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Appropriations Committee
November 10, 2009

[AGENCY 82 AGENCY 25 AGENCY 45 AGENCY 67 AGENCY 68 AGENCY 70
AGENCY 76 AGENCY 15 AGENCY 37 AGENCY 63]

The Committee on Appropriations met at 9:15 a.m. on Tuesday, November 10, 2009, in Room 1004 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on Agencies 82, 25, 45, 67, 68, 70, 76, 15, 37, and 63. Senators present: Lavon Heidemann, Chairperson; John Harms, Vice Chairperson; Danielle Conrad; Tony Fulton; Tom Hansen; Heath Mello; John Nelson; Jeremy Nordquist; and John Wightman. Senators absent: None.

SENATOR HEIDEMANN: I think we're going to go ahead and get started. There's a few members that are still up on the floor. They're running up on the floor doing some confirmation hearings, but they will be joining us later. We're going to start with introductions. We'll start over on the right side.

SENATOR NORDQUIST: Senator Jeremy Nordquist, District 7, downtown and south Omaha.

SENATOR HANSEN: Tom Hansen, District 42, Lincoln County.

SENATOR CONRAD: Danielle Conrad, north Lincoln, Legislative District 46.

SENATOR HEIDEMANN: Sitting next to her left is Senator John Wightman from Lexington. We have Liz Hruska who is a fiscal analyst with the Fiscal Office. I am State Senator Lavon Heidemann, Elk Creek, District 1.

SENATOR HARMS: John Harms, Scottsbluff, represent the 48th Legislative District.

SENATOR NELSON: John Nelson, central Omaha, Legislative District 6.

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SENATOR HEIDEMANN: Then we have: Senator Tony Fulton from Lincoln; Senator Heath Mello from Omaha; our clerk, committee clerk is Anne Fargen. We usually have one or two pages. Evidently they're not down from the floor yet, but they will be joining us later. At this time, we would like to remind you if you have cell phones to please shut them off so they're not disruptive later. Testifier sheets are on the table near the back doors. Fill them out completely and put them in a box when you testify, right there. At the beginning of the testimony, please state and spell your name. This is very important for us because this is all transcribed and that helps us out. If you do not state and spell your name, hopefully, we're going to be able to remember to tell you to do that. Nontestifier sheets near the back doors if you do not want to testify, but would like to record your support or opposition. You only need to fill this out if you aren't publicly testifying. If you have printed materials to distribute, please give them to a page at the beginning of your testimony. If you don't have a page, one of us will grab them and hand them out. We need at least 12 copies. Please keep your testimony concise and on topic. Because we are in a special session, we're doing things in a very constricted time frame. We have a few more things that the Appropriations Committee normally does not do. When you come up and testify, you're going to see that we are running the light system. The principle introducer will get up to ten minutes, we'll see how time is going, but up to ten minutes. The green light will be on when you come up. When your time is about up, the yellow light will come on and you will have one minute to finish your testimony. At that time, the red light will come on. If you're not done, we would appreciate it to kind of wrap it up. After the principle introducer of the agency is done, if I see that there's going to be a lot of interest in the agencies, I'm going to take a show of hands. If there's one or two people that are wanting to testify, you have maybe up to five minutes. If you're running short on time and if there's more people that want to testify, it may be down to just two, maybe three minutes so that we can keep moving. This whole public hearing we're doing quite a few agencies. We have to be done by noon, so you have to understand that we have to keep going. If there are a whole bunch of people with one agency that want to testify, you might want to kind of try to figure out who's the most important person to come up and say their peace. With that, I believe that's all the

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instructions we have at the present time. We will start with the public hearing on Agency 82, the Commission on the Hearing Impaired. [AGENCY 82]

PETER SEILER: (Exhibit 1) Good morning. Good morning, Senator Heidemann and members of the Appropriations Committee. My name is Dr. Peter Seiler. I'm the executive director...it's S-e-i-l-e-r, executive director for the Nebraska Commission for the Deaf and Hard of Hearing. My testimony addresses the plans and impact of further budget reductions for the agency's fiscal year of '09 and '10, and then '10 and '11. We're the only state agency that serves individuals with hearing loss from birth to death. These individuals, who are either deaf or hard of hearing, have unique challenges related to communication and language. The challenges impact the access to state government; access to quality and appropriate services such as medical, mental health services, educational services, social services, legal services, and governmental services; and access to information to make decisions such as surgery, loans, funeral plans, legal matters. In addition, these individuals are often denied inalienable rights such as basic rights in prisons, arrest procedures, and police interrogations, obtaining legal representation, quality education, etcetera. The Commission for Deaf and Hard of Hearing meets the statutory mandates by offering the following services: information and referral, interpreter referral services, interpreter certification and licensure services, mental health services, administration of Nebraska Specialized Telecommunication Equipment Program in cooperation with the Public Service Commission, administration of the hearing aid banks in cooperation with the Lyons International of Nebraska and the Sertoma Club. We provide advocacy services, and workshops and training to state agencies, businesses, medical personnel, educational personnel, and municipal and county agencies, to name a few. One group of Nebraskans that have warranted greater attention and services from the commission is the aging population. Requests for our services from older Nebraskans have continued to increase since we opened the office in North Platte. The addition of a new office in Scottsbluff has enabled us to continue to meet the needs of our elderly citizens in western Nebraska. When a person experiences declining hearing, their quality of life seems to be deteriorating as well. We serve these

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people by helping them enhance their quality of life and circumventing the effects of hearing loss. More importantly, research is not showing the farmers and other agricultural personnel are finding their hearing declining due to the equipment they've used, large machines and they're powerful and loud. Add to this mix the returning military personnel from the battlefields whose hearing has been severely impacted. In short, the percentage of Nebraskans who are suffering hearing loss have significantly increased over the years. In a letter to the Nebraska Legislature, Governor Heineman recommended that each agency reduce their base budgets by 2.5 percent for the current fiscal year and by 5 percent for the 2010-2011 fiscal year. In addition, carryover funds were reduced as well as cash funds. Finally, we had to add to personnel costs two unfunded mandates: 2.5 percent increase in staff pay for 2010 and a projected 10 percent increase in state-funded health insurance. And that describes our budget cuts. So the current base is \$875,312 and that will be reduced to \$853,429. For next year, the next fiscal year, it's \$898,083 which will be reduced to \$853,179. Our cash fund this year, we transferred \$148 to the General Fund, and next year \$672 transferred to General Funds. Our carryover funds from '07-09 biennium reduced by \$65,058. We've examined in full the recommendations from the Governor and have made some determination on how we would accomplish those reductions without reducing the programs offered by the commission. In the current fiscal year, we will take the following steps. First, we will not fill the half-time position of interpreter coordinator. We will fill the...temporarily fill the public information officer/sign language interpreter position until June 30, 2010. And then what's left we will use carryover funds. And for the next fiscal year, we will permanently eliminate the half-time interpreter coordinator position. We will reduce one staff position to half time. And we will not fill the public information officer/sign language interpreter position. I'm going to back up a little bit and talk about that public information officer position. We have four staff members who are either deaf or hard of hearing and require the services of a sign language interpreter in order to fulfill their job duties. We have one staff member that's on military leave in Iraq. We're hoping he will come back in January. And during that time, the person's certification and licensure has expired because he's been gone for 18 months and his ability to sign is

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probably going to be reduced a little bit because of lack of exposure. So it will require time for him to get his certification and licensure back. During that time, we're hoping to temporarily fill the public information officer position. Eventually we would like to permanently fill that position when the economy improves, and it will. We want to reduce our dependence on contracted interpreters, and by doing those things, we feel we will satisfy the budget and not have to cut services. If you require deeper cuts, we will have to eliminate a position. And we might have to close the office in western Nebraska, and that will impact services to western citizens of...citizens of western Nebraska. People who work now will be responsible for driving out to western Nebraska, and we wouldn't have time for all of our clients. We understand that Nebraska is experiencing difficult economic times and it's going to be a hard decision for all of you. I am not envious of your position at all. I'd like to thank you for considering the impact that your decisions will have on real people--your parents, your neighbors, yourself, maybe your children. Thank you very much for your time and attention. Does anyone have any questions?
[AGENCY 82]

SENATOR HEIDEMANN: Are there any questions? Seeing none, thank you. Is anyone else wishing to testify on Agency 82? Seeing none, we will close the public hearing on Agency 82, and open up the public hearing on Agency 25, the Department of Health and Human Services. [AGENCY 82]

KERRY WINTERER: (Exhibit 2) Before I start, could I trouble someone for a glass of water, please? Can somebody... [AGENCY 25]

SENATOR HEIDEMANN: The pages are busy upstairs. We're eventually going to get one, but we'll try to accommodate everybody until they get here. [AGENCY 25]

KERRY WINTERER: It's like I said, budget cuts have hit everybody, right? (Laughter)
[AGENCY 25]

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SENATOR HEIDEMANN: You can start if you want. [AGENCY 25]

KERRY WINTERER: Thank you. Good morning, Senator Heidemann and members of the committee. For the record, I am Kerry Winterer, that's spelled K-e-r-r-y W-i-n-t-e-r-e-r, Chief Executive Officer of the Department of Health and Human Services. I'm here to discuss the Governor's recommendations for reducing the DHHS budget for the current fiscal year and for fiscal year 2011 in light of declining state revenues. We've handed out written testimony. I'm not going to read the entire written testimony. I'm just going to summarize some things here and then leave more time for questions. The department supports the Governor's recommendations. I worked with staff to identify ways to reduce expenditures during the current biennium and into the next biennium while continuing to meet our obligations. First, the Governor has recommended a 2.5 percent across-the-board reduction for DHHS for fiscal year 2010, and a 5 percent across-the-board reduction for fiscal year 2011. He's recommended that certain programs be exempt from across-the-board reductions, including: Medicaid; the Children's Health Insurance Program; Behavioral Health Aid; Developmental Disabilities Aid; Health Aid; Aid to Aging Programs; the ten DHHS care and treatment facilities; Juvenile Services Aid; and Protection and Safety Services. A total of \$1.2 billion, General and Cash Funds, for all programs was excluded from the across-the-board calculations. In all, the Governor's recommending \$2,988,268 in across-the-board reductions for DHHS in the current fiscal year, and \$6,077,955 in across-the-board reductions in fiscal year 2011. As far as across-the-board reductions, we have already identified a number of items for reduction. And we have focused on administration and operations and have spared aid programs. We continue to work diligently to find the additional areas necessary to meet these goals. Our reductions will be accomplished in a number of ways. First, we are carefully reviewing every vacant or soon-to-be vacant position and eliminating those that are determined not to be absolutely necessary to carry out the responsibilities of the department. In most cases, this means adding to the duties of existing staff. We continue to review current contracts to determine which ones can be reduced or eliminated. We will look at consolidating

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local offices to reduce overhead and operating expenses. We will further reduce travel expenditures to include only travel that is absolutely necessary. In our planning over the past few weeks, we have considered the priorities of several department initiatives taking into account the priorities provided to us by the Legislature in recent sessions. Based on that, we have chosen not to include children's behavioral health activities associated with LB603 and ACCESSNebraska modernization efforts in our reductions. This committee has spent some time looking at the staff vacancy report. The DAS staff vacancy report that was provided to the Legislature is accurate for the information. The DHHS had entered into the NIS as of October 22. Of the 600-plus vacancies, DHHS has 188 vacancies budgeted for and for which we are actively recruiting. At any given time, we have 150 to 200 vacancies that the agency is actively attempting to fill. As vacancies occur for the remainder of the positions, we will continue our policy of evaluating the need to hire for each vacancy. The 600-plus number includes a number of positions that are not budgeted for currently. Positions, such as those used to staff grants that are awarded and expire throughout the year, can be more efficiently and timely filled if the position is already active in NIS. The same is true for other divisions that have fluctuations in staffing-level needs based on fluctuations of the numbers of clients or customers that they are serving or as the program changes are being implemented. I appreciate this opportunity to present to you our proposals for reducing the department's budget in light of declining revenues. We'd be happy to answer any questions you may have regarding specific or across-the-board reductions. The directors of the various divisions are also here and available to answer specific questions about their divisions. [AGENCY 25]

SENATOR HEIDEMANN: One of the statements that you made was, "We will look at consolidating local offices to reduce overhead and operating expenses." Have you already done that? Have you closed any local offices? If you have, where? [AGENCY 25]

KERRY WINTERER: We have not done that at this point. What we're looking at are

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offices that may be in close proximity to each other or where we may be able to consolidate an office into a 24-hour facility or something and, thereby, making those changes. We've not done that yet. [AGENCY 25]

SENATOR HEIDEMANN: Are you close to doing that or... [AGENCY 25]

KERRY WINTERER: We're in the process of analyzing the offices that may be likely candidates for that, and then taking into account such things as lease terms and how quickly we may be able to accomplish that. [AGENCY 25]

SENATOR HEIDEMANN: How quickly would we be informed of something like that? [AGENCY 25]

KERRY WINTERER: You would be informed, I think, at such time as we actually make the decision and move in that direction. You'd be informed of the specifics. [AGENCY 25]

SENATOR HEIDEMANN: Okay. Thank you. Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann, and thank you, Director Winterer, for your testimony. A few questions. One, has there been any layoffs at the Beatrice State Developmental Center? [AGENCY 25]

KERRY WINTERER: There have been some layoffs that have been the result of a declining census, declining operations staff that's not required as a result of that. [AGENCY 25]

SENATOR MELLO: How many vacant positions are at the Beatrice State Developmental Center? [AGENCY 25]

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KERRY WINTERER: I'm sorry, how many? [AGENCY 25]

SENATOR MELLO: How many vacant positions? [AGENCY 25]

JODI FENNER: (Inaudible) [AGENCY 25]

SENATOR MELLO: Okay. All right. On another question regarding maybe federal funds, this summer, I believe, your department terminated a contract with ForeThought Consulting Group that was supposed to develop a Medicaid payment system... [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR MELLO: ...that ultimately the state decided to renig on our contract with that firm, and it cost us, what, close to \$5 million or \$6 million or so with no product that we received from this consulting firm. Can you give us kind of, the committee, a general update, so to speak, on kind of if those ,(1) were federal dollars, which I think they might be, and what kind of the department is looking to do now to solve this problem to create a Medicaid payment system? [AGENCY 25]

KERRY WINTERER: You're referring to MMIS, which is the Medicaid Management Information System. There was a contract that was entered into to deliver that system probably a couple of years ago. We ultimately determined that the vendor really was not going to be able to deliver on the contract. It's not exactly true to say that we haven't gotten anything for the money because we did go through the process of analyzing requirements, and there have been documents that have been delivered as a result of that. But we did determine to terminate the contract because it was...it became clear when I came in and began to analyze this, it became clear that the vendor probably was not going to be able to deliver and we were better off terminating at that point and proceeding in a new direction. Now, interestingly enough as you might expect over the

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last two years, things have changed. The federal government's expectations of those projects has changed, as has the technology. And so at this point in time, in spite of having terminated that contract, we can take advantage of the new technology and now understand the new requirements that the federal government has relative to that contract. [AGENCY 25]

SENATOR MELLO: Is this...I guess my question kind of also, is this a standard operating procedure within the Health and Human Services Department to engage in a contract not looking to the long term, so to speak? I mean, this is \$7 million or so that essentially we really don't have a product at the end of the day, we don't have a system that's in place. I know, once again, the contract was anywhere between \$50 million to \$70 million, but we essentially gave \$7 million to someone for nothing. [AGENCY 25]

KERRY WINTERER: Well, we engaged in the RFP process, went out for bids, and received proposals in return. There were probably three vendors. I'm not sure, I wasn't here, but there were probably three vendors that responded to that. We went through the normal process of evaluating that, and there was a team of folks to evaluate what appeared to be the best proposal. And that's consistent, I think, kind of with the bidding process across state government in terms of that process. And I think that process, to the extent that it was in place, did what it was supposed to do. It's very difficult to ensure someone's ultimate performance even when you enter into a contract. [AGENCY 25]

SENATOR MELLO: Was...do you recollect at all, was the contract that the state signed with ForeThought, was that a performance contract, do you know? [AGENCY 25]

KERRY WINTERER: I don't know exactly what you mean by a "performance contract." We paid... [AGENCY 25]

SENATOR MELLO: Performance contract, the essential...the management tool which you make your money back regarding the performance of the consultant to provide the

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services. [AGENCY 25]

KERRY WINTERER: The contract provided for payment of elements as delivered. And so there were deliverables as part of the contract, and we paid as those elements were delivered. And under the contract, we were obligated to pay for them. [AGENCY 25]

SENATOR MELLO: Okay. Only two real other questions. One, in your testimony it states on page 4: The Governor is recommending a \$1.3 million in cash funds be transferred from the available balance in the Tobacco Prevention and Control Cash Fund to the DHHS Cash Fund to offset General Funds for the Childrens' Health Insurance Program. It then says that the: General Fund appropriation for SCHIP will be reduced accordingly. The Governor says that he wanted to spare services or spare funding for SCHIP. How is this not essentially a budget gimmick to take one-time dollars in the Tobacco Prevention Fund and insert that in the SCHIP Fund, and then remove General Funds for this biennium because then SCHIP, essentially the start of next biennium, will have less General Funds in their budget? And I don't know where we're going to be at with one-time dollars in the Tobacco Cash Fund. [AGENCY 25]

KERRY WINTERER: Yeah, I understand the question. I think essentially this seems to me to be a reasonable approach to use assets that otherwise aren't being used to support a program that I think everybody understands is an important program. [AGENCY 25]

SENATOR MELLO: What normally is funded by the Tobacco Prevention and Control Cash Fund? [AGENCY 25]

KERRY WINTERER: Well, there would be some programs...and public health I think can talk more about that, but there will be some programs relative to supporting quitting smoking and so on. These are tobacco settlement funds. This particular element, as I understand it, is interest that's actually accrued on that and we don't really have the

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spending authority for these particular funds anyway. [AGENCY 25]

SENATOR MELLO: Okay. Well, I'll follow up with the public health if they come and ask them. One last question, knowing that we are in a fiscal crisis right now as a state and have been for a while, you started as the director this summer, I believe. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR MELLO: And your salary was almost 35 percent more than the previous director of HHS. Knowing that there will be a lot of shared sacrifice, so to speak, has there been conversations with you or some of your directors, deputy directors at all about either taking a salary cut, so to speak, leading by example, and trying to do a salary freeze instead of shifting those cost burdens down to frontline caseworkers? Because from where the previous HHS director left at \$105,000 to where you started at \$140,000, that is the equivalent of essentially a caseworker within HHS that we...everyone agrees that we so desperately need more of. Is that something that you'd be willing to do? [AGENCY 25]

KERRY WINTERER: Well, I want to emphasize that we are not...we're not asking anyone in DHHS to take salary cuts nor do we expect that we're necessarily going to have to engage in layoffs and furloughs to meet the requirements of these reductions. And if it got to that point, maybe that's a fair question. [AGENCY 25]

SENATOR MELLO: All right. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Fulton. [AGENCY 25]

SENATOR FULTON: Thank you, Mr. Chairman. Thank you for being here today, Mr. Winterer. [AGENCY 25]

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KERRY WINTERER: Um-hum. [AGENCY 25]

SENATOR FULTON: There were...you indicated in your testimony that there were 150 to 200 open positions at any one time. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR FULTON: My curiosity is piqued. I watched this in the newspapers. I pay attention to what goes on in the help wanted section. You never know in the Legislature. (Laughter) These positions, would you characterize them as...are they...where is the turnover, I guess? There has to be some rate of churn that we're going through such that there are 150 to 200 positions open. Are these administrative? Are they frontline? Are they both or can you even characterize it? [AGENCY 25]

KERRY WINTERER: I don't know that I can characterize them in anything very specifically. I can tell you that there is turnover in those frontline positions, the caseworkers and so on, and that's a lot of what these positions are. And as I said, we have that number of positions are vacant at any time because there is turnover. And those are the vacancies that we're sensitive to that we want to fill. [AGENCY 25]

SENATOR FULTON: Okay. I would...if it's possible, this might...I don't know if I've ever asked this, I've never heard it asked before, but I would be curious to see how that breaks out percentagewise, the positions that tend to be open, you know, every couple of years or however long just to get an idea of where the... [AGENCY 25]

KERRY WINTERER: Are you asking for, like for the character of those positions, is that...the kinds of positions? [AGENCY 25]

SENATOR FULTON: Yeah. Are they administrative in nature? Are they frontline? There's just...that's something personally that I've been able to glean outside of the

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Legislature, but that's something that can be gleaned in terms of, how do I say, where we're competitive and where we're not as competitive. So in the future if that's something that could be gleaned and given to us by way of information, I would appreciate that. [AGENCY 25]

KERRY WINTERER: Sure. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 25]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you for joining us. First question is, as we made these recommendations, how much discussion or thought did the administration have in regards to losing not only just the federal match, but now we're in a period here of an enhanced federal match in a lot of these programs? And I mean it's not a dollar-for-dollar loss, some programs are three-to-one loss if we pull back on funds. How much thought went into that in discussion with the administration? [AGENCY 25]

KERRY WINTERER: In terms of looking at where we are and then what impact it may have on federal dollars? [AGENCY 25]

SENATOR NORDQUIST: Yes. [AGENCY 25]

KERRY WINTERER: It's certainly a consideration. The vast amount of the match of course is in Medicaid, and we're not really pulling back on Medicaid. And so we are, however, taking advantage of some enhanced match by virtue of the increased unemployment rate and such. And so that is...that's a factor that we're going to take advantage of and should be able to decrease the amount of General Funds available. [AGENCY 25]

SENATOR NORDQUIST: In the next fiscal year, though, when we...if we provide our

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rates flat, we are going to be giving up a significant...you know, if we go 1.5 percent on provider rates, that's a significant amount of federal dollars we're going to be leaving on the table. [AGENCY 25]

KERRY WINTERER: Well, it could be, but it has significant General Fund impacts too. [AGENCY 25]

SENATOR NORDQUIST: Sure. Regarding provider rates, you know, I have concern about access and to providers. Director Chaumont provided me information on, you know, we have 416 people in Lancaster and south Sarpy that don't have desired access to primary care, certainly other aspects as well. Is there...are you concerned that holding provider rates flat at this point is going to increase the problem? [AGENCY 25]

KERRY WINTERER: Well, certainly that's a concern and we've had that discussion relative to what's going to be impactive of freezing provider rates. What we've not done, of course, we've not rolled back provider rates. So providers rates are...will get...providers will get their increase for this fiscal year. They will not get the rate that they may have expected for next year. We're talking about Medicaid providers and such, typically my understanding is that Nebraska generally reimburses fairly well, particularly relative to some other states in the region. And so I think you would be concerned. Any time you start looking at provider rates, you have to be concerned about access. But at the same time I think...I don't think it's going to have a big impact on access and the providers taking Medicaid. [AGENCY 25]

SENATOR NORDQUIST: Yeah. Sure. Well, it's certainly considering that would...you know, we're holding flat and we know the cost of healthcare is never flat in a given year. The next question I have, Director Chaumont sent me a letter. Over the summer, I asked about, what are we doing for outreach to SCHIP and enrollment? And she wrote: Effective January 1, 2009, DHHS changed the review renewal time of SCHIP cases from 6 months to 12 months. The new policy eliminates the six-month income review for

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SCHIP cases. When we discontinued continuous eligibility in 2002, the department required an additional 60 FTEs to carry out the six month year review, and nearly \$900,000 in FY '03 and \$1.4 million in FY '04. So if we're making this policy shift now, and going from 6-month review back to 12-review, is there a significant savings there somewhere? [AGENCY 25]

KERRY WINTERER: That's a good questions. I don't know the answer to that, but we certainly can look at that. [AGENCY 25]

SENATOR NORDQUIST: Okay. And then the other...the last question I have, last year we passed LB603, and in that I had legislation which would have...which would make secure residential treatment eligible for Medicaid. There was a transfer of funds from Program 38 that used to be paid solely by the regions through Program 38. Now it's being paid for by the Medicaid program. I know we're having some problems with federal government getting fully approved on that. My concern is that all the while, those programs are still being...or those services are still being provided for, and I'm concerned that the dollars might not be in the right place at this point in time. And I don't know, maybe that's something we can follow up on later. [AGENCY 25]

KERRY WINTERER: I'd appreciate it, yeah, if you could do that. [AGENCY 25]

SENATOR NORDQUIST: Okay. Thank you. [AGENCY 25]

KERRY WINTERER: Um-hum. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you. Thank you and congratulations and welcome to your new role and a very, very big role at that. I have a couple of questions in terms of...and maybe this is better directed to Director Reckling or somebody in child welfare, but

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we've seen a policy change and now have begun implementation of privatization of our child welfare services. As such, have we been able to identify cost savings from those caseworker positions that have transferred into the private sector? [AGENCY 25]

KERRY WINTERER: Those that have actually left our employment and such? I don't know that I have a number for that. I don't know that we have a number today, but we can provide that if you want. You're talking about the vacancies that have been created by those people moving to that sector? [AGENCY 25]

SENATOR CONRAD: That's right. And this is actually a question that was brought forward to me by some colleagues on the Health and Human Services Committee who have been watching that process carefully, and during the midst of this special session was something that they brought forward as a point to discuss which I thought was incredibly relevant and would be an important thing to know as we move forward. So additional information in that regard would be greatly appreciated. I guess this follows up a little bit in regards to Senator Mello's questions relating...I'm sure it's not unique or news to you or any member of the management team to know that there is a significant amount of concern and sometimes a rift between management and the employees throughout the agency and amongst the public, as well. And you mention that the leadership team had not contemplated making any reductions in your wages or benefits package. Could you tell me just roughly how many folks in the Department of Health and Human Services management or otherwise make over \$100,000 a year? [AGENCY 25]

KERRY WINTERER: I don't know that I could tell you that. I mean, we could talk about maybe some specific positions or whatever, but I don't have that number. [AGENCY 25]

SENATOR CONRAD: Okay. And also in relation to that issue, you noted that you hadn't contemplated that because you aren't anticipating a reduction in frontline workers, but in fact you've noted that we have seen layoffs of workers at BSDC. And I believe that the

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department anticipates a significant staff reduction when it comes to full implementation of ACCESSNebraska, is that right? [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR CONRAD: So it really wouldn't be accurate to say that you don't anticipate reductions on the frontline level when we do. [AGENCY 25]

KERRY WINTERER: We don't anticipate reductions as a result of the budget...the declining revenues. The reductions you've talked about have been a result of other things. ACCESSNebraska has been planned for in terms of efficiencies. In the case of Beatrice, it's...a lot of that is a function of declining census and reorganizations and understanding what is really required to deliver those services. [AGENCY 25]

SENATOR CONRAD: And in relation to those BSDC dollars which have not been redirected to help address the General Fund deficit or otherwise, has the department talked about redirecting those dollars to follow a more dollars-follow-the-patient kind of model? And we've seen great progress in terms of an investment we made in addressing waiting list services in the last session, and I commend you and your staff for assisting with that transition. And it seems that the need is very great, I think you would agree with that. And so my concern is that if we're going to move dollars away from programs that effect those with developmental disabilities, shouldn't they stay in other programs that are then supporting those with developmental disabilities rather than getting dumped back in the General Fund to help balance the budget? [AGENCY 25]

KERRY WINTERER: Well, we, I think, have done a lot at the Legislature's direction, of course, in terms of putting money into the waiting list and additional money into BSDC to resolve issues and problems there. And I don't think we anticipate doing anything to reduce or restrict the dollars that can continue to be used for developmental disabilities

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folks. I mean, as you know we're in the process of moving into the community, encouraging providers to build facilities and such. And so I see nothing to suggest that we're going to reduce dollars there in such a way that it's going to inhibit that. [AGENCY 25]

SENATOR CONRAD: So would you agree that it would be a better policy to capture any cost savings from BSDC or other DD related programs and redirect those into DD programs rather than dump them back into the General Fund? [AGENCY 25]

KERRY WINTERER: Well, as a general rule but at the same time, I think you need to realistically evaluate what is required for DD. I don't think you can just say generally these dollars are going to be there regardless because I think you have to look and say, well, what's required to fulfill the mission of what DD is, and then what does the department or other programs need at the same time? As a general rule I would say, yes. But I think you can't just say that that's a hard and fast rule and you've got to look at other considerations. [AGENCY 25]

SENATOR CONRAD: Well, for example, we know they're still existing in great needs relating to waiting list services right now. So that would be a possibility. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR CONRAD: Okay. The other question that I have was related to the budgetary issues surrounding the change in moving to full-risk managed care in certain counties. And can you tell me how those cost savings were deciphered exactly, what they're based on? [AGENCY 25]

KERRY WINTERER: There was a study, an actuarial study, that I can't necessarily cite at this point in time, but did do an actuarial evaluation of what managed care would do. And the numbers that we're using are based on that study. [AGENCY 25]

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SENATOR CONRAD: Okay. And do you...does that study also contemplate patient satisfaction or provider satisfaction in relation to operation under that system?
[AGENCY 25]

KERRY WINTERER: I couldn't tell you that. [AGENCY 25]

SENATOR CONRAD: Okay. Because I think you would agree that would be something that we need to... [AGENCY 25]

KERRY WINTERER: Sure. [AGENCY 25]

SENATOR CONRAD: ...keep a close eye on and, of course, always look for cost savings, but strike the appropriate balance between those competing concerns.
[AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR CONRAD: And then finally, Director, you bring a new perspective and a new sense of leadership to the agency. And I think that it's clear from your testimony here that we're able to generate significant savings to help us in our overall budgetary challenges by aggressively utilizing federal funds whenever possible. Would it be your plan of action to aggressively pursue any and all waivers within the Medicaid or other program that could help us to save money? [AGENCY 25]

KERRY WINTERER: Yes, I think so, assuming all that made sense relative to the services that we're trying to provide. [AGENCY 25]

SENATOR CONRAD: Okay. All right. And then, finally, if you could just provide the committee, the public, an update about where we are in terms of the technology and

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modernization program, ACCESSNebraska? I know that there's a significant price tag associated with that process, and if you could just let the committee know where we are with that and then, also, how many state jobs ultimately will be effected or gained or lost because of that transition? [AGENCY 25]

KERRY WINTERER: All right. We have just opened bids now for the locations and we're in the process of evaluating those. We will announce those locations I think around December 3. And we can provide a list of...and I think we can probably solicit the communities that have submitted proposals at this point. So we'll go through an evaluation and there will be anywhere...based on that evaluation, we'll have anywhere from three to six locations around the state for ACCESSNebraska. In terms of jobs, we anticipate about a 25 percent reduction in staff as a result, and I think the basis that were used for that is about 800 positions. So over the course of the next three years, it will be about 25 percent of that. [AGENCY 25]

SENATOR CONRAD: And for a total cost savings that's projected to be, do you know roughly what that would be? [AGENCY 25]

KERRY WINTERER: I don't know. Do we? What would you say? About \$6.5 million. [AGENCY 25]

SENATOR CONRAD: Six and half million dollars each year? [AGENCY 25]

KERRY WINTERER: Yes. [AGENCY 25]

SENATOR CONRAD: Yes. I think that's it. Thank you. [AGENCY 25]

KERRY WINTERER: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Fulton. [AGENCY 25]

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SENATOR FULTON: Thank you, Mr. Chairman. Medicaid is something that we've watched pretty closely since I've been here, anyway, and I've watched it even before. A number of senators before me had tried to get a handle on Medicaid. It seems as though we have a pretty good handle on what to expect going forward. However, I have some concern about what happens with respect to the bills being considered in Washington. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR FULTON: My understanding is that Medicaid will expand significantly. Has the department taken a look at that? Do we have a sense as to how much? [AGENCY 25]

KERRY WINTERER: We are in the process of evaluating that. And as you might expect, Senator, it's kind of a moving target because you have to make some very significant assumptions based on bill language and such. Our concern, as I would understand your concern to be, too, is that part of the strategy in this bill is to deal with the uninsured out there by making them eligible for Medicaid. And then the question becomes, what kind of a burden does that mean for the states relative to additional spending and so on? That's a number that we're in the process of generating at this point and I think will be available in the next few days relative to our best guess in terms of what those numbers are. [AGENCY 25]

SENATOR FULTON: Can you give us a... [AGENCY 25]

KERRY WINTERER: There have been some studies out there. The National Governors Association, for example, there's a Lewin Study out there that's got some numbers in it and there's some other numbers out there, if you're interested, we could share with you. They're public at this point. [AGENCY 25]

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SENATOR FULTON: I would be. We have some gauge, the House has a bill, the Senate is probably going to have the final say in it, but it seems that there's going to be at least...we get an idea of what we're talking about here. Are we talking about tens of millions of dollars? [AGENCY 25]

KERRY WINTERER: Could be. [AGENCY 25]

SENATOR FULTON: Okay. [AGENCY 25]

KERRY WINTERER: I mean, we believe it will be a significant amount of money that the state...absent anything else, that the state's going to be on the hook for, if you will, for additional Medicaid. [AGENCY 25]

SENATOR FULTON: Yeah. Any information there would be appreciated. [AGENCY 25]

KERRY WINTERER: Um-hum. [AGENCY 25]

SENATOR HEIDEMANN: Just...I mean, I read this is something that we're going to have to deal with in the future, and I've heard anywhere from tens of millions of dollars to at least a hundred million. Could you argue with that at all? [AGENCY 25]

KERRY WINTERER: I wouldn't argue with that. [AGENCY 25]

SENATOR HEIDEMANN: All right. Thank you. Senator Wightman. [AGENCY 25]

SENATOR WIGHTMAN: Thank you, Mr. Chairman. Thank you, Director Winterer. I'm going to follow up a little bit on some questions that were asked by Senator Nordquist pretty much with regard to provider rate. And I'd like to go back to the whole Health and Human Service agency. You said you had about 200 vacancies that some of those you

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would look or most of them you'd look at not filling at the present time or... [AGENCY 25]

KERRY WINTERER: Well, yes, we have about...as I said, we have about 188, as of the last time the report was run, of vacancies that were budgeted for that we're actively recruiting for. There's about 600 on the report, but many of those are not budgeted for. In addition, we're in the process now of looking at those vacancies and determining which of those should we fill and which should we not in addition to the 188 that we need to do to meet the current budget situation. [AGENCY 25]

SENATOR WIGHTMAN: But those aren't budgeted for, you said, the other 600. [AGENCY 25]

KERRY WINTERER: Not all those...certainly... [AGENCY 25]

SENATOR WIGHTMAN: Some of them. [AGENCY 25]

KERRY WINTERER: The great majority of them are not budgeted for, that's correct. [AGENCY 25]

SENATOR WIGHTMAN: Approximately how many employees are there in the agency? [AGENCY 25]

KERRY WINTERER: There are about 6,100 employees right now. [AGENCY 25]

SENATOR WIGHTMAN: So when we're talking a couple of hundred, we're talking about maybe 3 percent of the total? [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

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SENATOR WIGHTMAN: Of these...and I get into this because of the provider rates and what the employees of the providers are sometimes paid, what percent of your total 6,000-some would be under union contracts, do you know? [AGENCY 25]

KERRY WINTERER: I don't know. Anybody know? [AGENCY 25]

SENATOR WIGHTMAN: Most of them or... [AGENCY 25]

KERRY WINTERER: No, I don't think so. We have probably...we have more than one union depending on what the function, what the job function is and such. [AGENCY 25]

SENATOR WIGHTMAN: And, of course, I assume these are wage increases in effect for the remainder of the biennium. [AGENCY 25]

KERRY WINTERER: That's right. [AGENCY 25]

SENATOR WIGHTMAN: And I believe you indicated that you presently are not looking at accomplishing any of the savings through either furloughs or wage rollbacks, is that correct? [AGENCY 25]

KERRY WINTERER: That's our hope at this time, yes. [AGENCY 25]

SENATOR WIGHTMAN: And this gets me in the provider rates because we're going to be looking at providers. And do you have any idea of how many employees of providers for the Department of Health and Human Services there may be out there? I assume there are probably thousands, but. [AGENCY 25]

KERRY WINTERER: I'm sorry, how many employees what? [AGENCY 25]

SENATOR WIGHTMAN: How many employees of providers that provide services to the

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Department of Health? You wouldn't have any idea on that number? I know in the past the provider rates have gone up at a much slower rate than the wage scale of Department of Health employees, and that becomes a concern particularly when we take a year and rollback entirely the wages when there aren't rollbacks. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR WIGHTMAN: But you indicated you didn't think there would be much loss of providers. Is that a fair statement or... [AGENCY 25]

KERRY WINTERER: Yes. [AGENCY 25]

SENATOR WIGHTMAN: Do you have any idea on how employees of providers' wages would compare with the department employees? [AGENCY 25]

KERRY WINTERER: I don't know that I could know that, Senator. [AGENCY 25]

SENATOR WIGHTMAN: Well, I'm just concerned over the fact when we roll that back, we're talking \$21 million which is a fairly significant percentage of the total that we're looking at cutting, what that does to the morale of employees, the providers, and the providers, period. And it seems to me in the past we've used provider rates a lot of times as a means of balancing the budget when we finally report out a budget, and so that added a real concern to me. Can you give me anymore information on that? What do you think that rolling back this \$21 million that would have been in the budget for that, what do you think that will do to providers? [AGENCY 25]

KERRY WINTERER: Well, I don't think that I can speak for the providers. I guess the optimistic or maybe the good news to them is that the increase for the current year is staying in place, so it's not like we're pulling a rug out from under them immediately. It does mean that there's some time between now and the next fiscal year for them to plan

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to the extent that they may have anticipated that average 1.5 percent increase, then they can anticipate that and factor that into their own planning and such. So it's not as if we're pulling...we're doing something that's going to effect them tomorrow or the next day or whatever. They will have some time to anticipate that. [AGENCY 25]

SENATOR WIGHTMAN: But, nevertheless, when you compare it to the department employees, there will be an increase in both years, at least those under union contracts and probably all of them where you're just going to have a relatively small increase for one year on the providers, and then on increase on the second year. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Hansen. [AGENCY 25]

SENATOR HANSEN: Thank you, Senator. Mr. Winterer, it's good to have you here this morning. Two years ago, I served on the HHS Committee and Nebraska was rewarded a \$2 million award for being 99.9 percent accurate on food stamps. And I hope...you know, I hope that money was spent well and hopefully it was spent somewhere in the food stamp budget. My question today would be, that I've been alerted to an increase in food stamp sign up, and that those caseworkers that are doing those sign up are backlogged to some extent. And if that continues to be 99.9 percent accurate, our caseworkers are going to have to continue not being...you know, those are the frontline workers. They're the ones that are going to have to do that accurately at first. I'm concerned, others are concerned in the state that those who are signing up for food stamps are waiting an extraordinarily long time. I mean, it's immediate need. The caseworkers are possibly in places in the state, anyway, are being backlogged and there's not enough of them. I mean, this is going to go from food stamps to foster care. Those frontline workers are extremely important. And I'd like to have your response, especially to the food stamp issue. [AGENCY 25]

KERRY WINTERER: Yeah. I'm not aware of the problem, Senator, but I certainly can

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look at that and get back to you. I'm not...as I said, I'm not aware of the problem.
[AGENCY 25]

SENATOR HANSEN: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. Director, would it be safe to say that if the state would have done a better job managing and administering services at Beatrice State Developmental Center that we would have an additional \$50 million to deal with this existing fiscal crisis? [AGENCY 25]

KERRY WINTERER: Unfortunately, Senator, I don't know that I can really address that. I was...this was...the problems of Beatrice really are before my time. What I've been engaged in is just trying to deal with the situation as it is now. Anything...any opinion I'd have is just kind of speculation really. [AGENCY 25]

SENATOR MELLO: So it would be speculation on behalf of the Department of Health and Human Services that if we didn't manage a state developmental center better that we wouldn't have \$50 million extra dollars? Is that not...I mean, is this up for debate essentially is what you're suggesting? [AGENCY 25]

KERRY WINTERER: No. I'm not going to offer an opinion relative to management of BSDC prior to the time that I came on the scene. I'm not going to offer an opinion about that. I mean, the record speaks for itself in terms of difficulties of Beatrice and what's going on there and the difficulties there. And we're now engaged in trying to solve the situation. [AGENCY 25]

SENATOR MELLO: But, I mean, for at least the public record we have lost \$50 million in federal funding. [AGENCY 25]

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KERRY WINTERER: No, we've not...we have lost...we have not lost any federal funding until September 23. We were fully funded... [AGENCY 25]

SENATOR MELLO: We're anticipated then. [AGENCY 25]

KERRY WINTERER: We were fully funded until September 23. [AGENCY 25]

SENATOR MELLO: So would you say it's safe to say we're anticipating losing federal funding, thus the Appropriations Committee and the Governor requested putting \$50 million of General Funds to fund the Beatrice State Developmental Center for this biennium? Is that fair to say? Is that an accurate statement? [AGENCY 25]

KERRY WINTERER: There is a contingency fund to make up for the difference in anticipating the loss in federal funds. [AGENCY 25]

SENATOR MELLO: Did we receive any word back from the federal government that we have lost our federal funds? [AGENCY 25]

KERRY WINTERER: We have lost our federal funds as of September 23 of this year. [AGENCY 25]

SENATOR MELLO: So it would be safe to say then from this dialogue that the state is anticipating and have already received notification that we will lose \$50 million of federal funds. And the only way to continue providing services at Beatrice is to replace those federal funds with General Funds, which was done by the Legislature through LB315 last year? [AGENCY 25]

KERRY WINTERER: It is true to say that we will be from September 23 on...we will not have the federal funds that would have been represented by Medicaid certification. It's

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not necessarily to say that it's going to cost the state \$50 million because, keep in mind, we're in the process of coming back around and applying for recertification. So what the state will have lost is the time period between September 23 of this year and the time that it takes us to gain recertification. [AGENCY 25]

SENATOR MELLO: When do you anticipate recertification? [AGENCY 25]

KERRY WINTERER: I think that's really a difficult time to say because we want to be sure that everything is in place before we proceed. I don't really want to...I don't want to make any guesses or speculate about that (inaudible). [AGENCY 25]

SENATOR MELLO: How long does it normally take a state to gain recertification then? [AGENCY 25]

KERRY WINTERER: I don't know that we know. [AGENCY 25]

SENATOR MELLO: Has any state ever gone through this similar process of being decertified and then applying to be recertified? You can direct it to Director Fenner, if you'd like. That's... [AGENCY 25]

JODI FENNER: (Inaudible). [AGENCY 25]

SENATOR HEIDEMANN: Could you come up to the table? And actually there's a chair right there if you want to spin it around, and you could have seat, identify yourself, and spell your name, that would really help us down the road. [AGENCY 25]

JODI FENNER: Jodi Fenner, J-o-d-i F-e-n-n-e-r. I don't know that there is a set time period because it's not a normal occurrence. I can tell you from states who have been through the process it can take anywhere from one year to four years to not at all. So if you're asking for a historical perspective, there really isn't a good one because it's not

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something that normally happens. [AGENCY 25]

SENATOR MELLO: So from your statement, it would be safe to say there's a possibility that for us to continue to fund the Beatrice State Developmental Center to provide the services that are necessary for our state's most vulnerable that we might have a General Fund obligation of close to \$25 million for indefinitely? [AGENCY 25]

JODI FENNER: Well, I wouldn't say indefinitely and I can't necessarily say \$25 million. We've already been able to save a significant amount of that money this year, the \$10 million that the Governor put in his budget. There are also...we've already been in talks with CMS about the recertification process. So I think we have planned for recertification, steps we're working forward in close consultation with the federal government. We believe we'll be able to get that accomplished in this biennium, but it won't be the full \$50 million for this biennium. At the most, we would be looking at, in this biennium, is \$40,000, I believe... [AGENCY 25]

SENATOR MELLO: \$40,000,000. [AGENCY 25]

JODI FENNER: Forty million dollars. And, again, that's the maximum because we continue to reduce our census at BSDC working with families and guardians who are actively seeking community placement, including the placements that we have scheduled for March when Mosaic opens their facilities, so. [AGENCY 25]

SENATOR MELLO: And on a semi-related note, knowing that you're able to probably answer this, the job vacancy report that, Director Winterer, you said was an accurate report on behalf of the Department of Health and Human Services lists 77 vacant positions for Beatrice State Developmental Center to the amount of \$2.25 million. Director Fenner, is that an accurate assessment? [AGENCY 25]

JODI FENNER: I haven't reviewed that precisely so I really can't answer to that. I can

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say we do have vacancies at the facility. We fill them based on need. Currently, our direct care staff positions are almost completely filled. And that...with the exception of this recent H1N1 and general flu flare up, we've eliminated our mandatory overtime and have significantly reduced our regular overtime. So, yes, we do have positions and we haven't given them up because, again, we aren't certain what the needs of the individuals we serve are going to be over the next few years. We have to have some flexibility. So we will maintain some of those vacancies, even as we go through the next biennium because we have to be ready to meet those needs as they come up.
[AGENCY 25]

SENATOR MELLO: So you will leave some vacant positions available then at the Beatrice State Developmental Center? [AGENCY 25]

JODI FENNER: We will maintain some vacancies. We won't give them up, so to speak, or close those positions because we have to be ready for emergencies. What if a provider were to close? I would have to have an emergency plan that I could implement very quickly to serve the needs of individuals. So I would estimate, much like all our 24-hour facilities, we will always have some vacancies on reserve. [AGENCY 25]

SENATOR MELLO: Could you provide a little bit more background, so to speak, on the reduced reappropriation to the Beatrice State Developmental Center of \$1.6 million in General Funds this fiscal year and those \$400,000 in Cash Funds this fiscal year?
[AGENCY 25]

JODI FENNER: Certainly. One of the things that we've been very successful at is recruiting permanent employees. Right now, our entire senior management staff...they're permanent employees. We aren't using the CSM contractors that we were using. And that's a significant monetary savings. We've also recruited two additional primary care medical staff, and that cuts down on the temporary medical staff that we were using. So what you're seeing is primarily a result of the reduction in the use of

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contracted staff. There are some other ancillary parts to that. For example, with the reduced population, we save money on things like food and medical supplies and utilities, things of that nature. But the biggest chunk of that is going to be related to reduced contracted services. [AGENCY 25]

SENATOR MELLO: Would it be safe to say then that with the ongoing struggles that the Beatrice State Developmental Center has had in regards to paying low wage and keeping low-wage employees, that instead of taking funds away from high-paid contracts that instead we divert those monies maybe into wage increases to keep more qualified and professional staff at Beatrice? [AGENCY 25]

JODI FENNER: Well, the wages that we pay our direct care staff are set by the union rates that were bound by the union contract to the extent that we feel our staff are performing above what were their previous classifications. The Department of Administrative Services have worked with us very closely to increase those salaries. For example, we have two MRPs and HSTS positions. We felt that they weren't necessarily appropriately classified. We worked with DAS and were able to obtain more appropriate salaries for those individuals, but in general we are very much restricted by the labor, the bargaining agreement. And, you know, so I would love to be able to just say, this is what we are going to pay our individuals, but it doesn't just impact BSDC, it impacts employees all over the state. [AGENCY 25]

SENATOR MELLO: Senator Conrad brought up a very valid point, which Director Winterer kind of answered in the sense that it's assuming that it falls within the mission or the scope or purpose of a program that it would be advantageous for the state, particularly developmental disabilities, that any money that is reduced and/or saved in the developmental disabilities programs, that money stays within existing programs knowing that there is such a great need right now for services pretty much for the last decade or so since the expansion of the waiting list. How do...I guess the question I ask is, how do we take almost \$2 million of reduced appropriations for high-paid contracts

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and throw that back in General Fund to fund some other entity, whether it's the Treasurer's Office or the Governor's Policy Research Office or things that don't have a direct impact in the lives of Nebraskans? [AGENCY 25]

JODI FENNER: With all due respect, Senator, that's the difficult job that you're faced with. My job is to be a good steward of the money that you entrust me with, and what we were able to do is identify funds that we didn't need. I can assure that any money that you provide me, I will use very diligently to support the individuals with developmental disabilities that are entrusted to my care. I realize you have financial constraints and those are decisions that the Legislature will have to make. I'm just telling you what we have available to offer up, so to speak. [AGENCY 25]

SENATOR MELLO: Have you had any conversations with the Governor or the Governor's Office at all regarding this specific reduction in aid to the Beatrice State Developmental Center? [AGENCY 25]

JODI FENNER: My conversations have been limited to, these are the resources that I need. And I can tell you that I've always been given the resources that I need to perform the task that I have in front of me. If you're talking about allowing us to expand programs, I think facing the economic situation we are in as a state, that is not a conversation we've had. [AGENCY 25]

SENATOR MELLO: What's the right...at this point in time, what's the number of people waiting for services on the developmental disabilities waiting list? [AGENCY 25]

JODI FENNER: I don't have that number today, I apologize, but we can get that to you. [AGENCY 25]

SENATOR MELLO: Do you have a ballpark figure? [AGENCY 25]

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JODI FENNER: It ranges any...I believe it's...I wish Tricia was here today, I believe it's around 2,000. I know we're up to 2006 in our waiting list offers. [AGENCY 25]

SENATOR MELLO: So would you consider that being an expansion of...knowing that we have a waiting list of that length, people waiting for services, would you consider that to be an expansion of a program than essential? [AGENCY 25]

JODI FENNER: No. It wouldn't be an expansion of a program, but it would certainly be an expansion of appropriations for that program knowing that we have millions of people in this state waiting for other services as well. Again, I think that's a decision that I'll trust to the Legislature to make. Again, if you give me the money, I will certainly spend it. [AGENCY 25]

SENATOR MELLO: Has the Governor requested that money at all? [AGENCY 25]

JODI FENNER: Requested what money? [AGENCY 25]

SENATOR MELLO: Has the Governor requested that money through the Department of HHS, which I believe you answer directly to the Governor? [AGENCY 25]

JODI FENNER: The Governor has not requested any funding from me. No, the only request that has been made was for me to come in and be diligent and responsible with the budget that I've been entrusted to, and that's what I've done. [AGENCY 25]

SENATOR MELLO: Thank you. [AGENCY 25]

JODI FENNER: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Harms. [AGENCY 25]

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SENATOR HARMS: Thank you, Mr. Chairman. I'd like to just follow up with a comment from Mr. Mello, Senator Mello. I was on that committee that Senator Lathrop chaired in regard to Beatrice. And I'm just going to make this statement and will move on. Senator Mello, there was no management, period. And that's why we're at...that's why we were in that kind of involvement with the federal government. That's why we lost our certification, the only way that you cut it. And so there was none. Until Jodi Fenner came on into this system and was given the authority, she's the first bright light that I've seen. In fact, Jodi, we have not had one meeting this summer because of the confidence that Senator Lathrop and the rest of the committee has in you. I want to say thank you because you had a very difficult task to take on, and I applaud you because you've made some great progress. And quite frankly I think we're in good hands. I know you've got a long ways to go. [AGENCY 25]

JODI FENNER: I wish I could take credit for that. I have a really good team, so.
[AGENCY 25]

SENATOR HARMS: So thank you for that because we were involved very heavily with that and truly understand what the issues are and were able to see what's taking place. So thank you very much for that. [AGENCY 25]

JODI FENNER: Thank you. [AGENCY 25]

SENATOR HARMS: Director, I guess the one concern that I have is that our Governor has said that all of us should share in the pain equally. I'm just a little bit disturbed by the fact that as I look at our top management positions, such as yourself and other managers, that have been unwilling somewhere along the line to say, you know what, we're going to share in this pain and we are willing to give up 1 percent, 2 percent, 3 percent of our salary. Because we were confronted with reducing potentially and reducing our staff by at least 400 people, either reducing it, furloughing it, or...what we're asking is the unions to open up the contracts and roll the salary back. And my

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goal here is to keep everybody that we can employed. I just think it's very important to us. And so I'm a little bit disappointed in that aspect because I think it does not in any way or form send the right message to the people who might be furloughed or the people whose families may be completely disrupted. I've had that experience once in my lifetime, and I don't ever care to walk it again because it's painful and people never...their confidence is lost in many cases, never come back to being trustworthy of other people. So I'm leaving it to that. I hope that you'll...not asking for a comment, but where I would be in hopes that everyone would be gracious enough and kind enough to understand we all have to feel the pain. This legislative side of the house is going to feel the pain, and so I think it ought to be truly equal. So the other thing I wanted to ask you I guess more directly. But one of the concerns I have had since I've gotten here and learned a little more about some of the issues that we have is a large amount of turnover that we have in our staff and the fact that the people that are on the front lines are just burdened with so many cases, the caseload is just staggering. And we hire a lot of young people who come in, we give them a lot of cases. They just can't...they don't...they can't move themselves through that system to help the client, and the object of this is to help the client. And so what happens, at least where I live and what I hear and the complaints that I hear sometimes, they just fall through the cracks. I know we're trying to resolve that, but they just do. What are your thoughts about this and how do we get a handle on this aspect? Because your job and our job is to make sure that all of our clients get the appropriate services that are needed. [AGENCY 25]

KERRY WINTERER: Right. Well, I think there's several answers to that question. One of the things I've learned since I've been here is that the people that we employ that are in the front-line staff as the caseworkers and the case managers have a very difficult job. It's challenging to them. They have plenty to do and, in many cases, more than they can do. And one of the things that I've tried to focus on is how can we be more supportive in terms of trying to help them do their job, be more efficient, and so on. Now that's...I mean, that doesn't fully answer the concern of the question, but I've been concerned about issues like employee moral and issues about how can we help them

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be more effective and more efficient in terms of doing their job. Things like ACCESSNebraska and such I think are going to...hopefully are going to be more efficient in some respects. But there still is that fundamental, individual, personal toll, if you will, that is taken on our employees, and we're asking them to do difficult jobs and, at the same time, we're probably asking them to do it at a pay rate that's not necessarily competitive with the private sector. And we have lots of dedicated employees who have been with us a long, long time that do it I think only because they want to do the job, not necessarily because of what their making at it. I think our mission, our objective as we try to...as I and the other directors do, to believe the agencies to be continually mindful of that and try to help those folks do their job. I don't think there's a silver bullet that's going to solve the problem. But we need to be mindful, I think, of employee morale and try to find ways to help that. I don't know if that's a response to your question, but those are my concerns. [AGENCY 25]

SENATOR HARMS: Well, one of things I've found when we went through the Beatrice issue and then discovered that it was probably throughout the entire system was our training that we do with our staff is really...was antiquated and in many cases was not appropriate and we don't do enough and people didn't want to go through the training program because they didn't feel like they were getting anything out of it. What kind of on-the-job training or what kind of training do you have for upgrading the staff and making sure that we're on top of this because I believe that's an issue and has always been an issue, and unless we come to grips with that, it will be an issue in the future? [AGENCY 25]

KERRY WINTERER: Right. Well, I can tell you that we do have a significant training component in our HR function. And I have to also admit that I can't necessarily give you an opinion about the efficiency of that or the effectiveness of it. I certainly would look at that because it's obviously a component of the whole employee morale and employee support issue I think. [AGENCY 25]

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SENATOR HARMS: Now that you've been with us...I'd have to tell you I think you've done a nice job with the very short period of time you've been with us. You have lots of issues that are before you. Where are you in regard to looking at the culture of the organization and Health and Human Services because it's really clear it wasn't Beatrice and I think there's other issues that we've gotten into that deal with Health and Human Services? The issue of management and the change that are the cultural side of your organization needs to be drastically changed. And if we're going to make the changes in Health and Human Services and be productive in human services and reach the goal that you want to establish, which I know that you'll work hard in trying to accomplish, the culture of the organization will have to change. And do you have...have you given that any thought? Do you know how you're going to do that? And do you have a vision for that and a plan? [AGENCY 25]

KERRY WINTERER: All right. All right. Well, I understand exactly what you're saying and I think one of the challenges sitting at my job relative to this agency is that you have so many moving parts and so many different...obviously six divisions, each one of those missions of those divisions is somewhat different, the functions are different, the way they operate and the kinds of services they provide many times is different, although there is...I mean, there's commonality there. I guess in terms of that, I would tend to kind of start on a more fundamental level. We're in the process now of doing an employee attitude survey across the whole department to try to find a baseline information that we can use that says: Where are the problems? What's the attitude? Where are the morale issues? What can we then use...what can then we target based on that to try to engage employees, be that training, be that support, be that communication, and so on? And use that as kind of as a basis for that. At that same time, one of the things we ultimately do when we can is I've been interested very much in building the directors as a team to understand a common culture because I'm not sure that that's necessarily been defined as such. I think if you talk to the individual directors I think they would kind of have a feeling about that, but I don't think we've taken the time to define what should be the culture of this department as a whole? And I think you also need to understand the

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department as it's currently constituted is pretty new. I mean, this is a result of reorganization in 2007 with the CEO and these various divisions and such. So frankly as it currently constitutes, it's only a couple of years old. And so I'm not sure it's essentially jelled, if you will, but at the same time, I don't know that there's been an agent to cause that jell to occur, if you will. And so it's those kinds of things. It's not going to happen overnight. It's a process. It's something that you got to kind of deal with and work with and come to some kind of a commonality, I think, among the directors who then in turn can share that with the people that they manage and they relate to. Is that... [AGENCY 25]

SENATOR HARMS: I had...you're...moving down the line, I'd want to go, I've had that experience. I will tell you that it's not easy to change. And that if you're going to do it, you almost have to bring someone in to help you make that analysis to determine what the culture is. Let me ask you one final question and this is probably an unfair question to ask. And I don't mean to place you on the spot. With the reorganization of the entire Health and Human Services area, do you think it's too large? Because I've heard you use the term, it's unwieldy, it's large, it's hard to get your hands around this whole issue. I'm beginning to wonder whether or not it's just too big and can we in fact be more cost-effective in another kind of structure? I don't know. I'm just asking the question. [AGENCY 25]

KERRY WINTERER: I don't know. I don't know that I have an opinion about that at this point in time. I think maybe if you ask me that question a year from now I may have a better, more informed judgment of that. I can tell you that coming in as I did from the outside and looking at this, I mean, it's a daunting task to try to come to terms with everything that's going on at the same time. But having said that, there is to a large extent if you can get your finger on it, there is a common purpose here in terms of these various divisions and what we're all trying to do. So there is an inherent logic for them all to be together and be cooperative, if you will, relative to providing services. Whether it's too big, I don't know. [AGENCY 25]

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SENATOR HARMS: Well, let me just say this. If I'm back and get reelected and I'm placed back on this committee, I will ask you that question again (laugh), there's no question about it. Thank you very much. [AGENCY 25]

KERRY WINTERER: I have no doubt about that. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nelson. [AGENCY 25]

SENATOR NELSON: Thank you, Senator Heidemann. Kerry, thank you very much for coming in today. How long have you been CEO? Four or five months? [AGENCY 25]

KERRY WINTERER: I started July 13. [AGENCY 25]

SENATOR NELSON: Okay. I want to thank you for taking on that job. At your stage in life, you could lead a much more comfortable and easy life than you assume by...but I really...thank you for that and appreciate your dedication in what you're doing and the time that you're putting in. And I'm sure a year from now you're going to have a lot more answers, you know, as a result of getting vastly more familiar with this large organization. I have just one simple question. I noticed that in fiscal year 2011, you're going to implement a transportation broker. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR NELSON: Is that going to be in-house? Are you going to contract someone to do that? [AGENCY 25]

KERRY WINTERER: My understanding it's a plan to contract with somebody to provide that function. [AGENCY 25]

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SENATOR NELSON: Okay. And so they will be managed and all the transportation you...(inaudible) can effect \$360,000 in savings there. Right? [AGENCY 25]

KERRY WINTERER: That's right. [AGENCY 25]

SENATOR NELSON: I think that's a good idea. It's a smaller item, but... [AGENCY 25]

KERRY WINTERER: But it just makes sense. [AGENCY 25]

SENATOR NELSON: It does make sense. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. Senator Nordquist. [AGENCY 25]

SENATOR NORDQUIST: Thank you, Director. First question, on the reappropriations, \$23.4 million in fiscal year '10 for medical assistance and a reappropriation, I believe last year we took an additional amount out of that program as well when we did the regular budget. Why are we off so much and why aren't these services being provided? I mean, why are projects off \$23 million at the end of the fiscal year? [AGENCY 25]

KERRY WINTERER: I don't know that there's a simple answer to that. [AGENCY 25]

SENATOR NORDQUIST: Are we getting the right amount of services to the people that need them? [AGENCY 25]

KERRY WINTERER: Of course the reappropriation is the result of, you know, some incentive to save and keep it. [AGENCY 25]

SENATOR NORDQUIST: Savings at the end of the year. Yeah. [AGENCY 25]

KERRY WINTERER: I don't know that I can necessarily tell you the entire amount.

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There were some limits on some benefits that I think went into effect. I mean, we can certainly...the answer is there, we can certainly provide it to you. [AGENCY 25]

SENATOR NORDQUIST: Okay. I'd just hope that we're getting the appropriate services to the people who qualify for them and we're doing...in all due diligence, we're reaching out to those people. And then there's 4.7 for behavior health. I don't know if Director Adams or if you would know where that savings came from. [AGENCY 25]

KERRY WINTERER: Well, some of that is...a significant amount of that is money that was appropriated to go to the regions that they didn't use because, as you probably know, we provide money to the regions who in turn provide services based on their contracts. And there is significant amount of dollars that had not been spent by the regions. [AGENCY 25]

SENATOR NORDQUIST: So there was no need for the regions...for that money?
[AGENCY 25]

KERRY WINTERER: I don't know. I mean, you kind of have to ask the regions, I guess.
[AGENCY 25]

SENATOR NORDQUIST: Sure. Okay. In LB603, we included...we created a work force initiative to create a couple of residency programs in behavioral health in rural Nebraska. Will any of this effect that program or are we going forward with that?
[AGENCY 25]

KERRY WINTERER: We're going forward with that. [AGENCY 25]

SENATOR NORDQUIST: Okay. And then just to jump in on the healthcare reform conversation, is there any analysis done or discussion with providers about the burden of uninsured people and the overutilization of emergency rooms and the inefficient use

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of care that way? Has the department looked at that? [AGENCY 25]

KERRY WINTERER: Well, we're always concerned about that. If the question is whether we're engaging providers directly about that, not to my knowledge. [AGENCY 25]

SENATOR NORDQUIST: Okay. I think that's a critical component to analyze as we go forward and we look at covering insured people and getting them to primary care providers instead of a misutilization of our emergency rooms. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR NORDQUIST: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you. I just have one final question. There's a significant amount of savings contemplated in the Governor's proposal in relation to changes in reimbursement between Medicaid and Medicare providers. I just wanted to give you an opportunity to assure this committee and the public at large that these changes will not effect the quality or general access to care for our elderly citizens. [AGENCY 25]

KERRY WINTERER: You're talking about the change in terms of Medicaid reimbursement for the deductible and the coinsurance on Medicare? [AGENCY 25]

SENATOR CONRAD: Right. And I think that it seems like it's a very technical kind of change, and I just wanted to make that a little bit more real for folks to ensure that those services, which the elderly utilize and depend upon and that are important to our community, will not be sacrificed in terms of quality or access in implementing that change. [AGENCY 25]

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KERRY WINTERER: It should have no effect on the individual that's being provided the services. The provider through Medicare ought to be able to continue to get paid for that. So the provider is going to be...he's going to continue to be paid, although the source of those funds is now going to be Medicare instead of Medicaid. So it should be transparent and no consequence to certainly the person receiving the services or to the provider. [AGENCY 25]

SENATOR CONRAD: Okay. Thank you for that clarification. [AGENCY 25]

SENATOR HEIDEMANN: Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. Only one question, Director Winterer, and it's a follow up to Senator Nordquist's, which I'm a bit concerned that your leadership team and yourself couldn't answer how you reduced \$23 million in reappropriation savings is a bit concerning. So my question is, can you provide the Appropriations Committee a written documentation of all of the reappropriation reductions in regards to how you saved that money so that we know exactly how you came up with those funds before we look at accepting the Governor's proposal to take that? [AGENCY 25]

KERRY WINTERER: Sure. [AGENCY 25]

SENATOR MELLO: Just it helps clarify more of what we would be doing in regards to the question Senator Nordquist asked. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Is there any other questions? Seeing none, thank you for coming in today. It's been very informational. As we continue on with this agency, I'm looking at the clock and realizing that we have eight agencies left to do by noon. There is going to be a short amount of time that we're going to be able to hear testimony. And

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because of that, I want to take a show of hands right now of who else wants to testify on Agency 25. We're going to limit you to three minutes. I hate to do that, but just in the matter of time we're going to have to do that. Welcome. [AGENCY 25]

JULIE DAKE ABEL: (Exhibit 3) Thank you. Good morning, Chairman Heidemann and members of the committee. My name is Julie Dake Abel, D-a-k-e A-b-e-l. I am the executive director of the Nebraska Association of Public Employees AFSCME Local 61, which is affiliated with AFSCME, our international. We represent a large number of state employees, including the support staff at the state colleges. Additionally, we represent employees such as the social service workers that do eligibility and ongoing case work for those that receive state benefits such as: Medicaid, AABD, food stamps, transportation, energy assistance, emergency assistance, etcetera. One of the things that I'm actually here to testify on today, which is a little different for us, is actually a proposed cut that we believe could be beneficial to the state and the citizens of the state. We have some very serious regards regarding ACCESSNebraska and the call centers. We are actually asking that this program be halted. We believe the movement towards call centers is actually going to effect our most vulnerable citizens and the economy, especially in rural Nebraska. I know that the question was brought up earlier about if offices have closed. Through my latest information that I've received, I'm not aware of an office specifically closed right now, but there are offices that are already closed to the public. If you go into that office there's a sign that you have to go someplace else, I do know specifically in Omaha. I'm not sure about the specifics of other parts in the state. Some of the things that we're concerned about is the unemployment that this is going to do with. You've already heard the 200-plus caseworkers that are going to be...that are going to lose their jobs at a time when their caseloads have grown tremendously. There are caseworkers that in the last couple of years their caseloads have actually doubled, and as you heard CEO Winterer state that, you know, sometimes they can't get the job done. We also heard about the cost savings from the department of \$6.5 million and we actually believe...we actually believe that it would be a cost savings to stop the program of anywhere between \$4 million and \$9

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million. Because if you go back to when HHS had done their budget, they actually put in a cost to this program of \$4.5 million. So I'm having a hard time seeing the transparency in where the money savings is going to be beyond the staff. A couple of other things that I wanted to point out was that the program is partially funded by federal money and that was due to the low error rate of employees with the food stamps, those very same employees that are going to lose their jobs. It's completely disheartening to us to look at that. We do recognize that on-line applications and move towards electronic applications is a good idea and they have already implemented that. There have been some problems with that because many people, they can just sit at home, people in west Omaha can sit at home and just, hey, let me see if I qualify for any sort of food stamps or Medicaid. And so actually when you hear that on-line applications are increasing, be aware that that's also increasing the amount of people that are trying to apply for services but are not eligible. I also wanted to let you know that as community partners are supposed to become a part of this and help the clients in being able get on-line access through a computer, those community partners are having to try and add additional staff when they don't have the funds to do it. In fact, as recently as a few weeks ago, I was talking with some of the community partners that didn't even know they were community partners. They had never been notified from the agency. You know, one of the things that's also been done is that in south Omaha, for instance, at one of the offices, they have lowered it tremendously to where there's only a few caseworkers left and that's in an area to where there's a large Hispanic population and the only office around in that area. So we believe that this is not accessing Nebraska but this is actually No Access Nebraska. We also believe that it is going to increase fraud. I will try and wrap up here real quick. I know I'm out of time. But we also do believe that it is actually going to increase fraud because there's going to be multiple workers now. People will not have one single caseworker to handle their case so when you have...when you have information going through multiple hands, depending upon whoever answers the phone, that's going to create less checks and balances. Less information is actually already being sought from clients. Bank accounts are not checked and there's no more face-to-face interviews with clients as well. You know, I

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would ask that we seriously look at this. While the technology is good, moving to a system for call centers is really going to decrease and almost deny access to our most vulnerable citizens, and I hope you will consider this cost-saving idea that I brought forth. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in today. Are there any questions? Seeing none, thank you. [AGENCY 25]

JULIE DAKE ABEL: Thank you. [AGENCY 25]

KATHY HOELL: Good morning. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

KATHY HOELL: I'm Kathy Hoell. I am from the Nebraska Statewide Independent Living Council, and I am also going to talk about ACCESSNebraska is not access for a lot of people with disabilities. Because our population does not have the educational background or the ability to purchase technology, so they have to depend on libraries, and are you going to take all your personal information to the library to complete this form on-line? In addition, I have heard of the community partners who have not been notified that they are community partners. They don't have the staff or the ability to complete this form. My organization has written to the Governor about our concerns that this is not accessible to people with disabilities because libraries do not provide specialized computer equipment that is needed by people with disabilities. So we are...my concern is that we will be violating federal law by going to an inaccessible system. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming today and testifying. I think your concern might be shared by more than you think. I have some of those same concerns. Are there any questions? Seeing none, thank you. Welcome. [AGENCY 25]

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ALAN ZAVODNY: (Exhibit 4) Good morning, Mr. Chairman, members of the committee. For the record, my name is Alan Zavodny, A-l-a-n Z-a-v-o-d-n-y, and I'm the chief executive officer of NorthStar Services. We provide supports for people with developmental disabilities in 22 counties in northeastern Nebraska. I am also the current president of the Nebraska Association of Service Providers and representing them as well today. For all intents and purposes, you are our funding source and I'd just provide you with bullet points. In listening to the previous questioning, I really don't have much to repeat. Senator Wightman brought up many of the issues of the morale. I would just emphasize that we are falling further behind and it does affect our morale. A couple years ago we testified before this committee that we could not increase capacity given the current situation. To some extent, we've already lost providers in that we were close to serving 400 people at that point. We're closer to 300 now and really have no intention of expanding our capacity at this point. The one thing that we want to make sure we emphasize today is it is our understanding that \$150,000 to study methodology may be at risk here. We'd really like to encourage you to keep that piece in. I know you can't appropriate money you don't have, so we're not going to really push for the 2.5 percent because it's been very clearly stated to me that that may not be something we have a chance at, but we need you to realize what the impacts of these things are to the people with developmental disabilities and we need to study methodology. And my big concern is that a lot has been made of what's happened at Beatrice State Developmental Center. I am worried that what could happen in our community-based program can make that look like a walk in the park. So those are my concerns. I stayed under your time and I appreciate your time this morning. [AGENCY 25]

SENATOR HEIDEMANN: Are there any questions? Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. And thank you, Mr. Zavodny, for your testimony. Your last statement, with what happened at BSDC, if we take the Governor's proposal to cut provider rates for developmental disability providers would

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dramatically harm community-based providers. Walk us through, as the Appropriations Committee, what this looks like if we want to look for a long-term solution to deal with the state's roughly 2,000 individual waiting list right now. If we take this specific provider rate freeze, so to speak, or cut from where it was in the budget, how longer does that put us back or how much further does that set the goal posts back for us essentially to reach our goal? [AGENCY 25]

ALAN ZAVODNY: Well, we're having trouble hiring staff currently, so to continually fall further and further behind...our methodology is based on a Tech I at BSDC, which they don't even hire anymore. So we have a fairly low-paid employee force. And when you're putting people in charge of people who are the most vulnerable in Nebraska, it's a little bit scary when you do that. The ironic thing about this whole thing, and I don't want to...the waiting list is so important and people work so long to get to that, but those seem to be conflicting issues right now. We want to add more people in the system when we're not addressing the system and keeping it healthy right now. I'd rather we would talk about the waiting list and bring them into a system that I felt much more confident about its stability. I do not feel confident about stability now. I'm not one to come and yell the sky is falling, the sky is falling. This is real and the things...I'm not a prognosticator but I will tell you a lot of the things that we have come to this committee for years and said would happen have happened. And we're not that smart, but we can see what's going on and we know what's going to happen. If you do this, this is going to happen. When it rains you get wet. When you don't pay people very well you have turnover, you don't have enough people to provide the supports. That's what happens. We have a culture Senator Harms talks about of we worry about the morale and we're hiring people that maybe two out of ten are really, really good employees and the others are people other people don't want to hire. [AGENCY 25]

SENATOR MELLO: What's the starting salary? You mentioned a Tech I position at BSDC, they don't even hire that position anymore. What's the starting salary average for community-based providers? [AGENCY 25]

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ALAN ZAVODNY: The differential, as I recall, was about...was a little over \$2 an hour, so they were hiring at a Tech II but our methodology is built on the Tech I, so it was roughly...we're at around \$9.75 an hour to start, so that's what we're paying. [AGENCY 25]

SENATOR MELLO: One last question: We did, in the Appropriations Committee...I think other senators, Senator Karpisek and Senator Lathrop, both introduced legislation last year to deal with the enormous waiting list that is currently facing our Developmental Disabilities Division in HHS, and we were able to provide some additional funding for that waiting list. If we chose to cut, take the Governor's proposal to cut the provider rate for developmental disabilities, how will that impact that decision we made last year? [AGENCY 25]

ALAN ZAVODNY: I can speak for our agency, which is one of the bigger ones in the state, but it would not be our intention to be very helpful on the waiting list given our current situation. We've been willing to pay overtime, whatever else we've needed to do to make sure we have people in place, because a lot of these are very vulnerable people who need 24-hour care, not all of them do, but those supports are needed. So you can't just decide, well, we're going to close down Friday night. Doesn't work that way. I'm not going to take a bad situation and make it worse. We are fortunate enough we...and maybe it's me, my conservative nature, but I always predict the worst and I expect that you're not going to ever give us money, been fairly, you know, accurate in the way we've been able to keep up, and so we've put a little away. But there are providers that at the end of the year, you know, looking at their audits, they have a couple thousand dollars left. Everything they've taken in they've spent out. You're going to have providers that in the next couple years certainly I would worry about their solvency. [AGENCY 25]

SENATOR MELLO: Okay. Thank you. [AGENCY 25]

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SENATOR HEIDEMANN: Senator Wightman. [AGENCY 25]

SENATOR WIGHTMAN: Thank you, Mr. Chairman. Thank you, Mr. Zavodny. You talked about the difference in pay scale but can you discuss a little bit the benefits that most of these employees of providers get? Do they get the same health insurance benefits, the same retirement benefits that most state workers get? [AGENCY 25]

ALAN ZAVODNY: Yeah, we certainly can't afford to provide anything that comes close to that. The other issue that affects that is we get paid a rate that we have to pay everything out of. So when workers' comp goes up, all the other expenses go up, we have to find a way to do that. We try to offer health insurance and we do it through the county officials for our organizations to try to get a bigger pool to keep costs down for us, but those costs have risen significantly, too, and there's probably no end in sight to that. We offer leave time and we...it's almost embarrassing what we contribute to retirement. It's .25 percent of anything they match, up to 3 percent, so it's basically nothing. [AGENCY 25]

SENATOR WIGHTMAN: Does the health insurance include family coverage or just employee coverage? [AGENCY 25]

ALAN ZAVODNY: We actually pay a flat amount of \$500 a month and the employee makes up the difference, and they can pick between...among three plans: single; employee plus one, which could be a single mother and a child or two...a spouse; and then the family plan. And our family plan is well over \$1,000, so the employee is paying close to \$700 out of their pocket for that insurance. [AGENCY 25]

SENATOR WIGHTMAN: So really you're talking about a medical reimbursement plan that pays \$500 per employee basically. Is that it? [AGENCY 25]

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ALAN ZAVODNY: That's what we've had to do. That's how we cap our expense.
[AGENCY 25]

SENATOR WIGHTMAN: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you, Mr. Zavodny. Am I pronouncing that right? [AGENCY 25]

ALAN ZAVODNY: Yeah. [AGENCY 25]

SENATOR CONRAD: Okay. [AGENCY 25]

ALAN ZAVODNY: Just...if I call you Senator Nantkes though, don't get mad at me.
[AGENCY 25]

SENATOR CONRAD: No. No worries at all. [AGENCY 25]

ALAN ZAVODNY: I look at you and I see Senator Nantkes. [AGENCY 25]

SENATOR CONRAD: Everybody...that's one of the reasons we're having this special session, to get everybody in gear for the next regular session. [AGENCY 25]

ALAN ZAVODNY: Get accustomed to your name. Good idea. (Laughter) [AGENCY 25]

SENATOR CONRAD: Right. No, I'm kidding, all kidding aside. But it's important we don't lose our sense of humor and levity even in difficult economic conditions. [AGENCY 25]

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ALAN ZAVODNY: Yeah, that's true. [AGENCY 25]

SENATOR CONRAD: But I wanted to talk with you about the tail end of your comments and then that have been drawn out a little bit more so by dialogue with the committee in terms of the state is...or the administration and the state in cooperation, the Legislature, has made a policy choice to try and focus more on community-based services and less on institutional settings, whether it's in the DD community, child welfare, etcetera, etcetera, etcetera. And you talked about some of your concerns related to the current infrastructure that exists in the community service provider network within our state. I'm wondering, and I don't think that's news to members of this committee or our other colleagues that there are concerns about the current level of infrastructure amongst community providers to fully acclimate in this transition. Can you tell me, has the Governor or the director of HHS been in contact with you or your organization or the network of providers that you represent to address these issues and bring forward solutions? [AGENCY 25]

ALAN ZAVODNY: There has been indirect contact at certain providers' meetings, but I would submit that my believe is community-based was offered as a solution to some of our bigger problems with BSDC,... [AGENCY 25]

SENATOR CONRAD: Uh-huh. Uh-huh. [AGENCY 25]

ALAN ZAVODNY: ...with the waiting list, and the step we forgot is to find out what it's going to take to make the community-based system healthy, at a minimum. And, you know, I've offered to this committee several times, would offer to whomever wanted to look at it, look at how we spend our money. We're transparent on that. You can see, it's spent on employees because our budget is over 85 percent goes back to the employees and not...certainly not highly paid administrators or anything like that. There are some savings in the system and I'd be happy to talk about those at some point, but we... [AGENCY 25]

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SENATOR CONRAD: But it would be safe to say that it's not a realistic option today to transition our obligations into community service providers without making major infrastructure changes. [AGENCY 25]

ALAN ZAVODNY: It will actually accelerate the implosion of that system. [AGENCY 25]

SENATOR CONRAD: And expand our liabilities, which are already significant. Okay. [AGENCY 25]

ALAN ZAVODNY: I think that's a fair assessment. [AGENCY 25]

SENATOR CONRAD: That's helpful. Thank you. [AGENCY 25]

SENATOR HARMS: Thank you, Senator Conrad. Do we have any other questions? Thank you. [AGENCY 25]

ALAN ZAVODNY: Yes. [AGENCY 25]

SENATOR HARMS: Do we have anyone else who would like to speak on Agency 25? Thank you. [AGENCY 25]

DAVE MERRILL: (Exhibit 5) Good morning. My name is Dave Merrill, M-e-r-r-i-l-l, and I'm the executive director for Region V Services. We're a public agency, supporting 850 Nebraskans with developmental disabilities. Our board of directors is comprised of 16 county commissioners or supervisors who met yesterday and asked me to convey our concerns about taking away the 2.5 percent. Rather than read the testimony, and I know you've got a lot to hear today, I think the big thing is just to go to the issue of over the last two years at Beatrice State Developmental Center the state has recognized the need to pay employees more. There was a union increase of about 7.5 percent a year

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and then this proposal would actually take away a minimal 2.5 percent increase for next year. Our health insurance went up 18 percent last year. It used all the last 2.5 percent that was there, and we anticipate that it will again. And the main thing is, just twofold issue: one is we've got to get away from this us and them mentality. You know, Jodi...and I do want to say that we've really enjoyed Jodi Fenner and Tricia Mason, are doing excellent jobs. But when she went to the Governor and he provides what they need, we're in the same business of providing a different part of that so we have to get away from the us and them, where we treat one set of employees trying to meet a need one way, and then providers are looked at, we should be grateful that they're not taking away the contract that we already have this year versus keeping it flat next year. The other thing is just that for every million dollars that is saved by this rate reduction, we lose a million dollars in federal funding. Roughly, it ends up being a fifty-fifty match. And what happens is we have less money available in the state of Nebraska because that money is coming in from the feds, but we have the same problems we had before. So I'd be happy to answer any questions but I just want you to know that having a flat rate next year would be very harmful. [AGENCY 25]

SENATOR HARMS: Thank you for your testimony. We have any questions? Seeing none, thank you very much for... [AGENCY 25]

DAVE MERRILL: Thanks. [AGENCY 25]

SENATOR HARMS: Next. [AGENCY 25]

GARY HONTS: Good morning. Thank you. [AGENCY 25]

SENATOR HARMS: Welcome. Thank you for being here. [AGENCY 25]

GARY HONTS: Gary Honts, H-o-n-t-s, president and CEO of Creighton University Medical Center, also a member of the Nebraska Hospital Association. I'd just share with

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you a few thoughts here. Over the last 139 years ago, the hospital was first established by Sisters of Mercy. It opened as Saint Joseph Mercy Hospital. Its mission was to provide quality care for the underserved in the Omaha area. In 1892, John Creighton donated funds to build a new hospital in south Omaha on South 10th Street, thus, beginning a very strong relationship with Creighton University for the teaching program in the School of Medicine to educate and teach physicians. The values and the missions that held true back in 139 years ago and, with Creighton, 117 years ago to serve...to care for the underserved, to provide a teaching mission still hold true today. No matter what the name is that the hospital has, whether it's St. Joseph Mercy Hospital, Creighton Memorial St. Joseph Hospital, St. Joseph Hospital, Creighton University Medical Center, those values remain the same today. For example, in 2008 we provided \$46.5 million of uncompensated charity care; cared for 15,850 Medicaid patient recipients to a tune of \$21 million; we employ 1,158 employees; 250 physicians practice at the hospital. We have an operating budget of \$176 million. The local and state taxes paid by the hospital equate to \$2.7 million. No other hospital in Nebraska can say that. We are one of two level one trauma centers within the state of Nebraska, and when the state was in need and asked for support for the Beatrice patients, we stepped forward and received eight patients, two of which we are still caring for. So I just want to remind the committee, as you work through the very difficult decision you have in front of you, that the values that we have, have not changed for the entire history of our organization of 139 years. Thank you. [AGENCY 25]

SENATOR HARMS: Thank you for your testimony. Do we have any questions? I guess not. Thank you. [AGENCY 25]

SENATOR CONRAD: Oh, Senator Nordquist. [AGENCY 25]

SENATOR HARMS: Oh, I'm sorry. Senator Nordquist. [AGENCY 25]

SENATOR NORDQUIST: Thank you for joining us here today. We all know, we all see

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the costs of healthcare continuing to grow sometimes double-digits a year, sometimes a little less than that. What is it...what is it...how does it put the hospital financially in a position when you go a year without receiving a Medicaid reimbursement rate? What does that do for your bottom line? How do you...when not receiving an increase in Medicaid reimbursement, can you give us a little background from your perspective?
[AGENCY 25]

GARY HONTS: Sure. It makes it very challenging in a time, as you mentioned, that healthcare costs are rising all over the place. But the increase that we're talking about that's on the table, the 1.5 percent increase, really doesn't cover the cost-of-living increase for our wage increase for our staff, so that makes it very challenging in providing quality care and continuing to recruit the finest in medical professions.
[AGENCY 25]

SENATOR NORDQUIST: Sure. Thank you. [AGENCY 25]

SENATOR HARMS: Thank you, Senator Nordquist. Do we have any other questions?
[AGENCY 25]

SENATOR NELSON: Thank you, Senator. What was the figure, \$21.5 million in uncompensated? [AGENCY 25]

GARY HONTS: Uncompensated care if \$46.5 million of uncompensated or charity care.
[AGENCY 25]

SENATOR NELSON: Thank you very much. [AGENCY 25]

GARY HONTS: Uh-huh. [AGENCY 25]

SENATOR HARMS: Thank you, Senator Nelson. Do we have any other questions?

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Thank you for your testimony. [AGENCY 25]

GARY HONTS: Thank you. [AGENCY 25]

SENATOR HARMS: Do we have anyone else who would like to testify on Agency 25?
Well, thank you for your willing to testify. [AGENCY 25]

BRENDON POLT: (Exhibit 6) Good morning if it's not afternoon yet. My name is Brendon Polt, that's B-r-e-n-d-o-n P-o-l-t. I am representing the Nebraska Health Care Association and we're a trade association of just about all of the state's nursing homes. We also have about all of the state's assisted-living facilities for the aged. And I won't repeat anything prior testifiers have said. What I'd like to do is basically walk through my testimony and show you some of the handouts I provided you with some information. As Senator Nordquist mentioned, we do want to stress the wisdom or questioning the wisdom and ask you to do so of removing about \$20 million of spending that results in a total economic impact of some \$50 million. I do believe there are some options available to the state to potentially restore a half a percent. We very much appreciate this committee's willingness in the past to appropriate funds for Medicaid over the Governor's recommendation and your appreciation of the importance of the issue. Alternatively, we would hope that if the revenue picture improves next February that you might reconsider and restore whatever you could next winter. Specifically to nursing facilities, and I'll draw your attention to the handout Exhibit 1, currently nursing facilities are underfunded by an estimated \$19 per resident day. Holding rates flat next year would explode that amount to \$27 per resident day. Currently nationally Nebraska nursing facilities rank ninth worst in funding, but we are providing some of the best quality care in the country. I stress, this will close facilities. Let there be no mistake about it. We've had three facilities close this year with our current levels of underfunding. That will expand considerably, by our best estimates. Right here in Exhibit 2 I have a report prepared by our national association which walks through the economic impact of nursing facilities on the economy, and Exhibit 3, moving right along

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with my yellow light, is a report that discusses what happens when you move the elderly out of long-term care facilities, a phenomenon called transfer trauma, and essentially that report demonstrates you have elevated risks of mortality. The last thing I'll comment on is the proposal to transfer funding for cross claims or Medicare bad debts to the Medicare Program. I do have an analysis of that in this handout, marked number 4. The problem with that proposal is, one, that federal funding is always circumspect and our national association fights with Congress annually to protect it; furthermore, the delay can be as much as 19 months on receipt of those funds and that is a burden mainly for our smallest facilities that are ineligible to receive a more expedited payment. That's outlined here. So I've rushed through quite a bit. I'm available for questions now or certainly after the hearing. [AGENCY 25]

SENATOR HARMS: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you, Mr. Polt. And I think you were present when we had some dialogue about this earlier when HHS leadership was before us, but I want to reiterate my question. If we were to move forward and adopt the proposals related to the Governor's proposal related to achieving some cost savings in the realm of care for the elderly and otherwise, in fact, wouldn't we see some inherent risks in terms of quality or access, as presented through your testimony? [AGENCY 25]

BRENDON POLT: My crystal ball, you know, based on what we've asked our members, is to let us know what would you do. Assume your rates now, assume about a 4 percent growth in cost, which is if we take a look at Medicaid allowable costs over the last five years it's about 4.5 percent growth in inflation. What would that mean? And we've had a lot of facilities say that we don't think we could hang on. Some of the corporate members would have to shift the care through their own facilities. Obviously, the resident would have the right to choose another facility. But a lot of facilities just say we would have to close. Senator Johanns actually mentioned that on the floor of the Senate. We're also facing a double whammy because Medicare funding under the

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healthcare proposal removes Medicare funding in both the Senate and House bills, but so that's another some \$10 million a year. This is about \$5 million to \$10 million a year for nursing facilities. So it's just we're getting kind of hit on all ends. By the way, Medicare funding is basically what keeps nursing facilities alive. So if we lose those funds then the loss of these Medicaid funds in addition is something that we will have never seen before. [AGENCY 25]

SENATOR CONRAD: Well, and I think that we could all agree that we're focused on the task at hand and the big task of balancing the budget under difficult economic circumstances. But we have to take great pains to ensure that those budgetary moves do not further penalize or in any way hurt the care afforded to Nebraska's elderly residents. [AGENCY 25]

BRENDON POLT: I will say that we do appreciate the attempt to spread the burden. Because if that gets eroded then single groups will have to bear an additional portion. So we do hope that if the Governor's proposal were followed at least you continue that sharing and not start picking out other parties. But what we're asking for is maybe some deference, maybe a half a percent. Does it have to be the whole 1.5 percent? Also, is there room in other parts of the Medicaid appropriation to still pay rate increases and not increase the appropriation as much? But so... [AGENCY 25]

SENATOR CONRAD: Thank you. [AGENCY 25]

SENATOR HARMS: Thank you, Senator Conrad. Do we have any other questions? Thank you for your testimony. [AGENCY 25]

BRENDON POLT: Thank you. [AGENCY 25]

SENATOR HARMS: Do we have anyone else who would like to testify on Agency 25? Welcome. [AGENCY 25]

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MARY ANGUS: Thank you, Senator Harms and committee. My name is Mary Angus, A-n-g-u-s. I'm speaking on my own behalf today. I just wanted to kind of respond a little bit to Senator Conrad's question about liability and to some of the questions that Senator Mello and Senator Nordquist have given about the use...maximizing the use of federal funding. I don't know if you're aware that there are several transfers of money that are the result, a direct result of lawsuits that have been filed under the Civil Rights of Institutionalized Persons Act, as well as under Olmstead violations. And Director Fenner can probably talk to you a little bit more about some of the--although I don't expect her to do that now since she's not here--about some of the impact of lawsuits that have been filed as the result of abuse and neglect at BSDC. There are currently, that I'm aware of, there is one \$100,000 transfer every year for a person who was institutionalized under the Olmstead Act. There is another lawsuit that was settled, the Elizabeth M. case, which resulted in pretty high transfers of funding into the plaintiffs in that case. In terms of the Medicaid use or the increased/enhanced funding that is available, the Nebraska Money Follows the Person Project has been...it's an excellent program. It is allowing us to get 80 percent instead of 65 to 50 percent reimbursement. It's an enhanced federal match for people who are transitioning out of institutions and nursing homes and the like. We have a very, very aggressive campaign. It was to be 900 people in a variety of categories, including traumatic brain injury, physical disabilities, developmental disabilities, and aging, and that is slowly taking place. But I think that you ought to have that information so that was just all I wanted to let you know, is just a little follow-up information. [AGENCY 25]

SENATOR HARMS: Thank you for your testimony. Do we have any questions? Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you, Mary, for coming in and for all that you do... [AGENCY 25]

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MARY ANGUS: Thank you. [AGENCY 25]

SENATOR CONRAD: ...on behalf of those who sometimes can't be here and be a strong voice on their own behalf. [AGENCY 25]

MARY ANGUS: Thank you. [AGENCY 25]

SENATOR CONRAD: And I know that you're always a very passionate advocate... [AGENCY 25]

MARY ANGUS: Uh-huh. [AGENCY 25]

SENATOR CONRAD: ...in many regards. I think that we're all relieved and hopeful that new leadership within the department, specifically related to Ms. Fenner's position, will help us to turn the corner and chart a brighter future for Nebraska's most vulnerable. But the point that you bring forward that I think is salient in that it has not yet been a part of this debate is that we do have far greater financial liabilities that exist beyond the decertification itself in terms of significant amount of lawsuits, in terms of the state's liability for the mismanagement towards individual families and residents. And I know that you can't speak specifically to that and that litigation, but it concerns me that we see the state's response, continuing to deny responsibility in those cases. And I know that litigation will proceed forward, but I think that the point that you bring forward is important for the record that, beyond the decertification and the loss of federal funds, the state is looking at a very big price tag in...down the road in terms of the mismanagement and the fallout from that. So thank you. [AGENCY 25]

MARY ANGUS: Yes. [AGENCY 25]

SENATOR HARMS: Thank you, Senator Conrad. Any other questions? Thank you for your testimony. [AGENCY 25]

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MARY ANGUS: And thank you for the opportunity. [AGENCY 25]

SENATOR HARMS: You're welcome. Do we have anyone else who would like to testify on Agency 25? Thank you. (See also Exhibits 14, 15, 16, 17, and 18.) We will now close Agency 25 and we'll open up the hearing for Agency 45, Board of Barber Examiners. Welcome. Thank you very much for being here. You're on. Go ahead. [AGENCY 25]

RON PELLA: (Exhibit 7) Members of the Appropriations Committee, my name is Ron Pella, that's P-e-l-l-a, and I'm the director for the Board of Barber Examiners. And in Governor Heineman's State of the State Address on January 15, 2009, and I quote: Our attitude of encouraging agencies to save it and keep it is a more businesslike approach than the past practices of spend it or lose it. It is my observation and belief that my statement at the agency's budget hearing on Tuesday, February 24, 2009, was timely and accurate. To save it and keep it has been our agency's philosophy since 1985. I brought with me, and I'm sure after all the testimony you've heard I won't bug you with this, but I have fund agency equity funds, fund summary reports, and one of the few agencies that reports to the Governor every year and I have every copy since 1985, starting with Governor Kerrey, that's with me that tells what we do, what our fund equities truly are, and etcetera. On November 18, 1985, when I accepted this position, our self-funded cash agency had a total of \$8,315.15 for the fiscal year ending June 30, 1986. I did not come to the Legislature in those troubled times to ask for money. I did without. I demonstrated as good business individuals do and only necessities were funded. State statute 71-222.02 states, "All funds collected in the administration of the Barber Act shall be remitted to the State Treasurer for credit to the Board of Barber Examiners Fund which is hereby created and which shall be expended only for the administration of the act." Our licensees pay taxes too: property, sales, gasoline, income tax, etcetera. They pay for the total administration of our industry and with no complaints. What more could one or should one ask of a group of people who are hardworking, pay their own health insurance, no retirement or vacation benefits, and the

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economy is hurting them as it is everyone else? Is it not inappropriate to appropriate funds from a self-funded agency? Committee members, may God bless you and guide you in your work in the days to come for the betterment of our state and its people. And our board will provide what has been requested if it is a necessity, it is necessitates such action. May I reiterate the Board of Barber Examiners is a self-funded agency and receives no General Funds. I will leave the rest of that, my time, for you to ask me questions and... [AGENCY 45]

SENATOR HEIDEMANN: I appreciate you coming in today and I really appreciate that last paragraph that you had. Senator Wightman. [AGENCY 45]

SENATOR WIGHTMAN: Thank you, Mr. Chairman. Thank you for being here today. Apparently, the amount that you're being asked to transfer under the Governor's proposal is \$25,000. Is that correct? [AGENCY 45]

RON PELLA: That's correct. [AGENCY 45]

SENATOR WIGHTMAN: How much total is there in the cash fund? [AGENCY 45]

RON PELLA: Approximately have \$102,000. When we're talking about...and that's why I present this report to the Governor every year. When we get to the state and we do the fund equity year end reports, what they do is they take what licensing fees have been deposited prior to June 30, which is the day they expire. Then that number becomes fund equity for July 1, etcetera. It's not what the true number is. It's how many dollars are left. I have give it to my budget analyst. I am 67, going on 68 years of age. I presented legislation this last year which is going to take a substantial amount of money that we have placed into a fund which will adequately fund the things that we need to do to satisfy statutes that are required of us, pay for fees that we normally would not have that we will incur for that day that we're talking about, that state government is talking about right now. So that's why I come, and I'm the only one that's going to testify, I

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come to you saying that what we have is a necessity. When I get to the end of the fiscal year I say to my board, here's the true fund equity. And if you would like, I could give you a copy of it here. Here is the money that we have on hand July 1; here's the money that has to go into a bracket, so to speak, that is deposited prior to; and here's the actual. Here is what it will cost you today for...if I leave, vacation, sick leave, etcetera. [AGENCY 45]

SENATOR WIGHTMAN: Thank you. [AGENCY 45]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for coming in today. [AGENCY 45]

RON PELLA: As I always do, Mr. Chairman, I take very few minutes of your time. (Laugh) [AGENCY 45]

SENATOR HEIDEMANN: You do a good job. [AGENCY 45]

RON PELLA: Thank you. [AGENCY 45]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 45? Seeing none, we will close the public hearing on Agency 45, open up the public hearing on Agency 67, Equal Opportunity Commission. [AGENCY 45]

J.L. SPRAY: Mr. Chairman and members of the committee, my name is J.L. Spray. I'm one of the seven members of the Equal Opportunity Commission appointed by the Governor who serve in the capacity of oversight. We do some adjudication of some claims, but generally policy and oversight over the commission. Just a few introductory comments: We have contact with about 8,000 to 12,000 Nebraska citizens during the course of any year. Most of these contacts concern their concerns with discrimination. Of those, about 1,200 end up in complaints. But what I'm pleased to tell you is we're

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able to resolve the large majority of those matters so that they do not become burdens on the court system and we also act as a buffer between the federal agencies that have the same oversight jurisdiction that we do, such as HUD and the EOC. And so by the existence of this agency and the matters that we're able to handle on a local level, one on one with Nebraskans, I think we provide a tremendous service to the state and we also relieve a great deal of burden to what otherwise would go into our court system. I want to drive two other points today that I think are important. One is that we are a neutral fact finder. A substantial amount of what we do is investigation work but, at the same time, we're not an advocacy agency. The commission is very conscientious about their educational role in the community, but we're not out advocating for people to bring these cases. We're trying to be an impartial and fair fact finder for them. So with that, I'm going to introduce Kathy Bogenreif, our business manager, who can specifically tell you how we're going to address the budget cuts. Yes, sir, Senator. [AGENCY 67]

SENATOR HEIDEMANN: Could you spell your name for us? [AGENCY 67]

J.L. SPRAY: Oh, get this, J.L. S-p-r-a-y. [AGENCY 67]

SENATOR HEIDEMANN: Okay. Just want to make sure. [AGENCY 67]

J.L. SPRAY: All right. Thank you, Senator. Sorry I missed that. [AGENCY 67]

SENATOR HEIDEMANN: Thank you. [AGENCY 67]

J.L. SPRAY: Thank you. [AGENCY 67]

SENATOR HEIDEMANN: Welcome. [AGENCY 67]

KATHY BOGENREIF: Hi. I am Kathy Bogenreif, B-o-g-e-n-r-e-i-f, and I'm currently the business manager for the Equal Opportunity Commission. The commission

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understands, you know, the need to decrease funding and we feel that for this first fiscal year that we could absorb the 2.5 percent decrease to our agency. Unfortunately, our director has left and so we will have some vacancy savings for a few months. We were unhappy to see her go but she was actively recruited by the university, even though she didn't actually apply for the job (laugh), and because she was thought to be so good for that position. So with her vacancy savings and some other vacancy savings due to turnover with our investigators, and in addition to that we cancelled a contract that we had with a former employee that did some investigations for us as an independent contractor, we feel that we would be able to absorb that \$33,000 without any kind of elimination of positions. Unfortunately, for the next fiscal year the only way that we could absorb that, you know, the 5 percent, which is \$68,000, would be to eliminate one of our investigator positions. In the past few years, we've made several cuts to our staff assistants and there's just not another clerical position that we could eliminate. The bad part about eliminating an investigator means that then we have 75 to 80 cases that will not be investigated during the year and that alternately affects our federal funding because our federal contracts are set up, you know, as many cases that we investigate that they accept the investigations for, we receive funding for. And so when you eliminate a position, you have less cases that are investigated and then, you know, attached to that we will ultimately get less federal funding which could, you know, cause us to have to eliminate another investigator position. So right now we have 20 investigators out of 30 staff, and 8 of those are state funded and 12 are paid for out of federal funds. And with this elimination for General Funds for an investigator, that would mean that 7 of our investigators were being generally funded. [AGENCY 67]

SENATOR HEIDEMANN: Questions? Senator Conrad. [AGENCY 67]

SENATOR CONRAD: Thank you for being here and I see the former director is in the audience as well. [AGENCY 67]

KATHY BOGENREIF: Right. [AGENCY 67]

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SENATOR CONRAD: And we want to thank her for her service to the state and wish her the best of luck in her new endeavors. And you did a fantastic job in her absence... [AGENCY 67]

KATHY BOGENREIF: Oh, thank you. [AGENCY 67]

SENATOR CONRAD: ...in coming before the committee. And if you don't have the information before you right now, we can follow up off mike or otherwise, but can you tell me generally, and I'm sure each case in its facts are a little bit different, but do you have a significant backlog of cases in investigation now or with current staff are you able to keep a pretty good handle on what comes through the door? [AGENCY 67]

KATHY BOGENREIF: Well, I believe that right now we have a pretty good turnaround of cases. I don't think cases are sitting much longer than six...well, it's about six to eight months before they're assigned to an investigator, and that's actually a pretty good record compared to like the federal agencies. And so we've been keeping up with, you know, the number of cases quite well with the number of investigators we currently have. [AGENCY 67]

SENATOR CONRAD: Okay. I think that's it. Thank you. [AGENCY 67]

SENATOR HEIDEMANN: Senator Hansen. [AGENCY 67]

SENATOR HANSEN: Thank you. One quick question: It was mentioned that HUD and EOC on the federal level have oversight in Nebraska too. Are there actually federal investigators in Nebraska? [AGENCY 67]

KATHY BOGENREIF: None that are located in Nebraska. The office that administers us is in St. Louis currently and they don't have any federal offices in Nebraska. [AGENCY

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SENATOR HANSEN: Do they spend time in Nebraska then, some of the investigators?
[AGENCY 67]

KATHY BOGENREIF: The federal investigators? [AGENCY 67]

SENATOR HANSEN: Yes. Yes. Yes. [AGENCY 67]

KATHY BOGENREIF: I think occasionally there are cases that they do or they actually contract out, but I can't say for sure because I don't have as much information about what the federal agencies do. [AGENCY 67]

SENATOR HANSEN: Okay. All right. Thank you. [AGENCY 67]

SENATOR HEIDEMANN: Senator Nelson. [AGENCY 67]

SENATOR NELSON: Thank you, Senator. Thank you for coming today. Twenty investigators, did I hear the figure 30? [AGENCY 67]

KATHY BOGENREIF: Thirty is our total staff. [AGENCY 67]

SENATOR NELSON: What do the other ten people do? [AGENCY 67]

KATHY BOGENREIF: We have a director. I have that written down. (Laugh) There's a director; 3 supervisors; myself, the business manager; and 4 staff assistants that support those 20 investigators. [AGENCY 67]

SENATOR NELSON: Staff is secretarial and that sort of thing? [AGENCY 67]

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KATHY BOGENREIF: Right. Right, that's correct. [AGENCY 67]

SENATOR NELSON: All right. Thank you. [AGENCY 67]

SENATOR HEIDEMANN: Senator Fulton. [AGENCY 67]

SENATOR FULTON: Thank you, Mr. Chairman. Quickly, if in year two...so I'm hearing that in year one you can make it work, in year two you'll have to cut an investigator. [AGENCY 67]

KATHY BOGENREIF: That's correct. [AGENCY 67]

SENATOR FULTON: An investigator will have the additional cut of a loss of federal funds and that rationale is because there will be less cases investigated? [AGENCY 67]

KATHY BOGENREIF: That's correct. [AGENCY 67]

SENATOR FULTON: And can you give us an idea of how much? So I mean mathematically we're talking about \$68,535 in year two and how much in federal are we talking about here... [AGENCY 67]

KATHY BOGENREIF: Well,... [AGENCY 67]

SENATOR FULTON: ...if you had to take a guess? [AGENCY 67]

KATHY BOGENREIF: ...it's based on how many less cases we get investigated. So if we... [AGENCY 67]

SENATOR FULTON: So you theorized 80 less cases? Was that... [AGENCY 67]

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KATHY BOGENREIF: Right, if we say we investigated 75 or 80 less cases. Right now EEOC pays us \$550 per case that they accept a decision on. So a lot will depend on how many actual cases that ends up to be but that's what a normal investigator does in a year, is between 75 and 80 cases. [AGENCY 67]

SENATOR FULTON: Okay. Thank you. [AGENCY 67]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you. [AGENCY 67]

KATHY BOGENREIF: Thank you. [AGENCY 67]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 67? Seeing none, we will close the public hearing on Agency 67 and open up the public hearing on Agency 68, the Mexican American Commission. Welcome. [AGENCY 67]

ANGEL FREYTEZ: Good morning, Senator Heidemann and members of the committee. For the record, my name is Angel Freytez and it is spelled F-r-e-y-t-e-z, and I'm currently the acting director or the interim director of the Mexican American Commission and this morning I have the opportunity to testify before you on the Governor's budget proposal. Before I turn to the substance of my remarks, I would like to take this opportunity to thank a very special woman who has done a superb job, not just for our agency but most importantly for our state. This special person is no other than our own fiscal analyst Liz Hruska. Early this year...and we all know this but I want to put this on record that earlier this year Liz had the opportunity to discover a significant flaw in the Medicaid allocation system and was able to turn that discovery into a \$6.3 million paycheck for Nebraska and its Medicaid services. So, Liz, once again, thank you for your contribution to the state. I would like to also thank the members of the committee for all the work that you guys do for our state and for supporting our efforts at different levels. Speaking of support, during the regular session this committee gave our agency

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the fiscal authority to begin the implementation process for our new position known as a limited English proficiency specialist, an LEP specialist it's better said. As you recall, this staff position was created earlier this year in response to the increasing need for state agencies to improve the language access services to Nebraska residents while at the same time they retain important federal funding. Although funds for this LEP position have not been appropriated yet, we will continue to provide those professional services to our sister agencies, especially during these difficult times. This is just one example of how we can effectively serve our state in times like this. We definitely want to be part of the solution. With respect to the Governor's budget proposal, we agree with the Governor's philosophy of shared sacrifice and, therefore, accept his recommendations. However, it is worth noting that budget cuts beyond the suggested 2.5 percent and 5 percent mark for the current and the upcoming fiscal years, respectively, could definitely have a negative effect on our agency and may hurt our ability to continue to implement new and existing programs such as our statewide outreach program, P-16 TV, formerly known as Diversity TV, and leadership building activities that include the Latino Vocational Summit Legislative Day, the informational assembly, just to mention a few. With that in mind, I urge this body to consider carefully the negative consequences of imposing further cuts to our agency in that it's already limited with financial resources. Thank you for the opportunity and I will be glad to answer any questions you may have. [AGENCY 68]

SENATOR HEIDEMANN: Thank you for coming in today. Are there any questions? Seeing none, thank you. Is anyone else wishing to testify on Agency 68? Seeing none, we will close up the public hearing on Agency 68 and open up the public hearing on Agency 70, the Foster Care Review Board. Welcome. [AGENCY 68]

CAROL STITT: (Exhibit 8) Good afternoon, Senator Heidemann, Vice Chair Senator Harms. I'm Carol Stitt, the director of the Foster Care Review Board, and I'm here to talk about what the cuts would mean for the agency. The 2.5 percent cut would mean that we would not fill a greater Nebraska supervisor's position that is currently vacant. After

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we received the e-mail from the Governor asking us not to fill any positions, etcetera, that was one position we didn't fill. And I have invited with me Marci Athey-Graham, who is the supervisor who's helping us cover that position, because I thought it may be helpful for the senators to hear exactly what does that position entail in relationship to what the local boards do and how we keep cases going and how we staff cases when we have a serious concern, etcetera. So we will touch on that. I also really wanted to speak to the committee briefly about how important oversight is as we're moving into privatization. In your book, I put together a privatization chart from our perspective, how this will change the child welfare system and how it actually has already changed what the Foster Care Review Board does. The first chart is currently how we obtain information, and that is we go to the case manager case file. And I also footnoted a couple of things that I know particularly this committee is well-aware of. First, as I think Senator Nantkes was discussing earlier, caseworker changes really throw our system into quite a bit of chaos and what we're getting ready to do is move all of our cases over to private providers. And then I also footnoted what your own Legislative Performance Audit Committee found about the oversight of some of the provision of services. Then secondly it's sort of how we see the system working now, on that second chart. So, you know, my point I guess is this committee has always been very good to the Foster Care Review Board and we really appreciate that, but our workload with the privatization move really will practically double, both in the tracking of children, figuring out where they are, and secondly in knowing what services are actually being provided. I think our State Auditor looked at a facility in Kearney and found that many of the state dollars were actually being reimbursed for rent as opposed to the services, you know, down at the case level. So these are just some of the current realities that we are certainly working with. I also included for you the benefits of actual reviews. We have both success cases as well as the protections of reviews, what happens when a child's case is reviewed. So what these cuts really mean for our agency is immediately a supervisor for our own internal QA would be gone as well as the follow up on those individual cases, the staffing of those cases, making sure we're getting into court, etcetera. So I tried to simplify that for you but also show you concretely some of the work that we're

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trying to do to stay ahead of this new reform that's coming in. [AGENCY 70]

SENATOR HEIDEMANN: Questions? Are there any questions? Senator Hansen.
[AGENCY 70]

SENATOR HANSEN: Thank you. I have one I was writing but I think I can get this out. Director Stitt, in the privatization arena, when we have new providers doing the things that HHS used to be doing, how is the Foster Care Review Board involved in this whole process of oversight of the providers and what type of...we call them different things, you know, hurdles or bases that we can find out if they're doing their job? How does the Foster Care Review Board fit into that scheme? [AGENCY 70]

CAROL STITT: Okay. If you guys would all turn to your privatization chart, it's the green tab about...towards the end there, you have the two charts and then this is really the plan that my staff and I put in place to try to figure out how are we going to track this, how are we going to meet our mandate, and how are we going to report back to the Legislature. The first here is the transition plan and there's two really immediate concerns and that is, you know, we're turning over all service delivery to these private agencies by March. There are cases of particular concern that, again, our supervisors and staff are going to be sitting down with the contractors and staffing and saying this is the case history, they've been in care three times previously, this is the level of abuse these children suffered, this is why we disagree with this plan. So that's what we're doing immediately. For the kids we haven't reviewed, we can pull data and we can show some of those things, not to the extent of the reviewed children but we can show how many reentries to care, why did they enter care last time, how many placements have they had. And so we can sit down and share that information with them. The providers were also invited to all of the summer trainings that we do for our local boards. They were...they came to every training in every part of the state this summer to know what our mandate is and that we will hopefully have them at our reviews. Secondly, when our review staff and our supervisors actually review a case, they're going to, on a data form,

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which we filled out for the special study that we've reported to you before, we'll be able to identify by contractor. So if Senator Hansen says, I want to know how my kids are doing in North Platte, I mean how many of them are getting the services we're paying for, how many of them are having missed visitation or transportation, we're going to be able to report that. We're going to take that every time we review a case and fill that out. That will be the staff who work with Marci. Then our data coordinator, by the way we've arranged our computer system, will be able to report that out. So we'll be able to do report cards on each provider, what's happening in Lincoln with CEDARS, what's happening with Visinet, what's happening with KVC, okay, with those kids. So that's what we'll be able to do and that's how we'll do it. For the reviewed kids, we'll have the best information. For the kids we don't review, all we'll know is who the service coordinator is and a little more sketchy data. But currently, at our current funding levels, last year the staff completed over 4,000 reviews, so that's not a small sample of knowing what's happening. I'd also just like to mention Linda Cox who's here. She has helped me a lot try to figure out this data form, our data coordinator. And this is a significant challenge and I think in the 26 years I've worked here this will be a very, very different way of giving services and, you know, oversight is going to be critical, that they know that we're watching and that we're reporting and that we will talk about this and talk about what is and isn't happening. [AGENCY 70]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you.
[AGENCY 70]

CAROL STITT: Okay. Okay. Thank you. [AGENCY 70]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 70? Seeing one, we'll close the public hearing on Agency 70 and open up the public hearing on Agency 76, the Commission on Indian Affairs. Welcome. [AGENCY 70]

JUDI GAIASHKIBOS: (Exhibits 9, 10) "Neequich" (phonetic). Good morning. "Ahma tu

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wash day, geemeequich, netakia san" (phonetic). To all my relatives and to the Appropriations Chairman and members of the committee, I bring greetings and thanks from our tribes in Nebraska, the Omaha, Ponca, Santee, Winnebago, and our newly welcomed back Pawnee Nation, and the Nebraska Indian Commission members. Today my staff administrative assistant Scott Shafer and I will present to you our hearing testimony. My name is Judi, J-u-d-i, gaiashkibos, g-a-i-a-s-h-k-i-b-o-s. I am the executive director of the Nebraska Commission on Indian Affairs, beginning my 15th year as the director, and I am an enrolled member of the Ponca Tribe of Nebraska. I would like to address two issues today in my testimony. Firstly, I would like to discuss the role the Indian Commission plays in state government, and then secondly I would like to specifically share with you our commission strategy for addressing the Governor's budget cuts, which we willingly agree to comply with and believe that it is important at this time that the Indian Commission be involved in being part of the solution, and we will all pray and hope for better times ahead for all Nebraskans. So that said, sometimes people are confused about what the work of the Indian Commission is. They see us in a narrow view, that we are an advocacy agency. But as I was reflecting and reading and researching in preparation for this hearing, I looked at our statute and nowhere in there do I see the word "advocacy." We serve as the liaison between state and tribal government and the federal government. We work with the Congressional delegation. I recall working with Senator Johanns when he was the Governor and when he was the mayor and now as a member of the Senate Indian Affairs Committee. So our agency facilitates that dialogue. We work with sovereign nations, we work with Indian citizens. We as Indian people have dual citizenship so we, in essence, are members of our sovereign nations and of the state of Nebraska. The citizens, the children that go to the schools, Indian children, go to public schools in Nebraska, not BIA schools. So you the Legislature in the state of Nebraska are charged with educating those children equitably, and my job in the mission of the Indian Commission is to make sure that Indian people are at the table, that we are treated equitably, and that we also help remove barriers to the dialogue. Governor Nelson, Governor Johanns, and now Governor Heineman have all adopted a memorandum of government to government

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with our tribes. The language in that memorandum requires that there be the removal of barriers to that communication, and so that is what the work the Indian Commission does. And how do we do it with the meager budget of \$195,000 and 14 Indian commissioners? Well, what we do is we have partnerships and virtually our agency works with every state agency. Starting with Department of Roads, we work on signage that makes sure people know when they're entering a reservation. We work with Corrections on matters relevant to inmates. Recently we worked on the approval of having sacred tobacco in an institution that forbids tobacco usage. We work with Economic Development Tourism. Recently we worked out in Kearney on the Kearney Archway Pow Wow. I brought you a poster of next year's pow wow. The Indian Commission and the tribes are a part of helping all communities, not just Indian people, and in Kearney last year for the first pow wow which welcomed the Pawnee back they anticipated maybe 1,000 people coming and, instead, they had 10,000 citizens come. They couldn't even accommodate all of those. So next year...I met just two weeks ago with one of your colleagues, Senator Joel Johnson, who serves on that committee, and Ronnie O'Brien, so the Indian Commission, we gave them ideas and we strategized how they could increase those numbers by working with our member tribes, having them be a part of the...what we call the staff of the pow wow. So we'll have some Omaha dancers beyond the head staff. We'll also invite pow wow princesses. So that will bring more of our tribal people to Kearney. They will be utilizing hotels, buying food. So again, the work that we do is not just for Indian people. It's a win-win. It's to help all of Nebraska. A few other examples that I'd like to state is that we do work with the State Tribal Committee that was approved a couple years ago and we will be meeting and going out, we had hoped to do that this fall, to the reservations but because of the special session that has been set back a bit. We also work with Department of Education on having educational summits and one of our missions and we believe is that to empower Indian people through education, that we truly do open up opportunities for them to have a quality of life that our other children have. Specifically, the Indian Commission, each year we host the Chief Standing Bear breakfast. We presell out to 500 people and we work with a planning committee comprised of members of other

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state agencies. We have thus far awarded 16 scholarships and will be awarding 4 more in May for a total of 20. One of those 20 that we have funded is now a doctor. Rosette Stabler graduated from the medical school in Omaha and she is an occupational therapist. So we have really seen some wonderful things happen from that program that we have. We also have a commemoration in the Capitol where we give recognition to tribal leaders and this week, on Thursday, we will have a ceremony to honor our veterans. And you probably may be aware of the fact that Indian people serve at a higher rate than any people in the country to protect our lands. So Thursday Governor Heineman will be giving three women veterans who served in World War II admiralships. This is a way for us to raise awareness and educate people about the contributions of Nebraska's first citizens and it's a good thing in light of what's going on in light in our world, that our Indian people serve to protect our homelands here. I was thinking about this week just some of the requests that the Indian Commission has dealt with and just this week, as I said, we had met with Senator Joel Johnson and the Kearney people. Friday we are working with Union Pacific, in partnership with Mike Hemmer, general counsel, and the CONA (phonetic) organization. That is a Circle of Native American Councils. Indian people that work for Union Pacific have this organization. So the Indian Commission has developed a Native American round table leadership. We are presenting with Union Pacific as our corporate sponsor to Native children that go to schools in Omaha as well as children from the reservations, again, an example of collaboration. Many times we give letters of support for grants and one of them...sometimes you never know if anything will come of them and last summer Central Community College from Columbus contacted our agency and said, would you be a partner and give us support to receive a grant that would help our community educate people about the Genoa Indian School? I'm very proud to say that my mother attended the Genoa Indian School. So of course, we offered our support. Well, two days ago I was contacted by the staff person who wrote the grant and, lo and behold, the National Endowment for the Humanities awarded Central Community College \$138,000. So again, this is a way that the Indian Commission grows our ability to fulfill our budget by partnering with other communities, so we're benefitting the community of Columbus

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and Genoa. Simultaneously, we're educating people about the history of the boarding schools that were a part of the assimilation process. So we will be working with Dr. David Whisert (phonetic), Joe Starita (phonetic), Christine Lashock (phonetic), and other Indian people at this summer workshop at Columbus. Let's see, what other great things have we done this week? Metro Community College in Omaha, we are collaborating with them and gave them a letter of support for a grant, and what that grant will do will allow for the performance of the Chief Standing Bear play in partnership with the Lied here in Lincoln. They are gifting us the venue to have the play. The play will educate people about sovereignty, about the humanity of Indian people. Prior to 1879 we weren't considered humans and now we are. And the benefit, the sales for the tickets for the play, that will go to the Indian Commission to offset some of our budget deficit and the other half will go to our scholarship. We hope to grow our scholarships from four \$500 scholarships to four \$1,000 scholarships. So just this week alone you can see that we have been involved in a lot of good collaboration. On Thursday, Scott and I will be driving to Blair, Nebraska, at the request of the gentleman over there who...Rich Wolf (phonetic). He's the head of the planning committee. They would like the Indian Commission to help them develop strategies so that they can grow their program at the Neihardt Park. So our agency really is a service provider. And I have a letter here that I brought to share with you from Mike Smith, the director of the Historical Society, and I would like to let that letter speak for itself but I would just touch upon the fact that the Indian Commission is charged with providing the point of contact for the return of human remains, per LB340. That was preeminent legislation back in 1989, the first of its kind in the United States to protect our sacred human remains, and that preceded the federal legislation. We had an amendment to that legislation that was introduced by Senator DiAnna Schimek. We then can return human remains that are unaffiliated to our tribal lands. Again, I wanted to share that with you to demonstrate the uniqueness of what the Indian Commission does for the state of Nebraska. We avoid litigation. We save money. We're peacemakers. We empower other communities. We work with institutions, colleges throughout the state. We help educate people. We remove barriers. We make Nebraska truly a place that we can all be proud of and say

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that this is the good life for all people. So with that, I could probably talk for another hour but I know time is of the essence, and so I would like to move on to how we are specifically going to address the budget cuts. Last week we had a board meeting. My wonderful board of 14 Indian appointed commissioners were very generous in strategizing and they came up with a way that we can meet the 2.5 and then the following 5, and also lose some of our reappropriated monies. What we will do, we don't want to do this but we know that we must, we will move from having four meetings where we like to get out into our communities, to our tribal communities to hear from the people, go out to western Nebraska. I have one of my commissioners that lives in Scottsbluff, Andrea Miller. Forgot to mention this. This is another initiative we work on. We work with Charlie Wright (phonetic) and the law school and they have a scholarship for Native people, and we've had two women graduate from the law school. Andrea Miller is a member of the Oglala Lakota Sioux Nation and she works at Simmons Law Firm in Scottsbluff. Unfortunately, that's a long distance. The mileage costs a lot. So what our board has come up with is we will go to two in-person meetings, two teleconference. The Ponca Tribe has capabilities. They have offered to gift us their services. So Scott, my competent assistant here, has all those numbers, which I have provided for you as well in your folder, and we're breaking it down. We went through our budget, which our operating budget is around \$21,000, and I think with that you can see that Nebraska really gets a lot for the services for that amount of money. I would just...can't even imagine what I would do with DHS's budget. (Laughter) I think we could perform miracles. But since I don't have that opportunity, I have to work with what I have. And so today Scott is going to crunch down, in a brief minute summary, what we're going to do to address those line-items where we felt there was a little tiny bit of fat, and that's lodging and mileage. When I go to Blair on Thursday, Blair will be paying my mileage. From now on, any mileage, wherever I go, I ask the community that needs my expertise to pay our mileage. I do not travel out of state. Unless someone pays the air fare, lodging, the Indian Commission cannot go anywhere. And you know to do the work that we do you have to be in touch with your constituents, so it's really going to be vital that we continue to draw upon other people's resources. So, Scott, would you

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please share those figures? [AGENCY 76]

SCOTT SHAFER: My name is Scott Shafer, that's spelled S-c-o-t-t S-h-a-f-e-r. Starting from an approximate starting budget of \$200,000 to address the 2.5 percent reduction, as well as our reduction in our reappropriation amount, we, as my director had indicated, we were going to move from four on-site, in-person commission meetings to two videoconferences at the Ponca Tribal offices in Lincoln. That should result in an estimated savings of approximately \$5,900. And then in addition, we'll have our two in-person meetings and, as we discussed at our commission meeting, we will be forgoing mileage reimbursement...I'm sorry, we'll be forgoing lodging reimbursement and meal reimbursement. So for the two in-person commission meetings, we should have an approximate savings of \$2,300. So that brings us to a total savings of approximately \$8,211 from going to the videoconference and forgoing the lodging and meal reimbursements. That should take care of the 2.5 percent reduction and our reappropriation reduction. There will also be several miscellaneous, as my director said, she will be forgoing the majority of her travel reimbursements. And I would also point out as part of attaining our budget that we'd set several months ago, we recently switched from a hard copy quarterly newsletter distribution to an e-newsletter distribution on a monthly basis, and that also reduced our operating cost by about \$6,000. [AGENCY 76]

JUDI GAIASHKIBOS: A couple final comments: Okay, so in addition to that, in your packet we have another idea that the Indian Commission is looking into for supplementing our budget. We realize that the hard times ahead for all of us require us to think outside of the box and it's no longer status quo will get the job done. So our board has signed on and agreed to collaborate on a grant with the University of Nebraska Medical Center, and this is a National Health Institute grant. They already had been funded this grant for five years and they're reapplying, and we will be one of their partners. The grant is in your packet. Each year UNMC, under the leadership of Dr. Maurice Godfrey (phonetic), will receive \$1.25 million. Our partnership, we will receive

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in a federal item, we hope that that's protected from any state cuts, we will receive \$30,000 each year for five years should they receive the funding and it is for the implementation of tribal gardens to help address healthy eating, reducing diabetes, and helping our children to learn healthy eating styles and how to prepare the food. We will partner with the Santee Sioux Nation, who has a summer school, and we will grow that program. So that should help the Indian Commission a little bit with a five-year grant. Should the UNMC receive the \$1.25 million, \$7.5 million they will receive and we will receive a mere \$150,000. But we do plan to go to the USDA and other federal sources to grow our \$30,000 to \$75,000 so that we can truly implement the program. So as you can see, overall, I think with what Scott shared with you and with our new proactive approach to state government, I think the Indian Commission can continue to be a great resource, a service provider for the state of Nebraska, and I would urge you to find no further cuts for us and to keep us as we are. And we would be willing to respond to any questions. Wi' bthu ho. [AGENCY 76]

SENATOR HEIDEMANN: Are there any questions? You've done such a good job, I don't believe there will be any. [AGENCY 76]

JUDI GAIASHKIBOS: The Ponca chairman was going to come testify but because of your kind of things running late, on our behalf as well, so he may be submitting written testimony, but we do thank you for your time and know these are tough times and tough decisions. And I will leave the letter of support from Mr. Smith as well. [AGENCY 76]

SENATOR HEIDEMANN: Thank you for coming in, for all you do and all the accomplishments that you're able to do with the amount of money that you're working with. [AGENCY 76]

JUDI GAIASHKIBOS: Thank you. And I have a great staff. I only have two staff and Betz isn't here and I want to thank her for her hard work and Scott because they let me do what I need to do and support me, and we believe that we're great managers of the

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money and just enjoy our work we have. The passion is there. [AGENCY 76]

SENATOR HEIDEMANN: Thank you. [AGENCY 76]

JUDI GAIASHKIBOS: Thank you. [AGENCY 76]

SENATOR CONRAD: Thank you. Great job. [AGENCY 76]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 76? Seeing none, we're going to close up the public hearing on Agency 76. I want to remind Senator Mello that we have a Retirement hearing. I will not be able to be there. You're going to have to go in order for them to reach a quorum. I'm not...no, it's not that way. (Laughter) We now open up the public hearing on Agency 15, the Board of Pardons and Parole. We was informed by a letter that they will not be here but their testimony is in the letter. (See Exhibit 12) Is anyone else wishing to testify on Agency 15? Seeing none, we will close up the public hearing on Agency 15 and open up the public hearing on Agency 37, the Workers' Compensation Court. We also got a letter from them saying that they would not be appearing but their testimony is in the letter. (See Exhibit 13) Is anyone else wishing to testify on Agency 37? Seeing none, we will close up the public hearing on Agency 37 and open up the public hearing on Agency 63, the Board of Public Accountancy. [AGENCY 76 AGENCY 15 AGENCY 37]

DAN SWEETWOOD: (Exhibit 11) I don't know if this is a good thing or a bad thing, last agency. You know, you know it's...this is it, but I'm between you and lunch now. (Laughter) Anyway, my name is Dan Sweetwood, that's S-w-e-e-t-w-o-o-d, and I'm the executive director of Nebraska State Board of Public Accountancy. And I've handed you out some quick initial notes created by my chair, number one; number two which I'll be referencing are some talking points that I came up with; three is kind of an analysis of where we're at and we address the 2.5 Governor's recommendation and how we would deal with that. And I guess I'll talk about maybe how we would deal with fiscal year '11

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and the 5 percent at a little later here. Anyway...and then some of the stuff you're very familiar with from the actual Governor's proposal; and then five, kind of tracking where we are as an agency, revenues, expenditures, and obviously a very important area that we deal with is our legal expenses and trying to show how those fluctuate; and then obviously our fee structure would be the last document there. Some quick points: Obviously, CPAs know better than anyone what you're dealing with and they appreciate obviously what you're going through right here. The board regulates and licenses CPAs in our state. The board is made up of six active permitholders and two public members, and simply our mission as a small cash-funded agency is three full-time employees with a great mission, is to protect the public, and a lot of responsibility. We know that and we think we do it well. Obviously, when you work for six at least active CPAs, you know we're going to crunch things, we're going to get it done efficiently and effectively. I can assure you that. Some other quick points: we want to...you know, part of the...some people might ask what, you know, we have a relatively large cash fund, but I recommend any of you to go to our budget. We create a strong budget we believe. We outline a lot of where we're going in that budget. I refer you to it. And it's simple as this--we need a robust cash fund because we deal with complex areas of regulation and it's our job to remove bad CPAs from the profession when we need to do that. And that takes obviously great legal support, expert testimony in other areas, and we review, again, lengthy civil matters. And so it's a strong charge and it takes money, it's simple as that. And as you can see on that back page, that fluctuates. And speaking of that, I would just throw in, too, and I was able to talk to Mike briefly about this, the reappropriation removal of \$16,206 could affect us this year because we are in the middle of a very complicated matter and that hearing is scheduled for this week, two days. And so it will cause us very much of a tightening. Obviously, with three full-time employees, the operations is the rest, it's a rather tight situation. So I would, if anything, if you could review that and take a look at that, that is outside the scope, and these talking points, I would appreciate that. The board had a plan to decrease that cash fund too. It was over a three-, four-year period. As you can see in that back page, we were accomplishing that. And then we talk about the Governor's proposal in fiscal year '10 to

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remove \$67,698, and over the biennium to total \$100,000 from our cash fund. That cash fund, as you know, you've heard this testimony from other cash-funded agencies, it was created to protect the public from bad CPAs. And by removing that \$100,000, it's simple as this: The board will have to very quickly, instead of over a period of time, attempt to replenish that cash fund and that could start as simple...as quickly as next year. So it's as simple as that. And over 50 percent of CPA firms are small firms. They're not large firms. They're one- and two-employee shops that are providing the professional services and they...a small business in our state. So by raising fees, the board, by raising fees, obviously has an effect on all CPAs and CPA firms. One thing we'd like to note yet, the board is not happy with it. They understand the situation you're in. They're willing to maybe forgo at this time but, please, in the future, strongly then, the Governor and obviously this committee, by sweeping those cash funds it makes it very difficult on us and small agencies like us. And maybe you could in simply a one-time situation and then through law or whatever eliminate the practice of sweeping those cash funds. That's all I have. [AGENCY 63]

SENATOR HEIDEMANN: Thank you. I hope that the economy treats us a little better and we don't have to even think about doing things like this again. Is there any other questions? Seeing none, thank you. [AGENCY 63]

DAN SWEETWOOD: Thank you. [AGENCY 63]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 63? Seeing none, we will close up the public hearing on Agency 63. That is it for this morning or this noon. [AGENCY 63]