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Appropriations Committee and Health and Human Services Committee  
November 14, 2014

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[LR535]

The Committees on Appropriations and Health and Human Services met at 1:30 p.m. on Friday, November 14, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR535. Senators of the Appropriations Committee present: Heath Mello, Chairperson; John Harms, Vice Chairperson; Kate Bolz; Bill Kintner; Tyson Larson; Jeremy Nordquist. Senators of the Health and Human Services Committee present: Kathy Campbell, Chairperson; Bob Krist, Vice Chairperson; Sue Crawford; Mike Gloor; Sara Howard; and Dan Watermeier. Senators absent: Danielle Conrad, Tanya Cook, and John Wightman.

SENATOR MELLO: We're going to get started if we can, so if everyone could take their seats. Good afternoon and welcome to today's joint hearing of the Appropriations and Health and Human Services Committees. My name is Heath Mello. I'm from south Omaha, representing the 5th Legislative District and serve as Chairman of the Appropriation Committee. I'd like to start off today by having members of both committees do self-introductions, starting with the Chairwoman of the Health and Human Services Committee, Senator Campbell.

SENATOR CAMPBELL: I'm Kathy Campbell and I serve the 25th Legislative District, east Lincoln and eastern Lancaster County.

SENATOR GLOOR: Senator Mike Gloor, District 35, which is Grand Island, Health and Human Services Committee.

SENATOR WATERMEIER: Senator Dan Watermeier, District 1, from Syracuse.

SENATOR LARSON: Tyson Larson, District 40.

SENATOR BOLZ: Senator Kate Bolz. I represent District 29 in south-central Lincoln.

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

SENATOR HARMS: John Harms. I represent the 48th District, Scotts Bluff County.

SENATOR MELLO: Assisting the committees today is Rachel Meier, the Appropriations Committee clerk, and J.T. will be our page for the afternoon. Today's public hearing is invited testimony only and will consist of a briefing from the Department of Health and Human Services on several items, followed by testimony on LR535, an interim study on the structure of health and human services functions currently administered by the Department of Health and Human Services. First, we'll hear from Thomas Pristow and Ruth Vineyard speaking to the MMIS report to the Legislature, federal Title IV-E disallowances, and the TANF block grant for childcare. Testifiers, if you would have any handouts, please bring up at least 15 copies and give them to our page. If you have not enough copies, they will help make more for you. Additionally, please fill out the yellow sign-in sheet over in the corner of the room and hand it to our page when you come up. It helps us keep an accurate record of today's public hearing. As a matter of committee policy, I'd like to remind senators that the use of cell phones and other electronic devices is not allowed during the public hearing. At this time, I would ask all of us, including senators, to look at our cell phones and make sure that they are in the silent and/or vibrate mode. With that said, at this time we'll begin today's hearing with testimony from the Department of Health and Human Services. And please just begin your testimony by giving us your first and last name and spelling it for the public record.

THOMAS PRISTOW: (Exhibit 1) Good afternoon, Senator Mello, Senator Campbell, members of the Appropriations and Health and Human Services Committees. My name is Thomas Pristow, T-h-o-m-a-s P-r-i-s-t-o-w, and I'm the director of Children and Family Services for the department. I've been asked to testify on the status of the federal disallowance and restricted draw-down grant of the Child Care Development Funds. In

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August...I'm going to start with the disallowance first and then go to the CCDF. In August 2012, we had a IV-E disallowance connected to the federal fiscal year '10 of \$3.2 million. This was related to a contractor issue with lead agencies. This was paid to the federal government with existing appropriations and unspent grant funds. In December 2012, we had a IV-E disallowance related to PACAP, which is the Public Assistance Cost Allocation Plan, for \$7.8 million due to not timely updating of our plan from 2005 through 2007. We began quarterly repayments of over \$647,000, which in effect reduced by that amount our grant awards by administrative claiming. This disallowance was further absorbed by IV-E training fund settlement and Program 265 operating budget. We projected this will be paid off in October 2015. In April 2013, we identified a bundled payment issue. We notified ACF, which is the Administration for Children and Families, a federal government overseer in Kansas City. On July 2013, ACF notifies the department of IV-E foster care maintenance deferral. This disallowed all foster care IV-E maintenance claims due to the privatization bundled payment issue. And a bundled payment issue means paying the contractor rate divided by 12 months. On September 2013, the IV-E waiver was awarded to Nebraska and also in that month there was a source documentation request to all agency-supported foster care providers for federal fiscal year '13. January 2014, all providers had to submit 100 percent source documentation for federal fiscal year '13. Also in January, the federal government notified the department of \$21.9 million disallowances for federal fiscal years '10, '11, and '12. This was primarily due to the bundled rates paid during privatization. The department appealed, and on February 2014 we did submit substantiations for \$7.3 million of the \$21.9 million disallowance, meaning we were able to reduce the \$21.9 (million) by \$7.3 million. We also negotiated a stay at that point through mid-December this year so that we could further reduce our \$21.9 million disallowance. This past September, the department continued to communicate and negotiate a sample size similar to federal fiscal year '13 for all agency-supported foster care federal fiscal year '14 claims. Additionally, this past September we were instructed by ACF to obtain 100 percent source documentation from three providers related to the \$21.9 million disallowance. I'm going to go on to the CCDF unless you have some questions specific

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to this part here. Do you want me to...like me to hold or do you want me to keep going?

SENATOR MELLO: You can keep going. That's fine.

THOMAS PRISTOW: Okay. Child Care Development Fund. In April 2014, the department was notified by ACF that the CCDF was put on a restricted drawdown. This restriction was imposed due to late, incomplete, or missing financial expenditure reports for federal fiscal years 2010 to 2013. In addition, the department had been unable to satisfy ACF requests for readily reviewable source documentation to verify claims against the CCDF grants. Restrictive drawdown sets up a process by which a department must provide ACF acceptable documentation before accessing the CCDF funds. The original restrictive drawdown affected any CCDF grant funds which were considered open and not yet expended. Since this regulation for a CCDF allowed for up to three years to expend the funds, this affected CCDF federal funding for federal fiscal years 2012 to '14. At the time the drawdown was put in place, there was approximately \$861,000 in unexpended 2012 funds, \$3.5 million in unexpended 2013 funds, and \$21 million in unexpended 2014 funds. Immediately after the restrictive drawdown was imposed, staff from both the financial services division and Children and Family Services Division met with ACF in Kansas City to resolve these issues. Since that time, staff have continued working with ACF through weekly phone calls to address the financial reporting and programmatic issues. In addition, there are frequent meetings between the financial services division and Children and Families to ensure both finance and program are on the same page related to managing the CCDF funds and financial reporting. Through this collaboration with ACF, the department has made significant progress in identifying the accurate source documentation of claims, correcting reports, and addressing the audit findings. Internal control processes are being identified and developed to provide for ongoing improvements in financial reporting. While we anticipate the restrictive drawdown will continue into the spring, the work we...that has been accomplished should avoid further CCDF allowances. I would be glad to answer any questions you may have.

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SENATOR MELLO: Thank you, Director Pristow. Does the committees have any questions? First off, I'd like to welcome Senator Bill Kintner from District 2 to today's hearing, as well as Senator Sara Howard from District 9 to today's hearing. Any questions from the committee? Senator Campbell.

SENATOR CAMPBELL: Director, we probably ought to look at the chart that you've provided on page 5 of the handout because that's really how you're paying off the disallowances. Does that...is that what that chart is supposed to reflect? Oh, sorry.

THOMAS PRISTOW: Yeah. It actually just goes through the steps that I outlined in my narrative.

SENATOR CAMPBELL: Okay. So...and that's how we're paying it off, because are we paying...we're paying on a quarterly basis? Is that how we're paying the debts off?

THOMAS PRISTOW: Right, with interest at this point. Yes, yes, ma'am.

SENATOR CAMPBELL: One of the questions that in a small meeting Senator Mello and Senator Harms, Senator Dubas, and I had with you and Mr. Winterer, one of our questions was very clear in terms of how are we finding the money to do that. That's number one. And number two, what is this costing us in interest. And the Appropriations Chair said would it be better just pay the federal government off of what we owe them rather than to keep accruing interest payments at that point, which was well over \$2 million in interest.

THOMAS PRISTOW: Yes.

SENATOR CAMPBELL: So kind of bring us up to date from that conversation.

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THOMAS PRISTOW: Well, working through this fiscal year and into the next biennium, we have identified the shortfalls that we...that these disallowances are going to be causing us, and we have submitted those through our channels through our process with the Governor's Office.

SENATOR CAMPBELL: Okay. So at this point how did we pay them? I mean...

THOMAS PRISTOW: Well, the one we talked about, we absorbed it through the training fund settlement. Remember, we had that a few...a number of years ago. We had...I can't remember how much money we had at that point, but we used that...those dollars to pay off the \$7.8 million. We also used the operating budget from 265.

SENATOR CAMPBELL: Okay. Did we have to cut any programs in order to pay the money?

THOMAS PRISTOW: No. No.

SENATOR CAMPBELL: I have...

THOMAS PRISTOW: Go ahead. I'm sorry.

SENATOR CAMPBELL: ...we must have had to make some cuts to some programs.

THOMAS PRISTOW: What I didn't...for example, Family Finding, that we were running a pilot in southeast service area, it was a pilot program and I reduced the amount of money going into that pilot, but I didn't cut it, to help offset some of these costs.

SENATOR CAMPBELL: Okay. So just so that there's a record here, what's the total amount left to pay? That goes back to are we better off to pay it...

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THOMAS PRISTOW: Right.

SENATOR CAMPBELL: ...or to pay it incrementally as we have been doing it?

THOMAS PRISTOW: If you're talking with the interest for fiscal year '15, the year we're in right now, we're talking \$19,061,000.

SENATOR CAMPBELL: Okay.

THOMAS PRISTOW: And if we're talking into the biennium, we've projected \$18,400,000. That's assuming worst-case scenario with the \$21.9 (million) which we haven't yet finalized and we won't finalize that until mid-December on what the actual total disallowance is because we are reducing that steadily until that point.

SENATOR CAMPBELL: And I'm sure my colleagues that are on Appropriations have a far better overview of this, but going into the biennium we're going to have to find that money somewhere. And I know that the senators were very adamant in saying we did not want programs cut. You know, it's sort of like where do you need the money; tell us if you need the money to pay this off.

THOMAS PRISTOW: Right.

SENATOR CAMPBELL: And I'm sure that...I'll let my colleagues from Appropriations, you know, go further there. But it certainly was the tenor of the meeting at that point.

THOMAS PRISTOW: Yes, ma'am. Yes, it was. And we have, like I just identified, the areas of our concern for this fiscal year and for the biennium.

SENATOR CAMPBELL: Okay. If I could continue?

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SENATOR MELLO: Yep, go ahead.

SENATOR CAMPBELL: Director, my second question has to do with the Child (Care) Development Fund. If we provide the documentation and go back in terms of that money, will we be able to draw it down or is it just, quote, lost? I mean, we can never recoup that.

THOMAS PRISTOW: We are...we will be able to draw that down. I'm sorry. I have to check with my CFO on that.

SENATOR CAMPBELL: And I have to tell you that we had a hearing on an interim study with regard to ADC, and that's when the members of the Health Committee were aware that...we had some problem, because we talked about TANF at that meeting, and Liz Hruska provided us our usual annual update about what happens with TANF dollars. And I think our concern here was that we had...if we could draw the total amount was somewhere over \$7 million that we have not been able to draw down. And I'm probably...you know, I'm a ballpark estimate where Appropriations, they're to the dime. So it's helpful to know that we could draw down all that money and bring it back in.

THOMAS PRISTOW: Yes. Yes.

SENATOR CAMPBELL: Would it then go back into that fund?

THOMAS PRISTOW: As far as I understand, yes.

SENATOR CAMPBELL: Okay. Thank you.

SENATOR MELLO: Any other questions from the committee? Senator Bolz.

SENATOR BOLZ: I would just be curious, could you elaborate related to the Child Care

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Development Fund? You referenced that the restriction was due to late, incomplete, or missing financial expenditure reports for fiscal years 2010 through 2013 and a history of audit findings. Could you elaborate on what those audit findings were and if they've taught us anything about what we need to be doing differently?

THOMAS PRISTOW: I don't have the audit findings in front of me, but what they did teach us is that the collaboration between program and finance is essential and that we've moved...we've done yeoman's work to reconnect with finance to make sure that the program and finance are together when we do our reporting. In fact, no report goes to ACF to the federal government without going through my program financial person folks first so that we make sure that we're connected and that all the i's are dotted and t's are crossed.

SENATOR BOLZ: Okay.

THOMAS PRISTOW: And that hasn't happened before.

SENATOR BOLZ: Okay, thank you.

THOMAS PRISTOW: If you want further details on those audits, I'd be glad to send them to you if you'd like.

SENATOR BOLZ: I'd appreciate that.

SENATOR MELLO: Any other questions from the committees? Director, I've got a few questions, and I guess it's just a couple of just general clarification. The federal IV-E disallowance for fiscal years '10 through '12, the roughly \$22 million disallowance that has been negotiated down to \$14 million, that full amount has been requested in your budget request that you put forward to both the Legislature and the Governor this year for the upcoming biennium?

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THOMAS PRISTOW: Yes. For consideration, yes.

SENATOR MELLO: Now was it also...did you also put in consideration for the deficit budget request as well? I'm seeing a nod, a head nod over from a colleague of yours.

THOMAS PRISTOW: Yes.

SENATOR MELLO: Okay. That may be just a clarification because I know that was based off the communications between...

THOMAS PRISTOW: Yes.

SENATOR MELLO: ...Senator Campbell, Krist, Harms, myself, with you and Director Winterer that we requested that to be brought forth at the budget process. But I would guess I'm still a little intrigued more, since we had some leeway time on that IV-E disallowance, on the other, of the fiscal year '10 through '12 disallowance. But I guess I've been unaware, and I can only speak for myself and in conversations with the Fiscal Office, in respects to the payments back to the federal government for the other disallowances. And I won't speak for Senator Campbell because she was the one who actually I think brought it more to my attention through some informal communication that was received from the department. But was this not just...I mean, was this not more of a public...was this not more public information that you...that the department was making available to other legislators that we were having these disallowance payments that we had to pay back to the federal government?

THOMAS PRISTOW: It was public, Senator. It wasn't hidden by any stretch. What I was working from was to make sure, one, that we didn't cut any programs but that within our existing resources we were able to find ways to pay that down or to get that off of our books. And when...so I think we accomplished that to some degree, but then when the

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\$21.9 million bundled payment issue came across our desk, that was very significant. And we...like I said earlier, we've been working extremely hard to reduce that amount, but there is still going to be a significant amount to pay come December 15th.

SENATOR MELLO: And the total amount that's due for the previous disallowances, not the most recent disallowance, and by the way, that disallowance was I think make more public through the Auditor of Public Accounts who provided that information I think in a more public manner to the Legislature during...

THOMAS PRISTOW: Yes.

SENATOR MELLO: ...this past legislative session. But I was trying to write down the total dollar amount that you said from the previous...

THOMAS PRISTOW: Seven point eight and three point two.

SENATOR MELLO: For a total of \$11 million we owe over four quarters?

THOMAS PRISTOW: The \$3.2 (million) has already been paid off, and the \$7.8 (million) we anticipate to be paid off by October 2015, Senator.

SENATOR MELLO: Okay, the \$931, the last payment October 30, 2015?

THOMAS PRISTOW: Of \$647,692, yes.

SENATOR MELLO: Okay. Any other questions from the committee? Seeing none, thank you, Director.

THOMAS PRISTOW: Thank you, Senators. Thank you for your time.

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SENATOR MELLO: Next up would be Ruth Vineyard from the Department of Health and Human Services. Good afternoon.

RUTH VINEYARD: (Exhibit 2) Good afternoon, Chairperson Campbell, Chairperson Mello, members of the Appropriations and Health and Human Services Committee. My name is Ruth Vineyard, R-u-t-h V-i-n-e-y-a-r-d, the deputy director with Division of Medicaid and Long-Term Care with the Department of Health and Human Services. As requested, I'm here today to address Medicaid's current plans for the new Medicaid IT systems, including our Eligibility and Enrollment (System) solution, or EES, and the Medicaid Management Information System, commonly referred to as the MMIS. In addition, I'll also discuss Medicaid's plans to enhance our data analytics capabilities as part of the overall strategic plan for the division. In 2013, MLTC initiated a project to replace the Medicaid eligibility and enrollment system and completed a contracting process early this year with Wipro, LLC. Replacement of the system was necessitated by ACA regulations for real-time eligibility and enhanced system functionality. The current eligibility and enrollment system, N-FOCUS, has been in use for approximately 20 years and has served us well. However, the current system no longer meets federal requirements for enhanced funding and the data analytics capabilities have presented some challenges. This has been particularly problematic in the last few years due to increased oversight and required reporting by CMS. This is a significant project with an aggressive time line. Development of the new system began at the end of August 2014 with an anticipated go-live date in the first half of 2016. The project requires resources with diverse expertise to implement successfully. System integrators, Independent Validation and Verification or IV&V contractors, consulting resources, and state staff are all required. The project is currently in the planning and requirements validation phase. Governance structure has been established, including a project board and steering committee, and includes involvement of executive leaders. This strong governance structure combined with IV&V minimizes risk and ensures accountability throughout the project. Implementation cost for the new system is approximately \$59 million. This is matched at 90/10 through federal matching monies. The department's initiative to

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replace the existing MMIS system began with the CMS-mandated Medicaid Information Technology Architecture State Self-Assessment or the MITA SS-A. A consulting team worked alongside state staff to complete an "as is" assessment of our current business information and technical architecture. This was followed by a projection of our "to be" state and a road map of strategic plan that will bridge that gap. The MITA SS-A is a required framework for federally funded Medicaid IT projects and it will be completed by the end of this year. It's also required for MMIS project. The planning phase of the MMIS procurement began in early 2014, with discovery and project governance formation. The project is led by consultants with expertise in MMIS procurement in conjunction with state management and staff. Strategic analysis involving system alternatives, procurement options, and a current MMIS market view are in development. A specific workgroup has been established to define reporting and analytics requirements to ensure the new MMIS will meet the continued demands for extensive program, financial, and operational data analysis. We anticipate the MMIS RFP will be released in November 2015, and a vendor begin the design, development, and implementation phase of the project in October 2016. I included a time line for your review. Unknown at this time is the length of time before a new MMIS will be operational. However, implementations in other states have generally taken three to five years...I'm sorry, three to four years. Funding began for the MMIS replacement in state fiscal year 2015, with \$28.4 million being appropriated. The total amount projected over the course of a four-year period is \$113.6 (million). Refined cost estimates will be made as the project progresses and decisions are made on procurement options. In recognition of the importance of data analytics, MLTC has continued to build on its existing analytics capabilities. For example, a new quality of care and data analytics team has been created with the goal of analyzing key Medicaid data to provide insight into the value and quality of the care being provided to Medicaid clients. These efforts are in addition to the existing data analytics conducted by other areas of MLTC, such as our program integrity team. Staff currently utilize a data warehouse solution which serves as the basis for much of the data analysis, but there are many additional sources of data which are now being researched. MLTC recognizes the challenges that await in the collection,

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validation, management, and use of healthcare data and expects the implementation of the new EES and MMIS solution will augment our current capabilities. Nonetheless, new systems are only part of the solution. Effective and useful analytics require the critical analysis of individuals with the requisite skill and expertise to interpret the data at hand. Even the most precise and accurate data, as I'm sure you know, will remain mostly useless if it cannot be interpreted and the resulting action plans developed. Implementing modern information systems while developing staff analytics capabilities will provide Nebraska Medicaid with the right combination to identify, monitor and, if necessary, remediate key indicators to maintain effective and efficient administration of the program. I'd be happy to answer any questions you may have.

SENATOR MELLO: Thank you for your testimony, Deputy Director Vineyard. Are there any questions from the committees? Senator Nordquist.

SENATOR NORDQUIST: Yes, thank you. Thank you for joining us. Can you walk through, just a few questions, the makeup of the workgroup that is working on the refining requirements for the RFP or refine the reporting analytics requirements, the workgroup that's working on that?

RUTH VINEYARD: Sure.

SENATOR NORDQUIST: Who were the members of that?

RUTH VINEYARD: Sure. I don't have the members in front of me, but the membership for all of the teams consists of consulting resources as leads in many situations. We also pull in our finance team, FAPA, IS&T team for systems, MLTC program specialists, and various areas as well as claims and operation staff. So...excuse me.

SENATOR NORDQUIST: Okay. And then...I'm sorry, go ahead and finish up. And then the internal analytics team that you're expanding now to work on quality of care and

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data analytics team, what's the makeup of that staffing?

RUTH VINEYARD: I'm actually pretty excited about that team. It's been three years in development and we're starting to see some results. So we have a manager over that team. We have approximately...I can't remember now if there's five or six, we may have lost an individual, but data analysts. Most of them come to us with master's degrees in data analytics. We just came from a conference with the national Medicaid directors and everyone is struggling with that makeup of that team right now because it's in such demand. So I feel very fortunate to have the team that we have in place.

SENATOR NORDQUIST: Right. And are those all new hires?

RUTH VINEYARD: Relatively, yes. Uh-huh.

SENATOR NORDQUIST: Okay. And then, you know, you talked about the requisite skills and it seems like internally you're starting to build some capacity. Has the division looked at external models? I know some states, including California I think, outsources a large amount of their analytics to the state university to work through. Is that something that you've talked about doing?

RUTH VINEYARD: Yeah. Very timely, Senator. Actually, one of the struggles that came up at the Medicaid Director's conferences nationally keeping those skills in-house. So some of the strategies that other states are employing that we want to look into is working with interns from the university, collaborating more with the university, even through our procurement process looking at alternatives for analytics through some of the vendors that we're working with.

SENATOR NORDQUIST: Right, and I understand certainly the importance of the...I mean, we got to look at this both from a macro level, the, you know, the big healthcare policy, healthcare can have a very cost-control quality of care issues, but also with

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MMIS are we visioning the ability for Medicaid to target on a micro level? The story I heard at NCSL recently was, I think it was from Louisiana and I may get some of the details wrong, but GIS mapping to a very hot-spot area that had high rates of kid...children with asthma. They went into...it was a public housing unit that had, I think, it was a mold problem. They sent a public health worker in, fixed the...remedied the problem, and ER visits for asthma for those children just went away. And it was a...

RUTH VINEYARD: I may have seen the same presentation.

SENATOR NORDQUIST: Yeah, it was a tremendous savings for the Medicaid system.

RUTH VINEYARD: It is exciting for savings and for quality of care. And as we develop the data analytics capabilities for this team, we hope to reach into public health, work with their sister divisions, and even externally working with private health providers getting additional data so that we can analyze. And that's definitely something that everyone is talking about within the Medicaid community nationally is that geocasting and...

SENATOR NORDQUIST: What do you have in the budget? Do you have additional requests sitting in the budget request for additional staffing in this area?

RUTH VINEYARD: We do not.

SENATOR NORDQUIST: Okay.

RUTH VINEYARD: We've leveraged staff positions that we currently had, reclassified, created this team. And then also with some of the appropriations for the Affordable Care Act, we had some additional staff and we used some of those staff positions to create this as we looked at a bigger audience.

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SENATOR NORDQUIST: Would that be paid on a 50/50 or 90/10?

RUTH VINEYARD: Fifty-fifty.

SENATOR NORDQUIST: Fifty-fifty.

RUTH VINEYARD: Um-hum, administrative.

SENATOR NORDQUIST: Great. Thank you.

SENATOR MELLO: Senator Gloor.

SENATOR GLOOR: Thank you, Senator Mello. Thanks for your testimony, Ruth. Just sort of a follow up to Senator Nordquist's question, if I'm running through the time line on this correctly, are we really looking at 2019 to 2020 before we have information available--we being the state, you the department, the Legislature--that can help us make some of these appropriate management decisions?

RUTH VINEYARD: I don't think so, Senator. So, for example, even now as we find expertise within the division, we're starting to do a data inventory. We're starting to find out what we have. We're starting to find better ways to require MCOs to report data. So even though the MMIS won't be fully operational until that date, we will have the new eligibility system in place. We'll have new capabilities through that system. We'll continue to build our staffing. We'll continue to refine our capabilities. That will be...like we said, it's not just about the system, but certainly the new MMIS will make things a lot easier for us to collect that data.

SENATOR GLOOR: How much of that three- to four-year rollout that others states experienced was in the hands of the vendor as opposed to the department? Do you know?

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RUTH VINEYARD: No, I couldn't answer that specifically. But I can tell you there's been a significant change in the market. So rather than, you know, a number of years ago you were looking at a big MMIS implementation I system, now we're asked to look at that in compartments or modularity, so modules. So it could be that one module comes in before another. It may not be that big bang, one system implementation that takes that full length of time. But again, even in a modular environment, it's still a major lift and it's going to be years.

SENATOR GLOOR: Will one of the challenges to the steering committee be, let's take a look at those modules and decide which one will give us the biggest pop when it comes to management?

RUTH VINEYARD: Well, that's a good question, sir. Certainly, and I think we'll get through some of that even in the early stages as we complete our analysis. So the alternatives, the procurement and the market analysis that we're going through right now can lead us down that path about how we want to do the procurement--in stages, in modules. I think so we may have a better answer for your question within the next, what, three to six months.

SENATOR GLOOR: I think it would be a question worth asking if I were running a business.

RUTH VINEYARD: Uh-huh. Sure.

SENATOR GLOOR: Given the kind of money I'd be spending, I'd like to be able to get modules that make the biggest difference in helping me manage the dollars and the care that I am providing. So I think it's an appropriate question to ask.

RUTH VINEYARD: That makes a lot of sense. Uh-huh.

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SENATOR GLOOR: Thank you.

SENATOR MELLO: Senator Campbell.

SENATOR CAMPBELL: Thank you, Senator Mello. Ruth, are you a member of the LB76 data advisory committee?

RUTH VINEYARD: I am.

SENATOR CAMPBELL: And so at this point and what's very interesting is for the members of the Health and Human Services Committee that are here, this morning we heard a report from that committee. We also heard a report on LR422 in terms of healthcare in the next 15 years, and now your report. So it's really kind of all coming together. Do you envision that we will need to continue the data advisory board or the data advisory committee? We sort of had the idea this morning that they might continue.

RUTH VINEYARD: It was a very interesting committee to sit on and I appreciated the opportunity because we can look at Medicaid data, but to look at it more globally with Medicare data, data from other healthcares or health plans would be exciting I think for everyone. It was really in the operations...you know, where does the data exist? Who pays for...where does the funding come from? All of those questions remain to be answered. So I do think it's worth further study.

SENATOR CAMPBELL: How does the work that you're describing in your report to us today work with, and I'm not going to get it right but it's the Health (Care) Cost Institute that came and visited with the data advisory committee that a number of us heard about when we were at NCSL in which they have the federal Medicaid and Medicare, all that data. And they're working with states and now Vermont is, you know, putting out a plan. And so we're very interested this morning as to how we might utilize that database

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rather than creating our whole new Medicare and Medicaid database.

RUTH VINEYARD: Senator, I don't know how far I can go with that answer. It was interesting for us as well. There are certainly complications. Medicaid, we have federal reporting requirements to CMS for Medicaid-specific data. There are certainly securities around Medicaid data. So I don't know that...I'm going to jump into this, but I'm not sure that that will ever replace what we need within the Medicaid environment. But I think it might supplement our understanding of the healthcare universe and certainly will help others...if we could share Medicaid data, help others do the same.

SENATOR CAMPBELL: I just think that part of our concern for on the Health and Human Services Committee is we seem to have all these, you know, data gathering, behavioral health, NeHII, all of these happening. And Senator Mello and I have talked about the fact that a number of them will come to the Legislature saying fund me, fund me, when they know reality...the responsibility of the legislators is to figure out how do we make our best future impact and know that we're not spending dollars to re-spend them again.

RUTH VINEYARD: I think it's absolutely critical to have that future focus because even now we're working...but I see it's a very long-term focus, because even internally we were working with CMS. We've got different entities within the federal government asking our agency to report the same data on different forms in different ways with different data models, and then asking us why they're not consistent. So we're trying to round up all of our data. We're also working with CMS to say please don't ask us for the same data in different ways and interpret it differently. They're working to better corral...there's a new project called TMSIS, Transition Medicaid Statistical Information System, I think. CMS is working to better corral the data as well. So I think it's just going to be a long time coming.

SENATOR CAMPBELL: Absolutely. Thanks, Ruth.

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RUTH VINEYARD: Sure.

SENATOR MELLO: Any other questions from the committees? Senator Nordquist.

SENATOR NORDQUIST: So I just want to...so you didn't request additional staffing for analytics now. Do you project as the system gets fully implemented that we will need to make additional investments in that staffing? And then also do you have the structure within...the flexibility within personnel parameters to get the right people to do that?

RUTH VINEYARD: Let me answer both questions. I think the answer to your first question really depends on how we procure the new MMIS and what gets...what remains in-house and what does not. So we may be doing more contract oversight which requires more analytics, more staff to examine data and performance. And then the second half of your question, I'm sorry, what was the question?

SENATOR NORDQUIST: Whether or not you have enough flexibility within personnel structures.

RUTH VINEYARD: We do have flexibility. And what remains to be seen as we implement new systems and efficiencies, are there changes in functions for the staff that we have on hand available? So we could take one position that currently does a task that's obsoleted and move that position into a task that's more future focused.

SENATOR NORDQUIST: All right. Do you have any sense, and I can work with you or the Fiscal Office afterwards to get a number, but just a general ballpark number on what we spend on analytics right now?

RUTH VINEYARD: I'm sorry, I don't, Senator.

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SENATOR NORDQUIST: Okay. Okay. I just...

RUTH VINEYARD: I can definitely get you what we spend on the positions that we have specifically designated for that function.

SENATOR NORDQUIST: Okay. And right now that's six-plus?

RUTH VINEYARD: Well, that's six specifically for quality of care and data analytics. But we also have BAs in our IS&T section, we have business analysts within MLTC who also do less analytics but more data extrapolation. And then we also have data analysts within our finance section. So it would be...we could pull something together for you, sir.

SENATOR NORDQUIST: Okay, great. I just from a values perspective, you know, if you have a Medicaid system that's \$1.82 billion, I don't think it's out of line for us to make a significant investment in the analytics of that going forward. So...and then the last question I had, so right now do all academic researchers that want to use Medicaid data, do they have to go through CMS to get that or are you able to release any data to researchers?

RUTH VINEYARD: No.

SENATOR NORDQUIST: Okay.

RUTH VINEYARD: We are not.

SENATOR NORDQUIST: Okay. Great. Thank you.

SENATOR MELLO: Any other questions from the committees? I'd like to welcome Senator Bob Krist from District 10 to today's hearing. Ruth, I've just got one question and it's more of an operational question. I know the department had started on an MMIS

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process before I got elected in 2009 and ran into some barriers, stopped that, and kind of waited for a while until this recent budget year. Do you know, has the department gotten approval from the Nebraska Innovation Technology Commission in regards to moving forward with the current process? I think statute requires that any kind of enterprise project, so to speak, of this size has to get approval from that commission before, kind of, moving forward with an RFP. Are you guys at that process now or did you already complete that?

RUTH VINEYARD: I'll have to check on whether the approval has been granted. I don't know where that stands, but I know that our CIO, who is intimately involved in all of these projects and takes a lead role, presented to NITC on the MMIS project.

SENATOR MELLO: Okay. Okay.

RUTH VINEYARD: And I believe is scheduled to go back either monthly or quarterly to keep the committee commission up to date.

SENATOR MELLO: Okay. If you could...if you or Bryson, I see is in the back, could provide back some feedback to our committees about that, that would be great.

RUTH VINEYARD: Sure.

SENATOR MELLO: Any other questions from the committees? Seeing none, thank you.

RUTH VINEYARD: Thank you.

SENATOR MELLO: That will end today's hearing with the Department of Health and Human Services and we will next go to LR535. [LR535]

SENATOR MELLO: Good afternoon, Vice Chairman Harms, Chairwoman Campbell,

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members of the Appropriations and Health and Human Services Committees. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. The primary purpose of today's LR535 is to conduct a historical review of the structure of the Department of Health and Human Services functions currently administered by the Department of Health and Human Services. Committee members will hear from invited testifiers about the philosophy and purpose behind the consolidation, structure, and scope of the department. In my six years as a state senator, including the past two years as Chairman of the Appropriations Committee, it's become evidently clear that as well as the other 14 senators who cosponsored this legislative study that the Department of Health and Human Services has some significant challenges. The growth in size and complexity of the state's largest department has increasingly strained the oversight functions of the Legislature and the Auditor of Public Accounts. This is not just the contention of myself and the other senators who signed on to LR535. We continue to hear consistent concerns from Nebraskans as well as service providers. Just yesterday in the testimony before the LB690 Aging Nebraskans Task Force, the Nebraska Association on Area Agencies on Aging said that, quote, we would like to express our belief that discussions regarding structural changes in the Nebraska Department of Health and Human Services must include a plan to separate the Nebraska state unit on aging from Medicaid, end quote. The continued consolidation of programming and responsibility within the Department of Health and Human Services is widely regarded as a stumbling block to efficient government and responsible stewardship of taxpayer dollars. Prior to 1996, the Health and Human Services functions currently administered by the Department of Health and Human Services were delegated to four separate and distinct state agencies. These agencies were the Department on Aging, the Department of Health, the Department of Public Institutions, and the Department of Social Services, in addition to the Office of Juvenile Services in the Department of Correctional Services. Following the initial consolidation brought on by LB1044 in 1997, LB296 in 2007 established the Department of Health and Human Services as one state agency with six separate and distinct divisions. Since consolidation, the Department of Health and Human Services

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has grown to account for more than one-third of annual expenditures in the overall state budget for fiscal year 2012-2013. Historical expenditures for the department has grown at a higher rate than overall state expenditures, increasing by more than \$1.7 billion with an average growth rate of 5.26 percent since fiscal year 1995-1996. The Department of Health and Human Services is also the largest state agency, and as of December 2013, the department had well over 6,000 employees, which represents nearly three times the number of state employees that any other state agency currently has. I do not believe it is a coincidence that the size and complexity of the department has grown; issues within the department have also grown in frequency and in magnitude. In recent years, the Department of Health and Human Services has increasingly been the target of investigations by both the Auditor of Public Accounts and the Legislative Performance Audit Committee. Since 2000, the Auditor of Public Accounts has performed 103 separate audits of the department and its programs and facilities, including major audits relating to the Beatrice State Developmental Center, the Thomas Fitzgerald Veterans Home, and the Youth Rehabilitation and Treatment Center in Kearney, child welfare reform efforts, and the management of the federal Medicaid system in Low-Income Home Energy Assistance Program, better known as LIHEAP. Many of these audits have been highly critical of the department's administration and have brought to light serious fiscal mismanagement within the agency. Along with the issues investigated by the Auditor of Public Accounts and the Legislative Performance Audit Committee, a pattern of crisis and public outrage has emerged in recent years. We can see this in a pattern in the problems with the Beatrice State Developmental Center, with child welfare privatization and provider payments, with ACCESSNebraska's service failures, and as we recently just heard, the repayment of possibly \$22 million in federal funds due to negligent records management. Public confidence in the ability of the department to perform its stated mission of, quote, helping people live better lives, end quote, has never been at a lower level. However, I would like to emphasize that this study is not intended to set the blame for the struggles of the department on any one person or any group of people. I'd like to read to you a brief quote from the 2011 Legislative Performance Audit Committee report that I believe encapsulates the issues that this

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legislative study is intended to address. Quote: While the committee believes that former and current DHHS management are in part responsible for the failure to provide adequate accountability, the committee also believes that the department structure is part of the problem. The committee questions whether any CEO could provide meaningful oversight of the multiple major programs within the agency, end quote. While today's invited testimony is intended to provide a historical perspective on how the current Department of Health and Human Services was created, it's safe to say that a number of challenges over the last few years has led me and many of our colleagues to a clearer understanding that serious structural reforms are needed within this large state agency. I'm very optimistic that Governor-elect Ricketts will usher in new leadership and management in this agency and work collaboratively with the Legislature in the coming months to bring more effectiveness to programs and processes within the department. With that said, I believe our two committees, the Appropriations Committee and the Health and Human Services Committee, should consider developing a legislative proposal to provide Governor-elect Ricketts that would enlist an independent consultant to evaluate the existing Department of Health and Human Services' structure in programming. Recommendations from this independent proposal could serve to inform both the Legislature and Governor Ricketts with next steps on moving forward. Thank you for your time and I'd be happy to answer any questions. But I'd also just like to point out, there is multiple handouts that the page should have provided you from my office. One handout that we did not provide that I believe my office e-mailed all of you was a report from 1996. I think we're going to have a couple of testifiers come up and walk through more of the history of this report. It's a fairly lengthy report. That's why we sent it to you in PDF. But if you'd like a paper copy, we do have a couple extra paper copies here and we can provide you one if you would like that. With that, thank you, Vice Chairman Harms. (Exhibit 7) [LR535]

SENATOR HARMS: Do we have any questions for Senator Mello? Seeing none, thank you. [LR535]

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SENATOR MELLO: Thank you. [LR535]

SENATOR HARMS: The next testifier, please. [LR535]

KIM ROBAK: Senator Mello, members of the Appropriations Committee, Senator Campbell, members of the Health and Human Services Committee, my name is Kim Robak, R-o-b-a-k. I'm here today to give you some background on why we went from five agencies to three during the Nelson administration. And as I'm listening to the hearing before this, I might title this presentation *deja vu* all over again or the more things change, the more they stay the same, because what I was hearing in that last hearing was exactly the reason why we started to move from five agencies to three. A little bit of background: I was chief of staff for Governor Ben Nelson in 1993, and as my role as chief of staff, excuse me, in '91 and '92, and in '93 I became Lieutenant Governor. And working with the agencies of state government, I was incredibly frustrated. And I was frustrated because they didn't talk to each other. And so you would have as, Senator Campbell, as you talked about, you would sit in a meeting and you would find out that several agencies were doing exactly the same thing but they weren't talking to each other and they weren't coordinating their efforts. And I would find out from people who were being inspected, facilities that were being inspected, we would find out that one agency would come in and say, if you have a night stand next to your bed, we're going to give you points off. And the next agency would come in and say if you don't have a night stand next your bed, we're going to take points off. Literally, that is a story that happened. There were state agencies that would apply for federal funds and another state agency would oppose that request to the federal government. We had incidents where...we had people who would...this is before obviously Internet and e-anything. But people would come in and they would try and get services. And we would tell them, no, you're at the wrong place. You have to go someplace else. And so you need to go there two weeks from now and then you can come back here and get these services. So they would be shuffled around in an incredibly complex organization. Money was the driver. And we talked about prevention. Health was a separate agency

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completely but prevention was supposed to be something that we did. We didn't do prevention because it would cost money, and we didn't have the resources up-front. We were in a budget-cutting process. We had five special sessions in two years to cut the budget. So it was a very different time. The federal government was going to cut our match rate. So we said we need to do something here. We had stories of people who had forms that were in triplicate or quadruplicates and they would put the original form in the file and no one ever saw the other copies. Reports were being made, and you still see this happening, reports are being requested, no one ever reads them. They get put in a drawer and nothing ever happens to them. So incredible frustration, and so I asked Governor Nelson if he would let me tackle this issue. And I pulled the five agencies together and we sat down and we started studying this for about six months, and then we hired a consultant to come in--I just smile about the fact we're going to hire a consultant to come in--and talked us through this process of what we should do. And that...it took us about 18 months, but 6 months with the consultant and 9 months with a consultant and we came up with a blueprint for action. And we took it to the Legislature and we said this is what we think we need to do. The goals were, and they're laudable goals, and I think they're still goals that you would have today. One, we wanted better services. We wanted to make sure that if we're going to do this, we're going to give you better services. Right? Number two, we had to save money. We weren't doing this if we weren't going to somehow wring out some savings through this process because we have limited resources. Three, we're going to simplify the system, make it easy for people to use the services that we have. Four, it was going to be common sense. So coming in and saying you had to have a night stand or couldn't have a night stand didn't make sense. It had to be a common-sense system. And, five, there was going to be accountability, reports regularly saying what we'd done, saying what we'd accomplished, and telling the public, transparently, what we'd done. Sounds really good, doesn't it? So we decided we would create three agencies, not one. The one came later. But we created three agencies. We were going to put all of the services in one, in one agency, because the department of...all of our institutions were separate and our children's programs were separate and aging programs were separate. So we were

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going to put them all in one place. Then we were going to put all of our regulatory agencies in a separate agency. And then underneath that was going to be this support agency. And it was going to be all the legal services, all the IT services, all the HR services. So instead of duplicating that in each agency, which we did, we were going to have one agency that provided those services. And the goal was again that we would look for the amount of money that we had of limited resources and we would provide the best services we could provide with that limited amount of resources. Again, sounds really good. We took it to the Legislature. There was a little bit of pushback. Ultimately the bill got adopted, LB1044. And I remember testifying, and it was 17 years ago that I testified before Appropriations and I testified before Health and Human Services and said, look, this is an experiment. If it doesn't work, take them back apart. It may be too big, and we may find out that it's too big. But I remember specifically saying that over and over, if it doesn't work take them back apart, but let's try this first. The bill was passed. We hired Don Leuenberger from the Med Center. He took a leave of absence. We got a grant of money to pay him enough money to come to the state. And he was going to be the transition person who was going to put this place and actually create it to happen. Lorraine Chang was hired to facilitate the process. And we were actually a national model. Other states were watching us thinking this is really cool, and everyone was saying it's not going to work, it's not going to work. And maybe it hasn't. But we did do a couple of things. They set up three redesign steering committees. Each of those committees had 10 to 20 people on them, and half of those people were from outside the agencies. So they had people who were not within the departments actually doing the reorganization but people who could look in from the outside. And then each of those steering committees had another five to ten committees. So you had 250 or 400 people working on this redesign, and they were doing it in a very short period of time. Ultimately we did do a bunch of things. We streamlined and reduced regulations. We had input from 145 inspected entities to try and figure out a better way to streamline the way that we went about rules and regulations. And I think we did do some of that. As a result of this process, we also did the uniform credentialing overview, and that took place also and there was another statutory review that took place. We had outcomes

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and indicators that were identified, and we actually for a couple of years showed progress. We actually came back to the Legislature and said this is the things we've done. These are the...this is the progress that we've made. Originally the cost savings was about 400 jobs and about \$22 million dollars. Now I don't know if that ever continued or if that went away at some point in time, but that was in the first two years. And the 400 jobs, the idea was if we have too many HR people, let's put some of those people where they might be used for human services, right, for the delivery of services, which is what this agency should be doing. A final report was issued in 1999 and I left state government about that point in time, so I can't tell you what happened after that. Lorraine and Don are here and they can tell you how the process actually worked. But I will say this. I thought that the vision was an appropriate vision. I think that some of the things that we accomplished actually solved some of the problems that existed. But listening to the hearing before this, within that agency people aren't talking to each other. So when we say, yeah, well, our health system, which is now part of the same agency and we are not communicating, then I think it's less an issue of structure than it is a mind-set and a culture and maybe a leadership issue about how you get things done. And maybe there's a need for continued accountability and continued transparency with a list of items that the agency needs to come back with. It may be structural, Senator. I can't say. But I will say the frustration level then is similar to the frustration level you have today. So with that, I'd be happy to answer any questions. [LR535]

SENATOR MELLO: Thank you for your testimony, Ms. Robak. And just could you just do us a favor and spell your name for the record? I'm sorry. [LR535]

KIM ROBAK: Yeah. It's Kim, K-i-m, Robak, R-o-b-a-k. [LR535]

SENATOR MELLO: Thank you. Are there any questions from the committee? Senator Gloor. [LR535]

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SENATOR GLOOR: Thank you, Senator Mello. Kim, thank you for your efforts to try and bring your wisdom into play those many years ago. But as you've pointed out, you've gained a lot more wisdom I think in the past 17 years. And I'll ultimately share my bias on this. But I'd like to know if you had it to do over again with that 17 additional years being able to look back, is there anything that you would do differently? Do you look at it, do you look at the solutions that were arrived at differently? [LR535]

KIM ROBAK: I think we tried to make changes too quickly, so I think we tried to push this cultural change through the organization too quickly. And a cultural change takes a long time. And I think the cultural change occurred at the top. I don't think it occurred through the organization. And I don't think...I think there would be stronger accountability, Senator Gloor. I think that in candor, part of the reason that we made the structural change was personalities. The agency directors could not get along. And as a result, we changed the system because five people who were in office could not coordinate their efforts. Now will that happen if you have five people in subagencies or within task forces within a larger agency? I don't know. But I do think that accountability is the most important piece of this and someone has to care enough to make it happen. And I just think with changes of administration, focus has changed. And each administration has the right to do that. But I'm just not sure the same focus was there. [LR535]

SENATOR GLOOR: My bias mirrors I think your issue of the individuals who serve in specific roles. Humorously, I see two senators-elect in the audience who have been involved in healthcare who have to be chuckling to themselves that in all their years in healthcare, they have seen... [LR535]

KIM ROBAK: Remember it all. [LR535]

SENATOR GLOOR: ...various healthcare organizations go through organizations, reorganizations, consolidations, and different reports. [LR535]

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KIM ROBAK: Uh-huh. [LR535]

SENATOR GLOOR: You know, if you've got five good managers who work with each other within in large bureaucracies and communicate with each other, things go smoothly. [LR535]

KIM ROBAK: I couldn't agree more. [LR535]

SENATOR GLOOR: If you have 15 good managers who coordinate, things go well. I think it's...I do think it becomes easier if you do a degree of roll up, but it ultimately comes down to the quality of the people who are in charge. And then being held accountable. [LR535]

KIM ROBAK: I could not agree more. [LR535]

SENATOR GLOOR: And so I'm curious about this process, but my bias is this is about people, it's less about organizational structure. [LR535]

SENATOR MELLO: Senator Krist. [LR535]

SENATOR KRIST: Thank you, Chair. Thank you for your testimony. I'm just going to make a statement and then let you fill in the blanks. How's that? Let's go back to recent history with this Legislature and one prior. We had to try to clean up BSDC. We had to try to clean up child welfare and family services. We're now in the midst of the throe of corrections and parole. My experience in the five and a half years that I've been here is when we talk about accountability, I think the accountability of appropriations is probably at the heart. I don't care how big an organization is. I mean, look at ConAgra. Look at any major organizations out there. When you haphazardly are able to move \$5 million from one program code to another and the Legislature can't track it and doesn't know

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what services have been provided, there's a problem. And to your point of personality conflicts, in my world there's no such thing as a personality conflict. It's the lack of ability or wanting to get along. And some of that comes from building up a silo and you're not going to let anybody else use their money. No matter what we've done in the last few years, we still come back to a point of, no, you're not going to get IV-E because that's over here. You're not going to do this because it's over there. And in the meantime, the kids and the families are hurt. [LR535]

KIM ROBAK: Uh-huh. Uh-huh. [LR535]

SENATOR KRIST: So I don't know that the structure with the proper leadership can succeed structurally. But I do know that when we have an appropriation in a program and that...and an administration is allowed to find couch change basically to the tune of \$5 (million) to \$6 million to pay a federal fine rather than coming back to the Legislature and being accountable for the money, there's a problem. And that amongst all has to change and we have to look at the accountability of the funds. [LR535]

KIM ROBAK: I will only say that when the system was separated, we didn't have the same issues with a BSDC or a failure to...and maybe because it was more visible. BSDC would have been discovered if you had a Public Institutions Department, right? But I will also say the goal was that we would have this support services agency and that we were to look at the services and then find the resources to provide the services and not the converse. Money kept driving everything. And if money drives things, then you cut back on the wrong services. And then as Senator Campbell mentioned before, we pay for things over and over. So the idea was let's figure out the best way to provide those services and then put the money there to make that happen. And you may have to pay some up-front, but in the long-run we're going to benefit. I don't know that that ultimately happened. Again, I left in 1999 and people after me can let you know if other changes were made. But we have the same goal and we had the same goal almost 20 years ago and it's frustrating that it hasn't been met. [LR535]

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SENATOR KRIST: Thank you. [LR535]

SENATOR MELLO: Senator Harms. [LR535]

SENATOR HARMS: Thank you, Chairman Mello. I just have a couple of questions. You know, listening to your plan and everything, it sounds really good on paper. So the question I have for you, I have two, why did we fail? Why is the organization failing today? Though you've gone through all of this and on Appropriations Committee, we've had plenty of frustrations in regard to getting the right figures, the right amount of money, and our Fiscal staff has struggled tremendously to try to help us balance this out. So when you look at that, why do you think we have failed here? [LR535]

KIM ROBAK: Not being in the agency, and if I were in the agency I might have a different perspective, but from the outside in I would say we failed by not changing the culture. The culture is a lot...as Senator Krist said, this is my project and, therefore, this is something I'm going to work on. And those are very good people and they want to do the right thing, but this project over here needs to work with this project over here and this project over here, and it may mean I have to give up a little of something that I do. And the culture doesn't encourage that. So the culture doesn't say let's treat this as a system. The culture treats...and it may be partly because of the way that we set up our funding silos and maybe federal government that encourages this as well. But we just don't have the culture of inclusion and the mind-set that our goal is to accomplish the outset or the goal of having a healthier, self-sustaining population. And that's where I would say. [LR535]

SENATOR HARMS: Well, I agree with you. And I've had this same conversation with Kerry Winterer a number of years ago when I first came here when I began to see some of the problems unfold. And I fully understand organizational change and culture. Any organizational structure will work if you have the right culture. Now dealing with a culture

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itself is really difficult, and that was one of the conversations I had. What plan do you have to change the culture of this organization? Because when I looked at it from a distance, then as we got more involved in this thing over the years, it's pretty clear to me that it's about that mid-management level this thing all comes unglued. And I think you're going to have to go in, you're going to have to put together a program. And you may have to bring experts in to help you design that program for cultural change. And it's not going to happen overnight. And for those people who don't want to make the adjustment, then you're probably going to have to let them find another job, because the organization will never get where we want it to go. And so my thoughts are, and I agree with you about the cultural change, but it is not easy to correct. And for those of you who are going to be involved in this in the future, you may have to make some tough decisions. You may have to change personnel in order to get this thing done and bring people in that understand we want a cultural change and here's the change. But it all comes unglued at the mid-management level. [LR535]

KIM ROBAK: I do think you need outside expertise and help to this cultural change. [LR535]

SENATOR HARMS: Yeah, see I agree with... [LR535]

KIM ROBAK: It sounds easy. It is incredibly difficult. We started it. We didn't finish it. And the one benefit that we have going into this is you have a brand-new Governor who has four and maybe eight years to accomplish this, because it can't be done in one or two years. It just can't be. So if you have that leadership or that will to get this done, I think you can get it done. [LR535]

SENATOR HARMS: Yeah. You'll be fortunate if you can finish it completely in a year to be real honest... [LR535]

KIM ROBAK: Yeah, right. [LR535]

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SENATOR HARMS: ...because it's a slow process. [LR535]

KIM ROBAK: It's a very slow process. [LR535]

SENATOR HARMS: But once the head, like the Governor, makes that decision and that starts to develop and everybody understands these are the rules we're going to play by and here is the plan that we're going to change the culture of the organization and here are the people who are going to help us do this, and then bring in an outside source to make that happen. Or we'll be, eight years from now, who's ever here, you'll be discussing this same thing. [LR535]

KIM ROBAK: When...and from their perspective, they've gone through so many changes. Every time a new person, here's another new change. Okay, okay. How many times do we have to change? Nothing. Nothing. We change the way we do things but the outcomes don't change. And so you have to base it on an outcome basis. [LR535]

SENATOR HARMS: Yeah. And I think at the mid-management level you get so discouraged by all these changes coming and they're really not communicating. They just stuck their heads and say I'm going to ride this through because I'm going to be here longer than you're going to be here. (Laugh) And that's about what happens to us. [LR535]

KIM ROBAK: We be's, the we be's. Uh-huh. [LR535]

SENATOR HARMS: So I do agree with you and I hope that whatever they do that they'll put together the right plan to make the cultural change and bring somebody in from the outside, because any structure will work if they're willing to let it work. [LR535]

SENATOR MELLO: Senator Campbell. [LR535]

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SENATOR CAMPBELL: Thanks, Senator Mello. Kim, you talked about one of the...the response to Senator Gloor what you would do differently or so forth, and you mentioned accountability. You know, in my estimation is also we all have roles to play in that accountability. And I look at the fact that the Legislature has a huge role. I mean, one of its major functions is oversight. We don't talk about it enough, but we certainly are seeing it. And to give an illustration to that is that when a great number of us came into the Legislature, the whole child welfare privatization was rolled out and done without one step from the Legislature. They didn't okay it. It just happened. It was rolled out. And when the Legislature began exerting its role, and rightful role, of accountability and oversight, it seemed to me then you started to see more of a cooperative nature between the Legislature and executive in the sense that, hey, we have both roles to play and we need to do it. And that's a critical point to that accountability. [LR535]

KIM ROBAK: Senator, I would absolutely agree with you. And I do think that in past years there was maybe a better relationship between the Legislature and the executive branch. I won't say that it was in every administration. But I do think that the Legislature has a tremendous role to play both in terms of setting policy and following through and making sure that the agencies do the policy that you've established. But also you control their budgets. And so they should have a little bit of fear about the fact (laugh) that if they don't do what you've asked them to accomplish that maybe their budgets won't be filled. And so there should be a nice tension between the two in a collaboration, but definitely they should...the agency should want to be able to show that they've accomplished what has been...the policy that has been set out. [LR535]

SENATOR CAMPBELL: The second part is really far different and has a specific question. When we went through the child welfare study in LR37, we seriously considered on the Health and Human Services Committee whether we should propose to the Legislature a separate children's bureau, taking the children's services out. And in fact, the children's commission has been charged by the Legislature to look at the

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structure in terms of the perspective of children. But I remember a conversation that I had at that point with Larry Bare and Larry said to me, do you know how much it costs to create a whole new division of state government? What...did you ever look at what the cost was when you made the changes? [LR535]

KIM ROBAK: Well, we saved, I mean, immediately saved \$23 million. [LR535]

SENATOR CAMPBELL: But there was a cost though. [LR535]

KIM ROBAK: The cost, I don't know. You might have to ask Don or Lorraine about the costs involved in actually doing that work. But what we did is we eliminated. And we also...this was all happening while state government was going on. So obviously you don't take it off and go start it new. These functions were going on. But you're right. We had every...every single employee had to be reclassified because they were going from one agency to a brand new agency. The HR system had to be restructured. The legal analysis of all the boards of commissions had to be restructured. So it was a huge undertaking from that perspective. But, Senator, from the standpoint of setting up a children's agency, which could happen, that's was the concept of this support agency. You wouldn't have to recreate the support agency to do all that work. That support agency would be able to do all of those services for that children's agency if you set it up that way. So you wouldn't have to have HR and legal and IT and all of those other things. Let HHS do that for you and then put the children's services over here and have their own leadership. I think that could work. [LR535]

SENATOR CAMPBELL: Thank you. [LR535]

SENATOR MELLO: Any other questions from the committees? Senator Bolz. [LR535]

SENATOR BOLZ: I'm afraid I have a bit of a philosophical question, so it's okay if you do you're best. But it seems to me that the delivery of Health and Human Services has

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changed exponentially over the last couple of decades. And now we're dealing with more diffuse community-based service provision which I think for the end user can be really great. We've got managed care. We've got more private contracts. We've got modernized systems. Things look very different. And I'm just curious to hear your thoughts about whether or not that systems change leads us to trying to start the process inside the agency and asking for an intra-agency analysis first before we think about how the system works as a whole. I'm just curious to hear your speculation.

[LR535]

KIM ROBAK: It's an interesting question. All of the things that you've talked about, the services going out to the communities, just was on the very beginning at this process. So we were trying to push things out and there was this huge connection with the communities as we started this process. I think the problem with going to the agency and asking them to tell you or give their point of view, and it may be a good thing to do, is a little bit like the blind man and the elephant. You can only see your portion, so you don't have a view of the whole system. And so it'd be hard to say how it might change. On the other hand, it would be important for me to be able to say to you I have this little piece and I can't get done what you want me to get done because I don't have these other pieces. So while it might be valuable, I wouldn't do it alone. I would want to have the viewpoint, a broader viewpoint as well in order to be able to look at it from both perspectives. Does that make sense? [LR535]

SENATOR BOLZ: That's helpful. It seems like we have bureaucracies on top of bureaucracies on top of bureaucracies and... [LR535]

KIM ROBAK: I think we created several, yes. [LR535]

SENATOR BOLZ: ...how do we break through all of those layers that I think is the magic question. [LR535]

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KIM ROBAK: Absolutely, absolutely. [LR535]

SENATOR BOLZ: Thank you. [LR535]

SENATOR MELLO: Any other questions from the committees? Seeing none, thank you, Ms. Robak. [LR535]

KIM ROBAK: Thank you. Senator Mello, I will say one last thing. When we were talking about the computer systems or the IT systems that you're starting to look at again, one of the reasons that the NITC was created was because Health and Human Services came to...with a budget and they wanted \$40 million for a new IT system. And the budget office had no idea what it was or what it was for or whether it would work or whether this was a good idea. And that was the impetus for the NITC. So we're back to where we started again. So thank you. [LR535]

SENATOR MELLO: Thank you. Next up to testify will be Don Leuenberger and Lorraine Chang. [LR535]

LORRAINE CHANG: And Don and I are going to... [LR535]

SENATOR MELLO: Jointly. [LR535]

LORRAINE CHANG: (Exhibit 3)...jointly deliver this. Good afternoon. My name is Lorraine Chang, L-o-r-r-a-i-n-e C-h-a-n-g. Good afternoon to Senators Mello and Campbell and to the members of the Appropriations and Health and Human Services Committees. Do you also need me to state my address? [LR535]

SENATOR MELLO: No, just name. [LR535]

LORRAINE CHANG: Not at this point. [LR535]

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DON LEUENBERGER: Shall I do mine? [LR535]

SENATOR MELLO: Yes, please, Don. [LR535]

DON LEUENBERGER: I'm Don Leuenberger, D-o-n L-e-u-e-n-b-e-r-g-e-r. [LR535]

LORRAINE CHANG: (Exhibit 7) I submitted some testimony in writing, but given Ms. Robak's remarks, I thought that it might be better use of our time for me to just make some comments and observations relative to the process. And then Don can also make some comments, then we can entertain questions as we go along. From October 1, 1995, through December 31, 1996, I served as the project coordinator for what was then called the Nebraska Partnership Project. And this was the project that Kim spoke of, and the focus was to fundamentally transform the state's Health and Human Services System. At that time, I was coming into this project with expertise in transformational change, having spent 13 years with Union Pacific Railroad at the time when they were going through their metamorphosis to become a world-class transportation company. And based on that experience, I went to the federal government and participated in their reinventing government initiatives. So I brought to this project I think some expertise and experience in terms of understanding the dynamics of changing a public organization. And since that project for the last 20 years, I've been practicing consulting in that arena. So I now have some perspective to bring also. I think that from a perspective of the theory of change that's reflected in the report, this December 1, 1996, report that Senator Mello has provided all of you, there was also another report called the blueprint for action that preceded that ultimate report. And the idea was to really try to draw from best practices on how to create a more accountable set of state agencies that would deliver measurable outcomes to citizens. And looking at how we might do that, the structure was designed to create some separation of authorities. When you've got agencies that are both doing what we call steering as well as rowing, it becomes very complicated in terms of where the accountabilities lie. So I

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think the idea of establishing the Policy Cabinet that would oversee all three new agencies headed by a Policy Secretary, and Don was the first one, was designed to then create accountability to the Governor and to the Legislature for a much more holistic, unified system that would be accountable for achieving results that matter. The other piece was in having the Department of HHS separate from Finance and Support and separate from Regulation and Licensure. Delivery of services to citizens is a very different kind of function than compliance with a set of rules and licensure regulations and so forth. So those functions were deliberately separated. And then Finance and Support is basically administrative and budget support role. And that support is needed by all those other two agencies relative to delivering services and ensuring that the rules and regulations are complied with. It creates for a very complex system redesign. And so in the document, I think on pages 12 and 13, it sort of depicts the different functions that were then set up to report to those agencies. And in addition, a set of crosscutting teams dealt with integrating the policy, the strategic planning, and ultimately, this concept of the state-community partnerships that were also very key, a critical part of this design. And I think Kim Robak spoke to it as far as the idea of more community-based services. The idea was to give communities more latitude, more flexibility to serve the needs that were so diverse from one area of the state to another but to enable them to draw from the state in terms of support to...but still be held accountable for specific measurable outcomes that would be agreed upon in what we envision to be partnership agreements with state and local communities. So during this period of 1996, we piloted three, what we called, learning lab communities that were present in Omaha metropolitan area working with the United Way, South Sioux City, and also the Panhandle, the 11 districts in the Panhandle. They stepped up and indicated a readiness to work with the state on a new model. So we were experimenting, as Kim said, to try and see, well, what might this look like. The other theory of change that I think was important to note is, as we went through the eight months after the legislation was passed, after LB1044 was passed in April, we spent eight months of very intensive but also very participative process that involved many, many stakeholders. And I think the back of the report you can see all the different

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committees, task forces, work teams that involved folks from both inside and outside of the agency structure. But there's definitely value in having all those stakeholders participating because we were actually beginning to learn how to establish and work within those new cultural norms. So to begin ourselves working through, well, what are those results that matter and talking through those, kept us focused then on identifying those 19 measurable outcomes, ultimately, that we would want to create for the state. And a lot more buy-in ensued as a result of the participation, as well as the, I think, robustness of the process and the ultimate outcome of the thoughtfulness and complexities and comprehensiveness of that December 1 report. Just one other thought in terms of some reflections on this: A lot was discussed around culture change. And having participated in a number of organizations that have gone through major transformational and culture changes, I would just say that it's not a function of exhorting people to change, but, rather, it is a very intensive, what could be called a training process of inculcating the employees within an agency and understanding what it is actually to manage and lead through a results-focused process. So that everybody understands what those key results are, to engage in teams that enable folks to actually meet those objectives in a meaningful way that works for their particular constituents and the citizens that they're serving. And having accountability clearly is an important piece of that. So you have leadership that believes in the mission, can drive the mission, can set direction, and provide the necessary support so that the employees within the agency are equipped with the tools and the capacities that they need to operate under a different set of rules. I mean it's as if you were coaching a sports team who were practiced in playing under one set of NCAA rules. And overnight the rules changed, and you were expecting them to play and win under the new set of rules without providing them with any training or opportunity to practice or improve. So I think the last thing I'd say is aligning incentives is also a critical piece of changing the culture. So if the incentives are to spend your budget and to keep your head down and do your job and not get into trouble, that's going to be a very different set of incentives than if you're focusing on rewarding people because they've achieved measurable outcomes, have made progress to achieving those outcomes. So I'll stop there. [LR535]

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SENATOR MELLO: All right. Thank you, Lorraine. Don. [LR535]

DON LEUENBERGER: Well, when Senator Mello called, I thought, what do I remember after 20 years. And I remember that Lorraine is much more organized than I ever was, and you can tell that. That's why she was project coordinator. In fact, it was fun going back and reviewing some of this. I thought maybe you'd have some young staffers that might look at the old news releases and I might get caught. This has been sitting above my desk for the last 20 years. You can read it. It's the "Department of Lots of Stuff. (Laughter) And will it last? I was kind of heartened by what I heard in terms of the questioning. I think that the questioning this morning gave me an idea of maybe what I ought to try to address. I was asked, on leaving office as Policy Secretary: How concerned are you that this ever will be dismantled? And this was my answer: I think it's naive to think there won't be further changes. I also believe that whoever comes in as Governor will find a very much different and better organizational base with which to work. I think they'll put their personal stamp on that organization from where it is now and not from where it was, and that's fine. If I feel ownership about anything, I don't want it to be an organization chart. And that's kind of where I am on this. This had to do...I'm going to give you some background maybe a little bit beyond the Nelson administration. Nelson administration was my fifth administration. I started in state government under Nobby Tiemann in the State Budget Office. I became the State Budget director under Jim Exon. I stayed a State Budget director under Charlie Thone. I became State Tax Commissioner, went back to the university at that point as Assistant Vice President and Provost, came back a State Tax Commissioner under Kay, and left state government until this happened. During that time period, up to State Tax Commissioner, my responsibility was Health and Human Services. During the 1970s, I'm going to start there because we actually created the state mental health regional network in 1972 with LB302. Regionalization in this state has a long history. The Nebraska Community Collaboration Act, I can't remember what it's called, inter... [LR535]

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LORRAINE CHANG: Interdistrict Coordination Act? [LR535]

DON LEUENBERGER: Interlocal Cooperation Act... [LR535]

LORRAINE CHANGE: (Inaudible) yeah. [LR535]

DON LEUENBERGER: ...was an example of that. The DD districts, the Older Americans Act districts, somehow that regionalization, the thought of bringing in local communities into the administrative structure and delivery system was derailed during that big recession during the early '80s. I don't know that things are more complex right now than there were then. Population of the state is not that much larger. We went through a huge recession at that point in time. Fact of the matter is, per capita, personal incomes are up. The dollars are greater but I don't know that the complexities are greater. I say that from a little bit different perspective. Since I left HHS, I've served on the Omaha United Way, serving as chair of the allocation commission twice and on the executive committee. And right now I'm on the board of Building Healthy Futures in Omaha. So I see community activism from a little bit different perspective. And I always thought that the reason we were a national model was not because we were putting together three agencies but because we were trying to put together a system of performance accountability and we were trying to involve local communities in the administrative structure. If you think about what we were doing at that time, if you put in Beatrice, Nebraska, or any other small community where you're trying to put a halfway house or shelter and it's a state employee sitting there, then, generally speaking, that police car was sitting outside. But if the community owned that shelter, then the community was behind its success. So in part, I saw that development as involving not only the creation of a different kind of state structure but a different relationship between state and community. That demanded that we have information systems in place, which we did not have at that time, and we created N-FOCUS. We created, as Lorraine has said, three different demonstration districts. They didn't all work the same, but there

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were some interesting outcomes from that. We were constrained by the silo effect of the federal funding stream, which really hurt a lot in putting these things together. But there are work-arounds on those kinds of things if you have the right kind of accountability systems. Listening to the testimony today, I'm not certain that I'm hearing much different than I heard 20 years ago, quite frankly. I don't know that it's that much different. Policy ought to be driven by outcomes. I'll give you an example. I think we made a real dent in long-term care, in long-term care. Long-term care is less a percentage of your budget in Medicaid today than it was then. Fastest growing population we had in the mid-1990s was population over 85. We created the Health Trust Fund so we could buy ICF 2s out of that and let them convert to assisted-living facilities, and that was a special program available to county-run nursing homes. We found that the biggest problem we had in people entering nursing homes...and keep in mind at that time people came on Medicaid after they'd been in a nursing home for two years. Something was going wrong with that. It was hospital discharge and it was largely hospital discharge out of Omaha. People were not following up. Following up on discharge by bringing the Older Americans Act in really began to reduce population drift in ICF 2s. And, more importantly, that dealt with the issue at that time of having people in nursing homes under Medicaid who were not qualified by any medical or behavioral disability. But their homes were gone and their bank accounts were gone and there was no place to put them. This is one of the experiments we did in the Norfolk area was really getting involved in hospital discharge and following them through skilled nursing homes. I don't think it's the size of the agency. I think you're exactly right. I think culture is part of it, but culture is a complex thing. And we create a lot of that culture because we develop silos in our professional schools. Trying to bring juvenile services in and creating case planning with social workers was a real enlightening process, as I remember. It didn't work. It didn't work. And yet, the spectrum of children we were dealing with and adolescents was not different. The juvenile judges were putting kids in programs where they thought there was money, not because of what they did. (Laugh) [LR535]

SENATOR KRIST: Hasn't changed. [LR535]

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DON LEUENBERGER: I didn't think so. (Laugh) [LR535]

SENATOR CAMPBELL: I think it (inaudible). [LR535]

DON LEUENBERGER: I didn't think so. So structure is not going to get you out of problems. Structure can change. In fact, you ought to look at structure all the time because structure can throw up barriers you don't want. But structure is not the answer to leadership. So I'd be happy to answer any questions, but that's kind of my philosophical... (Laugh) [LR535]

SENATOR MELLO: I appreciate... [LR535]

DON LEUENBERGER: I was amazed at how much work we did, but I was only 50 then. (Laughter) [LR535]

SENATOR MELLO: Thank you for your testimony,... [LR535]

DON LEUENBERGER: You bet. [LR535]

SENATOR MELLO: ...Mr. Leuenberger and Ms. Chang. Any questions from the committees? Senator Nordquist. [LR535]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you both for being here. It seems to me that the difference between budgeting for outputs and outcomes can...making that change can drive the cultural change. Because if you're budgeting for outputs, how much does it cost to add an extra 1,000 kids to Medicaid, that's easy to silo that and say here's, you know, here's the number. [LR535]

DON LEUENBERGER: Sure. Sure. [LR535]

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SENATOR NORDQUIST: If you're budgeting, how do we make our community, our children healthier, that requires the silos to be broken down and... [LR535]

DON LEUENBERGER: That's a different question. [LR535]

SENATOR NORDQUIST: Right. So the question, and you mentioned it, Don, the federal funding streams, the silos of that, and I don't know if you can address it or Lorraine, with the consulting you've done around the country: Are there states out there that have done a good job of blending and weaving federal funding silos to actually get to the bigger budgeting for outcomes and addressing the larger problem? Or... [LR535]

DON LEUENBERGER: You know, the states go back to Woodrow Wilson's, the experiment of democracy. And of course, every state has done things differently. California was working with a human services professional, but theirs is a county-run system. Tennessee has done things with TennCare where they've gotten waivers to try things special. There are work-arounds if you have an objective. There are barriers, there's no question about it. [LR535]

SENATOR NORDQUIST: Right. [LR535]

DON LEUENBERGER: But are they insurmountable? I don't think so. [LR535]

LORRAINE CHANG: I would just say the states I'm familiar with that have had success with budgeting for outcomes in particular would be Washington State, Oregon, and Iowa. [LR535]

DON LEUENBERGER: Uh-huh. Uh-huh. But if you hold people accountable for outcomes or do you hold people accountable for staffing ratios, that makes a big difference in how an organization behaves. [LR535]

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SENATOR NORDQUIST: Right. Great. Thank you. [LR535]

SENATOR MELLO: Senator Krist. [LR535]

SENATOR KRIST: Thank you, Chair. Specifically, Don, I'm interested, from your background and from all the places that you've been, on just let's take one example. You talked about silos that are developed sometimes by the federal government that impact the state level. So if the federal government, CMS, says you can have only one belly button for Medicaid dollars and you can only have one belly button for IV-E waiver and IV-E money, how then would you attack the problem of trying to let that imposed silo from the federal government service the state needs? [LR535]

DON LEUENBERGER: Boy, that's a really good question. (Laugh) Maybe that's where you need a consultant then, quite frankly. (Laugh) [LR535]

SENATOR KRIST: I thought you were. No. [LR535]

LORRAINE CHANG: And it wouldn't be me. [LR535]

SENATOR KRIST: That's one of the problems... [LR535]

DON LEUENBERGER: But, yeah, that's the kind of question you have to ask. [LR535]

LORRAINE CHANG: Yeah. [LR535]

SENATOR KRIST: That's the problem... [LR535]

DON LEUENBERGER: That is precisely the kind of question you need to ask. [LR535]

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SENATOR KRIST: It's one of the big problems we have and... [LR535]

DON LEUENBERGER: Yeah. I absolutely agree with you. I absolutely agree with you. [LR535]

SENATOR KRIST: ...and it reinforces the silo and it reinforces the culture when the money comes in that way. [LR535]

DON LEUENBERGER: It does, absolutely. Absolutely. [LR535]

SENATOR KRIST: Thank you, sir. [LR535]

DON LEUENBERGER: And, yes, the federal government is siloed. We're dealing with that right now with the Ebola thing. It is amazing the interactions. [LR535]

SENATOR MELLO: Any other questions from the committees? I've got one for both of you because I should have probably...I could have asked this of Ms. Robak but she kind of, I think, answered it from Senator Campbell, which is you've been giving us a perspective from the executive branch, and that's the unique component of why I invited only really executive branch testifiers to provide feedback. We will get some feedback from our Legislative Fiscal Office in regards to what recently happened. But as we are considering from our branch of government's perspective of how do we...how do we work cooperatively with the executive branch in respects to wanting to see program service delivery meet benchmarks and to see the outcomes that we want to see with the appropriations that we're giving based on not just aid but operations, what's your general thoughts or recommendations do you think the legislative branch should be considering in regards? I understand that this may be the same problem that we were at as a state 20 years ago in regards to dysfunction within a large service delivery agency. But as Senator Campbell mentioned earlier, oversight in regards to the appropriations process, oversight in regards to general transparency in regards to laws that are

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created by our branch that then are implemented by the executive branch has an interplay, so to speak, in regards to any changes that happen both in leadership and/or culture or both, including...and then you add structure in there as well. All three of those components will have some impact based on what we do policywise. So I kind of will give you an open-ended question in the sense that... [LR535]

DON LEUENBERGER: (Laugh) [LR535]

SENATOR MELLO: ...and, Don, I understand your experience has been in the executive branch for a number of years. [LR535]

DON LEUENBERGER: It all has been, that's right. [LR535]

SENATOR MELLO: And so this is an opportunity to... [LR535]

DON LEUENBERGER: You know, I came in shortly after the constitutional amendments that created a four-year Governor and created a four-year Legislature term. Before that, we were meeting every two years. We move from the property tax base to the state income tax and sales tax base we have today. The Legislature and the Governor's Office were created in that constitutional amendment in such a way that both were exceptionally powerful. If you look at the tools the executive branch has in the state of Nebraska in terms of line-item veto and line-item veto reduction, they are exceptional. On the other side, you have a nonpartisan, one-house Legislature that can act rapidly and decisively if it staffs itself. And I've seen things go back and forth over the last 40 years in Legislative Research, Performance Audit, those kinds of things. Different messages come out of that interplay between the Governor's Office and the Legislature. A state agency needs some consistency, because the one thing that lasts in this are the lobbyists and the state employees and the legislative staff. Legislative staff is absolutely critically important. They carry a lot of the history of that interaction. I could go off in different directions, Senator Mello, but the Legislature in this state plays a role that I'm

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not sure is played in many other states. Over my career, a lot of the history and a lot of the long-term policy thinking resided more in the legislative branch with senators like Senator Warner. That long-term tenure and the development of policy initiatives over multiple terms was invaluable, absolutely invaluable. As I've watched the Legislature since the term limits, I have been surprised pleasantly by how much that culture has persisted. I still don't like limitations, quite frankly, because I thought that changed the constitutional structure in the state in Nebraska in a way that was meant for two-house partisan Legislatures and not our particular circumstances. But I think that has persisted and I think the kind of attention you pay to staff resources is very, very important. That's your source. The kind of questions they ask state agencies are not trivial. These are skilled people and they have a dedication to policy, and you all recognize that in your staffs. I've known these people for 20-30 years too. That's...I guess that's my answer. You are your own institution. You have a responsibility for staffing that institution to get the information you need. It's in your hands. [LR535]

SENATOR MELLO: Okay. [LR535]

LORRAINE CHANG: Can I just answer that one question? [LR535]

DON LEUENBERGER: You probably listened more carefully than I did. [LR535]

LORRAINE CHANG: No, I think it's a great question and, you know, in my view it comes down to the Legislature having a strong role in holding the agencies accountable. And my definition of accountability, I mean accountability is such an overused term. But it starts with being very clear as to what your expected outcomes are, what you're expecting the agencies to achieve, not what they're going to do but really the outcomes and holding them to those outcomes by providing feedback, listening to see what's working and what's not working, and making sure that they're getting support they need to make it happen, and then lastly making it matter. That if you don't have your incentives aligned for them to achieve those outcomes then it's not going to make a

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difference. [LR535]

DON LEUENBERGER: You know, one thought I had, the structure of the executive branch today, as it exists, is really the creation of the Legislature. Dick Marvel, who was Chair of the Appropriations Committee and was really my sponsor in government as much as anybody else, created the Department of Administrative Services, created Department of Human Resources. That structure is a result of legislative action. It was not an executive initiative. So that gives you a little bit of the history and the effectiveness that can be had. [LR535]

LORRAINE CHANG: Yeah. [LR535]

SENATOR MELLO: Senator Gloor. [LR535]

SENATOR GLOOR: Thank you, Senator Mello. I want to...I believe you're both worldly enough in this process to understand that there's a lot of admiration for the work that you put into making this come about. And although I'm sure you would say that you don't necessarily feel ownership, I have to assume that, and I'm pretty comfortable assuming, that you take some degree of pride looking back at all the work that went into this and how it eventually rolled out. And you are correct to remind us of things like the ICF 2s, which I forgot, which did in fact cause quite the ripple and change across the state of Nebraska and saved us money. But times change. Thank you, Senator Bolz, for pointing that out. And sometimes when times change, the models that were set up to administer those things need to be looked at and change also. [LR535]

LORRAINE CHANG: Yes. Uh-huh. [LR535]

SENATOR GLOOR: So none of this looking at it for us is anything more than, as you've pointed out, the Legislature doing what it's supposed to do--provide some degree of oversight. I also think that a number of times what's flashed through my mind is

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watching runners at the beginning of a marathon who are full of enthusiasm and excitement. And when the gun sounds, people take off, smiles on their faces and some degree of apprehension but a lot of excitement. And you see that in organizations also with changes. And watch runners at the 18-mile mark on a marathon when their feet hurt and they're having cramps and they're reminding themselves they were never going to do this again the last time they ran. (Laughter) And we get to that in our lives after we've gone through changes where we slip back into the same old, same old, and I think some of that is a concern we have that are we back to the point of building silos, just in a different way. And this has been an interesting and stimulating thought process for me as we've talked about this. But again, thank you for your efforts in the past getting us in a better system, at least as it was originally established. [LR535]

DON LEUENBERGER: You know, there is a timing in things, and the legislative session that Kay Orr came into for tax reform could not have been done four or eight years prior to that. There was a time in school aid where we really shifted over. This was a timely thing here. We're coming off of a period right now of a lot of stress. So the timing may be there. A lot of it has to do with timing. [LR535]

LORRAINE CHANG: Yeah. [LR535]

DON LEUENBERGER: And all of a sudden there arises--we need to do something--and there's a consensus, even though there may not be a consensus over what it is. I did want to say one thing though. The Policy Secretary is...which I was part of creating, was not just a chair of a three-member agency. Nebraska has not done something a lot of other states have done and that is created within the Governor's Office and the executive branch functional roles as deputy chiefs of staff. Policy Secretary really filled that role. It's not just a chair of the three-member committee. It had responsibility for consolidating budgets, the chair of a Partnership Council which must be nominated by the Governor and approved by the Legislature, and responsibility for the indicators, performance indicators, and had staff for that purpose. So it did hang together as a

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single entity without necessarily being a single agency. Now you're not going to have to go back where you have five different legal departments in five different agencies, so there's one outcome of that (inaudible). I don't know how many lawyers we have in there, but it's one (inaudible). (Laugh) [LR535]

SENATOR MELLO: Any other questions from the committees? Seeing none, thank you both for your testimony today. [LR535]

LORRAINE CHANG: Thank you. [LR535]

SENATOR MELLO: Our last testifiers will be Liz Hruska and Sandy Sostad from the Legislative Fiscal Office. [LR535]

LIZ HRUSKA: Good afternoon, Senator Mello, Senator Campbell, members of the Appropriations Committee and Health and Human Services Committee. I spend time in front of both committees individually. It's a rare opportunity to have members from both committees present. On Facebook there's something called throwback Thursday. I think this is sort of flashback Friday with the presenters you've had today, going back to 1996. And Senator Mello had asked Sandy and I to present on the consolidation into one agency in 2007. [LR535]

SENATOR MELLO: Liz, could I just get you to say your name and spell it for the record, please? [LR535]

LIZ HRUSKA: I was just going to do that. My name is Liz, L-i-z, last name is Hruska, H-r-u-s-k-a. I'm with the Legislative Fiscal Office. I'm joined by Sandy Sostad. [LR535]

SANDY SOSTAD: Sandy Sostad, S-a-n-d-y S-o-s-t-a-d, Legislative Fiscal Office also. I'm Liz's support today, so. [LR535]

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LIZ HRUSKA: (Exhibit 4) So the transformation that occurred in the Nelson administration, there was a lot of planning prior to that. A consultant was hired. It was pretty revolutionary. In 2007, that was...had less of an impact overall. When Senator Mello had approached Sandy and I to present today, we both looked at our files. Sandy did find a press release with two organizational charts. I looked at my file and it was actually fairly slim because the three agencies were operating as a system. They were three separate legal entities. Going to...consolidating them into one didn't take all of the planning and organizational change that had occurred ten years prior to that. So basically, you took people in the three agencies and they all became employees of the Health and Human Services System. There wasn't a lot of...in '96 there were directors that were in different buildings. You had to bring people together. You had to bring supports together, common functionalities together from all over the city of Lincoln. That didn't occur here because they were already sitting side by side. They may have been in a separate agency. So it didn't...it really wasn't a big deal, I guess. It just was kind of the next step in the process probably. They could have continued to function as they were as under sort of an umbrella agency. The one change they did do is they eliminated the Policy Secretary and changed that position to a CEO. The Policy Secretary didn't have management responsibilities; the CEO did over the three agencies. I think Don's vision for what the Policy Secretary was to be and what he fulfilled was probably not carried forth once he left that position. So it did become just maybe more of a coordination position between the three agencies. So I guess... [LR535]

SANDY SOSTAD: Well, the one thing I might add is they also created a department of Children and Family Services, so that was really a new division that we really hadn't had before. So I think that was something that came about at the same time, so. [LR535]

SENATOR MELLO: And just for records purposes, a lot of what Sandy and Liz are referencing is the press release that we passed out earlier from Governor Heineman's administration back in 2006, so. [LR535]

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LIZ HRUSKA: Yes, sorry. Yeah, we should have mentioned that. You were handed out the press release and attached were the existing organizational chart and then the one that we changed to. That's pretty much what we have to present, if you have any questions. Again, that wasn't the revolutionary change. I think the big...the hard work and the bigger concept occurred in the prior decade. [LR535]

SENATOR MELLO: Okay. Thank you, Liz, and thank you, Sandy. Are there any questions from the committees? Senator Campbell. [LR535]

SENATOR CAMPBELL: Thank you, Senator Mello. Liz and Sandy, the chart that is on the back here that's been attached which reflects the current structure, are the employees listed under there the current or what it was? [LR535]

LIZ HRUSKA: This is what it was when this press release came out. [LR535]

SENATOR CAMPBELL: Okay. It might be helpful at some point to update this chart... [LR535]

LIZ HRUSKA: That would be easy to... [LR535]

SENATOR CAMPBELL: ...to what it is now... [LR535]

LIZ HRUSKA: Yeah, we could easily do that. [LR535]

SENATOR CAMPBELL: ...just to give the two committees some idea of the changes that have evolved since then. I don't think that...there's certainly not a change in the directors across here, but the number of employees and perhaps what they do, underneath, we ought to take a look at. [LR535]

LIZ HRUSKA: Right. [LR535]

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SANDY SOSTAD: I glanced at that this morning. I found one where it was updated to 2010, but we probably have to update it to 2014 then. Uh-huh. [LR535]

SENATOR CAMPBELL: The Health and Human Services Committee, and Michelle Chaffee and I were talking about this just the other day, when Senator Gay was the Chair of Health and Human Services, we had a great orientation for the committee in terms of all of the programs and how many employees and so forth. That is a part of what we directed in LB1160, I think. And last year we got a report and we made a very kindly suggestion that it wasn't thorough enough. And so this year we have a manual in my office that is this thick, but it is extremely good in terms of describing every single program in the department and the number of employees and where the money comes from. And would be glad to provide a manual, I don't think you're going to want one for every member, but each of the Chair's offices, it's helpful. And I really have to compliment the department. They've all left, I think. But we have just started taking a look at it. [LR535]

LIZ HRUSKA: One thing I would add, and this relates to some conversations we've had with Senator Mello, if you do want to make smaller agencies, it would not be that difficult to do because they are by kind of area of responsibility already. Separating out aging, we could do for Medicaid, or Children and Family Services because they are a separate division. The only big changes would be in the supports, the finance area, the purchasing, human relations, because they serve all of them. And if you make them your own agency, you would want to move those specific functions to those agencies. And they're probably... [LR535]

SANDY SOSTAD: That was one of the drawbacks, I think, around 2000 where we took the Commission for the Blind, the services for the visually impaired, we took them out of HHS and moved it over to a separate agency. So at that time the Legislature had to deal with, well, you move it out of the big agency, it costs more because you have to put

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the support with it, where the support was in the larger agency. But you couldn't really cut staff there because the staff did, you know, things for the rest of the agency. So when we moved it out, it cost more initially to put it as a separate agency, so. [LR535]

SENATOR CAMPBELL: And we really have come full circle to my comment about my discussion with Larry Bare is that was his point, is that you're going to...you're going to cost a lot to replicate all that support... [LR535]

SANDY SOSTAD: Right. [LR535]

SENATOR CAMPBELL: ...that's underneath them and the change in the law and, you know, printing and...I mean on and on and on. And so that, Sandy, thank you, that helped to clarify what that comment meant. [LR535]

LIZ HRUSKA: And we did take savings. Kim was right. I mean, you said 400 employees. I think that's right. I was thinking 400 to 500 were reduced from the four agencies and the one division. The Office of Juvenile Services was a division. So I mean 17 years ago we saw huge savings. If you split them apart, there would be costs to that because you can't split some positions that are doing, you know, work for multiple divisions. If you move them out, would need to add costs. [LR535]

SENATOR MELLO: Uh-huh. Go ahead. [LR535]

SENATOR CAMPBELL: It would seem to me that we probably have one other avenue that we ought to consider as we look at the structures of this agency, and that is to try to look at some of the states. And I know that we saw this particularly in the child welfare, is some of the states have become very good at braiding the funding, or whatever the right term. And I'm looking at the Children's Commission people because we had a lecture on braiding and blending. But some states have been very good, even though the departments are all together, in a particular division, they still have developed a

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mechanism that they get together at one table and say, I can put these dollars in, I can put...and that is what we have not seen here, in my estimation. We've just not been able to sit down and maximize the resources that we could. [LR535]

LIZ HRUSKA: And some of that probably is priorities. Everybody has a job to do over there and they're doing their job. Unless someone asks them to do something else, I don't think you're going to see a midmanagement employee taking the initiative to say, well, I work in the Medicaid Division, I wonder how we can maximize something working with Public Health. It has to come either from a higher level, maybe from the legislative branch. The people that probably know the funding sources probably wouldn't take the initiative. We'd need to look at other states' models as far as what they've been allowed to do with federal funding. The General Funds it's not a problem and many of those initiatives do come from the Legislature, where we move money around or provide multiple purposes for funding. It does get a little more complicated with the federal funding. And I think people, with the disallowances, say, the agency has gotten, they're going to be a little gun-shy, too, to try anything that wouldn't look favorably with the federal government. [LR535]

SENATOR CAMPBELL: Good point. [LR535]

SENATOR MELLO: Any other questions from the committees? Seeing one, thank you, Sandy and Liz. [LR535]

LIZ HRUSKA: You're welcome. [LR535]

SENATOR MELLO: Our actual last testifiers of the day will be from the Office of the Public...Auditor of Public Accounts. [LR535]

CINDY JANSSEN: (Exhibit 5) Good afternoon, Senator Mello, Senator Campbell, members of the Appropriations Committee, and Health and Human Services

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Committee. My name is Cindy Janssen, C-i-n-d-y J-a-n-s-s-e-n, and I have Pat Reding here with me, P-a-t R-e-d-i-n-g. We are both with the Auditor of Public Accounts. I'm handing out currently a list from our Web site of the audits that we have issued on the Department of Health and Human Services since 2000. That's a front and back list, all of those are linked and available on our Web site. We also complete annually an audit of the state's financial audit, which is known as the CAFR, and we complete the statewide single audit, which is an audit of all federal funds. We do those annually. And in conjunction with those, letters are issued to management of each agency. The last time we did that was February 2014, and our audits of those will be completed here by the end of the year. Just some of the most recent audits that we've done, this week we issued an audit on the Health Insurance Premium Program. September 2014, we issued an audit on Child Welfare and a regional center audit; July 2014, Program 502 Public Health Aid. December 2013 there was a LIHEAP audit. November 2013 there was an audit of the AABD Program, which brought up the guardianship issues. And in May 2013 was our first audit of the Health Insurance Premium Program. What I wanted to do briefly was just go over some areas of concerns that we see in these most recent audits, and I think the biggest concern from our office is the lack of cooperation and obstruction of audits. We feel that comes from the top down. A couple of examples of this, in one of those recent audits that I just mentioned, we had management interference with the audit. DHHS sent memos to all employees that required all responses to the APA be sent to the DHHS internal auditor prior to responding to the Auditor. Those, the inquiries, could only be responded to by DHHS at the administrator or management level, which meant we couldn't go in and talk to staff and be provided a direct response on how things worked. Another point I'd like to make is a lack of providing information in a timely manner. Two very recent examples: Our office requested access to N-FOCUS for one of our staff members working on the statewide single audit. This is a very standard request. Other staff members in our office have that access, so it's a very simple request to process. The request was made on October 23. We finally got set up with that access on November 5. And finally, another example is we had asked for time sheets for one DHS employee on September 23, 2014. After

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numerous phone calls and e-mails, the time sheets were provided more than a month later. According to DHS employees, the information had been furnished to management; however, they had to wait for them to send it to the APA. So the individuals we contacted, it was kind of out of their hands. We also receive numerous phone calls, e-mails, and letters regarding DHHS on issues and a lack of assistance by DHHS in resolving those issues, and asking us for help in resolving issues. One of the other areas of concerns that is seen throughout the audits that I mentioned is a weak financial management system. Some examples of that, HHS submits accrual responses to DHS up to two months late. Significant errors with payables and receivables are reported to DAS due to errors in spreadsheets, misunderstanding of the calculation, prior year information improperly updated. There's been an improper recording of federal reimbursements, not using federal IV-E foster care funds but, rather, using state funds; inadequate controls over assistance payments; unallowable costs due to...to federal grants due to worker errors; high average annual cost per patient at the Hastings Regional Center; the foster care disallowances; and improper recording of federal funds to the wrong year. The next issue I want to talk about is training and employees of DHHS not following or understanding NAC manual requirements and making incorrect payments. Supervision and monitoring, we see many carryover issues in this, including not monitoring the program to meet federal requirements and to maximize federal funding available. The guardianship issues was an area where there is a severe lack of supervision and monitoring over the employee handling those payments and severely deficient internal controls. The last area I wanted to touch on was just the nature of the private services being provided at HHS versus the public services, and we've noted services from contractors that aren't properly entered into N-FOCUS. So this is just a very brief summary of some of the issues that have been noted on our most recent audit reports, and if you have any questions we'll take those. [LR535]

SENATOR MELLO: Thank you for your testimony, Ms. Janssen. Are there any questions from the committee? Senator Krist. [LR535]

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SENATOR KRIST: Did you, in your audits, in terms of the dollars, were you following program funds so that you could see either movement of funds outside of a particular appropriated function or did you get that far in depth? [LR535]

PAT REDING: We would be doing some of that testing as part of the annual CAFR and then also we do various program audits where we try to carve out a segment to look at. And so we would be looking at those when we're doing our program... [LR535]

SENATOR MELLO: I'm sorry, I'm going to need you to spell your name,... [LR535]

PAT REDING: Oh, sorry. [LR535]

SENATOR MELLO: ...say your name and spell it for the record, please, for public records purposes. [LR535]

PAT REDING: Pat Reding, P-a-t R-e-d-i-n-g. [LR535]

SENATOR MELLO: Okay. Thank you, Pat. [LR535]

SENATOR KRIST: And the reason for my question is this. I'm aware that Department of Administrative Services has just amended a contract. When they amended the contract, they took the amount of money that was appropriated for a provider care increase, a service increase over what we appropriated last year. And somehow there's another \$5 million in that program, in that contract. So when you audit, do you look at the appropriated funds and what those programs... [LR535]

CINDY JANSSEN: If we do a program audit, we would look at the appropriated funds for that program, and we would...but on that statewide level, I don't think we do too much with...at the program level. [LR535]

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SENATOR KRIST: Is that...would that be part of the Auditor's Office function if it was requested? [LR535]

CINDY JANSSEN: Yes. [LR535]

SENATOR KRIST: Okay. Thank you. [LR535]

SENATOR MELLO: Any other questions from the committee? If not, thank you for your testimony. With that, that will end today's public hearing on LR535. Thank you. (See also Exhibit 6) [LR535]