

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

[BRIEFING]

The Health and Human Services Committee met at 1:30 p.m. on Wednesday, January 16, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public briefing on the reports and evaluations regarding LR37. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Tanya Cook; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: None.

[BRIEFING]

SENATOR CAMPBELL: I want to welcome you, on behalf of the Health and Human Services Committee, to this special afternoon of briefings before the committee. I am Kathy Campbell, and I serve as the Chair of the Health and Human Services Committee. And I'll have my colleagues introduce themselves in just a minute. This briefing, I do want to say from the outset, will be continued. We have probably additional information that we will need to hear, and I am concerned that the afternoon will go all too quickly. And so several of the people have been warned that we may have to call them back a second time. So we will continue the briefings, and I'm sure the senators will have additional questions. And I wanted to warn everybody about that, that we are probably not complete with the briefings this afternoon. With that, we'll start with introductions, and I always start on my far right. So, Senator, would you introduce yourself, please? [BRIEFING]

SENATOR WATERMEIER: Dan Watermeier, District 1, from Syracuse. [BRIEFING]

SENATOR HOWARD: Sara Howard, District 9, midtown Omaha. [BRIEFING]

SENATOR COOK: I'm Tanya Cook, District 13, northeast Douglas County and northeast Omaha. [BRIEFING]

SENATOR KRIST: Bob Krist, District 10, and I am northwest Omaha and the city of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

Bennington and unincorporated parts of Douglas County. [BRIEFING]

MICHELLE CHAFFEE: I'm Michelle Chaffee. I serve as the legal counsel to the committee. [BRIEFING]

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

SENATOR CRAWFORD: Sue Crawford, District 45, Bellevue, Offutt, and eastern Sarpy County. [BRIEFING]

DIANE JOHNSON: And I'm Diane Johnson, the committee clerk. [BRIEFING]

SENATOR CAMPBELL: I would also like to introduce this afternoon Kaitlyn Douglas. Kaitlyn... [BRIEFING]

_____ : She's on an errand right now. [BRIEFING]

SENATOR CAMPBELL: She's on an errand, okay. [BRIEFING]

SENATOR KRIST: She's getting me food. (Laugh) [BRIEFING]

SENATOR COOK: That's key. (Inaudible) [BRIEFING]

SENATOR CAMPBELL: ...and also Deven Markley are our pages. So if you need assistance with something you certainly can ask the pages, and they will be glad to help you. We will not be using the light system this afternoon because we have invited all the testimony that's here today for this briefing. I would, however, remind you all to turn off your cell phones, or at least put them on very silent, so that you do not disturb other people. This briefing is open to the public and is recorded, Web streamed, and broadcast internally in the Capitol; however, we are only accepting that invited

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

testimony, as I said. Handouts are not required; but if you do have handouts, when you come forward we still would like the orange sheets. So even for our visiting consultants, if you wouldn't mind filling one of those orange sheets out, it gives us the exact and correct spelling of your name. When you come forward we will ask you to identify yourself. And you say, why do you have us do that when you have the orange sheet? We do that because it's for the transcriber who is listening, and they need to make sure that they're also spelling your name correctly. We welcome everyone today. This is a follow-up briefing to the legislation that was put into place last year on the child welfare system. And it is, I hope for all of you in the audience, as challenging and pleasing it was for me to read all of the reports that we had set into motion as a Legislature last year. I believe that the reports are particularly illuminating as to some of the issues that we need to take up and complete. So I'm anxious for you all to hear that testimony today. With that, our first invited testimony will come from the department, who will open this afternoon and update on department reports and actions, as a result of LR37, to include the Title IV-E demonstration project and the Foster Care Reimbursement Rate Committee. And with that, we have the director of Children and Family Services, Thomas Pristow. Good afternoon and welcome. [BRIEFING]

THOMAS PRISTOW: (Exhibit 1) Good afternoon, Senator Campbell, members of the committee. My name is Thomas Pristow, T-h-o-m-a-s P-r-i-s-t-o-w, and I'm the director of Children and Family Services. I'm here to testify and talk about two reports that you received recently. One is the IV-E demonstration project, and the other is the Foster Care Reimbursement Rate Committee report. I'm going to start with the foster care...or, I mean, the IV-E demonstration project. The IV-E Demonstration Project Committee reviewed the current status of Title IV-E and how to increase the state's participation rate. The most significant factor limiting Nebraska's IV-E penetration rate is the income of the family of the child placed in care. About 60 percent of the children in out-of-home care are ineligible for IV-E funds based on the 1996 AFDC eligibility standards. The committee identified two areas of improvement that would positively impact the IV-E penetration rate: one is the judicial findings affecting child eligibility; and, second,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

licensing of kinship homes. The committee recommendations were: one, ongoing training of judges, clerks, and bailiffs about the judicial findings required for IV-E eligibility; two, modifying docket court orders through the court's data management systems so they are consistent with the required judicial findings; three, the department will continue to conduct monthly internal reviews of all court orders for income-eligible children who were determined ineligible because of judicial findings--for missing judicial findings--then we will work with the Court Improvement Project and provide technical assistance as needed to correct this. To receive IV-E reimbursement, children must reside in licensed foster homes. In 2010 the number of Nebraska children in foster care living with kin was 1,153, while only 6 percent of relative foster homes were licensed. This was one of the lowest rates in the country. A July 2012 report found that over half the children were ineligible for IV-E due to their placement. We need to increase the number of licensed kinship homes in the state. The committee made the following six recommendations. According to IV-E regulations, kin and nonkin foster homes must meet the same requirements for licensure; to accomplish this the department will issue new and more flexible regulations. Two, new regulations also need to be issued to establish the department's authority to issue waivers to relative homes for nonsafety requirements for licensure; we are working on this now. Three, the department will use a portion of IV-E dollars to create a fund to help kinship homes meet safety requirements for licensure. Four, the department and its partner agencies will provide information and support to kinship families about licensure. Five, a survey of focus groups of unlicensed relative homes will be conducted by the department to address systematic barriers to licensure. And six, there needs to be an ongoing monitoring and review of unlicensed kinship homes and their barriers. As an update, the department, in the last quarter of 2012, doubled claims for IV-E maintenance dollars from 11 percent to 22 percent. In addition, the date to apply for the IV-E waiver was moved from July 1 to January 15--yesterday. And the department applied for the waiver this past Friday, so we made the deadline date. And much great, very hard work went in by my senior staff to get that--over the holidays--to put that together, so many kudos to them and to the committee that helped them with that. Alternative response is part of the proposed IV-E

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

demonstration project. It will position the department to connect families with the community resources and prevention services they need to resolve issues that put their children at risk. Our plan is to continue to fact find and implement this alternative response system after January 1, 2014. A team of providers, state staff, county attorneys, and others have worked over the past six months to design an effective alternative response model, and we are getting close. I will talk now about the foster care rate reimbursement report that I submitted. The Rate Committee worked to develop a standard statewide foster care reimbursement rate structure and a standard level-of-care assessment. I observed there was a need for consistent rates across the state when I arrived here, and I know the difference in rates also caught your attention. The goal of the committee was to arrive at foster care rates representing what it truly cost to care for children. The following foster care reimbursement rates were recommended by the committee: for newborn children to 5 years of age, \$20 per day; for children 6 to 11, \$23; and for children 12 to 18, a daily rate of \$25 per day. Shortly after starting this job, I assembled a provider panel in an attempt to determine the foster care rates. We will continue to use this panel as new rates and other foster care initiatives are implemented. The committee also developed a statewide standardized level-of-care assessment, including criteria, to determine a foster child's placement needs and foster care reimbursement rate. Members of the committee researched assessment tools used in Nebraska and contacted 13 experts in 8 other states. Two assessment tools were recommended to better assess the level of care needed by children and the level of responsibility required by the foster parent. It was decided foster parents providing a higher level of care that requires additional training would be paid an additional amount per day. In addition, children with severe mental health concerns, requiring additional programming, supervision, or special services from a trained foster parent should receive additional payment. The committee recommended the following level-of-care assessment tools: first, for the child, the Child and Adolescent Needs and Strengths comprehensive survey; and second, for the caregiver, the Nebraska Caregiver Responsibilities form. Other states also strongly recommend the following points to the committee about the tools and their use in combination when

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

establishing a foster care reimbursement system: one, we shouldn't tie assessment to foster care payments initially--instead, all states recommended a "hold harmless" phase where foster parents' rates would not change for a period of time; an ongoing quality assurance process is critical to success; three, an ongoing training implementation and training supports are necessary; four, ensure the tool or subsequent payment methodology does not include behaviors or conditions that overlap with other services or funding streams such as developmental disabilities, behavioral health, medically fragile, and OJS. In closing, my division is committed to reforming our child welfare system through best practice initiatives and results-based accountability. Together with our community partners we will improve the services and system of care for our children and families. I appreciate the opportunity to provide and discuss these recommendations of these two committees. I would be happy to answer any questions you may have. Thank you. [BRIEFING]

SENATOR CAMPBELL: Thank you, Director Pristow. Questions? And I'm going to start with those. Senator Krist has one. [BRIEFING]

SENATOR KRIST: Thank you, Chair. Thomas, two questions. Both of them actually fall on the last area of your testimony or in your report. And as I take what I've heard and what I've seen and now what you're saying, you're interested in establishing a statewide rate. And our experience with LR37 and my experience across the state is very often that rate will vary depending upon where you are in the state of Nebraska. [BRIEFING]

THOMAS PRISTOW: Right. [BRIEFING]

SENATOR KRIST: And potentially, a statewide rate that applies across the board may be counterproductive to taking care of the kids. So has your committee or has the research that's been done validated that or...and if not, why not? [BRIEFING]

THOMAS PRISTOW: Well, in my experience, Senator, standardized rates across the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

state are not an impediment to providing great services to our foster kids. We want to work with providers. We're planning on working with providers as this rolls out, as this plays out, to work with them on how that will work into their operations and how that fits. But we can't have such a disparate payment system. It is all over the board right now, and it's inconsistent, and the foster parents aren't getting the pay that they deserve for seeing the children that they see at this point. [BRIEFING]

SENATOR KRIST: Okay, but my main concern here, just to give you one specific, is that a foster parent who happens to be handling a child here in Lincoln, which we saw testimony of, whose family now, for whatever reason, still resides in Falls City, has an incredible requirement for transportation back and forth, as do some of our outstates. Is there a provision to allow for that reimbursement? [BRIEFING]

THOMAS PRISTOW: Yes, there is. Yes. [BRIEFING]

SENATOR KRIST: Okay. [BRIEFING]

THOMAS PRISTOW: Yes. [BRIEFING]

SENATOR KRIST: Good. And the second part of that would be: Are we using the same statement of needs or medical necessity that Medicaid is using when you talk about the crossover and in terms of different finance or money streams? [BRIEFING]

THOMAS PRISTOW: For the IV-E or the Medicaid? You're talking about the Medicaid? [BRIEFING]

SENATOR KRIST: For any of the services that are provided to foster care, if...are we using the same... [BRIEFING]

THOMAS PRISTOW: Yes. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR KRIST: ...statement of needs that Medicaid is using? [BRIEFING]

THOMAS PRISTOW: Yes. [BRIEFING]

SENATOR KRIST: So that medical necessity is being relied on... [BRIEFING]

THOMAS PRISTOW: Yes. [BRIEFING]

SENATOR KRIST: ...as the basis for treatment. Okay, thank you very much.
[BRIEFING]

SENATOR CAMPBELL: Senator Gloor. [BRIEFING]

SENATOR GLOOR: Thank you, Senator Campbell. Mr. Director, do you know, are any of these rate increases folded into the budget that we were given yesterday?
[BRIEFING]

THOMAS PRISTOW: When I submitted my biennium budget, they were not included. The increase in those rates were not included, Senator. [BRIEFING]

SENATOR GLOOR: So the challenge is to come up with that money that... [BRIEFING]

THOMAS PRISTOW: Right. And publicly I've said in a number of different venues that I want to work with provider panels across the state when we decide to implement this. And I believe because there's such a disparity amongst how much administrative fees and the rates of administrative fees across the provider network that I believe that there's room to work these new rates into the administrative costs of providers that we're currently contracting with. Now it...that may put some at risk, and we're...I'm not...we haven't done any...I've done no movement in that yet. But we're willing to talk to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

the providers. I have no extra money, so I'm going with what I have right now.

[BRIEFING]

SENATOR GLOOR: So it's kind of like Ragu. It's in there someplace; we just have to dig it out. [BRIEFING]

THOMAS PRISTOW: Well, again, as I said to Senator Krist, there's a such a disparaging...or disparity, a difference between what some vendors pay and what other vendors pay that if we make that standardized and we make that a little bit more consistent, I believe that we can meet our goal. Now again, that may impact and that may put some vendors operationally at risk, and we'll work with them; we'll figure that out. We're also going to be folding in results-based accountability as a monitoring and methodology protocol so that we can track how well their services are being provided and whether or not they're meeting the needs of the children and families. [BRIEFING]

SENATOR GLOOR: And let me...that's a great segue. One of the recommendations under "other states strongly recommend" is an ongoing quality assurance process. Can't argue with that. But my problem, Tom, is I don't understand this last...I mean, "other states also strongly recommend," I don't understand the context of that. Is it...did we go asking other states? Did they volunteer that, oh, you've missed the mark, you should have been looking at the following points. I don't understand how that section plugs in. [BRIEFING]

THOMAS PRISTOW: Are you talking about any...all those bullet points or just any...one... [BRIEFING]

SENATOR GLOOR: Yeah, all four of them, you know, that section, what does that represent? [BRIEFING]

THOMAS PRISTOW: The subcommittee went out and researched some states that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

have been down this path before, and they've got some very good help from those folks about lessons learned. And so they...our subcommittee incorporated those lessons learned in some of these bullet points here. [BRIEFING]

SENATOR GLOOR: How come we didn't incorporate them in our recommendations? I mean, is it because they fell out and weren't deemed worthy to... [BRIEFING]

THOMAS PRISTOW: Well, they're...I mean, I look at this as all part of our recommendations, I mean, the "hold harmless" piece about the payment of foster parents, for example. If we're...if we've been...if a foster parent has been used to getting \$600 a month and all of a sudden the new rates come in and they get less, you know, it's not fair to automatically drop them. There needs to be a hold harmless period, for example, to help them along. Those are operational pieces that we are definitely going to...when and how this rolls out, we will definitely have that in our plan. [BRIEFING]

SENATOR GLOOR: Can I...I don't want to put words in your mouth, but I'm again trying to get my mind around the context of it. Is it safe to say that the sentence could read, "Other states strongly recommend, and the committee agrees, that the following tools and use of their combination would establish," I mean, is it an inclusive issue or is it... [BRIEFING]

THOMAS PRISTOW: I would say that I support these other four...these four premises. [BRIEFING]

SENATOR GLOOR: Okay. [BRIEFING]

THOMAS PRISTOW: And I think that we would find a way to make sure that we covered all the bases that we could as we operationalize this. [BRIEFING]

SENATOR GLOOR: Okay, that helps. Thank you. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: Just for the senators' and our guests' information, Senator Dubas...there were senators who worked on aspects of the children's issues last session. Senator Dubas took on the foster care issue and will be introducing a bill having to do with the rates. So, Senator Gloor, I think you're going to see more of this when that bill comes before the committee. [BRIEFING]

SENATOR GLOOR: Thank you. [BRIEFING]

SENATOR CAMPBELL: Other questions? Senator Crawford. [BRIEFING]

SENATOR CRAWFORD: I wanted to come back to that part of the recommendations where it talks about not tying assessment to foster care payments initially. So...but again, we're also talking about making sure that we have quality assurance and the kids are getting the services. So is the recommendation...was there a discussion, there was a recommendation about phasing that in at some point? Or how do we reconcile the recommendation of not having the assessment tied to foster care payments?
[BRIEFING]

THOMAS PRISTOW: We want to be able to have the...what it costs to truly raise a child. [BRIEFING]

SENATOR CRAWFORD: Um-hum. [BRIEFING]

THOMAS PRISTOW: And so that's pretty much set. And then we want to be able to have distinctively...to have a distinct behavioral list of...if we're asking the foster parent to do something different, we want to be able to list that and then pay them accordingly. We don't want to say, this child is doing X, so because of that X behavior foster parent will get this. We want to say, because this child is doing X,... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CRAWFORD: Um-hum. [BRIEFING]

THOMAS PRISTOW: ...the foster parent needs to do additional A, B, and C, and then they will be reimbursed for A, B, and C. So that's a subtle difference but distinctive. [BRIEFING]

SENATOR CRAWFORD: Okay, okay. So it's tied to... [BRIEFING]

THOMAS PRISTOW: What we ask, the tasks. [BRIEFING]

SENATOR CRAWFORD: ...what the assessment of the behavior of the child or needs of the child. [BRIEFING]

THOMAS PRISTOW: Right, and so what we are going to ask the foster parent to do more of instead of what the behaviors they are exhibiting. [BRIEFING]

SENATOR CRAWFORD: Um-hum. [BRIEFING]

THOMAS PRISTOW: It's tied in, but it's distinctive. [BRIEFING]

SENATOR CRAWFORD: Okay. [BRIEFING]

SENATOR CAMPBELL: Senator Cook. [BRIEFING]

SENATOR COOK: No, I was just scratching my... [BRIEFING]

SENATOR CAMPBELL: Other questions? Senator Howard. [BRIEFING]

SENATOR HOWARD: What supports are in place right now to help kinship placements for... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

THOMAS PRISTOW: I'm sorry, ma'am, start again. [BRIEFING]

SENATOR HOWARD: Sorry. What supports are in place right now to support kinship placements and gaining licensure? [BRIEFING]

THOMAS PRISTOW: I missed your first part, ma'am. I'm sorry. [BRIEFING]

SENATOR HOWARD: Are there any supports in place... [BRIEFING]

THOMAS PRISTOW: Supports. [BRIEFING]

SENATOR HOWARD: ...to help kinship care placements gain licensure? [BRIEFING]

THOMAS PRISTOW: Yeah, we work closely with them to help as we can. As you know, we also pay them the same rate as foster parents. And I think we need to go a little bit deeper in that, and that's what this...that's what we're recommending. So we want to set up some different regulations and policy to do that. We haven't done that yet. We want to kind of go through, methodically go through that and work with the team and work with our providers to set that up. [BRIEFING]

SENATOR HOWARD: And you plan on reallocating the IV-E funds to help these kinship placements gain licensure? [BRIEFING]

THOMAS PRISTOW: Right. Well, that's part of it is that we will take a portion of those flexible dollars we get from the waiver, if we get granted that waiver, to help those kinship licensure issues. Sometimes nonsafety issues, like square footage, for example, may be a little bit off, and so we want to be able to waive that type of nonsafety issue. And we haven't done that yet, we haven't put that into regulations yet. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR HOWARD: Okay, thank you. Thank you. [BRIEFING]

THOMAS PRISTOW: I'm sorry, Senator. [BRIEFING]

SENATOR HOWARD: Oh, no, you're fine. [BRIEFING]

SENATOR CAMPBELL: We should also note that Senator Coash has been working on the kinship bill and also is working on a bill on alternative response, so the committee will be seeing additional information as that comes forward. And the other point that we should probably make for the record is that both of the committees that Mr. Pristow is talking about have also been reporting regularly to the Children's Commission. So it's all been somewhat tied together. And for the record I'd like to note that in LB1160 we ask an awful lot of the department in terms of the reports, and they were all due on a particular date. The legal counsel has reviewed all of those reports. We submitted to all of you a synopsis of those reports, and we are pleased to say that the department met all the deadlines and turned in all their reports. [BRIEFING]

THOMAS PRISTOW: Thank you. [BRIEFING]

SENATOR CAMPBELL: And so if we continue the hearing, and I'm sure we will, one of the things that we may want to come back to, Director, is we may want to come back to some of those reports to see if there is information to bring out. And I particularly think that we may want to discuss with you case management, the caseload, and how we're working on that. And there are just a number of topics that probably would be a good conversation with the committee that we won't take time today. [BRIEFING]

THOMAS PRISTOW: I'd be glad to do that, Senator. [BRIEFING]

SENATOR CAMPBELL: But I wanted to note for the record that the department had turned in everything, and fairly thoroughly, I might add. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

THOMAS PRISTOW: Thank you. [BRIEFING]

SENATOR CAMPBELL: I'm sure we were on a huge chart on the wall over at the department. [BRIEFING]

THOMAS PRISTOW: Many walls, Senator. [BRIEFING]

SENATOR CAMPBELL: Many walls. (Laugh) [BRIEFING]

SENATOR KRIST: Dart boards. [BRIEFING]

SENATOR CAMPBELL: Dart boards, maybe, I don't know. Any other questions from the senators? [BRIEFING]

SENATOR KRIST: Just a request. Could I ask, when we do get back together on those additional topics, there were a number of providers, including NFC, which I represent some of, that said that the department...that their attempts to go out and establish grants or get grants, that the department was not responsive in terms of following through and sponsoring those grants, and that's what it took in order to file those forward. Topic for a different day; I'll let you take a look at the information so we get both sides. [BRIEFING]

THOMAS PRISTOW: Yes, sir. [BRIEFING]

SENATOR KRIST: But I'd be interested in following through with that, if you would. [BRIEFING]

THOMAS PRISTOW: I'd be glad to, Senator. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR KRIST: Thank you. [BRIEFING]

SENATOR CAMPBELL: Okay, thank you, Director. [BRIEFING]

THOMAS PRISTOW: Senator, one last thing. [BRIEFING]

SENATOR CAMPBELL: Oh, I'm sorry. [BRIEFING]

THOMAS PRISTOW: I was asked by legal counsel to introduce the three... [BRIEFING]

SENATOR CAMPBELL: Oh, yes. That would... [BRIEFING]

THOMAS PRISTOW: Would you like me to do that? [BRIEFING]

SENATOR CAMPBELL: Absolutely. [BRIEFING]

THOMAS PRISTOW: Thank you. Members of the HHS Committee, I am pleased to introduce the three consulting firms who the department contracted with to fulfill the requirements set forth in the 2012 child welfare legislation. You will first hear from Public Consulting Group, who wrote Nebraska's cross-system analysis with an emphasis on Medicaid, followed by UmmelGroup Group, who wrote the child welfare information system strategic plan. And finally you will hear from the Center for Support of Families and their subcontractor, Hornby Zeller, who wrote the assessment of child welfare services in Nebraska. [BRIEFING]

SENATOR CAMPBELL: Thank you, Director. And, for our guests, you will not have to fill out the orange sheets because, obviously, the clerk has all the correct spelling of their names. So we will first start with the Public Consulting Group, Jamie Kilpatrick, Richard--and I'm going to make sure--it's Whipple? Did I say that correct, sir? And they are going to talk to us today about the Nebraska Medicaid cost systems and analysis.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

And, Deven or Kaitlyn, could we get another chair? [BRIEFING]

DEVEN MARKLEY: Yeah. [BRIEFING]

SENATOR CAMPBELL: Do you need...? [BRIEFING]

RICHARD WHIPPLE: She's coming with one now. [BRIEFING]

SENATOR CAMPBELL: Okay, perfect. Thanks. Welcome to Nebraska. [BRIEFING]

JAMIE KILPATRICK: (Exhibit 2) Appreciate it very much. My name is Jamie Kilpatrick, J-a-m-i-e K-i-l-p-a-t-r-i-c-k, and I'm a senior consultant with Public Consulting Group. And you all should be receiving a one-page, sort of, summary of the report itself. Specifically, PCG, we focus on the public sector in the health, human services, and education consulting area. What brings us here today to this particular committee is that there is an awareness by this particular legislative body, as well as a growing awareness in the state, that more can be done in the area of prevention services to prevent the rate at which children are placed as state wards in this state. We know from the research literature that a high rate of placement in state custody has adverse effects on the individual children, but it also has a fairly significant effect on the finances of the state. So we were specifically charged with really three main goals with this particular project: identify state general funds that are currently being used in order to better utilize federal funding; identify resources that could be better allocated to provide more prevention services, specifically; and then, finally, provide information which will allow for the replacement of state general funds with federal funds, so no small undertaking. I have to say a couple of thanks. Certainly we appreciate this interest from the Legislature, legislative body, to actually look into these issues, but also a support from Health and Human Services. This was a very intense project. We have a...we tend to take a SWAT team approach when we come in for data requests and financial data requests, and they were very helpful in getting that information, in very short order,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

honestly, so I just want to say a sincere thanks there. Couple with that...it's important to note that you all have had the report for some time. We feel like the report, in and of itself, is very helpful, gives a road map. There's obviously choices for the state to make. There's been, actually, some activity on a number of the things that we actually recommend, and I'll kind of highlight the recommendations and then answer questions. But, from our perspective, Mr. Whipple and I are here today to answer as many questions as we can. We had an intensive amount of team members involved in this particular project, so there could be a possibility that I couldn't answer all your questions today and, if not, we'll be absolutely sure to engage any information requests you need after the fact. We're going to try to answer any we can, but certainly may be needed to have follow-up information sent to you guys. So from a recommendation standpoint, there's seven, sort of, categories of recommendations, and I'll kind of hit on those and then stop and answer any particular questions you all have. Again, certainly one is to increase preventative services for at-risk children in the state. The second really relates to Title IV-E revenue opportunities and if those should be maximized. And it's over and above just the waiver itself; we had some recommendations in there of other things that actually have been discussed already by Director Pristow. Expand opportunities in children's health care. We talked a lot in the report about Medicaid waiver options, and there's a multitude of those options. You can get some examples of where other states have been successful in that as well as some other areas that we think are worth exploring, like upper payment limits and disproportionate safety-net hospital shares. Around Medicaid claiming activities, those that are already currently occurring, we recommend some quality assurance mechanisms to just be sure that the claiming activities are really scooping in all the appropriate claims and retroactive claims that are necessary. An important point that we know nationally from the research, and a lot of progress has been made, is really increase collaboration would be important with Head Start and local Early Head Start grantees in the state, and particularly in the area of coordination of referrals, to make sure that the right children are, in fact, getting in those particular placements. Again, discussed already in this particular committee, is around increased levels of provider management, around accountability, outcomes-based

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

contracts, etc. And then we also speak to the expanding the...in the setting of provider payment rates, specifically, and have some examples of where states have been successful in that as well. So again, I'll stop there, and really want to offer the time to be able to answer any questions that you all have about the particular report. [BRIEFING]

SENATOR CAMPBELL: Mr. Whipple, did you want to add anything before we start in on the questions? [BRIEFING]

RICHARD WHIPPLE: No more to add because I definitely want to give the board enough time to ask questions. But just for the record I'll state my name being Richard Whipple, R-i-c-h-a-r-d W-h-i-p-p-l-e. [BRIEFING]

SENATOR CAMPBELL: Thank you, Mr. Whipple. [BRIEFING]

RICHARD WHIPPLE: No problem. [BRIEFING]

SENATOR CAMPBELL: I have to say that...and I'll certainly say, broadly, to all three of the consultants, I was extremely pleased with the reports and thoroughness. I mean, I read them, and then I go, oh, I forgot that point or I overlooked that. I mean, there was so much information in the reports that you gave. I'd really like to start the questions, before we go to the senator's question, I'd like everyone to look at page 31 of the report. Page 31 of the report is...was extremely fascinating to me because of the amount of what we are paying for in the state of Nebraska for different services. And could you just briefly talk a little bit about this chart and the importance of what we are seeing there? [BRIEFING]

JAMIE KILPATRICK: Again, a couple of key points particularly about the report. And again, we could have a lot of conversation around it. But some...the key summary points around the information are in looking at those services that are preventative services versus direct services. It's really telling, when you look at the expenses, that we were

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

able to articulate on the direct services side, and those are really, for the most part, services for children that are involved with the state custody issues or state wardship or in the awareness of the court system. So when you look at the direct services portion, the total funding around that is in the hundreds of millions--\$255 million, in fact, by our understanding. We look at strictly those services that are focused on the preventative side, really those children that are engaged primarily before intensive interactions with the court system. We see a smaller portion of, you know, less than \$10 million that we could actually isolate specifically for identified prevention services. You know, we could, again, you know, the...what we know is that there are pockets of good prevention services going on in this state. We don't want to imply that's not the case. But that really, from a standpoint...from our perspective, from a national perspective, what we see is a lot of services that are necessary to help families be successful and children be successful, a lot of the funding are those that are actually upon the entrance of state wardship in a particular...in the state as well, and not as many available services on that front end from a prevention standpoint. [BRIEFING]

SENATOR CAMPBELL: What should be noted for the senators and those who are visiting us today is that when you look at the preventative services...and I'm going to talk a little bit about them. What they have noted there is the Child Abuse Prevention Fund, which is divorce decrees and certified birth certificates. And they have identified LINCS and Professional Partners, which come out of the regions, the Behavioral Health regions, which came out, to a great extent, by LB603. And then you come down to the Rapid Response, Professional Partners, adolescent therapy. Again, you're coming out of...and there is, specifically in Region 6, which is the Omaha, that whole area in through there. But the bulk of the prevention funds, of which you give credit for of \$7,725,000, is in the Douglas County pilot project at Juvenile Justice. And when I saw that chart, I realized how far we were from the prevention services in this state. I mean, it's very, very telling. [BRIEFING]

JAMIE KILPATRICK: Yeah, it's very telling. And ultimately, you know, the focus of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

report is actually to give a number of avenues for the state to either find new federal dollars that actually directly fund prevention services or new federal dollars that replace state funds on the direct service side that they can be freed up and actually invested in those prevention models. [BRIEFING]

SENATOR CAMPBELL: Right. [BRIEFING]

JAMIE KILPATRICK: There's a lot of good literature and a lot...across the country around evidence-based practices that do work, and there's also pockets of innovation in this state as well. So there's a lot to build on, and hopefully these revenue streams will be recognized and actually realized in the state to be able to invest in those particular opportunities. [BRIEFING]

SENATOR CAMPBELL: Because where you are spending hundreds of millions, in terms of the direct service, and then when you add the indirect service to it, that even causes the scale to go much farther. [BRIEFING]

JAMIE KILPATRICK: And Nebraska historically has placed children as a state ward significantly higher than the national averages. [BRIEFING]

SENATOR CAMPBELL: Right, right. [BRIEFING]

JAMIE KILPATRICK: And there's progress been made, certainly, in the last couple of years, but it's still significantly higher. [BRIEFING]

SENATOR CAMPBELL: Right. [BRIEFING]

JAMIE KILPATRICK: As a result of that, a lot of the dollars in the system are actually serving children that are...once they're in that wardship statement. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: Right. I'm going to kind of stay close to that. But in the course of this you brought forward, in your report, the SED, Medicaid, 1915, that whole area. And I'm going to say for my colleagues, I want you to know I was so impressed with this portion that we'll introduce legislation having to do with this waiver. So could you kind of explain what that is? [BRIEFING]

JAMIE KILPATRICK: Yes. Under the 1915 section of Medicaid there's actually...I think, first of all, it's important because we do talk in the Medicaid...in the health options section about options that are new based on the Affordable Care Act, but actually the Medicaid waiver options are not new. And there's a multitude of options, and we articulate them, I think, in the report fairly well, that there's really, sort of, three options of how to do that. There's a 1915i, which is actually a state plan amendment for the Medicaid state plan. There's also state plan amendments specifically for waivers on 1915(b) and 1915(c). Without knowing all technical pieces of that--because I'm told that sometimes I can overwhelm people with that, so I'll try not to do that--but for the purposes of the committee and the members present and the community present here, what a waiver allows a state to do is to look at things that they...a particular population. We're allowed to identify and say, look, there's a known population that we want to do something innovative with. So the state actually can select that population, in fact, put constraints around what that population makeup is, either geographic constraints, diagnosis constraints. So it's not open to every single person ever where you can actually define the population, in fact, that you're wanting to serve within that Medicaid waiver. You also are allowed to then identify unique services over and above what traditionally would be paid with Medicaid. So examples of that are increased levels of case management, increased home visiting services, all those real interventions that we know that are effective with these particular families and children. And so with the waiver option you're actually able to take a portion of your state dollars that you spend, seek a waiver application, and in that process you should define the population that you want to serve and actually talk about those particular sets of services that traditionally haven't been offered. And they are oftentimes very "Medicaidable," if you will, from a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

claiming standpoint, within that waiver. There is a...we gave a number of examples in the report. I have a few other examples of states that have used those particular waivers particularly for children and youth at risk for state custody. We talk in the report about North Carolina and some of the success that they've had. There's also other states that have had the same type of success. Georgia is an example of a state that's had a fairly mature waiver as well that...and so what they really see as a result of this is an opportunity to identify a population, note what specialized services aren't currently offered to them, and then have the opportunity to be able to claim Medicaid reimbursement for that, all based on the notion of medical necessity. We talked...you talked about that earlier. It's certainly with the cooperation of the community, cooperation of physicians, and cooperation of placing agencies. The Medicaid waiver is a really good option to really fund prevention services for children, and particularly in the mental health service realm, which is one of the things that's oftentimes lacking in state systems. [BRIEFING]

RICHARD WHIPPLE: I think it's...sorry to interrupt. [BRIEFING]

SENATOR CAMPBELL: Go right ahead. [BRIEFING]

RICHARD WHIPPLE: I think it's important to add, too, through our putting this together and the very quick turnaround, we spend a lot of time on the ground with local providers, local persons who are actually involved with these children. In particular, this is a need we heard from different counties, particularly in the rural areas where there's a lack of services available. And so the situation is right in Nebraska for something like this. [BRIEFING]

SENATOR CAMPBELL: Right. [BRIEFING]

RICHARD WHIPPLE: And we've heard this from different parties all over the state.
[BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: What was interesting to me about this one were the number of states who put in programs on what was SED, but serious emotional disturbances. [BRIEFING]

RICHARD WHIPPLE: Yeah, yeah, um-hum. [BRIEFING]

SENATOR CAMPBELL: And we have talked at great length in this state... [BRIEFING]

RICHARD WHIPPLE: Um-hum, yeah. [BRIEFING]

SENATOR CAMPBELL: ...about a population of youth that we don't do a very good job with because they've just been bounced from place to place to place. [BRIEFING]

RICHARD WHIPPLE: Right. [BRIEFING]

SENATOR CAMPBELL: And I was...that's what particularly drew me to this portion of the report. [BRIEFING]

RICHARD WHIPPLE: Yeah. [BRIEFING]

SENATOR CAMPBELL: And if you've got it in front of you, it's page 46, where they talk about the different states. Kansas has one for SED waiver. [BRIEFING]

JAMIE KILPATRICK: Yeah, yeah. Right. Yeah, it's a really...putting together service funding for these particular populations is difficult, and it's definitely a piece of the puzzle that we think is important. When you're look at doing those innovative service practices particularly or in those mental health needs and home-visiting case management needs, these waivers are a really good opportunity for the state to really look at and think about what that population base should be and what the particular service provision would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

need to be. [BRIEFING]

SENATOR CAMPBELL: I have a feeling that I want to take some of these reports and hold them up to my colleagues on the Appropriations Committee and say, please read this, because there are ways that you suggest. And the report is, again, very thorough in terms of the recommendations that we could use to supplant, bring in some federal dollars to use our state dollars more effectively. [BRIEFING]

JAMIE KILPATRICK: Because hopefully...what we saw, as is the case in Nebraska, is people are trying to fund services for children when they need it and oftentimes after that state ward statement has been made. And ultimately the opportunity here and with some of the other funding pieces that we have is really to say that we're going to continue to provide services for kids who truly need that state ward placement. But the reality is by taking Medicaid waiver options, putting them on the table, you really should be able to have direct funding, funding prevention. So with that chart on page 30, 31 we talked about, really you can have...you can really begin to chip away at that and make greater investments in those prevention services on the front end. A waiver is a great way, actually. It...I always say to people, you never want to be the first to try something because sometimes you make a lot of mistakes in doing that. But these particular waivers have proven the test of time in a number of states. And each state's is a little different, and that's one of the things about a waiver that I think is important, that you actually have an opportunity to define your state-specific need and state-specific population and the interventions, in fact, that you want to include. I would also mention, even along with your Appropriations Committee, is there are pockets of innovation--and we talk about those in the report--that we think are working in this state that could be a foundation for additional supports when that funding is made available. [BRIEFING]

SENATOR CAMPBELL: Okay. Questions? Senator Krist. [BRIEFING]

SENATOR KRIST: I was excited when I read the report because this committee has

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

been involved, and some of us have been extremely, extremely outspoken, when it comes to statement of needs, medical necessity, and how we restrict those services rather than provide those services on the front end. We need to hold this up not just to the Appropriations Committee but to our own Medicaid folks here in the state. There's two ways of looking at doing business, and one way is to fund it with money that is predominantly from someplace else if you can do that, which is the Medicaid waiver money that you're talking about. You have to want to do that though to go out and do that, and I think that's an emphasis that publicly we need to take away from this hearing and make it loud and clear. It's not always throwing our own dollars at those things; it's applying those waivers and getting into a 90/10 split, potentially, on what we need to do. And again, you have to want to do that in the department. I'm also...was very encouraged, in terms of affirmation, I guess, because the pilot program does that. It starts out by saying, we need to fund these things up front rather than automatically assuming the only way we're going to be able to fund them is to make these young people wards of the state to get the services. So I think it's...I think to me it has made the point perfectly, and I think it's a great product. [BRIEFING]

JAMIE KILPATRICK: And I think, just to speak to your point, if I haven't said it enough, I want to make sure I say it out loud that the success of the waivers in each of the states that we gave as an example there was a really a coalition of support to help define that population and make decisions about the types of interventions that the state wanted to be funded, and that includes the state Medicaid agency, the legislature, concerned citizens, academies of pediatrics in the state, juvenile court judges. There really was a coalition in most of these states that really helped define what their plan was, so that support is very extremely important to implement. [BRIEFING]

SENATOR KRIST: Thank you. [BRIEFING]

SENATOR CAMPBELL: And we're very fortunate. In the state we now have...and there's a great number of members from the Children's Commission in the audience

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

today, and they have started down on that path of a strategic plan. This report and all the consultants' report I think will really help the Children's Commission give a lot of background information to them as they plan for how do you fill in that strategic plan, so a lot of good. Other questions from this side? Otherwise, I'm going to keep going. I want to talk to you a little bit about an issue... [BRIEFING]

JAMIE KILPATRICK: Um-hum. [BRIEFING]

SENATOR CAMPBELL: ...that has just had a lot of discussion in this state and see if there is some way that we should be addressing it, and that has to do with behavioral health issues for children five and under. Can you give us some background, from your professional expertise in other states, about that population? [BRIEFING]

JAMIE KILPATRICK: Yeah. In fact, my professional background is in early childhood space, state director of Early Childhood Services for Tennessee for a number of years, and this is sort of near and dear to my heart; we could talk all day about it. But a couple of key things that, when you talk about behavioral health services in that particular age population, you have a couple of, sort of...I don't want to oversimplify, but you have a couple of categories of needs from a behavioral health standpoint. We know that the growing autism spectrum disorder issues are affecting a great number of kids, and so you have that pocket of services around those behavioral needs for children on the autism spectrum disorder. You also have this emerging science around infant and toddler and preschool mental health issues that are really more about, you know, conduct disorder, real affective disorders that those children have. From a service standpoint you have to do a couple of things. One, it's important to recruit people to this state that actually understand service needs for those particular populations, and it's different than service adolescents with similar needs. So from a service capacity standpoint, you really have to mobilize the community to have the types of expertise that can actually serve both of those pockets of need. From a fiscal standpoint--a lot of the work I do nationally is in this very space--is actually advising states and supporting

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

states on how to actually draw down funding for that. And so I'm going to take us back to that same conversation around those Medicaid waivers. We've...there are actually a number of states that have specific waiver populations, albeit small, defined waivers specifically for early childhood mental health issues, either in the behavioral realm for autism spectrum disorders or for some of those more mental health issues that are associated with it. So from a funding standpoint, this same conversation that we have around waivers for youth and adolescents, those same funding opportunities are really what a lot of states are using as part of the funding mix, again to address these mental health issues in young children. We know from the science that the more we intervene early, the more likely we're going to have positive outcomes. So I would just say that to the committee as planning is going on that to not forget that particular population's needs. When you're talking about community mental health needs and you're thinking about forming a waiver and identifying that population and that service provision, certainly wouldn't want to forget about those particular kids either. And some states have separate waivers just for that particular age group as opposed to a, say, a birth-to-18 waiver. [BRIEFING]

SENATOR CAMPBELL: We're seeing an ever-emerging awareness in this state in terms of the importance of birth to three and birth to five, and it continues to be that we don't...we say, well, children under five don't have behavioral health needs. I mean, this committee has heard that, and I'm very concerned that that isn't...I mean, that is not the fact. We know...increasing evidence would tell us that, yes, they do. And from your background, obviously, you are saying, yes, they do. [BRIEFING]

JAMIE KILPATRICK: Yeah, actually, I have to say I'm a little bit jealous of Nebraska. It's for a couple of key reasons. One, the Buffett Early Learning Foundation (sic) at the University, it has a great amount of public-private cooperation, public-private investment to actually look at these issues. The second to that, that particular group has recruited Sam Meisels, who is one of the best researchers in early childhood and really one of the best practical people in early childhood in this country, from a planning standpoint. So

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

Dr. Meisels is actually now going to be a part of this state, and I would just absolutely recommend anyone who is looking at these early childhood issues, coupled with the at-risk issues, to make sure those people are at the table in that particular planning.
[BRIEFING]

SENATOR CAMPBELL: It may be one of our five-star or ten-star recruits to the state of Nebraska. [BRIEFING]

JAMIE KILPATRICK: That's one of them. [BRIEFING]

SENATOR KRIST: Absolutely. [BRIEFING]

JAMIE KILPATRICK: Yeah, one of the better ones. [BRIEFING]

SENATOR KRIST: To the point again, for the public information and to make it public, we...many of us have found it reprehensible that we have treated mental illness with psychotropic drugs, mental issues with psychotropic drugs in that age bracket.
[BRIEFING]

JAMIE KILPATRICK: Right. [BRIEFING]

SENATOR KRIST: Yet with our statement of needs and medical necessity, we've not allowed for follow-up with a psychiatrist or the proper physician to get them off of those drugs. So we obviously recognize there is an issue, but we'd rather medicate it than treat it. And that, to me, has been a real... [BRIEFING]

JAMIE KILPATRICK: You have to have a, really, a comprehensive approach to those particular services. And sometimes medication, I'm sure people...it's appropriate, but you really have to have a comprehensive system of care, both from a child-level therapy and support but also family interventions around those particular mental health needs

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

as well. [BRIEFING]

SENATOR KRIST: But that is, as I understand the dialogue, that is not necessarily...not requiring the waiver is changing the statement of need to get back--or the medical necessity--just to get back to a point where we allow that service to be provided under the standard Medicare treatment. [BRIEFING]

JAMIE KILPATRICK: Correct, right. You're correct, yes, and states have had good success in those particular types of interventions being funded under their waivers. [BRIEFING]

SENATOR KRIST: Thank you. [BRIEFING]

SENATOR CAMPBELL: Is there any particular language that we ought to take note of for that population? If you do, perhaps we can exchange that and not make you rattle that all off. But that would be helpful for us. [BRIEFING]

JAMIE KILPATRICK: Yeah, we're going to be watching things closely here and provide some support and advice along the way. Again, some of that is in the details of the population as you define that population, looking at that definition of medical necessities, extremely important to consider. And there are some considerations that have been successful in other states. And again, you're probably hear me keep saying that there's actually language in these state plan amendments for these other states that actually address that. [BRIEFING]

SENATOR CAMPBELL: Well, I have to give real credit for the inclusion of this, as one of the consultants that we needed to have in our legislation last year, to our legal counsel. Michelle Chaffee kept holding this up in front of my face saying, I think we need this analysis on Medicaid. I think...you know? And finally, after probably the twentieth time, I said, all right, all right, we need to do this. But your report, I mean, I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

mean what I say. It's just like mining all this wonderful information that you have gathered for us from other states and what we can do to bring a much more holistic approach here to how we help children. [BRIEFING]

JAMIE KILPATRICK: And I think, just again to summarize, you know, actually a couple...there's some progress already been made. I mean, the Title IV-E waiver application being sent in is actually one of the recommendations we spoke about. [BRIEFING]

SENATOR CAMPBELL: Yes. [BRIEFING]

JAMIE KILPATRICK: We talked about the rate setting issues and what needed to be done there, so progress there, as well as the issues associated with the penetration rate for Title IV-E around licensure barriers and all those supports, so help seek licensure. So again, I think there's real convergence of support and awareness in the state around these particular issues that we're seeing some real progress here. [BRIEFING]

SENATOR CAMPBELL: I agree. I think the hard work of a lot of people in the department just really worked very hard on the Title IV-E to get us to this point. So yes, that is correct. You see bits and pieces of this beginning to work. What's nice in the state of Nebraska is to begin to drill down and really work on some very specific issues that we know we all need to work together to address. Questions or comments from any of the other senators that you might like to have? I hope you won't mind if we write or e-mail additional questions. [BRIEFING]

JAMIE KILPATRICK: Oh, absolutely not, no. I think everyone at the department has all of our information. [BRIEFING]

SENATOR CAMPBELL: Yes, and... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

JAMIE KILPATRICK: And when we work with states we tend not to want these to be one-off jobs. We really...we're rooting for success here as well. And again, I would just sort of summarize from our perspective. [BRIEFING]

SENATOR CAMPBELL: Absolutely. [BRIEFING]

JAMIE KILPATRICK: We appreciate the opportunity to have worked on this from a legislative standpoint and in conjunction with the department. We do think there's some unique challenges facing Nebraska for a number of years, but there's really a real groundswell of support to address these issues. And we think we've given you a piece of the road map, a piece of the puzzle. I wouldn't want to imply that the work is easy from here forward. It is very strenuous, but it can be...but if you have that focus you can see some great success that some of the other states have seen in this same work. And we'll be glad to help in any way that we can. Our contact information is available through the department, and we'll be able to do anything we can to help you guys be successful. [BRIEFING]

SENATOR CAMPBELL: I can assure you we will be in contact with you because there is so much good information. And I know that after the Children's Commission has had a chance to review as there may be some follow-up from them. The department, I know, is having an ongoing discussion with you. [BRIEFING]

JAMIE KILPATRICK: Yeah, thanks very much. Thank you. [BRIEFING]

SENATOR CAMPBELL: Any other comments? Thank you very much. We will move on to our next presentation, the U-M-Mel (phonetic) Group, Mr. Patterson, and this report comes to us on the child welfare information system strategic plan. And we will get another chair. And, sir, just for the record, probably it would be, if you wouldn't mind taking the chair and just identifying yourself for us. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

STEVE PATTERSON: Good afternoon, Chairman Campbell. My name is Steve Patterson. I'm a senior advisor with UmmelGroup International. I'd also like to take a moment, if I could, and introduce my colleagues. On my right is Mr. Don Jordan. Don is our HHS subject matter expert with over 40 years of experience in this field. On my left is Mr. William Roth, who is UmmelGroup's enterprise architect and did a fantastic job in getting the evaluation on the technical environment for your child welfare system going. Do we have to do something to get the slides going? [BRIEFING]

SENATOR CAMPBELL: We have a problem, Diane. [BRIEFING]

DIANE JOHNSON: If you would spell those names, please? [BRIEFING]

SENATOR CAMPBELL: Oh. [BRIEFING]

STEVE PATTERSON: Steve Patterson, P-a-t-t-e-r-s-o-n; Don Jordan, J-o-r-d-o-n (sic). [BRIEFING]

DON JORDAN: A-n. [BRIEFING]

STEVE PATTERSON: A-n, I'm sorry, Don. I do it all the time, don't I? And William Roth, R-o-t-h. Okay. [BRIEFING]

SENATOR CAMPBELL: Is there...do we need to do something to help them get... [BRIEFING]

SENATOR GLOOR: It'll be... [BRIEFING]

STEVE PATTERSON: It's on the screen, its just not coming up here. [BRIEFING]

SENATOR KRIST: There you go. It's coming. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: Okay. Is there some way, Diane, that we can take the lights down a little bit? That's better; that's a whole lot better. [BRIEFING]

SENATOR COOK: Um-hum, much better. [BRIEFING]

STEVE PATTERSON: All right, very good. [BRIEFING]

SENATOR CAMPBELL: Okay. [BRIEFING]

STEVE PATTERSON: Thank you for your patience. [BRIEFING]

SENATOR CAMPBELL: Senator Crawford, do you need to move, or Senator Gloor? [BRIEFING]

SENATOR CRAWFORD: I'm fine. [BRIEFING]

SENATOR CAMPBELL: Okay. [BRIEFING]

STEVE PATTERSON: We're going to take a quick run-through. And we appreciate the opportunity to meet with you today and give a brief synopsis of the...synopsis presentation of the report and the findings that we came up with. As you're aware, obviously, with the bills that came out, LB1160 was designed to take a look at your child welfare information system and assess it and...for a few issues that had been identified within the bill. An RFP was let and we were very fortunate and happy to have won that procurement process. We began our project in August of last year and delivered our report on the 29th of November. One of the things to take note of: In the state of Nebraska you have your child welfare system as an integrated portion of a product called N-FOCUS. N-FOCUS is a...the primary system in dealing with all of your Health and Human Services applications, with the exception of Medicaid and your child support

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

functionality. The N-FOCUS system is mainframe-based, runs at the state data center. It utilizes a variety of technologies that we're going to talk a little bit about as we go on here that are some risk factors for the system. And it is primarily a client server-based product that requires some servers be installed at the various different offices around the state as well. From technical findings, the N-FOCUS system is very good architecturally and a very strong system and has a lot of capability that we believe can be leveraged for the future. The data models and the database design are very strong. One of the concerns that was outlined in LB1160 was concerns for data currency and consistency. We don't...we did not find anything inherently within the system that was a shortcoming in that regard. Now from a business practice perspective and some processing/scheduling perspectives, we believe that there are maybe issues that can be rectified that can improve the appearance of data quality in the system. The N-FOCUS system, as an integrated system, has a tremendous number of external interfaces. We're going to see a slide here in just a moment that will kind of give you the big picture of that. It's also supplemented with image and content management and a Web portal for public access. As we mentioned, the N-FOCUS system does have a few areas of weakness that can be addressed. Being a mainframe-based and client server architecture with the mainframe does tend to have an impact on the agility of making changes to that system, and we think that there are some opportunities to deal with that. A couple of products that you'll see listed here: the CA Gen and the CA Aion business rules engine are some, at this point, somewhat "niche" technologies that you're going to, over time, find some difficulty in finding resources to address the use of those facilities and probably ought to be looked at for replacement. Your current child welfare system is not at this point SACWIS compliant, and there are some gaps that need to be addressed there to get to the SACWIS compliance. And the imaging content management, while being pretty comprehensive for many of the other application areas with N-FOCUS, child welfare is not fully deployed at this point in time. This was just to kind of give you an idea of the, as we see it, the value chain, and you'll...your...DHHS, you've got the human services outreach eligibility program enrollment. Child welfare hits this particular portion of the system as an integrated part of the N-FOCUS system. Now

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

we talked about the interfaces. This is kind of N-FOCUS as a whole. If you can tell, there are some red lines drawn in some of the interfaces; those are ones that are specifically related to child welfare. So this is a very comprehensive system that you have, and I actually...many states have been trying to achieve this level of integration without much success, to be quite frankly, and the state of Nebraska should be commended on its efforts here. Now just as a process, we tried to get out and talk to a lot of different folks about the system. Certainly we spent a lot of time with the IT folks within DHHS, but we also did...conducted 18 outreach meetings with the business community, meeting with the Omaha office, the Scottsbluff office, a variety of different offices within HHS here in Lincoln. We met with NFC and the Foster Care Review Board to try to get an idea of how the N-FOCUS system and the child welfare--excuse me--the child welfare component of N-FOCUS was addressing the needs of all of those folks. In those sessions we tried to assess their view of strengths, the weaknesses, and whatever gaps in opportunities they felt like existed in N-FOCUS. Overwhelmingly, everybody felt the N-FOCUS system, it just simply works; it does the job. It does everything that everybody needs to do, and it's a good, solid system with a lot of data interfaces that support it. The household structure is the basis for the data that is captured, which is somewhat unique, not what we've seen in other locations. You've got some very strong searching capabilities, a lot of reports, and then the document imaging technology is in place that can certainly be leveraged for even more comprehensive content management. Some of the weaknesses that were identified with N-FOCUS, being a nearly 20-year-old system at this point, navigation and the user interface are concerns for people. And particularly, as your work force gets younger, the work force is accustomed to Windows-style user interfaces, very interactive. The N-FOCUS system is...while it has a very clean user interface, it is a dated, client server interface. What we found is that the...as you navigate through the N-FOCUS system, every screen that you go to, a new screen pops up. Now what...while that provides a lot of flexibility for the worker to be able to have several things going on at once, for newer workers they found it confusing and they could get lost. And there were some training issues there that people didn't understand ways to quickly traverse back to the main

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

menu, and so they found themselves clicking out of all of these little pop-up windows, so that was an annoyance factor for most folks. The timeliness of data for reporting and data quality concerns, again we found that the system has more than...has a very sufficient amount of data that it is capturing. What we did find out though is that there are some variances in how the data are captured between different locations within the department. Many of the applications within N-FOCUS utilizes...actually it's the Aion rules engine for managing how data gets entered into the system and how the consistency are handled within the data entry. That was apparently in the child welfare system at the beginning, when it was initially created, and has systematically, over time, been requested to be removed. And so at this point in time the child welfare system is a little open, which allows a lot of flexibility in how the data gets entered. And what that can do, certainly, is manifest itself as...if you're not...depending on how the data are pulled for reporting purposes, it could be problematic in seeing two different reports that you're trying to tie together and they seem to be out of sync. Some of the opportunities that we would see that you have for the N-FOCUS system are some improvements in the ease of use of the system, increased availability. Now this one, this point, when we were specifically talking to the Omaha office, there were some--pardon me--concerns raised about this system being available at an early morning hour on a weekend when something were happening and they couldn't get to the system. All systems have to have some downtime hours, and this was seeming to coordinate with that, but we would look to try to lessen the impact of those outages as much as possible. SACWIS compliance, we believe that you are very, very close to being able to become SACWIS compliant and would certainly recommend that you move forward with doing that. Training is a large concern and an opportunity for improvement not only on new folks but on ongoing, as changes get made to the system, documents are sent out identifying what the changes are. But the training, one-to-one training, is not...hasn't...is not taking place any longer. Now as we look at the...how to address the child welfare system, we looked at these six different alternatives for moving forward. Number one is just the status quo, and it is we have a system, it is functioning, it works reasonably well, we're not going to do anything, and we'll continue to move forward as we are. Secondly,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

maintain and extend the N-FOCUS system. The maintaining and extending it really is the mode that you're in today. The system is being enhanced on a quarterly basis, basically, to add new functionality and address...oh, thank you so much. Pardon me. So item three is a modernize and refresh of the...and extend the N-FOCUS system. We think there is an opportunity to address some of the shortcomings that we identified in the system, begin to divorce yourselves from some of the older technologies that the N-FOCUS system uses, perhaps address the platform on which it's running to be able to improve data access capability and some of those kinds of things. Four, five, and six are addressing eliminating N-FOCUS as a support mechanism for child welfare. These are basically your three options for doing that: You can build a brand-new custom system just for child welfare; you can buy an existing COTS--commercial-off-the-shelf--software just for child welfare; and, number six, you can implement a transfer system from another state, again, to support child welfare only. It...all three of these leave the N-FOCUS system there to address the other programs that you've got. Now this looks at those alternatives in just a little bit different light. It shows you how these things can become SACWIS compliant. It also gives you some general ideas of costs that you could anticipate in taking these various different options. Option B ends up becoming the recommendation that UmmelGroup is making to you, and that is to modernize your existing N-FOCUS system and address the legacy architecture that it is running on. Now these are some factors that we took into consideration as we came up with that recommendation. What we find is, as I mentioned earlier, many states have tried to develop an integrated environment between child welfare and the other benefits systems that are out there. You have that in N-FOCUS, and the integration that exists, they're established and they're operating very well. We looked at the, you know, project and operational costs of the system. We also looked at impacts for the program staff. Right now, with N-FOCUS, they learn...they have one user interface that they have to deal with, not multiples. If you start bringing in new systems, there are new learning curves that come into place and training issues. We looked at: timely implement; the risk factors associated there; what's going on with technology and how can you stay more up-to-date with technology

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

advancements; where does a particular alternative position you for the future; and then certainly, in working with IT, the idea of long-term enterprise architecture and platform is a component that we wanted to take into consideration. We do believe that there are some things that...you know, recommendations. We're going to take a look at three different scenarios on our recommendation. The tactical point of our recommendation took...quite frankly, we would recommend this regardless of which of the six alternatives were chosen, and that is go ahead and make N-FOCUS SACWIS-compliant. That's something that we believe you can do in a matter of six months to a year. The...improve the data currency in the business intelligence enhancements. I mentioned if the...and the report documents several things, several specific actions to be taken to address some of those data currency issues and to improve the ability to get access to the data by less-technical people. Number three is complete the rollout of the document imaging and document content management system for child welfare. You're there; it's ready to be used; it's just really in a position where it needs to be deployed and training to take place. The next part of our recommendation looks really kind of at the near term. Again, we are recommending the modernization and refreshing of the N-FOCUS system, which entails rehosting the N-FOCUS system to an open systems platform. The mainframe, while it is an extremely strong and dependable system, it is a system that is costing the state of Nebraska a lot of money to operate. It also is utilizing...forcing the use of technologies within your system that increase the complexity levels and then deal with the agility and the ability to change the system to adapt to new capabilities in a quick manner. We believe you need to eliminate the CA Gen. The N-FOCUS system has been developed with this product called CA Gen. It was a pretty state-of-the-art product when you brought it in here. It is...it never really got a lot of legs in the marketplace though, and seems to be just kind of a niche area in the government space, to be quite honest, and we would recommend that you move the N-FOCUS system to a more current and standardized development platform. Augmenting the data management facilities to enhance reporting currency, again, here what we were probably looking at is the development of the data mart or a data warehouse that the N-FOCUS system does not have today. Any reporting that takes place today from the N-FOCUS systems

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

comes out of the operational system, either directly out of the operational system or from a full-shadow database that is created from that system, and then the utilization of Web services for all of those data interchanges with both internal systems and external organizations. Longer term... [BRIEFING]

SENATOR CAMPBELL: Mr. Patterson, are we pretty... [BRIEFING]

STEVE PATTERSON: I'm sorry. [BRIEFING]

SENATOR CAMPBELL: Are we pretty close to the end? Because we're... [BRIEFING]

STEVE PATTERSON: We are. As a matter of fact, if you want to just kind of jump across these things, I can certainly do that at this point. [BRIEFING]

SENATOR CAMPBELL: I just want to get...make sure we've got time for questions. [BRIEFING]

STEVE PATTERSON: Yes, ma'am. [BRIEFING]

SENATOR CAMPBELL: You want to hit the high points here? [BRIEFING]

STEVE PATTERSON: Yeah. You know, here we're really just talking long-term, that extending the N-FOCUS system beyond just the rehosting effort and the modernization to the new development platforms and that sort of thing, there are some opportunities. We have a couple of items that are SOA and ESB; they don't mean anything except to the technical folks. And...but they again are positioning you for where the industry is going. Let's see. Evolving incrementally, this is...this whole recommendation is an incremental evolvement rather than a wholesale change of the system. Let's see what we have here. In summary, N-FOCUS is a solid system and, you guys, you really should be very proud of the system that you have out there. Don't throw it away; don't

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

throw the baby out with the bathwater. Take this system and improve it, modernize it. You have the opportunity to reduce your costs and build a technological build to the future. And I would stand for questions. [BRIEFING]

SENATOR CAMPBELL: Mr. Patterson, probably one of the key questions that I was asked by the Budget and Fiscal Office, because I had...I gave them this report and looked at it. And for all the senators who know the person, know the people there, they said, could you tell us whether doing your recommendations is closer to the \$10 million or closer to the \$40 million? (Laughter) So we're going to jump right to the Budget and Fiscal officer's question. [BRIEFING]

STEVE PATTERSON: Very good. And, quite frankly, that range is there because we haven't locked down requirements for how much change would take place in the initial modernization effort of the N-FOCUS system. If you're just simply going to take the N-FOCUS system and rehost it, convert the development language, and basically not really adjust any of the functionality, you're going to be down toward the lower end of that range. The second reason that you have that broad of a range, my experience is that you're going to put out an RFP to select the vendor to come in and do this work for you. I've experienced threefold variances in pricing proposals, and so that's why we've given you a range like that. [BRIEFING]

SENATOR CAMPBELL: Senator Gloor, did you have questions on this? [BRIEFING]

SENATOR GLOOR: Thank you for your presentation, and I am encouraged, more so than I thought I would be, of the fact that N-FOCUS may still have a life with us. But I'd like to continue this probably more with a commentary about Senator Campbell's in a...I've had the unfortunate opportunity to serve on a corporate information system committee, and our Achilles' heel was always the dollars. And it seems to me that where things would get out of control is the more you tried to make it fit what you wanted, the fewer vendors could comfortably come in and give you a pricing that was competitive.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

And so what I can't discern, because I don't have the technological ability, is are we asking so much from this that we might be, in fact, getting into a much smaller subset of vendors who could address it and, therefore, pushing more towards the higher end of cost estimates? I mean, is this a...is this, in your organization's experience, is this not an unusual fix that people would be taking a look at? Or is this, in fact, a horse of a different color, as they say? [BRIEFING]

STEVE PATTERSON: No, it...you're...the only complicating factor that I see in this particular modernization effort would be the CA Gen. That does throw a bit of a wrinkle in there and probably will have some impact on the cost. [BRIEFING]

SENATOR GLOOR: How old is the CA Gen? Do you remember on that? [BRIEFING]

STEVE PATTERSON: CA Gen--Bill, help me there--it came in the mid '90s. [BRIEFING]

WILLIAM ROTH: Yeah, early '90s. [BRIEFING]

STEVE PATTERSON: Early to mid '90s as a...it was a...it came out of an initiative in the IT industry to divorce ourselves from actually having to write individual lines of code that we put into rules and then you interpret the rules and you generate code. It was a very good effort at that, and it certainly does the work. The problem is that it locks you into that environment for the future. And, as I said, it really never did develop general acceptance in the marketplace. [BRIEFING]

SENATOR GLOOR: Oops. [BRIEFING]

STEVE PATTERSON: Yeah. [BRIEFING]

SENATOR CAMPBELL: Senator Krist. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR KRIST: You get what you ask for, and in the design phase of what was N-FOCUS you're telling me it does a good job and we have a potential to keep it going in that way. My problem, sir, is that it's not doing what we need, in terms of the needs of the child welfare system in general, because there are so many databases out there that we've been exposed to in the last couple of years. Depending upon whose database you look at, you can either find that kid, find out what's happening, find out what his legal problems have been, so when he does an intake in the middle of the night and the judge wants to find out where he has been and what he's doing, what foster care, and where he would be, that's the overall design of what we need in the system today. And it would include medical history, how many placements, where he is, very similar to what the...I'm sure you saw with the Foster Care Review Office and their functions, along with our own judiciary following or tracking through a kid and then losing him when he goes to YRTC. And, I mean, I'm now designing something that is, in current day, the needs of the state of Nebraska. So I understand we asked you to assess this program. But as we get to the \$10 (million) to \$40 million range, is it going to be cheaper to say, let's get to a program that we designed from the very beginning with off-the-shelf technology, potentially, and really design what we want to get to? And was that one of your...was that number seven or six or...? [BRIEFING]

STEVE PATTERSON: That would have been number five, line five, there, "Implement a COTS Framework." You see there that we would estimate the project cost there to be \$82 (million) to \$155 million to implement. [BRIEFING]

SENATOR KRIST: Okay, so what if having...drawing back on my background, what if we have four or five data systems that are out there, that are more current than N-FOCUS, that are using common software that can be bought together, and we bring...I know you weren't asked to do this, but is it possible to bring in those data systems and integrate those into a common system without going through baseline forward in \$150 million? [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

STEVE PATTERSON: Yeah, yeah. Senator, I am not sure I'm following exactly what you're talking about. Are you talking about...now the systems that I'm aware of that are in place today is the N-FOCUS system, the Medicaid system, and the CHARTS, the child support enforcement system. Are you referring to something other than those three? [BRIEFING]

SENATOR KRIST: Yeah, I think there's about...I would guess there are at least a half a dozen different data systems out there, or collection processes. We had independent vendors come in during the privatization effort and design their own system, and then we lost kids in the data because they had different data than the system, than N-FOCUS did, and the interface, and that is in your report. What page is that? [BRIEFING]

SENATOR CAMPBELL: Well, one of the pages that you talk about how this all comes together is page 41. And that's where I became really concerned, in the sense that you're saying, you know, the Medicaid folds into N-FOCUS and CHARTS. And I have to say, that alone said to me that maybe, you know, your recommendation is on target, because maybe we need to adjust what we have, not creating all this new. We've got that capability, but it's not up to date. Is that, like, a layman's description? We're just not up to date; and it can do what we want it to do, but we're not now engaging that? [BRIEFING]

SENATOR KRIST: So that led me to...the follow-on to...in all my dialogue...I'm sorry I...that led me to...is N-Gen (sic) the problem? And once we get to a different platform we're going to be able to expand to take that new information and actually consolidate into N-FOCUS? [BRIEFING]

STEVE PATTERSON: CA-Gen is not the problem per se. CA-Gen is the hammer and the tools. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR KRIST: Right. [BRIEFING]

STEVE PATTERSON: ...and the nails, excuse me. We believe that there are some process things that are creating...depending on the timing in which you take a look at the data that you...things may or may not show up right away. The timeliness of getting the data entered in the system can be problematic as well. I'm sorry, go ahead.
[BRIEFING]

DON JORDAN: Senator, one of the... [BRIEFING]

SENATOR CAMPBELL: You probably have to come forward so that the microphone can pick you up. [BRIEFING]

DON JORDAN: One of the things we recognized...why we've got a little wider range than we would like to see on the estimate of \$17 million to \$40 million is the fact that we recognize that there are some interfaces that need to be analyzed, discovered, and built. [BRIEFING]

SENATOR KRIST: Okay. [BRIEFING]

DON JORDAN: ...and designed. Some of those are internal to state agencies and judicial...other branches, and some are to private. And whether you have 1 contractor today or 20, we need the ability to absorb their information seamlessly. [BRIEFING]

SENATOR KRIST: Right. [BRIEFING]

DON JORDAN: That has to be designed from...which is in the option that we recommend. But that would have to be designed, in any of these scenarios, to make that... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

STEVE PATTERSON: Right. [BRIEFING]

DON JORDAN: ...data access transparency seamless. [BRIEFING]

SENATOR KRIST: Got it. So N-FOCUS does exactly what we asked it to do back then; now we're asking it to do potentially more by bringing in more interface. [BRIEFING]

STEVE PATTERSON: Correct. [BRIEFING]

SENATOR KRIST: Some of that has to do with the red lines that... [BRIEFING]

STEVE PATTERSON: Correct. [BRIEFING]

SENATOR KRIST: ...in your diagram, going back and forth. [BRIEFING]

STEVE PATTERSON: Yes. [BRIEFING]

SENATOR KRIST: So we really are at a point where if we did a whiteboard and started over again...we're at \$150 million if we try to make some of those interfaces happen and make it more user friendly in terms of who we're seeing and who we're talking to than we are in the \$40 million range. [BRIEFING]

STEVE PATTERSON: Yes. [BRIEFING]

SENATOR KRIST: Okay. [BRIEFING]

STEVE PATTERSON: Yes, sir. [BRIEFING]

SENATOR KRIST: Thanks. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

STEVE PATTERSON: Don, you had... [BRIEFING]

SENATOR CAMPBELL: That...for the transcriber's benefit... [BRIEFING]

DON JORDAN: Sorry. [BRIEFING]

SENATOR CAMPBELL: ...that was Mr. Roth (sic). And so it would be helpful if you came forward and then identified just your name, that you're talking, so that they understand the difference. [BRIEFING]

DON JORDAN: Yes, I'm Don Jordan. The only thing I wanted to add as part of the response to your question is, the way N-FOCUS is built and used is kind of standard across the country. But when you start talking about going in and including the judiciary, they have a whole, entire set of, like, data needs. And I'm, you know, I'm not sure whether those have ever been tried...how successfully people have tried to bring those together. But I think that would be kind of a unique design. I'm...I would be skeptical that there's, like, a off-the-shelf option that would include child welfare and judicial. [BRIEFING]

SENATOR KRIST: Well, here, I'm going to give you a quick analogy. When we put together an intel-gathering system on an airplane and we had to pull in what AWACS was doing, what the RC was doing, and we had to get TADIL and TIBS to talk to each other, and we ended up with 16 F-16s instead of 4 because it multiplied it by 4. So there's real problems. But what we asked the system to do at the very beginning is not what we need to have done now. Because if you look at child welfare and you continue to have these stovepipes of issues out there, you'll continue to have the problems you do until you break down those walls and you're looking at the kids in the juvenile system, about to enter the juvenile system, in the foster care system, about to enter the system, and the quality of care; that's really the interface that we need. So that's why I was pushing towards the... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

DON JORDAN: Yeah, I think...but I do believe you start to get, really, into things you'd almost have to design yourself... [BRIEFING]

SENATOR KRIST: Right. [BRIEFING]

DON JORDAN: ...because they don't really exist much anywhere else either.
[BRIEFING]

SENATOR CAMPBELL: Mr. Patterson, I'm going to follow up a little bit on that and indicate...and I do want us to look at page 41, because in your report what really came forward is sort of like N-FOCUS is the basis. We can improve that. We can make it refresh; we can make it do what we want and speak to these other systems. I did not want the Appropriations Committee to start putting a lot of money into the MMIS system--that's Medicaid--which I believe is...you want to talk about a system that needs to be upgraded, and you're all smiling, so you get my point, because I didn't want them to spend a lot of money to get ready for the ACA only looking at the MMIS system without realizing how much of that feeds into N-FOCUS. Am I accurate in that description? [BRIEFING]

STEVE PATTERSON: Well, I think you're absolutely right. Now, to be honest, your folks have looked very deeply at the requirements of ACA and how that can be addressed either within N-FOCUS or with some other capability. It is an eligibility issue. N-FOCUS has a fairly strong eligibility system within it that utilizes that rules engine that we talked about earlier. It would have to be embellished considerably; earlier we were discussing this. And the time line of being able to get that accomplished may be a challenge, with N-FOCUS. But bringing in another system and getting it, you know, going through your RP process, purchasing, you know, bringing it in and implementing it and getting it all populated with that...probably at least that long, as well. So that is going to be a big challenge. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: But I just don't want us to put all this money into the MMIS system and then it doesn't speak with...I mean, I want people to see there's a bigger picture here than just each of these silos, to some extent. [BRIEFING]

STEVE PATTERSON: Yeah, now, I might point out that your MMIS system does not do eligibility. The eligibility for MMIS is accomplished in N-FOCUS. [BRIEFING]

SENATOR CAMPBELL: Right. Right. [BRIEFING]

STEVE PATTERSON: So... [BRIEFING]

SENATOR CAMPBELL: Yeah. I have to say, I've crabbed and crabbed about N-FOCUS, so when I read your report I became very skeptical. [BRIEFING]

STEVE PATTERSON: (Laugh) [BRIEFING]

SENATOR CAMPBELL: But I have to say that the report is very thorough in terms of its...you know, you go through each of these recommendations on the strengths and problems, with all of them. So you're very clear as to what the benefits are to the recommendation you finally make. [BRIEFING]

STEVE PATTERSON: Thank you. [BRIEFING]

SENATOR CAMPBELL: So I think there's any number of people that are going to have to read this report from those different viewpoints, as Senator Krist has indicated, and take a look at them. [BRIEFING]

STEVE PATTERSON: Yes, ma'am. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: Other questions? Seeing a question from my left here. Oh, very good question; she's met with the fiscal people. Is there funding available under the ACA auspices that would help us upgrade N-FOCUS? Did I accurately say that?
[BRIEFING]

MICHELLE CHAFFEE: Because under the ACA, it indicates that when you spend money on the MMIS system, other social services entities can be helped or assisted in that process... [BRIEFING]

STEVE PATTERSON: Correct. [BRIEFING]

MICHELLE CHAFFEE: ...as long as, kind of, the focus is for the ACA. So if we have an issue where N-FOCUS is our eligibility processing for the ACA, is it potential that we could utilize some of the funding for ACA improved computer processing for...also that would benefit N-FOCUS? [BRIEFING]

STEVE PATTERSON: Certainly there are federal funding opportunities out there that. As you develop your ADP to address this modernization effort, you would want to include that as a component, because certainly the eligibility portion spills over into the Medicaid environment, and that then touches on ACA. To what extent? At this point, I don't know how much it would be. But certainly it should be explored. [BRIEFING]

SENATOR CAMPBELL: Okay, any other questions? Senator Crawford. [BRIEFING]

SENATOR CRAWFORD: I just wanted to lay out, maybe, a brief summary. You talked about data currency, and I think we were trying to get at this issue. But I assume that that's really the issue of, can you get the data that you need in time. And it seems to me that's really one of the key issues we're concerned with. And so at one point you were talking about the N-FOCUS is a pretty good basis to build on. But also in the report it talked about some issues of not being able to find the information and information

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

entered in different formats by different users. So I guess I wondered, if I understand what you've been saying recently, you're saying it's better to build...your recommendation is to update and build on N-FOCUS, as opposed to pulling in something totally different. So could...is it the case that those data currency problems, you think, are...or maybe just a quick sense of some key ways that we could improve those data currency problems. [BRIEFING]

STEVE PATTERSON: Okay, let me just give you a couple of examples of where we see some data currency issues that are really kind of scheduling in nature. I mentioned earlier that, of the wealth of reports that get generated, most, probably, are coming from a shadow database. In other words, the N-FOCUS database is copied over here; reports get run against the shadow so that the processing requirements of the reports doesn't impact your on-line access performance. Okay? That only happens once a week at this point. So if you're looking in your report to see something within that time frame, you're not going to see what you're searching for. Now, there are some reports that go against the operational database. If by chance you have two different reports and one is coming from the shadow and one is coming from the operational, you may see inconsistencies in the data because of that one-week lag. From an operational perspective, let's say out in the field, and particularly let's go out west, you could have a worker that takes off and travels a couple of counties over on a Friday afternoon, captures information, doesn't go back to the office, goes home, maybe then gets ill; it could be, you know, three days to a week or whatever before that data gets entered into the system. And then these other things start to exacerbate that, that timeliness of that entry of the information. And that could be contributing to it. There's just some things there. And these are not difficult things to repair. The IT organization has looked at what it would take to do a shadow copy on a daily basis. I mean, there's an expense to it and, you know, the time to do that. But, I mean, if that's what needs to be done, then we could do that. Now, longer term, we believe that, you know, the development of the data mart that stays in sync with the operational database, basically transaction by transaction, is the better way to go. That's going to take some time, and there's going to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

be a cost associated with that. And certainly I believe that is beyond the \$40 million high end of this initial modernization effort. So that's where you ought to be working toward. But there are some actions that can be taken pretty quickly that can help, we believe. [BRIEFING]

SENATOR CRAWFORD: Hmm, just one... [BRIEFING]

SENATOR CAMPBELL: Go right ahead. [BRIEFING]

SENATOR CRAWFORD: Just...if we're talking...one of the other issues in the report was the interface issue, for example, the ACCESSNebraska having to retype information from application forms. So...and... [BRIEFING]

STEVE PATTERSON: Yes. [BRIEFING]

SENATOR CRAWFORD: So does this estimate we're talking about include upgrading all those interfaces, or not? [BRIEFING]

STEVE PATTERSON: No, it does not. It does not. Yeah, that's one that can be improved pretty quickly. There needs to be a more bidirectional and more robust interface with NFC so that there's data sharing going both directions. Right now it's a one-way sort of thing. Again, those are things that can be handled fairly quickly. But, no, they're not in the initial modernization effort. [BRIEFING]

SENATOR CAMPBELL: And I think that's going to be an important point, that Senator Crawford has identified here, in terms of what is in the initial and what may need to do, because at some point you want to get to real-time, because a number of states are at real-time, so that the worker enters it into a tablet... [BRIEFING]

STEVE PATTERSON: Right. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: ...or a smart phone and it's immediately there, so that at any one point we know where every child is in real time. And that, Mr. Patterson, has been a real frustration for this committee, is that we just don't quite have that. [BRIEFING]

STEVE PATTERSON: Correct. [BRIEFING]

SENATOR CAMPBELL: And that's why we complain about N-FOCUS all the time. [BRIEFING]

STEVE PATTERSON: Yes, ma'am. [BRIEFING]

SENATOR CAMPBELL: So somebody is going to have to spend a lot more time trying to ferret out, out of your alternatives, though, which ones we...what's the progression here. Would that be accurate? To get to Senator Crawford's point. [BRIEFING]

SENATOR CRAWFORD: The interfaces, you mean. [BRIEFING]

SENATOR CAMPBELL: Right. [BRIEFING]

SENATOR CRAWFORD: Including an interface as part of this discussion. [BRIEFING]

SENATOR CAMPBELL: Yes. [BRIEFING]

STEVE PATTERSON: Right. Out of the...all of the items that we've identified that are shortcomings in the system don't really get addressed in the initial modernization effort that we're showing here. So those things do need to be prioritized, and some of the foundational things need to be put into place. We believe that getting the N-FOCUS system off the mainframe and into an open-systems environment positions it to respond more directly to real-time efforts, interfacing with mobility capabilities. You know, the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

social workers, for the most part, I do believe have the opportunity at least to carry a laptop around. There's always going to be an issue of communications capability, though. You're going to be hampered by access to the main system through cell phone technologies. There are gaps in those; we know that. So you're never going to achieve full real-time capability, but you want to get there as close as... [BRIEFING]

SENATOR CAMPBELL: Right. [BRIEFING]

STEVE PATTERSON: ...as close as you possibly can. [BRIEFING]

SENATOR KRIST: And we haven't even touched on the security issue of that. [BRIEFING]

SENATOR COOK: Right. [BRIEFING]

STEVE PATTERSON: Absolutely, sir. Yes. [BRIEFING]

SENATOR COOK: Privacy. [BRIEFING]

SENATOR CAMPBELL: Any other questions? Thank you, Mr. Patterson, Mr. Jordan... [BRIEFING]

STEVE PATTERSON: And thank you. [BRIEFING]

SENATOR CAMPBELL: ...Mr. Roth, very much. Once again, the thoroughness of this report...I do want the committee to know that we did, obviously, provide...or contact the budget and fiscal office so they would know of our concerns. The legal counsel has also talked to Brenda Decker, who is the information...for the state of Nebraska. And we've also had some conversations with the department. So we're going to try to bring all of those folks together in a meeting so that we can begin to look at your report and make

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

sure that we don't get parts left out. And for those of you who care about ACCESSNebraska, Senator Crawford identified...that section, I think, is on page 43. And it was music to my ears to see the things that could be done there too. [BRIEFING]

STEVE PATTERSON: Yes, ma'am. [BRIEFING]

SENATOR CAMPBELL: So thank you very much for coming and presenting. [BRIEFING]

STEVE PATTERSON: And thank you. And if there's anything else we can do, please let us know. [BRIEFING]

SENATOR CAMPBELL: Absolutely. Thank you, Mr. Patterson. [BRIEFING]

STEVE PATTERSON: Okay. [BRIEFING]

SENATOR CAMPBELL: And with that, we will take a five-minute break. [BRIEFING]

BREAK

SENATOR CAMPBELL: ...return to your assigned seating. If you don't have...no, I'm kidding. Would you all just return to your chairs; we will resume. I want to make an announcement that we have moved the Foster Care Review Office report and the Inspector General's report to the 30th, to January 30. And we will also at that time honor, certainly, the request of NFC, who asked to also present information to the committee; and we will have NFC on the agenda on January 30 with the other two reports. And we thank Linda Cox on behalf of the Foster Care Review Office and Julie Rogers for being willing to keep their reports until January 30. Okay? Okay, we will continue on with our agenda. And the next presentation is from the Center for the Support of Families/Hornby Zeller. And I believe that we have two presenters here. Is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

that correct? [BRIEFING]

MICHELLE CHAFFEE: They're just going to switch chairs. [BRIEFING]

SENATOR CAMPBELL: Oh, they're just going to switch chairs. And Linda Darter. Am I saying that right? [BRIEFING]

LINDA DARTER: Right. [BRIEFING]

SENATOR CAMPBELL: For the Center for the Support of Families. And then Dennis Zeller from Hornby Zeller will be presenting also. Is that correct? [BRIEFING]

LINDA DARTER: Correct. [BRIEFING]

SENATOR CAMPBELL: Okay. Now we've also had a handout from the group on this presentation. And the major charge on this report was the assessment of child welfare services in Nebraska. So with that...and would you state your name for the record and spell it, please. [BRIEFING]

LINDA DARTER: (Exhibits 4 and 5) Yes. Linda Darter, L-i-n-d-a Darter, D-a-r-t-e-r; I'm with the Center for the Support of Families. And for this engagement we were joined by our partners Hornby Zeller Associates. We were privileged to respond to an RFP and to conduct our major work during the late fall and early winter of 2011. We were able to speak with many staff, both at DHHS and in the private sector, to gather information in order to give you an assessment of particularly three questions that you asked in the area of a child welfare assessment. Dennis Zeller, D-e-n-n-i-s Z-e-l-l-e-r, of Hornby Zeller was the primary analyst of the data we collected together and was the primary author of the report that you have before you. So I'm going to play musical chairs with Dennis now and ask him to walk you through our report. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: Thank you, Ms. Darter. Welcome, Mr. Zeller. [BRIEFING]

DENNIS ZELLER: Thank you. All right, as Linda said, we were asked to answer three questions. And you have them there. The first has to do with whether...or the degree to which privatization, especially in the eastern service area, had improved the outcomes for children and families in the child welfare system; and if there had been improvement, whether the cost of doing that was reasonable. The second question had to do with, regardless of what the actual outcomes had been, did either of the primary agencies in question--that is, DHHS or NFC--have the capacity to act as a manager of the child welfare network? And then the third question had to do with residential care and the utilization, the cost, and the outcomes for children in residential care over the last three years. In answering the first two questions, we limited ourselves in some ways. Rather than just ask whether outcomes had improved in the eastern service area, we needed some method of comparison. And so throughout answering the first two questions, we compared the eastern service area with the southeast service area and tried to find out whether there were the same things going on or different things going on. And as all of you know, the southeast service area became fully DHHS-operated again about last spring. So it provided a way to compare things that otherwise would be difficult to make a judgement about. When we looked at the outcomes, we also looked at two kinds of things. And they both stem from the federal review. The first kind looks at all of the cases that are relevant to a particular measure and, across the state or within a service area, asks how well are things going there, across all the cases. And it's usually outcomes. It is: Did you get children home in a year? Did you get children home and have them not come back within a year? Those broad kinds of real outcome questions. The second thing that the federal government does is look at more process-oriented sorts of things. To what extent do caseworkers visit parents? To what extent do parents get involved in their case planning? And so on. And those are usually measured on samples. And DHHS has a process where it mimics the federal reviews. And so it does this in each county...or each service area, rather, I'm sorry, not each county, but each service area. And so it can tell you, service area by service area, how well those things

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

are happening. Okay? Well, when we look at those, you look at the broad indicators, and one of the things we found was that at the point at which NFC took over everything in the eastern service area, their numbers seemed to deteriorate to a very heavy degree. When we look more closely at that, one of the things we were concerned with was the extent to which those numbers reflected cases that weren't theirs or that they had limited control over. And I'll give you one example. If a child went home under...was discharged from care and went home under a previous lead agency, be it DHHS or KVC, whoever it was, and then came back after NFC took over, they would be charged against NFC as a reentry. Okay? So we had some concerns with just how that got measured. The numbers looked not good, but we weren't sure that they were right, either. In fact, we were pretty sure that they weren't measuring what we needed to see measured. It's interesting, though, that on the southeast service area side we didn't see that break. The numbers stayed pretty steady between when the private agency was working that area and when DHHS took it over. It was a pretty continuous and nondisruptive, if you will, kind of transition. That's the broad-outcome kinds of measures. When we looked at more of the process things, the things that are looked at on a sample basis, we got a very different kind of answer. And over the period of privatization, starting about 2009 going through 2012, eastern service area figures were improving throughout. Okay? Now, during that same period, southeast service area was privatized, and its numbers were deteriorating. Okay? So part of what we take out of this is that you can't look at the organization of the services and say this is going to be better than that one. Okay? I mean, right now the measurements are such that we can't tell that either side produces better outcomes than the other. Okay? But we have some examples in here of where each one looks better than the other on something, and vice versa. Okay? So organization is probably not the issue that we ought to be talking about and focusing on. At the same time, what does seem clear, and I think all of you know this, is that when you look at the numbers, the performance is well below the national standards. And it is across the state, and it is in each of the areas that we studied. We want to be careful, though. We want to be real careful about how we use that information and, in particular, how we use the results of the federal measures. And I'll

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

give you an example of why. As I understand it, one of the motivations, probably only one, but a contributing factor to the decision to try privatization, was the results of the last child and family service review of the federal government. The federal government measures seven kinds of outcomes, seven different outcomes: two of them around safety, two of them around permanency, three of them around the well-being of children. Okay? Ten states managed to pass one of those outcomes, the education outcome; it's a well-being outcome that says you're doing enough for the children in the child welfare system to promote proper educational services to them. Not a single state passed any other outcome. Okay? We have two safety outcomes, we have two permanency outcomes, and three well-being; ten passed one of the well-being, nobody passed anything else. So you don't have a crisis in performance when you compare yourselves to other states. Okay? Your performance needs improvement in some specific ways, but it's not a disaster when compared to everybody else. Okay? And I think that needs to be said, and it needs to be clear here. So it's not only that it's not the organizational issue that drives your outcomes, it is that some of the interpretation of what's been happening is probably not accurate. Okay? Now that's the outcome question. It leaves open the question of cost. Since we couldn't find an improvement, we can't say that it was worth the cost. Probably wasn't, by definition, because you don't have any improvement that we can measure. Okay? That leads us to the second question. Okay, regardless of what the outcomes were, we're not...what do we have in terms of leadership capacity? Does either NFC or the department have the capacity to lead a network of child welfare agencies? And to do that, we had to start with some standards. The only group that we found that has child welfare-specific standards is the Council on Accreditation, and they do for network managers. So we took that as one source. We took a couple of medical sources. Obviously, the network management model in child welfare comes from managed care and health. And so we took the ambulatory healthcare group, and we took your contract with Magellan, which is essentially the same thing, and then we took the contract between DHHS and NFC, assuming that that had some things in there that certainly DHHS believed needed to be part of network management. Now those were the standards against which we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

measured this. And what we found was that both organizations look pretty strong when you just go through the standards and ask, are they capable of it? NFC has good policies; it has personnel practices that are appropriate; it has a strong case management capacity. And DHHS has improved its administration...its organizational structure significantly over the past year or two. It's got a strong training effort, and they're making some moves to improve their accountability mechanisms. Each one also has some weak points. And on NFC it's obviously fiscal viability. I don't think that's a surprise to anybody. And there's two versions of it. You know, NFC says, we don't get a high enough rate; and DHHS says, your costs are too high. Okay? So...but the bottom line is, if it stays the way it is, you've got a very delicate situation where NFC may or may not be able to survive. On the DHHS side, we think that the major deficit is in accountability. And there's really two models of that that I want to stress here. One is normal contract monitoring. And, you know, there are reports that we're going to results-based contract monitoring in July, and that would be a major step forward if that happens. But the other side is the regulatory...what we call the regulatory function up there, which is not something we often think about. But if you look at the relationship between DHHS and NFC right now, it's a contract, but it's not a contract in the normal sense because DHHS doesn't have a choice about whether they do that contract. You have said, we're going to privatize for the time being, and so that contract has to be out there. So the relationship is very different than it is with a normal contractor. You need to think about that relationship more in terms of what happens in county-administered states. Say if you go to Colorado, where child welfare services are delivered by the county, not by the state, and then you ask yourself, what's the state agency's role there, because they have one, and they have a strong one. But it's a regulatory role; it's a financing role; it's a different function. And that kind of function has not been well developed here, and understandably, because you're still in an experimental stage. But if it's going to work in the longer term, I think that kind of function has to become an essential piece of the puzzle. It's not going to be just, does NFC do what it's supposed to? DHHS has got to take a different kind of role, okay, than it's taken before. Okay?

Third question was residential placements. This was interesting when we looked at this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

because your putting this in there suggests that there is a perceived problem with residential placements. And so the first thing we did was go look at how many you have and what's the trend. And ten years ago you had about 1,200 kids, on average, in residential placement; today you've got about 700. Okay? So you've had a pretty steady decrease over the last ten years in the number of kids in residential placements. Okay? We looked at the kids themselves, not surprising who they are: nine out of ten of them are teenagers or...well, not "or older," but they're teenagers; and eight out of ten of them have behavioral problems. Those are exactly the kids you would expect to be in these kinds of placements. When we looked at the placements, it got kind of interesting because you have two systems for classifying them: N-FOCUS classifies them one way; Medicaid classifies them another way. And you'll go look at the same place and it will be described by one of the systems as a residential treatment center and by the other as a group home. And so teasing that out is a little difficult. What we think, though, is that the majority of your facilities, the majority of the kids are in group home kinds of settings rather than in very large placement settings. Okay? In terms of conclusions about this, the most surprising things to us were, first, that one out of every six kids stays in residential less than a month. Okay? And we have suggested that maybe that's because of the dearth of foster homes. It's also, in part, we think, because of assessments being done. But if that many kids can go home after a month, we would question why the assessment needs to take place in a residential facility as opposed to somewhere else. Okay? With the kid left at home or the kid in a foster home, you may be able to avoid that extra cost of the residential facility, okay, and still do the assessment. The second thing was to look at what happens when Medicaid says: no, we're not going to approve a residential placement. And what we found is that 42 percent of those kids--and that's probably an underestimate, I'll say why in a minute--but about 42 percent of those kids go into residential anyway. And it's an underestimate because that's basically only the kids that N-FOCUS shows going into residential placement. The way the data were given to us we couldn't tell if the kid later went into a Medicaid facility. Okay? So these are the important ones anyway, because these cost you state dollars. Okay? This is saying this many kids are going into residential and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

you're not getting the federal Medicaid dollars for them. Okay? So these are the expensive ones. And that's a pretty high percentage, 42 percent. Somebody, whether it's a judge or a caseworker with a judge's blessing, you know, or whoever it is, ends up putting that child in a residential facility anyway, and you're paying for it. Okay? So where do we come out? We think this system, the way it's functioning right now, is focused on the wrong issue; it's focused on organizational structure. It's not focused on families, and it's not focused on kids. People have worried about are we...should we be privatized or not privatized, and the result of that has been that both sides are kind of sensitive about all the organizational issues. NFC is sort of worried about its survival. I would say that the department feels somewhat usurped: they had some of their functions taken away and given to somebody else. And that's what everybody is worried about, on both sides. We need to turn that off somehow. We need to say: okay, it's time to just look at families and kids; what do we need there? Okay? And you're only going to be able to do that, you're only going to get stability if you can solve the rate issues. Okay? We're not saying which way is right, because we don't have a way to get in there and, you know, in the time we had to do this, to figure out who's right. But whether you do it by reducing NFC costs or you do it by raising rates or some combination of the two, that rate issue has got to get solved. Okay? And it's obviously going to be easier to do that if you can generate more federal funds. Okay? PCG gave you some ideas on that. We've thrown out a couple of ideas on that, around training and around in-home services, where you can get IV-E dollars. Okay? And so we understand it's not just you putting up more money. You know, if you can get more federal funds into the system, you have more flexibility to do what you need to do. Okay? And the department is making moves in that direction, and they ought to be given credit for that. But you need to recognize that's opportunity for you too. Okay? Accountability measures need to be strengthened. And here the department has done something quite understandable. They took the federal measures and they said, we're going to track these, that's what we're going to put in the contracts, and so on. That's not enough. Some of the federal measures--and there's lots of literature about this--have perverse incentives in them. Some of them don't do a good job of measuring what you really want done. And at this

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

point we would say that what needs to happen is the department needs to decide, probably with your help, what do you really want to have happen, and then design your own measures for that. In other words, yeah, you've got to pay attention to the federal government, and you've got to worry about whether you have disallowances and so on. But it's also your job to figure out what's the right thing to do, and how do we do that, and how do we measure doing that. Okay? And then the final thing has to do with foster homes. I haven't mentioned that before except in relation to residential. But one of the things we heard from, I would say, everybody we talked to was that there are not enough foster homes. And we looked at this a little bit just last week. You have one foster home for every child in care. Okay? That means when you have another child coming in--we understand there's more than one bed in every home--but you have limited options. Okay? And because you have limited options, kids may end up in the wrong place. And if a kid ends up in the wrong place, he's going to probably bounce to the next place. I mean, if he bounces often enough, he's going to end up in residential care. Okay? So having more foster homes, having the right resource for each child, having some options, so that you can say, well, that's a better match than this one is, that becomes important. Okay? And we're open for questions. [BRIEFING]

SENATOR CAMPBELL: Senator Krist. [BRIEFING]

SENATOR KRIST: Where do I start? I want to start backwards. Major effort needed to increase the availability of foster homes. [BRIEFING]

DENNIS ZELLER: Okay. [BRIEFING]

SENATOR KRIST: We did everything we could do to ruin the infrastructure in this state through the initial steps of privatization. Over and over again in our travels around the state we found out people would not stay around and do the job for nothing. They were compassionate people; they wanted to take care of our kids. But you can't, so now we'll go back to (inaudible). Okay. So, again, you have affirmed what I think we saw

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

firsthand. You can't kill the infrastructure and reinvent it... [BRIEFING]

DENNIS ZELLER: No. [BRIEFING]

SENATOR KRIST: ...in a short period of time. [BRIEFING]

DENNIS ZELLER: That's a terribly important point. And we've seen it in the last 20-30 years in child welfare in various places. [BRIEFING]

SENATOR KRIST: You talk about, again backwards: stability requires resolution of the rates and the accountability of the funds that are available. Our first presenter told us: you need to start using the federal money because it's 90/10. We've had...I've had complaints from the providers out there saying time and time again they have provided the state with an opportunity to go into grant systems to augment the money that we're paying for services. And again and again they've said: We're not going to cosign, we're not going to sign this bottom line. Why? That's the...goes back to your leadership point later on. And I'm still on my soapbox, Ms. Chair, I'm sorry. But the other one that really rings true for me is the expectation of loss. The state of Nebraska expected that we were going to stand on the backs of the 501s, the nonprofits, and they were going to do our job for us for less money. So we put them in a position where we underfunded things from the very beginning in this thing. And the expectation that you're going to be able to do that long term and ride on the backs is completely improper, if not immoral in some ways. And our present leadership still treats the contractor like someone who works for them instead of works with them. And that's been my problem since we started talking about it. And it goes back to your point, and I've got to agree with you: we've put them in this position by telling them we had to have a contract. But, by God, I've been told a lot of things I have to do, and it's the attitude that you take to get it done that either makes it successful or not successful. So again for public platform, I will say, or public information, I'm disappointed that we're not giving it 100 percent to make sure that this thing works, rather than the expectation that if, potentially--and I'm not

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

suggesting that this is true, but it seems to me like there's an element of truth in it--if it doesn't work, we won't have to do it anymore. [BRIEFING]

DENNIS ZELLER: Let me put a corollary to that. One of the things that, as outsiders, we perceived when we came in, and I think we still perceive, is that, whether because of this experiment or because of other factors, there's a trust level that does not exist here, that does exist in more successful systems. And so it almost doesn't matter, from that perspective, whether you make everything public again or you make everything private. If that trust isn't there, it's not going to work. The people have to work together. That's the most important thing you can build right now, is rebuild the trust among all the players. [BRIEFING]

SENATOR KRIST: And that goes back to contract...the ability to contract and establish the trust between the contractor and the state. Thank you. Thank you, sir. I appreciate it. Sorry about the rant. [BRIEFING]

DENNIS ZELLER: That's all right. (Laugh) We've heard lots of them on this trip. [BRIEFING]

SENATOR CAMPBELL: Mr. Zeller, one of the questions I want to ask...and I'm sort of going to start at the end too. I have thought, after reading the report...and then our legal counsel also summarized the report; I mean, we've got lots of information here. Is there value in repeating, that you would come back...now that we have some sense...and I do have to apologize to you. I think, you know, we weren't trying to stymie your verification of the data; we had a whole other reason, and I apologize for that. But it would seem to me that if we all can agree on what that data is and what you're following--because I think we can probably work that out, between the department and NFC and yourself--is there a value in replicating what you did, say, like, this fall, and then coming back and talking, so that we'd have, you know, this report and then another one? And I know people don't turn down work, but... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

DENNIS ZELLER: No, no, no, no, no. I think there's a value in it, but the main value would be to create appropriate accountability measures. [BRIEFING]

SENATOR CAMPBELL: Okay. [BRIEFING]

DENNIS ZELLER: Okay? It would not be necessarily to go back and just figure out what's right about these numbers. And I've learned a few things since the report came out, and, you know, so I might do stuff a little bit differently too. But it would be to create a model, or at least part of a model, for how we ought to measure performance in the future. And there would be tremendous value in that, I think. You know, everybody has got to work together on it. But, yes, I think there would be great value in that. [BRIEFING]

SENATOR CAMPBELL: And it would seem to me that part of that, in working with the department--I mean, we have all of the, if you call, players at the Children's Commission table--that it would be incumbent upon this committee to also ask the Children's Commission to say, okay, what would be those accountability measures, because we've asked them to review this whole idea of lead agency and not just from a perspective of a geographical area. [BRIEFING]

DENNIS ZELLER: Right. Right. [BRIEFING]

SENATOR CAMPBELL: ...because there's lots of lead agencies that have to do with...they do all the foster care recruitment in a state and so forth... [BRIEFING]

DENNIS ZELLER: Right. [BRIEFING]

SENATOR CAMPBELL: ...I mean, topical. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

DENNIS ZELLER: Sure. [BRIEFING]

SENATOR CAMPBELL: And I think that in Nebraska we've so seen lead agency to mean "geographic" that we can't think of other models that that could be. But I'd certainly like to see them involved in what those measures are, because you hit that very hard throughout your whole report, that the federal COMPASS measures are probably not going to give us... [BRIEFING]

DENNIS ZELLER: Right. [BRIEFING]

SENATOR CAMPBELL: ...what we need in the accountability. [BRIEFING]

DENNIS ZELLER: Absolutely not. Absolutely not. And, you know, we aren't even sure what the measures will look like in the future. I mean, the feds are now in the process of piloting a new CFSR. And they won't tell anybody what they're piloting. [BRIEFING]

SENATOR KRIST: Imagine that. [BRIEFING]

DENNIS ZELLER: Okay? They are piloting it in four states, and they've instructed those states not to talk to other states to tell them what's coming. Okay? So you've got an opportunity, it looks to me at this point, to say, well, we're going to do what we need to do because we can't even predict the next time it comes around what that process is going to look like. [BRIEFING]

SENATOR CAMPBELL: One of the questions...one of the issues that you indicated right at the beginning, and we just want to be really clear, so that the record is clear, that the statute says that the department may enter into a contract on the pilot. It does not say it "must." [BRIEFING]

DENNIS ZELLER: No, I understand that. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: But I get what you're saying, the relationship is different than the regular contract. [BRIEFING]

DENNIS ZELLER: Yeah. [BRIEFING]

SENATOR CAMPBELL: But we just want the record to be clear that... [BRIEFING]

DENNIS ZELLER: Right. [BRIEFING]

SENATOR CAMPBELL: ...they have that option. [BRIEFING]

DENNIS ZELLER: But if they decided to cancel the contract today, you'd probably have a reaction to it. [BRIEFING]

SENATOR CAMPBELL: Oh, I'm sure. I'm sure of that. Senator Gloor, you're so deep in thought over there, I... [BRIEFING]

SENATOR GLOOR: Well, I'm trying...let me ask this question, or I'll probably fall asleep saying I should have asked it. I'm just puzzled by the fact that the federal outcome measures get talked about and talked about and talked about, and you started off in your presentation saying, for all intents and purposes, nobody can meet them, except one state, one outcome. [BRIEFING]

DENNIS ZELLER: Yeah. Yeah. [BRIEFING]

SENATOR GLOOR: So what are they, magical stretch goals that everybody should realize as...I mean... [BRIEFING]

DENNIS ZELLER: Something like that. Something like that. It was basically designed to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

be a continuous quality improvement process. And so they won't talk, for instance, about passing and failing; they will talk about being in conformity or not conformity, which means the same thing. But they want to present it as: We're trying to make the system better; that we're not about compliance, we're about quality. Okay? And in that sense, yes, it's stretch goals. On the other hand, it's attached to fiscal penalties, and so, in effect, those are minimum standards as well. [BRIEFING]

SENATOR GLOOR: But the financial penalties don't appear to be coming into play. [BRIEFING]

DENNIS ZELLER: Well, they come into play if you don't meet your PIP. And some places don't. So they haven't hit you, but they have hit other places. [BRIEFING]

SENATOR GLOOR: And it's a moving target. [BRIEFING]

DENNIS ZELLER: Yes. [BRIEFING]

SENATOR GLOOR: You're also...your advice is, among other things, as relates to this: It's a moving target; don't be obsessed by them, don't let it inappropriately influence your decision. [BRIEFING]

DENNIS ZELLER: Well, let me give you a really good example of why not to be obsessed by them. There's a couple of measures that look at a specific population. And one of them is adoption, where they look at kids who have been adopted, and they ask the question: What percentage of them got adopted within 24 months? And for both rounds of the child and family services review they've used that measure. Now, the problem with it is that if you then get a child adopted who's been in care more than 24 months, he counts against you. Okay? So once kids hit the 25th month, your incentive is not to get them adopted, to let them stay in care. That's not what you want to have happen. Okay? And, you know, I've known child welfare directors who say: Well, we're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

just going to ignore that because that's the wrong thing, so we're going to try to get those kids adopted anyway; and if we get penalized, well, then we get penalized. But that's not the kind of system we want. [BRIEFING]

SENATOR CAMPBELL: Mr. Zeller, one of the questions...that, as we begin to put those measures into place, we have to have a way in which we can follow them. We put into the statutes last year that a voluntary case, you know, a whole new approach, that a family could say they're going to voluntarily...that we ask for a case plan, so at least we knew what was going to happen there. [BRIEFING]

DENNIS ZELLER: Um-hum. [BRIEFING]

SENATOR CAMPBELL: But...and the department is also looking at alternative response or differentiated response. The point being is, how do we track that, how do we, you know, I suppose, set measures to it so that we don't lose track of those families? [BRIEFING]

DENNIS ZELLER: Well, if they're open cases, they're in your system, right? [BRIEFING]

SENATOR CAMPBELL: Well, there's some talk about the fact that...well, I guess they wouldn't be in the registry if they were alternative response... [BRIEFING]

DENNIS ZELLER: Right. [BRIEFING]

SENATOR CAMPBELL: ...but they would be, you know, taken out. And so I'm just trying to figure out how we track... [BRIEFING]

DENNIS ZELLER: Well, that's a question. That's a question whether they'd be in the registry or not. I mean, there are different ways states handle that. Pennsylvania handles it the way you're talking about; they've been a two-track system forever and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

ever and ever. And they only have what they call child protection cases in their registry; those are, essentially, abuse. And anything that's neglect is any records maintained at the county level, it's not at the state level. But you don't have to do that. There are other states that record it all, okay, but they record it as different statuses, that, you know, this is an investigation case, that's an assessment case. And then they record what the outcome of the investigation is, they record what the outcome of the assessment is, they record what services are provided to any open case; and cases can be opened from either of those directions. Okay? So there's different ways you can do that.

[BRIEFING]

SENATOR CAMPBELL: Because I think what you're trying to say to us is that, whatever those accountability measures that we come up with, we need to be able to track those, not only for what we are doing in a pilot situation but what we are also seeing from the department... [BRIEFING]

DENNIS ZELLER: Absolutely. Absolutely. [BRIEFING]

SENATOR CAMPBELL: ...all across the state. Okay, another question I wanted to ask you is that we have begun to pay...and by "we" meaning, I suppose, in our office. I'm paying much more close attention to the number of placements that children zero to five have. And I'm becoming concerned about seeing a child in that age range have two placements or three placements. Can you speak to that? I mean, is that a measure that we ought to look at? [BRIEFING]

DENNIS ZELLER: Well, of course you should look at it. If you've got a problem with kids zero to five bouncing around, that's a very serious problem, because those are the kids that you wouldn't expect to bounce. In fact, in another state we're doing a project that we sort of scratched our head about and said we don't understand it, because they were focusing on kids four to ten and bouncing around, and even those kids don't bounce.

You know, the ones who change placements, in most states, are older kids; they are the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

behavioral problems, the teenagers. So if you've got issues below that, then my suggestion is that you probably, again, don't have enough choices in your foster homes, that you haven't been able to match those kids up with homes that know how to care for them. [BRIEFING]

SENATOR CAMPBELL: And in your report you are very...I think you draw a very bright light on the situation that, you know, we rotate... [BRIEFING]

DENNIS ZELLER: Yes. [BRIEFING]

SENATOR CAMPBELL: ...it's my turn to take somebody, and then it's Senator Krist's turn and Senator Cook's, and so forth, rather than saying... [BRIEFING]

DENNIS ZELLER: Yeah. [BRIEFING]

SENATOR CAMPBELL: ...who really ought to take this child. [BRIEFING]

DENNIS ZELLER: Yeah. Yeah. Yeah. [BRIEFING]

SENATOR CAMPBELL: And so it's...the optimum... [BRIEFING]

DENNIS ZELLER: If you want to put something in N-FOCUS, put in a matching capacity, where you can have recorded the preferences of the foster parents, any special capacities they have because of extra training or that sort of thing, and you put in the needs of the kids, you know, the issues that they're facing, the age, the gender, that you can match against preferences, and so on. And you generate a score, and you say, okay, this home looks better than that home does for this kid. And when a kid is being placed, you use that, especially if it's not an emergency placement. [BRIEFING]

SENATOR CAMPBELL: Okay. Senator Krist. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR KRIST: Let me suggest, though, and maybe I'm off track, but we heard in a great number of cases across the state that during privatization and then the transition into DHHS performance, the rates that we were paying the zero-to-five were so ridiculous that they couldn't afford to keep the child in diapers, given what they were being paid. Statistically, could that weigh into the zero-five model? [BRIEFING]

DENNIS ZELLER: Well, it could, but there's an easy way to figure that out. I mean, most states when they set their foster care rates use as a base of some sort the USDA cost of raising a child; it's published every year. It is there by income level: you can look at it for very-low-income families; you can look at it for middle- or higher-income families. And costs go up the higher your income. It's a pretty standard way of looking at what you ought to be paying and what the real cost of caring for a child is. You shouldn't have those problems. You certainly shouldn't hear, you can't pay for diapers, if you are, in fact, using that as a base for your calculations. [BRIEFING]

SENATOR KRIST: Thank you. [BRIEFING]

SENATOR CAMPBELL: Mr. Zeller, in the report you spend a great amount of time, I think, talking about the financial liability and stability of NFC. And one of your recommendations, I think, is fairly clear about trying to work out some stability on the rate issue. And I think the department and NFC are talking about that. But one of the other things that you allude to in the report, and certainly we're aware of, is that there's no financial obligation by any of the partners in NFC... [BRIEFING]

DENNIS ZELLER: Um-hum. [BRIEFING]

SENATOR CAMPBELL: ...should there be a deficit. [BRIEFING]

DENNIS ZELLER: Right. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR CAMPBELL: And so the question is, is that a requirement that ought to be in place? [BRIEFING]

DENNIS ZELLER: Well, I don't...I doubt you could. You know, I think Senator Krist suggested that before, that at some level this was an experiment to say, let's transfer some of the public cost over to the 501(c)3's. [BRIEFING]

SENATOR CAMPBELL: Right. Right. [BRIEFING]

DENNIS ZELLER: You can do that, but then it's unlikely any of them are going to volunteer. So, you know, again, as we said in the report, county-administered states do that. Okay? The counties put up money. And that's why some states are county administered, because they can split the costs between state and county. Okay? But when you do public state and private provider, it's unlikely. [BRIEFING]

SENATOR CAMPBELL: Okay. So, in other words, the financial stability comes down to how you deal with the rate. [BRIEFING]

DENNIS ZELLER: I think it does. And, you know, well, we suggested there...one of the things we suggested was you model a rate. You know, what do you want for a caseload? And you can figure that out then. You know, a caseworker costs X amount, you expect 1 caseworker for every 13, 15, 25, whatever the number is of cases; you build a rate around that. [BRIEFING]

SENATOR CAMPBELL: But I think part of the concern, if I've listened to some of the conversations that we've had with NFC, and we'll certainly let them speak for themselves on the 30th, but their concern has been the difference in the administrative and how you look at that and figure that into the rate. Any comment that you have after looking at the systems? [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

DENNIS ZELLER: Well, I mean, we've done a fair amount of rate setting in the past, and, you know, what we've done in that regard, mostly, on the administrative side, is to say, let's set some rules as to what's an allowable administrative cost. And then let's look at what's being spent, within those rules. Now the problem you have here is that you only have one lead agency at this point. You know, if you're doing normal rate setting, you can look across a set of agencies and you can say, let's average them, or let's take two-thirds of it or one-third of it, you know. But you have some variation to play with and some idea, therefore, of what's reasonable. With just one, it's very hard. So you're probably down, again, to modeling, to, you know, what should your organization look like, how many middle managers do you need, you know, how many supervisors should there be for X number of caseworkers, and so on. I think you have to sort of build what you think is a reasonable organization, and that's probably a negotiation. [BRIEFING]

SENATOR CAMPBELL: Senator... [BRIEFING]

SENATOR GLOOR: Thank you, Senator Campbell. And I go back to what I will take out of your presentation, a lot of things, I mean, it's been very helpful to me. But there are a lot of agreements between a lot of different parties and a lot of different venues in life that come to handshake agreements but without comparable data to say: I'm treating you fair and you're treating me fair. At the underpinning of all those handshake agreements is trust. [BRIEFING]

DENNIS ZELLER: Yeah. [BRIEFING]

SENATOR GLOOR: And that seems to be badly missing in this particular agreement. And if we could figure out a way to get to that overnight, I would think we'd have to spend a lot more time talking... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

DENNIS ZELLER: Absolutely. I think if you can solve that...once you solve that, all the rest can be solved. [BRIEFING]

SENATOR GLOOR: I thought you'd have that answer. (Laughter) [BRIEFING]

DENNIS ZELLER: How to solve the trust? We would have done it if we did. [BRIEFING]

HELAINÉ HORNBY: Can I interject about that? [BRIEFING]

SENATOR CAMPBELL: Ma'am, you'd have to come forward, identify yourself, spell your name. [BRIEFING]

HELAINÉ HORNBY: I'm Helaine Hornby, the other principal at Hornby Zeller. [BRIEFING]

DENNIS ZELLER: You have to spell it. [BRIEFING]

HELAINÉ HORNBY: H-e-l-a-i-n-e H-o-r-n-b-y. Our first conclusion is that the system needs stability. And part of that stability means we're recommending that the NFC relationship with DHHS be maintained in the Omaha area, in, you know, the region where it currently is. I think the current contract goes for, what, another couple... [BRIEFING]

DENNIS ZELLER: Till '14. [BRIEFING]

HELAINÉ HORNBY: Okay, another couple years. If you have a commitment to each other at least for that long, I think at least you have a grounds to start doing this negotiation and build your trust, because you know it's not going to change right away. So I think that would at least be a starting point, is to commit to that and to go from there. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

SENATOR GLOOR: Certainly. Thank you. [BRIEFING]

SENATOR CAMPBELL: Senator Krist. [BRIEFING]

SENATOR KRIST: You said you had been involved with establishing rates. [BRIEFING]

DENNIS ZELLER: Um-hum. [BRIEFING]

SENATOR KRIST: To my knowledge, we've never had a mediator in these rate meetings where we sat down. Does your firm or do other firms do that kind of thing? [BRIEFING]

DENNIS ZELLER: Sure. [BRIEFING]

SENATOR KRIST: Okay. [BRIEFING]

DENNIS ZELLER: Sure. I mean, we never just run off and do it by ourselves. We sit down with the public agency and the private agencies, and it becomes something that really is a consensus in the end. [BRIEFING]

SENATOR KRIST: Okay. Thank you. [BRIEFING]

SENATOR CAMPBELL: And we would probably have to ask the department, and we can do that between now and the 30th, but I think that they utilized Casey Family Programs as... [BRIEFING]

DENNIS ZELLER: Yeah. [BRIEFING]

SENATOR CAMPBELL: ...as an assistance for that. So... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

DENNIS ZELLER: Yeah. [BRIEFING]

SENATOR CAMPBELL: And in the state of Nebraska, of course, we have the prevailing rate issue, in terms of establishing that...whether that can be done at the rate that the department could do it or for less. [BRIEFING]

DENNIS ZELLER: Yeah. [BRIEFING]

SENATOR CAMPBELL: So...and you covered that also in your report. [BRIEFING]

DENNIS ZELLER: Yes. [BRIEFING]

SENATOR CAMPBELL: Any comment you want to make about the prevailing rate?
[BRIEFING]

DENNIS ZELLER: Well, as we said in the report, when you have one agency, there's no prevailing rate, or it's the rate that the agency is getting or it charges. So it's kind of an odd situation. It's, you know, either the statute prohibits contracting out implicitly, if that rate is above what the department could do for itself, okay, or it doesn't mean anything at all because there's only one, there is no prevailing rate, so there's nothing to compare it to. Okay? So... [BRIEFING]

SENATOR CAMPBELL: Okay, I just wanted to give you the opportunity. [BRIEFING]

DENNIS ZELLER: You need some clarity, you know. And that's part of it, because I think when you have statutes like that or regulations that are of that nature, which can be interpreted...they look fine on the face of it, but in a situation where there is exactly one vendor, it doesn't really make a lot of sense anymore. And so the department needs some help in either being given leeway or being given an interpretation and saying, you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

know, this is the way we're going to see it. [BRIEFING]

SENATOR CAMPBELL: Any other questions from the senators? Thank you, Mr. Zeller. And I'm sure, just like every other group, we may follow up and ask you additional questions. [BRIEFING]

DENNIS ZELLER: That's fine. We'll be happy to answer. [BRIEFING]

SENATOR CAMPBELL: So I very much appreciate your work. [BRIEFING]

DENNIS ZELLER: Thank you. [BRIEFING]

SENATOR CAMPBELL: Our next presenter...and it certainly is a pleasure to introduce Karen Authier. Ms. Authier serves as the chair for the Nebraska Children's Commission, and she is going to talk to us today about the Phase I strategic plan for child welfare and the juvenile justice reform. Would you like some...oh, you have handouts, okay. I would like to see a show of hands in the audience...I know we've lost some people because they probably needed to go home, but how many people in the audience serve on the Children's Commission? Welcome. We're glad to have you. I know you met this morning. [BRIEFING]

KAREN AUTHIER: And Candy just walked out the door. [BRIEFING]

SENATOR CAMPBELL: Yeah, Candy just walked out the door, that's right. Welcome, and it's a pleasure to have you. So start right ahead. [BRIEFING]

KAREN AUTHIER: (Exhibit 6) Thank you. My name is Karen Authier; that's K-a-r-e-n A-u-t-h-i-e-r; and I'm serving as the chair of the Nebraska Children's Commission. And first off I would like to thank all of you, Health and Human Services Committee. I think we had great wisdom in creating the Children's Commission and in particular the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

representation that includes such a broad base of stakeholders who have both the experience and the passion regarding the very challenging child welfare and juvenile justice issues that were identified in LB821. We've been meeting monthly since June 7, 2012, and as commission members we have embraced the tasks that were set out for us. And we submitted our Phase I strategic plan on December 15, and I would want to emphasize, as stated in the plan, it is a broad consensus document. It provides a framework and a structure for development of more-detailed and specific recommendations and strategies in 2013. It's now 2013. The Phase I plan does provide an overarching framework that has vision, values, and goals. And we laid that out in response to some questions we asked ourselves: To what standards will we, the state, hold ourselves accountable? And what do we see in place by 2015 as a result of our collective action? All of us on the commission had been through the turbulent years of change and uncertainty in the child welfare and juvenile services system. We've been committed to presenting a plan that included a strong agenda for the future, in contrast to a next best flavor or a quick-and-simple cure approach. And my belief in that has been reinforced listening to the presentations this afternoon. We believe that change in the system cannot come overnight but is the result of thoughtful planning. There was strong support that emerged as we were involved in our discussions for utilizing demonstration or pilot projects to test out and refine new ideas. We have a strong belief in the comprehensive planning approach. And since submitting that, I've gone back and read the report "Unclaimed Children Revisited." It's a 2008 report from the National Center for Children in Poverty, and they cautioned against fragmented and piecemeal approaches when reform is needed. So, reading that, I was reassured that the commission members, to a person, I think, believed in taking that long view. There were themes that emerged during the strategic planning process. That included a strong focus on community collaboration and responsibility for child well-being; not just child welfare, not just safety, not just permanence: child well-being. We also believed, as I said, that the comprehensive planning for a system of care was extremely important. Again, those notions, I think, were reinforced by some of the testimony this afternoon. We also recognize the need for a common data system and the capacity to mine that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

data for outcomes and trends. The importance of a robust set of prevention services was very much on our minds, and, underlining that, the value of a work force that is capable and well trained...caseworkers. These themes then were incorporated into four goal statements. So you have all of this, and I'll just mention again that the actual goals that we set are very broad: encourage timely access to effective services through community ownership of child well-being; support a family-driven, child-focused, and flexible system of care through transparent system collaboration with shared partnerships and ownership; three, utilize technological solutions to information exchange and ensure measured results across systems of care; and fourth, foster a consistent, stable skilled work force serving children and families. I am not going to go over that we developed numerous strategic recommendations for each of those. I have my copy of the report with me and would be happy to answer any questions about any of the strategic recommendations. Wanted to emphasize the fact that we worked as a body, the commission as a whole, using a strategic planning process to reach consensus on the four goals that I mentioned and the strategic recommendations. That process included some review of recommendations that were submitted by advocacy and stakeholder groups apart from the commission. In addition, there were four committees created by LB820 and LB821. Those committees worked separately to prepare recommendations in their specific areas of focus. Those committees were Juvenile Services, Psychotropic Medication, IV-E Demonstration, and Foster Care Reimbursement Rates. All of the recommendations of those groups did receive commission approval. Two of those committees, the Juvenile Services and the Psychotropic Medication Committee, will continue their work. The other two committees, the IV-E Demonstration and the Foster Care Reimbursement Rates Committee, submitted their final reports. The Juvenile Services Committee is making good headway in its study of many issues assigned by LB821 for them to review, and they are promising to have recommendations by July 1, 2013. They did endorse, however, the commission's vision for that broad focus on both child welfare and juvenile service populations and those services provided to that group, because that group as well as the commission believes that those four goals and the respective strategies apply to all

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

of the questions that were presented to them. The Psychotropic Medication Committee is in a little different place. They did recommend that the state adopt the recommendations of the AACAP; that's the American Academy of Child and Adolescent Psychiatry position statement on the oversight of psychotropic medication use for children in state custody. And they are going to be continuing to track and provide input as those recommendations are implemented. That leaves us a lot of work, and we did meet this morning. Many questions in LB821 remain unanswered. In Phase II, which has started officially as of this morning, we will include further discussion and action steps that relate to the strategic recommendations in Phase I but also attend to the other issues that were identified in LB821 but have not yet been addressed. And that includes the review of operations and structure of the Department of Health and Human Services. There was a long list also of service area administrators, child advocacy centers, 1184 teams, mediation centers that we were instructed to work with. Because of the short time frame, we deferred that. But we will be...we heard from some of those groups, but we will be tuning in more to that in this next phase. We will be considering the potential for contracting with private nonprofit entities as lead agencies, as instructed, and reviewing the findings of the cross-systems analysis report and the other reports. The cross-systems analysis report had not been submitted at the time we submitted our proposal, or our plan. And the other reports had been submitted, but we really had not had time to sufficiently review. We will also work closely with the Office of the State Court Administrator and entities which facilitated conferencing. I have input that I've received from them since about the time we submitted our plan and will be following up on that. In addition to those issues that were identified in LB821, the commission determined that it needed to focus on specific issues that relate to the work of the commission overall. And that would be challenges of youth aging out of foster care and disproportionality of children of color in both the child welfare and juvenile justice systems. So again I want to thank you for the opportunity for the commission to do this work, on behalf of all the commission members. We believe it will improve services and opportunities for Nebraska's vulnerable children and youth. I think that what has surprised me--as a survivor of many statewide groups, planning task forces,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

etcetera--not just the passion, the passion has been there, but there was an energy in the commission's work that I think maybe surprised a lot of us. We were people who...most of us did not know each other when we came together. The Governor made excellent appointments, and I think the group has now gelled and is prepared to finish its work. And I'd be happy to answer any questions related to this specific... [BRIEFING]

SENATOR CAMPBELL: Any questions or comments that the senators want to make? [BRIEFING]

SENATOR COOK: I have a question. [BRIEFING]

SENATOR CAMPBELL: I would let the...oh, sorry. You have a question? [BRIEFING]

SENATOR COOK: Yes, that time I was not scratching my eyebrow. (Laughter)
[BRIEFING]

SENATOR CAMPBELL: Senator Cook. [BRIEFING]

SENATOR COOK: Thank you, Madam Chair. I have a question about some of the resources you might draw upon as you delve into the disproportionality issue...
[BRIEFING]

KAREN AUTHIER: Um-hum. [BRIEFING]

SENATOR COOK: ...with children of color. Have you identified those? Are you open to new ones? [BRIEFING]

KAREN AUTHIER: We...very open to new ones. [BRIEFING]

SENATOR COOK: Okay. [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

KAREN AUTHIER: And I don't...what we talked about this morning, Senator Cook, was how we were going to engage ourselves in stage two, because there's still a great deal of work left. And, as we noted, that wasn't an issue identified in LB821, but we agreed that that was an underlying issue and a lot of what was going on. We try to avail ourselves of other groups that are taking some leadership in those areas. And I know there are a number of those groups, and I also know that Voices for Children is planning a...and I'll struggle now with the exact name, but they're putting together a summit on...it's a race matters kind of summit, and they've already put together a planning committee for that. And they keep me in the loop on that, and I keep the commission in a loop. So what we try to do is encourage commission members to take advantage of those opportunities, when possible. What we have done with the other committees is to bring noncommission members on to committees as we set them up. We have not established new committees yet because...the decision this morning was that we needed to do some prioritizing as an entire group. And we also needed to take a look at that lead agency question fairly quickly because of some of the language in legislation related to an April date. So we plan on spending our February meeting...we will continue to meet monthly, and the...we have work groups; each of those goal areas had a work group, and that was just commission members. And the work groups are going to do some additional prioritizing. I think that disproportionate representation issue, as with some other issues, will probably be an underlying theme. And so we will need to be asking ourselves some questions about that. But definitely I would welcome any suggestions as to... [BRIEFING]

SENATOR COOK: Okay. [BRIEFING]

KAREN AUTHIER: ...as to people who might be able to help us with that. [BRIEFING]

SENATOR COOK: All right. Thank you. I'm part of a national group that might be able to lend some statistics and... [BRIEFING]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

KAREN AUTHIER: And I know there's a state group appointed...it's an appointed group--I can't remember if that's appointed by the Governor--that is addressing that too. So we do try to coordinate. Anything that we're going to do we try to coordinate with other groups that are working in the state but also draw on national resources.
[BRIEFING]

SENATOR COOK: Okay. Thank you. [BRIEFING]

SENATOR CAMPBELL: Thank you, Senator Cook. I just want to make sure I don't miss anybody. I have the privilege of serving with the commission; there are three state senators, for our new senators, that serve. They serve by virtue of their office: the Chairman of Appropriations, the Chairman of the Judiciary Committee, and the Chairman of Health and Human Services. And I totally agree with Ms. Authier's comment about, initially it was a lot of process, and I think, you know, everybody was kind of going...but this group has an energy that I've not seen in a lot of the commissions that I've served on too; I totally agree with you. I was asked a question at the break about the commission coming in and testifying or making comment about legislation. And I had an opportunity to talk to Senator Coash last night, and both of us are in solid agreement that we would invite the commission's comment on any legislation that comes before any of the committees. And we should... [BRIEFING]

KAREN AUTHIER: Um-hum. What we... [BRIEFING]

SENATOR CAMPBELL: ...hope that you would feel free to do that, and we would invite that. [BRIEFING]

KAREN AUTHIER: That challenge on that is...and that was a chunk of the discussion at the end of the meeting, because I knew there was going to be some legislation that we had on our radar but that we might even be asked questions about, opinions on the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

legislation. The challenge is the commission is a diverse group, and I think I would be misleading you to think if we...I think we...there was consensus on all of these concepts. Now, that said, as I don't have to tell any of you, that when you get down to the details of how a bill is worded or exactly what you include or don't include, then the consensus kind of drops away, and some people may agree with the concept but they may be saying, well, that's not what we thought it meant. So I think we're going to run into those same issues that you do. And so the suggestions as to how we might provide input would be, if there were hearings and if there was interest in us testifying, that we would do so in a neutral capacity and could talk to you about what some of our thinking was, rather than...I've testified before where I am saying, you know, I wish this language would change, or something. And so that probably...that would not be the role that I would see us being able to take, because, I'm not sure, I think there could be some healthy disagreement. And that is one of the exciting things to me. We want healthy disagreement on that commission. That's the only way we're going to get a lot of good input. So we can tell you where our thinking is taking us and even tell you the questions that are being raised. And if that will suffice, then I think we're well prepared to do that.
[BRIEFING]

SENATOR CAMPBELL: We just want you to feel welcome in any capacity that you want to before the committees. Senator Gloor. [BRIEFING]

SENATOR GLOOR: Thank you, Senator Campbell. And thank you for your work. My thanks to the commission for its work. And I, probably, make these comments for the benefit of our new members of the committee. We were given the opportunity to make suggestions of people who could serve on the commission and do a good job, folks we know. And so I think most of the members of this committee that were seated last year have had the benefit of getting updates on the progress of the commission, and it was all encouraging, at least what I heard. And so the lack of a lot of questions right now is due to the fact that, I think, we've been a little tuned in to what we would expect to see and hear as a result of this. So just an opportunity, though, to say again publicly how

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

appreciative I am of all the time all the members put into this. And I think it's paying dividends. [BRIEFING]

KAREN AUTHIER: Well, thank you. Yeah, because I think there was some expectation...there were parties, not necessarily anybody on your table, but I think there were some people who thought we would come up with more specific recommendations; but it was very intentional that we thought we could not tackle that. And as I listen today, I'm realizing, talking about technology, data systems, system of care...if system of care is a principle, then the fact that behavioral health isn't on any of the same data systems as anyone else. So there were some of the questions, I think, that you all asked that some of the members that are sitting here are going to be able to take back and say, those are some things we need to do some more thinking about. [BRIEFING]

SENATOR GLOOR: Tell the committee members not to feel a need to be bashful. [BRIEFING]

SENATOR CAMPBELL: Right. [BRIEFING]

SENATOR GLOOR: None of them have exhibited that so far, as best I can tell. [BRIEFING]

KAREN AUTHIER: No. (Laugh) [BRIEFING]

SENATOR GLOOR: We don't want that to change. [BRIEFING]

KAREN AUTHIER: Yes. [BRIEFING]

SENATOR CAMPBELL: Well, and for our colleagues here, I mean, Senator Coash and I have been very vocal, I think, with the group to say, you are empowered to speak and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Health and Human Services Committee
January 16, 2013

plan for the future. Their reports go to the Chief Justice, the Governor, and members of the Legislature; three branches of government are coming together to make a commitment and using...and hoping that the Children's Commission becomes that vehicle. So we want them to feel very empowered to take whatever action. And I'm like Senator Gloor: you've all done just a great job. [BRIEFING]

KAREN AUTHIER: Thank you. [BRIEFING]

SENATOR CAMPBELL: Look forward to it. If there are no other questions, we will continue this briefing on January the 30th, and we will provide for you all an agenda for that day also. So we conclude this afternoon's briefing. And thank you all for coming. [BRIEFING]