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HEALTH AND HUMAN SERVICES COMMITTEE
October 25, 2013

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The Committee on Health and Human Services met at 1:30 p.m. on Friday, October 25, 2013, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on a briefing from the Department of Health and Human Services. Senators present: Kathy Campbell, Chairperson; Tanya Cook; Sue Crawford; and Sara Howard. Senators absent: Bob Krist, Vice Chairperson; Mike Gloor; and Dan Watermeier. Other senators present: Colby Coash.

SENATOR CAMPBELL: Okay. I think we will open up the hearings this afternoon for the Health and Human Services Committee. My name is Kathy Campbell and I serve as the Chair of the Health and Human Services Committee. This afternoon we are having a briefing by the department on Title IV-E and we are, therefore, not taking testimony. Director Pristow is our one and only invited testimony but we thought that this would be a good opportunity, in talking to the director, for us to have a dialogue and some questions about the Title IV-E. It's very exciting for us to even be to this point and I certainly commend the department for the amount of work that went into getting a Title IV-E. I know you've brought your staff and they've worked very hard. When we first looked at this issue during the LR37 process and even last summer, I think we all realized that it could be quite daunting for Nebraska to apply and be accepted. So we congratulate the department for the effort they've put in to do that.

THOMAS PRISTOW: Thank you, Senator.

SENATOR CAMPBELL: If you have a cell phone with you--I should do the daily duties here--if you have a cell phone with you, please make sure that it's on silent or it's turned off. And I'm going to have the senators introduce themselves for the people who have joined us this afternoon. So, Senator, would you start?

SENATOR HOWARD: I'm Senator Sara Howard. I represent District 9 which is midtown

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Omaha.

SENATOR COOK: I'm Senator Tanya Cook. I represent District 13 which is northeast Omaha and Douglas County.

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

SENATOR CRAWFORD: Good afternoon. I'm Senator Sue Crawford from District 45, which is eastern Sarpy County, Bellevue, and Offutt.

SENATOR CAMPBELL: And, Brennen, would you like to introduce yourself?

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

SENATOR CAMPBELL: And new to the committee and did a great job this morning. And our page this afternoon?

AUDIE AGUILAR: I'm Audie Aguilar.

SENATOR CAMPBELL: Welcome. Thanks for helping us out this afternoon. And with those introductions, Director, I think we'll just let you go ahead and start with your testimony.

THOMAS PRISTOW: (Exhibit 1) Thank you. Thank you. Good afternoon, Senator Campbell, members of the committee. I will tell you that senators changing chairs really throws me off, so. (Laughter) Good afternoon again. I'm here to update the committee on the status of the Title IV-E program and the IV-E waiver that we recently received. As you know, in 2012 the Nebraska Legislature passed LB820 requiring the department to apply for the Title IV-E waiver through Administration for Children and Families,

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otherwise known as ACF. During the fall of 2012 we created the IV-E Demonstration Project Committee. They met and made recommendations on how to increase the number of children eligible for Title IV-E funding and also worked on establishing the goals for the IV-E waiver. In December of '12, ACF announced the deadline for application be moved up from July to January, which was a surprise to us all. In spite of the short deadline, our staff worked very hard and diligently to meet that deadline. And this past...a few weeks ago, on September 30, Nebraska was awarded the Title IV-E waiver demonstration project. The IV-E waiver seeks to increase positive outcomes for children and families in their homes and communities and improve their safety and well-being. It also aims to prevent child abuse, neglect, and reentry of our youth into foster care. With the IV-E waiver there's terms and conditions, and part of those terms and conditions, there's two primary interventions that are the basis of the waiver. And that is alternative response and results-based accountability, and I'll go into those in more detail later. The implementation of alternative response will require statutory changes regarding child abuse/neglect investigations. And as you also know, Senator Coash is working very hard on that aspect of legislation also informed by collaboration amongst both the department and constituency groups across the state of Nebraska. The waiver also included policy improvement plans around enhancing mental and physical health for children in foster care. That was the third terms and condition...part of the terms and conditions. And the fourth one was the use of federal kinship guardianship grants. The waiver term is five years and brings with it a capped allotment of \$153 million of federal and state dollars combined. The capped allotment was negotiated with ACF in review of past claims for Title IV-E. We had to go "backcasting" five years and forecasting five years to determine the capped allotment. In April, this past April, we were informed that the IV-E fund claims did not have adequate source documentation for foster care payments. The negotiation of the capped allotment took substantial time and ultimately we were able to settle on an allotment that met the cost neutrality positions of the federal law. IV-E waiver dollars will be used for children traditionally placed in foster care who are IV-E eligible. Over time the interventions are expected to yield fewer children needing out-of-home placements; therefore, dollars

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currently used for foster care can be used for early intervention and prevention services to reduce the instance of child abuse that result in children being placed in foster care. This in turn will reduce the children and family trauma caused when they are separated. The IV-E waiver terms and conditions also require that the department develop a corrective action plan to prospectively address claiming issues related to foster care payments. The way we have claimed in the past is no longer acceptable and how we claim forward has to change with our agency-supported foster care providers. The department has met with our providers and the Foster Care Rate Reimbursement Committee of the Children's Commission to discuss the claiming issues. We are working collaboratively with the providers to ensure adequate source documentation that...to make sure that is gathered properly so we can claim IV-E dollars. That change is ongoing and we are...it's one of the bright spots of what's been going on lately. We are working collaboratively with providers. We are meeting with them monthly. It is a really great effort to make sure that they understand the claiming aspects of the IV-E waiver and also the source documentation issue and also administrative rates. The department will not be able to implement either of the waiver interventions, of the four waiver interventions, until the corrective action plan is approved by ACF within the next 90 days. In conclusion, Nebraska's waiver provides the opportunity to use this federal funding flexibly to demonstrate innovative child welfare practices to enhance the lives of children and families we serve. We are looking forward to partnering with all the stakeholders involved in child protection implementing these interventions successfully. That's the end of my prepared statement. I'll be glad to answer any questions you have.

SENATOR CAMPBELL: Questions from the senators on the Title IV-E? I'll start out. Director, the \$153 million is really like the same dollars but we can use it differently.

THOMAS PRISTOW: It's not...

SENATOR CAMPBELL: These are not new dollars.

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THOMAS PRISTOW: It's not new dollars. It's...it was...the \$153 million was negotiated based on "backcasting" and forecasting of previous...and forecasting years of five years to determine where we would be. But what it really does, it allows us to spend it flexibly, whereas the IV-E dollars normally are just for out-of-home care foster care only. This allows us to be a lot more flexible.

SENATOR CAMPBELL: The second question...we are familiar...the Health Committee had a lengthy hearing I believe it was last summer on the alternative response--was that last summer?--where we brought...Voices for Children brought in...and I'm looking at...Carolyn is nodding...

THOMAS PRISTOW: Oh.

SENATOR CAMPBELL: ...and brought in folks and we had a lengthy hearing on that. And I know that's one of the intervention ideas, sort of a major one.

THOMAS PRISTOW: The alternative response, yes.

SENATOR CAMPBELL: Right. What's the second one?

THOMAS PRISTOW: Results-based accountability.

SENATOR CAMPBELL: Oh, that's right.

THOMAS PRISTOW: Do you want me to explain a little bit about that or...?

SENATOR CAMPBELL: That would be great.

THOMAS PRISTOW: Results-based accountability is a performance-based outcome protocol that looks at how we contract our dollars with providers so that we know that

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what we are paying for that we are getting actual performance outcome results for. This is a new concept in Nebraska. We haven't had any...we had some performance-based outcomes based on federal grants that we had to do throughout the years, but this is the first complete overall...of all our contracts that we have...that providers have with the department or with my Children and Family Services Division. It's sensitive because it may shift operations, it may shift how people view how their jobs are done. So what we've done is for two years we will hold them harmless and we will work with them so that we can look at how the performance indicators...the performance outcomes and indicators are developed so that we can get everyone to where they need to be so we can be providing the best services for these kids and families. The providers have been part of the design from the beginning. We've been...I think I started this...my very first meeting was August of '12 where we had about 400 providers and community folks in for a one-day conference on results-based accountability, brought in the national expert to talk about how it works. And we've been kind of planning this since August of '12.

SENATOR CAMPBELL: Okay. I'm just going to keep on a roll until they wave their hand there. (Laugh) We certainly have had the project with NFC and now we're starting the probation project. Will either of those two be eligible for Title IV-E funds?

THOMAS PRISTOW: Okay, let me...this is kind of the long answer, so let me start with probation.

SENATOR CAMPBELL: That's okay.

THOMAS PRISTOW: Right now they currently are not eligible for IV-E funding because there's not any legislative authority for them to get IV-E...to be a IV-E...to participate in IV-E drawdown.

SENATOR CAMPBELL: Okay.

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THOMAS PRISTOW: So there would need to be some legislative changes in probation...in law to allow them to do that. And we've been talking with them, we've had meetings with them over the past...I mean, because of the LB561 transition regarding this. It's up to them to decide whether they want to apply for the IV-E. Their penetration rate for IV-E is relatively minimal considering OJS population that are eligible for IV-E so that's a decision they would have to make.

SENATOR CAMPBELL: Okay.

THOMAS PRISTOW: But what that would be, it's not the IV-E waiver, it would be a carve out for IV-E dollars. We have regular IV-E that we continue to get for adoptions, for a bunch of other programs, child care, and if Probation got the legislative changes and they wanted to do this, then they would be a IV-E carve out. It would not be part of the IV-E waiver. The IV-E waiver is already set. The terms and conditions of the IV-E waiver are set. So there's two separate things going on here. NFC, as you know that they...it is...they are the lead agency in the Eastern Service Area. They are not able to...we are not able to draw down IV-E dollars for NFC right...we've never yet claimed any dollars for them. There's a couple issues around that. One is how they document. Documentation of...source documentation of...when NFC contracts with a vendor who then does services, what we are working with them now is that we, in order to claim IV-E, we have to go to the source documentation so that the vendor that they hire in order to do the services, we have to get their receipts all the way up so that we can show the receipt of the provider who did the service. That's not our rule. That's the federal rule for how we are supposed to be claiming. That's something that's not new. That's something we should have been doing all along that we did not do when we first started into the contract with the lead agencies. The other is...the second issue is that NFC submitted a cost allocation plan and we are in the process of looking at that. And not only us, but federal partners have to approve the cost allocation plan from NFC. And the cost allocation plan looks at source documentation, maintenance, and administrative rates, and that's in play right now. That's not been approved by ACF, that hasn't been

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vetted yet by ACF. They're kind of behind because of the government shutdown. So that's something that my team is working with ACF to see when we could start having that discussion. I anticipate it to be the next 30 days or so if not sooner. The other issue about NFC drawing IV-E dollars down is that their administrative rate is not reasonable. There is a quote in the policy for ACF in the guidelines is that the administrative...that rates have to have a reasonable rate. And through the contract negotiations, their administrative rate is a bit high. So if we were to claim, it looks like, at this point, without going further into details or further depth, that our capacity to claim maintenance payments would be where we'd be looking at claiming for NFC but probably not the administrative rate. An administrative rate is the fixed payment we pay them per month for service...for administrative services.

SENATOR CAMPBELL: So you may be able...if the feds approved the plan, the cost allocation plan, they may be able to be reimbursed for that portion, the maintenance of it...

THOMAS PRISTOW: For the maintenance, yes.

SENATOR CAMPBELL: ...but not for any others.

THOMAS PRISTOW: Well, the administrative rate is highly unlikely but we will present that and see. We will discuss that and work with ACF and...but just based on other states and other reason...what other reasonable rates are when you...it is a...it's something that we're working on and we will try. But we have to...the issue is that we have to be able to align what we do with the ACF guidelines if we want to claim IV-E because if we claim IV-E dollars and we don't align with the guidelines, then we get this allowances, and that's something that we can't do anymore.

SENATOR CAMPBELL: And maybe I'm not...I just want to make sure I'm absolutely clear, Director. So would...if the allocation plan was worked out and the documentation

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was worked out,...

THOMAS PRISTOW: The source documentation.

SENATOR CAMPBELL: ...source document...so they...we might be able to reimburse for this service but not for the admin.

THOMAS PRISTOW: Correct. I'm...we're still going to try for the admin, but it, when you look at the regulations, it calls for administrator rates to be reasonable rates.

SENATOR CAMPBELL: Okay.

THOMAS PRISTOW: And when you look at the dollars flowing into administrative contract, it's a struggle to get to that point.

SENATOR CAMPBELL: So the feds could say, unless you have all three components, we're not going to reimburse you.

THOMAS PRISTOW: No. We could do the maintenance.

SENATOR CAMPBELL: Oh, okay.

THOMAS PRISTOW: We could claim the maintenance if we get the cost allocation plan approved. We just can't do...

SENATOR CAMPBELL: ...the administration.

THOMAS PRISTOW: If we don't get the approval for the administrative rates, then I would not go forward with that. And so far we have claimed nothing with NFC...

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SENATOR CAMPBELL: Right.

THOMAS PRISTOW: ...since we've been in contract with them the past whatever years it's been.

SENATOR CAMPBELL: And so even as we have worked through the last couple of years with the foster kids using Title IV-E money for services outside the home, because that's what we could use it for, we have not been able to claim any of that.

THOMAS PRISTOW: Correct, in the Eastern Service Area.

SENATOR CAMPBELL: Okay. I think that's a question that probably the committee is going to have to keep following up because one of the things that we really wanted of course was for as much claim on Title IV-E as we could...

THOMAS PRISTOW: Yes, ma'am.

SENATOR CAMPBELL: ...because we had a report last year and I think you were here, Thomas. We had a very long hearing day and we heard from all the consultants that came in and this one was on cross-system analysis. And of course they, too, advocated that we apply for the Title IV-E and they were, you know, very much on that. Have we been able to do anything...in that report they also talked about whether we have improved the penetration rate. Have...

THOMAS PRISTOW: We have. We've doubled it actually from 11 percent to 22 percent.

SENATOR CAMPBELL: Oh, good,...

THOMAS PRISTOW: And I'm not sure if it's higher than that now, but it's...it doubled over the past year.

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SENATOR CAMPBELL: ...because that was one of the things that they had suggested and they also had suggested that we update the doctor care licensure and we did that last year, did we not?

THOMAS PRISTOW: Yes, we did.

SENATOR CAMPBELL: And we also updated with the kinship bill.

THOMAS PRISTOW: Yes, yes.

SENATOR CAMPBELL: So, I mean, we...the...I shouldn't say "we." But the department and the Legislature really...

SENATOR COOK: No, we...it's definitely a "we."

SENATOR CAMPBELL: ...have followed through on what they had suggested here. And one of the other things was to collaborate with the Administrative Officer of the Court and judges to make sure they are making the appropriate judicial determination. I remember, you know, it's like they particularly have to write something in an Order.

THOMAS PRISTOW: Right, and they have to check the box of reasonable efforts.

SENATOR CAMPBELL: How are we doing on that?

THOMAS PRISTOW: We're getting better. We're working with the Court Improvement Project, with Vicky Weisz and others and other judges to continually get better and making sure that the basics are done. And actually I sent a senior...one of my senior folks...a couple of my senior folks to New Jersey to look. They have one of the best IV-E claiming protocols in the country and we got...they were there for two days and they got

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some really good feedback and some good plans so that we were...especially how to work with the judiciary branch and judges. So we are taking that on and we have a lot of cooperation with that so we look for improvement there.

SENATOR CAMPBELL: Good. So were...we really worked pretty steadily on all of this to get us into full compliance with as much drawdown as we possible can on the...oh, Senator, please join us.

SENATOR COASH: Okay.

SENATOR CAMPBELL: You can just...anywhere.

SENATOR COOK: He must have heard his name.

SENATOR CAMPBELL: Senator Coash has joined us. Thank you very much for coming.

SENATOR COASH: Sure.

SENATOR CAMPBELL: Senator Coash has a bill in the Legislature that will...well, amended a bill and then has had...looked at a new bill actually to deal a little bit with the alternative response and pilots. Some of you may remember the hearings that we had on that and we can discuss that in a minute. Now I lost my train of thought. So we've really worked through all the penetrate...

THOMAS PRISTOW: Penetration rates.

SENATOR CAMPBELL: We've gone as far as we can on drawing down the maximum that's available.

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THOMAS PRISTOW: Right. We're continuing to improve but, yes, we are...we're very excited about the IV-E waiver. We're doing the...we have our regular IV-E plan in process. We're working with all the agency-supported foster care agencies in order to get the source documentation. They are absolutely cooperative with us. This is purely a team effort to make this happen. We meet with them...I meet with them regularly to discuss any issues or concerns. We're moving forward with results-based accountability. That's on track. I mean, everything is kind of falling into place and it's looking really good. We're extraordinarily coordinated with the Children's Commission, as you know, with Karen Authier. I've actually asked the Children's Commission to...part of the Foster Care Rate Committee to help us decide what the administrative rate for agency-supported foster care folks should be and so the commission has taken that on with me and some of my team as members and agency providers as members. So we're working this out together.

SENATOR CAMPBELL: Good. For the Health Committee's benefit, we're starting to take a look at...we annually hear from the Children's Commission and I see Karen Authier out there. They provide an annual report to the Health Committee. The Inspector General does and Julie is in the back of the room. And the Foster Care Review Office and Kim Hawekotte is here.

THOMAS PRISTOW: All of my friends.

SENATOR CAMPBELL: So we are talking about when will we schedule that. One of the ideas that I have is that we would do it just before or at the very beginning of the session, you know, when we have those couple of days when we can kind of get things done, which would give us plenty of time to get those reports and for you to read them before we scheduled, just so that the Health Committee knows that. Director, why don't we talk a little bit about the other intervention program that would be in our waiver, the AR. And I sort of waited on that, Senator Coash, until you got here.

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SENATOR COASH: Thank you.

SENATOR CAMPBELL: So tell us a little about where you are in that process and what it would do, just to refresh everybody here.

THOMAS PRISTOW: Sure. First, welcome, Senator Coash, good to see you. We've been working on alternative response for well over a year and Senator Coash has been taking a lead with the Legislature to help produce a bill to get us to where we need to be. We have to have a legislative change in order to do alternative response in the state of Nebraska, and the senator has been and his team and his staff have been great in trying to help us negotiate that. We have tons of constituencies out there that all have an opinion about how the alternative response should work, all of it legitimate, all of it appropriate. We have a statewide alternative response team. We have a directors...I have a directors advisory group. And then the senator has pulled together folks also to continue to get input to how to make this work. The biggest issue is we need to have legislative change so that we can, as intake comes into the hot line and gets accepted as an intake, so that we have an option. Right now the only option is to do a traditional CPS investigation, period. What this will allow us to do is to do an alternative response. The past 14 or 15 months has all been about the details of how that alternative response should look, what are the exclusionary categories that we would never use alternative response on, and then how does the actual interview protocol work, how does the county attorneys fit in, how do the judges fit in, how do the state fit in, etcetera, etcetera, etcetera. So we are almost there. We're like first and goal to go. (Laughter) Very...I mean, it's very exciting time. And we have some more negotiation to do. We have a committee report due to the Children's Commission I think it's November 1 or the 15th. Karen, I'm not sure.

SENATOR COASH: First.

_____ : The (inaudible)...

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SENATOR CAMPBELL: When the report is due?

_____ : (Inaudible) report (inaudible) November 1 to the commission.

THOMAS PRISTOW: Reports...my report is due to you...okay.

_____ : And then the commission reports to the Health and Human Services,...

THOMAS PRISTOW: But...

_____ : ...moves the report on, and (inaudible)...

SENATOR COASH: To the...on the 15th.

THOMAS PRISTOW: Right, on the 15th.

_____ : ...the conference on that, that would be right at...I think that's December 1.

SENATOR COASH: November 15.

SENATOR CAMPBELL: And for the transcribers that are trying to listen to this, Senator, would you introduce yourself.

SENATOR COASH: Yeah, yeah, sure. Senator Colby Coash. And to clarify, the amendment that I...that was adopted required the report from the department to the commission on November 1, the commission has until November 15 to review that and give it to the full Legislature.

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SENATOR CAMPBELL: Okay.

THOMAS PRISTOW: And we...

SENATOR COASH: But obviously the Legislature will be able to review it on the first as well.

SENATOR CAMPBELL: Okay.

THOMAS PRISTOW: We are going to be presenting that report to the commission. It's going to have a couple areas that still need to be fleshed out by November...it's not going to be completely done by November 1. The report will be done, but there's going to be one or two areas that we have not yet fleshed out. We have to have the final model complete by April as far as the federal requirements of the terms and conditions with the IV-E waiver that AR is part of. Again, as I said, we have been working very collaboratively. In fact, we just sent a group of folks from Nebraska to Vail, Colorado, for a differential response conference to get more ideas. Gene Klein is one of them. Alicia Henderson, a county attorney, Gene Klein with Project Harmony, among others, have gone down there. So there's...there are a large group of constituencies that are working really hard with the department to produce a product that can get to the Children's Commission, that can get to the Legislature, so that we can look at implementing sometime, probably this time next year. We're looking at September, October of '14. We're looking to do a pilot with five different counties.

SENATOR COASH: Counties or service areas?

THOMAS PRISTOW: Counties.

SENATOR COASH: Counties, okay.

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SENATOR CAMPBELL: Questions? Senator Howard, I know you've been trying to get in.

SENATOR HOWARD: I have a question about training specifically. Training is a portion of our drawdown for IV-E, correct?

THOMAS PRISTOW: Yes.

SENATOR HOWARD: And my concern is around NFC's training and if we're able to draw down IV-E funds for their case managers who are being trained in house.

THOMAS PRISTOW: No, we're not. NFC does their own training. Our training is done by CCFL. And actually, we're in the middle of a detanglement funding process with them to make sure our...I mean, we're going through a deep dive on all our funding sources to make sure it's done right. NFC does their own training. And again, as I said, we claim...we don't claim any dollars, administrative or maintenance, with NFC at this point.

SENATOR HOWARD: If a case manager isn't trained in a IV-E-eligible manner, does that impact the eligibility for the youth?

THOMAS PRISTOW: No. Or is my staff saying yes?

SENATOR CAMPBELL: No, they aren't. They're agreeing with you.

THOMAS PRISTOW: No. It's good when that happens.

SENATOR CAMPBELL: They're agreeing.

SENATOR HOWARD: Good. Thank you.

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THOMAS PRISTOW: No. The IV-E eligibility is separate criteria.

SENATOR HOWARD: Okay, great.

SENATOR CAMPBELL: So at this point, Director Pristow, let's follow up from Senator Howard's question. How much money is that? Do you have any idea? Don't you...all day you've been asked these questions about, like, what is the exact amount? Can you get that for us?

THOMAS PRISTOW: Yeah, I do have the...well, I don't have the exact but it's substantial. And I don't have the exact number because I didn't bring the NFC contract with me and the budget. But I could absolutely get that.

SENATOR CAMPBELL: I'd like to know that figure and I'd like to know the follow-up figure for...

THOMAS PRISTOW: The training?

SENATOR CAMPBELL: Well, I'd like to know the training cost that we can't apply for and then what those administrative costs that we can't draw down either.

THOMAS PRISTOW: Yes. I...yes. Yes, ma'am. I'll get those to you right away.

SENATOR CAMPBELL: Because at this point, basically, then we're substituting total state General Funds for that training component of the contract.

THOMAS PRISTOW: General Fund pays for most if not all of the NFC contract.

SENATOR CAMPBELL: Okay. We don't draw down any federal...

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THOMAS PRISTOW: No. No, we don't. It's all straight General Fund.

SENATOR CAMPBELL: It's all straight General Funds, okay. Senator Crawford.

SENATOR CRAWFORD: Thank you. Thank you, Senator Campbell, and thank you, Director Pristow. We were talking about penetration in terms of how many of the children would qualify, and then now we've been talking about what are we spending that we're not able to use these dollars for. So I want to try to get a picture of...if I understand it correctly, the amount, the total amount we have is...there's a cap on the total amount we have.

THOMAS PRISTOW: Yes.

SENATOR CRAWFORD: So how close are we to that cap or how much additional...

THOMAS PRISTOW: Money could we draw down?

SENATOR CRAWFORD: Are we, like, about...spending about half of it, about 25 percent of the total amount we could draw down if we...just based on the amount allocated to us.

THOMAS PRISTOW: I would say, just excluding the NFC contract that we're not drawing down on, that we're probably drawing down close to 75 percent or so of our federal requirement.

SENATOR CRAWFORD: Of the amount we could.

THOMAS PRISTOW: Again, as our penetration rate goes up, that's more federal dollars and we're looking to move that up again as...I don't think we can double it again, but

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I...we're looking to move that up.

SENATOR CRAWFORD: So is there...I'm trying to remember if there's a historic cap on this in terms of an amount that we can claim. Or as our rates go up, as we get more children who qualify, do we get more funds?

THOMAS PRISTOW: Traditionally, out-of-home care, the more kids you have, the more you can claim because it's traditionally just for out...

SENATOR CRAWFORD: Right. Okay.

THOMAS PRISTOW: ...IV-E is just traditionally for out-of-home care.

SENATOR CRAWFORD: Okay.

THOMAS PRISTOW: And as you know, we have some of the highest rates of out-of-home care in the country.

SENATOR CRAWFORD: Okay. Thank you.

THOMAS PRISTOW: Yes, ma'am.

SENATOR COOK: Thank you. I have question, two questions. One is related to the fifth paragraph of the testimony where it is stated that in April we were informed that the IV-E fund claims did not have adequate source documentation for foster care payments.

THOMAS PRISTOW: Correct.

SENATOR COOK: What do we have in place now to ensure that that's not an issue in the future?

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THOMAS PRISTOW: We're...my team went out and it...we're working with all the agency-supported foster care providers to...we're actually right in the middle now of developing the document for them to make sure that they give us the information that we can do source documentation claiming.

SENATOR COOK: Okay.

THOMAS PRISTOW: Like I said before, it is a collaborative effort. No one is pushing back on us to say we can't do it. Everyone, when we had the full meeting to say...I said, this is a problem we have, it's not a problem I have, it's a Nebraska issue. Everyone stepped up to the plate and really is working to make that happen. So it's not a matter of if we do it. It's a matter of when we want to get it done and how it's going to look. So we have to change how it's going to be and everyone is very supportive of doing that. It just...what we did before is we just bundled the rates and we gave X organization X number of dollars and go forth and do good. And we needed to pull back from that and go to source documentation in order to claim these IV-E funds.

SENATOR COOK: And my second question is related to the questions about what we can't draw down. We've discovered we cannot for training or for those administrative costs. We've drawn down 75 percent-ish of the \$153 million. What have we applied that to?

THOMAS PRISTOW: Well, actually, we haven't started any of the \$153 million yet.

SENATOR COOK: Okay.

THOMAS PRISTOW: We're still in our carve out of regular IV-E.

SENATOR COOK: All right. Sorry.

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THOMAS PRISTOW: The IV-E waiver is not going to start until next fiscal year.

SENATOR COOK: Okay.

THOMAS PRISTOW: So that's separate. We are working and we are drawing down training. We're just not drawing down NFC training. We're drawing down the other four areas of the state when we do training so that's...we're able to do that. Does that clarify at all?

SENATOR COOK: I guess my question, and I apologize for my misunderstanding about where we were and what year it is and what day it is, but what sorts of tasks or roles, if you will, does the...can we draw...

THOMAS PRISTOW: Treatment services,...

SENATOR COOK: Okay. Thank you.

THOMAS PRISTOW: ...counseling, any type of provider services we can draw down on.

SENATOR COOK: Okay.

THOMAS PRISTOW: And then there's the administrative drawdown we can also draw down on as long as we have the right documentation...source documentation right.

SENATOR COOK: Okay, and we're working on getting the...

THOMAS PRISTOW: Yes.

SENATOR COOK: ...paperwork to ensure...

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THOMAS PRISTOW: Yes. I asked...

SENATOR COOK: ...that we can report that in a way that they can understand and recognize.

THOMAS PRISTOW: Yes, ma'am. I asked the team that's working on this with the providers that we have IT ready to go by January, we try it a few months, so that by April we have all the bugs worked out of it.

SENATOR COOK: All right.

THOMAS PRISTOW: So...and everyone seems to be in agreement that we can get close to that date. I just don't want to...we have to have a...we're asking providers to do something different, and they have operation budgets, they have staffing, they have their own protocols they have to go through. So we need to work with them to make sure that we're not making a right turn so fast that we lose people. And they've been very supportive of working with us on this to get this done.

SENATOR COOK: All right. Thank you.

SENATOR CAMPBELL: Senator Howard, do you...?

SENATOR HOWARD: Yes.

SENATOR CAMPBELL: I know you have a follow-up question.

SENATOR HOWARD: (Laugh) You're reading my mind. I have a question about foster care agencies. Is it your intention that they'll become subrecipients to your IV-E funds?

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THOMAS PRISTOW: Yes,...

SENATOR HOWARD: Okay, and...

THOMAS PRISTOW: ...subgrant recipients.

SENATOR HOWARD: Subgrant recipients, and then will they in turn have to develop their own cost allocation plans?

THOMAS PRISTOW: That's a technical...yes, yes, they will.

SENATOR HOWARD: Okay. And then will they have a set amount or a percentage or a range of funds that they would be able to get within that cost allocation to help them make that cost allocation plan?

THOMAS PRISTOW: It would be based on historical...what they've been doing, and then forecasting ahead what they might want to do. It's the same process we went through.

SENATOR HOWARD: Okay. I...your helper is right in my line of sight, so it's...I'm sort of checking in with her, as well. In regards to NFC's service provision, was your intention then to be...to have those service providers also become subrecipients?

THOMAS PRISTOW: Well, that's a decision NFC needs...NFC would have to design in their cost allocation plan how they would work their subrecipients, their subgrant recipients with their provider. So it's like a...they'd be like their own ministate.

SENATOR HOWARD: So NFC becomes the subrecipient or is the contract completely separate?

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THOMAS PRISTOW: They are a subrecipient to us, and then they would also become...their providers would...they would...the providers would be a subgrant recipient to them.

SENATOR HOWARD: Okay.

THOMAS PRISTOW: So we have to...it all goes down to source documentation,...

SENATOR HOWARD: Um-hum.

THOMAS PRISTOW: ...being able to get what counseling Johnny's family went to, when they went, how much did they pay, and we have that receipt.

SENATOR HOWARD: Okay. So then as a...would those agencies that are subcontracting with NFC still be responsible for their own kind of allocation plan to you, or would it just be done by NFC?

THOMAS PRISTOW: No. It would be to NFC.

SENATOR HOWARD: Okay. Thank you.

SENATOR CAMPBELL: Okay. Senator Crawford.

SENATOR CRAWFORD: Thank you, Senator Campbell. I was just trying to go through, as Senator Campbell was, the different lists of the pieces that we were directed to work on. And I apologize if I missed this earlier. But did you speak to the maintenance costs? One of the recommendations of the consultant was that there were school supplies, clothing, personal incidentals that we weren't claiming that we could be claiming. Could speak to that?

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THOMAS PRISTOW: Right, right. That's because of the source documentation issues.

SENATOR CRAWFORD: Okay.

THOMAS PRISTOW: As that source documentation gets presented, then we will be able to claim on that.

SENATOR CRAWFORD: Okay. Okay. All right. Thank you.

SENATOR CAMPBELL: Okay.

THOMAS PRISTOW: It's just a different world of how we ask providers to operate in.

SENATOR CRAWFORD: Oh, okay.

THOMAS PRISTOW: It's completely different.

SENATOR CAMPBELL: Senator Cook.

SENATOR COOK: I have a question. So I'm assuming this, so please correct me. The NFCs of the world and the potential foster care or child placing, all these agencies, to what extent are they having input in the development of those source documents?

THOMAS PRISTOW: They have to...we have to do it with them. It's their stuff, I mean, so we are working with them exclusively. They come to the provider meetings. The last one we had we probably had 50 or 60 providers there. So absolutely they're involved in making...I mean, it's their documentation that we are working with.

SENATOR COOK: All right. Thank you.

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SENATOR CAMPBELL: Okay. Senator Howard.

SENATOR HOWARD: A lot of states have contingencies in their IV-E waiver. Do we have any?

THOMAS PRISTOW: I don't know the answer to that. Contingencies as far as dollars?

SENATOR HOWARD: As far as Nebraska has to do X, Y, and Z in order to be...to merit these funds.

THOMAS PRISTOW: Oh, right.

SENATOR HOWARD: Do we have any contingencies?

THOMAS PRISTOW: Oh, right. That's our cost allocation plan. That's...

SENATOR HOWARD: And it's just...we only have the cost allocation plan as our only contingencies?

THOMAS PRISTOW: As far as I know, yes, and we'll look back...

SENATOR HOWARD: Okay. And what's our time line on completing those?

THOMAS PRISTOW: I'll get more information about that, but I think it's what I just said, that it's our cost allocation plan that drives that.

SENATOR HOWARD: Did they give us a time line to complete our contingencies?

THOMAS PRISTOW: They...we have to do a cost allocation plan annually. We have to update it annually.

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SENATOR HOWARD: Okay. So there were no contingencies in our waiver except for the cost allocation plan?

THOMAS PRISTOW: I don't want to say there wasn't, Senator. Let me go back and get that detail for you. I'm sorry.

SENATOR HOWARD: Thank you. No worries.

SENATOR CAMPBELL: Were there in the...we were sent the terms and conditions of the Title IV-E...

THOMAS PRISTOW: ...waiver.

SENATOR CAMPBELL: ...of the waiver. I can't remember if there was additional in there or not. We'll be glad to send those out.

_____ : It had to do with a corrective action.

THOMAS PRISTOW: We have a corrective action plan that we have to do within 90 days...

SENATOR CAMPBELL: Right.

THOMAS PRISTOW: ...that talks about our source documentation and that process.

SENATOR HOWARD: Okay, so it's 90 days. When is our 90 days up?

THOMAS PRISTOW: Well, it depends on when you want to start, whether we get the added 17 days from the government shutdown or not. It'd be 90 days from October 18

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or 17.

SENATOR HOWARD: Okay, great. Thank you.

SENATOR CAMPBELL: So that's why the April 1 date, because you really have 90 days to get all of that okayed. And then if say okay to that, then you can proceed...

THOMAS PRISTOW: Right.

SENATOR CAMPBELL: ...with the Title IV-E demonstration. Does that make sense? We've applied.

THOMAS PRISTOW: Right.

SENATOR CAMPBELL: You need...they're giving you 90 days.

THOMAS PRISTOW: We have to show that we are making substantial progress toward, not that we have completed it, by those 90 days. We have to show that we...

SENATOR CAMPBELL: Oh, okay.

THOMAS PRISTOW: ...we're on the path to make it happen, not that it has to be completed. There's no way we could absolutely have it done by then.

SENATOR CAMPBELL: ...get all that done, okay. Does that help, Senator Howard?

SENATOR HOWARD: Yes. Thank you.

SENATOR CAMPBELL: Okay. And what we'll do is we'll forward out to all of you the terms and conditions because we do have those.

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THOMAS PRISTOW: It's on our Web site under the HHS Web site under "Hot Topics."

SENATOR CAMPBELL: (Laugh) Hot topics. Senator Crawford, did we cover what you wanted?

SENATOR CRAWFORD: Yes, thank you.

SENATOR CAMPBELL: Senator Coash, did you want to make any other comments about AR?

SENATOR COASH: I would, and then I do have a question. Just to put this on the record, you know, what we have is my bill, LB503, which is still held...it's actually in the Judiciary Committee because it has to do with abuse and neglect and investigatory process. And it's still there as a vehicle to move forward. I am continuing to work with the department and the many stakeholders to flesh out the details. The basis will be the report that is coming. That's going to be the blueprint for how we move forward. Some of the changes...there's one significant change, and I'll let you comment on this, Director, which is we have to be able to give the department the flexibility not to put somebody on a Central Abuse Registry as a matter of practice. We have to...and that's the one thing that has to happen. The criteria can fit in rules and regs or it can fit in statute or it can be in both, and that's a policy decision for us to make. But I, you know, I want to say for the record I'm committed to moving this forward, but we've got to make sure everybody is on board. I'll echo Director Pristow's comments: People have been working very hard on all sides of this, including the CACs, the county attorneys, the providers, the advocacy groups. Everybody has been coming to the table with the department, and so that report will be the blueprint. But my question is, you know, you never know what can happen with the Legislature, right? So what happens to this IV-E waiver if day 60 hits and there's will of the body to move it forward but no time? Or, you know, I'm...60 days can come and go fairly quickly, even with a bill that's already had a

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hearing. And I'm just...my intent is to move forward as quickly as possible, but I do want to understand clearly because I've been getting the question. We need LB503 or...in some version to make this work. And even if everybody...you know, when everybody is on board, I'm going to say, not if, when everybody feels comfortable that we can move forward, we just have...we have a pretty short window to get that done. And can you comment on what's going to happen if we can't get it to the Governor's desk in time?

THOMAS PRISTOW: The...at the end of the session we have to have a bill or that portion of the IV-E waiver would go away and/or the entire IV-E waiver may go away. But what I'm focused on is by the end of the session. I would like to have it sooner if it's at all possible. But as I...as long as it's not dead in the Legislature, I can talk with my federal partner saying, it's working its way through our process, and as long as by the end of the legislative session we have that bill, I think we'd be fine. Again, if we don't have it, it's an integral part of the terms and...it's one of the...it's 25 percent of our IV-E waiver, so it goes back into negotiation with the feds and whether I reduce our capped allotment by 25 percent or whether we just drop the IV-E waiver entirely.

SENATOR COASH: Okay. And I apologize if you covered this earlier, but that was...my question was, how much of the entire waiver is alternative response really is 25 percent?

THOMAS PRISTOW: Yeah.

SENATOR COASH: And in the application, what was your negotiation with...your...what did you tell the feds we would do with that money? Is it mainly for training new workers, for...I mean, how does that money ultimately...who do those checks get written to?

THOMAS PRISTOW: The federal government gives us great flexibility as long as we have a sound AR model and that we're working towards that as part of the implementation, whether it's training of workers, services, making sure the system is

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smoothly...is smooth. As long as the model is sound, the federal government has given us great flexibility on that. We have to have a plan in place, which we will have in place, but again it...the federal government is very flexible around that.

SENATOR COASH: But how...you're going to get some money to implement it. So my question is, who are you...who will those checks be written to? Is it written...I mean, is it just to cover operating costs of training new workers in a new methodology? How will the money be spent?

THOMAS PRISTOW: We'll draw down that money and then as we decide on what areas of the state this goes out and how the services are going to be paid, you know, the service will be paid through that IV-E waiver dollars,...

SENATOR COASH: Okay.

THOMAS PRISTOW: ...the hiring of staff, or how that's going to...the training of those staff, there will be a drawdown from those IV-E waiver dollars. We also can draw down the money it costs us to plan for the AR model and also the planning and contracting for the RBA. So those are extra dollars we'll be able to get also. But...

SENATOR COASH: Okay. So I heard training of the workers,...

THOMAS PRISTOW: Services.

SENATOR COASH: ...services, implementing the accountability,...

THOMAS PRISTOW: Right.

SENATOR COASH: ...the results-based accountability. Was there one more thing you mentioned?

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THOMAS PRISTOW: Well, it's all about health and mental health to kids in foster care. That's part of the waiver process. We draw...as we access those services, we'll draw down that federal...those federal IV-E waiver dollars instead of the IV-E dollars.

SENATOR COASH: Okay. All right. Thank you.

SENATOR CAMPBELL: And, Senator, we talked at the very beginning about the fact that we are currently drawing down IV-E dollars.

SENATOR COASH: Right.

SENATOR CAMPBELL: We may have a few more dollars, but basically we're going to have those dollars. So if you don't have the AR component, that doesn't mean that you couldn't use those dollars for the existing foster program.

THOMAS PRISTOW: Correct.

SENATOR CAMPBELL: Do you see?

SENATOR COASH: Yes.

SENATOR CAMPBELL: So it's not like we're getting a brand-new \$153 million.

THOMAS PRISTOW: No, no. This is also going to be used for kids in our care, in out-of-home foster care also.

SENATOR CAMPBELL: Right.

THOMAS PRISTOW: So it's we have to use that money, that \$153 million, over five

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years as part of the out-of-home care also.

SENATOR CAMPBELL: Because I think part of the thing is that people go, well, we aren't really getting a whole lot new dollars.

THOMAS PRISTOW: No.

SENATOR CAMPBELL: So what? Well, but the real heart of this is that you can use those dollars differently.

THOMAS PRISTOW: Right, and as...

SENATOR CAMPBELL: And that's the heart of it, I think.

THOMAS PRISTOW: Yes. And our...and as we reduce, safely reduce children in foster care, that will give us more flexibility and more dollars that we can then push into prevention/intervention services. So it kind of all meshes together.

SENATOR CAMPBELL: I want to go back to Senator Coash's question in terms of 60 days. I mean, we just went through this exercise, the Lincoln senators did the other day and before the chamber, in terms of 60 days and the issues that we kind of saw coming. If I understand Senator Coash and our conversation and the conversations with you, Director, is that the real thing that we need is we need the change for the register. Is that correct? I mean, setting up the five pilots and your...and the criteria could be done by the department if you had the authorization not to have these people on Central Registry. Am I saying that right?

THOMAS PRISTOW: I would just add to...yes, you are, but I would also just say, comma, and add that we would never do this with...by the department only. We have a ton of constituencies that whether...we need the reg in order to do the AR piece so that

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we can separate out of intake. If the rule...if the exclusionary criteria is in or out, if it's not in there, we will work with our constituencies to make sure that we have a solid plan to make that...we're not going to do anything unilaterally regarding any type of exclusionary criteria and just do it. That's not going to happen.

SENATOR COASH: But Senator Campbell's question was...or trying to...and what I was trying to get to, as well, is the part that is necessary to move this forward is the legislation. And my LB503 has lots of pieces in it, but the most critical part to be able to move this forward is the change in the registry.

THOMAS PRISTOW: Yes. If we don't have that change, it's not...we can't do it.

SENATOR COASH: But the remaining things about the criteria and the...the criteria for going to alternative response, the investigative protocol, all that, those could be moved through by the department...

THOMAS PRISTOW: Yes.

SENATOR COASH: ...and you could involve stakeholders as well.

THOMAS PRISTOW: Yes.

SENATOR COASH: But the only thing you can't do on your own as we sit here today is change that registry process. That belongs here.

THOMAS PRISTOW: Correct, Senator, yes, correct on all accounts.

SENATOR CAMPBELL: And it would seem to me that if we got to the...I mean, I'm not foreseeing that we're going to get to that part. I think Senator Coash and I are thinking about, which we all have to do, is think about worst-case scenario--what if we hung up

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on the time? But the other thing that we could do is try to get that changed, and we could also pass a resolution in some form that clearly says a letter shall be sent on behalf of the Nebraska Legislature which has every intent to finish out the discussions with stakeholders. And we would, you know, see that happening in the 2015 session if we had to. But the point being is that we can send clear signals to the federal government also...

THOMAS PRISTOW: Yes.

SENATOR CAMPBELL: ...from the legislative branch.

THOMAS PRISTOW: Yes, you're correct.

SENATOR CAMPBELL: Would you agree, Senator Coash?

SENATOR COASH: I would agree. And you were right, that is a worst-case scenario, but...

SENATOR CAMPBELL: But we have to think about those alternatives.

SENATOR COASH: We have to think about how...I mean, we've sent a plan and...

SENATOR CAMPBELL: The counsel...

SENATOR COASH: ...we have to do what we say we do.

SENATOR CAMPBELL: The legal counsel here has written a question and I think it's a good one. If we get the source document worked out, is it true that we then can go back eight quarters--is that what you're saying?--to claim additional IV-E money?

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THOMAS PRISTOW: That's correct.

SENATOR CAMPBELL: Okay. So we do have lots...

THOMAS PRISTOW: We can go back.

SENATOR CAMPBELL: We can go back. Okay. That's good for us to know. Thank you for the question. Any other questions on the Title IV-E or AR or results-based...the intent here, and I hope I'm not offering Senator Coash here, but it would seem to me as we get closer and closer to all of this and after the Children's Commission that one of the objectives would be that we try to have those reports very close to the beginning of the session so that we could follow up and say, okay, how...where are we on AR? Does that make sense?

SENATOR COASH: Yes.

SENATOR CAMPBELL: So we certainly could put that on our agenda for a follow-up for the senators. But we just thought it was important enough to do this briefing now so that you had some background as you began to hear from the discussions.

THOMAS PRISTOW: Senator, if I could just do one other thing, please?

SENATOR CAMPBELL: Sure. Absolutely. No.

THOMAS PRISTOW: I just want to acknowledge Sara Goscha and her...and my senior team of putting this all together, Mindy, my CFO. They've worked hundreds and hundreds of hours with community partners to write the IV-E waiver, to get it in on time, to go to different states, to fly to D.C. to negotiate. Sara was the main negotiator with the federal government to get the terms and conditions and she deserves a lot of credit for that and I just want to publicly say thank you for that. And so does Mindy, my CFO.

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SENATOR CAMPBELL: You know, one of the comments because...a beginning discussion of AR, we were around the edges at the last Children's Commission meeting, I think, in talking about it. And I've made the comment to several people: I think it's so important that we have a healthy discussion of this issue--and Senator Coash has followed up on almost every person who has had a question--that we have this good discussion now, that we do get into the depths, we don't leave people going, well, I wish I'd asked that question or I wish that, and then afterwards complain about the fact that all of this is going forward and da-da-da-da-da, because we've seen that happen in child welfare where we didn't take the time to say, all right, let's deal with the tough questions, let's have that dialogue. I'd much rather have it be now and at the Children's Commission before than for people to complain about it afterwards. I realize that's a corner soap box, but I think it's important to engender and free up people to ask the kind of questions they need to ask.

THOMAS PRISTOW: Thank you. I agree.

SENATOR CAMPBELL: So I'm looking at Karen Authier. I expect the Children's Commission to be an interesting discussion in November. Any other comments from the senators or from the director?

THOMAS PRISTOW: No. Thank you, Senator.

SENATOR CAMPBELL: Thank you. I appreciate it.

THOMAS PRISTOW: Thank you very much.

SENATOR CAMPBELL: We'll have you back on this topic for sure. And thank you, Senator Coash, for coming. That concludes our briefing this afternoon on Title IV-E. I'm going to ask you all to leave very quietly because the committee will go into Executive

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Session for...briefly.