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Health and Human Services Committee  
November 14, 2013

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[LR261 LR312]

The Committee on Health and Human Services met at 10:00 a.m. on Thursday, November 14, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR312 and LR261. Senators present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; and Mike Gloor. Senators absent: Tanya Cook; Sue Crawford; Sara Howard; and Dan Watermeier.

SENATOR CAMPBELL: I think we will go ahead and start this morning. We have senators that might be coming and going today so I'd like to welcome you to the hearings for the Health and Human Services Committee. I'm Kathy Campbell. I serve as the Chair for the committee, and I'm going to go through some of the routine housekeeping. If you have a cell phone, just a reminder: Turn it on silent or turn it off. I don't think we need to worry about handouts. Most of you are well aware, if you're bringing any handouts, the clerk will be glad to take that. This morning, since we do not have a lot of other people who wish to testify, I'm not going to use the lights this morning. But we probably will for those who are coming this afternoon because we have a great number of people who want to testify. If you're planning to testify we still do need to have you complete the orange sheets. That helps the clerk follow along. When you come forward and sit down please state your name for the record and spell it. That helps the transcribers recognize and make sure that they're getting the record straight. I don't think I have anything else. I think what we'll do is have the senators introduce themselves and our staff, so.

SENATOR KRIST: Bob Krist, District 10, northwest Omaha and Bennington.

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

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

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SENATOR CAMPBELL: Brennen?

BRENNEN MILLER: I'm Brennen Miller. I'm committee clerk.

SENATOR CAMPBELL: And Phoebe--have to wave, Phoebe--Phoebe is our page today and will be helping us, so if you need any assistance or have any questions you can certainly talk to her. With that and all the housekeeping completed we'll move to the agenda and formally open LR312, which is Senator Coash's bill on an interim study to examine issues relating to the Child Protective Services system within the Department of Health and Human Services. Senator Coash, it's your day today. [LR312]

SENATOR COASH: Thank you, Senator Campbell, and I do appreciate the opportunity to spend the day with the committee and a couple other committees this afternoon. I'm looking forward to learning some things today. I am Senator Colby Coash and I do represent District 27, which is right here in Lincoln. And this morning we're going to talk about LR312, which is a resolution to study issues surrounding Child Protective Services, that system, and particularly, with this one, the front end and how children find themselves into the system. Later on you'll hear testimony on LR261, which is the back end, and so we're hitting both sides of how children find themselves in and then find themselves out of the system. And I introduced both of these resolutions primarily because, as we know, Nebraska has a high rate, second-highest rate in the nation, of children being removed from their homes and placed in the foster care system. The separation of a child, as we know, is very traumatic and can have a really profound impact on the development of that child. And it's important that we look at ways to keep families intact while we make sure that the safety of the child is the top priority. LR312 examines several things around this, such as the role of the hot line, the role of law enforcement, the effectiveness of the hot line, procedures used by Child Protective Services to screen reports of child abuse, the process by which information is shared, training procedures for frontline responders, and the impact of current and future efforts

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to reduce the percentage of children removed from their homes. To give the committee a little bit of a heads up, we did have a hearing about this or a briefing about this a few weeks ago. Very soon we're going to have a report from the Children's Commission with recommendations with regard to alternative response, which follows a yearlong study. While it's my hope that we can move forward with alternative response next session, we...this study is focused on looking at what the current landscape is of child welfare and we need to be prepared to improve the system that is currently in place, regardless of what we do. In addition to my testimony some of the expert testimonies you'll hear are from representatives of HHS and Project Harmony. They all have great insight into the problems that hamper the system and I'm grateful for them to be here today. I would say this: We spent a pretty good amount of time getting our hands around the impact of our system on kids. And I introduced this study not to continue to reframe problems but to listen to solutions, to listen to what's working and to suggestions about both the front-end and the back-end system. And so I'm hoping that we will hear more solutions and more things that are working so we can duplicate those. It's not my intent to have a hearing to continue to frame problems. I think those are well-documented and this committee certainly is aware of what has happened in the past and where we are headed in the future. So I look at this hearing today as a forward-looking examination of what we can be doing better, what is working. Keep in mind where we are today. So I will leave it to the testifiers and the questions of the committee. [LR312]

SENATOR CAMPBELL: Any questions or comments from senators? Thank you, Senator Coash. Please, join us at the table. Our first testifier on my list is Gene Klein. Good morning. [LR312]

GENE KLEIN: (Exhibit 1) Good morning. My name is Gene Klein, G-e-n-e K-l-e-i-n. I'm the executive director of Project Harmony, which is a child advocacy center in Omaha, Nebraska. And I've been asked by Senator Coash to speak a little bit about two areas in particular that we're very involved in, and that is the Governor's Commission for the Protection of Children asked Project Harmony to review child abuse intakes that were

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screened out for...with two or more consecutive screens out, screened-out cases. And so I have some of that data that I'll share today and I will also share the LB1160 report that was submitted to your committee and talk about the impact of the noncourt cases that are currently across the state. The Governor's Commission for the Protection of Children is required by federal statute, under the Children's Justice Act, to provide an evaluation of some section of the Department of Health and Human Services within child protection and make recommendations to HHS and then they then, in turn, either implement those or offer other alternatives. This last year the commission selected the hot line as the area of focus, looking at the screened-out cases that had two or more screened outs in any given time frame. Project Harmony volunteered to review these cases as a child advocacy center. We have full access to the child abuse intakes and we have staff that the case coordinators for the LB1184 teams that actually did these reviews. We started in March of 2013 and we focused, in this case, just on Douglas and Sarpy County. And these were families that were reviewed at the second nonaccepted intake. All of these cases would be considered child abuse that does not meet the definition; that's the reason that they were screened out. As of October 1 of this year we looked at 1,051 does-not-meet-definition intakes by our staff and we were in agreement with HHS and the hot line staff in 85 percent of these cases. The...we disagreed with 158 and we agreed with 888 cases. Some of the reasons for disagreeing with the screen-out decision had to do with in N-FOCUS the child welfare database did not have adequate documentation in there or there was a Structured Decision Making question that was unclear. Cases that needed additional follow-up--for example, there were no collaborating callers that had actually talked to the child and had information directly from the child. In a fair percentage there was a past history of Child Protective Services involvement that was high risk or very high risk. And there seemed to be evidence in a small percent that, actually, the abuse had occurred and this...and our reviewers disagreed with the finding. Fortunately, because the hot line is located at Project Harmony, our reviewers, on any case that they disagreed with, went directly to the administrator from HHS and talked through their decision or their finding. And HHS, through the whole process, has been very open. And so if there's been one positive out

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of this it's the transparency that has been...that has occurred just in the last year with regard to these intakes being screened out. The types of cases that we most commonly disagreed, the allegation involved had to do with physical abuse, which was surprising. We thought it would be more neglect types of cases but it was actually physical abuse was the number-one type of case where we disagreed. I would offer that HHS has...provides this report to us. They had to customize a report. We get it every Monday, and then our staff take that week and review all those intakes in that week. We think that continued transparency in the hot line is critical and developing a--and maybe Vicki will talk about this--a quality-assurance process that ensures that the Structured Decision Making model is being implemented at the hot line. In other states--for example, Colorado--actually moved their hot line decision making to a team decision within HHS, so it's not one hot line worker making the decision and a supervisor approving that. They call that a RED team--review evaluated and decide. They also then assign, in Colorado, which track or pathway their case will go. Is it a traditional investigation? Is it an alternative response type of case? So I think there could be some value in looking at the Colorado model. There is good research behind what they're doing and the team approach really does seem to be, while it's staff intensive, a check and balance, if you will, for probably the most critical decision in child welfare, is that intake, the hot line call. Any questions on that data or the hot line information? [LR312]

SENATOR CAMPBELL: Questions? Senator Krist. [LR312]

SENATOR KRIST: Can that data be drilled down in terms of geography, ethnicity, racial, and is there benefit to doing that? [LR312]

GENE KLEIN: It's certainly could be. In our evaluation we didn't do that, but we certainly could. And, yes, there could be value in doing that and if you're looking at ZIP codes, which areas may get screened out more likely. We...the drill down that we did had to do with the type of abuse and it was physical abuse was the number one that was screened out, the most commonly screened out--domestic violence, neglect,

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methamphetamine, and alcohol, in that order. [LR312]

SENATOR KRIST: I guess my...the point is that the way that you did it is the way that you were asked to do it. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR KRIST: And now that we have that data and we know what those parameters are, I'd be interested in seeing... [LR312]

GENE KLEIN: We could certainly do that. [LR312]

SENATOR KRIST: ...the other parameters, in terms of the ZIP code, is a great way to put it, geography, ethnicity, and then, of course, a racial breakdown. [LR312]

GENE KLEIN: Yeah, yeah, yeah, certainly. [LR312]

SENATOR KRIST: So thank you. Thank you, Gene. [LR312]

SENATOR CAMPBELL: Senator Gloor. [LR312]

SENATOR GLOOR: Thank you, Senator Campbell. You may have to spoon feed me this a little bit but I want to make sure I understand. When you talk about physical abuse being the most common area of disagreement, does that mean, based upon your other comment about documentation being one of the main problems here, that there wasn't enough, as an example, documentation to justify that physical abuse was present? [LR312]

GENE KLEIN: Yeah. I'll give you an example. We had a case this summer where a--actually, it was during the school year--a child came to school on a Friday with a

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bruise on the face and said, actually, nothing on Friday, came back on Monday, the bruise was gone, and was not real clear what happened. The teacher suspected that the child had been struck but there was not a clear disclosure, if you will, and so that screens out based on the tool that HHS uses. Our staff would have disagreed and said, even though there was a bruise on Friday, there was some physical evidence that something had occurred, there should at least be an inquiry to see who did what to this child if the teacher suspected it. And the teacher did suspect that there was some violence in the home. [LR312]

SENATOR GLOOR: But the documentation issue there probably wasn't the issue. [LR312]

GENE KLEIN: No, not in that case, no. [LR312]

SENATOR GLOOR: Okay, okay. [LR312]

GENE KLEIN: In other cases it just wasn't...the HHS worker just didn't get it into the system and...but there was more information that didn't...had that information been there it would have been an easy decision, but... [LR312]

SENATOR GLOOR: Yeah. [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR GLOOR: Or, well, yeah, I mean,... [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR GLOOR: ...the challenge of documentation is, you know, it can provide you with the justification or it can leave you without what you need to make the appropriate

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decision, so... [LR312]

GENE KLEIN: Right, right. [LR312]

SENATOR GLOOR: But I was just curious whether that worked its way into the physical abuse being the number one...that much. [LR312]

GENE KLEIN: No, no. [LR312]

SENATOR GLOOR: Okay, thank you. [LR312]

SENATOR CAMPBELL: Senator Coash. [LR312]

SENATOR COASH: Thank you, Senator. Gene, this question I'll ask you may be more appropriate for the department, so if you want to punt it to them you can. The...we're focusing on calls that come into the hot line and that's part of what you were charged to look at. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR COASH: But we know that not all cases of abuse and neglect, you know, the trigger that starts someone looking at them, it's not always the hot line. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR COASH: And it's a lot of times... [LR312]

GENE KLEIN: Law enforcement, yeah. [LR312]

SENATOR COASH: ...law enforcement. What do we know about...can you kind of walk

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us through how that process is different and what we can look at when that initial call is not made through the hot line but it's through law enforcement? [LR312]

GENE KLEIN: I can talk about our experience in Omaha and how that works. The advantage we have is law enforcement is in the building with HHS and every law enforcement report is hand delivered to the hot line and vice versa. So five years ago there was a real disconnect between law enforcement's intakes and CPS's intakes and those two agencies getting those. They are getting those today. In other parts of the state, every child advocacy center has the LB1184 teams where those investigative cases are brought to that team and there's a cross reporting to ensure that each agency is sharing. Now are there holes? There could be, but the system is much, much stronger today. So someone could call 911. A street cop would go to the scene. In Omaha they would call the special victims unit if they were concerned about kids. They're immediately contacting HHS and coordinating whatever response is needed there. [LR312]

SENATOR COASH: Were any of the cases that you reviewed, did any of this start out with a law enforcement call? [LR312]

GENE KLEIN: No. [LR312]

SENATOR COASH: They were all just calls directly into the hot line? [LR312]

GENE KLEIN: These were all hot line calls, yeah, yeah. [LR312]

SENATOR COASH: Okay. [LR312]

GENE KLEIN: And they wouldn't get referred, these, because they screened out. They don't go to HHS. That's only the accepted intakes that go to HHS or to the law enforcement. [LR312]

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SENATOR COASH: Right. Okay. [LR312]

SENATOR CAMPBELL: Follow-up questions? Gene, do you want to talk a little bit about this report? [LR312]

GENE KLEIN: Yep, yep, yep. [LR312]

SENATOR CAMPBELL: I thought we'd go into that next. [LR312]

GENE KLEIN: So LB1160 was initiated last year, which one of the components that impacted our work in child advocacy centers had to do with the noncourt and the team approach to managing families in the noncourt-involved cases. I don't have the prior data to September of last year what...how many cases or families were served in the noncourt process. But I can tell you, since September 2012 through July 2013, there have been over 1,000...well, 1,222 families that were served in this enhanced pathway of noncourt involved. These are children where there is high and very high risk involved but the children are safe and it's the providers, typically, that are allowing for that safety to be managed, so conditionally safe or safe. This involves at least 2,500 children in just those nine months, so roughly 93 families a month are being served in the noncourt pathway. Going into this there was a lot of concern about serving high-risk families without the court's involvement or removing kids for safety, but, frankly, because we're taking a team approach to this, our teams consist of the prosecutor, law enforcement, lots and lots of treatment and therapy service providers, HHS in Omaha, NFC, very active on these teams, and they together are managing these teams to ensure that families get the services they need and children are safe. There have been, of the 1,222 cases, 18 percent that did end up being court-involved cases. Interestingly, though, the team decided that we can't safely manage these kids in this...in the home and now that the court needs to be involved and they needed to be removed. If you compare those numbers to the number of children in out-of-home care in just the last year, roughly

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1,000 kids have...we've moved from 6,000 to 5,000 kids in out-of-home care. I think it's directly related to this new pathway that you created and really enhanced which families needed court involvement and which ones didn't need court involvement. We were asked to look at a variety of things that are in your report but I'll highlight just a few. One was, was there an active case plan on these cases? And you'll find across the board, yes, there was an active case plan. In some cases, there was not. It wasn't document in N-FOCUS the way it needed to be, but in our follow-up there was an active case plan that was put in place. These cases averaged about 144 days of service, so not a long, lengthy period, but the kids were...remained in their home and safe during that. There were no cases where children were abused during this period. Even though we had 18 percent that went court involved, it was more around risk and the kids couldn't be maintained safely and the team made that decision. Eighty-three percent of these 1,000 cases were closed successfully and the team defined what success meant. So it wasn't just one person making that decision; it was a team decision. And 82 percent had complete parental compliance with that case plan. In 88 percent of those cases the services were very appropriate to the needs of these families, and again I mentioned the 18 percent that went into the court system--again, a team decision. Some issues or some implications for our, I guess, improvement in this: Close to 30 percent of the families that were closed did return back to the hot line and did have a new intake and, while that seems like a high percentage, when you look at alternative response in other states they see the same trend. And what they've found is that these are high-risk families with lots of need and if you think you're going to solve all those problems in 114 or 144 days, it's not going to happen. But what is happening is you're preventing that removal, you're preventing--which is a traumatic experience for a child--you're keeping those kids safe and, hopefully, they're engaging in the community with providers but, if not, they do, some do, have to come back into the system for additional service. We did drill down and look at some of these cases in more detail to get at the demographics of who these families were. Neglect was the largest percentage of families that were served in the noncourt pathway. We looked at 289 cases across the state which involved 716 children, so this was our drill down, but neglect was, by far, the largest

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percentage of kinds of issues that were being dealt with. These families had multiple problems and the most common was violence in the home--domestic violence, drug abuse, improper supervision of the children. These families tended to be families with fewer than three children in the home, but we had a high percent with just one child. The ethnicity breakdown...I don't have glasses on, sorry. The parent, the age of the parents, the most were 25 to 35. And the ethnicity, about 67 were Caucasian; 13 percent Hispanic; 10 percent African-American; and 9 percent other ethnicities. Seventy percent of these families were in the poverty...met the poverty threshold, so these are neglect kinds of cases involving significant poverty. The caretakers, substance abuse was a very concerning issue involving methamphetamine, marijuana, and alcohol. And if you think about that as a family issue, you're not going to fix that in 144 days. It's going to take months, years, for a family to...for a parent to really deal with their own alcohol problem. The teams really struggled with getting those families into treatment because it could take six weeks, eight weeks, and the clock is ticking when the services are being provided, so we saw a real need for expanded substance abuse treatment that's accessible. Another interesting component was that 18 percent of these families were family...were children who were former wards, so close to 20 percent were state wards as a child. Mental illness was another key indicator of when...and we looked at those cases that were returning. The three common areas were domestic violence, substance abuse, and mental illness of the parents, so those were the three things that typically moved it to a court-involved case, so that might be something in deciding which families are most appropriate for court involvement or noncourt. Those three areas were the most common. And we saw the turnover to the court as a positive thing. Sometimes, when you have someone that's using a serious drug, the court does provide a good service to managing those cases, and we saw court involvement as a positive not as a negative. With the potential expansion of alternative response, my recommendation would be that you continue to have this alternative, a noncourt option. Alternative response--we hopefully will hear lots about; the report did go to the Children's Commission--is really designed to look at those that are in the moderate to high risk, not the high/very, very, high-risk cases. So if we keep the noncourt as a pathway, you really

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now have three tracks that families could go down: a court-involved track that would and could remove or be a removal from the home; a noncourt, which would be a middle kind of ground where they could quickly move over to the court involved if needed, they would have had a traditional investigation with a finding; and then, potentially, the alternative response model, which would be no finding, lower risk to moderate risk. But, yet, all those tracks would have access to services for families, so I'll stop. [LR312]

SENATOR CAMPBELL: Senator Krist. [LR312]

SENATOR KRIST: In both of your sections you touched on data systems. What measure of efficiency or responsiveness or accuracy would be added if data systems like N-FOCUS were both current and "queryable?" [LR312]

GENE KLEIN: Yeah, I happened to go to this alternative response conference about three weeks ago in Colorado, and Colorado has a very robust...there were...it was a national conference, but Colorado has a very robust "N-FOCUS" system where they can generate reports immediately and know where kids are at, what's...if I'm a caseworker, how much have I spent on this family, what services are in place. So having access to immediate data, outcome data, or dashboard data is critical and it also allows for more transparency, so anything you can do to strengthen the N-FOCUS system so that you can pull out good information and it can be used in decision making or in quality assurance ways. It took a lot to get this data pulled out. HHS is very cooperative but I can tell you they've put somebody full-time on just writing the scripts to get this kind of data pulled out. [LR312]

SENATOR CAMPBELL: Did you have a follow-up? Other questions? Senator Coash. [LR312]

SENATOR COASH: A follow-up question for you, Gene, and I'm sure the department will address this. One of the things that struck me was the high number of former wards.

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[LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR COASH: Can you dig into that a little bit? These are kids who, at one point, were removed and became wards of the state and then reunified and then found themselves back into the system. Twenty percent of the...that seems high, to me,...

[LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR COASH: ...that whatever was going on with the family before for two out of ten kids was...resulted in then an additional... [LR312]

GENE KLEIN: Yeah, these were the parent is the...was the former ward, so... [LR312]

SENATOR COASH: Oh, the...oh, okay. [LR312]

GENE KLEIN: Yes, so it was the parent,... [LR312]

SENATOR COASH: Right. [LR312]

GENE KLEIN: ...not a new intake or not another case, but the actual... [LR312]

SENATOR COASH: Okay, I'm glad I clarified that. [LR312]

GENE KLEIN: Yes. Yeah, it was the parent, yeah. [LR312]

SENATOR COASH: So let's dig into that again. [LR312]

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GENE KLEIN: Yeah. [LR312]

SENATOR COASH: So we've got kids who became wards, who then became adults,...  
[LR312]

GENE KLEIN: ...who became parents... [LR312]

SENATOR COASH: ...who became parents who had children... [LR312]

GENE KLEIN: Yes. [LR312]

SENATOR COASH: ...who became wards. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR COASH: That's a bad cycle. [LR312]

GENE KLEIN: Yeah. If you think about it, the kids that are in the system have challenges. I mean, the reason they're in the system, especially those that age out of the system, have lots of needs and if they become parents at a young age those needs just don't go away. So those tended to be more of the neglect kinds of cases; some drug use, mental illness were in those as well. [LR312]

SENATOR COASH: Okay. [LR312]

GENE KLEIN: So I think it says we need to do more to strengthen what those kids get during the time they're in state custody and helping them transition out in a way that provides them not just with their own coping skills but how do they become parents and manage their own children. [LR312]

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SENATOR CAMPBELL: Senator Coash, I think the legal counsel pointed out, if we looked at page 12, that maybe in that box it talks about...Table 5 shows that 232 families, 80 percent, had a CFS intake... [LR312]

GENE KLEIN: Right. [LR312]

SENATOR CAMPBELL: ...accepted by the hot line prior to their current case. Families had a range of 0 to 22--0 to 22--prior accepted CFS intakes with an average of 3. [LR312]

GENE KLEIN: Three, yes. [LR312]

SENATOR CAMPBELL: Now that, it seems to me, gets at the concern that Senator Coash... [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: ...was trying to illustrate... [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: ...because you've had a lot of these families who were in and then came back. [LR312]

GENE KLEIN: And then came back in. [LR312]

SENATOR CAMPBELL: But we put them in noncourt. [LR312]

GENE KLEIN: Right. [LR312]

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SENATOR CAMPBELL: Right. So, I mean, it's almost like you look at the total number of children in the system at any one point in time. Are the numbers still the same but we've just got them in different categories? [LR312]

GENE KLEIN: I don't know, yeah. [LR312]

SENATOR CAMPBELL: Or are we really...are children really going out of the system? And maybe Vicki can help us with that question. Not easy, I mean, data collection is almost everywhere across almost every issue that the Health and Human Services Committee is looking at. And Senator Krist always asks that question, which we can count on. Any other follow-up questions? Oh, Senator Krist. [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: But that's one of the things. I mean, I think the noncourt involved is the number. And, yes, there are less state wards, but where are those kids? And that may be a question that we want to talk to Vicki about. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR CAMPBELL: I do want to note, on Senator Krist's question, the Children's Commission has a subcommittee--and several of those people are in the room--who are working on data, and I really do want to commend that subcommittee. I've just sat in and listened a couple of times as they've reported or talked at the meetings and they've done a great job about pulling in all of the principles, you know, justice, all the different components, along with Brenda Decker, and I think that really speaks to the kind of coordination that we're ultimately going to have. [LR312]

GENE KLEIN: Um-hum. [LR312]

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SENATOR CAMPBELL: And I really commend that subcommittee; they've worked very hard. We're getting there. [LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR CAMPBELL: I see Kim smiling. Not easy. I mean, data collection is almost everywhere across almost every issue that the Health and Human Services Committee is looking at. And Senator Krist always asks that question, which we can count on. Any other follow-up questions? Oh, Senator Krist. [LR312]

SENATOR KRIST: Just to make the point and for the record, I attended a kids' symposium, if you will, about four or five years ago at UNO and there was a follow-up on that. And the reason I'm asking the geography question and I think it's important: We have some initiatives in the state, the JDAI programs and those kinds of things,... [LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR KRIST: ...and we have justice by geography in some cases. But I think people would be surprised to know that in that symposium what I heard was that changes or the challenges, I'm sorry, were in the metropolitan area across the board. We had people from very, you know, in my opinion, and we could call them, very affluent neighborhoods... [LR312]

GENE KLEIN: Um-hum. Yeah. [LR312]

SENATOR KRIST: ...that were saying that their contact with the foster care program, with the juvenile justice program, with other programs affected their lives at Burke and Westside and all the rest of them... [LR312]

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GENE KLEIN: Um-hum. [LR312]

SENATOR KRIST: ...as much as they did it in what you would say would be a pocket of issues in the near-north side in Omaha. [LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR KRIST: This is across the board. [LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR KRIST: And I think that when we drill down at this data and we look at how prominent it is across the metropolitan area, and, of course, the metropolitan area is a microcosm of the entire state to some extent or another, it's going to be important that we look at that data,... [LR312]

GENE KLEIN: Um-hum, um-hum. [LR312]

SENATOR KRIST: ...you know, in terms of where those things are happening. And it's not, I don't think, concentrated in the areas that people would actually say that it would be. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR KRIST: So, maybe, if you'd like to speak to that, that's fine. [LR312]

GENE KLEIN: I would agree with you. I think...I know that HHS has their data. I'm looking at them. By ZIP code we can drill into it. So I think if you want more of that we can certainly get you more and seeing where these families are at and what they come...what needs to do they have. [LR312]

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SENATOR KRIST: Thanks, Gene. [LR312]

GENE KLEIN: Certainly. [LR312]

SENATOR KRIST: Thanks for all you do. [LR312]

GENE KLEIN: Yeah, thanks. [LR312]

SENATOR CAMPBELL: I think, to follow up, that, I mean, we've also seen that in the public health section of their following particular counties... [LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR CAMPBELL: ...where you see almost all the risk factors are centered in those population. [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: And what was very interesting for this committee was to listen to the report or LR22 from Dr. Zetterman, and he began to address where some of the real health...where we should be paying attention and he had a map of Nebraska, of the, what was it, the ten highest counties with...the ten counties with the population. [LR312]

SENATOR GLOOR: Um-hum. [LR312]

SENATOR CAMPBELL: And it was amazing, to me, to watch him point those counties out, and those were the counties that we'd seen on the health map... [LR312]

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GENE KLEIN: Um-hum. [LR312]

SENATOR CAMPBELL: ...that we've also seen--I've seen--on the First Five maps of early childhood. [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: I mean, if we just began really targeting some of those counties, it could be interesting to see what we could impact. Gene, one of the points in here is the ever-increased needs that we're going to see from mental health... [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: ...issues that are really quite illustrative--again, on page 12--for the caretakers. [LR312]

GENE KLEIN: Right, yeah. Both children and adults, it...you know, we see...you'll see, both on page 12 and 13, that the kids have serious mental illness or health issues; the parents have equal or more. So access to those services, I'm hoping the system-of-care work that's being developed will allow families to not have to access the child welfare system to get those services. I know HHS did expand some slots for professional partners and... [LR312]

SENATOR CAMPBELL: Yes. [LR312]

GENE KLEIN: ...behavioral health services for what would have come through the CPS door, so more of that would address some of these needs for families. [LR312]

SENATOR CAMPBELL: It was interesting, I thought, at the last Children's Commission--I think it was the last one--where the new medical director for Magellan

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talked about and talked about mental health services for children under five. And those of us who have been around for a while remember that issue. [LR312]

GENE KLEIN: Um-hum. [LR312]

SENATOR CAMPBELL: And it was just refreshing to hear that now we do recognize... [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: ...that and are trying to... [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: ...ensure some services are there for kids. [LR312]

GENE KLEIN: Yeah. [LR312]

SENATOR CAMPBELL: So any other questions or comments? [LR312]

SENATOR COASH: I'll ask Gene. [LR312]

SENATOR CAMPBELL: Oh, Senator Coash. [LR312]

SENATOR COASH: And it may be in here, Gene, and maybe you can point it to...one of the things I'm...and this is all in the noncourt kids. [LR312]

GENE KLEIN: Right. [LR312]

SENATOR COASH: Do we know, out of all of these...well, you sampled 289 of them.

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[LR312]

GENE KLEIN: Right. [LR312]

SENATOR COASH: Right. How many of these 289 ended up being removed from the home after...at some point? [LR312]

GENE KLEIN: I don't know that I have it at my fingers, but it was not a high percent. Many came back in, but a very small percent actually were removed of the 289. [LR312]

SENATOR COASH: Okay. [LR312]

GENE KLEIN: I don't know it right now, but... [LR312]

SENATOR COASH: So could we take from that, that the noncourt track is keep...is doing a pretty good job on keeping kids from being removed then? [LR312]

GENE KLEIN: Absolutely, absolutely. [LR312]

SENATOR COASH: I mean, that... [LR312]

GENE KLEIN: Yeah, if you think, there's 2,500 children that were served in less than a year in this pathway, and you look at the number of kids in out-of-home care during that same period, it dropped a thousand. Now I can't prove...you can't prove that, but this just gave those workers another way of serving those families without having to remove them, and a way that still main...ensured the safety, and I think that safety was managed because it was a team that was...county attorneys were involved in this. They...I think that there was a fear initially that county attorneys and law enforcement just want to remove kids and if they get involved they're going to want to remove. That wasn't the case. At least, on our team that wasn't the case. Now they asked the tough

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questions and said, how are you going to do this and what are we going to do when that baby's birth...when that baby's weight drops another two pounds, how are we going to manage this? But when only 18 percent go to court involved, that speaks. That means we served a large percent of these kids--without having to remove them--in a safe way, and I think that's...that credit needs to go to HHS, it needs to go to NFC in Omaha. These are difficult families and they took those cases and they worked them. [LR312]

SENATOR CAMPBELL: Do you think we're still seeing a lack of resources though in the rural part of the state? I mean, in Omaha, and even in Lincoln, you have a lot of services to draw from, whereas, in some of the other districts you don't... [LR312]

GENE KLEIN: Yeah, I... [LR312]

SENATOR CAMPBELL: ...have that quantity of services. [LR312]

GENE KLEIN: I think substance abuse and mental health treatment isn't just an Omaha or a Lincoln issue. It's across...it's...we have those same problems that...across the state. And I think the challenges are different in the rural communities, transportation, but getting a parent into a drug treatment program is a challenge in Omaha and it's a challenge in Scottsbluff. [LR312]

SENATOR CAMPBELL: Got it. Okay. Thank you, Gene, very much. [LR312]

GENE KLEIN: Yep. [LR312]

SENATOR CAMPBELL: Our next testifier...Senator Coash, is...are anyone from law enforcement here? Okay. Our next testifier is Vicki Maca from the Department of Health and Human Services. It is rather stuffy in here, isn't it? Good morning. [LR312]

VICKI MACA: Good morning. [LR312]

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SENATOR CAMPBELL: Go right ahead and state your name for the record and spell it for us. [LR312]

VICKI MACA: (Exhibit 2) Great. My name is Vicki Maca, V-i-c-k-i M-a-c-a. Good morning, Senator Campbell, Senator Coash, and members of the Health and Human Services Committee. My name is Vicki Maca and I am the deputy director of the Division of Children and Family Services in the Department of Health and Human Services and I'm here to provide information on LR312. LR312 focuses on issues related to: the Child Abuse and Neglect Hotline; the process for receiving reports of abuse and neglect; and the roles of department staff, law enforcement, and county attorneys. LR312 addresses training and information sharing, and how it is determined that a case could be processed without court involvement, and requests information about the state Child and Maternal Death Review Team. I've prepared a document for your use which provides information about all the identified questions in LR312, as well as information on Structured Decision Making. I will limit my testimony this morning to specific information regarding the hot line and the screening process for Child Protective Services. There are 35 children and family service specialists staffing the Child Abuse and Neglect Hotline, which is located at Project Harmony in Omaha, Nebraska. Hot line staff have an average of 14 years of experience and possess a wealth of working knowledge and background experience that includes: initial assessment; ongoing case management; adoption; Office of Juvenile Services; Adult Protective Services; Corrections; and social services. Hot line staff are available to receive reports of abuse and neglect around the clock every day of the year. Although most reports are received by phone, some are received via e-mail, fax, and regular mail. The hot line processes a large number of calls. In 2012, the hot line received 82,856 calls. Over 71,700 calls were answered by hot line staff, which represents 87 percent of the calls received. Less than 10 percent, or 7,900, were left on voice mail and these callers received a return call from HHS within one hour. In 3 percent of the calls, or 2,300, the caller hung up or the caller's cell phone dropped the call. Eighty-six percent of calls were answered in

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less than 20 seconds and 12 percent were called back within 30 seconds. The Division of Children and Family Services uses a continuous quality improvement framework to monitor the performance of hot line activities. Our most recent review of performance data indicate that hot line staff are gathering information adequate to make a screening decision, using the screening criteria, in 90 percent of the cases, and in 98 percent of the cases the hot line staff made the correct screening or closing decision. In 90 percent of the cases the quality improvement reviewers agreed that the hot line had selected the correct priority response time line for the investigation to begin. Hot line staff uses Structured Decision Making instrument as the screening tool to provide consistency to the information gathered and to guide the decision-making process. Reports that meet definitions of possible abuse or neglect are accepted for initial assessment and then assigned to a CF specialist who will make contact with the alleged child victim and their family. Each report accepted for initial assessment is assigned a priority indicating how quickly the assigned worker must contact the child in the family. If the situation is serious or life threatening, this is assigned a priority "1," which requires contact within 24 hours. In some situations law enforcement is contacted and requested to make an immediate response. If the situation is less serious, the priority assigned may be a "2," which requires us to have contact within five calendar days, or a priority "3," which is a required contact within ten calendar days. The Structured Decision Making tool uses a decision tree to guide decision making. All calls that have been screened out or not accepted for an assessment are reviewed for approval by hot line supervisors within three business days to assure that no report should have an assessment as missed. The Governor's Commission for the Protection of Children Citizen Review Panel have been working on a project to review cases where there are four or more screened-out reports. The Citizen Review Panel had the Child Advocacy Center, Project Harmony, review cases for their period of February 2011 to September 2011. The review of those screened-out intakes showed that there was 85 percent of the time between the CAC reviewers and the hot line staff there was agreement with the screening decision. Child Advocacy Center staff at Project Harmony are now reviewing families with two or more screened-out reports. Agreement on that pool of cases was at 85 percent as well for the

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period July 2012 through June 2013. In the 15 percent where there was not agreement it was determined that lack of sufficient documentation by the hot line to be certain of the correct decision was the issue. Hot line supervisors work closely with staff who need additional support in making correct screening decisions and we have seen continuous improvement in all of the CQI measures since 2010. The role of law enforcement is to investigate the report of abuse or neglect, to take immediate steps to protect the child, and to initiate legal proceedings as appropriate. Many reports of abuse and neglect are investigated and assessed jointly between CFS staff and law enforcement. Law enforcement focuses on whether or not a crime has been committed, while CFS staff focus on services and interventions necessary for the child to safely remain at home, or to make arrangements for out-of-home care and services when that's necessary. In summary, the Abuse and Neglect Hotline is a very important tool to identify abuse and neglect of children and vulnerable adults. We have a dedicated and professional staff that must respond to difficult circumstances based on facts and Structured Decision Making is a critical tool in the process that's also important that we continue to utilize data to improve the quality of our work. Thank you for the opportunity to be here today and I would be happy to answer any questions. [LR312]

SENATOR CAMPBELL: Senator Krist. [LR312]

SENATOR KRIST: With the result of LB561, my question is: Why isn't Probation in the list of people who are coordinated with during the CFS, during the hot line? You list here, in paragraph 3,... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...experience that includes initial assessment, ongoing management, adoption, Office of Juvenile Services,... [LR312]

VICKI MACA: Oh, yeah. [LR312]

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SENATOR KRIST: ...Adult Protective Services, Corrections, and social services.  
[LR312]

VICKI MACA: Yeah. That was just when I looked at all of the staff and had HR look at their background. That was the background that the current staff at the hot line have. There just hasn't been, I don't think, anyone from Probation that has worked at the hot line, so I don't know that anyone in our system right now has that background experience, per se. [LR312]

SENATOR KRIST: My suggestion, I guess, is that if there is data available from Probation because now OJS and Probation are...but they're talking about similar issues and kids,... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...that we should include not just experience in Probation, because that's evolving,... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...social services and Probation... [LR312]

VICKI MACA: Yes. [LR312]

SENATOR KRIST: ...and the hybrid. [LR312]

VICKI MACA: Yes. [LR312]

SENATOR KRIST: But we should include, at least, the interchange of data if there is

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such data available. [LR312]

VICKI MACA: Yeah. And, actually, Tony Green is here and could probably speak to this better than I can. But there is data that we do have on both those populations of kids that are crossover. [LR312]

\_\_\_\_\_: (Inaudible.) [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: Thank you. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR CAMPBELL: Senator Coash. [LR312]

SENATOR COASH: Thank you, Senator Campbell. So, Vicki, you're testifying today that the number of children being removed from the home...is it on a downhill swing? [LR312]

VICKI MACA: Yes. [LR312]

SENATOR COASH: Okay. You gave us a lot of information about the intake process, you know,... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...the screening process, and then at some point, for the screened-in calls,... [LR312]

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VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...somebody from the department goes out, goes eye to eye with those families... [LR312]

VICKI MACA: That's right. [LR312]

SENATOR COASH: ...of whom a report has been made and is making some decisions about safety of the child,... [LR312]

VICKI MACA: Risk. [LR312]

SENATOR COASH: ...what needs to happen... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...to support the family and things like that. [LR312]

VICKI MACA: That's right. [LR312]

SENATOR COASH: If we go back a few years we would have seen, more likely than not, that child would have been removed, and what we're seeing more frequently is that child is not being removed. [LR312]

VICKI MACA: That's correct. [LR312]

SENATOR COASH: What do you attribute that change to? [LR312]

VICKI MACA: Um-hum, um-hum. I think there are a couple different things to attribute that change. Number one is we now we have the noncourt pathway that Gene spoke of,

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so prior to that, for the most part, families we worked with were court involved. The noncourt pathway has allowed us an opportunity to work with families when it's safe to do so to connect them with the resources, to really wrap around and support the family when the family is willing to do that so that we don't have to use the resources of the court and we save those resources for families that really need that level of accountability. I think that's one factor, that noncourt pathway. I think the second factor is Structured Decision Making, using an evidence-based tool to guide our decisions regarding safety and risk. Not that the old tool we had was ineffective, but it wasn't an evidence-based tool. Third thing, along with that tool, is it's one thing to have an evidence-based tool but, more importantly, it's the fidelity to that tool. What we don't want to see is we don't want to see our work stray from the tool. It's very important that we have high fidelity, that we follow the tool the way the tool was developed. It's a reliable and valid tool and so we have, from day one when we implemented SDM, we put into place a Q/A system that monitors our ability to stay right in line with that tool every step of the way. And we get data reports every month. We look at the data reports in our continuous quality improvement meetings every month, and we discussions about those areas where we're doing well and figure out what are we doing well and how can we replicate that. And then we look at where we have some stray and what are the challenges that we need to address so that we are very tight with that model. [LR312]

SENATOR COASH: How long have...the Structured Decision Making model that you're pointing to as a factor in reducing out-of-home kids,... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...how long has the department been employing that model?  
[LR312]

VICKI MACA: We went statewide July 1, 2012. We were fully implemented. [LR312]

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SENATOR COASH: So the difference is, when the worker is going out there and using this model, they are being directed to make different decisions... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...because of the model than they may have made prior to that? [LR312]

VICKI MACA: Yes. [LR312]

SENATOR COASH: Because those decisions, prior to that--I've said this in many hearings--that resulted in "when in doubt, pull the kid out,"... [LR312]

VICKI MACA: That's right. [LR312]

SENATOR COASH: ...and those children are being ripped from their families when maybe safety wasn't the biggest issue. [LR312]

VICKI MACA: Correct. They may have had risk issues. [LR312]

SENATOR COASH: Okay. [LR312]

VICKI MACA: That's correct. I also think another factor that's really made a big difference is our work with the Child Advocacy Centers. The teamwork, the collaborative approach, the more eyes and ears we can have on this system, the better, so that transparency. And as Gene alluded to, putting that report together was a gigantic endeavor, but it's together, it's automated, it's done, and we're using data to help us review these families. The more we can do that together, the more eyes and ears, the more different disciplines around the table, the better. [LR312]

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SENATOR COASH: But all of these workers are...you've...the hot line workers are all centralized in Omaha, correct? [LR312]

VICKI MACA: That's true. It's a statewide... [LR312]

SENATOR COASH: Okay, so the child abuse report is from a family in North Platte. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: But it's the worker in Omaha,... [LR312]

VICKI MACA: The hot line worker. [LR312]

SENATOR COASH: ...the hot line worker, who is taking that call... [LR312]

VICKI MACA: Right, right. [LR312]

SENATOR COASH: But once it's assigned a priority that jumps back to... [LR312]

VICKI MACA: North Platte? [LR312]

SENATOR COASH: ...a caseworker there... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...who goes and puts their eyes on there. [LR312]

VICKI MACA: That's right. [LR312]

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SENATOR COASH: That worker is not...I'm just going to use North Platte as an example. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: The North Platte worker is not housed in the same building as the CAC... [LR312]

VICKI MACA: That's right. [LR312]

SENATOR COASH: ...in that area as they are in Omaha. [LR312]

VICKI MACA: That's right. [LR312]

SENATOR COASH: So how is it working points west? [LR312]

VICKI MACA: Yep. I will say this: I just did pretty in-depth review of that and it's different across the state. No one area or county does it the same way. Some areas, those reviews are done face to face, like they are at Project Harmony, with a multidisciplinary team. In other parts of the state they are done quarterly, face to face. Some do monthly paper reviews as a team where they kind of shuffle paper, so it is not consistent across the state, that review. It's driven, generally, by the county attorney and it generally is their decision how they decide to partner with the system players to carry out that role. [LR312]

SENATOR COASH: Okay. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR CAMPBELL: Senator Krist, did you have a follow-up question? [LR312]

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SENATOR KRIST: I do. And I...the judge is going to testify. Judge Johnson, are you...you're going to...okay, well, I'll say this now as a comment, and then you can...allow you to respond to it, obviously... [LR312]

VICKI MACA: Sure. [LR312]

SENATOR KRIST: ...but then again, when the judge comes up. We have all three branches of government involved with four or five pieces of significant legislation over the last few years in collaboration. Those pieces of legislation did not happen without a collaboration with you, with the contractors, who are also important--... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...let's just call them contractors--or service areas. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: I'm seeing data that, with our JDAI initiative, that says our recidivism is down and tension is down, this is down, that's down. You're telling me that there's a better...and I believe you. I believe your data that we're making strides there. I'm going to say that your risk assessment on the intake is also important to keep kids... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...in the right path and families in the right way,... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...as the judges, within in their bench ruling, in terms of risk

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assessment--do I need to put this kid into detention, etcetera. [LR312]

VICKI MACA: Right. [LR312]

SENATOR KRIST: And it may seem like it's unrelated, but it's all related. [LR312]

VICKI MACA: It is. [LR312]

SENATOR KRIST: Yeah, how to deal with the kid and the family. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: And my point in saying it to you, Vicki, is this: With JDAI it is replicated across the state. And you are so right: Doing it the same way, correctly, and sticking to the risk assessment... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: ...is so important. If somebody in North Platte is doing something different than what is working as part of the system in Omaha,... [LR312]

VICKI MACA: Um-hum, um-hum. [LR312]

SENATOR KRIST: ...then we need to start looking at those systems and say, I'm not going to tell you what to do, District Attorney or City Prosecutor or Judge or whatever, but... [LR312]

VICKI MACA: Right, um-hum. [LR312]

SENATOR KRIST: ...let's look at what works. [LR312]

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VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: And let's try to make sure that our systems are in line with each other because it is all connected. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: And if you'd like to respond? [LR312]

VICKI MACA: I completely agree with you. I think they all are very connected. The risk assessment and the safety assessment we do, that's our number-one priority right now is staying true to that model and, when we stray, figuring out why we're straying. Generally, it has to do with training and folks needing to be retrained. It has to do with the type of supervision they are given, having champions or mentors in the field, people they can quickly access when they have questions. So that's one of our number-one priorities right now. And it isn't perfect, but the good news is we know where we're doing well and we know where we're not doing well and it...and we can't fix things unless we know what the problem is. [LR312]

SENATOR KRIST: In the course of dealing with all these other things that I'm talking about I keep asking, what makes the difference, what is the difference? [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR KRIST: You know, and maybe it's not so much a question of what's making the difference but that we are making a difference and continue to go down that track... [LR312]

VICKI MACA: Um-hum. [LR312]

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SENATOR KRIST: ...and look for some uniformity in the things that are best practices across the board. [LR312]

VICKI MACA: Right. Agreed, completely, thank you. [LR312]

SENATOR KRIST: Thank you. [LR312]

SENATOR CAMPBELL: Vicki, just a couple questions. [LR312]

VICKI MACA: Sure. [LR312]

SENATOR CAMPBELL: You talked a little bit about the law enforcement. How does that work outstate? Do they fax in reports to the hot line if it comes to them? How does that work? [LR312]

VICKI MACA: Yeah, law enforcement does share their reports with us. Generally, on calls where we're...on reports where we're going to go out together, they call. We have a very strong working relationship with both, you know, the local police departments and the sheriffs' offices, work very collaboratively. They'll call 24/7. Between 8:00 and 5:00 they'll call the local office, right, where they have local relationships. But evenings, holidays, weekends, they'll call the hot line and the hot line then contacts the person that's on call. And then the on-call person contacts law enforcement and they coordinate how they're going to respond to the report. [LR312]

SENATOR CAMPBELL: Right. If someone comes through the noncourt involved track... [LR312]

VICKI MACA: Um-hum. [LR312]

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SENATOR CAMPBELL: We'll call it a track for now. [LR312]

VICKI MACA: Sure. [LR312]

SENATOR CAMPBELL: Who pays for those services to the family? Do we, as a state, pay for those services? [LR312]

VICKI MACA: Yes. [LR312]

SENATOR CAMPBELL: Okay. [LR312]

VICKI MACA: Or if they're Medicaid eligible, Medicaid will pay. If they meet the eligibility criteria for the region mental health and substance abuse service system to pay, that mechanism can be used, but often it's the division. [LR312]

SENATOR CAMPBELL: It's state General Funds... [LR312]

VICKI MACA: Yes, yep. [LR312]

SENATOR CAMPBELL: ...in order to do that. Do we...well, Senator Krist just mentioned private insurance. Do we ask parents on a third-party payer? [LR312]

VICKI MACA: Yes, we sure do. [LR312]

SENATOR CAMPBELL: Okay. I noticed in the materials that you gave us, and I thought that you might want to talk a little bit about it, and that's the members of the Maternal and... [LR312]

VICKI MACA: Um-hum. [LR312]

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SENATOR CAMPBELL: ...Child Death Review Teams. This committee spent a little time talking about the apparatus to this with Senator Howard's bill that included maternal death reviews, but I thought that you might want to mention exactly how this works and how you review the reports to the department. [LR312]

VICKI MACA: Yes. I'm not actually a member of the review team and have never attended a review meeting. But what I do know, which is limited, is that this group of folks comes together for most of the day and reviews all the reports of child deaths and soon will be reviewing maternal deaths as well. They produce a report. We certainly review that report. And the whole premise of the review team is to look at are there patterns and trends, are there ways that multiple systems can intervene to prevent child death. And they look at, certainly, deaths that occur, you know, to kids in our system as well as kids that have passed due to SIDS and those types of medical-related issues. [LR312]

SENATOR CAMPBELL: Just...you included it mainly to give us an idea that this team exists. [LR312]

VICKI MACA: That's correct. [LR312]

SENATOR CAMPBELL: Is that the point? [LR312]

VICKI MACA: Yes. [LR312]

SENATOR CAMPBELL: On the last handout, I just didn't know if you wanted to make any other comment about the chart. This is sort of... [LR312]

VICKI MACA: Yeah. [LR312]

SENATOR CAMPBELL: ...SDM drilled down. Would that be right? [LR312]

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VICKI MACA: Right, this is the down and dirty of SDM right here, yep. [LR312]

SENATOR CAMPBELL: So that you know,... [LR312]

VICKI MACA: Um-hum, yep. [LR312]

SENATOR CAMPBELL: ...because I totally agree with you, the fidelity to this system may make all the difference. [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR CAMPBELL: And as we begin looking at AR, then this is the first step in that process, is it not? [LR312]

VICKI MACA: Yes, it is. That's exactly right, yes. [LR312]

SENATOR CAMPBELL: Any other questions from the senators? (Inaudible) did you...Senator Coash. [LR312]

SENATOR COASH: Oh, I have just a quick follow-up. Gene must have said this three times and I heard you say it, which is, this teamwork approach is vital to... [LR312]

VICKI MACA: Um-hum. [LR312]

SENATOR COASH: ...keeping kids safe and making good decisions, and I just wanted to clarify what I heard you say about what's happening outstate,... [LR312]

VICKI MACA: Um-hum. [LR312]

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SENATOR COASH: ...that we do have a teamwork approach. It may look different.  
[LR312]

VICKI MACA: Correct, correct. [LR312]

SENATOR COASH: But...and that's probably geography's effect or in that...between the department and where their offices are and how spread out, and these regions are pretty big,... [LR312]

VICKI MACA: Yes. [LR312]

SENATOR COASH: ...you know, bigger than a city. But are you saying that we do have a teamwork approach but it can be improved out, you know, in greater Nebraska? Or, you know, just can you speak a little bit more about that? [LR312]

VICKI MACA: Um-hum, sure. [LR312]

SENATOR COASH: I want to be more clear... [LR312]

VICKI MACA: Yep. [LR312]

SENATOR COASH: ...on what because if...I mean, like I said, Gene said it, you said it, that's a key. [LR312]

VICKI MACA: Yep. [LR312]

SENATOR COASH: And if we're not seeing it, that Gene said, you know, as many eyes on the kid,... [LR312]

VICKI MACA: Um-hum. [LR312]

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SENATOR COASH: ...that helps. [LR312]

VICKI MACA: You bet. [LR312]

SENATOR COASH: Can you just... [LR312]

VICKI MACA: Sure. [LR312]

SENATOR COASH: ...give a little further comment on that? [LR312]

VICKI MACA: I can. I think that I can say with confidence there is teamwork going on statewide. How that teamwork looks is different statewide. I can also say that it would be my experience that the teamwork is best done when it can be face to face and when it can be done by a variety of different experts around the table. I know that distance and travel makes a difference. My assessment would be there are ways that those non-face-to-face reviews could be enhanced, that there might be some mandatory, at least quarterly or two times a year, face to face. It helps develop relationships and trust and so I think there are ways that we could enhance it. I think it's great that it's going on and it makes a difference. But I think we could probably up the ante in a few parts of the state but again, DHHS is just one player, one part of that. [LR312]

SENATOR CAMPBELL: Okay. Thank you very much. [LR312]

VICKI MACA: You're welcome. Thank you. [LR312]

SENATOR CAMPBELL: Is there anyone else who wishes to provide information? We're also going to hear from some of the same people in LR261 but wanted to make sure for the record. Okay, we will move to LR261. And while Senator Coash is making his way to the table, LR261 is the interim study to examine barriers to permanent placements for

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Nebraska children who have been placed out of the home and are wards of the state.  
Senator Coash. [LR261]

SENATOR COASH: All right. Thank you again, Senator Campbell and members of the HHS Committee. Introducing LR261, which is a resolution to study barriers to permanent placements for Nebraska children who have been placed out of the home and are wards of the state. So as we mentioned earlier we've spent about an hour hearing about the front end of the child welfare system. This resolution is focused on the back end. We all hear much too often how a child bounces from placement to placement, whether it's foster homes, group homes, during the adolescent years, and finding a way to keep a child in their home, back with their family, is stability that's much needed. I focused LR261 to examine the policies that surround the termination of parental rights, because we know that that leads to permanency, HHS's procedures related to permanency and, particularly, I'm interested in the role of judicial discretion and how the judiciary intersects with the permanency of these children. You're going to hear some testimony from several people who work very hard to protect children, provide safe environments for kids--private entities, the judicial branch. I've been struggling to find a happy balance between a child who is out of the home and in the, you know, in the system, not with their family, and finding a balance between how much time do you give mom and dad to get it together so that they can be reunified with their child, versus the child's best interest, which is, in my mind, moving on to a permanent family. And what we have in place is...may work for some families; it doesn't always work for others. But it is that balance that I have struggled with and part of the reason that I brought LR261. [LR261]

SENATOR CAMPBELL: Thank you, Senator Coash. I think we'll go ahead. Given the time, we'll go right ahead, and our first testifier this morning is Judge Douglas F. Johnson, Judge Johnson, who serves on the Douglas County Juvenile Court and is a cochair of the Supreme Court Commission on Children. Good morning and welcome.  
[LR261]

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DOUGLAS JOHNSON: (Exhibit 3) Good morning. Thank you for the invitation, and I also want to thank all of you for the significant time and effort you put into Nebraska's most important resources, and that's our kids and our families. So I thank you. [LR261]

SENATOR CAMPBELL: Judge Johnson, we'll have to have you state your name and spell it for the record. [LR261]

DOUGLAS JOHNSON: Douglas F. Johnson, D-o-u-g-l-a-s F. J-o-h-n-s-o-n. Thank you. [LR261]

SENATOR CAMPBELL: Thank you. [LR261]

DOUGLAS JOHNSON: So from the materials I'm providing to you, one of the first things is "Key Principles for Permanency Planning for Children." This is a technical assistance bulletin from the National Council of Juvenile and Family Court Judges. This was voted on the board of trustees in 2011 and is acted on in virtually all the states in the country because they were represented in coming up with this. And if you look at some of the principles, they're the ones we're talking about, and I'd ask for your consideration, perhaps, promulgating this, or publishing this in a way that it's accessible to others. And I'd note the next thing I gave you is some law that's been on the books for quite a while, since 1987, and that's our family policy and the guiding principles and so forth. And if you look at that it's a great policy. It was amended with the Adoption and Safe Families Act in 1998 and you can see that it's the least restrictive placement consistent with children's best interest and safety. And that's one of the things that the Adoption and Safe Families Act clarified from its prior law, and that is that safety and well-being of children are of the paramount concern. So I point these things out to you as good principles, good policies that we need to remind ourselves and then we put into action. And there's a lot of steps we've heard about just recently, today. So how does this play out? From the court's perspective, we provide a fair hearing and due process to anyone

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who appears before us, and so in these kinds of cases with abuse and neglect, on the one hand, we have due process and fairness for parents. We've got the same for children. It looks a little bit differently because, especially for the youngest of our children in care, birth to three to five, there is not a lot that they can do about it. And so I like to think of their life in foster care in terms of dog years, like a one-to-seven-year ratio is how we ought to be thinking, because that's how important time is for these children and their developmental needs and we've got some initiatives, as you know. So we balance these things. And so I wanted to point out then, of course, permanency is a thing we want to do from day one. We're doing that with front-loading services, prehearing conferences, and these are good steps that we've taken across the state. But I also want to point out a couple of concerns. One of the questions is termination of parental rights. You will find most terminations of parental rights are on two bases. One is abandonment at 6 months; the other one is prolonged foster care, 15 of 22 months. And if you think about it, those are the easy ones because it's mathematical. Now on the second one the Supreme Court has decided that, okay, if you show the math of 15 months, that's fine, but then you need additional evidence that it's in the best interest to terminate. So those are probably the two clearer, bright-line rules. So we offer reasonable efforts to help families get better from day one voluntarily if they want to do them. But there's another section in the law that says reasonable efforts aren't always needed. So part of this is what the prosecutor puts on, what the guardian ad litem puts on, and what the defense puts on, and then the judge has to call it. One of the aggravated circumstances where reasonable efforts are not required is abandonment, but the law doesn't define what that is. And that statute is straight from ASFA, and I gave it right to you. We followed the federal law exactly in 1998. So let me give you an example. A case is filed. Hospital calls the county attorney. Mom shows up, got off a Greyhound bus from another town, said, I am going to deliver this baby, I've had no prenatal care, I do use drugs, I don't know who the dad is and, as soon as I deliver the baby, I'm leaving, I'm not from here, get my baby adopted. And that's what the social worker writes down at the hospital; that's the affidavit for probable cause and removal. We come forward for a protective custody hearing. Mom's not there. So the prosecutor

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says, well, Judge, we're going to have to lead up to publication, you know, a legal fiction that we're going to give new notice and we'll do it just for the protective custody hearing. Nobody says a word. And so I asked a question: Why would we want to go through the length of time to publish on the threshold issue of protective custody? We've got a person who stated intention--in fact, acted on it--and left the hospital against medical advice for her own well-being, got up and left. Wouldn't you have want to have said other things? So how far does the judge go? But we're looking at permanency, and that's part of our job too. I said, wouldn't you want to set up for adjudication? Disposition is an optional situation if you don't have someone to work with to correct why we're here so, perhaps, we should set up for that disposition. We'll do it all at the same time. You know, what's your intention here? And, you know, well, what do you mean? I go, well, does the statute for aggravated circumstances fit or not? One of them is abandonment. Well, Judge, we think we've got to wait six months from the filing of a petition because the law is not clear. Well, you know, a lot of us members--and I'm a past president of the National Council of Juvenile and Family Court Judges--testified when asked about what was coming through, and the idea was you don't prolong out-of-home placement and lack of permanency when it doesn't make sense. And so there was...in a prior law from 1980--it's 96-272--said that, you know, we don't offer reasonable efforts when it's unreasonable to, and that's case by case. So it's an area that leads to a process that's prolonged and, I think, perhaps, due to some lack of clarification. Another area is 43-1312, and I've given you a copy of that. That's the permanency planning statute. That statute says, no later than 12 months from the date a child goes into care there must be a 12-month permanency planning hearing. Since 2008 I've led a team to teach about helping babies from the bench with all the community stakeholders to raise the bar that you don't have to be a specialized family/drug-treatment court; everybody could get access to early development care and so forth. I don't find anybody has permanency planning hearings, and I don't know why. What I mentioned earlier was people tend to wait for that 15th month; that's when they start to act about do we go any further. The law is 12 months or sooner. California and some other states, when it comes to babies, has gone to six months for permanency planning. And it's the threshold watershed

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question of, why is this case open? Should further time be given to get better? And if there's a compelling reason, good, do that. That's what get you to the 15-month hearing. But we're going almost a year and a half when the law provided for earlier measures--one, aggravated circumstances, especially in cases of sexual abuse, injury, abandonment, and so forth. And so I would ask for some further study about implementation of that law and what it means. There is a piece in that also which says, the court shall, based on the evidence, decide when the matter will be referred for adoption, guardianship, termination of parental rights. Most judges don't want to tell the prosecutor or guardian ad litem, go file a termination of parental rights. All right, that would be prejudicial, but that's what the law provides and it's an area of clarification that states still struggle with. But it was clear when it was enacted that parents should have a fair chance to get better. But children also have a right to a decent life in a timely fashion. So we know 80-85 percent of our cases are mental health, substance abuse, and all the cooccurring issues--domestic violence, chaotic life, inability to hold jobs, housing, multiple partners, multiple kids from multiple partners, and lack of wherewithal to provide for them. So that fair chance to get better, I'm not discounting that at all, and that means that front-loading of timely services, geographically accessible, the right dose, the right time, and so forth. And so we have to struggle with the difference between unwillingness to comply with services versus inability, usually because of trauma, self-medication, so we balance. When you talk judicial discretion, these are the sorts of things that we try to balance. And so I call these things to your attention, perhaps, for further study by...across stakeholder...you know, with all folks represented, about taking a look at our laws that were changed here in Nebraska, in 1998, to achieve permanency. And then the fact is, most of our families reunify, but there are times when they don't and the law needs to be fair but swift, and so ongoing education and the resources to do that for multidisciplinary teams from across the state recognizing geographic differences in certain localities that can cause hearings to not be as timely as we'd like. The ongoing education, we have new prosecutors, caseworkers. There is constant movement and, when I started out, I think I had hair. But I'm meeting more new faces than I can keep up with as I meet folks on the bench. I would urge us to make

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sure our court process follows the lives of these families and that the families don't follow the process of the court. We need progression standards, timely hearings; when we have permanency planning hearings, the report from the department, how to look different and follow the statute. You know, have you had time enough to get better, and here's what we offered you for services, here's why we're changing the plan to adoption and what we're offering. Concurrent planning earlier, as appropriate, and the reasonable efforts to achieve both, and that's kind of schizophrenic but you have to do it under the law. So it's permanency from day one and paying attention. So I thank you for your consideration. I've given you some materials there to take a look at and I'd be happy to go over any of that with you at a later time. I know you're busy now. [LR261]

SENATOR CAMPBELL: Sure. Senator Krist. [LR261]

SENATOR KRIST: First of all, thank you for all that you've done, and you are a voice in Douglas County that we listen to when it comes to care of our children. And I think one of the things I've learned from you is to always apply the "my child" test, which is, would this be good for my child if we were doing it? I had the unique opportunity to listen to Chief Justice Price last week at the JDAI conference in New Jersey. They've been at this in JDAI for a decade. [LR261]

DOUGLAS JOHNSON: Long time. [LR261]

SENATOR KRIST: And what he was suggesting was exactly what you suggest, and that is to look at the statutes--it's come up several times, judges or lawyers, and they will be lawyers but they have to have some discretion allowed--but framing where we go, having risk assessment tools, and being able to clearly define both in statute and to allow discretion with those assessment tools. Would you talk to that for us for just a minute, and I know that you as presiding judge have that in your vocabulary and those that...other judges. [LR261]

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DOUGLAS JOHNSON: You have to and, you know, I'm a backer of JDAI. I've got a lot of friends in Portland, Chicago, Jersey. They've been doing this a long time and it works. And, you know, our mantra ought to be, "try not to detain." You know, it's strictly safety. It's never contempt. It's never show you who's boss. It's never sanctioned. We're still one of the few rehabilitative states in juvenile justice. So it is integrated though because we find the families with abuse and neglect have more feeders into the status problems of truancy than the delinquency, misdemeanors, and you go down the line. So it is a piece of a whole, but we do need evidence-based screening techniques and proper services not only for the kids but the parents. And what that does is it helps us identify what are the strengths that we have to work with. And we're getting better about being trauma informed because that's a lot of our issue when you grow up with a home with domestic violence and drugs and things, you know, you don't have that healthy start. And so if we can get...we are implementing trauma screens that are free and...but they're evidence based. It helps us target the right service for the right job and, you know, you need to nuance it so it's gender specific in mental health substance treatment for women. It's not a broad brush. So, too, for kids. And we know there's differences in what our young girls need and whatever young guys need, and so I applaud the efforts that you're making on the JDAI and it applies just with what Vicki said about the standardization so that...we have a protocol. We train to it because it works, and then we watch it and we make sure. Okay, are we missing something? There can always be a variable, but I think that's the way to go and you'll have more continuity and less subjectivity. [LR261]

SENATOR KRIST: And to your point--not that Douglas County is doing it absolutely right, but we're getting close--that model and that consistency needs to be spread throughout the state. I think that's the point that you were making. And we need to help do that even if it's just a piece, a tool, a face-to-face screening on a conference call or whatever it might be, because it works and, if it works, replicate it and move it right on down the line. Thank you, Judge, for all you do. [LR261]

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DOUGLAS JOHNSON: Yes, yes, absolutely. Any other questions? [LR261]

SENATOR CAMPBELL: Senator Coash. [LR261]

DOUGLAS JOHNSON: Yes. [LR261]

SENATOR COASH: Thank you, Judge, for coming today, and I echo the work that your doing in Douglas County. I want to get my head wrapped around the scope of the issue, and so I'll use your perspective from all the hundreds of families you've seen come before you. The example that you gave of where an abandoned infant, newborn, and she's already said, my intent is to leave, and she's gone and so your comment was, why would we have reasonable efforts when they're...when none are needed? [LR261]

DOUGLAS JOHNSON: Yes. [LR261]

SENATOR COASH: I'm trying to get a handle of the scope of the family's, at least, just from your experience, how...I mean, are we...is the example of the family you gave, is that a common occurrence or is that an outlier with regard to termination of parental rights? [LR261]

DOUGLAS JOHNSON: It would not be the norm but it occurs, and the reason why I mentioned that one--there are others I could bring up--is there are times when you see the intentionality. They don't show up for court. They don't see their children. There is no service to offer to somebody because they're gone or they check out and they won't respond to NFC's workers or the department or even their own attorney sometimes. And so we get caught in this waiting for 12 months; we get caught in waiting for this 15 months. And maybe they'll visit sporadically, but it kind of gets back to the old law that nobody said you had to offer reasonable efforts when it's unreasonable to. So it would be better to be able to have a case-by-case put on the evidence--you know, does this make sense to offer services in this case?--And it's one by one. I'd say the bulk of them

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it does, but there are those other ones where it kind of just goes on and on, waiting for artificial dates. [LR261]

SENATOR COASH: And you feel that the current law, as it sits today, ties your hands a little bit to let that clock tick off. All of a sudden the newborn is one year old without a permanent family. Is that...? [LR261]

DOUGLAS JOHNSON: That's right. You will find the majority either 15 month or abandonment because they're mathematical. There's other areas, but that, you know, it's easy to show the math, and so I just think we need to fit for what the family's needs are and what's actually happening. [LR261]

SENATOR COASH: Okay. What about...what is your experience with...we'll focus a little bit on...we always hear about termination of parental rights. We...people usually think of very young children in those cases, but we do have older children who go through that, you know, with a biological parent who just can't seem to get it together and continues to languish in the system without a permanent plan because, you know, I...we hear it in the Judiciary all the time, incarceration or drug abuse is always a big factor. Can you speak a little bit to those, you know, the adolescent-age children and what's going on with them and how long they're waiting to get permanency? [LR261]

DOUGLAS JOHNSON: We have a number of those cases, and that's why I'm glad we have the volunteer young adult piece starting on January 1 for those kids 19 to 21 who never were reunified, never were adopted. It's a great, great opportunity for them. But the fact is, there...for some of those children, they don't want to be adopted. Part of that might be the name. We always try to work with them--you know, this is a forever family; this is where you go for the holidays and your birthday and things--but sometimes a guardianship works out. But then when we hit those teen years guardians didn't sign up for all the behavior that they get that's not just teens but the earlier trauma that's manifesting itself. And so that's why we have a number of kids with that, another

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permanent, planned living arrangement--you didn't get home, you didn't get adopted, you just stayed where you're at. We have a number of kids that will graduate from Boys Town this next spring, exactly in those shoes. And I know the department can give you better numbers on those, but we have a number of cases that never close. They're open for a number of years and we just never got permanency achieved. That's why, you know, this focus of permanency from day one, working smart, dealing with what we've got in a timely way is critical to turning around our system so it doesn't drag out. We have timely decisions, timely help, but we've got to be decisive, too, within reason. [LR261]

SENATOR CAMPBELL: Senator Gloor. [LR261]

SENATOR GLOOR: Thank you, Senator Campbell. Thank you, Your Honor, for your time and commitment to kids. This may be just a continuation of some of what Senator Krist brought forward. I appreciate your testimony. It's been a great educational...and the materials, great educational opportunity for me. I know the judges in my community pretty well, hopefully that doesn't require further explanation. But (laughter) if I were to sit down and talk with them, would I hear the same thing? In other words, within the state of Nebraska anyway, do you interact with your peers, your counterparts? Is this a fair representation of what I would talk about with them on the same subject? [LR261]

DOUGLAS JOHNSON: I think it is. But, you know, I have great respect for my colleagues who cover a lot of ground. I go to my one bench and I stay there all day. We're dealing with one court with all the cases in Nebraska for delinquency status, abuse, neglect, and etcetera. So they've got a bigger bench, with all the other work they do in criminal law, civil law, probate, etcetera. So it may be the numbers are a little bit different, but a lot of the same issues about access to timely services, timely resolution of the issues, achieving permanency are the same ones. And you know, we have regional and then the statewide Through the Eyes of the Child meetings. We look at data. Our data doesn't look so good because we're doing some sort of a computer

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conversion with JUSTICE and they don't have the names quite right yet, so we look bad, and I'm saying that can't be so. But they're helping with the numbers so that we get good feedback. I mean this data is absolutely critical to inform our agenda and respond to it. [LR261]

SENATOR GLOOR: I'm trying to think further down the road with changes that might be proposed through legislation and whether the feedback we get is going to be consistent, whether it's through our county attorneys or through the bench, that will bolster our ability to move legislation forward as opposed to, not just with me but with any 1 of the 48 other senators, cloud the issue.... [LR261]

DOUGLAS JOHNSON: Right. [LR261]

SENATOR GLOOR: ...because there isn't some consistency on how this is looked at from the bench. [LR261]

DOUGLAS JOHNSON: Well, and you know that's why I think further study with the across-system stakeholders is a good idea, because people will see things differently. I mean one of the principles from the national council that I gave to you is adequate resources to achieve our mission. You know, our bill for the sixth judge is coming up again in January and I'm praying. You know, I can only hear so many cases a day, your judges can only hear so many cases a day, and so that presses upon people about, oh, you want me to do more and you want it when? And so my...the way I like to look at it is, what's the right thing to do? Now how do we align ourselves to achieve it? Not that we can't do it; it's how do we achieve it? If that's the right thing and that's the good result for children and families, then everything we have to do is aligning ourselves, our structure, our process to achieve that end and figuring out in a businesslike way, do we have inefficiencies that we, you know, we wouldn't see. I've got a friend who's a judge in Kentucky who says, why don't you invite your United Parcel executive to watch how you process cases and would they ever do it like this, you know, a businesslike efficiency?

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How are we doing our structures? We've had studies about how we process things so that we improve, and we've implemented a plan in Omaha to do a better job, but it does come down to resources and that's probably the number one thing that scares people from setting tougher progression standards. [LR261]

SENATOR GLOOR: Okay. [LR261]

DOUGLAS JOHNSON: Can I ethically...if it's there, then I have an ethical response to achieve it. Lawyers and judges get it. If this is what the law says, we train to that. They get that. [LR261]

SENATOR GLOOR: Helpful answer. Helpful answer. [LR261]

DOUGLAS JOHNSON: Yeah, because otherwise it's aspirational. [LR261]

SENATOR GLOOR: Yeah. Thank you. [LR261]

DOUGLAS JOHNSON: It's a hope. [LR261]

SENATOR CAMPBELL: I'm going to move on to the other testifiers. I'm sure we could ask Judge Johnson a lot of questions all morning, but I'm trying to get to the rest of the people before noon. [LR261]

DOUGLAS JOHNSON: Thanks for your consideration. Have a good morning. [LR261]

SENATOR COASH: Thank you, Judge. [LR261]

SENATOR CAMPBELL: Thank you, Judge. Kim Hawekotte. Kim is with the Foster Care Review Committee. Good morning. [LR261]

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KIM HAWEKOTTE: Morning. It is still morning. [LR261]

SENATOR CAMPBELL: It is morning, yes, absolutely. [LR261]

KIM HAWEKOTTE: (Exhibit 4) Good morning, Senator Campbell and members of the committee, and also Senator Coash. I'm Kim Hawekotte. It's spelled K-i-m H-a-w-e-k-o-t-t-e. I am the executive director at the Foster Care Review Office, but today I'm here testifying with a different hat on and that's on behalf of the Barriers to Permanency Project in our initial and preliminary work that we started in the Eastern Service Area, specifically with regards to the bill. So a little bit of history as to how this project came about is it started in June of 2013 with a quarterly report done by the Foster Care Review Office where we looked continuously at youth that have been placed out of home for more than two years. And we found some very concerning data in that review that 23 percent of our youth that have been in out-of-home care have been in out-of-home care two years or longer. There's a real disproportionate minority concentration of African-American and Native Americans, and the highest areas were in the Eastern Service Area and also in the Southeast Service Area. So one of our recommendations was to put together a collaborative to really hone in and take a look at these cases: What is going on? What are the barriers? So in August we started the Barriers to Permanency Project, and it is a...it's a collaborative. I think it's one of the first. I think it's very exciting. It's a collaborative that's made up of Nebraska's Family Collaborative, the Nebraska Inspector General, Health and Human Services, and the Foster Care Review Office. All of our agencies worked very closely together this entire time. And due to the size of the undertaking, when you talk about 870 youth, we decided, well, we're going to start with the Eastern Service Area, which is the largest service area, so we started with 299 cases in the Eastern Service Area. One thing I want to say, that it really is the belief of the Barriers to Permanency Project that every system is set up to get the outcomes they're currently getting, period. That's reality. And we felt it is not acceptable to have this many children not reaching permanency in our system that have been continuously out of home for three years or more. Something is

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not working. So we decided to honestly look at this data and the barriers, and we need to learn from those lessons. We need to figure out what is happening and to how to make it better into the future and also to help each of you create policy recommendations. There's a very clear process that we went through, the group of us. We developed a data form and did file reviews. We looked on N-FOCUS for documentation. We went on the JUSTICE system looking for documentation. Then we did individual case staffings on all these children with both the family permanency specialists and the supervisors with NFC. And now we're to the final step in the analysis of the data. I have, on page 2 and 3 of my testimony, broken out for you the data that we did collect on each one of these youth through our data forms, so we had case identifiers, demographics, legal status history, reasons they entered care, what's their current permanency goal, what's the status of the parental rights, their current placement, what their placement history is, their number of removals, the child characteristics. And from our reviews then we developed a common set of barriers. We developed seven broad categories that we initially identified, and we acknowledged that many of these barriers are intertwined and that's why these cases are so complex. And we also acknowledged that further studies need to be done in each of these broad categories. But the broad categories that we initially start...that we're starting with deal with first legal barriers, and those are barriers such as issues with ICWA or custody cases or immigration cases or paternity cases or no termination of parental rights being filed, as Judge Johnson just testified to. Second barrier was court and legal parties barrier, appeal of terminations, delays and continuances by the court, an area we call the fragmented court system where, in our belief, permanency of the child was not taking precedent over what was happening within the courtroom. Third, of course, were the parent/guardian barriers. We all had...every case has some of those. Fourth one was subsidy and funding barriers. We looked at adoption, guardianship. And DD funding, was that a barrier for a case? Fifth were of course your child barriers. Was the child DD? Did they have severe mental health? Was it the child's behavior? Sixth barrier is placement barriers. In other words, we looked at is that child, who's been out of home four or more years, in a placement that's willing to provide permanency or are they not?

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Or is there lack of support for the placement? Or are they with relatives? Last, we looked at case management barriers. We looked at the number of case managers, family finding, and we looked through the lifetime of a case with regards to case management because for most of these cases they have been in more than three years. So some of the relevant preliminary data: Like I said, the process we do is we looked at 299 children in the Eastern Service Area over the past two months. Each of these children have continuously been out of home for over three years. And it's also relevant to state at this point that doesn't mean they haven't been state wards for longer than three years. It just means we looked at the youth that have been continuously out of home, this episode for three years. For 75 percent of these youth, it was their first removal from home. But for 20 percent of these youth, it was their second removal from home. And for 5 percent, it was their third or more removal from the home and they've still been out of home for three or more years. Again, this group had no value judgments made by individuals or agencies involved but, rather, we were looking at the intent of the process in a systemic view for each of the factors involved with these children. So next we gave some data with regard to it, so time in out-of-home care for all of these children that we looked at, the 299, it was 3.9 years; 48 percent of these children had been in care under 4 years, so between 3 and 4 years; 52 percent have been in over 4 years, with an average median years of 5.1 years. The other...this next data we felt was very important, the age when these children began out-of-home care. I know for a lot of us we felt, well, this is going to be your teenage or early teen years. What we found was that 36 percent of these children began out-of-home care when they were 0 to 5; and 30 percent were age 6 to 10; 34 percent were 11 to 15. And the reason we stopped at 15, because these kids have been out of home for four years. So when they first came into care, that was their age. So the next data was to really look at what's their current age. In other words, we know these youth have been in the system for more than three years. So their current age for zero to five, that was 11 percent of the children. You'll notice the age group that did change was the six to ten; those are 28 percent. And then as you go up in age, the largest age group now is the age 16 to 19; that's 35 percent. When we divide it up between children that have been out of home four years or less

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compared to four or more years, the median age for children that were in out-of-home care for under four years was 11 years of age; the median age for children that have been in out-of-home care for more than four years was 14 years of age. Gender, pretty much males a little bit more than females but really nothing significant. Legal status, because we knew this would come up, 87 percent of these youth are HHS wards, so in other words there was about 10 percent of these youth that were OJS. County of filing, because we were in Eastern Service Area we wanted to differentiate: 5 percent of these cases were from Sarpy County; 95 percent were from Douglas County out of the 299. Out of those 283 youth in Douglas County, one judge had 29 percent of the cases; the other four judges had about an equal distribution of the cases. Race, race is a big issue when you look at this and I want to point out just a little bit of this, because you'll notice we do put down what is the percentage of all children in the Eastern Service Area, a couple of race issues that to me...to us did stand out. When you look at the African-American population, 45 percent of these youth that have been out of home more than three years are African-American, while they represent 11 percent of the population in Eastern; Native American, the same way. They represent 5 percent of the youth that have been out of home more than three years but only 1 percent of the population in Eastern. And when you look at white, they represent 35 percent of the kids that have been out of home more than three years but 66 percent of the population in Eastern Service Area. So there's no question that race is an issue and there is racial disparity with regards to this. Next issue we looked at was parental rights. Just some of the questions that was asked from Judge Johnson, we looked at parental rights of both the mother and the father. And when you talk about father's parental rights, I think you have to put a caveat here and really you're talking about the legal father, in other words, somebody that has been legally identified as the father, either through a marriage or been on a birth certificate or through an acknowledgement, not the biological father. So with regards to parental rights, you'll notice with this population about one-third of these youth still had their parental rights of both their mother and father. But the other thing is that, when you look at it, 61 percent of these youth, either their parental rights had been relinquished or terminated. So in other words, we need to really talk about and think

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about what are we doing as a system that we are not achieving permanency for these youth when the parental rights have been dealt with. Permanency goals, we just gave the top two permanency goals from these youth, the 299 youth: 37 percent had a permanency plan of adoption; 25 percent still had a permanency plan of reunification after three years. Placement, we know placement is very important, so we looked at what are the total number of placements these youth have had, these 299 youth. We looked at what's the total number of placements for these youth that have been in out-of-home care under four years and those that have been in out-of-home care over four years. I want to point out one key difference, and we did bold it in our report, is that when you look at these youth that have 21 or more placements, if they've been in out-of-home care under four years, that was about 12 percent of the youth. But when you look at youth that have been in out-of-home placements or had 21 or more and they've been in care more than four years, that was 28 percent of these kids. I can tell you the range of current placements that we found was anywhere from 2 to 51 for these youth. And I would like to say that 50 and 51 was an anomaly, and it wasn't; that 20 to 25 was not an uncommon figure that we found. So then we also reported out for you the types of current placement. I want to point out to us what we feel is some key data here. First, of course the largest group of these youth are, 55 percent, are placed in foster care. I think the relevant, though, data is beneath it, that only 14 percent of these youth are placed in relative foster care. So in other words, this population of youth that have been continuously out of home more than three years are not being placed with relatives. We need to do a better job in that, and I'll talk about that in more detail. Below it was also gave some interesting data. We looked at youth that have been in more than 13 placements in their out-of-home care, and we looked at some of the variances as to where they've been placed. For those youth that have been out of...had 13 or more placements that have been out of home less than four years, they found and had more detention placements, more runaways, and more placements with parents, in other words, back in home from the parental home. For youth that had more than 13 placements but they've been in care more than four years, we found more foster care placements and slightly more treatment placements. There was some interesting data

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that preliminarily we've seen, too, with regards to African-Americans. We know, as I said earlier, they comprise 45 percent of the youth that have been in care, but they are less likely to be in an adoptive home or relative care, more likely to be in congregate care and in licensed foster care. Child's needs, we did take a look at child's needs for those children that have been in care four years or longer, through an N-FOCUS-identified need. When they're in care four years or longer we found more identified needs, both in learning, developmental, emotional, behavioral, and mental health. Now the key portion to get to are the barriers to permanency. One thing to keep in mind as we reviewed all these cases, that not all the reviewed cases had an equal number of barriers. And the barriers were mainly identified through individual case staffings because of the reviewers'/our inability to find relevant documentation on N-FOCUS. The goal of this process was to identify significant categories with regards to barriers, but based upon this preliminary work that I'm going to talk about, we're now able to really focus in and look at what further research. [LR261]

SENATOR CAMPBELL: Kim, you do really have to wrap up. [LR261]

KIM HAWEKOTTE: Yeah. [LR261]

SENATOR CAMPBELL: We've got two more people and that's what we're trying to talk about here. [LR261]

KIM HAWEKOTTE: You do. So I'm going to let you just read with regards to the barriers. I think what's most important is to talk about a couple of the considerations and where we need to go on some of our recommendations, and you can look at the barriers and we have them set out by which is most prevalent. The first consideration that we really wanted to give...put before you is to review the length of the court appeal process. And we do acknowledge that there is a legal right to appeal a decision but we're concerned that the median time for this process is over ten months. We acknowledge that this issue is being closely monitored now by Through the Eyes of the

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Child Initiative, and we really recommend this continue. Second main one that we found is that court orders...one of our recommendations is that court orders must be issued within 30 days of the finalization of the court hearing. Without this type of requirement, we are waiting in some courts months and months to get that order from the court in which to even proceed forward. Third, as we all know, lack of a trauma-informed system of care by every stakeholder in the system. Every placement for a child is a new traumatic experience. We need to do a better educational piece. Fourth, and I'm going to get to Senator Krist's comments with regards to technology, I have to say a little bit and give kudos to this group. There were over 400 hours that we spent over the last two, two and a half months to collect this basic information that we have got. We found a lack of consistency in the data, no ability to use the data that we had on N-FOCUS in any type of accessible analytics. We had to collect most of this data manually and input it into a database in which to get it done. We also found inconsistencies within N-FOCUS and where the documentation was placed. But to get to Senator Krist's comments, yes, that was a major barrier for us as we were doing this project. But we also felt, as we were looking through this, if you had a computer system that was developed that provides alerts and exception reports in a way that makes it easier for workers and supervisors to do their job, you would have more attention on these cases. And if data was easier to be entered by workers, they could devote more of their time to actually doing the social work job that they were hired to do. So we felt that we really needed to stress that these technological improvements would greatly impact the effectiveness. Last recommendation that we had is that we really need to evaluate the foster care system that we have. We do want to give kudos and credit that we know the Foster Care Rate Committee of the Nebraska Children's Commission is doing this and they need to proceed forward. But in our opinion, the current system doesn't provide incentives to foster care providers to serve these youth in a different fashion and in a different way. So I'd like to personally thank each of the organizations. As I said, there was many, many hours that were put into this. I am open to any questions. I think each of these agencies involved would say we have learned a lot and each of us have gone back now and changed a lot within our own systems and how we do things, and can

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better improve for these children. [LR261]

SENATOR CAMPBELL: I think what I'm going to try to do is get at least the testimony in from the other two folks, as close as we can, and then maybe come back to questions. But I know each of the senators sitting here appreciate very much the work... [LR261]

KIM HAWEKOTTE: Thank you. [LR261]

SENATOR CAMPBELL: ...that was done and we'll take a look at it. Vicki, are you coming back this afternoon, or you're not able to come back this afternoon? [LR261]

VICKI MACA: I am not able but we'll have staff here. [LR261]

SENATOR CAMPBELL: Okay. And, Karen, you're not planning to come back this afternoon? [LR261]

KAREN AUTHIER: I'm not, no. [LR261]

SENATOR CAMPBELL: Okay. Let's go ahead and we'll take Karen's testimony and, Vicki, if we need to, we may continue it to 1:30 and just have someone else read your testimony. [LR261]

VICKI MACA: That would be fine. [LR261]

SENATOR CAMPBELL: Okay. Good morning yet. [LR261]

KAREN AUTHIER: (Exhibit 5) Good morning, Senator Campbell and members of the Health and Human Services Committee. My name is Karen Authier, K-a-r-e-n A-u-t-h-i-e-r, and I'm the chairperson of the Nebraska Children's Commission, and I appreciate this opportunity to talk about barriers to permanency. You're hearing some

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very specific examples of changes that could be made in policies, procedures, or statutes that relate directly to decisions regarding permanency, and I want to focus on some underlying issues in the system that combine to impede permanency.

Permanency is a complex issue and several of the commission's strategic goals and recommendations have a bearing on a child's chances to permanency. The first goal is encouraging timely access to effective services through community ownership of child well-being. You've heard about placement moves. We know the placement moves negatively affect permanency outcomes. There are many factors that increase a child's risk for placement moves, but a significant factor is lack of access to services by the child that are needed to resolve problem behaviors and the effects of emotional trauma. There is a recent study that took a look at a number of factors relating to placement disruption and found that proximity to needed services was an important factor in placement stability, especially in rural and suburban areas. In other words, children are more likely to achieve permanency goals either by reunification or adoption if they have access to needed services. Community ownership is another part of that goal. The commission's strategic plan emphasizes importance of public-private partnerships in assuring access to services so that there's no assumption that the public sector is going to solve all the problems. There is a commission work group on community ownership. Mary Jo Pankoke, from Nebraska Children and Families Foundation, chairs that group and they have been looking very closely at the model that has worked well in some communities across the state that the Children and Families Foundation has used to utilize a standardized service array assessment and a protective factor framework to develop and support community-owned priority plans for prevention and early intervention. I was also just reviewing the very preliminary draft from the Juvenile Services Committee and find...I was very encouraged by the fact that some of their recommendations are landing on some of those same priorities. There are many types of services that can benefit permanency. Behavioral health services is often at the top of the list in people's mind. I want to draw attention to another promising opportunity for children at risk that has been presented to the commission and has generated great interest. Facilitated conferencing is offered by mediation centers across the state. These

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are statewide resources that are available and can engage families in a nonadversarial way in working toward whatever permanency goal is best for that family. The second goal in the strategic plan focuses on development of a system of care, again with partnerships and joint ownership. We have emphasized in the commission the importance of prevention and early intervention as a way to keep children out of the system. We have endorsed the principle of differential or alternative response as an approach to deflect families from the system and out-of-home care, believing that if families receive support, effective and timely services, they are less likely to go deeper into the system, with the ultimate risk of termination of parental rights. Also under goal two, a focus on realigning the current system so that there is a recognition of trauma informed care built into everything, every approach that we make. Kim Hawekotte has mentioned that. That comes up also...it will, it is coming up in the Juvenile Services Committee. So I would want to underline the importance of that. Children enter the child welfare system after experiencing trauma. Those experiences threaten their chances for permanency if they're not taken into account. And the federal government has also issued some strong recommendations to the states to embrace the idea of trauma informed care. The third goal focuses on technology solutions. I think that's a common theme across all of the presentations. Good decisions by workers, supervisors, guardians ad litem, judges, and others are necessary at critical points to reduce those barriers to permanency, and good decisions depend on good data. There are several recommendations under this goal. One is to develop common data systems and standards across all states and private services; design service systems to support integration, coordination, and accessibility of services; and utilize an outside entity, such as a university, to review, analyze, and ensure data integrity. As has been mentioned, there is a commission work force that's been very active and has been looking at a number of options, including data warehouses and other approaches to data system integration and sharing of data across systems on a real-time basis so that decisions can be made with access to accurate information. Finally, the fourth goal is to foster a consistent, stable, and skilled work force. This will also be a theme, I think, in just about any report you're going to receive. There's no substitute for qualified, trained,

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well-supervised, and satisfied work force in moving children to permanency. Without an emphasis on this, the recruitment and retention suffers among the work force and we have a revolving door work force that does prevent moving to permanency with an adequate time frame. And various factors result from revolving work force: poor quality court reports, missed opportunities for reunification, lack of timeliness in identifying noncustodial parents, and longtime lapses in identifying permanency options with kin or other potential homes. I think you've seen data to support this. Caseworker turnover was cited in a 2006 review of the literature by the Children's Defense Fund. There's data to support that caseworker turnover results in families' receipt of fewer services, and it's been found as a major factor in failed reunification efforts, longer lengths of stay for children in foster care, and lower rates of finding permanent homes. So thank you for focusing the spotlight on permanency. I think you're hearing many of the same things.

[LR261]

SENATOR CAMPBELL: Exactly, we're hearing the same themes. Thank you very much, Karen, and I'm sorry that we had to keep you until the very end here. We're going to continue this hearing this afternoon at 1:30. We will take at that time...someone will read, hopefully, Vicki's testimony. And, Deb Brownyard, will you be able to return at 1:30? Okay. We'll take those two testimonies and follow up with any questions before we go to the last hearing. So we are recessed until 1:30. [LR261]

RECESS

SENATOR CAMPBELL: If you would all find a chair, I think we will begin this afternoon. I want to welcome all of you to the continuing hearings of the Health and Human Services Committee. And for those of you that are here for the afternoon session, LR262, we had a very long session this morning and we continued LR261. So we're going to take two testifiers very quickly on LR261, and then we'll move to the afternoon's agenda. But before that, I want to go over some housekeeping for people who may have joined us for the afternoon session. First of all, if you have a cell phone,

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please check that it is on silent or it is turned off. This afternoon we are...we have a list of testifiers that Senator Coash has provided for us on LR262 and we will follow in that order, and then any public testifiers that have come that I don't call their names. If you are testifying this afternoon, whether it's invited testimony or other, you do need to complete one of the orange sheets for the clerk, so they are located on either side of the hearing room. I would like to have the senators introduce themselves because we have Health and Human Services Committee members here, and we also have Tribal Relations Committee. Is that right, Senator Coash?

SENATOR COASH: That's correct, and possibly some Judiciary as well.

SENATOR CAMPBELL: And Judiciary. Thank you. So I'm going to start on my far right, and this fellow for a period of time was on the Health and Human Services Committee, Senator, and he always started out.

SENATOR BLOOMFIELD: Senator Dave Bloomfield, District 17, Wayne, Thurston, and Dakota Counties.

SENATOR BRASCH: Senator Lydia Brasch, District 16, Washington County, Cuming County, and Burt County.

SENATOR COASH: Senator Colby Coash, District 27 right here in Lincoln.

SENATOR CAMPBELL: I'm Kathy Campbell, District 25, east Lincoln.

SENATOR GLOOR: Mike...

MICHELLE CHAFFEE: Sorry. I'm Michelle Chaffee, legal counsel to the committee.

SENATOR GLOOR: Mike Gloor, District 35, Grand Island.

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SENATOR DAVIS: Al Davis, District 43, northwest Nebraska and western Nebraska.

BRENNEN MILLER: I'm Brennen Miller, committee clerk.

SENATOR CAMPBELL: And is Phoebe back yet? There's Phoebe, and Phoebe is our page this afternoon. So if you need some assistance with something, Phoebe will be glad to help you. As I announced earlier, we're going to finish up on LR261, which is an interim study to examine barriers to permanent placements for Nebraska children who have been placed out of the home and are wards of the state, and I believe we were having testimony from the Department of Health and Human Services. Is that correct? And who...and you are...? Would you like to come forward?

TONY GREEN: (Inaudible) testimony first?

SENATOR CAMPBELL: Yes. I'm going to have you go first. Thank you. Sorry, I wasn't picking up on your question. And we will use the lights here, although the department's testimony is usually pretty close to the five minutes. So we need you to go ahead and give your name and spell it for the record, please. [LR261]

TONY GREEN: (Exhibit 6) Good afternoon. I'm Tony Green, T-o-n-y G-r-e-e-n, deputy director for the Division of Children and Family Services, Department of Health and Human Services, Office of Juvenile Services, here to provide testimony in regards to LR261. The Division of Children and Family Services has been diligently working on identified barriers to children that are involved in the protection and safety system in achieving permanency. Permanency is achieved when a child is residing in a permanent and stable living arrangement with connections to people that are important in the child's life. When a child is removed from their biological family, efforts are made to locate family members or persons known to the child for placement. When children cannot be temporarily with relative or friends, relatives can provide continued support.

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CFS then works with the parent to build parental capacity so that the parent can care for the child safely and CFS can recommend the child return to the care of the parent. When reunification is not possible, efforts are made to find permanent placement for the child through adoption or guardianship. Some of our older youth may elect to live independently through independent living. CFS would provide support and services for those youth to successfully transition into adulthood. CFS is piloting a program called Family Finding in our Southeast Service Area. Family Finding is a promising practice designed to identify a minimum of 40 relatives and people with whom the child has a supportive connection. Results of this pilot are expected to be available in the spring of 2014. Early identification of noncustodial parents and other relatives is significant in order to achieve timely permanency. CFS completed statewide implementation of our structured decision making in July of 2012. This evidence-based model guides our decision making with regard to child safety, risk of future maltreatment, and plans for permanency. CFS conducts quality assurance reviews to monitor compliance with that SDM model. These quality assurance fidelity reviews provide valuable data that allow us to understand the areas where we have high fidelity and areas where we need to improve as a system. This data is reviewed each month during our continuous quality improvement meeting, where strategies are developed to continually improve that model fidelity. Evidence shows that when there is a strong adherence to the SDM model, permanency improves outcomes for children. When a child cannot be safely maintained in their home and out-of-home placement becomes necessary, we strive to provide that permanency as quickly as possible. We have identified some barriers that contribute to the delays in permanency. Changes in case management impact the progression of a case. When a family case is transferred between workers, it takes time for the new worker to establish trust with the family as well as with the other professionals involved with that family. Also, we're currently collaborating with Nebraska Families Collaborative and the Foster Care Review Office, as you heard, to review approximately 300 families in the Eastern Service Area in order to identify specific barriers to permanency. Those barriers to permanency provide valuable data that can be used to enhance CFS policy and to achieve permanency as soon as possible.

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Additionally, whenever parental rights are terminated by the court, achieving permanency for the child may be delayed in some instances because the parents have the right to appeal the court's decision. Pending the decision on appeal, the juvenile court case is on hold. Waiting for this decision directly impacts achieving timely permanency for children. Achieving permanency for children in foster care must be the top priority of all those involved in the child welfare system. Through collaborative partnerships and a shared vision, the barriers to timely child permanency can be significantly reduced. Coming to an agreement on adoption subsidy payments is also a barrier to permanency. Ninety percent of foster care services across the state are currently managed by private contractors. Those agencies pay foster parents a daily rate based on their foster care model. When a foster parent is entering into an adoption subsidy, the department's IV-E plan requires the subsidy payment to revert back to the CFS payment schedule and does not always match the agency's payment to the foster parent. This can cause some discrepancies and some foster parents are unwilling to take a lower payment per month to provide that permanency. Although it's a current barrier, LB530 passed during the last legislative session standardizes foster care rates and provides for new assessment tools to determine foster care payments for CFS and private contractors. We are currently piloting the use of standard assessment tools in an effort to identify child needs and caregiver responsibilities to determine an appropriate foster care rate. The standard rates are set to go into effect July 1 of 2014, as well as using the new assessment tools to determine additional funding tied to the child's individual needs. We will continue to collaborate with foster parents and foster care agencies to address these barriers so timeliness can be achieved permanent...or can be achieved. And I'd be happy to answer any questions. [LR261]

SENATOR CAMPBELL: Excellent. Any questions on the testimony? Senator Coash, did you have a question? [LR261]

SENATOR COASH: Thank you, Senator Campbell. Tony, I just wanted to ask you a little bit about the termination of parental rights and the appeals that...when the parent

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appeals the termination. Do you know--I'm trying to get a scope of that problem--how often are these orders appealed? How often do you see a parent saying, no, I disagree with that? Is it a large amount or is it... [LR261]

TONY GREEN: A majority of the cases, they are appealed, in which the termination is upheld. [LR261]

SENATOR COASH: Okay. So the filing has been made to terminate the parental rights, then everything goes on hold if the parent appeals... [LR261]

TONY GREEN: Correct. [LR261]

SENATOR COASH: ...the termination order. So then that keeps the clock ticking about how long? I mean how long does that appeal process take? How much time do we lose with a kid not knowing what's going to happen when that appeal is going through? [LR261]

TONY GREEN: That appeal can last anywhere from six months to, in some cases, over a year while we're waiting to finalize and move into the permanency plan, which would either be, generally, adoption. [LR261]

SENATOR COASH: Okay. Thank you. [LR261]

SENATOR CAMPBELL: Senator Gloor. [LR261]

SENATOR GLOOR: Thank you, Senator. Thank you, Senator Campbell. Thank you, Tony. [LR261]

TONY GREEN: Sure. [LR261]

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SENATOR GLOOR: Let me read this from the narrative and then ask my question. The standard rates are set to go into effect July 1, 2014, as well as using new assessment tools to determine any additional funding tied to the individual, to the child's individual needs. So we'll see the new rates July 1, this upcoming year, and the assessment tool, which means that we'll end up with new amounts based upon that assessment tool. Will those new amounts just be higher or will those new assessment tools also say, no, even the standard rate is more than necessary; for this particular foster child we're going to pay less? I mean is it designed just to pay in addition to the standard rate or to adjust the standard rate up or down? [LR261]

TONY GREEN: Right now, as I understand it, the pilot is to determine what that rate, using these two new assessments, would look like compared to what the current rate structure is looking like. So in the pilot that's currently being done, there are two types of assessments, one that assesses the child's needs and then one that will assess what the caregiver's needs are as it relates to meeting those needs of the child. And so we're gathering that data now in the pilot and comparing that against the current assessment to give that picture of is it higher or lower and what that would look like. [LR261]

SENATOR GLOOR: Okay. [LR261]

SENATOR CAMPBELL: Any further questions? Thank you very much for filing in. [LR261]

TONY GREEN: You bet. [LR261]

SENATOR CAMPBELL: We'll tell Vicki you did a great job. [LR261]

TONY GREEN: Thank you. [LR261]

SENATOR CAMPBELL: Our last testifier on LR261 is Deb Brownyard. Good afternoon.

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And we are using the lights because we need to get to the next one, so. [LR261]

DEBORA BROWNYARD: Absolutely. [LR261]

SENATOR CAMPBELL: I know you always have a lot of good material for us.  
(Laughter) [LR261]

DEBORA BROWNYARD: I'll try to keep it brief. Thank you. [LR261]

SENATOR CAMPBELL: And state your name for the record and spell it, please.  
[LR261]

DEBORA BROWNYARD: (Exhibit 7) All right. Thank you, Senator Campbell. My name is Debora Brownyard, D-e-b-o-r-a, last name Brownyard, B-r-o-w-n-y-a-r-d. I'm here in my capacity of the director of the Office of Dispute Resolution and Special Court Programs. I'm with the State Court Administrator's Office. I'm here to testify about programs that the court uses to remove barriers to permanency for children. And these in my testimony, I'll just highlight a couple of points. And I appreciate, Senator Coash, your invitation to be here today. The court system has been using the six ancillary regional mediation centers for over 20 years to provide mediation and facilitation resources. These have really upped in the last five years with three particular types of prehearing conferences that judges order in order to expedite permanency for children. The three that I'm going to talk about primarily, of the four, are on page 2. The first one is called an initial prehearing conference, and Judge Johnson talked about that this morning. That was a pilot back in the mid-2000s up in Douglas County and now that pilot has grown to the point where facilitators meet with the parents, the guardian ad litem, the attorneys, the caseworkers about an hour prior to the initial court prehearing...court session on the initial removal. And the purpose at that initial prehearing conference is to identify who's the father, to find paternity, because oftentimes we don't know paternity; to identify this if this is a Native American child so

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that the tribes can be contacted appropriately; to identify if there's any immediate resources that the mom and dad or mom might be willing to take; and are there any special needs of that child. And so these prehearing conferences occur now statewide in all 12 judicial districts. In Douglas County, the calendar, if you look at the calendar, every day all of the five juvenile court judges have a facilitator scheduled to do an initial prehearing conference day of the initial removal. We have the Center on Children, Families, and the Law did an informal study and they determined by doing these prehearing conferences the cases proceed much more quickly and that children are identified, the parents, etcetera. We do over...there's a chart in your handout on page 5 that shows you the trendline of these initial prehearing conferences. The pilot started in '09. This last year we approached 665. We had to pull the plug on them because the funds that the court receives through a grant from HHS basically ran out of money. And the trendline is to continue these up to 769 in the next couple of years, but, frankly, we just don't have the resources. You may recall that this Legislature last year passed a bill, when you created the Children's Commission, to say that facilitated conferences would be continued to be funded at the same level as they were last year, and that level is \$235,000 and that's a grant from HHS to the Supreme Court. So part of what I'm here today to do, it not only funds this initial but it also funds termination of parental rights prehearing conferences. And I know, Senator Coash, that was something that you were really interested in. And we did an informal study back on page 3. Concord Mediation Center in Omaha partnered with NFC, Douglas County judges, and Through the Eyes of the Child team to see if a prehearing facilitation and a termination of parental rights case would make any difference in the outcomes. And what they found in their small study is that out of 36 of the cases, 44 percent of them resulted in the parents ultimately deciding that they would voluntarily relinquish their parental rights. We don't, in any way, want an agreement there at that conference. We do not in any way, and the facilitators are trained not to, coerce or pressure the parents. This has to be their decision. But what we have seen is that there's, because of education that's provided for those moms and dads, the attorneys, guardians ad litem, people voluntarily decide to relinquish because they feel like they can have more input into the children's life. Again, there's

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over...the Foster Care Office...Review Office said there's about 1,084 TPR cases per year. We're doing conferences for about 10 percent of them. Through the Eyes of the Child wants to do one of these conferences for every TPR, but, frankly, we just don't have the resources. The rest of this has other research footnoted, it has more data. And I'm happy to answer any questions. [LR261]

SENATOR CAMPBELL: Are there any questions you'd like...? We should note that the money that is...that comes from the department is really a pass-through of the federal funds, and those funds have remained static. [LR261]

DEBORA BROWNYARD: All right. [LR261]

SENATOR CAMPBELL: And at the Children's Commission last month the discussion was whether the federal funds should be augmented. And so my guess is that we'll continue that discussion. But it's not like the department is actually...I mean they're just passing through what we get from the feds, so. [LR261]

DEBORA BROWNYARD: Right. Yep. [LR261]

SENATOR CAMPBELL: Thank you very much for coming today. [LR261]

DEBORA BROWNYARD: All right. Appreciate it. Thank you. [LR261]

SENATOR CAMPBELL: Uh-huh. And that will close our hearing on LR261 and we will then proceed to the joint hearing this afternoon with the State-Tribal Relations Committee and the Judiciary Committee and the HHS Committee on Senator Coash's interim study to examine the high rate of placement of Nebraska's Native American children involved in the foster care system. Senator Coash, start us out, please. [LR261]