

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

Health and Human Services Committee
February 26, 2015

[BRIEFING]

The Committee on Health and Human Services met at 1:30 p.m. on Thursday, February 26, 2015, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on a briefing. Senators present: Kathy Campbell, Chairperson; Sara Howard, Vice Chairperson; Roy Baker; Tanya Cook; Sue Crawford; Mark Kolterman; and Merv Riepe. Senators absent: None.

SENATOR CAMPBELL: Good afternoon. If you have come for the regular hearings at 1:30, you are more than welcome to stay. This is an open briefing, but the committee is meeting this afternoon ahead of our regular schedule to hear a briefing on the horns...Hornby--I'm going to get that right, really I am--Hornby Zeller report that was directed by the Executive Board of the Nebraska Legislature. And because this committee follows and has oversight of the child welfare system, we felt--Senator Krist and I felt--that it would be wise for the committee to have a briefing by the folks that wrote the report. So with that, I'm going to turn it over to you to maximize our time. But before we start, we probably should do introductions first so that people in the audience know. I'm Kathy Campbell. I serve District 25 in Lincoln.

SENATOR BAKER: Roy Baker, District 30, Gage County, part of southern Lancaster County.

SENATOR CRAWFORD: Good afternoon. Senator Sue Crawford, District 45, which is eastern Bellevue, Sarpy, and Offutt.

SENATOR HOWARD: Senator Sara Howard. I represent District 9 in midtown Omaha.

JOSELYN LUEDTKE: Joselyn Luedtke, I'm the committee counsel.

SENATOR RIEPE: Just in...

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

Health and Human Services Committee
February 26, 2015

BRENNEN MILLER: I'm...oh, I'm sorry. Go ahead, Senator.

SENATOR RIEPE: Just in time. Merv Riepe. I represent District 12, the good people of Millard and Ralston. Thank you.

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

SENATOR KOLTERMAN: And I'm Mark Kolterman from 24th District, Seward, Polk, and York Counties.

SENATOR CAMPBELL: Good. Please go right ahead and start.

DENNIS ZELLER: All right. As I think the committee knows, this was the second study of privatization that we've done. The first one two years ago...we came out and said that there had been such upheaval and disruption that, for a time at least, everything ought to stay the same, that whatever you did in the end, you needed to have things calm down. When we've come back for this study, we were asked specifically to compare the performance of NFC and DHHS in terms of case management of child welfare cases, and that means really making the basic decisions about those cases. It means deciding which services are going to be offered and so on. In order to do the study. We interviewed people. We looked at data. We looked at a ton of documents that are produced publicly and privately by the agencies. But in order to make a comparison, what we had to do was figure out, what was the standard? What was it? What amounted to performance? And we think that we went back to the origin of privatization in order to define that. And we found two things that the state wanted to do. One was what we call improvement. And by improvement, we mean do the same things that you've been doing but do them better. Do them more efficiently or more effectively. But don't change the basic thing. And this came, really, out of federal reviews where you didn't do so well. And so the immediate object was to improve performance on the

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

Health and Human Services Committee
February 26, 2015

federal reviews. The second motivation seemed to us to be what we would call reform. And that's something different. That's a change of mind-set. That's saying, we're going to do something entirely different than we've been doing before. These two things were not compatible. Or they were at least not related. They were perhaps compatible but they weren't related. The reform said, we've got basically a foster care system here. We serve 70 percent of the children in...while they're in foster care and only 30 percent while they're at home. And the reform motivation said, we want to change that. We want to reverse it. We want to go 30 percent in out-of-home care and 70 percent in home. And that would have changed a whole way of thinking. It wasn't enough. The federal review, on the other hand, is basically focused on foster care. And if you do well on the federal review, it says you have done well in taking care of kids in foster care. It goes a little beyond that but not much. It never asks the question, do these kids need to be there at all? Okay? So you have two different things going on. The method that you chose to approach both of these was privatization where you took first service coordination and then case management and gave them to lead agencies. And you used to a managed care model, which said, we're going to pay you so and so much, and you figure out how to serve all of these cases within that amount of money and to do so effectively and efficiently. As I said, the two goals weren't related. You could change the whole system and not necessarily do the things that you're already doing to do better. Or you could do things better that you're already doing and not have any real reform. One of the things that happened was that the reform didn't occur because, in part, the infrastructure, the in-home service infrastructure, wasn't there. Your child welfare structure was an out-of-home structure. And when you looked at the rates that the agencies were paid, there wasn't enough money to develop new services while they were still obligated to serve the kids they already had in the system and to serve them the way they were being served. [BRIEFING]

HELAINÉ HORNBY: And we're talking historically now, you know, when this whole privatization first started, because it has gone back to the early 2000s. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015

DENNIS ZELLER: Right. And then the final problem, as I think most of you know, is that the way the rates were set, you ended up losing millions of dollars of federal money. Title IV-E is the basic federal mechanism for paying for foster care. It's required to be child-specific. It's required to be very specific about what it's paying for. And when you bundled the payments together, it didn't really work. So with that background, in this study where...we did interview a lot of people. We looked at data on performance, on outcomes. We looked at budget documents and so on. Our results... [BRIEFING]

HELAINÉ HORNBY: And we read 200 cases. [BRIEFING]

DENNIS ZELLER: What's that? [BRIEFING]

HELAINÉ HORNBY: And we read 200... [BRIEFING]

DENNIS ZELLER: And we read 200 cases. Our results are pretty straightforward. Neither agency's practice seemed to us to be generally family centered. And if you weren't family centered, you weren't going to have a reform. If you didn't believe that families are the primary protectors of children, you might get better at what you're already doing, but you're not going to reverse the 70/30 split. There was going to be no change in mind-set. What we found was that when outcomes...on compliance, NFC is somewhat better, but on outcomes there's really no difference. In other words, when DHHS does something well, so does NFC. When NFC does something well, so does DHHS and vice versa. When one of them does poorly, the other one is also doing poorly. Essentially, they're doing the same job. There's basically no difference. But what did they do well in? If you look at our analyses which rely on federal indicators that have been used for the last five or six years, it's on safety, keeping children safe from reabuse. It's on preventing children from reentering foster care after they leave. And it's on keeping children stable in foster care, not bouncing from home to home, for at least the first two years. What don't they do well on? Getting kids home and, after the kids have been in care for two years, keeping them from bouncing. Now, there are a couple

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

Health and Human Services Committee
February 26, 2015

of updates on this that have happened since our report was written. One is that in January, we've read that the department said it has met all of the federal standards for the first time. The second piece of news is that the feds have now changed the standards and changed the measurements. And on a couple of things even where you were doing well, you aren't now. And what...the two things that you're not doing well on is getting kids home still within a year's time. And the other is safety now, both in terms of repeated abuse of children and not meeting the new federal standard and in terms of abuse while children are in foster care, you're not meeting the standard. So there was sort of good news and bad news. On the old standards, you've now met them. On the new ones, not so much. Okay. We also had to look at costs. And this, we have to admit, was extremely difficult because NFC is built--or was built--for essentially one purpose. It was to do this job, to case manage these cases. And DHHS, as you all know, is a much more complex agency. And so figuring out what...how their costs work is much more difficult. [BRIEFING]

HELAINÉ HORNBY: Just on a context, I assume you all know this, but NFC is responsible for about 40 percent of the children in the child protective services and foster care system covering Douglas and Sarpy Counties, and DHHS is about 60 percent of the entire state. But we had budget documents from both sources in looking at how many cases each of them served and what their costs were to serve those cases. And that's reflected here. [BRIEFING]

DENNIS ZELLER: When we looked at the costs, if you look at them on a gross level, it looks as though DHHS is more expensive than NFC. And that might be true, but we decided we'd break it down. And when you break it down, ignoring overhead costs, rent, and that sort of thing, on the case management, as far as we can tell, DHHS actually spends less than NFC... [BRIEFING]

HELAINÉ HORNBY: Tell them what case management means. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015

DENNIS ZELLER: ...case management being the people who actually...the case workers, the ones who make the decisions, handle the individual families; that on administration they were also slightly chapter, DHHS was; that where the difference was was in services. And we aren't... [BRIEFING]

HELAINÉ HORNBY: (Inaudible) ...services... [BRIEFING]

DENNIS ZELLER: Well, services is basically what the agencies purchase. A lot of it is foster care. It's the actual daily rate you pay to foster parents or to institutions. Some of it will be therapies of various kinds or other direct interventions with the families. DHHS is paying, as you see, \$74 a day for its contracted services and NFC is paying \$48. When we talked to people, what we were told was that a lot of the NFC families are required to pay sliding fee scales. They don't pay those to NFC. They are referred to other agencies. And if they're not Medicaid eligible, if Medicaid isn't picking up the bill, then they sometimes have to pay a sliding fee scale. When we talked to people about DHHS's practices in this, that not only never came up, but when we asked the agency, they said that is not part of their practice. So our guess is that two things are driving the difference in cost. One is NFC is better at using Medicaid. And the other is that when they refer people, some of those costs are being borne by the family. And just as a kind of side note, that we didn't really go in too much in the report, I think we want to say, when you look at costs and you try to figure out who's cheaper, who's not, you have to look at the whole array. Undoubtedly both agencies use Medicaid to some extent. That's not in the child welfare budget. It's not something that you can easily see. If you're going to figure out the cost, though, you've got to be able to track that and find out what the true cost is, because it may just be in a different part of the state budget, okay? And that's for both sides. So, you know, we sort of leave this question up in the air about who's cheapest. It is clear that the privatization effort--and this is not NFC's fault or any of the private agencies' fault--but it cost an enormous amount in federal funds because of the way the rates were paid. And that didn't really even become clear until, I think, after our last report when you started getting the federal disallowances. And essentially

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

Health and Human Services Committee
February 26, 2015

the state has had to pay all the foster care costs for the last few years because of that.
[BRIEFING]

HELAINÉ HORNBY: Which originally was \$21 million...I think the state might have negotiated some reduction in that. I wanted to make one other comment about Medicaid. What we mean by that is that when you refer a child to an agency and the agency can collect Medicaid reimbursement for part of that service, then either the DHS (sic) or the NFC does not have to pay for that portion because the agency is billing the Medicaid agency for that service. [BRIEFING]

DENNIS ZELLER: Right. So in some, what we found was that if you look at what happens to kids in the system, there is very little difference between NFC and DHHS. On the costs, we're really not sure. We think we can explain some of the difference and it means that there isn't as much as we think. Maybe the most important finding, though, was that there was no reform. There was no changing of a mind-set to keep kids with their families whenever possible. And when we start...when you started the privatization, about 70 percent of the kids were served out of home. They're still served out of home at 70 percent. Okay? [BRIEFING]

HELAINÉ HORNBY: But it's a smaller number. [BRIEFING]

DENNIS ZELLER: It's a smaller number, and you've probably heard about the reductions in the numbers of kids in foster care. But if you track the number of child victims, you find that's also reduced. So there are fewer abused and neglected children. There are fewer children going into foster care. And there are fewer children getting served at home. So all of it's gone down. And the proportions have stayed the same. You have essentially the same kind of system. When we...trying to come up with recommendations, and we were asked, you know, what should happen in the future? And we looked at that and we said, well, that's really something that has to be decided within the political context of Nebraska. There are two...we came up with three options. I

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

Health and Human Services Committee
February 26, 2015

sort of grouped them into two categories. One is, you're going to go after improvement. You're going to have...you're going to operate a professional, competent child welfare system. And that means that you're going to keep...you can either keep the current structure and do that, since both sides are producing the same results, and those results, by the way, are better than they have been in past years...you can keep the same structure, or you can move all the case management back to DHHS as it is in all parts of the state outside of Douglas and Sarpy Counties. Either one can work that way as long as you meet certain requirements, which we'll talk about in a minute. The other option is to reform the system, to go back to that piece of the original motivation and say, we're going to emphasize families as the primary protectors of children, and that means the job of the agency is to help those families become capable of handling their own children, protecting their own children. That will mean you retool the service structure. It can't be just a foster care system anymore. It has to be a broader system that can handle both out-of-home and in-home services. And you have to reduce the disruption of families. So let's talk about each of those a minute. If you keep the current structure, there are some prerequisites for each of these, and the ones for here, the first one, you have to end the struggle for what we've called organizational dominance. When we came two years ago and studied this system, that was the thing that hit us in the face. I mean, we have worked in over 30 states in child welfare, and we've never seen the vitriol that we saw here. And it's why we said to stop, slow it down, get some trust back in the system. Unfortunately, stopping and slowing it down didn't do that. The fight continued. That's got to end, whatever happens here. Okay? Everybody has got to get on the same page. The second is that we think you need to have a fixed rate methodology for NFC. So far this has all been decided politically. Either the department or the Legislature or the Governor's office, whoever was in control at the moment, got to decide what the rate was. There was no definition of allowable costs. There was no cost reporting done on a regular basis. This is not a rate system. This is a negotiation. But that's the way the rates have been created. Okay? We've said you need to make NFC accountable. And that's going to sound strange to anybody who looks at all of the reports that compare performance between NFC and the rest of the department and so

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

Health and Human Services Committee
February 26, 2015

on. But the bottom line is, there's been no consequence, positive or negative, for any of the performance. When NFC has done exceptionally well on something they haven't gotten rewarded. When they have done extremely poorly, nothing has happened negatively. There is no way that they have been held accountable. There's been a lot of screaming and yelling. There have been a lot of reports put out. But there hasn't been any real accountability, any consequence. Obviously, you have to fix the Title IV-E reimbursement issue, and for those of you who aren't familiar with that, the state now has a five-year waiver which is giving you a grace period where you're going to collect the money as if you were doing it right and getting it for the kids in foster care and you have a great deal of flexibility to spend the money that doesn't just have to be on foster care now. But at the end of those five years, as far as we know, you're going to go back to the old system. And so when you have gotten through that period, you're going to need to be at a place where you can take the NFC rates and make them reimbursable, because right now they're not. [BRIEFING]

HELAINÉ HORNBY: And just to elaborate on that for a second, under the federal rule, you have to associate your costs with a specific child. And so basically NFC has a fixed rate and a variable rate. But the fixed rate gets paid regardless so much per month, and it's regardless of how many children are served. The variable rate follows the child. So there's two components to the cost. But under the federal rule, you have to have something like the variable rate so that you can apply it...you have to...it has to be based on the number of children served and identifying who those children are. That was the basic problem with losing the Title IV-E money. Even...this goes back to privatization right from the beginning when the agencies were receiving a lump sum each month and it wasn't tied to specific children. So that's what we're talking about when we say fix the Title IV-E reimbursement fee. The entire rate really has to be associated with a child because the feds only pay for specific children who are so-called IV-E eligible, which means they meet some income guidelines and some other factors. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015

DENNIS ZELLER: In addition to fixing the reimbursement issue, you need to remove the incentives to have kids in care either to remove the children from their homes or to keep them in care. Right now the rates differ for... [BRIEFING]

HELAINÉ HORNBY: The variable rates. [BRIEFING]

DENNIS ZELLER: ...the variable piece of the rate, much higher, obviously, for foster care. I don't know if it's higher in relation to the cost. But if feels, I think, to everybody in the system that the agencies are better off if they get a kid in foster care because they get a higher amount of money for it. That's got to change somehow. And finally, I think the weakest part of the system we found, perhaps other than the fiscal, was the family engagement, that, you know, these are the lives of kids and families that are in the system that we're talking about. And they seem to have the least say, the least control over what's happening. And, you know, it's pretty well recognized nationally that if you want to succeed in this system, you've got to get the families engaged, that they've got to become capable of protecting their own children. That's if you keep the current structure. Those are the things that have to happen. If you're going to change it back to all to DHHS, again, you'd have to have everybody on the same page. In this case, you would expect some significant push back from the private sector, at least parts of it. And so you're going to have to have the Governor and the Legislature and the judiciary all on the same page. It's not going to work otherwise. Second, the major disadvantage to this one is--or the major fear that people have--is that you're going to have a lot of disruption as you've had before in the system. And so if you're going to do this, we recommend you do a gradual transition, that only new cases go to the department, that you keep NFC around long enough to handle the cases they've already got. Maybe when you get down to 50 or 100 or something, when it becomes not really feasible, then you move them all over. But you move the workers over, too. You give every worker a guaranteed job in the DHHS system that is equivalent to what he or she is getting now. And so you keep as much stability throughout the whole process as possible. And in doing that, you've got to pay NFC's costs. This is...if you did this...if you don't pay their costs,

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

Health and Human Services Committee
February 26, 2015

they're just going to walk away early, and then it is going to be disruptive. So you want to make sure that everybody here is working towards the same kind of stability and same path here. If you're going to retool for reform, then there's a lot more things to talk about. First of all, we're returning to the original idea of a family orientation. The goal will be to create a service infrastructure that isn't there now, that is inadequate at this point to serve the kids who could be served at home and to stop trying to save families by disrupting them. The means that we have suggested for this is to get NFC, which has some real talents in terms of organization and in community relations, to help build and maintain and manage the infrastructure. And essentially, we're asking them to build a new in-home service array, to manage contracts, to help providers of out-of-home services retool for in home--that's been done in other states, it can be done here, too--and to help provide the services that will allow families to become the real protectors of their kids. As a side note, we've suggested a court reform that we'll talk about at the end here. Okay? [BRIEFING]

HELAINÉ HORNBY: When we look at how much money is spent on services right now in the child protective system, the Department of Human Services spends about \$71 million a year on services that it contracts out. So it's paying the providers in the community, all the private agencies and the foster parents, to maintain children. It's about \$71 million a year. The year that we looked at, NFC was spending \$34 million on contracted services. So when you look at what child protection costs, a lot of that, about \$100 million in the state, is going to the whole array of agencies who are doing foster care and other kinds of services, but primarily foster care. We broke those service costs down into those that are geared towards serving families in their home like family preservation services, intensive services that actually help families in the home. And for NFC it's about 9 to 10 percent of their \$34 million support families in the home. And about 90 percent of it all has to do with foster care, monitoring visits, you know, it all has to do with children who are out of the home. With DHS (sic), about 86 percent of their \$71 million is spent on supporting the foster care part and about 14 percent is spent on the children who are still in their home. When we're talking about retooling the system to

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

Health and Human Services Committee
February 26, 2015

go more for in home, we're talking about shifting those dollars. The vast majority which is being spent on the foster care system...you have a lot of money to play with there because that's a lot of money, but really shifting those dollars to, how can we do practical things or various things that Den is going to talk about to support children and families so that the children don't have to be removed. And this isn't just like band-aid kind of things. This is, you've got some real money to work with families in their home. And one other side note to that, though, is that because we're supporting this whole array of services in the community, provider agencies have to be part of this retooling, because otherwise we don't want to put them out of business. All the agencies that we're spending this money on now, they have to stay in business and support this system. So there's a lot of work to do to really...to try to make that transformation.
[BRIEFING]

SENATOR CAMPBELL: We have about five minutes and then we need to go to questions. [BRIEFING]

DENNIS ZELLER: Okay. [BRIEFING]

HELAINÉ HORNBY: Okay. [BRIEFING]

DENNIS ZELLER: Just real quickly, let's...we put a lot of emphasis on keeping kids at home. Let's talk about what kind of kids we're talking about for just a moment. When you look at the child victims and what kind of allegations have been made about their...about what they have suffered, we're talking about roughly 400 with sexual abuse, 700 with physical abuse, and 3,900 on neglect. These are the kids that are ultimately going into foster care. Okay? And it seems to us fairly clear that a lot of those 3,900, at least, could stay at home with the right kinds of supports and help and safety plans. What do we need? What we're suggesting is that DHHS take back all the case management, again with a gradual transition, that NFC be responsible for developing and maintaining the system of support's three pieces: informal, paraprofessional, and

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

Health and Human Services Committee
February 26, 2015

intensive in-home services. Sort of the normal, you know, "go to counseling once a month or once a week" is not going to do it. That's not going to keep a kid safe. That may eventually, you know, help a parent learn to parent better. But it's not going to keep the child safe so that you can keep him or her in his own home. And the paraprofessional and the informal supports are things that need a lot of organizational structure, a lot of help. Okay? They don't just happen by themselves. People will volunteer for a little while that way but not forever. And so what we're asking for is that NFC take over that role. And so what would they do? They would identify models that are used elsewhere that could be copied here. They would help obtain startup funding through grants and so on for some of these, not for themselves, but for other service providers. They would provide training and technical assistance to agencies. They would manage the contracts. One of the complaints about DHHS in the most recent Auditor's report was how poorly they manage contracts. NFC seems to do that pretty well. They seem to be able to control the money outflow. And they would perform quality assurance on a lot of these in-home services. If you do this, it needs to be fee-for-service payment. Someday, when your structure is there then maybe you can do a managed care thing. But you can't build it that way. You've got to build it by having some clear money put in that direction. Finally, on the court project, just to say real quickly, you have what is called a prosecutorial model for your children's services courts here. And that means that one of the questions that comes up to the court is, what did the parents do wrong? If you go to states where there's a family court system or even just a, what's called a representational model in a normal court, that's not the primary question. The primary question is, what's best for the child? And when you have both questions in front of you...I mean, Nebraska doesn't ignore the second question, but when you have both questions in front of you, it's very easy to conflate them. And so you end up with a system where quite often when we show what the parent did wrong, we know that the best thing is to take the kid away. [BRIEFING]

SENATOR CAMPBELL: Okay. Any quick questions from the senators? And I didn't mean to shut off questions by saying quick, (laughter) but...okay, Senator Kolterman

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

Health and Human Services Committee
February 26, 2015

and then Senator Howard. [BRIEFING]

SENATOR KOLTERMAN: Thank you, Senator Campbell. You know, this is all new to me. And I don't...I was involved a little bit in the past when it was HHS and then it was moved to KVC, something like that. [BRIEFING]

HELAINÉ HORNBY: KVC, yeah, that was one. [BRIEFING]

SENATOR KOLTERMAN: So I have a little bit of experience there. But I want to go back to the cost aspect of all of this... [BRIEFING]

HELAINÉ HORNBY: Okay. [BRIEFING]

SENATOR KOLTERMAN: ...because they're both...we're operating two systems right now. [BRIEFING]

DENNIS ZELLER: Yes. [BRIEFING]

SENATOR KOLTERMAN: And when you go back and you look at that and you look at what DHHS is costing on a per day basis and then you start looking at NFC--and I know there are some differences there on...about the sliding scale and who does what--but that's a 28 percent difference in cost. I mean, that's not something you just ignore. I mean... [BRIEFING]

DENNIS ZELLER: No, I don't think you do ignore it. But I think you have to look for where those costs are. [BRIEFING]

SENATOR KOLTERMAN: And I appreciate that. But the other side of me, if I look at the report and I see in recent months the improvements that have been made and the fact that they have met all the criteria now in HHS and...as well. And some of that has to do,

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

Health and Human Services Committee
February 26, 2015

I'm sure, with the private sector's administration. I just wondered how much of that was taken into account, because it's all new and it's not included on here. [BRIEFING]

DENNIS ZELLER: Well, we have two theories about the improvement. One theory is that the continuous quality control that both NFC and the department do which has been spurred by the federal reviews and basically mimics those, that that has done a lot to make everybody more attune to what they're supposed to do and to getting better performance. That's one theory. The other theory is that in some...at some level it's been that fight for organizational dominance or what you would call competition that has done that. The problem with that is, if it's competition, once you make a decision either way--either you're going to keep the current system or you're going to give it all back to DHHS--either way the competition is gone, because the competition has been within the context of, this is a pilot. And someday there's going to be a decision. And so everybody has tried to put his or her best foot forward. Those are our two theories. We don't know which one it is. [BRIEFING]

HELAINÉ HORNBY: It's (inaudible) the changes in practice, though. [BRIEFING]

SENATOR KOLTERMAN: Can I ask one more question, Senator? [BRIEFING]

HELAINÉ HORNBY: There are other positive changes in practice like the structured decision making which helps to give case workers guidance about criteria that should be used at each critical point. And both groups are using it, so that's really positive change. [BRIEFING]

SENATOR CAMPBELL: Go ahead, Senator. [BRIEFING]

SENATOR KOLTERMAN: Thank you, Senator. The other...and I don't want to address the overall cost to the state, because that's all before my time and I don't understand all that. But I know we paid some penalties. But the other part of me, as you go back to the

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

Health and Human Services Committee
February 26, 2015

back and we talk about keeping kids in their homes and we talk...or taking better care of those that are being neglected or abused, we've looked at some...we've had some testimony here in the past two weeks about how we can go about doing that, utilizing private sector as well as HHS. And that really hasn't been tested yet. [BRIEFING]

DENNIS ZELLER: Right. [BRIEFING]

SENATOR KOLTERMAN: And it hasn't even been decided yet, but it's a step in the right direction from my perspective. [BRIEFING]

HELAINÉ HORNBY: That's what we're advocating. Uh-huh. [BRIEFING]

SENATOR KOLTERMAN: And so I'm just curious if you really looked at that...the options that we've had presented to us. [BRIEFING]

HELAINÉ HORNBY: That is what we're advocating. And... [BRIEFING]

SENATOR KOLTERMAN: Okay. [BRIEFING]

DENNIS ZELLER: We don't know which options have been presented to you specifically, but certainly we've seen places across the country where there is a lot more emphasis on keeping the kids at home... [BRIEFING]

SENATOR KOLTERMAN: Right. [BRIEFING]

DENNIS ZELLER: ...and a lot less emphasis on putting them...taking them out of their homes away from their families and then trying to fix it all. [BRIEFING]

SENATOR KOLTERMAN: Okay. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015

HELAINÉ HORNBY: But the key is safety and assessment of safety and what needs to be done to keep it safe. So I think sometimes people think, if you keep kids at home then they don't get anything versus foster care that they everything. And we think there has to be more emphasis on keeping them home but really putting the supports and services in place to be able to do that safely whether it's environmental support with their whole house or whether it's childcare or certain high-stress times of the day to have someone come in and actually help the parent for certain hours of the day. But with all the money that you're spending on the out of home, you can do some innovative things to support the families in the home. And that's what we would...we're putting out the challenge to use the talents, even whether NFC even keeps case management or not. Their community relations are so excellent that really...and their organizational skills...putting out the challenge of enlisting their help in helping to design and implement that kind of system, because it can't just happen... [BRIEFING]

SENATOR KOLTERMAN: I'm with you. Thank you. [BRIEFING]

HELAINÉ HORNBY: ...easily. They take..they would take real effort. [BRIEFING]

SENATOR KOLTERMAN: Thank you. Thank you, Senator Campbell. [BRIEFING]

SENATOR CAMPBELL: We're going to take Senator Howard's question. [BRIEFING]

SENATOR HOWARD: I was curious, when we were going to cost, even though we see a difference in the day rate, are we going to continue seeing fines? Like, a \$21 million fine, I think, is staggering... [BRIEFING]

HELAINÉ HORNBY: It is. [BRIEFING]

SENATOR HOWARD: ...when we need to be making a \$21 million investment in our child welfare system. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015

HELAINÉ HORNBY: Right. [BRIEFING]

SENATOR HOWARD: So when I consider the costs per day, I consider that \$21 million to be a part of that cost as well. [BRIEFING]

DENNIS ZELLER: Yeah, I don't...you're not going to see that directly for the five years of the waiver, okay? There are a couple of things, if you go back and read the report, where we think you can pick up some more money out of IV-E through training and through the system N-FOCUS that as far as we can tell now is not being reimbursed at all. But something's got to happen. [BRIEFING]

HELAINÉ HORNBY: Those are outside the waiver and reimbursed at a higher level. [BRIEFING]

DENNIS ZELLER: Right. So we think there's a little bit you can pick up there. I don't know that it's huge, probably is in training if you do it right, probably not so much in N-FOCUS. But for the next five years you're not going to see that \$21 million repeated. Whether you see it after that depends on two things. One, do you...does the federal government make everybody under a waiver and sort of block grant IV-E? That's one possibility. They've got so many states under waiver now, you question how they could possibly go back on all of them. Or if they do go back, then you will have had to fix all of these problems that cost the \$21 million. [BRIEFING]

HELAINÉ HORNBY: I think they have to fix them even now, though. I mean, the federal language still says that they need to be able to track the payments. And they are working on it. [BRIEFING]

DENNIS ZELLER: Yeah. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015

HELAINÉ HORNBY: Both the DHS (sic), NFC are really...are working on being able to track the payments to the children. [BRIEFING]

DENNIS ZELLER: Right, but they're not going to lose anything if they don't for the next three to four years. [BRIEFING]

HELAINÉ HORNBY: But right (inaudible) they're not giving more penalties. We don't foresee any more penalties if we understand how it works. (Laugh) [BRIEFING]

SENATOR CAMPBELL: I think at this at this point we will conclude the briefing. But I do want to indicate to the senators and to the people who have come to listen, this is only the beginning of the discussion. Let's put it that way. And in a preliminary--just very preliminary--discussion with the Governor, I think it was very clear that he wanted to have in place Ms. Phillips, who will be coming, the CEO, and the new Medicaid director and finish out and then, you know, have a number of steps in which we're having some discussion on this report or any other information that's come our way. So this is only the beginning and most likely we will see you back again. I think that was one of the questions of whether you'd come back as we start into discussions here. So this is going to be a much longer process than just today, but this was to give the committee some idea of the information that was given to us. So thank you so much. [BRIEFING]

HELAINÉ HORNBY: Thank you. [BRIEFING]

SENATOR CAMPBELL: Have a safe trip back. [BRIEFING]

HELAINÉ HORNBY: Thank you. [BRIEFING]

SENATOR CAMPBELL: We will take just a brief, brief break here in order for the people who came just for this briefing, that they can leave. And the others who are here for the regular hearing, we'll start in just a couple of minutes. [BRIEFING]

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

Health and Human Services Committee
February 26, 2015
