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Department of Correctional Services Special Investigative Committee
November 04, 2015

[AUDITOR'S OFFICE]

The Department of Correctional Services Special Investigative Committee met at 1:30 p.m. on Wednesday, November 4, 2015, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR34. Senators present: Les Seiler, Chairperson; Kate Bolz; Ernie Chambers; Colby Coash; Laura Ebke; Bob Krist; Heath Mello; Adam Morfeld; Patty Pansing Brooks; Paul Schumacher; and Matt Williams. Senators absent: None.

SENATOR SEILER: It's the bewitching hour. We'll call this hearing to session...in session, and we're going to hear regarding the State Auditor's report. I don't have to tell you...have you signed your chart to get in? [AUDITOR'S OFFICE]

CHARLIE JANSSEN: I have not done that. [AUDITOR'S OFFICE]

SENATOR SEILER: Oh, okay. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: I should probably do that. [AUDITOR'S OFFICE]

SENATOR SEILER: For people that are going to testify, we'd like you to sign in and, secondly, speak up to the mike so that...not for our...so we can hear but so that the transcripts (sic) can be heard. Okay, Charlie, will you state your full name and spell it, and then just hold on a second. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Yeah, Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n, the Auditor of Public Accounts for the state of Nebraska. [AUDITOR'S OFFICE]

SENATOR SEILER: Thank you. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: I think...and we'll get that filled out for you. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Ebke, will you introduce yourself, and we'll just go right around. [AUDITOR'S OFFICE]

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SENATOR EBKE: Laura Ebke, District 32. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Patty Pansing Brooks, District 28. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: Jack the Ripper is who I'm not. Ernie Chambers. (Laughter)
[AUDITOR'S OFFICE]

SENATOR SEILER: Les Seiler, District 33. [AUDITOR'S OFFICE]

SENATOR BOLZ: Senator Kate Bolz, District 29. [AUDITOR'S OFFICE]

SENATOR MORFELD: Senator Adam Morfeld, District 46. [AUDITOR'S OFFICE]

SENATOR COASH: Colby Coash, Lincoln. [AUDITOR'S OFFICE]

SENATOR SEILER: Ollie. [AUDITOR'S OFFICE]

OLIVER VanDERVOORT: I'm Oliver VanDervoort, the committee clerk. [AUDITOR'S
OFFICE]

SENATOR SEILER: Okay. You can begin. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: (Exhibit 1) Thank you, Mr. Chairman. As noted, Charlie Janssen, the State Auditor, and I would like to sincerely...I appreciate you putting this hearing together. I think it's very important for the work that you have ahead of you. And I understand the very tiresome schedule that you have and the upcoming schedule, and especially this committee in particular as they always...well, Judiciary, I know this is a special committee, but you're tasked with a lot of heavy lifting. So I appreciate you making time to hear us today on this very important audit report. I'm not going to read all 200 pages front and back for you, so that's the good news. I'm going to read an opening statement and then I'm going to have our two auditors that led the audit of the Department of Corrections come up and speak. They will speak. I know it's kind of tough sometimes for the committee clerks and whatnot or transcribers, but they will

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speaking specifically to what they audited so that it won't be too much commingling of comments, I guess, which will make it much easier for staff. I'm here, as noted, with members of my staff to present and discuss the examination of the Department of Correctional Services. Again, I want to thank you for your time today, for allowing us to present this very important information. With me today are two managers from my office seated behind me: Zach Wells and Kris Kucera. They will be presenting the report findings in detail and will be available for any questions you have regarding the report. In addition, we have with us Russ Karpisek; Lance Lambdin, who is our office's legal counsel; and Mary Avery in case there's other questions that may arise or if you need to speak to them. The examination of the Department of Correctional Services was very complex, and I say thanks to all my staff who worked very diligently to complete this complicated task. The department is unlike most other state agencies. It operates its own retail stores, otherwise known as canteens; manages inmate accounts; provides and manages inmate medical care; and operates manufacturing and service operations at Cornhusker State Industries, CSI. In addition to the 60 comments of finding included in this report, which the auditors will go over, there were 68 other findings that were less critical in nature and were discussed and communicated with the department at the exit meeting in October. The auditors won't be able to discuss those with you. However, the department, if they choose to, would be able to discuss those with you in greater detail of the things not contained within our report. Planning the examination began in mid-January 2015 and the field work wrapped up in September 2015. During the examination, we looked at six main areas: the overall operations, pharmacy, medical, inmate funds, canteens, and CSI. The length of the examination was much longer than originally anticipated due to a number of factors. These factors included the complexity of the department, the numerous findings noted, findings leading to additional testing and audit work, timeliness of getting information, and some difficulty getting items and answers to questions needed for our testing. One of the major reasons for the audit length and time was due to the number of findings identified. Initial questions identified many department weaknesses. This led to the need for additional testing and each went further and further as more findings were identified. An example of this is the Inmate Welfare, Club Accounts Fund, where we planned...where we had planned to reconcile separate balances to the funds in the state's accounting system and test a few documents. Because, as identified in Comment 2 in your report, the department did not track all of these funds, additional testing and time was spent in this area. Another example is the lack of review of medical expenditures, which required additional testing and resulted in findings of

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\$369,504 in overpayments by the department, as identified in Comment 1 and, due to our audit, was recovered during this audit procedure. In addition, some time delays were a result of not getting all information in a timely manner. For the most part, items were received in a timely manner, but there were instances when items were requested and significant delays occurred before we received the information. Two such instances are identified in Comment 60, which I encourage you to look at. While I understand the audit took a substantial amount of time to complete, I feel this important information provided is a valuable tool, not only to this committee but also to Nebraska taxpayers. Correctional Services is very important in the state of Nebraska, and the financial accountability and internal controls are critical to the management of this department. I will now turn this over to my audit managers. Certainly, I'd be happy to answer questions. The people behind me will get much more into detail on how the audit went as they conducted the audit and your specific questions. But I would like to have the right to certainly come back and close after you're done with your questions. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Chambers. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: Not a question but a comment: I view this document as a research reference document. It is thorough, detailed, meticulous. I respect that kind of approach. I respect documentation. I respect cogent argument when that is what you might refer to it as. But there is so much here. Well, there was a guy named Bacon. Maybe because of his name, he sometimes compared what he was talking about to food. But he was talking about reading books. Some you just go through casually; he didn't say it like this but like reading the newspaper. Others you chew, swallow, and digest. This is one of those kind of documents. And if nobody else...I know others will see the value, but for my purposes, if nobody else recognizes the work that went into this, the value that there is, I do. This is something that I will spend considerable time with over a period of time because an institution like the Department of Corrections kind of goes in all kind of different directions and nobody is really pulling it together and providing oversight. There's too much to try to grasp if that's not your only job. So this is fulfilling, from my position, a need that I recognize that I couldn't do anything about. I don't have questions except how in the world did people who are competent enough to do this kind of work, how in the world did Nebraska keep them here? [AUDITOR'S OFFICE]

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CHARLIE JANSSEN: That's a good question. I think it's because they have a very good manager in audits (laughter), which would be myself. But there's certainly talented people within the Auditor of Public Accounts and I inherited a great many of them. We've moved on in the last ten months from some but...and hired up. But the Legislature has been very helpful to our endeavors. In my short time, ten months in the office, it's been very helpful. But just as a point of reference, I felt it was very important for us to look into the Department of Corrections, with new senators coming on board, new staff coming on board in the executive branch, to give them a full view of what's going on financially within the Department of Corrections. I will say within that we spent, of our General Fund that we oversee, we spent nearly 20 percent of our resources in General Funds just to look at this one agency thoroughly. And oftentimes I get asked to do the same thing for Health and Human Services. And if we were to do that, that would exceed the current General Fund budget that we have if we gave a comprehensive look at both Corrections and HHS, which in auditing I think it's more important to look at everything in totality instead of piecemeal, because sometimes they shift blame one way or the other. But the auditors did an outstanding job and I think that will be on display when you listen to them. It's the first time they've come before a legislative committee. I told them not to worry. And they were worried about one senator in particular that might come after them a little bit, and I told them right off the bat that Senator Seiler is really not that tough to get along with so it should be fine. And I'll probably need to say something at closing as well. [AUDITOR'S OFFICE]

SENATOR COASH: Senator Seiler. [AUDITOR'S OFFICE]

SENATOR SEILER: I do have one... [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Unless there's anything else. [AUDITOR'S OFFICE]

SENATOR SEILER: Excuse me. I do have a question. Have you had a chance, or your staff, reviewed with Director Frakes this report? [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Yes. And the auditors will go over that. [AUDITOR'S OFFICE]

SENATOR SEILER: Okay. [AUDITOR'S OFFICE]

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CHARLIE JANSSEN: We also did an early management letter. Our initial intention was to try to finish it while you were still in session last year. That just became much too difficult and we ran into some problems getting the information, which cost not only my department but the Nebraska taxpayers more and more money playing a cat-and-mouse game, which I think somehow is reflective of the way business used to be done. And the new director has...he has a huge job before him. I think they've got the right person for the job. That's my personal opinion, not the Auditor's. But there's a lot of work and a lot of culture that needs to be changed within that system I think to move it forward. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Coash. [AUDITOR'S OFFICE]

SENATOR COASH: Thank you, Chairman. Auditor Janssen, is the department statutorily required to submit any type of response to the audit? [AUDITOR'S OFFICE]

CHARLIE JANSSEN: They can choose not to respond at all. And I do have legal counsel here that could expand on that if I'm wrong, but it's my understanding that they don't have to respond at all. They are given the opportunity to do so, and they did, in this particular instance, responded to certain comments. [AUDITOR'S OFFICE]

SENATOR COASH: So is there a...does your office have any plan to evaluate that response? I mean you've got a lot of information in here. And so I'm going to make the assumption that Director Frakes is going to start to take the feedback that this audit provides, make changes in a prioritization way. In other words, he's not going to fix everything all at once. He's going to make some strategic choices. But is the department or the director under any kind of obligation to report back to the Auditor, this is what I've done with Recommendation 3 or this is where I am with...? And we can certainly ask him. I'm wondering if there's any obligation to the Auditor's Office. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Unfortunately not. We can put all these...we can do this with any audit we do. We can throw out, you know, all of our recommendations that we want and it's very disheartening to the auditors--that I found out as we looked at previous audits--when we've been gone for eight years and we come back and it's the exact same thing. It's a repeat finding over

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and over again. Our office certainly does not have the clawback. That's why we want to work with the Legislature that does have the claws, per se, to go in and make sure that those corrections are made. And in the past, you know, it's very disheartening for auditors going and do the great job that they do and then to find out, they come back five, six, eight years later, the exact same thing is still happening. So it's a culture that probably needs to change. [AUDITOR'S OFFICE]

SENATOR COASH: Auditor, is there...you know, this report, my initial review of it is there's a lot of sloppy accounting practices, just mismanagement and just poor execution of financial matters. And if one of the folks who follow you want to answer this, this is fine. So it's full of sloppy accounting. Was there any evidence of any breaking of statutory law? [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Yeah, I think so. And in the Executive Summary I think they will summarize that. I won't go through them all for you, but...because right now it would be...I don't want to take up all of your time because... [AUDITOR'S OFFICE]

SENATOR COASH: Okay. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: ...people behind me could probably give you a much better answer of where statutes are broken. And that's what we're really bound by. You know, it's not up to whether I agree or disagree with the statute. It's what the Legislature puts forth and we will go through and we follow that. It's a black-white issue for us. The statute says this; this is what we're going to report, so. And that's what we've done and I think you'll see that in one of the comments that we have dealing with overtime. [AUDITOR'S OFFICE]

SENATOR COASH: Okay. Thank you. [AUDITOR'S OFFICE]

SENATOR SEILER: Thank you. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Thank you, Chairman. [AUDITOR'S OFFICE]

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ZACH WELLS: Good afternoon. My name is Zach Wells. As Auditor Janssen mentioned--it's Zach Wells, Z-a-c-h W-e-l-l-s--Kris Kucera and I were the managers of the examination of the Department of Correctional Services. Our plan is to go over each of the bullets and then take questions at the end. If you'd prefer a different method, just let us know and we can accommodate that. As the Auditor mentioned, the Executive Summary is broken up into six basic areas, where the report we tried to identify the significant findings are first and then number two is obviously the most...the second most significant in our perspective. The first bullet that we have in our Executive Summary relates to payments that the department makes to Blue Cross and Blue Shield, who is their third-party administrator. So when inmates have to leave a facility to get medical treatment, that billing is done through Blue Cross and Blue Shield. The department did not have any process to review those claims from Blue Cross and Blue Shield to ensure that they were proper. As a result, during our testing we selected 50 claims to look at. One of those related to an inmate who was provided services at a correctional facility but the vendor billed the department through Blue Cross and Blue Shield. As a result, the amount through Blue Cross and Blue Shield was significantly larger than what they had negotiated with that medical provider. This ultimately led to us seeing if there were any other instances like this, and that was the \$369,000 overpayment that was identified. Also during our testing here, certain inmates can be eligible for Medicaid, and during our testing identified four instances where claims appeared that should have been processed through Medicaid to determine if Medicaid and, thus, part of the federal government, could have paid a portion of that. They were not submitted to Medicaid. As a result, the department paid approximately \$72,000 for services that could have been partially paid by the federal government. In addition, we consider the Blue Cross and Blue Shield to be a service organization. Basically, the department relies upon Blue Cross and Blue Shield to negotiate with medical providers and then when medical providers bill the department it's through Blue Cross and Blue Shield, who Blue Cross and Blue Shield then is determining the rate to bill to the department. So in that instance, we'd recommend there something called a Service Organization Control Report that the department receive and review to make sure that the rates that they're getting billed have been properly billed to them and that is the negotiated rate with Blue Cross and Blue Shield and that medical provider. [AUDITOR'S OFFICE]

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KRIS KUCERA: The next bullet, as it was mentioned, the Inmate Welfare, Club, and Religious Accounts, the department did not track approximately \$2.6 million of these funds. The accounting system contains 186 business units and the department only tracked 90 of those business units, or \$75,000. One of the funds in this area totaled \$546,000 and has not had any other activity besides interest since June of 2008, and another fund totaled over \$1 million and it did not have any activity other than interest since January of 2011. The Welfare Accounts are to be used to provide recreational activities and equipment for inmates. The next bullet, the department unnecessarily paid its employees for 58,820 hours, totaling over \$1 million. The employees were allowed to use leave to accumulate more than 40 hours during a week, and the department paid them at the standard rate for those hours. So, for example, if the employee worked 35 hours and then used 8 hours of vacation, they would get paid for 43 hours instead of adjusting the vacation down and only paying the employee for 40 hours. The next item, the department spent or obligated \$11,121,866 on over 477,000 hours of overtime and comp time earned by 2,420 of its employees. Additionally, the department's overtime policies conflict with relevant provisions of the state's employee labor contract. Overtime pay or what they call overtime premium appears to be calculated according to federal policy, which is slightly more than time and a half, which is what the NAPE contract states. The next item, supply inventory counts, we counted supplies when we were out at the facilities and we found numerous variances between the inventory records and what we counted on hand. Among those variances were 351 pounds of beef valued at \$811, and 100 pounds of hamburger valued at \$245, all of which were missing. Facilities are very inconsistent on how they track their inventory. Some use manual cards. Some use electronic systems. One facility didn't track their food inventory for over four years. Inventory adjustments that are made out of the facilities are not reported to the Central Office and reviewed. The next item is regarding federal grants. The department received federal grants of \$203,761 in November of 2011, and another \$153,000 in October of 2012. However, these funds were not used to offset General Fund expenditures, as intended, until March of 2014--some 28 to 17 months late. In addition, one federal fund had a balance of \$300,000, but it had not had activity in it besides interest since February of 2005. During the receipt testing, the department was unable to provide support for the \$12,400 that they have as recorded as petty cash in the accounting system. Several accounts were maintained at various locations; however, \$2,300 was unaccounted for. In addition, as of July 2015, no reconciliation had been performed on the Inmate Trust Fund bank account since October of 2014. The Inmate Trust Fund is used to

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write support checks to inmate family members, to make initiated...inmate initiated purchases, and to pay inmate account balances upon release. Checks written during this period totaled over \$5 million. Check signers for the emergency cash in Inmate Trust Accounts included terminated employees, so they were on the bank signature cards, and the OCC emergency cash account was not set up under the state's FTIN. Another item is that the department cannot locate 86 of its fixed assets with a total value of over \$193,000. These included TVs, monitors, cameras, computers, and other items. Also, as of December 31, the department inaccurately listed 38 assets in the state's accounting system at a value of \$1 instead of their actual cost or fair market value. Furthermore, the department had two buildings that didn't have any cost associated with them at all. And there was a lack of adequate segregation of duties over assets, as one employee was capable of maintaining the assets, adding and removing them, and making sure that all assets that are purchased were added. All of these items result in the value of the assets not being reflected on the accounting system. [AUDITOR'S OFFICE]

ZACH WELLS: The next few items we'll go over relate to the department's lack of review processes over some of their expenditures. The first one relates to Cardinal Health, which is their primary vendor for medications and medical supplies. Like I stated earlier, they didn't have any procedures in place to verify that the rates that they were being billed from that vendor agreed to what the contracted rate should have been. There was an option we did discuss with the Department of Administrative Services, State Purchasing Bureau, and there is an option to...for an electronic audit of all purchases which can be performed, and it's a cost of \$100 to \$250 a month. So we've kind of recommended that they look into that. The department said they were not aware of this option; thus, they didn't utilize it. The next one relates to the Satellite Tracking of People, which is for electronic monitoring for parolees. Satellite Tracking of People would bill the parolee a certain amount, and then the parolee was expected to then pay that vendor for that electronic monitoring. However, if the parolee did not pay those costs, the Satellite Tracking of People sent it to the department for payment. Well, the department didn't have any idea whether or not the parolee was making or not making payments, so there's the risk that the parolee did make payment and then the vendor also billed the department for that cost as well. During our...if...the department, during our time period, did contract with certain medical providers to come to the facilities and provide services to the inmates. During our review of some of those expenditures, we noted instances where the department didn't have any

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supporting...any documentation to support that the payments made to those medical providers were proper. For instance, there was one vendor, McCook Clinic, who was contracted to provide 16 hours of service at \$2,600 a month, and additional hours were to be paid at \$150 an hour. The only documentation the department was able to provide us were log-in and log-out sheets at the facility. However, when we reviewed those log-in and out sheets, it looked like the department had been overbilled for 73 hours of service at a cost of about \$11,000. We also noted that the department contracts with Correct Care Solutions to provide medical services at their Tecumseh facility. And as part of the contract, if an inmate's costs exceed over \$30,000 for a year, Correct Care will bill the department for that excess amount over \$30,000. Well, during our review we identified in one month that we looked at that one of those reimbursements the department made to Correct Care Solutions was for about \$6,200 for ambulance trips, which identified in the contract are not to be reimbursed to Correct Care Solutions. So they made an excess payment of \$6,200 to that vendor. The next item relates to billings to the Department of Administrative Services, Transportation Services Bureau. The department utilizes a number of vehicles that are leased through TSB, and during our review, their review process for those TSB billings just was not accurate. We noticed a number of overbillings and they just weren't identified during the review. In addition, there were members that were reviewing these invoices that really had no idea if the travel used on those travel logs was proper. Next we have the...Kalos is the software vendor for Central Pharmacy's information application, and the department would receive a bill from Kalos indicating a maintenance fee and then user access, but the department didn't have procedures in place to verify that the users accessing the system that they're being billed for was appropriate or the right amount. Lastly, the department utilized DAS for temporary employees. And for one expenditure that we tested, they didn't receive all the time sheets to support what they were being billed from DAS. They received 5...or they did not receive 5 of the 14 time sheets. [AUDITOR'S OFFICE]

KRIS KUCERA: In looking at receipts, the department lacked sufficient internal controls to ensure receipts were handled, deposited, and recorded properly, placing public funds at risk. There is no review of the general ledger to ensure that all the deposit documents were properly posted. Two individuals did not open the mail and record the receipts together. Some receipts were not kept locked up. Some receipts had...multiple people had access to. And finally, some of the receipts, the money was not deposited timely, according to state statute. We also noticed

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numerous coding errors that were made in the accounting system. Some of these involved single transactions of over \$186,000. They consisted of designating money for the wrong funds, untimely journal entries, and just simply recording incorrect amounts. [AUDITOR'S OFFICE]

ZACH WELLS: The next item relates to manual processes that the department utilizes. During our examination, we noticed there was a lot of just manual processes that the department used. A couple...we include a number of the examples at Comment 19. I'll go over a couple key ones that we observed. When an inmate wants to send a check to a family member to make some type of purchase, they have to complete a manual form. This then gets routed to Central Accounting, who then has to enter it into the information...Corrections Information and Tracking system, CIT. They also then have to manually create a check and enter it into a separate information system to then create the check that's going to be sent out. And then they have to apply the signature and then mail the check out. Another item relates to the distribution of medications to inmates. They use some...they use manual records at some of the facilities, at many of the facilities, and these records, they might...an inmate might receive four medications, however, the form that they're using to track it doesn't indicate, if an inmate only took three of those, doesn't indicate which one they did not take. So it's just a lot of the information just isn't there. Basically here it's just some of these are pretty low value that if they could somehow automate that there could be improvements there. [AUDITOR'S OFFICE]

KRIS KUCERA: The next item is, due to inadequate training, a temporary employee shredded pay-related personnel records for an estimated 298 employees. The temporary employee shredded personnel items that were over ten years old. The employee was trained a day and a half and then began scanning and shredding files for six weeks at three different Lincoln locations. The department did not catch the mistake until some five months after the temporary employee was gone and had performed the shredding. Another item is that each department facility has an Employee Activity Account comprised of money that they raised through fundraisers or donations for their own use. However, three of these accounts were under the state's FTIN. We also noted that commissions from the vending machines in the facility break rooms, which are on state...located on state property, those proceeds were going...being deposited into these EAC accounts. All funds under the FTIN of the state are understood to be state funds and should be subject to control under the State Treasurer. [AUDITOR'S OFFICE]

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ZACH WELLS: The next item relates to inmate earnings and fees that are charged them, called a maintenance fee. If an inmate works on a private venture organization through CSI, an inmate will be charged \$2 per hour and that then is collected by the department. If an inmate is on work release, they're charged \$12 a day from the department and those are then collected by the department. And there's no real documentation to support how they came to these fees. There are state statute and department administrative regulations which established the fees; however, they don't have anything to support why they think those amounts are reasonable. [AUDITOR'S OFFICE]

KRIS KUCERA: The department has been recycling discarded inmate soft drink cans at its facilities and depositing the proceeds into their own accounts. This is not in compliance with the State Government Recycling Management Act. And after this was brought to their attention through our early management letter, legislation has been passed and as of August 30, 2015, the department is no longer prohibited from recycling inmate pop cans. However, during the period tested, we noticed that the department does recycle other items, including empty chemical drums, scrap metal, and used cooking oil, and they are depositing these proceeds into their own accounts. This, again, is not in compliance with the State Government Recycling Management Act. The next item is that the department's exempt employees were not required to maintain time sheets to document that they rendered at least 40 hours of labor each week, as required by state statute. Another item regarding payroll is that the department exceeded its appropriated personal service spending limitation by \$426,660 in 2014. The department lacked a written policy for the review of the employees' on-call hours. So shift differential people or nurses and maintenance employees are required to be on-call 24 hours a day, and they didn't have a policy to review to make sure that those employees actually were on call or if they should be paid for that time. During testing, we noted that two employees had no documentation to support that they were on-call for the hours that they were paid. The department lacked policies and procedures regarding employee shift times and the shift differential pay to ensure that it was in compliance with the state's employee-labor contract. We found numerous discrepancies between the amount of shift differential that was paid to the employees and what was required under the labor contract. [AUDITOR'S OFFICE]

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ZACH WELLS: The next item relates to the state statute and state contracts database. The statute 84-602.02 establishes the state contracts database. And during our testing we noted that 8 of the 35 purchases tested that should have been reported on that state contracts database were not. [AUDITOR'S OFFICE]

KRIS KUCERA: The next item: The department lacked documentation to support that five of the ten inventory adjustments that were tested that they were proper and approved. During our examination period, they made adjustments relating to physical inventory counts, increasing inventory by over \$132,000 and decreasing inventory by \$131,000, and these adjustments were not always approved or proper. [AUDITOR'S OFFICE]

ZACH WELLS: The next item relates to some of the information that Auditor Janssen mentioned earlier related to the time that it took to get some information. We identify in Comment 60 two instances where we requested information originally on February 13; we got it March 16 of 2015. We also requested a document for testing on February 2 but we didn't receive it until July 2015. And I think we made nine other requests after that initial one to get that document. Included in that was also an e-mail obtained that directed staff to correct something before sending us the information, which is always kind of a red flag from our perspective. We did observe additional e-mails from that employee to make sure that this wasn't...this was hopefully just a poorly written e-mail. So we didn't see anything else when we did that examination, but that was just a concerning thing to observe. [AUDITOR'S OFFICE]

KRIS KUCERA: The next area is regarding the pharmacy. The department maintains a Central Pharmacy responsible for stocking medications and filling inmate prescriptions. They utilized processes that were significantly lacking in adequate controls and a proper segregation of duties, resulting in multiple opportunities for medication to be pilfered. One individual was responsible for all aspects of receiving and recording the inventory into the system, and the same individual was responsible for entering manual adjustments to the system. The manual adjustments did not have supporting documentation and they were not required to be approved or reviewed by a second individual. Central Pharmacy also did not perform regular checks to verify the accuracy of their packaging machine, and there were numerous concerns with the accuracy of the information in the inventory system based on files we received and conversations we had with

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pharmacy staff and the vendor. Some of the items related to the pharmacy, some of the findings that we had: The department's facilities lacked sufficient controls over inmate medications to ensure that pharmaceutical items were properly accounted for at all times. This lack of control increased the risk of medications being pilfered. The facilities lacked adequate inventory records. Five of the facilities that received the daily...they receive their medications in a yellow box daily, they did not have a listing to what they were supposed to get and they do not compare it to anything to know that what they got was appropriate. The medication distribution records were not adequately completed. The number of medications taken or available were not always recorded. Inmates sometimes did not initial. The staff did not know why the inmate did not initial. And some were completed in advance of the medication distribution time, sometimes two to three days ahead of time before they actually even would have taken the medicine. One facility was relabeling unused prescription medications and distributing them to other inmates. Neither the facilities nor the Central Pharmacy tracked the return of unused medication. Some returned unused medications could be restocked when it was returned to the Central Pharmacy, and then the others were just stored in an open bin until a third-party vendor could come and destroy them. There was no log to verify that the unused medications were received back or what was destroyed was what was initially received back from the facilities. Also during the period tested, the Central Pharmacy dispensed 2,647 OxyContin pills to inmates without approval by the medical director. Nonformulary medications are required to be approved. The OxyContin was not set up in the system as a nonformulary, so it was not required to be approved by the medical director. The department requires all orders of pharmaceuticals to be approved by the pharmacist and the chief operating officer. However, for all nine pharmacy purchases that...medications that we tested, none were approved by the chief operating officer. A count of the inventories for 25 medications at Central Pharmacy revealed that quantities for 12 of those did not match the inventory records. Also, before the department's annual physical count in June of 2015, the inventory in the system was \$473,976. After the physical count, the inventory was valued at \$446,600, which is \$27,376 less than what was on the system. We also noted that in fiscal year '14 the department hired an outside contractor to count their fiscal year-end inventory. However, they didn't make any adjustments or review any of the discrepancies from that third-party vendor. On the initial visit to the Central Pharmacy, we found that the Central Pharmacy doors were open with vendor-delivered medications right in the doorway and no staff in the immediate area. We remained by the medications until...for a few minutes until we could get the

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attention of a Central Pharmacy staff. Subsequent visits did find that the doors were locked.
[AUDITOR'S OFFICE]

ZACH WELLS: The last item under Pharmacy relates to the access granted to users within the Kalos application which tracks all the pharmacy inventory. During review of the users, we obtained a user listing from the department and did some matching to current employees and identified about...108 Kalos user IDs could not be traced to current or terminated employees; 101 active user IDs were tied to terminated employees, 12 of whom appeared to have logged into Kalos after their termination date. The department Central Pharmacy is responsible for granting user access, deleting user access within the Kalos application, whereas for pretty much all the other department applications that are used went through the DCS Help Desk, who then would grant user access. And they had a process where HR would contact the Help Desk and notify them of here's the terminated users; remove their access. However, that was never communicated to Central Pharmacy, which was likely the cause then of all these users that have the access. In addition, to get access to the Kalos system you just had to enter a two-character password. Those passwords were never...never expired or had to be reset. Also in this area we tested user access for some of the other department's applications, such as CIT and the inmate payroll system, and we noted some problems in granting and removing user access to those applications as well. The next item with...first item within Medical Services, as I mentioned earlier, the department contracts with Blue Cross and Blue Shield to provide that third-party administering of the health insurance for inmates that go off site. During October of 2014, the department changed its method of paying medical providers who treat inmates at the facilities. No longer were they contracting directly with those medical providers. They were sending out information to...like they'd need a general practice doctor, they would send out information to the Blue Cross Blue Shield in-network provider saying these are the hours and the number of hours and the days of the week that we need the service. They would then respond, yes, we can do that, or, no, we can't. From there, the department would select those vendors. Those vendors would come to the facilities and bill the department through Blue Cross and Blue Shield. Through this process they lost any negotiating power. Before they would negotiate directly with the doctor saying, I'll pay you this much an hour, whereas with when they received the information back from the medical providers through Blue Cross and Blue Shield, they got no payment information so they had no idea what the costs were. And in addition to this, this was during the time period where they

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were not reviewing any of the Blue Cross and Blue Shield claims for reasonableness or if they were proper. So your Blue Cross and Blue Shield payments are going to go up, but you have no one reviewing them still. I think that covers that one. The next one relates to Medicaid-eligible inmates. There are certain criteria where an inmate could be Medicaid eligible but the department, we noticed, did not have procedures in place to make sure that anyone that should have been Medicaid eligible was submitted to Medicaid for reimbursement. We also noted they had a...they were paying LabCorp. They made 123 payments to LabCorp for lab services totaling over \$800,000. We'd expect this to be bid, competitively bid, to make sure the department is getting the best price for the services that are being rendered. However, they did not bid this, as required by law. And during testing we noted some instances where the department did not appear to be paid the...was billed incorrectly and paid the wrong amount. We also noted an instance when... [AUDITOR'S OFFICE]

SENATOR BOLZ: Mr. Chairman, could I ask a clarifying question... [AUDITOR'S OFFICE]

SENATOR SEILER: Yes. [AUDITOR'S OFFICE]

SENATOR BOLZ: ...on that bullet point? Can you just explain to me what you mean by the statement: "the department failed to contract with LabCorp for the services provided"? Could you just explain what that...what you mean by that? [AUDITOR'S OFFICE]

ZACH WELLS: Well, I guess we'd expect...I think the State Auditor would require them to put this out to bid, the services that are going to be provided by LabCorp, and then different vendors would bid. And then based on those bids, they would select who's going to provide that service. They just used LabCorp without putting that service out to bid. [AUDITOR'S OFFICE]

SENATOR BOLZ: So you're saying that there was no contract between the department and LabCorp. [AUDITOR'S OFFICE]

ZACH WELLS: Right. [AUDITOR'S OFFICE]

SENATOR BOLZ: Thank you. [AUDITOR'S OFFICE]

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ZACH WELLS: The next item relates to, well, the department uses temporary staffing, so they'd put out to bid and then vendors bid back saying this is how much we could provide a nurse for a certain day, and it was billed per hour. Then the department had a process where they were supposed to be billing or contacting these vendors by the lowest cost and then working their way down. One instance that we observed, they did not do this correctly and ended up paying more than they should have. [AUDITOR'S OFFICE]

SENATOR KRIST: Senator Seiler,... [AUDITOR'S OFFICE]

SENATOR SEILER: Yes. [AUDITOR'S OFFICE]

SENATOR KRIST: ...another clarifying. Based upon that question, who does business with the government without a contract? How are they getting paid? How were they invoicing? So I see an indictment...indictment is a harsh word. I see parts of this so far, and this one, that question in particular, where was DAS in all this structure? I mean how where they getting paid as an independent contractor for the state if there wasn't a contract in place? [AUDITOR'S OFFICE]

KRIS KUCERA: The invoices were coming and the department just paid them. [AUDITOR'S OFFICE]

SENATOR KRIST: With no oversight, no... [AUDITOR'S OFFICE]

ZACH WELLS: Yeah, no. The invoices came; they wrote a check, is kind of the process. [AUDITOR'S OFFICE]

SENATOR KRIST: Okay. Thank you. [AUDITOR'S OFFICE]

ZACH WELLS: The last item under medical services relates to inmates that are held at the department facilities. They're normally held at the counties and then the department takes them for a period of time, called "safekeeper" inmates. And the department has contracts with these counties that any medical services that are incurred by these "safekeeper" inmates would then be billed back to the county. We noted a couple instances where they weren't passing on these lab

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services to those counties because \$176 and \$335 were not billed to the counties that should have been based on the testing that we did. The next area that we have is Inmate Funds. This relates to the money that inmates earn or receive from family members that are tracked by the department. And we noted a lack of segregation of duties as a number of department employees had ability to prepare Inmate Trust checks, had access to the checks, could enter transactions into the inmate tracking system, as well as write directly to the CIT database, thus, bypassing some of the CIT security. One of those employees was also an authorized check signer on the Inmate Trust Account and was responsible for approving the bank reconciliation, so just a lot of access. We also noted during the year there were Inmate Trust Fund checks totaling about \$5.1 million, and what they used was an Access database application, which would...you'd enter in the information, the payee, the day, the amount to be paid, and then that would create, after you entered that, it would print the check. The information that we got, we asked for a listing of all the Inmate Trust checks written during the year. And as our review of those, the information that we received we noted that there were two voided checks that had different payee on the Access database than the check that was actually printed, which was unusual. We also noted that there was one check which was written, had cleared the bank, that was not included in the data that we had received as the original checks that should have been written through the Access database. So just kind of they don't have accountability, I guess, within that Access database because it doesn't show who created or changed or deleted information within the database. We also looked at parolees and the monthly programming fee of \$25 and we looked at whether or not the fee was being assessed appropriately. There are certain instances where the Parole Board could waive this programming fee, so we looked at a number of parolees that were either paying or not paying the fee and just to make sure that it was proper. And during that we noticed many instances where either the parolee wasn't being charged and they didn't have support that they shouldn't be, or they were being charged and they shouldn't have been. [AUDITOR'S OFFICE]

KRIS KUCERA: Other items that we found during the inmate welfare expenditure testing is that bank charges totaling over \$15,000 were coded to the wrong facility, receipts lacked supporting documentation to ensure that the department received the correct amount, mandatory bidding procedures for expenditures costing more than \$2,000 were ignored, and that the receipts were not also deposited timely. [AUDITOR'S OFFICE]

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ZACH WELLS: The next item relates to the department can confiscate inmate funds that come to the facilities if it meets certain criteria outlined in one of their administrative regulations. We noted one inmate had 14 receipts confiscated totaling about \$1,200. And the department determined that these should not have been confiscated. However, the receipts were received in March to May of 2014 and were not returned to the inmate until February of 2015. We also noted that there is one bank account, the Hastings Detainee Fund, had a balance of \$2,700. It wasn't transferred into the Inmate Trust Fund until July 1, 2015, and the Hastings Detainee Center had been closed since 2005. So it should have been transferred much sooner. The last one relates to...there's a statute that indicates that if a check is written to an inmate from the Inmate Trust and it's not deposited or deposited in two years, then it should be turned over to the Inmate Welfare and Club Accounts Fund. The department transfers all outstanding checks greater than two years to the Inmate Welfare and Club Account Fund regardless if it's written to an inmate or not. Our stance, and based on our interpretation of the statutes, identified in that comment that the money, the checks written to family members or vendors, should be transferred to Unclaimed Property. The next items relate to the canteens. These are the areas within the facilities where inmates can purchase food and other related items. During our testing, we looked at adjustments to canteen inventory. The department does have administrative regulations that spell out how they're supposed to handle these adjustments. However, upon testing, we identified that those administrative regulations were not being followed and they weren't documenting why the adjustment was necessary and moving that adjustment up the chain for approval. The next item relates to observations that we had when we visited the canteens. We just noted some problems with the canteens. I think the most significant one that we probably identified were where the canteens sometimes bag up the inmate's orders from the canteen and then deliver them to the housing units for the inmates to then collect. When they were doing this, they were leaving the bags open and then, thus, inmates could then add stuff after the fact and those wouldn't get caught, rather than just stapling them so that you couldn't add any more items. The next item relates to just the physical inventory counts that we performed at the department canteens where we noted many instances of where they should have had so much on hand, they did not have that on hand. The last item relates to canteen price reductions. For slow-moving items, they might reduce the price so that more inmates will buy that and, thus, they'll get rid of it rather than having to dispose of it if it expires. They just didn't...they don't have any formal process to document how that should be done. We saw that there were a couple different areas within the

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department that were reducing prices but no one was checking to make sure that it was closed, subsequently, and that the prices that they were being reduced to were proper. [AUDITOR'S OFFICE]

KRIS KUCERA: The last area is regarding Cornhusker State Industries. They provide a broad range of goods and services ranging from making furniture and dry goods to laundry services. The goods are needed by state agencies, not-for-profits, and political subdivisions but are not available for members of the public. Some of the findings in this area is that CSI lacks documentation for its price setting of the rates charged to its customers. We tested prices charged for various items, including key chains, road signs, laundry services, and supporting documentation could not be provided to how they came up with the prices that they charged. CSI also participates in the Prison Industry Enhancement Certification Program, which is a federal program that encourages states to establish inmate work routines using private sector employment opportunities. They lack documentation on how they charged certain private venture partners, the \$1 per hour inmate labor hour fee. Sometimes they charge \$2. Sometimes they charge \$3.10. They also lack documentation to support their calculation of direct labor and overhead rates. The rates were used inconsistently. They varied from 2008-2011 without using the most current rates that they calculated in 2013, which could lead to preferential treatment to vendors. Regarding the wages that are paid to inmates, they do not agree to the wage requirements in their own administrative regulations, and the specialized work positions were not consistently approved by the CSI deputy director. Payments made to some inmates for work through CSI were calculated incorrectly, as were some of the payments made to the incentive...to the inmates through the Inmate Incentive Program. They tracked the inmate payroll through CIPS, which was an electronic payroll system. However, when they went to pay for the inmates, they calculated the hours manually on the time cards through notes and whatever they could read through the time clocks, which contributed to the frequency of the missed calculations. The department did not require working inmates to complete I-9 forms, which is required. Also, we noted that raw material purchases, three in particular for...they ranged from \$31,000, \$40,000, and \$47,000, and those should have been purchased through a formal, sealed, competitive bidding, and they were not, as per state statute. And finally the last item in here, we noted that 361 of the CSI inmates, of the 485 inmates, were paid incorrectly for Howard's Day in September of 2014. And also as of December, upwards of 290 institutional inmates had not been

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paid for Howard's Day. Howard's Day is a celebrated legal holiday on September 2 for all correctional facilities, the inmates. It's a holiday for the inmates. This is the end of our Executive Summary. [AUDITOR'S OFFICE]

SENATOR SEILER: Hands fly up. (Laughter) We'll start over on this side. Adam. [AUDITOR'S OFFICE]

SENATOR MORFELD: First off, thank you for the...all the work that you've done on this. I guess I just have a few different questions. I was looking at some of the overtime and it appeared on page 174, it appears as though...is it one individual received over \$100,000 in overtime in the time period in which you... [AUDITOR'S OFFICE]

ZACH WELLS: I'm sorry, 174? [AUDITOR'S OFFICE]

SENATOR MORFELD: 174. [AUDITOR'S OFFICE]

KRIS KUCERA: Right. [AUDITOR'S OFFICE]

ZACH WELLS: Yes, that would have been overtime and comp paid... [AUDITOR'S OFFICE]

SENATOR MORFELD: Be overtime and comp? [AUDITOR'S OFFICE]

ZACH WELLS: ...or comp earned, yes. And our examination was an 18-month period, so. [AUDITOR'S OFFICE]

SENATOR MORFELD: An 18-month period? [AUDITOR'S OFFICE]

ZACH WELLS: Yes. [AUDITOR'S OFFICE]

SENATOR MORFELD: And so that's in addition to their regular pay as well. [AUDITOR'S OFFICE]

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ZACH WELLS: Correct. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. Then in regard to the 2,600 or so OxyContin pills, do you have any knowledge as to who was prescribing those pills if the medical director was not prescribing them? [AUDITOR'S OFFICE]

ZACH WELLS: Well, I guess it's... [AUDITOR'S OFFICE]

SENATOR MORFELD: Or is that more of a distribution function? [AUDITOR'S OFFICE]

ZACH WELLS: It's... [AUDITOR'S OFFICE]

KRIS KUCERA: Various... [AUDITOR'S OFFICE]

ZACH WELLS: ...so it would be prescribed,... [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

ZACH WELLS: ...but I guess it...the process is then it's prescribed and then if it's nonformulary, right, then it has to be approved by the medical director. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

ZACH WELLS: However, they, for some reason, they didn't classify OxyContin as a nonformulary on their information system. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

ZACH WELLS: Thus, it wasn't required to be approved by the medical director is kind of... [AUDITOR'S OFFICE]

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KRIS KUCERA: There's various providers out there that have access to the system...
[AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

KRIS KUCERA: ...and they can prescribe whatever medication they desire. [AUDITOR'S OFFICE]

SENATOR MORFELD: Did your audit include looking at whether or not they were prescribed by the correct licensed medical official, or is that not a part of your audit? [AUDITOR'S OFFICE]

KRIS KUCERA: No, we did not. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

KRIS KUCERA: (Inaudible) part of it. [AUDITOR'S OFFICE]

SENATOR MORFELD: And then what was the document that took nine or ten times to obtain? What did that relate to? And perhaps you said it right after the bullet point but I missed that part. [AUDITOR'S OFFICE]

ZACH WELLS: Let's see if I have that with me. I might have to get... [AUDITOR'S OFFICE]

SENATOR MORFELD: And if you have to get back to me that's no problem at all.
[AUDITOR'S OFFICE]

KRIS KUCERA: Yeah, we can get back to you on that exact document. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. And then in regard to Inmate Trust Funds, the \$5 million or so in Inmate Trust Funds, I know that there's very different levels or varying levels of audit that you can perform on some of those funds and those different accounts. Was there any follow-up done

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on...it seemed like there was a severe lack of documentation as far as who the checks were being made out to and documenting if there were any changes or anything like that. I mean was there any audit being done on the checks and who they were going to and if they were going to the right place? My concern is that if there's that...if the financial controls are so lax, as you describe them, that somebody could potentially be embezzling some of those funds and we'd never know about it. [AUDITOR'S OFFICE]

ZACH WELLS: We did do a test of, you know, verifying that the checks...we did select a sample of the checks and trace them, too, like the check that ultimately cleared to make sure...
[AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

ZACH WELLS: ...the data. I don't believe we had any exceptions for that, but it's kind of why we have some of these...the lack of segregation of duties there is because there is that concern.
[AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. [AUDITOR'S OFFICE]

ZACH WELLS: And I don't know how much test...I mean there's just the risk. That risk is out there, yes. We didn't have any specific instances. [AUDITOR'S OFFICE]

SENATOR MORFELD: So you did test a sample of them... [AUDITOR'S OFFICE]

ZACH WELLS: Yes. [AUDITOR'S OFFICE]

SENATOR MORFELD: ...to make sure they went to the point of origin. Okay. Thank you. And then I guess my final question is that it appears to me, after reading all this and listening to your summary, I mean were any state or federal laws broken, in your opinion? [AUDITOR'S OFFICE]

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ZACH WELLS: Well, I think we identified some of the...and tried to make some notes as we went through. [AUDITOR'S OFFICE]

SENATOR MORFELD: And I guess my question is not whether they were broken, because I know that some of them were, but are there any criminal penalties that apply to any of these controls that have been violated? [AUDITOR'S OFFICE]

KRIS KUCERA: We do refer our findings to the Attorney General, so we did list items that we believed were against regulations that they should review. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. And I guess this is just a lack of knowledge on my part, being as though I've only been in this position for less than a year, but do any of those regulations and violation of those regulations carry criminal penalties? [AUDITOR'S OFFICE]

KRIS KUCERA: I would have to defer to our legal counsel on that one. I'm not sure what the punishment (inaudible). [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. And I can ask the Attorney General as well. [AUDITOR'S OFFICE]

KRIS KUCERA: Yeah. [AUDITOR'S OFFICE]

SENATOR MORFELD: Okay. Thank you. [AUDITOR'S OFFICE]

KRIS KUCERA: But we do refer that to him. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Coash. [AUDITOR'S OFFICE]

SENATOR COASH: My turn, right? Thank you both. This was a yeoman's job that you did and you did a great job. My question, well, let me start with a specific question because I was unclear of what you said here. And I'm looking at like the summary of comments and I think, Kris, you

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mentioned...on my sheet it's number 2, the Inmate Welfare, Club, and Religious Accounts.
[AUDITOR'S OFFICE]

KRIS KUCERA: Uh-huh. [AUDITOR'S OFFICE]

SENATOR COASH: So the department tracked only about \$75,000 of the \$2.7 million. I just want to be clear. Was \$2.7 million spent and only \$75,000 was tracked, or was only \$75,000 spent? [AUDITOR'S OFFICE]

KRIS KUCERA: This was the balances of the accounts, so they have numerous, like I said, numerous business units out there that have balances. So the money is sitting there and they're not monitoring that. A lot of these business units had no activity for a long time so the cash is just available, but they're not tracking that to monitor how...what they could spend it on or using expenditures from that money for the inmates. [AUDITOR'S OFFICE]

SENATOR COASH: So... [AUDITOR'S OFFICE]

KRIS KUCERA: I cannot...I will get you the exact information on what they spent for their expenditures. I think we should have the... [AUDITOR'S OFFICE]

ZACH WELLS: I think we have it. [AUDITOR'S OFFICE]

KRIS KUCERA: ...financial statements. [AUDITOR'S OFFICE]

SENATOR COASH: I just want to make sure I understand what you're saying here. There were...and these are all programming accounts, right? I mean these relate to recreation and...
[AUDITOR'S OFFICE]

KRIS KUCERA: They're trust funds for the inmates, yes. [AUDITOR'S OFFICE]

SENATOR COASH: Trust funds in order to be spent on the clubs and things like that.
[AUDITOR'S OFFICE]

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KRIS KUCERA: Right. Right. [AUDITOR'S OFFICE]

SENATOR COASH: And your audit found there were several of those accounts that hadn't been touched in years even though they had...can you give me the scope of the balances that they had? Is that the \$2.7 million? [AUDITOR'S OFFICE]

KRIS KUCERA: Yes. [AUDITOR'S OFFICE]

SENATOR COASH: So \$2.7 million is sitting...was sitting out there being unspent that was supposed to go to the benefit of programming of the inmates? Is that... [AUDITOR'S OFFICE]

ZACH WELLS: Well, I think... [AUDITOR'S OFFICE]

SENATOR COASH: I just want to make sure I understand what you're saying. [AUDITOR'S OFFICE]

ZACH WELLS: Is it...these are the three. Is this? Are you talking about like there were three funds that we identify that hold some of the Inmate Welfare, Club, and Religious Account Funds? [AUDITOR'S OFFICE]

SENATOR COASH: Yes, that's...yes. [AUDITOR'S OFFICE]

ZACH WELLS: And there is one that was \$5 million...or, sorry, \$500,000 and one was over \$1 million, that those are ones that had...no money had been spent from those funds since, the \$500,000 was June 2008, the \$1 million was January 2011. [AUDITOR'S OFFICE]

SENATOR COASH: So approximately \$1.5 million that was supposed to go to... [AUDITOR'S OFFICE]

ZACH WELLS: That could have been used for... [AUDITOR'S OFFICE]

SENATOR COASH: Could have been used, was not being used? [AUDITOR'S OFFICE]

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ZACH WELLS: Right. [AUDITOR'S OFFICE]

SENATOR COASH: What's the source of those funds? Is that...was that General Fund appropriation that went into...where... [AUDITOR'S OFFICE]

ZACH WELLS: Believe those are trust funds, right? [AUDITOR'S OFFICE]

KRIS KUCERA: Right. [AUDITOR'S OFFICE]

SENATOR COASH: ...where did it come from? [AUDITOR'S OFFICE]

ZACH WELLS: They are trust funds. They're... [AUDITOR'S OFFICE]

SENATOR COASH: Can you... [AUDITOR'S OFFICE]

ZACH WELLS: ...I have to go back and look to where they're established. I would...
[AUDITOR'S OFFICE]

SENATOR COASH: Well, did somebody die and leave that money? I don't understand where that one point... [AUDITOR'S OFFICE]

ZACH WELLS: Well, I think they were...it was funds that the department earned at some point and just had. I mean that's... [AUDITOR'S OFFICE]

KRIS KUCERA: I think some of it is interest, a lot of it is interest that they earned on that. Other...I would have to find exactly...I could list out exactly what. We can get that information to you... [AUDITOR'S OFFICE]

SENATOR COASH: I'm just... [AUDITOR'S OFFICE]

KRIS KUCERA: ...of where it exactly comes from. [AUDITOR'S OFFICE]

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SENATOR COASH: Yeah. The source of the funds is of concern to me because this Legislature has appropriated a lot of funds that are supposed to go to similar types of things. And if the funds they had hadn't been touched since 2011 and 2008, that that's something I want to look more into. [AUDITOR'S OFFICE]

ZACH WELLS: Okay. We can look into... [AUDITOR'S OFFICE]

KRIS KUCERA: Yeah. [AUDITOR'S OFFICE]

ZACH WELLS: ...that a little bit further to see the source of those. [AUDITOR'S OFFICE]

SENATOR COASH: I'd appreciate that. So my next question, and if you don't want to...answer this the best you can, I guess, but your report goes to the "what." This is very black and white, is what you found, Kris, and I...there's no disputing that. I guess what I would like you to comment on, if you're able to, is the "why." In other words, these are significant problems, or maybe they're not. I mean the question is...I don't know how to put this into any kind of a scope, if this is normal for government to be this far out of whack and this falls within the normal range. I know you don't have a lot of Corrections to compare it to, so maybe that becomes difficult. But I'm trying to figure out if this was a skill issue or a will issue. Did they not know what to do or did they know and not do it? I'm really trying to dig into the root cause of the problems that you found. And if you have any ability to comment on that, I'd be interested in that. [AUDITOR'S OFFICE]

ZACH WELLS: Well, I think on some of the items that we've identified they had administrative regulations. So they had obviously...that's like their internal regulations to spell out the processes that are supposed to be handled in a certain situation, like the canteen adjustments. They have, this is what's supposed to be done. However, for whatever reason...I guess I can't really speak too much to what caused them not to follow those. But at some point they thought it was important to and they outlined it in an administrative regulation. [AUDITOR'S OFFICE]

SENATOR COASH: Uh-huh. [AUDITOR'S OFFICE]

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ZACH WELLS: I think there were maybe possibly a couple other instances that are similar to that as far as some of the other ones. I don't know if we can really speak too much to the cause. [AUDITOR'S OFFICE]

SENATOR COASH: Okay. I appreciate that. My final question is just can you describe the level of cooperation that you had with the department in completing this audit? [AUDITOR'S OFFICE]

KRIS KUCERA: At times, we really struggled with getting items. And I'm not...like again, we can't really speculate as to why it was, if it was intentional or staffing or the reasons. But as you know, we noted in the report there were times that it took us a long time to get information from them. And then there are other times that, you know, we received it fairly fast. But I would say that it did take longer than I've seen at other agencies or in my experience of getting items. [AUDITOR'S OFFICE]

SENATOR COASH: Uh-huh. Is this...I know you can't compare this audit to another Corrections audit because we only have one Department of Corrections so it's...I may be asking you to compare apples to oranges here. But what's the...I mean can you describe the scope of what you found? I mean was this...do you find similar things in HHS where you go, oh, my God, or Department of Roads or, you know, pick it? [AUDITOR'S OFFICE]

ZACH WELLS: It's difficult to compare. Like you said, it is unique. You know, there's ten different facilities so, I mean, it just is a lot...very unique compared to other agencies. [AUDITOR'S OFFICE]

KRIS KUCERA: It is the largest report I've worked on in ten years. [AUDITOR'S OFFICE]

SENATOR COASH: Is that because you found so many things or because there was so many...so much to look at? [AUDITOR'S OFFICE]

KRIS KUCERA: I would say both. [AUDITOR'S OFFICE]

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SENATOR COASH: Okay. All right. Thank you for your time. [AUDITOR'S OFFICE]

KRIS KUCERA: I do have...I, just off the top of my head, I remembered most of the funds from the inmate club and welfare come from pop can proceeds, so the sale of the pop cans in the institutions. [AUDITOR'S OFFICE]

SENATOR COASH: \$1.5 million. [AUDITOR'S OFFICE]

KRIS KUCERA: There's a lot of money in... [AUDITOR'S OFFICE]

SENATOR COASH: That's a lot of pop. [AUDITOR'S OFFICE]

KRIS KUCERA: Yeah. There's a lot of money (inaudible). [AUDITOR'S OFFICE]

SENATOR COASH: But that... [AUDITOR'S OFFICE]

ZACH WELLS: Well, that's just the...that's the cash balance, sorry. It's not like the money that they're taking in every year. [AUDITOR'S OFFICE]

SENATOR COASH: Right. [AUDITOR'S OFFICE]

ZACH WELLS: So I mean that would just be the... [AUDITOR'S OFFICE]

KRIS KUCERA: But over the years. [AUDITOR'S OFFICE]

SENATOR COASH: I'm sure it accumulated over time, but... [AUDITOR'S OFFICE]

ZACH WELLS: Okay. Yes. [AUDITOR'S OFFICE]

KRIS KUCERA: Yes. [AUDITOR'S OFFICE]

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SENATOR COASH: ...the most important thing of what you described was it hasn't been spent. They're not using it and it's there for a purpose. [AUDITOR'S OFFICE]

KRIS KUCERA: Yes. [AUDITOR'S OFFICE]

SENATOR COASH: Okay. Thank you. That's all I have. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Bolz. [AUDITOR'S OFFICE]

SENATOR BOLZ: Thank you, Chairman. Two issue areas I'd like to ask you about and the first is your first item of concern related to the invoicing from Blue Cross Blue Shield. [AUDITOR'S OFFICE]

ZACH WELLS: Uh-huh. [AUDITOR'S OFFICE]

SENATOR BOLZ: And as I review your information, I see that you tested 50 claims. Is that right? [AUDITOR'S OFFICE]

ZACH WELLS: Yes. [AUDITOR'S OFFICE]

SENATOR BOLZ: So 50 out of, I assume, thousands of claims. [AUDITOR'S OFFICE]

ZACH WELLS: Yes. [AUDITOR'S OFFICE]

SENATOR BOLZ: So is it fair to say that there was a depth of problems within those 50 claims? It wasn't one mistake; it was multiple challenges related to Medicaid eligibility, related to the approval of expenditures, related to checking back and making sure that they were appropriate things we should be purchasing. There were a multiplicity of issues within those 50 claims. Is that right? [AUDITOR'S OFFICE]

ZACH WELLS: Yes, I mean we tried...I mean the main thing we were looking at is we had some, just following along their process for an inmate to go outside to a facility, X, Y, and Z

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needs to be done. We then verified that they were doing that for the claims that we tested, and then some type of review to see what they paid for, is that reasonable. [AUDITOR'S OFFICE]

SENATOR BOLZ: And in those 50 claims, you, just in the work that you did there was over \$360,000 recovered just as a result of the information uncovered in those 50 claims, right? [AUDITOR'S OFFICE]

ZACH WELLS: Yes. [AUDITOR'S OFFICE]

SENATOR BOLZ: So I guess what I'm trying to lead up to is it appears to me as though this may be the tip of an iceberg; that this indicates to me that there is a depth of issues here that you did not have an opportunity to examine in its fullness. Is that fair to say? [AUDITOR'S OFFICE]

ZACH WELLS: There could be, I guess, other items out there that we did not see in testing of our 50. [AUDITOR'S OFFICE]

SENATOR BOLZ: Because you were only able to test 50 out of thousands of claims. [AUDITOR'S OFFICE]

ZACH WELLS: Right. [AUDITOR'S OFFICE]

SENATOR BOLZ: Okay. Definitely concerning there. My other question relates to the intersection of a couple of issues. Your report indicates that there are challenges within the pharmacy and there's a couple of layers there as well. There's the lack of approval for certain medications. There are IDs that were terminated that were still being utilized. And then there's concern about the inventory versus what was tracked in the system, right? There was information that didn't match up in terms of the amount of medication tracked versus the amount of medication purchased. Page 4: The count of the inventories for 25 medications at the Central Pharmacy revealed that the quantities for 12 of those medications did not match the quantities listed in Kalos. So it is of concern to me that we have mismatching quantities. We have medications going out with certain...without appropriate approvals. And we have people with certain IDs to be able to access the system that shouldn't have those, that access. The bottom line

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that I'm trying to get to is does this lead us to suspicion of misuse or mismanagement of medications? Is there a pattern developing here that we should be concerned about? Or are you unable to comment? [AUDITOR'S OFFICE]

KRIS KUCERA: I would say the findings that we have definitely raise concerns about medications being missing. [AUDITOR'S OFFICE]

SENATOR BOLZ: It just seems to be a confluence of issues there that makes me suspicious that perhaps things are not being appropriately tracked and utilized, and there may be more than just mistakes. I don't want to inappropriately make accusations, but I find the culmination of all of those issues very concerning. [AUDITOR'S OFFICE]

KRIS KUCERA: And we do...and we also did. That's why we really sign our early management letter to address that to the department right away, our areas of concern. [AUDITOR'S OFFICE]

SENATOR BOLZ: Okay. Okay, those are my two red flags. Thank you. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Krist. [AUDITOR'S OFFICE]

SENATOR KRIST: See, you got to sit next to Senator Chambers so I get to ask questions first. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: So you get first. (Laughter) [AUDITOR'S OFFICE]

SENATOR KRIST: Okay. I had an opportunity to read before the Executive Summary. You know, wow! I don't know where to start. I don't want to double down on Corrections, but not only do we have huge issues that we had to take action on and have special investigations to cover, but we also can't even manage the company store. So I'm going to start with something, then dovetail off of Senator Coash. Is this, having been in the military, I had four or five additional duties, and so did Auditor as well, I know, I'm sure. I may have been flying airplanes, but I also had the snack bar that I had to stock, and I had this and that and these and those. Is this a culture where there's so many additional duties for people that are assigned who don't know

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policies and procedures internally? Do they have enough people to do what they need to do? I mean I'm not trying to excuse, because it's black and white there's issues, but are they at a point now where they have so many people trying to do so many different things that they're losing sight of the ball? [AUDITOR'S OFFICE]

ZACH WELLS: I guess I don't want to speak too much to the culture at the department since, I mean, we were there for a few months. I guess it's...there are certain things, though, that we observed where they had it spelled out in policy. You would think that then they should follow those, and those were not being followed. I guess that's the...whether that's staffing or they just decided this would make a great policy but we don't want to follow it, I can't really speak to that. That's probably not what you're looking for but... [AUDITOR'S OFFICE]

SENATOR KRIST: No, it is, in part. But obviously, you talked to human beings... [AUDITOR'S OFFICE]

ZACH WELLS: Yeah. [AUDITOR'S OFFICE]

SENATOR KRIST: ...who were in charge of doing certain things. Were you talking to a guard who had three or four other responsibilities and he lost sight of the...? Go ahead, I'm sorry. [AUDITOR'S OFFICE]

KRIS KUCERA: I...I mean most of the...most of the staff that I felt like that we talked to didn't...like they had their job and they didn't have...it didn't seem like we talked to the same...you know, one person for this and one person for that, maybe in the accounting area, which has a different, you know, the control over a lot of the department. But it seemed like when we were out at the facilities or when we were working on certain items that that was their job, so I didn't feel that they had multiple jobs. [AUDITOR'S OFFICE]

SENATOR KRIST: Okay. And you would have assessed that as a problem if you saw that there was one person that may have been overloaded or may have been "overtasked" or heard that from an individual. So we can assume that it's not a matter of not having the right amount of

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manpower and man-hours. We can assume that these are compliance issues with policies and procedures and actual laws. Is that a fair statement? [AUDITOR'S OFFICE]

KRIS KUCERA: I don't know if I can confirm to that exactly of why they didn't choose to do what they did. [AUDITOR'S OFFICE]

SENATOR KRIST: Yeah, I got an overwhelming head nod behind you (laughter) so I'll just take that as a yes. Secondly, the question was asked about...I think Senator Morfeld asked about law. I'm pretty sure, from my knowledge of pharmacy in time in Health and Human Services, that there's a bunch of FDA federal laws and regulations in terms of compliance with the kinds of medications that you're talking about that are in jeopardy of being not complied with or laws being broken. So that should serve as a notice to those people who have controlled substances who are out there across the board. And Oxy? For God's sake! I mean I can understand penicillin or any other number of things that might be overlooked as a formulary, but Oxy? Again, my clarifying question was pretty general earlier, but it seems to me there's a whole lot of contract issues here, not complying with dollar amounts that have to go out for competitive bids. This is an executive function and one would think that the Department of Administrative Services would be monitoring activities in this area. Do you have a concern that DAS may or may not be actually looking at it or do you see that as a potential problem here? I mean do the people in the...let me put it a different way, give you a question you can answer. Does the Department of Corrections understand the contracting rules they need to comply with? [AUDITOR'S OFFICE]

ZACH WELLS: I would think so because I think for a number of their other, I mean, there were quite a few that they did bid out. There were just a few instances that we identified, for whatever reason, they decided not to. I don't think it was overwhelmingly that everything that they should have bid out was not being bid out. But there were instances where, for whatever reason, they did not go out to bid. [AUDITOR'S OFFICE]

SENATOR KRIST: Okay. Well, for the public record, I would warn companies that think that they're going to do business with the state of Nebraska, that if they think they're going to give me an invoice and the state of Nebraska is going to automatically pay what they give you, if you don't have a contract you serious...you seriously jeopardize getting your money from a

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government entity. Can't imagine that, but they do. And then my last comment or question lies within Medicaid. Now if I understand Medicaid correctly, and we passed a bill, a law, last year that takes some issue with Medicaid. And it probably wasn't part of your audit. But it has to be out of the facility for more than 24 hours, right, into another facility. I think there's a minimum in the hospital stay itself. And the person has to be Medicaid eligible before they're actually...before they come into the system to be eligible to do that. And give me that number again. How much did we spend, general dollars, General Fund dollars, as opposed to charging Medicaid for those that were eligible? [AUDITOR'S OFFICE]

ZACH WELLS: The one instance, I mean we, during our testing of the 50 claims that we spoke about earlier, there were 4 claims and there was about \$72,000 that were paid. [AUDITOR'S OFFICE]

SENATOR KRIST: And that's just a snapshot. I mean we don't...we have no idea of the scope of that. So I would go back to Senator Bolz's comment, not only in terms of the actual insurance company but also the application of Medicaid dollars. And the, you know, now I'd like to see the ramifications of the law we passed last year which doesn't terminate Medicaid when a person goes in the system but suspends it. And then they automatically come out the other side with that eligibility. Supposed to be coordinated through the department and HHS. But let me...and then I'll just finish by saying you did yeoman's work. Yeoman is understood by your boss very well. You really did some heavy lifting. And I think there's many things in here that should not be just specific to the Department of Corrections, but other agencies and other activities around the state should take notice and say, if this is the kind of audit that comes after me, I should clean up my own house before somebody takes a broom outside of my workplace. So thank you very much for your work. Good job, Auditor. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Pansing Brooks. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Thank you. First off, again, thank you for your amazing work. I guess I'm going back to the beginning a little bit. How...did somebody ask you to do this or did you just sort of think, huh, we need to look at Corrections? I think it's because I'm new that I don't know that. But can you tell me how this all started where someone asked you to do this

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or...? It's coincidental with the Corrections work, of course, that we're doing right now, so I'm just interested how this has started. Do you know? [AUDITOR'S OFFICE]

KRIS KUCERA: My understanding, I think it was on Auditor Janssen's radar and, yes, to look into it. How it actually got, you know, his decision, I can let him answer that maybe in his closing statement. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Okay. All right. Well, that's...yeah, that's wonderful. Clearly, the procedural issues on medications and contracts and the accounting systems are significant and I'm just...I'm sort of wondering about what...do you have a perspective, is there something that we can do legally? Obviously, the Legislature isn't supposed to micromanage every department in the state. That's sort of, I think, the executive's position to be able to do that. So I guess what our job is, is there something legislatively that we can fix? Obviously, also we see a need for some systemic change. Some of that...a lot of it is procedural. And obviously there are a lot of laws in place that you mentioned where statutes have not been exactly complied with. So again, do you have some idea about what changes could be made legislatively? [AUDITOR'S OFFICE]

ZACH WELLS: I guess I don't really have any good ideas as far as legislative fixes. I know a number of the items that we've kind of gone over, the department is unique unto state government, however, and it makes some unique purchases like parolee electronic monitoring. But I would...but we'd...the department should identify that and implement procedures so that they are making sure that what they're paying is correct. I think reevaluating how they're going to verify what they're paying and making sure that it's adequate would address a number of the items that we've raised, which I guess isn't related to your legislative fixes. But I think just reviewing its processes would address many of these. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Did you see any processes set forth within the department, some sort of manual on how to and how to go forward and how to dot the I's and cross the T's? Did you ever find anything like that, like an HR notebook or something that helped employees understand exactly what their jobs were and what they were to complete? [AUDITOR'S OFFICE]

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KRIS KUCERA: I mean we saw administrative regulations that would outline, you know, if they made an adjustment over this amount they need to tell this person, and this person needs to approve it, and this person needs to approve it, which is a lot of the findings goes against those regulations that they aren't following. So they have these out here for different items and we've listed those in our criteria in the findings on the specific ones. As for like a manual of what they're job duties are, we didn't ask for any of that. You know, we talked to the people and we got the information, but whether it was a handwritten manual, I'm not sure if that was available.
[AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Okay. So you didn't really see some sort of form that said, okay, for this position you need to complete this? [AUDITOR'S OFFICE]

KRIS KUCERA: Not unless it was specifically in the administrative regulations, and they have numerous, lots and lots of regulations out there. So we would find the regulations for the area that we were auditing and see if they followed those procedures in that regulation, which is where we found a lot of exceptions. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Also, I was wondering, we know that this all was a mess up about a year ago plus, so have you seen anything since that indicates that things are changing for the positive with the new administration? Have you seen any kind of efforts to clean this up, to work to stop all this that's going on? [AUDITOR'S OFFICE]

ZACH WELLS: It's probably pretty early, I guess. We have met with them and during our audit we will update the department for (A) we're observing this; do you have a procedure to how you're going to pay or review this payment? You know and then that way we bring it to their attention so they can implement, you know, changes in their procedures to improve. However, I think our normal process is generally we get their responses of what they're going to do and those are included in our report. And then we generally follow up with those the next time that we'll visit with going back to the Department of Correctional Services and perform another examination. [AUDITOR'S OFFICE]

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SENATOR PANSING BROOKS: Okay. But I guess what I'm wondering is, as you were researching all this, surely there were some indications prior to the final completion of this report that things were going astray. And so it seems...I just wonder if you were able to communicate some of this and if some changes...if you know of any changes that were made immediately. Or if the...you know, if the new Governor is working or the Corrections Department is working to immediately correct some of these things, because some of them could be corrected rather quickly. [AUDITOR'S OFFICE]

KRIS KUCERA: I think, you know, by their response in the report, that's about as much as we know what they're immediately doing, is what they responded. We didn't test anything after the fact of our audit period to see if they made those changes. But their responses in the report is how they addressed what they are changing. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Okay. [AUDITOR'S OFFICE]

ZACH WELLS: Understanding they might have told us they were doing something to improve, but we weren't verifying that that was actually the case. So I don't want to tell you that they said they would implement A, B, and C, when we have no proof that that was actually the case. But, I mean, they probably...I remember verbal conversations where they were saying that, yes, we're going to make this change, but I can't say that they actually did. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Thank you for your information. It's really overwhelming in light of all the other issues regarding overcrowding and lack of programming and everything else. It's beyond belief what work needs to...what work lies ahead. Thank you very much. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Chambers, do you have any questions? Okay. I have two problems. One, what are we going to do about the past? Some of those samples you took were simply 4 or 5, maybe up to 50 different samples, you found huge amounts of problems. What are we going to do about the other 20,000? Who is supposed to go back and look at that, especially in the areas where we can claim money against some existing party and collect that money back? I don't

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want to just see that money float down the rat hole, and that's what it was. Who does that?
[AUDITOR'S OFFICE]

KRIS KUCERA: I think that would be the department's decision as to what areas are...that needs the most work. [AUDITOR'S OFFICE]

SENATOR SEILER: We're going to go back to the people that caused the problem and say, hey, you really want us to go after these people? I don't think so. But I'm having a problem...you turn it over to the Attorney General. Does he set up a program with your department to go after some of these funds that are all screwed up? And yet there's viable people to go after. [AUDITOR'S OFFICE]

ZACH WELLS: I guess you'd have to pass that on. [AUDITOR'S OFFICE]

SENATOR SEILER: And maybe I'll ask... [AUDITOR'S OFFICE]

ZACH WELLS: Yeah. [AUDITOR'S OFFICE]

SENATOR SEILER: ...Charlie when he gets back up here. But then the second problem goes the other way: Where do we go from today forward and who is responsible? And when you said, well, the next time we'll do the report and the next time they do an audit. Eight years from now? There could be a couple million dollars disappear a month! The question I have is, who is going to be responsible for working with your group and the department to cure the problem? And I don't see anybody stepping forward or you recommending that they step forward. But again, I'll ask...I'm asking these questions so your boss has got an idea what I'm looking for. Thank you very much. I appreciate the hard work you did. [AUDITOR'S OFFICE]

KRIS KUCERA: Thank you. [AUDITOR'S OFFICE]

ZACH WELLS: Thank you. [AUDITOR'S OFFICE]

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SENATOR SEILER Anybody else have follow-up questions? You may step down. Thank you very much. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Thank you, Chairman. And I just...a couple notes I took down and I'll be quick and I'll be happy to take your questions after that. I would like to point out that the overtime for a lot of those individuals, miscalculated as it may have been, there are a lot of hard-working people out at Corrections and they are really understaffed out there. And I know that the new administration has taken that head-on and has tried to hire up, especially in Correction officers, which is a very difficult job. And they do work a lot of hours and are forced to work a lot of hours due to limited staffing there. And I truly wish we could afford, as an audit agency, to do this audit every year to speaking to the question of: Well, now what? Because really, our authority starts and ends with the audit. We turn it over to the Attorney General and we give our findings to the Legislature. And as the auditor noted, and then the next time we come back, which could be several years, especially in light...as I noted earlier, to nearly 20 percent of our General Fund budget just to do this year's audit, which, thankfully, went a little bit faster thanks to some of the legislation passed by the legislative body last year giving us a little bit more authority to go in and get answers a little bit quicker and a few more claws, if you will, to get that. And I do think there's a culture in there. That was asked. There's a culture of...it appears that there used to be quite a bit of a cat and mouse game with the auditors. They understand our budget limitations as an audit staff; they understand our staffing limitations as an audit staff. And my assessment was that if we take enough time, well, they'll just go away and...or we don't do this or don't do that. So that was very disappointing, because we, obviously, want to find what we need to find, we want to get in there. We don't want to be burdensome to the department. They've got a mission to do. But when they try to hide stuff or don't make it available, I guess would be a better way to put it...or readily available, I guess, it made it much more difficult. That said, I did contact directly the new director, Director Frakes, from time to time. And when that was done, action was taken in those areas. Unfortunately, it's not feasible for myself to call the director of every department every time we have issues. I mean, this report was 200 pages long, significant testing. So that also is time-consuming and unnecessarily expensive. And it was brought up: Is this the tip of the iceberg? Yeah, we could only test...I mean, testing is testing. And, hopefully, this...and I think it does, and again I can't say...Director Frakes has been very open to the audit process. And if you're taking over a new company, you want to know what's wrong with the

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books. He's been very open to that. He wants to know that, very open during the exit interview. And there were several comments, as indicated, more than 60 comments that we discussed with Director Frakes about, maybe, procedures and some of the questions that were asked that we can't discuss but they can discuss. And I believe...I don't know if it was Senator Pansing Brooks that asked it or not, about what we could do during the audit. The audit took a significant amount of time, much longer than we had anticipated. And there were several things that we wanted to disclose to senators that statutorily we can't do that right now, things that, I think it was indicated, would be easy to fix statutorily. And so that's something that former Senator, now my legislative liaison, Karpisek will probably stop by your office and talk to you about different types of legislation that we could propose together and move forward in those areas. So I appreciated that question definitely. And...oh, it was also asked, I believe, by you, Senator Pansing Brooks, about how did this audit come about? Was it just...and I probably should have told the auditors this, but it was on the radar in my former job as a state senator. It was, obviously, something that came up over and over again. It came up in between that time. I also talked to...Senator Mello sent an official letter to my office asking for that; which we encourage senators to do when they have any issue with any agency or whatnot, kind of let us know and help direct us. We've got a very limited number of auditors. We have 2,700 political subdivisions that we have to oversee in one capacity or another or can oversee, so. This took a great amount of time; outstanding auditors there. Was blessed with a great staff when I took over and it's gotten even better. And Zach and Kris did a great job, but there was also a heck of a staff that was there as well that did a great job; and plus the staff here that really had to pick up a lot of the slack, for lack of a better term, because they spent so much time on a very difficult task out there. So nobody...most people don't like to spend money on Corrections. But the money that is appropriated, I think, should be spent in the manner that you intend it to be spent, the Legislature. And that's our goal, not only with this agency but all agencies. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Coash? Senator Bolz? Senator Krist? [AUDITOR'S OFFICE]

SENATOR KRIST: Two comments: The first one is it is a comprehensive audit and the follow-up on the audit, I understand by legal definition, the AG would have some course of action. But I think that if I were the director, there are some key areas here that, I think, are potential unlawful

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acts that he needs to pay attention to now. And I would hope from your chair, his chair it's understood that there's no excuse for that if he has enough people to do what he needs to do. And I'm sure we're going to hear...we'll hear that, as you know. And my second comment is just that your staff has, both in terms of last year's legislation that we worked on together and your understanding of the legislative process and your legislative liaison, there is a level of communication that is appreciated, particularly from my standpoint being here, that at some point the Auditor's Office was a mystery and it's not so much anymore, and it is a tool that state government should be using. That doesn't mean we're going to give you any more money. (Laughter) Thank you. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: I'll talk to Senator Mello about that. [AUDITOR'S OFFICE]

SENATOR KRIST: Oh yeah, good luck with that. (Laughter) [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Mello, do you have any questions? [AUDITOR'S OFFICE]

SENATOR MELLO: Thank you, Chairman Seiler. And thank you, Auditor Janssen. First off, it's more I apologize for having to chair another interim study hearing at the same time as this one today. I did read through the audit. I have digested a lot of it. And I'm very appreciative to you and your staff in regards to you expediting this particular audit this year knowing that you have an awful lot of requests that come through your office. You have been limited in regards to the appropriations; in regards to the Auditor's Office, even though the Legislature did increase that appropriation sizably this year. But the two questions I have is, one, is a little bit of a follow-up Chairman Seiler just asked your staff which is: How, in your perspective, how do we continue to provide oversight over the Department of Corrections, or even any other agency for that matter, who has this...who had this bad of management over this period of time? I mean, this is one of the worst audits of a state agency I've ever seen in my life. What can we do, as a legislative branch, to ensure that there's continued oversight, so to speak, purely from a fiscal perspective that's laid out in your audit? [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Well, certainly, we'll talk to you about certain legislation to correct the problems, which goes maybe even a little bit above what the job of Auditor of Public Accounts

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is. But certainly in working, as Senator Krist noted, working with the Legislature, we want to have a good relationship and make government better. I think we have a mutual interest in that between the executive and judiciary...or legislative branch. So, judiciary does too as well, I would suppose. But certainly, you know, when you talk about...Senator Bolz brought up, was there...is it a culture? And I think she...I'm sorry if I'm speaking for you, but is there a culture there? Well, if a light is not shown upon it by the audit, it makes it easier to do. People...you were talking about...it's unfathomable to me to have a contract that you just would write checks to. You'd send an invoice and you get a check; there's no contract. Things like that tend to happen because there's no oversight on an annualized basis. And it's difficult when you've got one auditor and one audit staff. And like you said, it's been, and even when I was a senator, somewhat of a mystery. Even finding the office is somewhat difficult. It's right around the corner from the Governor's Office, if you're looking for it by the way. So, you know, I think it's just basically going through the audit process and making sure. I think we kind of talked a little bit about it is...it's very troublesome to the auditors that have been here for quite some time to go back eight, nine years later and say, well, we found this in talking about a collateral duty of running a canteen. Well, that's not a big deal, don't worry about it. And I'd seen in the past...I talked to agencies while I was in your chair, and they'd say, well, the auditor stops by and they're counting our pencils and pens; you know, is that necessary? At the time, it was like, well, you know, not...that seems kind of low-yield work and it tends to lead to bigger problems. I think in one case we were counting hamburger that was missing. So, I mean, those kind of...that culture perpetuates itself and it usually leads to something much larger. So I think it's really just working together--executive branch, legislative branch. And certainly if you task my office with it, I'd be more than happy to go back and check on that annually for you. But you know what that takes.
[AUDITOR'S OFFICE]

SENATOR MELLO: And actually, I...well, joking, my friend and colleague next to me in regards to the previous question that you and him had about the funding that we maybe needed. The Legislature passed LB598 this year which created the Inspector General over the Department of Corrections from the legislative branch. And they've got a specific responsibility looking at policies, programs, and operational aspects of the Department of Corrections. If the Legislature wanted to ensure that we had a biennial audit of the Department of Corrections from your office, is that something that we would not only...was that something we would need to

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consider through the budget process as well as statutory language? Is that something that we could discuss, maybe, through the LR34 committee? It's just something that...reading this audit gave me more pause and concern, even though I know and understand this was completely done under a previous administration. It was done, I know, from 2013-2014 which it was under the Heineman administration and not the new administration. But there's still a lot of lingering doubts I have in regards to whether or not the number of deficiencies that were found. If we just take an out-of-sight, out-of-mind approach on this agency moving forward, do we do eight or nine years from now the next audit and it's the same thing over and over again? So I know it's kind of an open-ended question and maybe it's a conversation that could be had in Executive Session, maybe with this committee or with other interested senators. But knowing that other senators along the route are going to want to see an ongoing, kind of, fiscal oversight of the department, I'd be interested in your feedback or thoughts. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Yeah. Well, certainly education becomes the key to this. In many cases, and we see this in other audits, some people aren't following the state statutes. And state statutes are very difficult, we all know that. And interpretation thereof is a whole different matter. In that case sometimes we offer guidance as much as we can. Then it comes to the next piece if somebody is knowingly doing it. And that's also...we looked at. And that's why we look at waste, abuse, and fraud. Speaking to LR34, I'd be more than happy if a recommendation was to work with the Auditor's Office, whether you had specific intentions to look at, whether it be, HHS, Corrections, you name your state agency. And it happens more and more often. And you know how expensive this one audit is. Like I said, again, close to 20 percent of our General Fund budget, which you're very familiar with. So that makes it impossible under the current structure for us to go look at that on a year-to-year basis. I will note, though, basically the cost of this in recovered funds that the auditors found was nearly \$400,000 to the department. While necessarily it doesn't go to our department, but it was recovered state money. So, you know, I'm of the belief that good audits actually pay for themselves. And in this case, I think that's pretty obvious. [AUDITOR'S OFFICE]

SENATOR KRIST: Senator Seiler, can I just...very quickly? One thing in a term limited environment that I think we need to continue to say is that we have a Performance Audit Committee within the Legislature that deals with factions of evaluating performance of an

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agency. We have a state auditor who is looking at the financial side. We now have an auditor of...or an IG in Corrections that should be, on a daily basis, looking at what's there. And I believe what you two have just talked about, in terms of the LR34 recommendation, in consolidating those skill sets together on a biennial or every...however it might become. So I'm glad you brought it up and I think we...don't need...let's not forget the Performance Audit function as well. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Oh, absolutely not. And we're happy to work with Performance Audit. We have a great relationship with them. And I would like to bring up...again, getting back to Pansing Brooks, Senator Brooks' question is: Why, why now do this? I did look into term limits and see that, I guess, the class I would have come in on, which is what Senator Mello, this is the last hurrah, if you will, for that class. There's a lot of experience leaving the legislative body. I thought if we could get that information to that group as well, and we've got new senators now that have been here for a year, so understand that I know what the first year was like, so. But it's moving forward. So we wanted that comprehensive, I guess, piece out there, I guess, for senators not only now but in the future and so that can be passed down, because it's just, at this point, not feasible for us to go do a comprehensive audit of Corrections every year. [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Pansing Brooks. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Thank you. Again, thank you, Auditor Janssen, for all this. I just can't let it go without at least pointing out the one part about the 38 assets that were, basically, valued at \$1 instead of either their fair market value...I mean, to me that's the most overwhelming. And then the fact that two of the buildings had no cost associated with them. Those have to be huge numbers probably. And I cannot figure out...even those of us who don't have great accounting backgrounds or incredible knowledge of this area would understand that that was a significant oversight. I don't know if it is an oversight. That's so significant I don't think it's an oversight. So then I sit there and think, why did this happen? Was it that their budgets were being so scrutinized and so tight that they had to show less value than they had? I just don't know what would have caused someone to take such significant pieces and just pretend they didn't exist. So do you have a thought to that? Is that because the Legislature or because the

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executive branch was saying, no, we're not paying you any more; you can only show this much? And we heard that kind of stuff was all going on, that, you know, you want more money for this and that, and too bad you're not going to get it. We're cutting here; we're cutting BCBS. So I'm just trying to figure out if you have an understanding or even an intuition about how something so significant could be just totally disregarded. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Yeah, Senator Pansing Brooks, I would be speculating only on that. I mean, you can speculate, as you indicated. But you could also say that it was just so overwhelming or the process and duties weren't...you know, there was no accountability, I guess, no verification. Obviously, something went wrong there. And that's why it...you know, as an audit staff you like to see those things fixed moving on in the future. So I guess in some cases it's our job to shine the light. And now that it has been shown, then we need some follow-up. And I think that's us working together with the Legislature, so. And I appreciate your openness in doing that. But, yeah, I don't have an answer beyond that. I apologize. [AUDITOR'S OFFICE]

SENATOR PANSING BROOKS: Well, it's...I didn't really think you would, but I did have to say that the one humorous thing as I'm reading 351 pounds of beef are missing, all I could think of is, "where's the beef?" (Laughter) [AUDITOR'S OFFICE]

CHARLIE JANSSEN: I thought about actually saying that, but... [AUDITOR'S OFFICE]

SENATOR SEILER: Senator Chambers. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Now wait a second, you didn't have any questions for anybody else. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: I had said that wouldn't ask questions of the auditors. They did their job. And I have no qualms or quarrel...qualms about or quarrel with the work that was done. Unlike...well, let me make a couple of observations. The Accountability and Disclosure Commission is a regulatory agency; it has enforcement powers. It can levy fines; it can initiate criminal prosecutions. The auditor has no enforcement power whatsoever, but once these findings have been made, there is enough information, and I will refer to it by the term

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"evidence," to justify a law enforcement entity to take a serious look at what we have before us right now. It can no longer be laid at the door step of those who went before. We can say that's how it started. But there are people in place now and the Governor has praised Mr. Frakes greatly. I don't know if you remember, but I think it was about three-quarters of a million dollars that were paid to some black employees because of racial discrimination out there. And some of the people involved, at least one of them maybe, Mr. Frakes has promoted. The ones who were responsible for that had nothing done to them. So when these wrong-doers can see that their misconduct has been made public, the Legislature has had to appropriate money because of it, yet nothing is done. We can go back to the word that Senator Bolz introduced. There's a culture out there of lawlessness. I think the wrong people are on the wrong sides of the bars out there. And I believe these employees think they can get away with anything that they want to. Some of the work they do is like the police--they lie. They get together and cover up. They will write false reports which are contradicted by video evidence, and yet they'll all stick to that lie. And then Mr. Frakes won't do anything about it. He's going to take the word of these people which will go contrary to direct evidence. And I'm going to use this opportunity to put a few things on the record and serve notice to Mr. Frakes and to the Attorney General and to the Governor. I have a law degree, but I don't practice law. I'm a lawyer in the sense only of being learned in the law to some extent. People will hear the terms "direct evidence" and "circumstantial evidence" and not be sure, in terms of a definition, which is which, but they have a sensing about it. Direct evidence are those facts which will establish a thing as being so or not without resorting to inference or speculation. Circumstantial evidence is that evidence which, based on a fact or a body of facts, will allow you to make an inference as to the existence of another fact which is a part or an element of the crime to be proved. So there is what I consider to be some direct evidence here. There's also circumstantial evidence. And I think it all leads me to the conclusion that there's an...there is knowledge of wrongdoing and an intent to do nothing about it. The Legislature is aware of certain things. What we can do is not bring criminal charges against anybody. But every civil officer is subject to impeachment by the Legislature, and the Legislature is the only body that can impeach. A civil officer can obviously be impeached for a violation of the constitution, a law, an oath of office when that misconduct is done in connection with his or her duties. The Governor is subject to this, so is the Attorney General. The Attorney General, as a lawyer licensed to practice law, is subject to the Code of Professional Responsibility. And for derelictions of duty, he can be subjected to a complaint to the Counsel for Discipline. I think if it

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can be shown that there is information available that would warrant a lawyer to inquire into a matter and that inquiry is not made, that is a violation of the Code of Professional Responsibility. There are some things I will take upon myself to do because others won't. I can see how frustrating it would be to have professional, dedicated people unearthing--I'm the one applying the term--"wrongful conduct." It's available in the light of day and yet those who ought to do something about it won't do anything about it. There are some people with the misunderstanding, laypeople, that the Auditor can do something about that which the Auditor discovers, but the Auditor cannot. There are others whose duty it is. And what I would suggest to the Attorney General if he is too frightened, if he is too politically tainted, if he is too tied in with his political party and wants to avoid embarrassing his Governor by doing his duty, as was not done by the prior Attorney General, tell him to go to the district court and ask that a special prosecutor be appointed. Go to the presiding judge of the District Court in Lancaster County and ask for the impaneling of a grand jury, the appointment of a special prosecutor, and let the evidence be presented there and see if there's a basis for indictments. If I am a security guard in a store and a fellow comes in dressed as sharp as my colleague Senator Mello, and when he walked in, not a wrinkle in his coat, and his hair...not a hair out of place, he's coordinated, and looks like an ordinary person when he comes in, and I notice him when he comes in. But then when he walks out, he's like Santa Clause: his coat is bulging, his pockets are bulging, his hair is ruffled, he has a little layer of sweat on his face like he's been working, and it doesn't occur to me that he's trying to go out with something that he didn't come in with. So as an observant security person, I should at least make inquiry to find out what he has with him. And if he has merchandise, can he show that he is entitled to have that merchandise under his coat and in his pockets. In other words, does he have proof that he paid for it. I'll tell you why I'm taking this time. We're on the record now. I didn't want to ask any questions to deflect the auditors from the path they were taking in laying out briefly and directly the basic findings that were made. The report itself is available with many specifics. And I think that the Attorney General and the Governor have a responsibility. I'm saying it, not putting words in the Auditor's mouth, not asking the Auditor for an opinion. But I'm a member of the Legislature. Your report was submitted to us. We should not merely read it and say, well, eight years from now we'll see if, out of the goodness of their heart, somebody did something. I want you to know that I don't have law enforcement authority. I cannot press charges against anybody, but I'm going to begin doing some serious study, research, and try to bring pressure on the Attorney General, the Governor, and Mr. Frakes. If I as a private

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citizen, in concert with others, made payment for illegal drugs and tried to bring them into this country knowing and having been told it is unlawful to do so, they would charge me with a conspiracy of some kind. Sometimes acquiring illegal drugs can be considered a crime. Trying to acquire illegal drugs can be considered a crime. I see a corrupt administration. I see the Governor as a man without principle. I see him as a man without ethics. I see the Attorney General incompetent. He is the one who said that because Nebraska was not a party to the lawsuit that was decided by the Washington, D.C., federal court, its determination that the FDA could not allow drugs to come into this country, he said, well, that doesn't apply to Nebraska, because Nebraska was not a party to the lawsuit and, therefore, Nebraska is not bound by it; the decision bound the FDA. And for the Attorney General of a state to be so dumb, so incompetent in the law that he doesn't realize that once the agency has a ban placed on it to do certain things, there's no way a state can go around on its own and say, well, Nebraska was not named; the agency has been shackled. Why can I go in confidence to an Attorney General who is that dumb or either that corrupt? And if he has been advising the Governor to continue in his attempt to get these illegal drugs into this state, for better or for worse, I may try to talk to some federal prosecutors and see what kind of complaint can be filed. And if they won't file it, maybe I'll take a page out of the books of the Republicans in Congress where at least 79 occasions they tried to throw out the Affordable Care Act again and again and again, knowing nothing would be done, but they wanted to make a point. The point I'm trying to make here is that when we have agencies, and in this instance we're talking about the Auditor of Public Accounts Office, who are duty bound under the law to perform certain functions, and they perform those functions in an exemplary fashion, we in the Legislature have an obligation. And I will not shirk because 40--not saying my colleagues, anything about them, but to make a point--49 of us have this obligation; 48 won't assume it, so I'm going to join the 48. No, I am me and I have an obligation. It was difficult, I want the auditors to know, for me to not discuss anything while they made their presentation. And this will give me the opportunity to let them know that I was not asleep; I was engaging in a very difficult internal struggle to make sure I abided by my promise not to ask questions. And I think I'm wearing the committee out, but I won't do this all the time. But I want Mr. Frakes to know that when he comes here tomorrow, he is going to face the music. He has not...before I go on, did I understand that as you were proceeding, your office was, sometimes it was difficult to get information that you needed from the people out there, or did I misunderstand?

[AUDITOR'S OFFICE]

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CHARLIE JANSSEN: You understood correctly, Senator Chambers. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: Say it again. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: You understood correctly. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: All right. Now if you came to this office as the new Auditor and there were employees there, you would make it clear to them what you expected, wouldn't you?
[AUDITOR'S OFFICE]

CHARLIE JANSSEN: Not only yes, but, yes, I did. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: And if they respected you, they would do it. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: They have thus far, so I'll make the other assumption. I'll leave that up to them. [AUDITOR'S OFFICE]

SENATOR CHAMBERS: But if they didn't respect you, it would be just words spoken and so what. If Mr. Frakes came here and did the great job that I can document in the newspaper that your Governor...I'm looking at my colleagues over here, that the Governor said, Mr. Frakes is doing a splendid job. And yet the employees over there, pardon the expression, say, Mr. Frakes, go to hell; we're going to do it the way we've always done it. You don't know anything; and we don't have to do what you say. Or else Mr. Frakes has not said that there's a new sheriff in town and things are going to be done differently. I don't believe he has said that. I think Mr. Frakes is getting orders from the Governor to try to keep some things quiet; don't you do this, don't you do that. My final point, then I'm going to stop for today, Mr. Chairman. I believed that Mr. Frakes would be a good appointee. From what I was able to determine, Mr. Frakes is a professional in the best sense of that word. I believe that from what I've gathered he did good work when he was in Washington State as what I call the "head jailer." There's no way a man with those credentials can come here and allow himself to be put in the position he has and retain my respect. My respect probably doesn't mean anything to him. But when his professionalism is going to be compromised by orders from the one who hired him; if he's going to be made to look like a

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braying jackass who knows nothing about the law, his professionalism should assert itself, and he should say either let me do my job or I'm out of here. But I think the job means so much to him, he's going to make himself look like a common drug dealer, an alley rat, one who has no principles whatsoever, contacting some little pharmaceutical outfit in Mississippi to get drugs to kill people. I think Mr. Ricketts is fixated on killing. I think he has an obsession with killing. I think he is driven by the notion of being able to kill. I think that he needs counseling either from a mental health professional or from his priest. And I'm putting together some statements that he has made in the newspaper to show that this man has some serious psychological problems. There has been nobody, during the time I've been in office, 41 years, looking at all aspects of the death penalty, how it's done in other states, never. Not in the worse southern state have I seen any governor so rabid and obsessed and fixated on trying to get people killed. But what he doesn't realize, and he apparently has surrounded himself with political hacks, members of one family who don't know anything, who will tell him, yeah, go on and do this because you can do it. And they haven't had the sense or the wisdom to realize that the Nebraska Supreme Court must issue a death warrant before there can even be an execution scheduled. And with the political confusion right now, the Governor sounds like a fool, a crazy man to say we're going to get these drugs and carry out an execution. What he doesn't know is that he, Mr. Frakes, and the Attorney General cannot comprise a mob that can go into the prison and kill somebody on their own. There still is a court system. There still is a judiciary. There still are constitutional requirements. And in case his Attorney General doesn't know it, the state highest court can make a determination on an issue that the U.S. Supreme Court has ruled on. But if that issue is being ruled on pursuant to the state's law, the U.S. Supreme Court, unless that decision violates the U.S. Constitution, cannot even hear it; it has no jurisdiction. The electric chair was struck down by the Nebraska Supreme Court, not pursuant to the U.S. Constitution. The U.S. Supreme Court has not said that the death penalty is unconstitutional pursuant to federal law or the federal constitution. But the federal constitution is the standard below which no state can sink, but a state can give greater protection. And the Nebraska Supreme Court said, pursuant to the Nebraska prohibition on cruel and unusual punishment, the electric chair violates the Nebraska Constitution. So even though the U.S. Constitution, under Chief Justice Roberts, appointed by the "Repelicans," has said that these botched executions in Oklahoma do not violate the constitution, the Nebraska Supreme Court will not accept that. They will say there will be no experimental executions. There will be no experimental drugs used. When the pharmacology

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organization says that none of these outfits should be involved in providing drugs for executions, when pharmaceutical companies have said these drugs should not be used for executions, and they're going to...the Governor is going to be told by the Attorney General, you can get some little outfit in a back-alley garage to compound some substances and we'll use those to execute some people, and if those don't work we will use antifreeze, we'll use rat poison, it's not going to work. He is not going to be able to kill anybody. That's what I'm saying to this Governor. And I write things to him and I'm going to keep writing to them...to him and circulating them. He's nothing but a man and a pathetic little man at that. He is blinded by his obsession with the death penalty. Other issues of state are being ignored. We have a report here that deals with one of the biggest institutions in this state, one of the most critical institutions in this state. He is always talking about public safety, always when he wants to lambaste the Legislature or me specifically. But we have this report that should cause him to bring the Attorney General into his office immediately and say, you are a constitutional officer, you're a member of the executive branch, but it's your job to see that the laws are enforced, and it's my job, overall as Governor, to see that that's done, so I want you to undertake legal action immediately where we have evidence of misconduct and see that something is done. And you know what? I'm not crazy like some people play like they are, that I don't know what I'm saying. I know what I'm saying. Just like when sitting in this chair I made my comment about ISIS and the police. And if Senator Garrett brings another bill, I'm going to make it again. But I'm going to explain to the white people, because white people are the ones who didn't understand what an analogy is. An analogy is when you say one thing is like another thing. I'd asked Senator Garrett what white people are afraid of; that they live around each other, black people are not coming into the rural area to take their land, Native Americans are not coming to take the land back. So what are they afraid of? Why do they have to carry guns in restaurants? He said, well, they're worried about the international situation--ISIS, ISIL, and al-Qaeda. That's what they're afraid of. I said...and I'd given examples of how the Omaha Police had shot people and done other things to harm people, white people even. I said the police are my ISIS. I did not say that I support what ISIS has done. As the reporters, even locally, would say, Senator Chambers compared the police to ISIS who..and then they mentioned the things that ISIS does as though that's what I said I approve of or as though I said that's what the police do. No, I'm going to make it crystal clear; I'm going to say we have two sticks: one up here, one below here. On one end of the stick is the white people; on the other end are ISIS. Between them is this stick which means the fear that the white people have of ISIS.

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Down here on one end of the stick we have black people. On the other end of the stick we have the police. The comparison is not between ISIS and the police, not between white people and black people, but the fear that each of them has. The white people's fear runs to ISIS; black people's fear runs to the police. And white people knew what I was talking about. I thought they did. But I made that statement then, I'll make it now. And the kind of things that are happening show what the police are. How about the one who committed suicide but tried to create the impression through what he said, because I remember the report that they gave. Let you hear him: he's chasing three guys and one of them is black. And he knows when you put that "black" in the context of something happened to a police officer, there are dragnets that go out through our communities. I've seen it happen. I'm not talking about what I read, I'm talking about what I know. And I'm going to tell you something else that offends me about the Omaha Police which I think is a corrupt outfit. There was a white female officer who was killed. The weapon used was obtained by a woman from a pawn shop in Alabama or Georgia--I mix them all up, they run together in my mind--but in a pawn shop down South. They traced it to there. I've been saying for years, as a member of this committee, on the floor of the Legislature, in correspondence to local, state, and federal officials that they need to find the source of the guns coming into my community. And white people like to be able to suggest that I don't care about the killings going on in my community because the media will not report the year after year after year effort I've put forth to bring pressure on the officials to find the source of the guns coming into my community. And here's what I always said, let those guns be used against white people, then they will be concerned. That's when they'll find out where the guns came from. When Nikko Jenkins shot those people, they traced to the source of the ammunition because a white woman had been killed. Well, they have a black vice president of the white Ku Klux Klan police union. And I know what I said and I meant it. And they had him speak because there was a black woman, I presume, I haven't seen her picture, but it was a black man who had the gun. So they had the black flunky speak and say, if you want to stop this gun violence, you have to do something about these straw purchases. I've been talking about that for years. He never said, yeah, that's what we need to do in Omaha. They can trace a gun down South because a white cop was killed. But the source of those types of guns are not being touched. If they can trace that gun, the source, down to South, they can find sources in this state of those guns. But they don't care as long as they happen to us. Whenever something happens to white people, then it becomes a problem. When black people were the ones thought to use heroine, it was a crime by low-life,

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no-good people. And now that white people are using heroine and there's an epidemic, they don't talk about it being a street drug now; not low-down, lowlifes using it, not young people who don't get parenting at home, not those who have no respect for anybody, including themselves, now that white people are using it in epidemic proportions. The police are talking about putting together programs to reach out and help these people. They're talking about looking at it as a medical problem, as a societal problem. But never do they use the term "criminal." But if it's criminal when black people are involved, why is it not criminal when white people do it? Because when white people do it, they change the law or they change the interpretation of the law, or they change the application of the law. I'm not a fool. I understand things; I can read, I can observe. I've went to white people's schools all my life. I deliberately picked the college that supposedly has the highest academic standing, which was Creighton, and I went to Creighton and got my degree in four years and didn't attend most of the classes; didn't have to. Went to their law school, and because I could pass all the exams without attending class, and the white boys got upset because I made the dean's list and a lot of them didn't, they imposed on me a requirement, after they had given me reason to believe for two years that I didn't have to attend class if I passed my exams, that now I have to attend classes. I worked. I worked all night sometimes at the post office, would go right to school. But I continued doing what they allowed me to do. And they didn't, in the middle of a semester, tell me, Chambers, you have cut enough classes so you're out of here. I didn't flunk a class. You know what they did to me? They cut me off at the pass when I came to register. They said, you can't register. That's how they kept me out of Creighton for all those years. And I had offers to go to better law schools than Creighton's. But it became a principle with me. And I said, I started law school at Creighton and I'll finish law school at Creighton or I won't finish it at all. I could have gone to the university down here. The dean of that law school at Creighton said he would give me a recommendation to any law school in the country because he knew that I could do the work. And I said, no, I started here. And I said, here's why I have no respect for you.; you won't let me register at this school for whatever reason, but you'll dump me on your colleagues other places who don't know what a bad actor I am. So Creighton wanted to have a building fund drive. They got a guy named Steven Frankino from Yale who came to Creighton, not only became the dean but led the building fund drive; got them a brand new law school. And he's the one who said I had every right to finish that law school; that he looked at the reams of information on me. He separated his hands by about 12 inches and said, that's how much documentation on you is in this law school; that shouldn't be

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with any student; that you'd have a good lawsuit against Creighton if you chose. I said, I'm not interested in suing Creighton. He said, what do you want? I said, I want to go to school and finish. He said, well, you can come back; you don't have to buy a textbook, you don't have to attend a class, just pass the exams and that's what...that will be good enough. And that's what I did and I graduated. But before I graduated, some white boys...and you know why I use the term "boys"? That's an insulting term, because they acted in a juvenile, underhanded, backstabbing way to let you all know how I've been dealt with by white people when I went to their white schools where they're teaching justice, teaching law, talking about equity. And I was doing what you were supposed to do--pass the courses. But that wasn't good enough. So when we took the exams...when you take an exam at that level, soon as you finish whatever you're going to do, you can leave. I always left before everybody else, so they were sure I had flunked. But after I got through writing what I knew, I left. And when I didn't flunk, they got upset. There was a professor named Pat Green who taught a course in labor law. And he said, this is an open book test. Now how are you going to cheat on an open book test? You can bring the book; you can bring your notes. And four of those white boys went to the dean, his name was Rodney Shkolnick, and accused me of cheating. And Dean Shkolnick called me to his office. I'm giving names. He said, Mr. Chambers, I don't think there's anything to this, but you were accused of cheating. I said, what? He said, you were accused of cheating. Well, he had worked his way up through the ranks. He had been an instructor and I was in one of his classes. He knew I didn't go to class and I passed every exam he ever gave me. He said, but...I said, then why am I here? He said, when an accusation of cheating is made, we have to conduct an investigation. I said, you're lying to me. If I were white, you would have told them what you told me--there's nothing to this. But you treat us differently. And then we're not supposed to see it as racism. Just like when they taught us their English when we were dragged to this country, and when we spoke their English the way we spoke it they made fun of us. That's the way it always is. Dean Shkolnick told me that he talked to Professor Green. And if Pat Green is still alive, ask him. Shkolnick said, I talked to Professor Green about this cheating. I said, what did Pat say? He said, he laughed. I said, well, what did he say? He said, Professor told me that the way he writes examinations, if you don't know the material you can't pass the exam, whatever kind of books you bring. You have to know the material. And I passed his course. And that's the kind of insulting, demeaning, dehumanizing experience--I can make it plural--that I've had in white institutions throughout. When I was in the Army, my colleague on the far right knows about the military, I even passed around a little letter

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that I'd gotten from advance basic out there in California. They said it's known in this company that when Private Chambers undertakes to do something, he does it very well and I'd promote him myself except regulations prohibit it. That's what he wrote back to this unit where I had to come back and do some reserve time in Omaha. And when the captain tried to promote me, you know what I told him? I don't want a promotion from you. But I think that the next step up from a captain is a major. Take what I would have had as a promotion and add it to yourself and see if they give you that little clover that you put on your collar; I don't want anything from you. And the FBI was investigating me while I was in that reserve unit. I had not violated the law. And I got some information through the Freedom of Information Act. That's what I've gone through and I'm not a criminal. I come to you-all's Legislature and play by your rules, after I have been abused, misused, and discriminated against in those places where it should never happen. But I still have to come here and function at a higher level than everybody else. So I do have some bitterness in me. And when I can see, coming back to this, white people in charge or this, and other white people whose job it is to do something after a white entity competently, thoroughly, meticulously documented things, and the other white people aren't going to do anything, and I can be accused of cheating on an open-book test and run through the wringer, that's why I get so upset sometimes. You all don't face what I face. You don't even believe that I'm telling the truth. But it doesn't make any difference what you believe. So I will do the work, to the extent that I can as one man, what collectively ought to be done. And the media, they're afraid to report things. Let them run and tell Fox News that I said the Governor is in need of counseling. Let them do that. But why didn't Fox News become outraged when Donald Trump demeaned an entire race of people or nation of people as rapists, murders, criminals? Why didn't Fox do something with that? He's running for President. And there are people in this Legislature saying I should resign. And I'm not supposed to see those things, draw a comparison? You know what white men do when they feel like I feel? They, as law-abiding citizens, they go get an automatic rifle, semi-automatic and kill up a lot of people, a pistol with one of these big magazines with a lot of bullets and shoot up a lot of people. And the one who shot up all those people, turned the theater...the movie house in Colorado into a slaughterhouse, got life in prison. Mr. Auditor, I'm going to do what I can to keep what has happened in the past from continuing to happen. Where with all of the evidence nothing is done, I'm going to do what I can to embarrass my colleagues into joining me. And I'm going to make the Governor know that if he is interested in getting some counseling, I know somebody...or I will help find somebody who can give it to him. And

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you all in this state ought to be ashamed and embarrassed, ashamed and embarrassed by your Governor fixated on killing, obsessed with killing, acting like a rabid dog in order to kill. But I assure you, this Supreme Court is not going to issue a death warrant for anybody. And because I know things...because I read and others don't...there was a man named Michael Ryan whose name was invoked by Schnoor, I think, or Schnook (phonetically) or whatever his name is, and by the one that ran for Governor and never forgave me because I said I can lose the governorship for a lot less money than he is--Beau McCoy--talking they would invoke the name Michael Ryan. Michael Ryan was within two weeks of execution, within two weeks. And you know what happened? An issue was raised about how Nebraska got hold of those death drugs. That's what canceled any possibility of an execution. And by the time the legal proceedings had ended, those drugs had expired. And some other drugs that Nebraska had, that they got from that sleazeball in India, were seized. The FDA said, turn them over, you were caught with the goods, you got to give them up. And now your Governor has some dumbbell whose last name is Gage in his office saying, we've had good dealings with this guy before and that's why we're dealing with him now. But he's so dumb he doesn't know what those dealings were. I know. This Governor travels around the country, the state attacking me. It is a grudge. He wants to let rapists out; that's what Chambers wants. That's what the Governor is doing. I tell him, bring it on. But I wish some of you all would tell the Governor he ought to see that something is done with the Department of Corrections. And now that I've unburdened by mind, I'm through, Mr. Chairman. And I appreciate your indulgence. [AUDITOR'S OFFICE]

SENATOR SEILER: Mr. Auditor, I have two things. One is, do you know whether that Kalos drug program keeps track of what drugs are sold...or gone through the pharmacy, who they go to and then keeps a record of that? Your people are shaking their head yes, so I assume it does, because all of my clients that were pharmacists have programs that do that. And then they...did you recommend a quarterly physical inventory? Do you remember? [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Not off the top of my head. Maybe they're shaking their heads behind me. I'm not certain. [AUDITOR'S OFFICE]

SENATOR SEILER: No, they're not. [AUDITOR'S OFFICE]

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CHARLIE JANSSEN: But we'll get back to you on the specifics on that. [AUDITOR'S OFFICE]

SENATOR SEILER: But do a quarterly report, then you're not going to be way off on your drugs. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Well, and certainly there's been some issues raised there. And I think it was brought up by Senator Krist,... [AUDITOR'S OFFICE]

SENATOR SEILER: And the only last thing with... [AUDITOR'S OFFICE]

CHARLIE JANSSEN: ...OxyContin is obviously a drug that you want to keep an eye on. [AUDITOR'S OFFICE]

SENATOR SEILER: The only last thing I have is that the committee is really disappointed that you didn't put Russ up there so we could cross-examine him. (Laughter) Thank you very much. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: There's still time, so we could. Thank you. [AUDITOR'S OFFICE]

SENATOR SEILER: Thank you very much. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Thanks to the committee. [AUDITOR'S OFFICE]

SENATOR SEILER: Any further questions? None. Thank you. [AUDITOR'S OFFICE]

CHARLIE JANSSEN: Thank you. [AUDITOR'S OFFICE]

SENATOR SEILER: The committee is...we'll make the report part of the record. And the committee is dismissed. [AUDITOR'S OFFICE]