43:18</p>	<p><b>dealing</b> 13:13  21:25  <b>debbie</b> 2:21  4:12,13 16:18  <b>debra</b> 2:24  <b>debt</b> 25:15  <b>debt's</b> 24:7  <b>december</b> 9:3  9:10,16 22:18  29:21 30:9,11  30:13,16,23  31:10,18 32:21  35:5,9  <b>decided</b> 7:14  <b>decision</b> 7:10  <b>decisions</b> 20:23  35:13  <b>decrease</b> 9:14  15:20 16:22  17:1 18:5  20:14 21:11  22:9  <b>deficit</b> 8:23,25  9:7,10,14,17,23  10:13,17,22  11:14,17 13:12  13:15 15:21,25  15:25 16:2,23  17:2,12 20:8  20:16 21:20,21  21:21,25 22:18  22:20 23:12,14  23:19 24:11  25:1</p>
---	---	--	--

[dekleva - evidence]

<p><b>dekleva</b> 2:11 4:25 5:1 8:1 28:5,6 33:23 33:24 34:1 36:18,18 <b>delete</b> 15:8 <b>detail</b> 24:23 <b>determining</b> 14:15 <b>dewald</b> 2:17 <b>difference</b> 17:10 <b>different</b> 12:5 23:8,22 <b>digital</b> 45:8 46:3 <b>diligent</b> 34:13 <b>directly</b> 10:10 11:20 12:20 <b>discuss</b> 11:23 11:24 30:24 33:12 36:24 <b>discussed</b> 11:7 13:25 22:9 37:11 41:23 <b>discussing</b> 10:19 12:7 22:10 <b>discussion</b> 5:16 6:1,4,8 7:8 8:16,23 9:24 10:1,4,12 12:15 14:11 15:11 29:16 31:21</p>	<p><b>discussions</b> 10:8 <b>dispute</b> 33:9 <b>document</b> 7:3 <b>documented</b> 12:2 <b>documenting</b> 41:23 <b>docusign</b> 41:10 <b>docusigned</b> 40:13 <b>doing</b> 12:11 24:5 37:7 40:17 41:13 <b>dollars</b> 23:11 <b>dr</b> 4:2,7,9,10,13 4:16 5:8,13,15 6:1,24 7:7 9:20 15:9,18 16:15 17:18 18:10 19:15 20:1 21:3,5,18 25:3 25:20 26:10,19 27:2,11,13,18 27:22,23 28:21 29:12,14 30:6 30:12,17,20 31:3,20 32:2 32:14,18 34:4 34:23 37:13 38:10,13,25 39:5,10,21,24 40:16 41:1,6,9 41:12,20 42:18 43:1,5,16 44:4</p>	<p>44:22 <b>draft</b> 9:8 14:17 15:15 16:10 21:15 31:9,15 31:23 32:7,20 33:19 35:4,12 36:21,24 40:12 <b>drafted</b> 25:23 <b>drafting</b> 8:2 22:5 <b>due</b> 21:20 <b>duly</b> 45:5 <b>duncan</b> 2:25 <b>duties</b> 8:12</p> <hr/> <p style="text-align: center;"><b>e</b></p> <hr/> <p><b>e</b> 2:1,1 3:1,1 4:1 4:1 14:1 28:24 29:2 35:19 36:23 42:1 <b>earlier</b> 18:9 30:4 40:17 42:1 <b>early</b> 30:3,11 31:2,8 44:9 <b>ease</b> 17:3 <b>easier</b> 17:4 19:6 <b>edit</b> 20:3,3 <b>edited</b> 25:4 <b>edits</b> 15:11 20:4 25:5 27:10 32:9,21 <b>education</b> 24:2 <b>effectively</b> 21:19</p>	<p><b>eliminating</b> 42:4 <b>ellen</b> 2:7 38:3 <b>employed</b> 45:11,14 46:8 46:11 <b>employee</b> 12:12 45:13 46:10 <b>engaging</b> 36:8 <b>ensuring</b> 8:22 34:13 <b>entire</b> 8:4 21:21 35:4,5 41:24 <b>entities</b> 12:10 13:18 <b>entity</b> 11:10 12:13 <b>es</b> 45:4 <b>especially</b> 7:15 <b>estimated</b> 9:11 22:18 <b>estimates</b> 23:16 <b>et</b> 17:21 21:20 <b>everybody</b> 24:2 33:1 34:7,21 35:3,7 42:21 44:19 <b>everybody's</b> 31:11 <b>everyone's</b> 42:11 <b>evidence</b> 6:5,8 8:18 9:5,12 10:6 12:1,22 12:23 14:1</p>
---	---	---	---

[evidence - government]

<p>22:6  <b>exact</b> 24:24  <b>excellent</b> 29:12  29:14,14 30:6  38:13 41:12  44:7  <b>except</b> 7:16  <b>excluded</b> 23:20  <b>excluding</b> 6:15  <b>exhibit</b> 6:17,25  18:7,8,15,17,19  19:17 25:25  26:11,13 28:25  29:6,8 42:4  <b>exhibits</b> 6:15  15:2,4 26:25  29:5,6  <b>expected</b> 11:3  11:18 13:11  <b>experience</b> 38:4  <b>express</b> 36:22  <b>extensive</b> 12:15  <b>extra</b> 28:24</p>	<p><b>favor</b> 37:7  <b>federal</b> 24:6  <b>feel</b> 20:15 23:5  23:21 33:1  <b>feelings</b> 31:17  <b>feels</b> 15:24  <b>fetherolf</b> 2:16  <b>file</b> 28:25 40:14  <b>fill</b> 15:5  <b>final</b> 21:15  <b>finalize</b> 32:10  32:21 42:15,17  <b>finalized</b> 9:15  <b>finalizing</b> 44:8  <b>financially</b>  45:15 46:11  <b>find</b> 23:9  <b>findings</b> 8:3  12:24,24  <b>fine</b> 17:16  32:22,24 34:6  34:20 35:15,16  37:1,18 39:4  41:11  <b>first</b> 8:2,9 13:1  17:1 29:22  30:13,22 33:6  <b>five</b> 42:13  <b>flip</b> 26:3  <b>floor</b> 1:10  <b>fnp</b> 2:9  <b>focus</b> 8:21  <b>focused</b> 8:11  9:24</p>	<p><b>focusing</b> 11:12  <b>folks</b> 37:18  <b>foregoing</b> 45:3  45:4 46:4  <b>forth</b> 8:19 16:9  26:3 35:19  <b>forward</b> 16:5  27:4 44:8  <b>forwarded</b>  28:23  <b>found</b> 9:18  12:24 22:10  <b>four</b> 35:24  37:20 44:15  <b>fourth</b> 1:10  <b>friday</b> 1:5  <b>front</b> 4:11 8:7  <b>full</b> 28:24 36:3  36:8  <b>fully</b> 8:25  <b>fund</b> 1:1 8:23  9:13 10:24  24:14  <b>fund's</b> 9:10  <b>further</b> 15:11  16:10,13 17:24  27:5 45:13  46:9  <b>future</b> 9:25  14:15 20:23  <b>fyi</b> 19:11</p>	<p><b>garbled</b> 40:20  <b>gathering</b> 32:4  <b>getting</b> 30:6  33:15,16  <b>gifts</b> 20:24  <b>give</b> 22:3 23:6  38:5 41:13  42:12  <b>given</b> 27:7  <b>gives</b> 43:17  <b>giving</b> 24:2  <b>glitch</b> 40:4  <b>glitches</b> 41:5  <b>go</b> 11:12,16  15:18 16:6  23:9 34:1  38:17 42:14  <b>goes</b> 33:3 40:6  <b>going</b> 4:18  10:15,20 12:21  16:5 20:21  21:1,16 22:15  26:5,14,16,16  27:3,4 34:11  35:19 36:19  37:22 39:10  44:15  <b>good</b> 22:19  24:6 30:7,18  36:13 38:1,5  41:6 43:11  44:20  <b>goose</b> 25:18  <b>government</b>  24:6</p>
<p><b>f</b></p>			
<p><b>f</b> 14:12 24:25  <b>faaos</b> 1:4 2:3  <b>facilities</b> 10:9  12:8,10 14:4  14:10,16  <b>facility</b> 12:18  <b>fact</b> 8:24  <b>factor</b> 17:2  <b>far</b> 20:4 41:13  <b>faster</b> 38:5</p>			
		<p><b>g</b></p>	
		<p><b>g</b> 4:1  <b>gained</b> 16:2</p>	

[great - it'd]

<p><b>great</b> 19:22 29:11 38:3 44:9 <b>group</b> 31:1 32:7,8 34:15 34:17 35:1 <b>guess</b> 17:3,8 21:6 22:3 26:4 <b>guests</b> 43:22</p>	<p><b>helpful</b> 16:21 17:15 <b>helping</b> 44:2,4 <b>helps</b> 35:17 <b>hereto</b> 45:15 46:11 <b>herrera</b> 3:6 39:8 <b>hi</b> 16:18 <b>high</b> 20:20 21:2 <b>highlight</b> 38:6 <b>highlighted</b> 8:24 <b>history</b> 9:6 <b>hold</b> 27:2 <b>holiday</b> 31:12 44:10 <b>hope</b> 8:6,7 25:17 <b>hopefully</b> 14:22 30:17,19,20 33:16 <b>horse</b> 20:7 <b>hospital</b> 21:21 21:25 24:11 37:24 <b>hospital's</b> 25:1 <b>hospitals</b> 10:14 11:13,15,18 13:9,16 14:14 16:20 18:19 22:14 23:15,20 24:14</p>	<p><b>i</b></p> <p><b>ii</b> 2:6 <b>important</b> 35:18 <b>importantly</b> 13:1,2 <b>improvements</b> 9:23 <b>inbox</b> 42:3,7,11 <b>include</b> 12:3 13:12 18:24 19:1,15 21:9 23:14 26:5,14 30:24 <b>included</b> 6:16 6:21 12:19 14:17 21:8 23:11 24:20 <b>including</b> 23:12 <b>inclusive</b> 21:16 21:24 25:15 <b>increase</b> 10:5 10:25 13:6,10 13:16 16:22 17:1,9,11 18:7 18:25 20:10,21 21:2 22:22 <b>increases</b> 16:9 16:12 22:14 <b>increasing</b> 24:12 <b>independent</b> 8:24 10:3,9,14 10:22,23 11:1 12:7,18 13:7</p>	<p>13:18 14:3,9 14:16 <b>indicate</b> 35:13 <b>individual</b> 13:20 <b>information</b> 22:6 <b>infusion</b> 16:11 16:13 21:8,9 21:12,24 23:10 23:19 <b>infusions</b> 21:19 <b>input</b> 16:17 32:17 <b>insert</b> 19:20 <b>insertion</b> 25:25 26:2 <b>insight</b> 38:5 <b>insurance</b> 1:9 4:6 <b>integriion</b> 2:16 2:17,21 <b>intention</b> 42:23 <b>interested</b> 45:15 46:12 <b>interruption</b> 40:24 <b>introduce</b> 31:1 <b>irrespective</b> 21:11 <b>issue</b> 35:6 42:10,11 <b>issues</b> 22:3 <b>it'd</b> 11:18</p>
<p><b>h</b></p>			
<p><b>handy</b> 12:3 <b>happened</b> 9:6 10:17 31:6 <b>happy</b> 7:18 16:8 31:23 35:15 37:10 38:11 <b>hash</b> 33:20 <b>healthcare</b> 10:9 12:7,10,13,18 14:4,10,16 <b>hear</b> 5:10,21 22:12,13 28:15 28:17 41:7 <b>heard</b> 9:4 12:1 14:1 27:14,15 <b>hearing</b> 5:18 6:2,6,11 7:2 8:18 12:16,16 13:4 20:2 29:5 32:11 39:5 43:20 <b>help</b> 15:4 30:23 31:15,23 43:25</p>			

[item - made]

<p><b>item</b> 5:9 6:4 7:9 23:3 29:16 39:15 <b>items</b> 29:18 30:24</p>	<p><b>kind</b> 8:19 33:8 33:18 <b>knock</b> 35:2 <b>know</b> 4:17 7:14 8:9,11,21 9:1 9:22 10:16,18 10:19 11:7,22 11:23,24 13:13 13:18,18 14:14 19:8 20:20 21:15 22:8,14 22:17,19,23 24:22 31:13 33:8,9,14 34:18 36:21,24 37:2 39:1 42:7 42:8,10,16 43:8</p>	<p><b>lead</b> 8:2 44:14 <b>leave</b> 24:14 <b>legislation</b> 20:18 38:7 <b>legislative</b> 16:4 16:11,13 20:24 21:8,9,11,24 23:19 25:15 30:2 44:16 <b>legislators</b> 38:7 <b>legislature</b> 15:23 16:6 29:17,23 33:14 33:17 41:15 <b>letter</b> 26:5 <b>letters</b> 26:1,25 42:4 <b>leura</b> 4:15,19 4:21,23,25 5:2 5:4,6 <b>level</b> 11:4,4,18 11:19 13:11 17:10 24:23</p>	<p><b>looking</b> 6:10 10:2,16 11:17 22:23 31:24 38:16 42:9 <b>looks</b> 4:3 15:19 <b>loop</b> 40:24 <b>lost</b> 41:1 <b>lot</b> 7:15 8:10 <b>love</b> 2:4 4:19,20 5:14,14 18:13 23:24 24:5 27:24,25 30:11 30:12,21 31:22 31:23 32:4,5 32:11,22 33:1 36:12,16 37:7 37:21 38:8,12 40:1,2,23 41:4 41:7,11,16,22 42:1,12 43:6 44:13,17,19 <b>luera</b> 2:21 4:9 15:4 16:18,18 17:6,14,20 18:23 19:2,4 19:12,21,22 26:22,24 27:20 29:4,10,13</p>
<p><b>j</b></p>			
<p><b>j</b> 2:4 <b>james</b> 1:16 2:18 3:5 45:2,17 <b>january</b> 29:22 30:3 31:2,13 <b>jd</b> 2:14 <b>jenna</b> 46:2,15 <b>jennifer</b> 2:16 2:20 40:8,9 41:8,9 42:14 <b>job</b> 1:17 <b>join</b> 38:3 <b>joseph</b> 3:6 <b>jr</b> 2:9 <b>jump</b> 33:25 34:2 <b>jung</b> 2:22</p>	<p><b>knowledge</b> 45:10 46:6 <b>knows</b> 42:14 <b>koob</b> 2:19</p>	<p><b>likelihood</b> 34:10 <b>list</b> 2:2 <b>little</b> 20:13 30:4 34:17 40:4 <b>location</b> 39:19 <b>long</b> 37:17 <b>look</b> 7:16 21:1 27:10 30:13 44:8 <b>looked</b> 9:1 23:5 29:4</p>	
<p><b>k</b></p>	<p><b>language</b> 8:6</p>		
<p><b>kathleen</b> 2:4 <b>kathy</b> 5:14 36:20 37:4,7 37:22 40:2,19 43:14 <b>keep</b> 14:6,13 40:17,24 <b>keeping</b> 13:17 13:19</p>	<p><b>large</b> 8:21 20:10 <b>lastly</b> 13:25 14:11 <b>law</b> 8:11 <b>lawyer</b> 37:16 42:20 <b>lawyers</b> 37:25 <b>layperson</b> 20:25</p>		<p><b>m</b></p> <p><b>m</b> 2:6 <b>m.d.</b> 1:4 2:3 <b>ma'am</b> 28:18 <b>made</b> 16:12 25:5 35:14 42:6</p>

[mail - notice]

<p><b>mail</b> 28:24 29:2 36:23 42:1 <b>mails</b> 35:19 <b>majority</b> 37:17 <b>make</b> 6:20 18:18 20:3 25:8,9,12,22 26:21 27:12 37:11 38:4 40:6 43:14 <b>makes</b> 17:20 19:6 38:1 <b>makeup</b> 38:15 <b>making</b> 9:23 19:14 26:16 32:9 42:3,22 <b>mandated</b> 10:2 <b>manner</b> 10:5 <b>martinez</b> 2:9 5:2,3 24:8,8,16 24:17 27:16,18 28:7,8 39:4 <b>math</b> 17:11,25 23:15 37:17 <b>matters</b> 39:16 43:19 <b>maximum</b> 37:13 <b>mean</b> 19:19 22:13 33:1,8 35:11 <b>means</b> 34:16 <b>medical</b> 2:22 37:24</p>	<p><b>meet</b> 29:21 31:18 32:16 33:3,5 34:12 34:18 <b>meeting</b> 1:1 4:2 5:20 6:14 7:2 15:7 27:10 30:4,22 33:7 34:19 35:5,9 35:17,21,23 36:11,25,25 38:17 43:20 44:23 <b>meetings</b> 33:2 34:9 36:2,3 <b>meets</b> 35:1 <b>melissa</b> 3:7 4:5 <b>member</b> 2:6,7,8 2:9,11,12,14 37:3,5 <b>members</b> 7:25 14:21 26:23 <b>mentioned</b> 11:13 31:7 <b>met</b> 30:3 <b>mexico</b> 2:22 45:19 <b>mike</b> 2:11 7:17 8:1 33:23 36:18 <b>million</b> 9:11,14 9:14 11:14 15:21,22,25 16:1,2 20:14 20:17 21:17</p>	<p>22:9,17,18 <b>mine</b> 43:2 <b>minus</b> 17:8 26:7 <b>minutes</b> 5:19 5:21 6:3,3 7:16 19:10 <b>misleading</b> 20:13 <b>misspoken</b> 29:25 <b>model</b> 23:20 <b>moderated</b> 1:4 <b>modifications</b> 25:24 <b>modify</b> 25:11 <b>monday</b> 42:13 43:15 <b>motion</b> 5:21 25:8,12,23 26:9 27:9,14 42:23 <b>move</b> 5:10,11 29:15 <b>moved</b> 5:23 9:24 12:6 <b>moving</b> 11:22 40:17 <b>msn</b> 2:9 <b>multiply</b> 17:1 <b>mute</b> 9:20</p>	<p><b>nature</b> 27:7 <b>naz</b> 3:2 <b>need</b> 6:20 15:8 17:24 20:20 21:2 23:17 24:10,25 25:11 27:5 31:14 33:2,3 40:25 41:3 42:17 <b>needs</b> 34:12 36:7 41:18 <b>neither</b> 43:5 45:11 46:7 <b>nellie</b> 42:20 <b>nervous</b> 42:20 <b>new</b> 2:22 12:17 16:25 19:7 39:16 45:19 <b>nice</b> 31:17 <b>nick</b> 2:14 5:24 7:20,24 16:7 18:13 22:2 24:19 26:15,20 37:5,9 41:21 43:4 <b>nine</b> 37:20 <b>nm</b> 1:11 <b>normal</b> 35:23 <b>northeast</b> 1:10 <b>notary</b> 45:18 <b>noted</b> 9:13 25:24 <b>nothing's</b> 11:11 <b>notice</b> 44:14</p>
		<p><b>n</b></p>	
		<p><b>n</b> 2:1 3:1 4:1 <b>name</b> 31:9</p>	

[noticed - perspectives]

<p><b>noticed</b> 7:2 15:7 <b>novel</b> 26:9 <b>november</b> 30:10 31:24,25 38:17,22 39:7 44:9 <b>november's</b> 37:1 <b>number</b> 6:4 7:10 15:8 21:8 39:15 <b>numbers</b> 10:10 11:20 17:5 18:4 26:1,25</p>	<p><b>office</b> 1:9 4:6 23:4 <b>officer</b> 45:2 <b>offices</b> 39:12,19 <b>officially</b> 27:16 <b>oh</b> 32:25 43:11 <b>okay</b> 4:7,10 5:8 5:16 6:3,6 15:10 16:14 19:3,24 24:17 25:3,4 27:2,14 28:19,22 29:11 29:15 30:12 32:15 36:6 38:16 39:5 41:9,12 43:19 43:19 <b>once</b> 10:10 14:19 44:8 <b>ongoing</b> 11:7 <b>online</b> 28:15 <b>opinion</b> 25:11 <b>opposed</b> 17:9 35:24 <b>option</b> 39:12 <b>order</b> 4:3 29:17 42:17 <b>original</b> 33:21 <b>osi</b> 2:15,20,24 3:2,4,6,7 39:12 39:19 40:3 42:16 44:4 <b>outcome</b> 45:16 46:12</p>	<p><b>outpatient</b> 10:9 12:7,9,18 14:3 14:9,16 <b>overall</b> 10:24 18:6 <b>overstate</b> 23:17 <b>owned</b> 13:18</p> <p style="text-align: center;"><b>p</b></p> <p><b>p</b> 2:1,1 3:1,1 4:1 <b>p.m.</b> 1:6 44:24 <b>page</b> 12:2,24,25 16:20 18:8,19 18:20 19:1 22:10 26:5 42:5 <b>pages</b> 6:21 18:20 <b>paid</b> 8:25 20:17 <b>paragraph</b> 8:15,20 10:1 10:15,15,21 11:6,14,16 12:4,6,17 14:12 15:8,20 19:1 20:12 21:16 22:24 24:20,21 25:11 26:2,4,15 42:5 42:5 <b>paragraphs</b> 8:10 9:7 11:23 15:2,17 <b>part</b> 9:5 17:4 20:17</p>	<p><b>participation</b> 43:25 <b>parties</b> 45:12 45:14 46:8,11 <b>parts</b> 17:13 <b>past</b> 29:19 31:4 <b>pasted</b> 14:7 <b>patient</b> 15:15 37:23 <b>patient's</b> 1:1 <b>pay</b> 24:25 <b>pcf</b> 2:13 14:13 <b>people</b> 4:3 7:15 20:19 22:13,22 24:22 30:14 35:17 38:4,14 39:3 <b>percent</b> 10:25 11:3,4,5,8,18 11:19,19 12:11 13:6,11,19 17:8,11 18:5,6 18:7,25 26:6,7 26:8,8 <b>percentage</b> 16:23 20:9 <b>perfect</b> 7:6 29:1 39:23 44:18 <b>period</b> 12:9 35:25 <b>person</b> 37:20 39:11,13 <b>perspectives</b> 33:10</p>
<b>o</b>			
<p><b>o</b> 4:1 <b>o'clock</b> 39:1,6,7 42:13 <b>objection</b> 5:17 6:2 19:13,25 20:1 30:8 38:21 <b>objections</b> 17:23 38:14 <b>obtaining</b> 38:19 <b>obviously</b> 39:13 41:5 <b>occurred</b> 8:14 <b>occurring</b> 11:10 <b>october</b> 1:5 <b>offered</b> 8:5</p>			



[philosophical - ranges]

<p><b>philosophical</b> 33:10</p> <p><b>phone</b> 7:21</p> <p><b>physicians</b> 10:3 10:14,23 11:2 22:14</p> <p><b>pieces</b> 17:7</p> <p><b>pinnacle</b> 8:20 10:11 12:1,14 14:8</p> <p><b>pinnacle's</b> 11:20 12:2,4 12:20</p> <p><b>plan</b> 36:19</p> <p><b>please</b> 4:4 7:14 9:20 15:12 17:14 19:2 27:20 36:24</p> <p><b>plenty</b> 41:14 43:17</p> <p><b>plus</b> 28:24</p> <p><b>point</b> 21:18 35:18</p> <p><b>policy</b> 12:9</p> <p><b>position</b> 9:10</p> <p><b>positions</b> 21:20</p> <p><b>possible</b> 14:6 30:4 31:8 39:12</p> <p><b>potential</b> 11:24</p> <p><b>potentially</b> 34:9</p> <p><b>practice</b> 11:9 13:21 21:20</p>	<p><b>practitioner's</b> 8:25</p> <p><b>practitioners</b> 10:24</p> <p><b>precisely</b> 31:20</p> <p><b>prefer</b> 7:19 30:11 33:22</p> <p><b>preferable</b> 39:14</p> <p><b>preferred</b> 40:12</p> <p><b>prepare</b> 29:16 35:17</p> <p><b>prepared</b> 8:17 25:8 46:3</p> <p><b>present</b> 4:16,20 4:22,24 5:1,3,5 7:13 31:9 32:7 32:8,20</p> <p><b>presented</b> 6:5 9:12 12:22 37:8</p> <p><b>presumably</b> 38:19</p> <p><b>presume</b> 39:11</p> <p><b>pretty</b> 25:14 41:19</p> <p><b>previous</b> 13:4 19:5</p> <p><b>prior</b> 9:15 12:8 15:6,21 20:14 35:21 36:10,24 45:5</p> <p><b>private</b> 21:20</p>	<p><b>probably</b> 24:9</p> <p><b>problem</b> 7:22 24:3 38:21</p> <p><b>problems</b> 39:6</p> <p><b>procedure</b> 14:14</p> <p><b>proceeding</b> 7:9 46:4</p> <p><b>proceedings</b> 45:3,5,6,9 46:6</p> <p><b>process</b> 8:13 9:5 11:7 29:16 32:13 33:15 37:11</p> <p><b>progress</b> 22:19</p> <p><b>proposals</b> 16:3</p> <p><b>propose</b> 18:10 30:3 31:1 37:21,22,23</p> <p><b>proposed</b> 8:3 10:25 11:17 13:10 16:9 38:23</p> <p><b>proposing</b> 32:23 33:18</p> <p><b>provided</b> 10:11 14:8 18:9,21 19:7</p> <p><b>provider</b> 13:18</p> <p><b>providers</b> 12:13 13:7</p> <p><b>provision</b> 6:16</p> <p><b>public</b> 45:18</p> <p><b>pulled</b> 18:4</p>	<p><b>purpose</b> 30:22 42:22</p> <p><b>pursuant</b> 13:3</p> <p><b>put</b> 17:25 18:11 21:15,19 29:19 32:6 33:4,7,18 36:20</p> <p><b>putting</b> 14:20 16:24</p> <hr/> <p style="text-align: center;"><b>q</b></p> <hr/> <p><b>qhp</b> 13:20</p> <p><b>qhps</b> 13:20</p> <p><b>qualified</b> 12:13 13:8 45:7</p> <p><b>question</b> 15:14 23:7,21,22</p> <p><b>questions</b> 14:21 14:23 15:12,16 16:16 22:22 38:6</p> <p><b>quick</b> 6:13 34:3</p> <p><b>quicker</b> 38:4</p> <p><b>quickly</b> 41:19</p> <p><b>quorum</b> 5:9 34:8,10,14,21 35:6,11 37:15 37:18 42:10</p> <p><b>quote</b> 19:5</p> <p><b>quoted</b> 19:11 24:24</p> <hr/> <p style="text-align: center;"><b>r</b></p> <hr/> <p><b>r</b> 2:1 3:1 4:1</p> <p><b>ranges</b> 26:1</p>
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[rate - right]

<p><b>rate</b> 6:5 8:13,18 9:5 13:10 16:9 17:21 18:5 29:5 33:15 <b>rates</b> 7:11 10:20 12:18 14:3,9 24:12 <b>ray</b> 2:6 7:17 8:1 8:2 14:25 21:4 43:13 <b>reach</b> 12:23 <b>read</b> 18:18 20:19 21:1 25:17 <b>reading</b> 20:25 24:22 <b>ready</b> 29:15,21 29:22 <b>real</b> 7:14 <b>really</b> 8:9,11,14 9:9 10:16,23 14:7 15:24 17:15 18:24 22:5 34:3 40:19,21 44:6 <b>reason</b> 23:8 <b>recall</b> 6:17 12:8 37:14 <b>received</b> 6:14 9:3 10:6 22:6 <b>receiving</b> 16:13 <b>recitation</b> 8:14 <b>recommendat...</b> 7:5,10,13 14:17 17:5</p>	<p>19:9 <b>recommendat...</b> 6:7,19 8:3 14:2 16:20 33:16 38:18 40:3 41:17,18 <b>recommended</b> 12:14 13:17,23 14:13 16:11,22 <b>recommending</b> 13:6,9 <b>reconvene</b> 27:9 <b>record</b> 7:1,4,25 12:23 28:15 37:6 40:15 45:9 46:5 <b>recorded</b> 45:6 <b>recording</b> 45:8 46:4 <b>reduced</b> 45:7 <b>reduces</b> 34:9 <b>reduction</b> 13:15 17:9 22:17 23:19 <b>reductions</b> 17:2 <b>reference</b> 18:11 26:13 <b>referred</b> 18:8 <b>reflected</b> 42:23 <b>refrain</b> 36:8 <b>regarding</b> 6:5,8 7:11 8:16 10:13 12:5 14:3,8 22:12 22:13 24:25</p>	<p><b>reiss</b> 3:3 <b>related</b> 45:11 46:7 <b>relative</b> 45:13 46:10 <b>relied</b> 8:20 <b>rely</b> 7:4 22:5 <b>remain</b> 36:7 <b>remember</b> 24:1 30:23 40:3 <b>remind</b> 34:6 42:21 <b>reminder</b> 36:14 <b>removal</b> 26:2 <b>repayment</b> 16:23 23:14 <b>repayments</b> 23:12 <b>replied</b> 41:25 <b>report</b> 6:7,10 6:21 7:13 8:6 8:10,17 9:2,4,4 10:11 11:21 12:2,4,20,25 13:5 14:8,18 14:20 15:12 16:10,16 17:24 18:11 20:5 21:13 22:5,11 24:23 25:2,5 25:23 28:24 29:16 30:2,5 30:25 31:1,1,8 31:9,15 32:7 33:3,4,5,11,13</p>	<p>33:17,19 35:13 36:10,22,24 38:18 40:3 41:17,23 44:7 44:16 <b>reported</b> 1:16 <b>representation</b> 33:12 <b>representative</b> 15:16 37:23 <b>representing</b> 23:23 <b>request</b> 16:19 18:23 <b>requirement</b> 34:22 <b>reread</b> 25:13 <b>rest</b> 6:21 17:17 31:16 39:2 <b>resulting</b> 26:8 <b>results</b> 38:20 <b>review</b> 8:5,8 35:8,24 42:22 <b>reviewed</b> 35:16 <b>reviewing</b> 15:6 <b>revised</b> 41:22 <b>revising</b> 42:5 <b>revisions</b> 8:5 42:8 <b>right</b> 5:18 6:2 6:11 7:9 15:9 18:19 20:11 21:14 30:1,17 35:6 36:3 38:13 39:14</p>
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[right - specifically]

<p>40:10  <b>risk</b> 9:25  <b>ritchie</b> 1:4 2:3  4:2,7,9,10,13  4:15,16 5:8,13  5:15 6:1,24 7:7  9:20 14:25  15:9,18 16:15  17:18 18:10  19:15 20:1  21:3,5,18 25:3  25:20 26:10,19  27:2,11,13,18  27:22,23 28:21  29:12,14 30:6  30:12,17,20  31:3,20 32:2  32:14,18 34:4  34:23 37:5,13  38:10,13,25  39:5,10,21,24  40:6,16 41:1,6  41:9,12,20  42:15,18 43:1  43:5,16 44:4  44:12,22  <b>robertson</b> 3:7  4:5,5,12 43:10  <b>roll</b> 4:4 27:19  <b>rolling</b> 34:7,10  34:21 35:6,11  42:10  <b>romero</b> 2:20  27:21,24 28:1  28:3,5,7,9,12</p>	<p>28:14,18,20,21  40:11 44:1,3  <b>run</b> 42:10</p> <hr/> <p><b>s</b></p> <hr/> <p><b>s</b> 2:1 3:1 4:1  <b>samantha</b> 3:3  <b>sandra</b> 2:25  <b>sarah</b> 2:19  <b>saying</b> 20:22  36:23  <b>says</b> 15:20,22  18:17 20:13  <b>schedule</b> 18:4  <b>schedules</b>  31:11  <b>screen</b> 23:4  26:17  <b>screenshot</b>  19:20 26:14  <b>scribe</b> 18:14  <b>scribing</b> 26:16  <b>searching</b> 29:2  <b>second</b> 5:13,14  5:25 18:20  27:15,16 39:15  <b>section</b> 20:8  <b>see</b> 8:15 9:7  10:21 12:17  15:9 17:13  24:23 26:17,17  28:14 34:25  35:7 44:10  <b>seeing</b> 22:15  43:3</p>	<p><b>seems</b> 37:11  <b>seen</b> 10:15  11:13 13:24  22:17 27:4  <b>selfishly</b> 17:3  <b>send</b> 26:22,25  35:4 40:12  <b>sending</b> 44:13  44:14  <b>sense</b> 27:12  37:11 38:1  <b>sent</b> 41:22 42:1  42:2,16 43:7  <b>sentence</b> 20:13  20:15  <b>separate</b> 36:7  <b>september</b> 5:20  5:21  <b>set</b> 8:19 10:20  16:9 19:7  <b>setting</b> 8:13 9:5  17:21  <b>several</b> 12:23  <b>ships</b> 9:19  <b>short</b> 35:25  <b>shows</b> 26:6  <b>side</b> 36:17  <b>sign</b> 40:25,25  41:2,3,8 42:16  <b>signature</b> 41:14  45:16 46:14  <b>signatures</b> 40:7  <b>signed</b> 40:5,13  <b>significance</b>  34:7</p>	<p><b>significant</b>  22:20  <b>similar</b> 10:7  23:7  <b>simpler</b> 17:20  <b>simplify</b> 14:5  <b>sir</b> 6:24 28:22  39:9  <b>site</b> 39:9  <b>size</b> 37:14  <b>skills</b> 45:10  46:6  <b>skip</b> 33:6  <b>smaller</b> 24:7  <b>society</b> 2:22  37:24  <b>solvency</b> 8:22  <b>solvent</b> 24:13  <b>somebody</b> 40:5  <b>sooner</b> 30:5  <b>sorry</b> 9:20  15:14 32:19  34:1,2 37:22  38:7 40:19  41:1,4  <b>sounding</b> 42:20  <b>sounds</b> 29:15  32:12,16  <b>sources</b> 8:19  <b>speak</b> 6:22  <b>speaker</b> 4:17  <b>speaking</b> 32:4  <b>specifically</b>  22:9 23:10</p>
---	---	--	---

[spelled - think]

<p><b>spelled</b> 17:5  <b>stab</b> 16:8  <b>stand</b> 43:22  <b>starace</b> 2:8 5:4  5:5 15:13,19  16:14 20:6  21:14 23:1,25  25:13 28:12,13  38:11  <b>start</b> 4:4 41:15  <b>started</b> 10:1  <b>state</b> 45:19  <b>statement</b> 24:9  24:20,24 36:23  <b>statutorily</b> 10:2  <b>stephen</b> 2:15  <b>stern</b> 46:2,15  <b>stevens</b> 2:7 5:6  28:9,14,16,17  28:19  <b>sticking</b> 44:1  <b>straight</b> 18:7  <b>straightforward</b>  19:17  <b>study</b> 29:7  <b>subcommittee</b>  7:13,25 8:4  14:22 20:22  31:9 32:3,18  32:20 33:7  34:12,19 35:1  36:7,21 38:15  38:18,19,20  44:6</p>	<p><b>subcommittee's</b>  6:7  <b>subgroup</b>  44:15  <b>submitted</b>  41:15  <b>submitting</b>  40:10  <b>subparagraph</b>  13:24 14:1  <b>subsection</b>  10:19 24:21  <b>subsequent</b> 9:4  <b>substantial</b>  9:23  <b>substantive</b>  36:9 42:24  <b>subtractions</b>  5:16  <b>suggest</b> 42:12  <b>suggested</b> 14:2  41:8  <b>suggesting</b>  32:16 36:1,2  <b>summary</b> 7:3  <b>superintendent</b>  1:9 4:6 19:8  <b>supplemental</b>  18:8  <b>support</b> 20:10  <b>suppose</b> 42:8  <b>surcharge</b> 6:5  7:11 8:13,18  10:20,22 11:9  11:10 12:11,12</p>	<p>13:12,14,14  14:3,9 16:9,11  16:22,25 17:11  18:6 20:21  41:17  <b>surcharges</b>  11:17,24 13:7  13:20 14:15  16:25 19:7  <b>sure</b> 6:20 14:21  18:18 19:22  21:12 25:9  31:16 40:6  41:11 42:22  <b>surgeons</b> 10:4  10:23 11:1  <b>surrounding</b>  8:11  <b>sworn</b> 45:5</p> <hr/> <p style="text-align: center;"><b>t</b></p> <hr/> <p><b>table</b> 12:4,19  14:7 19:16,17  <b>tables</b> 19:16  <b>take</b> 7:18 16:8  16:25 19:20  25:17 44:14  <b>taken</b> 10:10  11:20 12:19  13:4 36:13  45:3,12 46:9  <b>talk</b> 20:8 33:3,5  <b>talked</b> 41:9  <b>talking</b> 34:13  41:16</p>	<p><b>taskeen</b> 3:2  <b>taxpayers</b> 16:1  <b>tell</b> 21:10  <b>tend</b> 22:3  <b>terms</b> 33:13  <b>testifying</b> 45:5  <b>thank</b> 5:15 6:24  7:7,7,23 8:2  14:19 16:14,15  17:18,19 23:25  27:11,13,18  28:20,21 29:1  36:13 38:12  39:21 43:24  44:1,6,10,12,18  <b>thanks</b> 7:6  19:23 29:11  44:19,21,22  <b>thanksgiving</b>  31:12  <b>thies</b> 2:15  <b>thing</b> 20:9,11  <b>things</b> 14:5,6  15:1  <b>think</b> 4:12 5:8  17:3,11 20:9  20:10,12,19,20  20:24 22:23  23:24 24:9,17  25:14,16 26:14  26:15 27:15  30:2,12 32:14  34:8,9,11,12,18  35:16 36:12  37:3 43:16</p>
--	---	---	---

[thinking - ward]

<p><b>thinking</b> 32:5  <b>third</b> 37:2,5  <b>thought</b> 33:22  35:22  <b>thoughts</b> 22:3  <b>three</b> 7:25  17:13 35:24  37:14 39:1,6,7  42:3  <b>time</b> 4:3 11:11  20:8 22:16  24:13 35:8,8  35:23,25 38:23  41:13,14 42:17  43:17  <b>times</b> 39:3  <b>timothy</b> 3:4  <b>titled</b> 18:18  <b>today</b> 15:7 23:4  25:6 35:3  41:23 42:20  <b>together</b> 14:20  29:19 32:6  33:4,7,19,20  36:20  <b>took</b> 21:13  <b>total</b> 17:12  <b>totally</b> 30:7  <b>transcriber</b>  46:1  <b>transcript</b> 23:8  23:9 29:5 46:3  46:5  <b>transcription</b>  19:11</p>	<p><b>transcriptionist</b>  45:8  <b>treat</b> 12:10  <b>treated</b> 12:9  <b>trial</b> 37:25  <b>tried</b> 22:4  26:18  <b>troy</b> 2:12 5:22  6:13 17:6  18:16 23:2,25  25:7,22 29:3  31:24 34:24  37:3  <b>true</b> 45:9 46:5  <b>try</b> 32:6 39:6  <b>trying</b> 20:7  26:3 31:18  32:12  <b>tuesday</b> 38:22  39:7  <b>turned</b> 41:18  <b>twice</b> 31:18  <b>two</b> 6:20 15:1  18:20 25:25  26:7 29:6 33:2  34:8 36:2,2  <b>typewriting</b>  45:7  <b>typically</b> 30:3</p>	<p><b>understand</b>  21:14  <b>understanding</b>  16:8  <b>understood</b>  21:10 35:22  <b>unfortunately</b>  43:8  <b>unidentified</b>  4:17  <b>uptown</b> 1:10  <b>use</b> 14:15  <b>used</b> 12:23 41:2  <b>usual</b> 30:5  <b>usually</b> 4:8,13</p>	<p><b>view</b> 7:2  <b>vigil</b> 3:4  <b>vince</b> 6:22 7:6  36:13  <b>vincent</b> 2:13  <b>violate</b> 37:15  <b>virtual</b> 40:23  <b>volunteer</b>  31:14 37:10  <b>volunteered</b>  38:14  <b>vote</b> 15:10,10  27:3,19  <b>voted</b> 14:12  <b>votes</b> 13:4</p>
		<b>v</b>	<b>w</b>
		<p><b>vargas</b> 2:6 5:7  7:20,23 8:1  12:3 14:20,24  14:25 18:1  21:4,4,5,6,18  22:4 24:24  28:10,11 43:13  <b>verbalize</b> 26:18  <b>verbiage</b> 17:8  <b>verify</b> 27:5  <b>vice</b> 2:4  <b>vicechair</b> 4:19  27:24  <b>videoconfere...</b>  2:5,6,7,8,10,11  2:12,13,15,16  2:17,18,19,20  2:23,24,25 3:3  3:4,5</p>	<p><b>walking</b> 8:9  <b>walling</b> 18:9  21:7 29:9  <b>walling's</b> 8:17  <b>want</b> 6:9 7:17  8:1 14:19,25  17:12 18:2  20:7 25:9  30:24 32:6  34:5,6,21 38:6  42:21 43:24  44:14  <b>wanted</b> 37:6  <b>ward</b> 2:13 6:22  6:25 27:3,7,12  29:24 30:1  31:5,7 33:25  34:2,4,5,24  35:10 36:1,5</p>
	<b>u</b>		
	<p><b>unclear</b> 25:5  <b>under</b> 13:8  16:20  <b>underlying</b>  13:14</p>		

**[ward - zoom]**

<p>37:13,16 42:19 43:3 <b>warning</b> 36:12 <b>way</b> 23:15 25:11 37:1,7 <b>we've</b> 8:19,23 12:19,23 13:25 14:5 19:16 24:20 25:1,5 30:3,4 31:4 37:24 41:23 43:20 <b>wednesday</b> 5:20 <b>week</b> 30:13 38:20 <b>weekend</b> 44:20 <b>welcome</b> 29:13 <b>went</b> 9:6 10:4 10:12 <b>whichever</b> 27:1 <b>wholeheartedly</b> 17:22 <b>wild</b> 25:18 <b>willett</b> 2:18 3:5 <b>william</b> 1:4 2:3 <b>willing</b> 38:8 <b>wills</b> 15:15 <b>wise</b> 43:16,17 <b>witness</b> 45:4 <b>wondered</b> 17:18 <b>wondering</b> 16:3</p>	<p><b>work</b> 19:21 31:25 32:21 35:2 44:8 <b>worked</b> 23:15 <b>working</b> 23:3 <b>worthwhile</b> 42:9 <b>writing</b> 27:4 <b>written</b> 6:7 15:3 25:17</p>
	<b>y</b>
	<p><b>y'all</b> 43:8 <b>yeah</b> 4:10,13 7:22 18:15,19 18:22 19:19 20:1 21:5,6 24:18 26:21,21 28:19 36:5,15 37:9 40:1,21 40:23 43:3,5,7 <b>year</b> 23:15 24:11 31:13 33:9 40:4,17 <b>year's</b> 29:18 <b>years</b> 19:5 23:17 <b>yep</b> 44:17</p>
	<b>z</b>
	<p><b>zero</b> 24:11 <b>zoom</b> 39:13</p>