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Health and Human Services Committee
June 23, 2011

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The Committee on Health and Human Services met at 9:00 a.m. on Thursday, June 23, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for a briefing by the National Conference of State Legislatures on their Child Welfare Project. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Tanya Cook; Gwen Howard; and Norm Wallman. Senators absent: Dave Bloomfield and Bob Krist. Senators also present: John Harms, Amanda McGill, and Jeremy Nordquist.

SENATOR CAMPBELL: I think we'll go ahead and start so if you have not picked up a green agenda on the side, you may want to do that so that everybody has an agenda. Good morning to everyone. I am Kathy Campbell, senator representing the 25th Legislative District and Chair of the Health and Human Services Committee. We are so pleased to see many people who have joined us today for the briefing. And I first of all want to have some introductions and then will kind of go over a few details, and then our guests will proceed with the agenda. I'd like to welcome Senator McGill and Senator Nordquist, they're on the end, who are visiting with us, good colleagues in the sense of spending a lot of hours on children's issues so we particularly are glad they're here. As is our tradition on the Health and Human Services Committee, I'm going to let the senators introduce themselves. So we'll start to my right. []

SENATOR WALLMAN: Norm Wallman, District 30, which is south of here. []

SENATOR GLOOR: Senator Mike Gloor, District 35, which is Grand Island. []

MICHELLE CHAFFEE: Michelle Chaffee, legal counsel to the committee. []

SENATOR HOWARD: Senator Gwen Howard, District 9 in Omaha. []

SENATOR CAMPBELL: Senator Cook will be joining us. She is about ten minutes out,

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traveling from Omaha. Senator Krist was planning to be here today but he flies and takes the Engineering Corps around, and let us know this morning that because of the floods he had some emergency flight that he needed to take the Corps of Engineers. So we can understand that. And Senator Bloomfield is on vacation and actually is in Washington, D.C., today visiting with the Congressional delegation, so lots going on this summer. It is important I think to note that on the sides are also sign-up sheets. If you did not receive an e-mail from us announcing this meeting and you would like to be on our e-mail mailing list, make sure that you include that on the sign-up sheet. If you have any questions about that, you can see our clerk, Diane Johnson, who will take care of that for you. I am particularly excited about today because of the conversations that I've had with our two presenters. What we were looking for when we first called NCSL was could you help us with some research or studies as we begin to look at the child welfare system in the state of Nebraska, and they said, oh yes, we can help you with that and more, and it's the "and more" today that we are particularly glad they are here. The intent of today is provide, not only the committee and our visiting senators but you who have come to listen in on the briefing today, an idea that a context for how we look at child welfare in Nebraska. It's important for us, as we look at the system we have, to have some idea what else is happening across the country in other states, and there's where Jack and Nina have come to help us. On the back of your green agenda, and I won't go through their long and storied bios, but it will give you a background on our two presenters today, so if you'll take a minute and take a look at that you'll have a good introduction. So with that, I'm going to turn it over to Jack. I think you're the first part of our agenda. Welcome to Nebraska. []

JACK TWEEDIE: (Exhibit 1) That's right. Thank you very much, Senators. I appreciate the opportunity, we appreciate the opportunity to come to Nebraska in what we hope is a start of engagement in trying to help you think about child welfare reform and the privatization efforts that are ongoing and how the Legislature might choose to move forward. Just quickly, I'm the director of the Children and Families Program, as it says in my biography. We do, in Children and Families, we do child welfare, early education,

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welfare and poverty, and youth, and a variety of issues that are connected with that. In Children and Families, we try to emphasize both getting out information generally to legislators but, in particular, in working with legislators to help them, the quick way I say that, help them see what their choices are and help them figure out what those choices...what choice they want to make, and then help them figure out how to implement that. So we, I think more than most of NCSL, have worked intensively with legislators in various states on a variety of topics and I hope we can offer that to you as well. So what we want to talk about first is...why Nina's phone is talking (laughter)--that's a new one--talk about first is give you an overview of child welfare, particularly the Child and Family Services Reviews, both the national picture and a little bit about what you've seen in Nebraska, and talk a little bit about outcomes, because what we found in a variety of different areas, that by focusing on outcomes it gives legislators a handle on a program. So instead of focus on how a program operates or on process, in thinking about comes, which I think is particularly important in talking about privatization, because often in the national discussion about privatization the focus is on, well, we want to achieve these outcomes. And we think by engaging the private agencies, nonprofit community agencies, sometimes for-profit agencies that we can, by directing them toward that, then we can give them flexibility to figure out how to achieve that. But it's important to think about how to structure that and how to proceed, so we'll focus on outcomes first, then we'll talk some about what we know about privatization from other states, particularly Kansas and Florida. My guess is that here in Nebraska you hear a lot about Kansas and Florida, and that discussion will continue because those are the states that have done...that have long experience with efforts much like the effort that's been undertaken in Nebraska now. What we're not going to talk about much here is Nebraska, that we haven't done and haven't been asked to kind of talk about what's going on yet, that I know the committee intends to have a series of hearings to see what goes on in Nebraska. And as that information comes out we hope to be able to work with you to figure out kind of...what we're going to talk about a little bit today is what kind of questions you want to ask, what you want to think about as you go forward, and then as you process that information if we can provide additional help as you work through it,

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we'd be happy to do that. So we'll talk about privatization and performance-based contracting and then we'll talk a little bit about what other legislatures have done just to help you understand the role that legislatures play in child welfare in a variety of different ways, not just in privatization effort but also child welfare reform efforts more generally. So I talked about the Children and Families Program. So we've divided up the topics. Nina is going to talk about some things and I'm going to talk about some things. So I'm going to turn it over to Nina to talk about the child welfare overview. []

NINA WILLIAMS-MBENGUE: Right. Thank you so much and, yes, good morning, Madam Chair and members of the committee. And I'd like to echo, as Jack Tweedie said, we're very glad to be here and hope that we can offer information that will be helpful to you and we very much look forward to working with you in the future to provide whatever help we may be able to give as you move forward. As was stated, we'll want to start talking about...before we begin a more in-depth discussion of privatization and performance-based contracting, we thought it might be helpful to provide some context, specifically by briefly discussing the federal Child and Family Services Reviews process, which some of you are probably already familiar with, and I know that you are, Senator Howard. As you know, the CFSRs, as we can call them for short, are federal reviews of state child welfare systems. They're designed to be a collaborative effort between the federal and the state governments to assess the quality of services and programs in your child welfare system. They identify strengths and weaknesses or areas needing improvement in your state programs and systems, and they focus on outcomes for children and families in three major domains of child welfare, and those are in the area of safety, permanency, and child and family well-being. There have been two rounds of the CFSRs. States just finished the second round of CFSR review, which ran from 2007 through 2010, and we've come to the end of that. And I'll talk a little bit about what may possibly happen in round three, which is probably upcoming in a couple of years. We're not quite sure. In addition to the three areas of safety, permanency, and well-being, child and family well-being, the reviews also look at seven state systemic factors, and I'll look at those in a bit, and they do

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require the development of program improvement plans if states are not in substantial conformity with the different indicators through the review. And again, we wanted to start with the reviews because I think that they are a particularly important resource for you. They do offer a broad overview of how your state is operating, how you're functioning by looking at the national standards and looking at agency performance. And equally important, because the reviews are done in partnership with the state child welfare agency and stakeholders such as judges and families and foster families, we think they can provide a lot of important information and give you a context for where you want to begin and what type of indicators or performance you might be interested in considering as you go forward. I just wanted to spend a little bit of time talking about the measures. The first important area is safety. What kinds of things are measured? Children are, first and foremost, protected from abuse and neglect, and children are safely maintained in their homes whenever possible and appropriate. The review teams look at things like the timeliness of child protective services' response to reports of abuse and neglect. They look at the rates of repeat maltreatment. They look at risk and safety assessment, and they look at services that are provided to families to protect children and to prevent children from being removed from home. The second major area is that of permanency and there are several different very important pieces that are examined here. Children have permanency and stability in their living situations, and the continuity of family relationships and connections is preserved for children. Some of the indicators that are looked at include the rate of foster care reentries. In other words, a child is in the foster care system; leaves the foster care system, perhaps to go back home with a biological family; goes into an adoption or perhaps a legal guardianship; something happens and that child has to be returned to foster care. That's a very important indicator that's examined. The stability of the foster care placement is looked at to make sure that children are not bounced from foster home to foster home. The timeliness of the adoption process is another one that's examined, how long it takes for a child to come into the foster care system and become adopted. And other important factors, especially with the continuity of family relationships, have to do with whether or not the child is placed with siblings, whether important connections are preserved with

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the child's biological family or their home community or their school. Relative placement is examined as well in the relationship of the child in care with parents. This is also where there's an examination of children that have been in the system for a long period of time, and in some states that's called...it's long-term foster care. In some states it's called other planned permanent living arrangements. In other states it's called another planned permanent living arrangement. The CFSR also measures child and family well-being and they look at whether or not families have an enhanced capacity to provide and care for their children's needs, whether they receive appropriate services to meet their educational needs as well as their physical and mental health needs, and some of the specific indicators are things like the child's and family involvement in the case planning, which has a lot to do with bringing the family's voice into the decision-making process for what happens to children and youth that are in the system. Another important piece that's examined right here are caseworker visits with children and that has to do also with the frequency and the quality of those visits. There is a federal requirement that caseworkers visit all children in care on a monthly basis every month, and that requirement, 90 percent of all children in care have to have a monthly visit by their caseworker and there are penalties associated with not being in compliance with that. This area also looks at worker visits with parents and the frequency and quality of those visits. And please feel free if you have any questions, Madam Chair, to ask them. And finally, the systemic factors are important and they give both the state and the feds a look at how the entire system operates, both the information system, the case review system, the quality assurance system. They look at training. They look at how resources are provided, what the service array looks like throughout the child welfare system, and that's important to determine whether or not there are adequate services available for families and children in the system. And again, this is looking at both children that are in the foster care system and those that are receiving services in home but are still wards of the state. And they look at licensing, foster and adoptive parent licensing, as well as recruitment and retention. As I mentioned earlier, and I pulled out a copy here, Nebraska, you underwent, as you know, your most recent review the week of July 14 in 2008. Now because that review was

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done in 2008, most of the implementation I believe of the child welfare reform initiative had not begun to that period. The CFSRs, the round threes are upcoming. The plans for those have not yet finalized. They may or may not be very similar to what states looked at in round two, so any information we might have is based on what we know about the round two process. Now every state, including Nebraska, I put a link here, you can find your review. And again, this is something that you might be very familiar with. You can find your reviews, your PIPs and other information on-line. Both of yours are on-line and, again, the last one is as of 2008. I did print out a really quick copy of the last one, some parts of it. I know they looked at 65 cases. This is a team of federal administrators, along with your state child welfare agency folks, looked at some 65 cases to come up with the findings in the areas that we talked about. And again, this is a process that we certainly encourage state legislators and I know that you've been active in that through the work in Senator Howard's office of actually participating in the reviews. Legislators and legislative staff can sit on the statewide assessment and I know that you had staff to do that quite extensively and participate in the process and also participate in the program improvement planning process, which are the plans that really all states have had to prepare because they've not been in conformity with these federal indicators. And again, I think this is just a really important starting place for states to look at and see the kinds of things that are important in child welfare systems and things that you might want to pay particular attention to as you go forward. []

SENATOR CAMPBELL: Any questions? Sorry. Senator Nordquist. []

SENATOR NORDQUIST: Yeah. So just so I understand it, it's not measured over the round time period, it was a snapshot in round two that you can compare to round three or round one prior. Is that right? []

NINA WILLIAMS-MBENGUE: That is correct, yes. []

SENATOR NORDQUIST: Okay. []

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NINA WILLIAMS-MBENGUE: It is a snapshot in time. They actually look at case records, these 65 cases,... []

SENATOR NORDQUIST: Okay. []

NINA WILLIAMS-MBENGUE: ...40 foster and 25 in-home cases in three sites throughout this state. They do interviews as well as focus groups, so they do get more of a sense of what's happening across the state and how it's impacting children and families, and these interviews and focus groups are with adoptive parents, with foster parents, tribal representatives, child advocates, certainly child welfare agency personnel. They do look at...they do provide a state data profile and here it says that they look at fiscal years 2005 and 2006. []

SENATOR NORDQUIST: Okay. Do any states make an additional investment and do this, or something similar at least, on an annual basis measuring the performance? []

NINA WILLIAMS-MBENGUE: Sure. There are a couple of states and I have a couple of slides and we can talk about it, California and Maryland, actually through legislation, through state legislation. California enacted a law in 2001 called the Child Welfare Accountability and Performance Act, which essentially...and it went into effect in 2004 and it essentially mirrors the CFSR process. They look at the assessment process is not just done at the state level but it's done at the county level and you can go on-line, and they are working with I believe the University of Southern California, and get a really live shot, snapshot of a live reading of what's going on in each county. The counties also have to do their own self-assessment as the state normally does as part of this every three- or four-year CFSR process. That information is on-line as well and the state provides information on numbers so that the county can constantly be looking at what they're doing over time and they do a lot of quality assurance through that process. I believe they add even some additional indicators from the ones that we looked at in

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child safety, permanency, and well-being. In 2006 Maryland legislators passed a similar law. I don't think they're quite as comprehensive as what California does. I've seen some of the California presentations and they do go quite a way to try and really get a handle on what's going on in the state, and I did want to bring...I'm glad that you brought that up, I did want to talk about that as a way...another way. It probably requires a substantial investment and the university connections so that they could capture this data over time. And of course, California is a county-administered state but it is...they find it very important to really have a handle on what's going on in the state and that was legislatively driven as a way to...both accountability and performance measures and it goes beyond the CFSR's. []

SENATOR NORDQUIST: Great. Thank you. []

NINA WILLIAMS-MBENGUE: Surely. []

JACK TWEEDIE: Nina, it might be useful to talk a little bit about the substance of the 2008 review, not so much because it's current, it predates the reforms. The data, as Nina talked about, is 2005-2006. But I think it's helpful for the senators to see the kind of information that's produced that maybe could be produced on a state-based system on a more real-time basis. []

NINA WILLIAMS-MBENGUE: Sure. []

JACK TWEEDIE: Though I guess we'll start this by saying most states didn't do very well. []

NINA WILLIAMS-MBENGUE: Right. Right. []

JACK TWEEDIE: Every state failed to be in substantial conformity... []

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NINA WILLIAMS-MBENGUE: Right. []

JACK TWEEDIE: ...and every state had to enter into a program, a PIP, a program improvement plan. So the results are not good and, again, it's not meant to be a comment on the current status but as a way for you to think about how you can get a handle by looking at these outcomes and looking at these measures on a regular basis. []

NINA WILLIAMS-MBENGUE: Uh-huh, sure. Well, the 2008 CFSR in Nebraska did identify several areas of what they call high performance with regard to, you know, achieving certain desired outcomes for children. Let's see, your state received overall ratings of strength related to repeal maltreatment, and again this is monitoring whether or not that child's...whether there was an additional report of abuse or neglect I think within six months after an initial substantiated report. You also performed with strength, not over the 95 percentage that they want you to reach but with foster care reentry, so you did, as they're calling it, you performed with strength in that area. And again, this is a child has left the foster care system and there's been another substantiated abuse report and they return into the system. They monitor that very closely. You also performed with strength in placing children in close proximity to their parents and placement with siblings. And on that placement with siblings piece, I'll just say that as you probably know the Fostering Connections Act of 2008, which is a major piece of federal legislation regarding child welfare that was signed, does require, as long as the child's safety is not compromised, that all children in care be placed with their siblings. That's one of the pieces. Let's see, you also met the national standard, is what they also call being in strength, met the national standard for the data indicator that looks at permanency for children who have been in foster care for an extended period of time. The areas of concern...well, the areas of concern include the safety related to the absence of maltreatment recurrence and the absence of maltreatment in foster care, and they did identify some key areas of concern regarding some of these other outcomes. For example, permanency outcome one, where children have permanency

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and stability in their living situations, was an area of concern. Also the area of adoptions is an area of concern and this, I mentioned before, these children that are in long-term foster care or the other planned permanent living arrangement, is an issue, the permanency goal for a child, as well as reunification, guardianship, or placement with relatives. The services for families is regarded as an issue and, again, the safety outcome. They went back to concerns related to safety outcome one for children. Children are, first and foremost, protected from abuse and neglect. They did list some of the key factors associated with some of these areas of concern and these are things that you've probably heard about as you're, you know, looking around the state and looking at your child welfare reform. One of the first areas that they listed was that the state caseworkers do carry high caseloads and that there's a high rate of turnover in caseworker positions, also that there's an insufficient level of experience in supervisory positions. The number of foster homes and placement resources around the state is not sufficient to meet the needs of children, and the use of family team meetings, which is another strategy that lots of states have been engaged in some through legislation and some certainly through child welfare practice, and again this is where the family member that's involved in the child welfare system can identify other extended family members or other professionals, their faith persons that they work with, teachers and other folks to sit down and with the child welfare agency and develop a plan for permanency and/or safety for that child, and that gives the family a voice in the outcomes of the children. It also extends the resources and the reach of the child welfare department to try and figure out what the strengths are and what the best placement is for the child, the best and safest placement. And the family team meetings are something that can be done throughout different points in the case, not just at entry into foster care, but some states do it across the life of a case. There was also an issue with engaging and searching for noncustodial parents in case planning for services and issues with the establishment of children's permanency goals and conducting permanency review hearings and the timely filing of termination of parental rights hearings. And some of that has to do with the interaction of the courts and what their caseloads look like and how many...what kind of information they're getting from the

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child welfare agency. And this is something you're probably familiar with: They've identified a lack of sufficient mental health and substance abuse treatment resources for children and families. That's a brief overview of the review and, again, I encourage you. The information is available on-line. You can work directly with your child welfare agency to look at that. And this was prior to, because this was conducted in July of 2008 and... []

JACK TWEEDIE: Completed in. []

NINA WILLIAMS-MBENGUE: ...completed in July of 2008, right. The actual review was conducted that week and the data was from before that. It does not encompass the reform, the reform efforts. []

SENATOR CAMPBELL: Any questions? Senator Wallman. []

SENATOR WALLMAN: Yes, thank you, Senator. Yeah, thanks for coming here. Do you...I just had, with a county attorney, had a meeting regarding foster care with on drugs...child on drugs. Do you think a foster parent is told enough about the child before they take this child, you know, assessed, assessments? []

NINA WILLIAMS-MBENGUE: Well, I know that's an issue in a number of states. We've seen a number of states enact legislation, they've enacted things like foster parents bill of rights or just requirements that the foster parent receives as much information about the child, the child's mental health status, health status, you know, education and school records as possible because that does seem to be a factor, you know, across states. And the...and a number of things, one thing resulting in the foster placement not working out and causing...forcing the child to be put into another placement and to another placement and to another placement, which sort of worsened some of the child's behavior and it sort of becomes a vicious cycle. The other thing about the federal Fostering Connections to Success Act of 2008 is that there is a requirement for the

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state to provide for both the educational oversight and the health oversight of all children in care. The federal legislation requires the child welfare agency do to this. It doesn't require either the office of education or Medicaid or health or mental health folks to sort of do a piece, but there is supposed to be a collaboration in the case of health issues to sort of keep a record that's available to all entities of the child's health services, and that's mental health, dental, anything like that, to keep track of that and to develop some type of planning with the child's physicians and mental health and counselors and substance abuse counselors. That is a requirement. It's not clear. There are states that have, you know, passport programs, for example, where this information follows the child around. It didn't really come with resources necessarily for states to be able to necessarily do that effectively. So we're tracking the legislation and states' response to that, but that might be helpful. It is a requirement. It's not clear how easy that is for states to do, especially in the current budget situation. []

JACK TWEEDIE: But, Senator, there is a move, a general move toward providing more information... []

NINA WILLIAMS-MBENGUE: Uh-huh. []

JACK TWEEDIE: ...to foster parents,... []

NINA WILLIAMS-MBENGUE: Uh-huh. []

JACK TWEEDIE: ...and we'd be happy to talk to you further about how legislatures have fostered that and what the outcomes have been, what the experience has been to see if it has improved things. []

SENATOR WALLMAN: Good. []

SENATOR CAMPBELL: Senator Howard. []

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SENATOR HOWARD: Thank you. Thank you, Chairperson Campbell. I appreciate you coming here today and sharing this information, which I know like the back of my hand. But I am especially concerned about the issue of case management, turnover, which was at the time of this review high and, in my opinion, is even higher now, and the lack of experience with the supervisors, which over the years I saw the experience drain with the turnover in case management, frankly. Last December, with the privatization effort,... []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR HOWARD: ...the state workers were told they may or may not have jobs and, of course, that insecurity forced them to look at the privatization effort in terms of being hired, and now the privatization effort, KVC has laid off 75 of their employees, which has in turn pushed those workers back to look at the state system. So I think all of this insecurity and turmoil is certainly not helping the case management turnover situation. Do you have any recommendations in terms of stabilization or...you know, you and I both know the outcomes from this. It's delay in permanency. []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR HOWARD: So what do you see could be something to rectify this? []

NINA WILLIAMS-MBENGUE: I don't know. Did you see anything...I don't know if you saw anything specific when you were looking at case management issues. []

JACK TWEEDIE: Well, in terms of privatization efforts and, again, focused on Kansas and Florida, that one of the key points they make is that the experience of case managers and staff in privatized efforts is much like that in public efforts,... []

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NINA WILLIAMS-MBENGUE: Uh-huh. []

JACK TWEEDIE: ...that it doesn't change. There's no...the same challenges that public agencies face in maintaining staff, in training, in managing caseloads is also experienced when agencies are privatized. []

SENATOR HOWARD: So privatization is no silver bullet in terms of experience or retaining case managers. []

JACK TWEEDIE: That's right, though over time, and over time means...one of the things we'll talk about when we talk about privatization is that the system stabilizes over time. But here we're talking about five, eight, ten years, that things are...that what we hear are things are better in Kansas, in Florida now ten years after the fact. So it takes a long time for there to be improvements and it wouldn't be; that one of the challenges that you face now in thinking about how Nebraska moves forward is it's hard to know what the baseline is. It's hard to know what would have happened in Kansas and Florida if the same level of effort had been made to strengthen the public agencies as opposed to privatize the agencies, you know. And we'll talk about cost, we'll talk a variety of different things that as you look into it and you see what has happened in Nebraska and we can think about what's happened in Kansas and Florida and some of the performance-based contracting states the similarities but... []

SENATOR HOWARD: Do you see the privatization based more on the political will than the general child welfare agenda? []

JACK TWEEDIE: I think it's interesting. I'm going to avoid speaking about Nebraska because I don't know enough, right? []

SENATOR HOWARD: In general. []

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JACK TWEEDIE: In general, it's very interesting. Talking about one of the things that the examinations of Kansas and Florida and some of the other states talk about is that in some ways the level of political interest and support for privatized systems is stronger; that there's mixed evidence about all of this but there's some evidence that in Kansas and Florida there was more attention paid, there was more support for the system; that the result of privatization had brought in other advocates for the system to strengthen the public will around child welfare and improving outcomes in child welfare, though some people will point out that there were still substantial struggles. Maybe there was more resources put in but experience in some other states suggests there isn't more resources. So it's one of the things that I guess I would suggest you pay attention to, that one of the values, and there are quotation marks around "values," is by making this big effort it's raised the profile. You're having more discussions in Nebraska just as they did in Kansas and Florida... []

SENATOR HOWARD: But at what cost? []

JACK TWEEDIE: ...around child welfare outcomes and how to improve them than you would have otherwise. []

SENATOR HOWARD: At what cost? At what cost do we raise the profile? []

JACK TWEEDIE: I hope that's not a question because I certainly can't (inaudible). []

SENATOR HOWARD: (Laughter) I think we all know. []

SENATOR CAMPBELL: Other questions before we continue? Oh, Senator Gloor. []

SENATOR GLOOR: Just curious, do you happen to know what the trends are nationally for timeliness of adoption? Have they been moving upward or downward? I'm always...I'm wondering if the... []

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NINA WILLIAMS-MBENGUE: I believe (inaudible) I think that well all of the trends, and I was going to get to that next, some of the national trends, I can't say that I know exactly. Most of the trends have been moving in a positive direction. You know, the numbers of children in foster care in most states have reduced and I'm going to go over that. Specifically on timeliness of adoption, I can get back to you on that, although I would assume generally, yes, those numbers have tightened up because of expediting the court process. There's a general trend towards shortening the length of stay nationwide in most states, so that would mean that the adoptions have become more timely. Of course, there are outliers, some of those larger states. And then there are a number of larger states, such as Florida, which are receiving federal incentive bonus funding for putting large number...you know, for adopting large numbers of children out of the foster care system. []

SENATOR GLOOR: Thank you. []

SENATOR CAMPBELL: Okay. Before we proceed, Senator Harms has joined us and I want to welcome him and Senator Cook. Okay, we will proceed to the next topic. []

NINA WILLIAMS-MBENGUE: And it's the national debt overview. (Laugh) Again, we thought that we'd spend some time just looking at some of the national foster care data so that when you start thinking in terms of data that you might, you know, want to look at in your state and what might be important for you to know and track as you go forward looking at child welfare reform here in this state. Currently, these figures are from the AFCARS, the Adoption and Foster Care Analysis Reporting System, which all states report their numbers to at the federal level. It's part of the U.S. Department of Health and Human Services. And these...most of these numbers are estimates for fiscal year 2010 and that was just reported as of June 2011, so there's a bit of a time lag in reporting some of these national numbers. As of September 30, 2010, there were 408,452 children in foster care across states. You could see here that more than half of

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them had been in care for 12 months or more, 34 percent of that number of children had been in care for 24 months or more. The average length of stay for children in foster care--this should be...and I'm sorry, Jack, I didn't update this, this should be 2010--it's 25.3 months. That is creeping downward. With 2009 here I think was 27 months, so some of these numbers are slowly edging downward. And the average length of stay is really critical because of the outcomes for children that, you know, the longer they remain in foster care the worse their outcomes are. One of the trends to really note is that between 2005 and 2009, and I'll have a graphic here in a moment, there's been a 15 percent decrease in the number of children in foster care nationwide. We're seeing both children...the numbers of children entering foster care and existing foster care, those numbers are declining. And starting in 2008 we see that the number of children and youth leaving the foster care system has actually outpaced the number entering foster care. This has happened across all ages and, I don't have it here, it's also across all races and ethnicities. Although there are still a disproportionate number of African-American children entering the foster care system, even their numbers are declining. Children under the age of one continue to have the highest rate of entry into foster care. From the numbers I looked at, Nebraska is mirroring some of this, although at a lower rate. And here is just a graphic way of looking at this from fiscal year 2005, when there are over...just over 500,000 children in care, to fiscal year 2009. And I don't have the 2010 on here. I'll just generally tell you that some of the factors...that there's not...I don't think the federal government or national experts have come out with a full analysis yet of the actual causes as to why this is occurring. We do know that in 1997 the Adoption and Safe Families Act expedited the court time lines so that children had to move to the system quicker, termination of parental rights had to be started and if the children had been in care for 15 out of 22 months, so that was a contributor. And states, both in child welfare practice and in state legislation, have really focused on preventing children's entry into care, and I'll talk a little bit about what some of those actual strategies are. A number of states have used things like differential or alternative response, which I'll talk a little bit about before, and much of that has been done through legislation. And this is on the front end. Differential response or alternative response in

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some states allows the child protective services system to offer services and assessment to families that are at low risk of abuse and neglect. They still rise to the statutory definition of abuse and neglect but they refer them to a system of community services, the family usually does not get put on to the central registry of child maltreatment, if the state has that, and they will not be involved in the court system. States have also focused on relative placement or subsidized guardianship quite a bit as a way to both prevent children's entering into the child welfare system and also for children that have been in the system to shorten their stay, to put them through the court system and a legal guardianship with a relative caregiver or however that state defines "relative." There's been a focus on disproportionality in a number of states, again of African-American and other children of color. Certainly states are looking at engaging families and youth in decision making, again through the family team meeting process. And also there's been a lot of action in states, again through legislation, regarding legal representation of children and families and allowing youth to have a voice in their court hearings either by being notified of a hearing, participating in a hearing, speaking to a judge and so on, and a lot of that has been through legislative mandate or in conjunction with and through the courts as well, in cooperation with the courts, also a general collaboration with courts on all of these issues, courts and other stakeholders, to look at performance issues. A number of states have been able to take advantage of flexible funding or waivers, demonstration waiver projects from the federal government to test innovative ways to look at providing services to children and families. That's...the waivers that most states have been involved in, states such as Illinois, were discontinued in 2006, I believe, but there is legislation passing through the Senate and the House right now at the federal level which may offer child welfare waivers. We are tracking that and I did send a notice out. I hope you're all getting our newsletter and notices that we send out, probably too much, hopefully not too much (laugh) information for you but we are trying to track that as well. And there again there's been this focus on permanency, partly driven through the Child and Family Services Review process. Again, these are factors. There's not a real, I don't know, evaluation of exactly what's driving these numbers down. There is a general decrease in

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the incidence of physical abuse and sexual abuse nationally across this same time period that is still continuing even though 2009, the beginning of the recession, so there is that happening as well. And this law just looks a little bit at...I don't know how easy that is for folks to see up there, the ages of entry into foster care and we can see very clearly again an area of concern. This is across all states. They're all dropping but there is a concern with this children under the age of one entering care, that number still being very high, and that's probably because of the age of the children and the strong sort of assessment tools that states are using to try and keep very young infants as safe as possible. And this is a slide of what's happening to children when they exit foster care, either to reunification, which is where most children go, back with their biological families; emancipation, that is higher for the 18-year-olds, that's where the child's age is out of the foster care system, at the age of 18. States are looking really closely at that because it's not ideal for a child to age out of the system at the age of 18. We do know that there are higher rates of homelessness for these children, their underemployment and unemployment is higher, as well as lower educational attainment. So states are really looking hard at trying to work with that population of children, you know, 13, 14, 15 and older, to get them into a permanent situation with a relative or back home or adopted. []

SENATOR CAMPBELL: Senator Gloor has a question. []

SENATOR GLOOR: Can I just...yeah, excuse me. Can I ask, by way of clarification, if I look at this sheet for Nebraska, where it says independent living,... []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR GLOOR: ...which is almost 10 percent of discharges of state wards, would that be primarily emancipation? []

NINA WILLIAMS-MBENGUE: I believe so, yes. []

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SENATOR GLOOR: Okay. []

NINA WILLIAMS-MBENGUE: Yeah. []

SENATOR GLOOR: So 10 percent are in fact in this state fall under that emancipation.
[]

NINA WILLIAMS-MBENGUE: Uh-huh. []

JACK TWEEDIE: And 10 percent of all ages. So as you can see, a very significant majority of those 18 are going into independent living or emancipation, and states, in the Fostering Connections Act, then states are focusing on the services that are available for them for the reasons that Nina mentioned with the very poor outcomes and, I would add, high levels of teen pregnancy to that. []

NINA WILLIAMS-MBENGUE: Uh-huh. Right. Right. []

JACK TWEEDIE: But the challenges they face are great. []

SENATOR GLOOR: For those who, in the audience, may have been at the conference yesterday, Senator McGill and I were there, there was a great amount of time spent on what happens to young people as they age out of the system and the research that's being done about breaking those subgroups down. My question would be, how many states do you have an idea of that have raised the age to 21? Do we know that, Nina. []

NINA WILLIAMS-MBENGUE: Yes. Yes. I won't have the exact figure for you but another thing that the Fostering Connections Act of 2008 did was it allowed...there are a couple of more important things but one of the important things was it allowed states...it's an optional provision, states can provide foster care to youth with certain

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eligibility requirements up to age 21. That is optional. A handful of states have taken advantage of that. There's certain requirements of the children for either being working or learning how to work or begin enrolled in an educational program unless there's a significant health or mental health issue that that child cannot participate in that. And so we have seen legislation I would say in about eight states by now and we do track that very closely. I can get you the exact states and some of the language where they have done that. What that is doing is the state is allowed...can be reimbursed through Title IV-E foster care funds for those children between 18 and 21, which they were not able to do in the past. It's an issue for states because of the match requirement, so there is still an outlay of funds that's required, and because of the economies I think the federal government is hoping that more and more states take advantage of that. States do not have to offer...they do not have to offer care all the way to 21. They can stop it at age 19, age 20, 21. Some states are slowly rolling it out, hoping that the economy will improve over the next couple of years so that they can support the full population of children. Now there are a larger number of states that have offered some cobbled together array of services and some support to children up to age 21, and that does vary, but those have by no means been comprehensive and they've had to use state funds for that. They could not be reimbursed through a federal funding source because the federal law did not allow that until Fostering Connections. []

SENATOR CAMPBELL: Okay. Any follow-up questions? []

SENATOR HOWARD: Well, right now we have a former state ward program, is what it's called, and it's purely state money and that's for youth that choose to go on to school. []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR HOWARD: It's a small number but I think this could be utilized, too, because that's all state dollars. That's all IV-B. []

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NINA WILLIAMS-MBENGUE: Right. []

SENATOR HOWARD: So if we had the wording, some of the legislation to look at, possibly we could take that and maximize those state dollars to get the match with the IV-E. []

SENATOR CAMPBELL: Right. []

SENATOR HOWARD: That might be a good way to go on that one. []

SENATOR CAMPBELL: One of the things yesterday that was so striking and I mentioned to Nina was Dr. Courtney, I think I'm saying that correct, where there were targeted groups breaking it down, and his emphasis to the participants was that there's not a one-size-fits-all response and there should not be to youth aging out of the system. And I thought that was really an interesting suggestion and their research would back up that in some of the states where they have gone they've tried to evaluate those youth who really do need substantial help and others who are ready. And Senator McGill and I talked a little bit about that. I thought there were some real possibilities there for us in Nebraska. []

JACK TWEEDIE: And as is true of most research into different options in child welfare, the evidence isn't absolutely clear but there's some really interesting evidence about extending care, extending foster care, and strongly affecting the positive results that happen. []

NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. []

JACK TWEEDIE: So there's some evidence that by extending that care you can improve outcomes for that population. []

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NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. And, you know, you would also want to consider, and Mark Courtney may have brought this up yesterday, making sure there's an incentive, and I think this is where Fostering Connections really helps, an incentive for that young person to want to stay in contact with the system, offering enough services and supports for the young person sort of to balance them wanting to get out and be on their own, rather than staying under either the court purview or the purview of the state, because in many states I've heard discussion about a young person sort of balancing, you know, I can get more if I go out on my own whether if I stay tied to the state, you know, in this kind of...whatever the program might be. A number of states also offer all kinds of educational supports like tuition waivers at state institutions, which really help the students. Some of them are able, and again, you know, there's a question of the economy, but all of state institutions, the community college systems are able to provide free tuition for foster care students and perhaps as long as they maintain a certain GPA, but a number of states do offer those kinds of programs and I can get you some of that language as well. And I just was able to obtain some information from Nebraska. I know we said we wouldn't talk much about Nebraska, but I was able to obtain calendar year 2010 information from your department from Director Reckling just to give you a bit of a basis, and I just pulled a few of them. The initial data that I got was from on-line from your 2009 data at a glance. And we see here that this is the numbers of youth in state custody. The total number is 10,370 and that's split between in home and out of home. There's also a breakdown on state and youth custody by age. You'll see the 0 to 5 number and then you've got a good number there of the 16- to 19-year-olds. And there are numbers for children and youth, their discharge numbers. Again, you see that over 2,000 back to their biological families; 398 adopted; 263 in guardianship, a legal guardianship with a relative or relative caregiver; independent living; and I don't know what the "other" is but there are 172. And these are your latest adoption numbers, at least as of calendar year 2010. You're showing 348 children free for adoption, so their parental rights have been terminated. They're not yet adopted. And I would assume the 58 placed in an adoptive home maybe not be a trial adoption but it's before the finalized adoption period. And you've got 398 children in a finalized

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adoption that's been confirmed by the courts. And so I just wanted to give just a sense of some of the directions, some of the numbers that we can see nationally. You know, we have more data and detail on that, if that would be of interest to you, and a little bit of the Nebraska numbers just as a way to, you know, start thinking again about what numbers it might be very important for you to track and look at. California, in their accountability legislation that they passed, certainly go into a lot of detail and are tracking very closely all these numbers and many more to have a much better handle on what's going on in the state, and again that was a legislative effort. []

SENATOR CAMPBELL: Any questions for Nina? Senator Howard. []

SENATOR HOWARD: A quick question, referring back here to you talked about the alternative intervention. []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR HOWARD: Would that be the equivalent to early intervention programs? []

NINA WILLIAMS-MBENGUE: No. No. []

SENATOR HOWARD: What would be the difference? []

NINA WILLIAMS-MBENGUE: The alternative response? Well, the early intervention I think is...well, early intervention programs could be given, provided to families that have gone through alternative response, but alternative response is meant to actually be a mechanism. When that call comes in from someone in the community of a report of abuse and neglect and the department determines that that is neglect or abuse of some type and they proceed to the investigation piece,... []

SENATOR HOWARD: Okay. []

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NINA WILLIAMS-MBENGUE: ...that's when it differs right there. []

SENATOR HOWARD: Yes, I see that. []

NINA WILLIAMS-MBENGUE: It's a mechanism, you know, so that instead of investigating everything, including those cases that the department knows (inaudible) if we just get these families services, they don't have to get any further in the system, we can stop, you know, any deep-end abuse and neglect, you know, before it occurs or gets worse, and then we can hopefully focus on the more serious cases. []

SENATOR HOWARD: So that would actually be more of a voluntary intervention. Those folks would be wanting to cooperate. []

NINA WILLIAMS-MBENGUE: That's right. In general, those are voluntary. However, if it appears that the risk level for the child has increased, most states require in statute that that case be immediately put back into an investigation track and sexual abuse and severe physical abuse cases are not...do not go through the low-risk family assessment track at all. They receive the traditional investigation. []

SENATOR HOWARD: Are you seeing many states using the early intervention for young children,... []

NINA WILLIAMS-MBENGUE: Yes. Yeah. []

SENATOR HOWARD: ...children that are born into families that may have some reason that would add stress to their situation and could lead to child abuse? []

NINA WILLIAMS-MBENGUE: Hmm, you're going through this process, this differential, this response piece? []

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SENATOR HOWARD: Well, I'm thinking of early intervention. []

NINA WILLIAMS-MBENGUE: Early, oh. []

SENATOR HOWARD: I passed a bill in 2005... []

NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. []

SENATOR HOWARD: ...regarding early intervention, which has made, I think, a big impact on keeping kids... []

NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. []

SENATOR HOWARD: ...from being hurt and entering our system. []

NINA WILLIAMS-MBENGUE: Yes. Uh-huh. Uh-huh. []

SENATOR HOWARD: Are you seeing a similar thing, similar programs across the country with them? []

NINA WILLIAMS-MBENGUE: There are similar programs. I'm not sure how much legislation there is. Well, certainly we don't track that necessarily in child welfare. I do know that Minnesota, for example, does this differential response. They call it alternative response. They do another program to try and capture those families before they come to the full attention of the child protective services system and they're having some really interesting outcomes from that program. They're being evaluated by the...I think the Institute of Applied Research, which is a formal research organization that evaluated the rest of their program, because they realize there's a whole lot of families that the case does not rise to the statutory definition of abuse and neglect, but in order

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to ensure that they don't come into the system, they do apply some type of services to those families. []

SENATOR HOWARD: Right. There's some risk involved with those families then. []

NINA WILLIAMS-MBENGUE: Right, exactly, yes. []

SENATOR HOWARD: Thank you. []

JACK TWEEDIE: One thing I would add to that, if I may, which is a little bit off the top of what we're talking about, but infant home visiting or an early childhood (inaudible)... []

NINA WILLIAMS-MBENGUE: Hmm, right, right, right, right, yes, that's right. []

JACK TWEEDIE: ...where there's significant new federal funding in this. []

NINA WILLIAMS-MBENGUE: Yeah, this is good. []

JACK TWEEDIE: And I don't have the Nebraska numbers in my head but there is new federal investment in that, that can be used as an early intervention system where visitors come, are invited into the home and can look. One of the critical functions they perform are screening for a variety of different things, as well as parenting education, information on health and child development. So that we would encourage you to see what...right now it's probably the case your state had to submit an updated state plan for how to spend the first set of money, which was relatively small, but June 8 of this month. By July 1 all states are going to have to decide whether they're going to apply for competitive grants or, indeed, they have to complete their application for substantially more funding, both more allocated funding, and then now there are also competitive grants where something like 20 states will get a substantial increase either to build a system that's early in development or to expand a well-developed system. []

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SENATOR HOWARD: Okay. So there's not a requirement, either/or, they have to not have a system in place and this would be new money or they are not required to not have any system. So either... []

JACK TWEEDIE: Well, virtually every state had some system. []

SENATOR HOWARD: Okay. []

JACK TWEEDIE: And I'd be happy to find out more about Nebraska and speak to any member who's interested in this but... []

SENATOR HOWARD: I would really appreciate that. Thank you. []

JACK TWEEDIE: But there's a real chance to build, both in terms of federal money to provide home visiting services and also more information about what effective home visiting services are available... []

NINA WILLIAMS-MBENGUE: Right. []

JACK TWEEDIE: ...and how you might want to change your existing state system or community-based system to strengthen that in the outreach and focus on particular kinds of outcomes for (inaudible). []

SENATOR HOWARD: Thank you. []

SENATOR CAMPBELL: Okay. One of the questions I have, Nina, is there's been some concern that if a case is voluntary to begin with and this doesn't work out and then there has to be a formal...where the child then becomes a ward of the state and they're in the system, that that's when...the formality is when the clock starts ticking... []

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NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR CAMPBELL: ...for the Fostering Connections, while all this other time has gone by so the child has had to wait until the clock can start. Is there any state that's taking a look at, while they're in an involuntary...or I mean voluntary situation... []

NINA WILLIAMS-MBENGUE: Uh-huh, voluntary. []

SENATOR CAMPBELL: ...early, that some note is made of that, of the time when a child has to wait? Do we know of any, where anybody is tracking that? []

NINA WILLIAMS-MBENGUE: I don't know of anyone that is tracking that. I do know that it's certainly an issue across states. I know that some states are taking a very close look at chronic neglect. For example, Missouri, I know, about 10 or 15 years ago, and this probably happens across states, they would wait till there were...was it ten, eight to ten low-level, low-risk calls came in before--and there's another piece too--before it would trigger sort of let's look at this family and this is...we can't just not connect the dots. That was changed at some point and I remember being with a group of legislators from other states in Missouri touring their system and that was changed to when there were three calls coming in. And it just sounds incredible that there's no way to connect these dots to realize that there's already been several calls on this child and even states that are tracking it, it does not necessarily trigger anything happening. There is something Tennessee passed last session. I'll get that to you. It's something called a second look commission, but I think it's when there's been a substantiated case and there's another one, it allows them to take a close look again at the case and the family and to actually do something with that family. So I think that there are, here and there, cases like that, but I think that's a problem, that's an issue. I think even in differential response, because there are voluntary situations, now there is, and we've done an analysis of those statutes, there are some states which do make allowance for keeping track of these

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families. They are required to. But not all of them, not in legislation, necessarily do that and that has been a concern with the system if children would fall through the cracks, how many calls does it take for some intervention to come into play for this family or to raise the level of risk. And then that's something I think that legislators can be involved in, if you're setting up such a system, what is meant by low risk and what type of risk assessment. Now states have moved towards using more rigorous risk assessment and safety assessment tools. Some states use a structured decision-making matrix where they are supposed to be connecting the dots and they are supposed to be connecting domestic violence and substance abuse and mental health and other calls, other times that the child has come to the attention of the agency to raise the level of risk to that child so that that family is not...that child does not fall through the cracks and is not lost. []

SENATOR CAMPBELL: Nina, if there's...I know you're taking notes on things that we want to follow up on but I would like to see any of the states that do have some mechanism of tracking,... []

NINA WILLIAMS-MBENGUE: Okay. []

SENATOR CAMPBELL: ...because it would seem to me then you could at least look at when the clock starts ticking... []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR CAMPBELL: ...for that child,... []

NINA WILLIAMS-MBENGUE: Right. []

SENATOR CAMPBELL: ...because that is an increasing concern that's been brought to my attention. []

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NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR HOWARD: But I would think, if I could make a comment, I would think that when the child...when the situation would reach a point of termination, that those considerations in terms of services offered and services utilized even prior to a filing could be taken into consideration, because it really tells you the family's history and what they've been willing to do. []

SENATOR CAMPBELL: Right. Right. I agree with that. []

NINA WILLIAMS-MBENGUE: Uh-huh, I definitely agree. I know that's come up as an issue, what happens when a family is volunteering information on themselves, whether it's substance abuse or mental health, and once that case turns into an investigation and something more serious happens, what are the legal implications of using information that they volunteered then in a potentially criminal case. That does come up as an issue. []

SENATOR HOWARD: Well, and that's one of the selling points in using an agency like the VNA for early intervention rather than child protection,... []

NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. []

SENATOR HOWARD: ...because, you know, you'd cross that line of are you working with the family and when you have to do the filing. I mean years ago that was the situation we were in. []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR CAMPBELL: I'm assuming, Jack, that by watching our outline here, we're

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going to move to the child welfare privatization. Would it be better now to take a break and then start in on that topic? []

JACK TWEEDIE: Yes. []

SENATOR CAMPBELL: Okay. Yes. (Laughter) Okay, we will take a five-minute break. []

BREAK []

SENATOR CAMPBELL: So if you would find your chair, and we'll get the senators back in place. I just want to note a couple of things before we continue and I don't see her right now but Senator Brasch had joined us and she came up and she said she was sitting in the back taking notes and she was just fine sitting in the back. So she may be coming...returning to the room. I would like to take just a moment that while the Health and Human Services Committee's formal beginning of LR37 is sort of starting today with this briefing, that doesn't mean that our work hasn't started up, and to thank and note that there are other entities who are involved in the LR37 process. Most of you are aware of them but some of the groups are here today and I want to formally thank them: the State Auditor, the Legislative Performance Audit Committee and its staff, the Ombudsman's Office, and the Chief Justice of the Supreme Court. All of these entities have been extremely helpful in terms of saying what information might we be able to provide, how can we assist the committee in its work on LR37. And I want to publicly acknowledge those groups and thank them for their offer of help. We will proceed with the agenda and Jack seems ready to go, so we'll go to privatization and performance-based contracts. []

JACK TWEEDIE: Thank you. What I want to do here is talk about some of the lessons we've learned from other states' experience, particularly Kansas and Florida, with their privatization that looks much like where Nebraska is now, particularly that there's more case management responsibility in the lead agencies, and so making some comments

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about what's happened with that. And what I've tried to do, what I want to do is make three points and go a little bit further in this by looking at it. First, that the privatization, including the extended version we're talking about here, holds significant promise for accomplishing changes and improvements; that there's...we have some experience in thinking about the way privatization works. There's significant promise here that, particularly if we think back to the mixed performance of Nebraska, just like every other state in terms of child welfare, that if significant change is needed, privatization is one way to achieve that change. The second is that designing and implementing privatization involves substantial challenges that I think you can point to, and people in Kansas and Florida point to some successes, I don't want to overstate anything, in terms of the 10-year process or in Kansas 17-year or 16-year process, the long process; that the other way I'd put this is privatization in those states has been a mistake and correction filled process; that positive results have happened but not in a smooth way; that there's challenges and I think some of the challenges they faced and some of the lessons they've learned can help Nebraska think about where things are now in how to move forward. And then finally, successful implementation of privatization requires collaboration from a variety of stakeholders over a long period of making changes, monitoring what happens, and making improvements based on that experience. And again, I think I've emphasized this pretty well, but I will...long process, that there are not quick payoffs in terms of results and certainly not cost savings, and I'll talk about that in a minute. So the significant process (sic), I think it's important...or promise, that we understand why privatization, why there's an argument for privatization. And I'm going to talk about the positive things but I mentioned earlier often we don't know what the baseline, what would have happened, the way I put it before and I want to stay with that, if we focus the same level of effort, attention and resources on a public agency response, because, of course, I guess two comments here, one, is there a number of states that have improved performance without privatization, so that's one issue that I think that we should have on the table here. And I guess maybe...I was going to get to this later but one of the things, because I work for legislators, I work for you, that I think legislators should be making significant choices. You should choose.

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You should make the foundation choices, and one of those choices is what you want to make choices about. And so I think it's worth having this on the table of thinking that, at this point in time, that thinking about how you want to proceed and move forward. But again, there's significant promise in privatization as a strategy of change, a strategy of improvement, and some of the reasons for highlighting that are that by moving away from state agencies and into private agencies, whether they are community organizations or not for profits or even for profit sector in some cases, that those organizations tend to be more flexible and be able to adopt innovations more quickly; that one of the things if we think about this as a system and not just focus on the relationship between your department and the lead agencies but as an entire system, thinking about being able to make changes and improvements and reacting. In many cases our experience has been, in child welfare and in other areas, that community organizations, private sector are more facile in making changes and making improvements and sometimes in many cases they pay more attention to real-time information and responding to that, so that the idea behind privatization here is to build in that; that a lot of times state agencies focus on process and doing things the way they have and making changes in that private agency's...private sector agencies are often more focused on outcomes and adapting to that. And that I think is one of the things you need to think about as you think about Nebraska and the privatization of the child welfare system. One of the things we brought to you and are trying to emphasize to you is the idea of focusing on outcomes and focusing on changing the system, making changes within the system, either making them legislatively or your agency making them or giving private agencies the capacity to make those changes in order to adapt to those outcomes. A second reason is reliance on community organizations, they often have a mission that is more focused on service to families and well-being of families. Now of course even the system before privatization used private agencies, community-based organizations for services to a great extent and this simply raises the level and importance of that and gives them more flexibility to do that. But the idea of building on the mission of those community organizations can be important. A third issue is around program culture, that longstanding organizations like child welfare in

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your agency build up a culture and a way of doing that, again, I think the second round of the Child and Family Services Reviews in Nebraska highlight a need for doing things differently and better and that by moving out of the existing system, by relying on different key decision makers, it creates more potential for changing that culture and changing the way of doing things in what can be a productive way. I want to be very careful. It also can make things harder and not as much. And then finally capacity, that there's some evidence...part of this is connected to the comments that were made earlier about that in some ways by privatizing it's brought more effort, more interest in this, the resource limits have been made clearer I think because of that, because of the struggles of several of the lead agencies and the community service providers that have done that; that it increases the...sometimes the advocacy for services within the system. So it can build capacity and many states, because of concerns around the growth of state government, have used privatization strategies to build capacity in a particular area without adding to state government and so that it's possible to build capacity in a way it strengthens that ability. Two other kind of comments I want to make, a lot of the time, indeed the initial arguments around privatization in Kansas and Florida and some of the other moves toward more private services have talked about the value of competition, about competition both driving improvement in services and driving down costs. I think we have to be very careful about the possibility of competition in this area, particularly if you focus on the lead agency level and how many organizations are really in a position to pursue these responsibilities. And so there really...in most states, as we've looked, there hasn't been that much competition or the competition has developed over time. As lead agencies have developed expertise and developed experience in this, sometimes there's competition, in Florida in particular, between the lead agencies for the new contracts. But in competition, there isn't a market out already in a nonprivatized state. And I don't...I can't speak specifically about Nebraska but I doubt there really was a lot of...the scope for competition is fairly limited, so that the idea that competition is going to drive improvements in the system or drive down costs, I think you should be skeptical of that, certainly over the short and medium term. Cost is the other thing. In some states, the idea of privatization, the purpose has been to reduce

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costs. The experience in Kansas and Florida is that costs don't go down in the short or medium term; indeed, they go up. The costs in Florida have about doubled and in Kansas have increased substantially. What we can't say is...I can't say the costs in Florida are twice what they would have been otherwise or even more because we don't know what that baseline is. We don't know what would have happened in the absence of privatization, particularly given the other efforts that were ongoing at the same time. So Florida changed its system substantially and had a federal waiver that enabled it to do that, so that particularly because privatization usually occurs in the context of other reforms in the child welfare system, it makes it very difficult to know, well, if they would have done those kinds of things but not privatization what would have happened. But it's certainly not the case that you should expect cost savings in the short or medium term. Costs have leveled out and may be going down in Florida, in Kansas now, well down the road but I think we have no idea what the baseline would look like so that I wouldn't say that in ten years Nebraska, if they do things right, can be saving money down the road, and it is ten years. []

SENATOR CAMPBELL: Senator Gloor. []

SENATOR GLOOR: Jack, one of the things not listed under "promise" that I thought very early on was clearly one of the promises is the fact that, to the extent that the agencies contracted with are not for profit, and even if they're for profit, there's an opportunity for fund-raising to bring in dollars that otherwise wouldn't have been donations made to the state but with the reputation of these agencies. If there was a need to provide services beyond what they felt the dollars under contract would provide, they could reach out to any number of donors they might have, historically, to help underwrite extension of programs or bring additional funds in to operate contracted programs. Now maybe that's not been the case in Florida and Kansas, but since we're talking a promise, to me, that scenario of promise that clearly exists. []

JACK TWEEDIE: Senator, it could be, but remember, if we think about what the system

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looks like, that what we're talking about with privatization is primarily a shift in responsibility between the public agency and the lead agencies and, in many cases, the lead agencies also provide services at the community level. I think it's the services at the community level that are most likely to attract donations and additional support and that, of course, was possible ahead of time as well. Now as they take on greater...as the lead agencies take on greater responsibility and perhaps take on...I mean this is one of the things you should look at, the extent to which the lead agencies are also substantially increasing their role as service providers, I think there's some potential for that. But I think what you'd find is...I don't want to get much into Nebraska but the fact that the challenges, one of the things I'll talk about, is the challenges of estimating costs and figuring out what the rate should be in ways that support the agencies, often mistakes are made there and, you know, and I think you can say that happened in Nebraska where there's a challenge there. So the gap between what they're providing and what they're getting funded for is very large and very difficult to meet with donations. []

SENATOR GLOOR: Well, and we will talk more about that in a couple minutes because I've got some strong feelings about risk, but you can't argue the fact that those dollars all still go in the same bucket and whether you have support staff, you can't say, well, these support staff are paid for 100 percent out of monies that clearly come from our state contract, none of the work that they do or assigned to is work that maybe goes above and beyond that contract. I mean, to me, additional dollars that can be brought in end up getting blended with dollars that come under the terms of the contract. And it may not be a great opportunity for promise but, unarguably, those entities have the ability to go out and ask for funds from donors who feel strongly about the mission and responsiveness within that community, and that's nothing the state of Nebraska can do. []

JACK TWEEDIE: I think that's right, Senator, though, if I may, the challenges that I think you're experiencing in Nebraska, that they did experience in Kansas and Florida, the

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challenges the organizations face in simply taking on this responsibility I think make it very difficult to add in efforts to try to raise additional money certainly in the short term. []

SENATOR GLOOR: I agree. []

SENATOR CAMPBELL: I would have to say, though, that I think from a number of agencies across the state, in any state, that have a mission and donors respond to that, there's also a point at which that donor says, I am willing to enhance your mission and I believe in that but I'm not going to supplant what I think is a public responsibility. []

SENATOR HOWARD: You're absolutely right. []

SENATOR CAMPBELL: And I think that that's a concern that if you...from Senator Gloor's point, I agree from the local agency, but at some point the donor will say what is the public responsibility here and I think we have to keep that in mind, particularly when you look at the cost. []

JACK TWEEDIE: That's right. And I think the challenge is getting for the lead agencies and the public agencies to get both the lead agency's responsibility and the funding for that responsibility set at the right level so that additional money the lead agencies or community service providers might be able to raise are enhancements rather than covering those basic responsibilities. []

SENATOR HOWARD: I think you're absolutely right. I think these agencies will say, what's our responsibility, what's the state's responsibility, and when you have the agencies that have been in existence in this state for a long time doing massive fund-raising for their own, say Heartland Family Services, it's not an infinite amount of money here in Nebraska. There are donors that are committed to their concerns but it's not finite (sic). []

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SENATOR CAMPBELL: Okay. Any other comments? You want to proceed, Jack? []

JACK TWEEDIE: I think as you move to privatization, again focusing on the promise, that it should engender a focus on what are our goals, what are we trying to achieve and how do we design this new system to do that. So it's an opportunity, both when the system started and now as the Legislature begins to focus on it, of focusing on what goals there are, and I think focusing on the kind of outcomes that Nina talked about that...deciding what's most important, what are we trying to do first and foremost and how do we design this system to achieve that; that I think it's an opportunity and I would encourage you to be thinking about, well, you know, for our child welfare system what are we trying to achieve and how can we use privatization, how can we use both the clarity of goals and then the mission and responsiveness of the community agencies, a variety of different things in order to achieve that; that it's an opportunity to get some focus. We have from Kansas and Florida--and I apologize I have to say this but I'm supposed to, I'm testifying, right, I'm supposed to tell the truth--the mixed results. There's some evidence in Kansas and Florida, after 15 and 10 years, that there's some improvement of outcomes; that children in care haven't changed very much and particularly that what we don't have. In a perfect research world, we'd have two different worlds, right? Kansas and Florida privatized, and what would happen in Kansas and Florida if they hadn't. Or sometimes evaluations are planned where some people come under the new system and some people are under the existing system so you have a strong comparison about, well, what effect did that existing or did that new system, the privatized system, have. We don't have that. All we can do is look at trends in Kansas and Florida and make educated...fortunately not guesses but analysis of what the effects of the privatization were. Children in care haven't changed very much, though it's trending down, but it's also trending down everywhere as the national numbers that Nina talked about indicate. Residential placements in Kansas dropped substantially so...and residential placements are both more expensive and tend to have poorer outcomes for the children in those placements. So that's encouraging. Adoptions, so we have two examples, adoptions have increased substantially in both of those states, that

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there is some evidence that the agencies'...the private agencies' efforts have resulted in increased adoptions in those states along the lines of doubling the number of adoptions. Now adoptions are increasing somewhat in other places, nonprivatized places as well, so we have that baseline challenge again. Length of stays are going down in those states and have been going down. Length of stays have also been going down nationwide, so, you know, there are good outcomes in Kansas and Florida. Exactly how much is a result of privatization isn't clear. Reunifications are going up. Reentries also in Florida also went up, which is a bad thing, so that there's mixed results. There's evidence you can...there's some evidence you can change outcomes. I would characterize, and I believe more importantly people in Kansas and Florida would characterize, there are positive results here but it took a while and not unmixed results. We talked a little bit about the advocacy about how their is...people in Kansas and Florida talk about how we're in a stronger position because we're privatized. We have additional partners at the table arguing for resources or arguing for improvements in the system; that because, and I think as we talked about before, because the profile has been raised there's more attention to this. When more attention is paid to it, particularly if there's also challenges involved, often you can get more resources and more improvements in this, and so...and I think what's happening in Nebraska right now is a perfect example of that. There now is attention on child welfare that wouldn't have been otherwise, unfortunately because of challenges and negative results in many cases, but now you have a...you're in a position where you can focus on this and suggest improvements and at least consider what you need to do to make the system work better. And that's, you know, the experience in a lot of states, in a lot of state legislatures, is it's very hard to get the profile, the leverage to be able to make those kind of changes. And there's also stronger accountability. There's clear and measurable outcome goals that are, by the nature of it, put into the contract relationships between the public agency and the lead agency and usually strengthened between the lead agencies and community service providers. There's more of a focus on outcome, more of a focus on clear accountability, and perhaps more of a focus on let's do regular checks, as Nina talked about in nonprivatized system, California and Maryland, focusing

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more on keeping track. This is one...privatization is one path to increased accountability, not the only path. But in trying to achieve that, there are substantial challenges and I think one of the key issues is the capacity of private agencies; that, as I talked about, there's no market, there's no private agencies out there that are ready-made in order to take on this responsibility, much less competition between a variety of different services, so that the experience in Kansas and Florida has focused on recognizing the challenges that face the private agencies that become...that take the lead responsibility, particularly in the administrative capacity to manage contracts, monitor service delivery and outcomes. These are things that many of these private agencies that, to the extent before they were service agencies, weren't doing very much. They were doing it internally but not externally. So to the extent to which they're looking at other service agencies and trying to monitor that and manage contracts, it's often a huge new challenge that often the agencies aren't ready to take on or they're in the process of figuring out how to take on. We talked a little bit about financial risk. The whole idea here is that in order to provide incentives to agencies to do better they have some financial risk, and I think in Nebraska, I think in the early years of every privatization effort, their financial risk has almost always been on the negative side where, you know, the story in Kansas in the early years is...in fact, I was reading a couple of accounts of the story of Kansas and you could have substituted Nebraska for that in terms of agencies taking on the responsibilities, struggling financially. You know, in Kansas, like in Nebraska, one of the lead agencies went bankrupt. A couple others withdrew because they weren't able to handle and did not choose to continue to handle the financial risk that was involved for those agencies. So it's that, but by providing...by sharing that financial risk, by having the lead agencies have some of that financial risk, it also provides incentives where there's a positive. If they do well and if they find cost savings and they find better ways to do things to improve outcomes and to save money, they can keep some of that money. That's how the system is supposed to work and, in many cases, there's a short term...perhaps there's going to be financial struggle here, but when we get on top of this and figure out how to do things, there also can be financial rewards as well, and that has been the experience but in the early times it's

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mostly negative risk. Agencies have real challenges in...particularly early, in terms of recruiting and training qualified staff, particularly as they take on case management responsibilities, because case management is a function they haven't, by and large, performed before. You know, we can talk about coordination of services or coordination of care as a result of case management decisions, so they're taking on a significant new function and a different function and having the capacity to be able to do that. I don't know what assumptions were made in Nebraska, but in Kansas and Florida the thought was a lot of the public agency case managers would move into the private agencies and that turned out not to be the case, by and large; that people didn't leave case management roles in public agencies and move into private agencies. Even though for the most part staff was reduced in the public agency, they went into other roles within that agency or other state government jobs because of the incentives for maintaining state employment rather than moving into an agency. They didn't see...even the similar function of jobs in the private agencies weren't as attractive to them as those public agency jobs. So we didn't get an increase in capacity in the private agencies from the movement of public case managers into private case managers. I'm not speaking at all about...I will be very clear when I'm ignorant of Nebraska. This is an area I don't know of Nebraska but in Kansas and Florida who it was clearly the case. So it's recruiting and training staff, there's issues around substantial training is needed and, unfortunately, federal financial reimbursement for the cost of that training for state employees, it's higher, 75 percent, than for private agency employees where it's only 50 percent. So the state, to the extent it chooses to continue training or continue some form of training or to reimburse private agencies for training, doesn't have the same federal share that it does in the case of public employees. That evidence-based practice, the idea of what works with families is something that has been growing in child welfare and in a variety of other human services areas as well; that trying to get on top of new learning about what works and what doesn't work, it's a real challenge for private agencies that in the past have focused on delivering services and now it's just a new capacity they have to develop, a new challenge they have to face. That child welfare laws and policies that case managers have to know, both in terms of following the policies and the laws and

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interaction with the courts, for the most part private agencies haven't had as much experience doing that so it's a big area of capacity to build, and I would add relationships with particularly the courts that have been developed over time with public agencies, that private agencies come in without the benefits of those relationships and the challenges they face there. Now in talking about the capacity of the private agencies I want to come back to something I talked about before, which is the private agencies focus or face the same kinds of challenges public agencies face in doing these kinds of things, in doing case management, in doing representation before the courts, but over time public agencies have developed at least some of that capacity. They face issues around turnover, around supervision, same...they face great challenges and it's not like they do it...they all do it very well. The private agencies will face that and particularly in a time of transition they'll face that to a greater extent than public agencies, that they have to build that capacity, they have to build the knowledge, they have to build the relationships to be able to do that over time. In addition to that, we have to recognize there's a new capacity in public agencies that hasn't been there in the past; that is, to contract and monitor a private system that does much of what they do before and, I think critical, they do have experience in monitoring service contracts and private agency providing those services, but when we take a step up to where the agencies are doing case management as they do from the beginning in Kansas and Florida under the recent change in Nebraska, it raises real questions about how to do that and how to have the expertise to do that. And it's important to recognize that what public agencies are being asked to do is different from what they've done before. It's different managing employees that do case management, your employees, and overseeing case management in private agencies, and there's an expertise to be developed. And people who are at supervisor levels and upper management levels won't have that kind of experience, so they have to develop that and that is one of the other things that over time has developed in Kansas and Florida but took time. The experience in Kansas and Florida is they weren't very good about figuring out what things cost, figuring out the cost of the services that were being provided and thinking about how that would transfer into private agencies and then figuring out the rates or how the private agencies are

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reimbursed for their expenses. And it just...there is a shared financial risk but much higher on the private agencies that are now taking some responsibility. Instead of being reimbursed for services, they're getting rates for families served and it's hard to get that right. And, you know, state agencies obviously don't want to be in the position of reimbursing at too high a level or...but there is great risk if they don't reimburse at an adequate level, which I think, you know, just from my limited knowledge of Nebraska, has been a challenge. []

SENATOR CAMPBELL: Senator Gloor. []

SENATOR GLOOR: Yeah, this is probably a good time for me to sing a song that I sing to the point of probably aggravation of a lot of people who hear me sing this little song, but it's as...it is so clear and concerning to me that at the heart of a lot of our problems is the issue of risk, and what goes hand in hand with that risk is estimating cost rates. And I came from a healthcare background and survived healthcare's voyage into managed care, and it's the same scenario that healthcare went through and that is managing the shift to risk-based contracting and the inability of people to understand what their costs are of providing services, yet they were signing contracts and agreeing without a clear understanding of what their costs were. I mean I don't think...the estimating cost rates right ought underneath the issue of risk to me because the two go so hand in hand, and I don't see that...and the state, the director and I have talked about this, the state also has a problem of vetting people who want to sign contracts to make sure that they know what their costs are and that they're capable of signing contracts to provide these services and the fractionalization within the system such that you can't control some of your cost. If you have a judge who decides that the best service for a certain number of these children is outstate and decides to start sending them across borders, then your costs blow any of your estimates out of the water. It is a real, real challenge. And I don't know what others from Florida and Kansas are finding out but I think we need help learning from some of these other states how they helped agencies understand their costs before they start agreeing to risk-based contracts, because it's likely to be

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something that every time a new agency wants to climb on board we go through the same scenario again, and the end result ends up being the challenges that we face yet with another provider of saying, we can't afford to do this anymore. And I don't fix fault here. I just...people don't understand it's a whole different way of doing business. It's a profoundly different way of doing business and most of these agencies aren't adept, don't have actuaries, don't understand their costs. []

JACK TWEEDIE: Senator, I think that's right and I think there's a couple things. One, it's striking, as we think about privatization, about how hard it was for public agencies to get a handle on how much things cost... []

SENATOR GLOOR: Yeah. []

SENATOR COOK: Uh-huh. []

JACK TWEEDIE: ...so that part of the information that gets shared in trying to think about it is how much it costs the public agency to do what we're now going to ask the private agencies to do and then to recognize, and I think you just talked about that fundamental change, that, you know, it doesn't mean the private agencies are going to have the same costs and the same cost structure as the public agencies, so that there's a translation or trying to analyze and figure out, you know, given that if we had a clear picture of public agency costs how we would then translate that to private agencies. And then built into that is this assumption of a market that doesn't exist. You know, one of the things that we talk about when we talk about private markets, we don't talk about it very much, is some private sector firms or organizations do very well and others fail. And there's this assumption in a functioning market that there are people, when some firms fail, there's others to take their place, either expanding because they're doing it well or coming into the business or into that part of the business. And I think it's important to recognize that doesn't exist here. It really is a limited number of organizations that can take this responsibility so that we can't kind of assume this

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market where, you know, unfortunately some businesses will fail and some owners will lose money but it really doesn't affect the operation of the market because others will step up, and that doesn't exist here, so that it makes it fundamentally important to get this right or almost right to begin with and then improve it over time. []

SENATOR CAMPBELL: Senator Howard. Sorry. []

SENATOR HOWARD: Thank you. And this isn't to cut you off because this is to really build on what you're saying. You can't take a system that's been underfunded for decades and then take that amount of money and go out and do a privatization effort and say here's what I expect from you, the Cadillac of services, low caseloads, timely delivery of services, moving these kids through the system, let's get permanency in our expected 15 months. It's not going to happen and I think that's...when you say there's an increase in cost, that's where it comes in. There's too much unreality in how much it costs to fund a child welfare system in the public sector. It's always been on the cheap, at least here in Nebraska, I don't know about everywhere but I'm guessing pretty much always been on the cheap, and we're going to expect the charities to step up and do so many things for folks and then we're going to go out and privatize, we're going to give them the same amount of money, and we're going to expect a lot better service. []

SENATOR COOK: Uh-huh. []

JACK TWEEDIE: The quick answer is that's been the story of privatization where it's been adopted and it didn't work out in the short term. []

SENATOR HOWARD: Yeah, how did that work? (Laugh) []

JACK TWEEDIE: Well, it...you know, the argument in Kansas and Florida is it's worked well over time but they went through the same challenges Nebraska is facing right now.
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SENATOR HOWARD: Kansas and Florida...I'm sorry, I don't mean to interrupt, I apologize, but Kansas and Florida both had their backs against the wall. Florida had the worst record of child welfare, right up there with Minnesota at one time, and Kansas went bankrupt. []

JACK TWEEDIE: Not often you can say that though. (Laughter) There are challenges and I guess it's important to recognize two things in thinking about Kansas and Florida and then your thinking about Nebraska, which is in both cases the reforms were not just about privatization, right, they were broader reforms than that and a real effort to change how the system operated and to improve it. And, you know, I guess I would encourage you to think hard about your perspective on, well, what do you want improved and then building in that perspective in terms of how you structure, if you choose to structure, the effort the privatize. []

SENATOR CAMPBELL: Senator Cook. []

SENATOR COOK: Okay. Thank you, Madam Chair, and thanks for coming to offer this briefing. I guess as I listen to the input and arriving with my own perspective and direct experience, I think the challenge that you may not list, because you're a policymaking organization, is the political messaging challenge. And I would be curious if you've got anything lying around that might be included among your policy suggestions of the messaging that might go along either way, messaging to retain and improve public employees in these roles and support them and/or messaging to...that helps with a privatization effort to explain that it is a long-term commitment, etcetera, etcetera. So if you could include that among your information, that is a great challenge that I see in our role as policymakers and representatives of these children and their parents and the community. []

JACK TWEEDIE: Thank you, and we will. And Kansas is instructive here in that they

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struggled for a couple of years and then they adopted what they called a public relations campaign two years in, a little more than two years in, in order to rebuild relationships with a wide variety of stakeholders who had negative reactions to the privatization effort. []

SENATOR COOK: Uh-huh. []

JACK TWEEDIE: There's a real challenge with that and I think that experience in other efforts to recognize part of it we can go back to looking at organizational culture change, about the effort that needs to be made in order to change the way organizations operate including if we think about a system that kind of...in order to...messaging or changing the culture or building a new culture, I think may be a better parallel here, around child welfare and the reforms. []

SENATOR CAMPBELL: Senator Gloor. []

SENATOR GLOOR: Senator Howard did a nice job teeing up one last shot I'm going to make at what our problem and any state's problem going to risk contracting has and her premise that providing the services has been underfunded for this state still didn't stop people from signing contracts. Nobody twisted their arm to sign these contracts. So how do we protect ourselves from well-intentioned agencies who say, we can do this for that money, when in fact they can't because the dollars aren't there, if her premise is true, the dollars aren't there, and yet they still think they can provide those services? Under a risk-based model, it's going to be more difficult. I mean fee for service, if there weren't enough dollars for sure under a risk-based model, with all the knowns, it's likely to be a problem and that's what concerns me about the future of this approach, not that I have a problem with privatization. It's trying to protect ourselves from well-intentioned entities who don't understand their cost rates well enough so that we end up going through this time and time again. It's just a concern that I have and Senator Howard's concern about...comment about the dollars not being enough underlines that for me. But there's

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still going to be people who sign contracts and agree to do this. What are we going to do? []

JACK TWEEDIE: Senator, I think the start of that is to recognize there's no market; that if there's a market then people are going to know what they're doing or, if they don't, they'll leave the market. []

SENATOR GLOOR: Lot a pain in it, though. []

JACK TWEEDIE: That there is this relationship, all we have to do is focus on the transaction, all we have to do is focus on our offering an RFP for lead agencies and then the potential lead agencies making assessments and making proposals to fill that; that I think it's important to recognize it's a much more complicated give-and-take process even to initiate the relationship where it's important to make very careful assessments about how the agency or how the private agencies, the possible contractors operate and how realistic they're being. You know, if the system is underfunded and you're asking them to do the work of an underfunded system, I mean it's...I think there's real challenges and you've seen in Nebraska, and they saw in Kansas very clearly and Florida as well, about the problems of doing that. And so what happens is you build up a stronger relationship between the public agency and the private lead agencies in terms of figuring out what is necessary here in order to do that; that in Kansas they went statewide quickly, in Florida they did demonstration projects, they started more slowly and there's some value to that, to working out the...you know, and if I may, I think Nebraska is now in the demonstration project range since you're not statewide anymore. []

SENATOR GLOOR: And has somebody come up with a template? I mean the NCSL has lots of geniuses on staff. I mean maybe they can help us (laughter) boil this down into some sort of template that allows us to avoid at least some of the bigger land mines that might be out there with a risk contract. []

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JACK TWEEDIE: Well, I'm certain there's no template. []

NINA WILLIAMS-MBENGUE: Yeah. []

JACK TWEEDIE: I think that what might be useful and, you know, one of the things we want to talk to you about is how we can continue bringing help; that I think it might be useful to bring in some of the people who were involved in the transitions in Kansas and Florida to talk about that. And I'll mention this before...or later, but in Kansas and Florida the efforts were started with legislation and legislation that, I don't know how to say this, didn't work real well. So there were legislative changes as well. And so I think it might be useful for you to hear from people who managed the messy beginnings and, you know, clearly messy in Kansas; Florida, because they did it regionally, they had some positive experiences even close to the beginning but also some negative experiences; that, you know, we'd be happy to talk to you about who else might be useful to come help you think through this because there is no template, there is no, here, if you want to privatize, where's what your legislation should look like. One, nobody has succeeded at that yet so we don't know what the model looks like; two, every state is different and, you know, the challenges you face and the resources you have in your private agencies, both at the high level, lead agency level, and that the services are different and you have to figure out how to adapt that. But we'd be happy to help with that, in part because we want to help and in part because it helps us learn. I think privatization is a shift, a change that a lot of states are thinking about in child welfare and in other areas, and so we want to gain more knowledge about how it works and what doesn't work, and how, you know, maybe we can't eliminate the rough transition but maybe we can moderate it and try. And so we'd be very interested in working closely with you to try to bring in that expertise and help you think about how you want to respond to that. []

SENATOR GLOOR: Thank you. []

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SENATOR CAMPBELL: You know, I think there would be people that would say, who live in the state of Kansas, this is not a successful model. I mean they're still struggling. I spent last Friday on an hour and a half conversation with a retired juvenile judge from Kansas who has real questions about whether that's working, and part of the concern that I think you can extrapolate from talking to her is if you're point is, and we follow that, that there is no market here, at some point do we raise the danger of establishing monopolies? []

SENATOR COOK: Uh-huh. []

SENATOR CAMPBELL: And then we're at the mercy of what those monopolies are and how they're set up. We, meaning the state, are at the mercy of those monopolies. And then if that agency also does the direct service of all these components, then do we lose the other community agencies there because they can't compete against a lead agency that's also doing direct service. I mean there's a lot of questions there. But my concern when you say there's no market, there's a real inherent danger there, is there not, Jack? []

JACK TWEEDIE: I think it's a concern you need to pay attention to, Senator. I think that as we look in detail at what happens in Kansas and in Florida and what's happened with performance-based contracting in other areas, that there's something that looks more like a market at the service provision level, but then you have to look at...you know, I quite frankly haven't started thinking about monopolies yet. You know, if you think about a lead agency that takes more and more responsibility and, you know, if there's only one or two that are able to perform that function and they are focused on rewards and how they can increase, that's why we're engaging them, right, so that they use the incentives, that taking more control of the market or of the provision is kind of a natural inclination. I think we need to look, I think Florida might be particularly useful there because they have a number of different regions and there is some competition now but it's competition between people who are already in the...already have some of the

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community-based services and they look to expand to another area and try to look to see what can happen there. We need to be careful about Florida because it's a much bigger state with more organizations, more capacity to begin with, so that, you know, I agree with you that it's important to work through that and figure how to structure things in ways that can help avoid those kinds of challenges. []

SENATOR CAMPBELL: Other questions? Oh, sorry, Senator Wallman. []

SENATOR WALLMAN: Yeah, thank you. Yeah, thanks again. Have you looked at other states like Arkansas, their plans for child welfare? []

JACK TWEEDIE: We have. I wouldn't put Arkansas in the privatization category. []

SENATOR WALLMAN: No. No. []

JACK TWEEDIE: And we certainly...I mean one of the things, particularly in the earlier discussion it was clear, most of the questions I think didn't ask for further information about privatization in part because we hadn't talked about it yet but about other kind of innovations, and we'd be happy to take this opportunity to work with you on the full range of things you might want to think about doing and including, I'm talking about Arkansas, Nina has been in Arkansas,... []

NINA WILLIAMS-MBENGUE: Yeah. []

JACK TWEEDIE: ...talking about child welfare and I almost live in Arkansas, but mostly working on their TANF and welfare system but... []

NINA WILLIAMS-MBENGUE: Yeah, and I know... []

SENATOR WALLMAN: Yeah, and I hadn't...go ahead. Go ahead. []

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NINA WILLIAMS-MBENGUE: I was just going to say I know they're working on their subsidized guardianship, and, you know, if we have time I'll talk about this a little bit, through Fostering Connections, and that is getting federal Title IV-E reimbursement for relative caregivers in certain situations. They're dealing with that and how to deal with the caregivers that won't qualify for the federal reimbursement as well. I know that's a major piece that they're looking at. They've done a lot of things on abuse and neglect. They have a task force on abuse and neglect that's headed by a legislator for the past probably about six or seven years now, and they've taken a real close look at their statutes. I think they did some really interesting language about the rights for children in the foster care system and rights for foster parents. Those kinds of things I've certainly been tracking that they've been doing. []

SENATOR WALLMAN: And I think we all think privatization will help us better, but my concern is low-balling the bids, you know, and then come back and say, well, we can't do it for this. []

NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. []

SENATOR WALLMAN: And we come up with more money. So Senator Campbell's comment about, you know, no competition is a very good comment. []

JACK TWEEDIE: Well, and it might be worth just to think about in a general way now, we can get more information, Florida didn't issue requests for proposals. They issued invitations to negotiate, right, so that it really was a case of they didn't...it isn't like buying office furniture or supplies where people...it is an invitation. We'll sit down and start talking to you about what this involves and your capacity to be able to do it, that I think might be a useful way for Nebraska to think about moving forward. []

NINA WILLIAMS-MBENGUE: Uh-huh. Illinois...oh, I'm sorry. []

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SENATOR HOWARD: No, go ahead. []

NINA WILLIAMS-MBENGUE: I was just going to say Illinois would be interesting to look at in their performance-based contracting. You know, they don't privatize across the state but they do quite a bit of performance-based contracting. They've been doing it for...since the '90s. They do require, I believe this is still a requirement, that their agencies be accredited in order to be part of the system, and that probably is an expensive thing to do but it does require the agencies to meet a certain set of standards by the Council on Accreditation, and these are the provider agencies, the private agencies, in order to get the contracts, plus the performance measures that they attach to the contracts. I don't know about funding. []

SENATOR CAMPBELL: Senator Howard. []

SENATOR HOWARD: Thank you, Senator. I'm glad I let you speak because you hit on one of the bills that we have that we're holding on to that will...because it would carry over to next session, and it's regarding the issue of these agencies we contract currently holding an accreditation. I think that's critical. []

NINA WILLIAMS-MBENGUE: Oh, okay. []

SENATOR HOWARD: That helps ensure the quality of what we're purchasing, basically. I want to say thank you so much for coming in. I wish we had had the opportunity to go down this road prior to the privatization effort. My feeling is the Legislature wasn't given the opportunity to be involved in the decision making on this. This was done and presented to us. And one of the things that's so difficult for me, after working in the system and operating in an underfunded system for decades is that now money is found to put into this. You know, we're going to find \$5 million out of God knows what to put into this because we have to. We don't have a safety net in place

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any more. We're kind of in a position where we've made a deal and this is the way it's going to transpire, and I have a big problem with that. I don't think things are really objectively based on what's our need, what do we expect, what do we envision, and what are we going to be satisfied with. []

SENATOR CAMPBELL: One of the concerns, and I was trying to look ahead here and you may get to that, Jack, but part of my concern is that in a lot of cases we're just looking at numbers and money and not what are the other benchmarks, what are the other outcomes, what are quality, well-being, safety, you know, on and on here in terms of what we're going to require as measurements. Everybody goes, well, if we get the numbers down, you know, this will all work out. Numbers are not the only basis and that I worry. That seems, at least here, all I hear about is numbers, numbers, numbers and money. And in the other states, certainly they have to have other benchmarks than just are we making...you know, is this working on the money and have we got the numbers down. []

JACK TWEEDIE: What I'd suggest is you want to make sure you look at the right numbers; that you figure out and what I want to encourage you to think about is do you want to make choices about what outcomes you want your public agency to be accountable for and you want your public agency to hold private agencies, to the extent they have the responsibilities, accountable for. And you know, obviously, you can talk about the number of children in out-of-home care or the number in residential placements or reunification. You can talk about those bigger numbers, but you...I think the Child and Services Reviews, and that's one of the reasons we took time talking about this, when you look at the items underneath those outcomes, I think they provide a good start at a pretty comprehensive look about tracking the operation of your child welfare system in numbers. And then you can think about what do we want to focus on most. You know, do we want to focus on adoption? Do we want to focus on reunification and safe reunification where children and families have the services they need in order to prosper, to thrive, so that it really is a case of...especially in this kind of environment,

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you have to think about numbers, but you want to think about numbers...one of the criticisms of Child and Family Services Reviews, state agencies complain it takes a long time, takes a huge amount of effort, and it's almost always out of date, right? So we have a good grasp. We gave you a couple bits of information that, you know, if we were in 2008, or actually more like 2007, you know it might have been helpful, but that review process doesn't provide what I think you need. One of the things you're going to want...I would encourage you to think about is, well, let's do closer to real-time short-term tracking of key results, build in accountability to the public agency for that with the either assumption or requirement--you know, remember what I said about legislators making choices about what they make choices about--that they also hold the private agencies responsible for...accountable for those numbers as well. So I think the idea is to get the right number, to focus on the right numbers, the ones you care about most and to build that into the system so that the public agency is accountable and the private agency, if you will, has incentives to produce those numbers. []

SENATOR CAMPBELL: Okay. Any other follow up? Senator McGill. []

SENATOR MCGILL: Wonderful. Thank you. Thank you for coming. Love NCSL. No, when it comes to privatization, I haven't been opposed to it but I've kind of been what's the point, because I think a lot of the problems within the state just transfer over to that lead agency in terms of caseload, etcetera, and you're always going to have good employees or bad employees anywhere that they're housed. So I would actually like...and this is all important in figuring out where we...the information you're giving us and where we want to go with the privatization, but I'd like to see more about or from the states that are having more effective changes. As you've said, the national data is trending towards less kids in foster care. Why is that? How are some of the states that are leading that downward spiral...or good downward spiral I guess, what are they doing that is working so that as we're not only making these decisions about whether to keep with privatization or not, we can be making those more...I think more substantial changes in policy. []

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NINA WILLIAMS-MBENGUE: Uh-huh. Uh-huh. []

JACK TWEEDIE: And, in fact, we will talk a little bit about that. []

SENATOR MCGILL: Okay, good. []

JACK TWEEDIE: In a section when we start talking about the Legislature, we're going to talk about some of the ways Legislatures have been involved in trying to reduce entries or to speed up exits... []

NINA WILLIAMS-MBENGUE: Right. []

JACK TWEEDIE: ...and just... []

SENATOR MCGILL: Because I think that's more the key. []

JACK TWEEDIE: ...touching on it a little bit. And as we talked about before, we're happy to work with you on privatization and the other things legislatures can do in order to improve performance of the system. []

SENATOR CAMPBELL: Okay. We'll forge ahead. []

JACK TWEEDIE: So the next thing to talk about and I think the next two bullets, big bullets are tied here too, is one of the big issues is the roles and responsibilities of private and public agencies, particularly with respect to case management and I know that's been an issue here in Nebraska; that in Kansas and Florida case management was provided immediately in the first issue to the private agencies so that they held case management. I understand that's something that took a second level change here in Nebraska. But the issue becomes, as case management transfers from the public

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agency to the private agency, public agencies still maintain responsibility under state law and under federal law for at least the oversight of that case management. They're still responsible for that. And that's been a real struggle in a lot of places, particularly if we look out the broad privatization states and look at performance contracting where states are often...they sometimes have dual case management where there's two case managers and, I think fair to say, very cumbersome systems where staffing a case involves somebody from the private agency and somebody from the public agency, and often more than one person from those places, and that all the decisions have to be made joint; that states have done that because of the public agency responsibility and because of questions around the expertise and resources at the private agency, particularly at the beginning of these kinds of efforts. So that there's issues around that. And even when case management responsibility is transferred to the private agency the question is, what is the nature of the oversight, what is the nature of the continuing responsibility of public agency staff in order to oversee that case management? And, you know, the story there has been there's challenges in developing this relationship and this responsibility, both in terms of capacity and capacity on both sides, capacity of the private agency staff to make the case management decisions and public agency staff learning to oversee decisions rather than make them. And it has been a struggle on both sides to take on these new kinds of rolls. And then representation and accountability in the courts has been a real issue as private staff take on broader responsibilities for case management; that often courts don't...again, there's relationships between public agency staff and the courts and so there's some level of trust or at least understanding. New staff come in and there's questions about that; that that can be a real challenge trying to figure out how to do that. And so one of the lessons: The transition has always been difficult; that there's a level of mistrust between public agency staff and private agency staff, usually for good reasons, and then between the courts and whoever is in front of them, whether it's the private agency staff who they don't know and may have and in many cases have had real concerns around their qualifications and their expertise that as this...but as the systems have matured, as private staff gain more expertise and are able to build relationships as there is a clearing

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of staff, as less-qualified, less-skillful staff end up working out of the system and people build up expertise and the quality of staff in the public agency improves over time, those relationships improve as well. But there is important questions about how to share that case management responsibility since public agencies, by law, retain at least oversight and how to build that between the public agency and private agency and between the staffing of the case and the courts, and that the experience has been that takes a while and there are some problems that develop, though things get better over time. And then finally, and I'll be up-front and confess my ignorance about Nebraska. There's always issues around the access to and compatibility of data systems; that the typical...there are some states that when they contract...when performance-based contracting, they provide some access to the state system, though that access obviously has to be controlled and limited in important ways, and in most private agencies even those with access to the state system, they also maintain their private systems. So the question is about the cumbersomeness of that and the inefficiencies involved in maintaining two systems, sometimes which require data entry into both systems separately, and then for oversight questions, to the extent information is contained in private systems and not in public systems, how the public overseers of case management and performance are able to get access to the information they need in order to make those kind of assessments, so that one of the things, one of the challenges states who are moving toward privatization, again either performance-based contracts or broader scale privatization, is how to share information in ways that...sufficient and effective both for the case management or service provision function in the private agency and the oversight function in the public agency. []

NINA WILLIAMS-MBENGUE: And I'd also like say maintains the confidentiality that's required in child welfare cases at a federal level. That is an issue as well. []

JACK TWEEDIE: And we talked a little bit about this but I wanted to highlight this, is that the whole idea of rationale of privatization is that what you're doing in the contracts, in the financial arrangements in those contracts, is you're providing incentives for the

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private agencies to improve performance; that the idea of if it's a private agency they have to be concerned with cost and even in trying to make a profit, if it's private sector, or something that looks like a profit, in order to cover their costs and maybe even benefit beyond that, that that is what drives their decisions. And so the critical challenge is getting the level right, we talked about that a little bit, but also get the incentives right so that you're giving them incentives to make decisions that produce outcomes that you care about. And, you know, I think we've learned a fair bit of that in the last...looking at performance-based contracting that's expanded so much lately and in the privatization in the Kansas and Florida efforts, but we still have a long way to go to be able to tailor contractual arrangements, the incentives, in order to achieving goals and doing it at a level that allows the private sector firms to maintain capacity or, you know, to stay in operation at a fundamental level. So that's one thing that will be an issue as long as you're doing privatization and trying to figure out but is a big issue now. I think it's highlighted by the challenges that some of the lead agencies faced and failed at, and as you move forward thinking about getting that right, because at least my understanding is, you know, there's some...there's considerable reason to think things are not working yet in that regard. So thinking about moving towards success, about if you'll remember the third point that I made is the long or one of my sons would say the long, long, long-term view of this, of recognizing that as you embark on an effort that you're not going to get it right, completely right or even close to completely right, and that you have to make changes. And so trying to think about setting goals and measures, it's fundamentally important, and I would say this about every legislative endeavor, what do you want to accomplish here? What are your goals? How do you want the system to operate? How do you want the system to improve, that that should be first and foremost. That should shape everything that follows, and we'll talk a little bit about this. And then secondly, it's important to recognize this is a very big system, that it's...you know, we have policymakers, including legislators at the top. We have the public agency that is either...in the past has directly done the case management and overseeing the services before the privatization. And then we have service providers, whether they're state agency employees or a large number of community organizations

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and community providers. So there's a large system and we've talked a little bit about this but, you know, one of the senators mentioned, and you don't control the decisions, the courts are involved in this, so that you have a huge amount of stakeholders. I think it's a mistake not to also think about the families involved, both the families who have children in care and the foster families and the adoptive families. So you have this broad set of stakeholders and success involves managing collaboration between all those stakeholders. And so it's important to recognize that you need to do this, that there's monitoring and improvement and often, you know, there will be different points of view on the monitoring--this is working well, this isn't working very well. There's important parts where you need to look not just at general numbers but specific subpopulations. So one of the things that we've learned in child welfare for the last several years is we need to focus on that older group because the outcomes are so bad for them that in some ways, even though we get more entry into care of infants, you know, I think you can make an argument that in a lot of cases we can handle that pretty well. You know, we get pretty good outcomes. The adoption rates are good. The permanency rates are pretty good except for the ones with severe challenges. We know how to do that pretty well. We don't know yet how to do older kids very well and we're paying for it; they're paying for it in the outcomes they have. So the monitoring and improvement is trying to recognize where there's challenges and figuring out how to do better, and you need to take the long-term view, particularly where we're talking about kids and we're talking about bad outcomes, where they're subjected to additional abuse and maltreatment, where they're injured, where kids die, that it's very hard to think about a system change isn't going to fix that right away. And indeed, all we can do is think about how to do better and it often takes a long time to figure out how to do better. One of the most clearest lessons people have drawn, particularly from Kansas and Florida but also from the performance-based contracting states, is the importance of a broad engagement/inclusion of stakeholders; that it's important to reach out to and include in the planning for this the critical populations such as community service providers, the public agencies. And it's interesting to me when they talk about stakeholders they list the levels of the public agency and they start at the bottom. They start at the

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caseworkers doing the work, making the decisions about how to serve these families, and then work up. And usually what they're trying to highlight is when engagement with public agency stakeholders occurs often it's the caseworkers and their supervisors, the one closest to the ground. The one whose work or function you're trying to most critically affect often are not the ones who are best included and engaged in, in this kind of discussion. Juvenile and family court judges, you know, the courts make critical decisions here. Judges aren't very good about kind of saying, well, you've changed this so I'm going to change how I do things. I think in every state that has done this, it's important to work with judges in the planning process and so their perspectives and concerns are represented, I'd say two things in (inaudible) in general, so that perspectives and concerns are reflected and they're seen to be reflected and they're seen to be included and engaged. I think both pieces are important there. Foster and adoptive parents, legislators and key policymakers, that again one of the most clearest, most fundamental lessons that if you talk to people who were involved in Kansas or Florida or Illinois, if you talk to people who in Washington are trying to do a performance-based contracting, they'll say you need to include people in the planning process. You need to include them as you're thinking through this for both those reasons, because what you build will be better because it will affect the different points of view and the different concerns and the different actors who work in the system, and so they feel included. So there is...there often can be resentment or I didn't know anything about this so, you know, I'm not going to work real hard to figure out how to make this work; I'm going to do it like I always did it. There's a danger of that so that...a clear lesson you have to do at the beginning and you have to keep doing it. For instance, in Florida, in addition to the community-based providers, they have community alliances which bring the stakeholders together that act as an advisory board in each of the regions to the community-based provider, the lead agency for that region. And I think it's important to build in that continuing engagement because we don't get it right or close to right to begin with and we have to keep making improvements. And circumstances change and we have to take those circumstances into account. []

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SENATOR CAMPBELL: Jack, I'm watching the clock and we're getting short. If you would mind, I think we've spent a lot of time talking about Florida and Kansas, if we could move to the slide of legislative oversight maybe, there, and maybe start there, because some of these slides I think are very important for you to cover. []

JACK TWEEDIE: I'll do things quickly, and if you're interested in us continuing to work with you, we'll continue this process. But I've already emphasized the importance of I think the Legislature should choose whether it wants to figure out what the goals for this should be, and an important I think you need to do that, and then to think about...and policy development. Different state legislatures deal with things in different ways. A lot of...Kansas and Florida did this by statute and that's one way to do it. Other states do it in budget. Other states rely primarily on oversight mechanisms. So the question is how you want to...the choices you want to make and how you want to make those choices and how you want to hold the agency accountable to that, I think are kind of some of the fundamental choices. And we can talk about how in privatization or performance-based contracting or in child welfare, more generally, how states have proceeded in that regard; that oversight, again, because of the long-term view involved here, is important, about how you can get information regularly, current, that allows you to make quick judgments about how things are going and whether you need to pay more attention to this. One of the basic lessons of working with legislators is how much is coming at you and how little time you have and how you have to make choices about what you focus on. So what you want is an oversight mechanism, a reporting mechanism that gives you the information to say...to be able to make a judgment things are going pretty well, I can focus on other things, or this needs attention, or this needs attention now, so kind of regular reporting on that. And we have different ways we've done in a variety of different areas that can help you with that. I think it's worth Nina talking for a couple minutes about the different kind of responses that state legislatures have had in terms of improving child welfare, just to give you a quick taste of the other kinds of ways we can help you kind of outside and parallel to whatever work we might do on privatization. []

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NINA WILLIAMS-MBENGUE: Uh-huh, sure. Thanks, Jack, and I'll just be really, really quick through this. We talked a bit about differential response. We track states. We've got charts on-line with links to their actual legislation. We did...I did a legislative analysis of all the provisions in state laws. That might be of interest of you and those definitely were, you know, legislatively driven. And I talked a few times about the Fostering Connections Act in 2008. We talked about states responding with provisions to extend foster care beyond age 18. There's also a provision in there for subsidized guardianship or kinship assistance, kinship guardianship assistance payments so that states can be reimbursed through federal Title IV-E funds for relative caregivers. At least 38 states did have subsidized guardianship prior to Fostering Connections, but they were funded with state money or TANF or in some cases I think the social services block grant funds. But again, Fostering Connections allows them to get reimbursement for Title IV-E funds. And I listed here the states that have passed legislation since 2008 either to create a subsidized guardianship program or to conform their existing program to take advantage of the federal funding reimbursement that is available. And again, this is allowing states to divert children from entering the foster care system, so hopefully reducing the burden, reducing the costs because children in legal guardianships do not have the same type of...and require the same type of court or child welfare administrative oversight. So the thought is that the outcomes would be better for the children and a reduction in the burden on the child welfare agency itself. So we do see quite a bit happening through Fostering Connections Act and quite a bit happening to support relatives generally, trying to provide a variety of supports for them. Now Fostering Connections does require that all relatives possible are identified and notified about any children removed from care within 30 days of that child's removal from home, so you have quite a few states, you know, amending their existing law to try and meet that mandate. Generally, and this is really just a sampling here, we have a larger on-line publication, I think Senator Howard saw the way beginnings of it way back when, we actually went through and look at legislation from 2002 through 2008 to try and call out what legislators were doing and what's some of the things they were interested in, and of course a lot of it feeds directly into the Child and Family Services Reviews and the

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focus that states are taking through the reviews on permanency, especially with decision making, the family group decision making. Twelve states have legislation. Concurrent planning is another piece and a few states have this in legislation in which the adoption process has to run concurrently with the planning for either reunification or legal guardianship so that, for example, if a child is going through I guess some legal guardianship or going (inaudible) option and that doesn't work out, you don't want a case where the child has to wait, you know, six or seven months to start the process up again. So states are supposed to be doing concurrent planning. It is tracked and their Child and Family Services Reviews, but a number of states have mandated this in state legislation. Another area is that of improving legal representation for children and families, and there are a couple of pilot projects that have been evaluated. I'm thinking of one in Palm Beach County, Florida, where there are better outcomes for permanency for children where the legal representation has been improved. Either the state has been able to provide some type of advocate or public defender to really work closely with the family and make sure that all of the time lines are being met, you know, depending on the age of the child, that they're preferences are being included, and that seems to have an impact on permanency outcomes for the child. There's another piece I don't think I have in here. This is not in legislation but quite a few states are taking a really close look at those youth that are long term in foster care and they're doing what's called in some states permanency round tables, and it's not just looking at a case as is normally done but they're taking a number of the cases that have been in care for the longest amount of time, and Georgia recently did this and had really good outcomes, sitting down for a specific time period, maybe over two or three weeks, looking at those cases, having all the folks at the table, the caseworker, legal folks and others, and walking through that case to do everything they can to take that case to permanency, realizing that this case has been sitting here, for some reason they haven't terminated parental rights, the child has not gone with a legal guardianship, perhaps they don't want to be adopted or they haven't been able to adopt because they have not terminated parental rights, but what can we do to move this child forward in the system. They're generally older children in danger of aging out and they've had quite a bit of

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success with really focusing on that and moving a large number of cases through in a short period of time. And again, it's different from the regular case staffing in which they're looking and trying to figure out what's going on with the child. Often, they can get on the phone with someone from the courts and say, you know, we've got an idea; is this possible for this young person, and they can move that case along. Quite a few states are doing those. We've seen some. At some meetings we've had them actually demonstrated to see what it looks like and it's very interesting and I think it's something that you might want to consider looking at or thinking about or asking your child welfare agency about. We talked about the...California's child welfare system and improvement accountability act. You know, that's something to think about. Again, all their numbers are on-line and they've got real-time data county by county that I think is very interesting. And as I said, Maryland passed legislation in 2006. I don't think they've got quite the comprehensiveness as you see in California. Other things that I don't have in here that we do have and can certainly get you more information on, there's are all kinds of judicial commissions, there are partnerships with the legislature, the judicial, and the executive child welfare agency to regularly look at these issues, round tables and commissions. Kansas did a series of round tables a few years ago involving judges and legislators and child welfare agency folks to sort of take a regular look at these issues and see, you know, where you should focus and try and determine how the system is working and what it looks like. And we put together a few questions, you know, for your consideration when thinking about looking at numbers and trends and your goals, and Jack started in on some of them. And again, and we've got lots more information about other types of specific strategies that we're seeing in legislation, we've got a publication that also identifies which of those strategies actually have an evidence base attached to them, which we know there's some type of study so that you're, you know, you're promoting something or perhaps funding something that actually can have some real return for you, and I'd be glad to share that with you. []

SENATOR CAMPBELL: Senator Gloor. []

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SENATOR GLOOR: More of a comment and a reminder to all of us as relates to outcomes, that we have a legislative planning process that's relatively new. We're still stretching our legs as relates to it. But Senator Harms is the Chairman and Senator Cook and I both serve on it. I think as relates to the process we're currently going through, they can look at indicators. This is good timing because we... []

NINA WILLIAMS-MBENGUE: Uh-huh. []

SENATOR GLOOR: ...can take some of this and plug it into our legislative planning process. []

NINA WILLIAMS-MBENGUE: Fantastic. []

SENATOR GLOOR: From an oversight standpoint, as was spoken to, it's one of the things we can do that I think can make a difference, from an oversight standpoint. []

NINA WILLIAMS-MBENGUE: Yes. []

JACK TWEEDIE: So we identified it and in a couple different ways. The first set of questions here are really what's going on now and a little bit of both what does the data look like, what are...sometimes it's...in any area I come in, I usually come in and ask, well, what are you trying to do and how well are you doing it, and often it's difficult for legislators or agency staff to answer either of those questions. You know, we often are reacting to problems or we know what we don't want to do or we know what we want to change, but the more comprehensive kind of foundational what are we trying to do, which you can probably articulate reasonably well though it might be worth trying to focus on it a little bit, but a much harder question of how well are we doing it and getting information about that. And one of the reasons we want to talk about CFSRs is they provide a way to think about how to measure how well you're doing with the problems that we've mentioned before, is that you really want your own state system that keeps

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up to date rather than just the federal thing taking so long and only periodic. So that's what is really captured here and then, in some ways, this is my effort. It's simply the letters are bigger here because I think they're bigger questions and in trying to think about it. So if you think about what are the goals for reform of child welfare, and I think that's the best place to start, I didn't say privatization yet, right; and then how is privatization going to serve that goal; and then how do you structure privatization in a way that serves the accomplishment of the goals you have more broadly. And, you know, I think it's important that you talk about what you care about and so what we've listed here is simply to kind of trigger some thoughts on your part, not trying to suggest these are the things you should care about; that that really is a case of I think it's worth a legislative discussion around those questions. And all I've done here is repeat actually something Nina had at the beginning in talking about the outcome measures. I think it's worth paying attention to the safety, that's the first two; permanence, that's the second two; and family well-being, that's the third, the third set, five through seven, about making sure you're kind of covering the range because sometimes it can be too each to focus on an individual thing that captures one of the things you care about but not kind of the full range of things. You want safe, you want children safe. That means remove from home when they need to be removed from home. It means providing services to families where the family can take care of them properly but they need help. You want children to be moved into permanence. You want them to kind of have a permanent settlement or kind of have their situation settled as quickly as possible and as well as possible because of the evidence we have about the ones that end up just growing older within foster care are the ones that have the biggest challenges and the poorest outcomes in childhood and as adults. And you want to support families and think hard about what do we need to do with our families who are in the system and our foster care families and our adoptive families to provide services that improve well-being. And then there's been a focus in states as well as in the CFSTRs particularly around education and mental health. Thinking about what needs to change in order to improve achievement of these outcomes, again, I would encourage you to think outside of privatization and then how privatization can serve that change and what else you might need to do in addition

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to that in a broader reform in order to improve that. So what's the capacity for the change and improvement in the existing system? And part of this is my effort to recognize the situation you're in right now where you're not thinking about should we do privatization, should we not do it, how should we do it. But you have lead agencies in significant parts of the state, particularly in terms of the population in those states. You have HHS having responsibility for very large parts of the state that, you know, in rural areas have always faced huge challenges in privatized systems and other systems about getting services, and, you know, I think it's worth thinking about where do we go from here, since you are here, and you know that one thing you might want to think about is parallel tracks of thinking about, while, we've got lead agencies in some areas, we don't have them in other areas, let's focus a privatization effort on making it work as well as possible in the areas we have it rather than trying to go back to thinking about, well, how do we do this for the whole state. Maybe the right answer is how to do it for the whole state, but I think you should at least think about...quite frankly, I think you should think about, well, how do we do what we're doing right now better, so how do we improve HHS, the areas where HHS is the lead agency or has got responsibility, how do we do that better, how do we do it better in the areas that are covered by the remaining lead agencies. I think it's important to think about, you know, maybe we don't want to do this at all. I think it's important to think if legislatures are making key choices, and often in this case when I talk about legislatures I think about state policymakers generally, since whatever you do also goes to the Governor, in working with the Governor on this about how to proceed. But by starting with the question of how do we do this better, it raises questions about how do you use, if you use privatization in that effort to make things better. But that's what should drive things rather than how do we work out what we've got now and make it get better. I think that's it. Yeah, then just resources and then contact information for us at the end. []

SENATOR CAMPBELL: Questions or comments from the senators? I would like to say, I want to go back to Senator Howard's comment earlier in the sense that the system most likely was underfunded for a period of years and I think Senator Howard has made

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that point several times and what we're willing to put into an existing system. To some extent, it's irony, I think, in the sense that we have made some decisions to infuse additional dollars into the areas where we have the privatized system, and yet we have the western, central, and northern districts where we have not put substantial additional dollars when they are facing great difficulties in loss of services and I worry. So I mean if you think about we're willing to plug it in over here but where we seem to have the status quo we haven't injected more money. It's more a statement than a question, but it's important for us to realize that in Nebraska we really do have two different models operating at the same time, and I think the lead agencies represent different models in and of themselves in their business practices, one probably more serve delivery and one more broker, collaborative. So we have a lot going on here in the state of Nebraska and so we're not border to border. And there's a lot of states where privatization goes on that isn't border to border. Would you say that's accurate, Jack? I mean I suppose that's the performance-based states. []

NINA WILLIAMS-MBENGUE: Right. []

JACK TWEEDIE: Well, some of the performance-based states, some of the...well, in Florida, they started in five regions, I believe five regions and, in fact, it's worth saying failed in four of those. And then the fifth one was taken as a model to build it statewide so that I think all of these efforts...and, in part, I think it's important to recognize where you've got regionally based lead agencies, almost by definition here you have different things going on in different parts of the state, and the argument is that different parts of the state need different kinds of things. The other thing I'd add, and this may be a little blunter than I should be but I'll do it anyway, that I think you have evidence that your child welfare system was failing before but it's kind of soft evidence and it's the kind of evidence where the family outcomes weren't as good as they might have been or you had more kids in foster care. Now there are negative things happening in families. The failures of the system under privatized are clear because, you know, there are really clear failures. One of your lead agencies went bankrupt, two others withdrew; there are

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struggles, at least one of the other lead agency has real struggles; that in some ways it's raised the challenges and the difficulties you have to a higher level. And I guess I would encourage you to use that not simply to respond to the failures in the lead agency areas but to recognize about the challenges you face and the likely importance of new resources. That may mean money. It may be simply different ways of doing business and changing how your HHS works in the areas they have responsibility for. It doesn't always mean...but you've got to change practices in those places as well and use that kind of information to help you think about how to reorient the provision of child welfare. []

SENATOR CAMPBELL: Well, I'm sure I speak for the committee. We really appreciate your coming today and I think it has been very informative for us to set a basis and a start as we take a look at this, and I'm sure, based on the questions you've had this morning, we're going to take you up on your offer to help and look at additional resources and conversations with us. So thank you so much. We really do appreciate your coming. []

JACK TWEEDIE: Thank you for the opportunity. []

NINA WILLIAMS-MBENGUE: Yes, thank you. []

SENATOR CAMPBELL: So with that, we are adjourned. The committee needs to stay for a little bit but we are adjourned for today, and thank you one and all for coming. Make sure we have your e-mail so we can keep in touch with you. []