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Appropriations Committee  
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[LB325]

KERRY WINTERER: (Exhibit 143) Thank you. I'm back. Good afternoon, Senator Heidemann and members of the Appropriations Committee. For the record, I am Kerry Winterer, that's spelled K-e-r-r-y, last name is W-i-n-t-e-r-e-r. I am chief executive officer for the Department of Health and Human Services. Today I'm joined by Scot Adams, director of the Division of Behavioral Health; Vivianne Chaumont, director of the Division of Medicaid and Long-Term Care; and Jodi Fenner, director of the Division of Developmental Disabilities. Before we begin, we would like to extend once again our appreciation to the committee for your work on behalf of the department. As with our testimony yesterday, we will not address our requests that are included in your preliminary recommendation unless you have additional questions for us. My idea today is a little bit different from yesterday. After I'm finished and you've asked questions of me, then each of the directors will come to the table so that you have the opportunity to address questions to them that you may have. I know, for example, Senator Mello has questions for Medicaid that we got into a little bit yesterday, so each director, in turn, will come to the table and you can address questions to them. So let me begin with the changes between the committee's preliminary recommendation and the Governor's. In administration, the Governor has recommended an increase of \$16.6 million in fiscal year '12 and '13 to make changes to the department's information systems, specifically, Version 4, State Medicaid Health Information Technology, HIT; Health Insurance Portability and Accountability Act, that's HIPAA; International Classification of Disease, 10th revision; and the Legacy, the Medicaid MMIS system that we currently have. These are to bring them into compliance as required by federal law. The committee's reduction equates to \$3 million in total funds each year reduced, and this may well result in the department not being able to accomplish all of these federally mandated changes and potentially putting federal funds at risk each year. The second item, the Governor has recommended an increase of \$2 million General Funds, \$2 million federal funds in 2012; \$3 million in General Funds and the same amount in federal funds in 2013 to finance a portion of the department's request for administrative costs associated

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with the implementation of federal healthcare reform. The Governor has already reduced the department's request in his recommendation and believes that this is a reasonable estimate of the administrative costs that would be associated with implementing federal healthcare reform. The department is attempting to prepare the state in case healthcare reform moves forward. Item number three, the Governor has recommended a \$150,000 General Fund reduction in '12 and '13 to the Division of Behavioral Health to eliminate funding for the LB603 evaluation contract. We urge the committee to include this reduction in both years. While continuous service evaluation is always important, this sort of one-time system review is not necessary after this year. Having the appropriation for the initial evaluation from a third-party vendor was critical but no longer required as we anticipate its successful conclusion by this fall. The department, of course, will continue to perform ongoing program evaluations. Provider Funding: The department requested and the Governor has recommended a 5 percent decrease in General Funds available for provider services in fiscal year '12 and '13, with some exclusions, for example: primary care services, childcare providers, child welfare and juvenile services providers, and providers of services for persons with developmental disabilities. The committee has recommended a 4 percent decrease for behavioral health providers, Medicaid/CHIP providers, and providers of aging services. Funding for provider services has been increased in the last two years, and the department's intent was to have these programs participate in the reductions necessitated by the current budget situation. Developmental Disabilities Aid Program: The committee has included \$1.2 million for fiscal '12 and \$2.2 million for fiscal '13 for transition services for youth with developmental disabilities graduating from high school. The Governor's recommendation recognizes that the department can provide the necessary services within the current appropriation. Medicaid/Children's Health Insurance Program, otherwise known as CHIP: The Nebraska Supreme Court ruled in 2010 that the department did not have specific legislative authority to deny Medicaid coverage to adults receiving benefits under the Aid to Dependent Children Program when those adults were able to work but failed to follow the Employment First work plan requirements. The authority to sanction is important and the department utilizes it in

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situations such as when an individual refused to report his or her job search, as required, or refuses a bona fide offer of employment without good cause. The committee included funding to provide benefits for adults not meeting Employment First requirements consistent with the Supreme Court decision. LB467, introduced on behalf of the Governor, would suspend Medicaid coverage and ADC benefits to adults who are able to work but do not meet Employment First requirements. The department requests that the Appropriations Committee encourage the Health and Human Services Committee to advance LB467. Item seven, the committee has included a General Fund reduction of \$1,134,867 in fiscal year '13 from the expansion of physical health managed care statewide. The Governor did not include this reduction in his recommendations. There are some costs associated with the expansion of managed care and this will require the reallocation of some resources by the department during fiscal year '12. Item eight, the department's request and the Governor's recommendation included placing a limit on nutritional supplements unless medically necessary. The committee did not include this reduction in your preliminary recommendations. Our request is to focus the Medicaid Program on necessary medical expenditures for eligible clients and to align the Medicaid Program more closely with private insurance. Behavioral Health Aid: The committee has recommended a \$100,000 General Fund reduction in the Magellan behavioral health contract for '12 and '13. The Governor did not include this reduction in his budget recommendations. This decrease will reduce the amount of training and clinical consultation Magellan provides to the Division of Behavioral Health. Capital Construction: The department requested \$1,499,433 to relocate the Bridges Program from the Hastings Regional Center to a secure off-campus location. The Bridges Program provides treatment for adult males with developmental disabilities who pose a risk to the community. The Governor's recommendation includes the project, financed with available Nebraska Capital Construction Fund balances. The committee did not include this item in their preliminary budget. The relocation is necessary for residents of the Bridges Program to be eligible for Medicaid services and the program to receive federal Medicaid funding. The new facility will also provide for an improved setting for service delivery and create program

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efficiencies as well. The department urges the committee to include this item in its recommendation, as it does not require any General Funds. Again, we appreciate the opportunity to discuss our budget requests with you. We would be happy to answer any questions you may have. [AGENCY 25]

SENATOR HEIDEMANN: Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. And thank you, Director Winterer. Maybe it's a follow-up to...and I can ask Director Chaumont more of the question regarding MMIS and the requested funding. I would like to find a little bit more or ask if you can provide the committee a little bit more detail on the requested funding for the implementation of the Affordable Care Act. In your testimony, it simply says reasonable estimates of administrative costs. Do you have any reports or any data or anything you can show us in regards to the funding or why you need the funding in general and what that money would go towards? [AGENCY 25]

KERRY WINTERER: Well, clearly, there's going to be some funds that are going to be necessary for planning purposes if nothing else. Much of this I think is just a lot of just our best guess of what it's going to take. The Milliman report, which you're probably familiar with, had a much higher number in there for purposes of the next biennium for planning and for systems revision and such. Frankly, we did the best that we could in terms of looking forward and saying, well, what do we think it's going to take relative to making system changes. And, frankly, I'm not sure we really have much that we can go on right now that's really going to...it's really going to help us with that. We know we're going to have to build an interchange to the health insurance exchange. We know that there's going to be potentially a different plan that we're going to have to implement. We understand that potentially there's going to be as many as another 100,000 folks on Medicaid on potentially different a plan. And so there are all those kinds of things as we're looking forward to try to make some estimates. Frankly, there's not much there that allows us to make a much more sophisticated estimate than that. [AGENCY 25]

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SENATOR MELLO: For the committee's, I guess, clarification, too, the Milliman report you're referring to, that was altered, was it not, some time later this fall, earlier this winter in regards to the numbers and the projections that they have regionally utilized during the summer? [AGENCY 25]

KERRY WINTERER: Yeah, there were a couple of changes that I don't think related to this particular issue, but there were some changes that came about as a result of different positions that the federal government had taken relative to implementation to affected those numbers. [AGENCY 25]

SENATOR MELLO: And most of the Medicaid changes we're talking about in the sense of dealing with the connection to the health insurance exchanges, that doesn't take place till when? [AGENCY 25]

KERRY WINTERER: Well, it's really effective in 2014. [AGENCY 25]

SENATOR MELLO: Okay. [AGENCY 25]

KERRY WINTERER: But there's going to have to be...you can't just flip a switch on 2014 and have it done. And so a lot of what we're talking about here is not necessarily just systems but it's also contracting with people to help us actually lay out a plan and understand what it takes. So a lot of those dollars are going to be for contractors and bringing in people who can help us put a plan in place and anticipate what's really going to be required in 2014. [AGENCY 25]

SENATOR MELLO: Now did the Department of Insurance request...I mean the health insurance exchanges, and please correct me if I'm incorrect, the health insurance exchanges is based right now, all the planning is being based out of Department of Insurance? [AGENCY 25]

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KERRY WINTERER: That's correct. [AGENCY 25]

SENATOR MELLO: Did they request, do you know, any additional appropriations to do additional planning? Because I know they received a \$1 million federal grant to assist them with... [AGENCY 25]

KERRY WINTERER: They have, yes, they have a grant from the federal government to do an analysis and a plan and to examine the issues relative to setting up an exchange. [AGENCY 25]

SENATOR MELLO: So what...so to avoid duplication, what is it that the department would be doing with this additional, what is it...? [AGENCY 25]

KERRY WINTERER: Well, our understanding is that we would need to have an interface to health insurance exchange because Medicaid would be a program in the same sense as any other program offered through the health insurance, through the health insurance exchange. So we'd have to have that interface. Similarly, they're going to need to be able to interface and get information from us relative to eligibility of Medicaid participants and such. So there is that interchange that we're going to have to address and create, if you will, into their system. [AGENCY 25]

SENATOR MELLO: So is this more than you think for...is the request, the \$10 million--the \$3 million in General Funds, the \$7 million in federal--is it more for technology planning then and technological infrastructure development, or is it more back end administrative planning? I mean... [AGENCY 25]

KERRY WINTERER: (Laugh) Well, I think it's really intended to be all those things. It's intended to help us do some planning and bring people in to help us with that planning because we don't necessarily have people internal to Medicaid or any of the systems

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that can help us with that. And similarly, it's intended to be able to provide for changes in the system as we need to do those between now and 2014. [AGENCY 25]

SENATOR MELLO: I guess then...I guess that then leads me to my question, and maybe it's for Director Chaumont. It's something...it's a follow-up from a hearing that we had earlier this summer or last summer, I should say, in regards to the oversight and implementation of the Affordable Care Act. If some of this requested funding is for technology and technology infrastructure, as I asked the question yesterday, right now we have over \$40-plus million set aside for the MMIS system, in which I posed a question in summer and I got a quasi-answer in a sense of, yes, we could, we could utilize some of that existing \$40-plus million regards to infrastructure that could dovetail with the implementation of the Affordable Care Act, so we wouldn't need to put, so to speak, more money towards technology. We could utilize the existing pot of money we have and build it around healthcare reform. [AGENCY 25]

KERRY WINTERER: Well, Director Chaumont, I think, can give you a lot more details, but in the first instance, there is no \$40 million pot there. I mean we...take MMIS, for example, we would qualify for reimbursements from the federal government as we develop a system and as we incur expenses, but there's no \$40 million pot there that we can just simply draw on and use for some other purpose or for MMIS, for that matter, because we need to qualify for reimbursement of those expenses all along the way. [AGENCY 25]

SENATOR MELLO: So then I guess that brings me back to another question I asked before, which is then what ultimately is bring done with the roughly \$8 million or \$9 million that we had spent on the MMIS system that we terminated that contract? Director Chaumont, I believe, said that we could still utilize some of the product that was developed. What ultimately happened with the rest of that money that we utilized for that project, that we just not get reimbursed for it or we stop payment on that project? [AGENCY 25]

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KERRY WINTERER: No, we have been reimbursed from the federal for our expenses that we incurred for the MMIS project, which we suspended or terminated. Those dollars have been invested in changes to at least a plan if not changes to that system. However, as you know, we did not complete that. The other aspect that's going on is, if you look back even those two years, two or three years in which we began that project, time marches on and technology marches on. Now we're looking at potentially an entirely different solution for MMIS, particularly in light of what may be required under health reform. And so now we're...it's almost a different world compared to where we were two and three years ago. We're doing an analysis now of all the business aspects that's going to be required relative to moving forward to get that MMIS funding. So, yes, we got what we paid for relative to the plan before and we did have some work that I would expect can be utilized as we go forward, but as you I'm sure well know, when it comes to IT, time marches on and things change almost monthly. [AGENCY 25]

SENATOR MELLO: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 25]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you, Director, for being here. I guess I have a follow-up along the same lines. When we corresponded this fall in a letter you sent to me, it said PPACA did not provide--which is the Patient Protection Affordable Care Act--did not provide for enhanced funding for administrative costs, therefore, they remain at 50 percent FMAP. The department is anticipating there will be major systems changes to both eligibility system, N-FOCUS, and Medicaid claims payment, MMIS. Since that time, there was federal rule making that came out that said there would be a 90/10 enhanced match for eligibility systems. I guess with that in mind, if we're looking at the numbers in the budget, why would that not have reduced the amount needed to make those changes to the eligibility systems? [AGENCY 25]

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KERRY WINTERER: I think I'll refer that to Director Chaumont, as far as that detail goes. [AGENCY 25]

SENATOR NORDQUIST: Okay. I guess just maybe she can answer this one as well. Looking at Milliman, it estimated to be \$25 million, the expenditures for the initial modifications to current administrative systems, \$12.5 million of that being state, because at that time we still assumed it was a fifty-fifty match. It said the administrative expenses would be anticipated to be incurred in 2012 and '13. Your budget request was for, I believe, a combined \$9.4 million, which our committee then reduced. So Milliman said it would be \$12.5 million. You requested \$9.4 million. Is it safe to say then that Milliman overestimated the cost of this? [AGENCY 25]

KERRY WINTERER: Well, I, frankly, don't want to second guess Milliman at all. I think they use some factors relative to estimating costs which was based on their experience nationwide relative to costs that they ought to building into this. I'm not sure they had any other basis to base that on. [AGENCY 25]

SENATOR NORDQUIST: Okay. [AGENCY 25]

KERRY WINTERER: And when we took those numbers and we evaluated it based on what we thought we could or should be, using that as kind of the base. [AGENCY 25]

SENATOR NORDQUIST: Okay. So that was just more of a best guess at that time? [AGENCY 25]

KERRY WINTERER: Well, based on their experience... [AGENCY 25]

SENATOR NORDQUIST: Okay. [AGENCY 25]

KERRY WINTERER: ...and based on averages across the country. I think that's what

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that was based on. [AGENCY 25]

SENATOR NORDQUIST: Okay. Okay. I guess just as we're looking at the budget and the dollars that were invested in this, what decisions have been made based on the \$40,000 or \$50,000 that we spent to get this Milliman estimate? [AGENCY 25]

KERRY WINTERER: Well, that has provided us some input relative to costs. It's helped us analyze what we think we are looking at in the future in terms of additional eligibles and potentially what it may cost in terms of additional expenditures. It wasn't intended as something that we could based very specific steps on, if that's what your question is. [AGENCY 25]

SENATOR NORDQUIST: Okay. Okay. That was...I mean there has not been a specific action taken to the...this doesn't provide any necessarily clear-cut guide for us to move forward. [AGENCY 25]

KERRY WINTERER: Well, that's not what it was intended to do. It was intended to try to help us analyze what's it going to cost and take into account all those various factors based on, obviously, their experience in looking at it, comparing us to other states and so on. [AGENCY 25]

SENATOR NORDQUIST: And given how much has changed since then, I mean we certainly know there's still rule making coming out. It came out on the prescription drugs. [AGENCY 25]

KERRY WINTERER: Absolutely. [AGENCY 25]

SENATOR NORDQUIST: It came out on eligibility systems. [AGENCY 25]

KERRY WINTERER: Uh-huh. Uh-huh. [AGENCY 25]

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SENATOR NORDQUIST: The numbers that it gave us were pretty broad and I don't know that...maybe it was...maybe just the administrative piece is in the budget now. I don't see how this information is guiding any budget decisions right now outside of the estimate on the administrative costs. So given how much has changed since the time we spent this money on this report, why couldn't we have waited a little longer on that? [AGENCY 25]

KERRY WINTERER: Well, keep in mind back at that point in time we were trying to get some kind of handle on what did this really mean for us, what did it really mean for us in terms of additional people covered and in terms of additional costs. And we're sitting in the state of Nebraska but we were looking for somebody to...that has a more national perspective, knows more about what's going on around the country and in other states, knows what the trends are in other states and deals with this all the time and can help us in terms of evaluating that. [AGENCY 25]

SENATOR NORDQUIST: Okay. [AGENCY 25]

KERRY WINTERER: Now it's true that anybody looking at that report could take issue with any particular number and any particular line item. But if you look at what the report was supposed to do back then and you can look at it now and say, well, things have changed and is it of any value, back at that point in time it at least helped us to provide some kind of benchmark that we could begin some kind of understanding of what health...what health reform was going to do and what...and put...at least attach some numbers to it that we can begin with. And as I said, you can take issue with specific numbers in that report and you can analyze and reanalyze and so on, but at least it was a starting place and, frankly, I think a legitimate starting place because Milliman comes to the table with a lot of experience and a lot of knowledge about what are the averages, what's going on in other states, analyze reform as well as anybody could have at that point in time and say this is what's going to be required. [AGENCY 25]

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SENATOR NORDQUIST: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you, Director, and just to follow up on some of those questions, I'm sorry, I don't have my state agency guide for legislators with us in the committee hearing room today--as you can see, we've trucked in a lot of paper here--but it's left over in our normal committee hearing room and so please indulge me if my figures are off a little bit. But overall, the Department of Health and Human Services employs roughly 5,000-6,000 employees, is that right, or do you know what the exact number is? [AGENCY 25]

KERRY WINTERER: We have, as of now, we have about 5,300 FTEs. [AGENCY 25]

SENATOR CONRAD: Okay. And if you know or if any of your agency director...or departmental directors know, program directors know, of those 5,300 employees, how many would be considered to be fiscal analyst or budget analysts? [AGENCY 25]

KERRY WINTERER: I don't know that I could tell you, but we can certainly find that for you. [AGENCY 25]

SENATOR CONRAD: Okay. Would you say it's a significant amount? [AGENCY 25]

KERRY WINTERER: Well, we have a finance area, if you will, that's in the operations, and we have a number of employees in finance. I can't tell you how many of those might do fiscal analysis versus some other kind of function, an accounting function or something like that. [AGENCY 25]

SENATOR CONRAD: Right. And... [AGENCY 25]

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KERRY WINTERER: But we certainly could provide that to you. [AGENCY 25]

SENATOR CONRAD: Why I'm wondering is because, of course, those same folks who are currently employed by the department, help to craft projections for fiscal notes on pending legislation, have provided a plethora of materials to the Legislature in years past related to Medicaid reform, etcetera, etcetera, and so I guess it just kind of boggles my mind as to why we would expend additional taxpayer dollars to contract out these kinds of services to Milliman or any other private company when we literally are spending a significant amount of money already on employing folks to look at those issues in house, so... [AGENCY 25]

KERRY WINTERER: Well, as I think I said in response to the previous question, they bring certain skills to the table that aren't necessarily inside of HHS. We don't have actuaries in HHS, for example, and part of the function that Milliman brings to the table is some actuarial projections in terms of what these costs are going to be. We don't necessarily have access to all of the other states and the other studies that are going on in other states and can bring that to bear. [AGENCY 25]

SENATOR CONRAD: Okay. And then I did want to draw your attention to number five in your testimony. It's under the heading Developmental Disabilities Aid Program. [AGENCY 25]

KERRY WINTERER: Uh-huh. [AGENCY 25]

SENATOR CONRAD: And I think that you correctly note that the committee's preliminary budget failed to take a suggested a cut from the department in the Governor's budget to...related to aid and services for youth with developmental disabilities, as they transition. And it says that you believe you can...we could take that cut of \$1.2 million the first year and \$2.2 million in the second year and continue to

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serve all the folks that need help with the existing appropriation. Do you have any sort of projections that would ensure that if we did take that cut we wouldn't be affecting services for any youth with developmental disabilities, or how did you come to that level of comfort with that statement? [AGENCY 25]

KERRY WINTERER: I think Director Fenner can answer that more specifically, but I can tell you that we've done an analysis that shows that there are funds that we can anticipate are no longer going to be used because of folks no longer needing services. And so there is kind of...what these dollars are for is to provide services for those who are newly coming into the system. But at the same time, we have people who are leaving the system and, as I said, Jodi can probably provide you some more specifics, but our analysis of this was we could probably anticipate that we could make that up as a result of that. [AGENCY 25]

SENATOR CONRAD: Okay, because I think that definitely, in terms of what happened with child welfare reform and some issues at BSDC and otherwise, it just makes me very nervous as a committee member to remove any funds that might be necessary to help this vulnerable population transition through the various stages of their program. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR CONRAD: But maybe Director Fenner can provide some more information on that. And then finally, related to item six in your testimony and as a response to a Nebraska Supreme Court decision, I was just hoping you could provide a little bit more information. That's not in our preliminary budget and it's my understanding that the Health Committee also has not advanced the substantive legislation related to that issue. So I'm guessing it would be pretty unlikely that we move forward on that topic this year in regards to the department's suggestion. But can you tell me how clear are the rules related to sanctions currently and how much discretion lies with the department

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and the individual caseworkers as to make those decisions about whether or not to sanction a family? [AGENCY 25]

KERRY WINTERER: I don't know that I got a specific answer to the question for you without looking at the specific rules and regulations. I really hate to speculate about that. [AGENCY 25]

SENATOR CONRAD: Okay, because I'll tell you that my office has received a variety of communications where people have made what would seem on the surface to be very minor infractions or technical violations of the rule, like maybe one missed appointment for good cause or otherwise, then been sanctioned and lose their access to medical care and, of course, that has a dramatic impact on their ability to transition to self-sufficiency. And I think we can all agree that we want to see people and families and individuals transition to self-sufficiency, so by removing access to care and critical medical services, that could have some long-term impacts which I want to make sure that we proceed very carefully on. [AGENCY 25]

KERRY WINTERER: I appreciate the question because I think we'd be concerned about those kinds of consequences as well. [AGENCY 25]

SENATOR CONRAD: Uh-huh. Because really at the heart of it, a sanction is a punitive action. It's a punishment,... [AGENCY 25]

KERRY WINTERER: That's right. [AGENCY 25]

SENATOR CONRAD: ...right? [AGENCY 25]

KERRY WINTERER: That's right. [AGENCY 25]

SENATOR CONRAD: And do you think it's appropriate to punish people by withholding

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critical medical care? [AGENCY 25]

KERRY WINTERER: Well, I think at the same time, I think what we need to do is we need to be sure that folks are complying with those requirements as far as moving in that direction, and arguably you should say, well, that's a condition for them to be able to participate in these kinds of programs. [AGENCY 25]

SENATOR CONRAD: But of course to utilize Medicaid services, they have to be medically necessary. It's not something... [AGENCY 25]

KERRY WINTERER: Uh-huh. [AGENCY 25]

SENATOR CONRAD: ...that's just more up to the preference of the individual, of course. It's according to a doctor's order, right? [AGENCY 25]

KERRY WINTERER: Well, yes and no. I mean much of the time it's up to the patient in terms of utilizing specific services. [AGENCY 25]

SENATOR CONRAD: Uh-huh. But of course Medicaid wouldn't cover things that weren't medically necessary, right? [AGENCY 25]

KERRY WINTERER: Typically, yes. [AGENCY 25]

SENATOR CONRAD: Okay. Well, I think that we probably have a very strong difference of opinion about the propriety of that policy and I appreciate your responses. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nordquist, then Senator Nelson, and then Senator Mello. Senator Nordquist. [AGENCY 25]

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SENATOR NORDQUIST: Thank you again, Mr. Chairman. One more question: I guess the Governor has been pretty adamant about his opposition to expanding health coverage to low-income Nebraskans through the Affordable Care Act. Recently at a meeting he was at, the National Governors Association, the President put forth his support for state innovation waivers to challenge states to come up with a better plan essentially. Now granted that would go into effect in 2017, the bill before Congress could move it up to 2014. But looking at that option that's available either in 2014 or '17, has the Governor proposed to you or presented to you or tasked your department with developing a potential alternative to those provisions in the Affordable Care Act and meeting those provisions which require that it covers at least as many people and does at a more affordable rate? [AGENCY 25]

KERRY WINTERER: No, the Governor has not tasked us with that at this point in time. We have had some discussions about the whole realm of what does additional flexibility mean, what does that mean in terms of the state's ability to do something along those lines to proceed, and I think that's...I think we're in very preliminary discussions about where is all of that going to lead. [AGENCY 25]

SENATOR NORDQUIST: Okay. Great. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nelson. [AGENCY 25]

SENATOR NELSON: Thank you, Senator Heidemann. Thank you, Director Winterer, for coming today. Thank you for your testimony and I really appreciate your conciseness here in the written testimony. It helps us to absorb a lot of this. Referring to capital construction, number ten, the department requests \$1.5 million for relocation of the Bridges Program. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

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SENATOR NELSON: And this would come out of Nebraska Capital Construction Fund balances which I assume are there and available? [AGENCY 25]

KERRY WINTERER: Yes. [AGENCY 25]

SENATOR NELSON: All right. You state that this is necessary for residents of the Bridges Program to be eligible for Medicaid services and to receive federal Medicaid funding. Well, are we not getting that now in Hastings? Are we on our own out there or how does this work? [AGENCY 25]

KERRY WINTERER: We are getting funding, right? We are? We are getting funding. What we need...I'm sorry? [AGENCY 25]

\_\_\_\_\_: No federal funding. [AGENCY 25]

KERRY WINTERER: We are not getting funding. [AGENCY 25]

SENATOR NELSON: We're not. Perhaps someone can address that a little later. But so you're saying here that that's costing the state money from General Funds out there and that by relocation then we can eliminate that drain. [AGENCY 25]

KERRY WINTERER: And there are some issues with that facility. As you may know, that regional center there was not...that building was not built to provide this kind of a service and so it's difficult to provide the service very efficiently and very effectively. There are some structural problems with the building and so on. And so sooner or later it will need to get replaced. [AGENCY 25]

SENATOR NELSON: But that's the reason we're not getting any federal help out there, is that so? [AGENCY 25]

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KERRY WINTERER: Yeah. [AGENCY 25]

SENATOR NELSON: All right. That's the only question I have. Thank you. Thank you, Senator. [AGENCY 25]

SENATOR HEIDEMANN: Just following up a little bit on that, when, if we appropriate this funding, when will it be built? Is there any time line? [AGENCY 25]

KERRY WINTERER: Well, it would be built as soon as we can get it started and built. [AGENCY 25]

SENATOR HEIDEMANN: Where? [AGENCY 25]

KERRY WINTERER: It would be in Hastings. [AGENCY 25]

SENATOR HEIDEMANN: Is that for sure? And you have worked with the city of Hastings as far as site and... [AGENCY 25]

KERRY WINTERER: That is the...we are in that process at this point in time, yes. [AGENCY 25]

SENATOR HEIDEMANN: And once that gets...how long is the build period, like a year or...? [AGENCY 25]

KERRY WINTERER: Yeah. And again Jodi, I think, is...we've done an analysis of that and she can give you the very specifics of that. [AGENCY 25]

SENATOR HEIDEMANN: And then it gets built, up and running, we could actually reduce funds because we'll be getting federal funds in? [AGENCY 25]

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KERRY WINTERER: That's right. [AGENCY 25]

SENATOR HEIDEMANN: And just to probably ask a question or point out, my recollection of the Nebraska Capital Construction Fund, the majority of that fund is General Funds, if I remember right. [AGENCY 25]

KERRY WINTERER: Yeah, but my understanding is that that's a separate fund that accumulates, does it not? [AGENCY 25]

SENATOR HEIDEMANN: But the money comes from the General Fund. [AGENCY 25]

KERRY WINTERER: Yeah, I understand that, but it isn't...my understanding, it isn't a General Fund appropriation necessarily that comes out of General Fund revenue this year. [AGENCY 25]

SENATOR HEIDEMANN: But... [AGENCY 25]

KERRY WINTERER: I mean the source, I think, is General Funds, yes. [AGENCY 25]

SENATOR HEIDEMANN: Okay. Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. And, Director Winterer, a couple follow-up questions regarding section two of your testimony. Real quick, for our purposes, where did the agency find the funding to pay for the Milliman study, because I distinctly remember we discussed this as a committee over the interim and no one could quite remember what program or your able to find the funding to pay for that study? [AGENCY 25]

KERRY WINTERER: My recollection is it came from Medicaid operations, administrative budget. [AGENCY 25]

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SENATOR MELLO: Okay. And what's...usually with state contracts is it...to get approval or anything, is it a dollar amount that there has to be a threshold for competitive bidding or...? [AGENCY 25]

KERRY WINTERER: The requirement for an RFP is \$50,000. [AGENCY 25]

SENATOR MELLO: What was the amount, do you know, for the Milliman study?  
[AGENCY 25]

KERRY WINTERER: It was about \$40,000 I think. [AGENCY 25]

SENATOR MELLO: Did the department, in producing that report at all, look to do any competitive bidding or RFP process to try to get other actuaries to provide maybe a different perspective or a different research on that? [AGENCY 25]

KERRY WINTERER: Not in this case because we knew that Milliman was...had built a practice of doing similar things in a variety of states, and that made them probably more cost-effective than other firms may have been. And they were just well-positioned to do that particular project. They clearly were not the only ones that could have done it; they just were best positioned, based on their expertise and experience, to do that report.  
[AGENCY 25]

SENATOR MELLO: Was it based on expertise or was it based on cost? [AGENCY 25]

KERRY WINTERER: Well, in this case it was based on their expertise and their experience. [AGENCY 25]

SENATOR MELLO: Okay. Just...and maybe it's a point of clarification. I know Senator Nordquist actually asked a question I was going to ask in regards to whether or not the

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department was looking into any of the innovation planning with the flexibility that was provided to the Governor recently. My question though is the last sentence of your section two describes the department is attempting to prepare the state in case healthcare reform moves forward. Is it the department's perspective that the Affordable Care Act will not be moving forward? [AGENCY 25]

KERRY WINTERER: Well, I think it probably depends on your perspective on what's going on. There is a federal judge that just declared the whole thing unconstitutional. I think there is a legitimate question about whether in fact it will be effective and in effect when the dust settles. [AGENCY 25]

SENATOR MELLO: Do you think it...if that's the...is that the agency's perspective or is that your perspective? [AGENCY 25]

KERRY WINTERER: I think that's any number of people's perspective. All I did was...I just stated the fact that the federal judge has declared it to be unconstitutional. I mean that's a fact. People are viewing that from different perspectives to determine what's the effect of that. As you know, the judge has said, well, you got...we're going to have an expedited appeal or I'm going to say you can't enforce it. I think there is a legitimate legal question about whether it, in fact, is enforceable in light of that, and that's the uncertainty. [AGENCY 25]

SENATOR MELLO: Uh-huh. Do you... [AGENCY 25]

KERRY WINTERER: And that's the uncertainty. And that's why we say if it goes forward, because I think there's some uncertainty about that. [AGENCY 25]

SENATOR MELLO: I guess the question is if there is uncertainty in regards to moving forward, in your perspective, why...what would be the harm for us as an Appropriations Committee and the Legislature as a whole to provide maybe a deficit appropriation for

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the implementation of the ACA next year so we can see exactly, one, if it is moving forward, we don't put money out that we don't need to put out right now and, two, it allows us to see exactly what you spent money on before we just give it to you in advance of preparation and administrative planning? [AGENCY 25]

KERRY WINTERER: Well, that certainly could be your choice. I guess I would urge you not to do that because there needs to be some money available that we can draw on to do...just to do planning, if nothing else, just to anticipate what it is that we're going to try to do. We're not going to rush willy-nilly out and spend a bunch of money because, as I've just said, I think there's some legitimate questions about whether this thing is really going to go into effect and how it's going to go into effect. What is it really going to...what's it really going to require when it comes into effect? We've already talked about the issue of additional flexibility on the part of the state. What happens if that flexibility comes in, in another year or two, and says, okay now, the state, you can do a lot more than we ever thought you could do? Well, that's going to affect how we're going to do this and affect...but, at the very least, in the next year, I think we need to have some availability of funds to do some planning and anticipate and figure out, you know, what are the options. We can't wait until 2014 and all of a sudden have it effective. We've got to have analysis of the various options and the various what-ifs: What if it doesn't go into effect? What if only this portion goes into effect? What if we get additional flexibility? What if we don't? [AGENCY 25]

SENATOR MELLO: I see where...I guess I see where you're coming from, Director. I would pose the question to you again though, is the agency found the money within the agency's Medicaid operations budget to do a Milliman report that you have just explained to this committee doesn't serve any real purpose besides taking the temperature of potential costs of the expansion of potential Medicaid services. And so the point I guess I'm getting to is why would we, as an Appropriations Committee and the Legislature, prioritize providing planning dollars instead of providing direct services right now, knowing that there's a host of other issues out there within the agency that, in

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my mind, serves a bigger priority, instead of asking you to come back for a deficit appropriation, to show us what you actually spent planning dollars on instead of providing that funding up-front? [AGENCY 25]

KERRY WINTERER: Well, I think that's certainly the Legislature's choice if you want to approach it in that fashion. It seems to be more prudent to be able to provide those dollars so that they can be spent and so we know what's available to be spent for all those purposes. I mean I'm not sure I'd want to manage against a deficit request in the future, not understanding whether I could get it or not. And if I've committed funds against some kind of a deficit request, what if I don't get that? That strikes me as not necessarily being the best way to manage the budget. [AGENCY 25]

SENATOR MELLO: I would normally agree with you in every instance except the point is that you don't possibly believe that this will even be law and it might not even move forward. So to some extent, this is based on an assumption that it might go forward, it might not, so we need planning dollars just in case it goes forward. Do you see where my logic is taking you right now? I mean... [AGENCY 25]

KERRY WINTERER: If you assume...even if you assume that this will not occur at some time in the future, I mean if it's still there, and you have to be able to look forward and plan for, as best you can, for any eventuality, one of those eventualities is that it will be effective and we will need to expand Medicaid and we will need to do all these kinds of things. I don't want to get to 2014 and not have done everything we need to do to anticipate that. Now this is going to unfold over the course of the next 12-18 months, maybe even a shorter time frame than that. Six months from now we may know a heck of a lot more than we do right now. But all we know is what we know right now. And I think that all we're trying to do is having a source of some funds so that we can count on those dollars for purposes of doing planning and contracting with folks that we need to, to effectively do that planning, and to plan for systematic changes that may be required and be able to plan for whatever those eventualities are out there. [AGENCY 25]

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SENATOR MELLO: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Harms. [AGENCY 25]

SENATOR HARMS: Thank you, Mr. Chairman. Kerry, thank you again for coming and testifying. I like the way that you've established this, where we can speak directly to you and then you have your agency heads here. It seems to me it's running a little smoother than it has the last four years, so thank you for that aspect of it. The question I have, a couple questions I have for you, one is in regard to the information you gave us. You talked about wanting to align the Medicare (sic) Programs more closely with the private insurance companies. [AGENCY 25]

KERRY WINTERER: Right. [AGENCY 25]

SENATOR HARMS: I'm not seeing any place where private insurance companies are very flexible and willing to address those issues. Can you tell me how you're going to deal with that and how you might set that up? [AGENCY 25]

KERRY WINTERER: Well,... [AGENCY 25]

SENATOR HARMS: I think it's a good idea and it's great to be able to do that, but I don't know whether we can accomplish that or not. [AGENCY 25]

KERRY WINTERER: That was related specifically to coverage of nutritional supplements... [AGENCY 25]

SENATOR HARMS: I understand that. [AGENCY 25]

KERRY WINTERER: ...and it was related...it was intended to illustrate the point that

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private health insurance doesn't cover what Medicaid has been paying for, and these are these nutritional supplements. So that was intended in that context, to say that private insurance doesn't pay for the formulas and for the Enfamil and those kinds of things that Medicaid has been paying for. We should be limiting what we're paying for to those things that are medically necessary and typically those would not meet that test. [AGENCY 25]

SENATOR HARMS: Okay. Thank you. The other question I wanted to ask you in regard to the transition services that you have available for youth that have disabilities after they graduate from high school, can you explain a little bit about that program for me? I've gotten a number questions about that over the years and I'm not sure I've really understood how that actually works and what kind of money is available, how many youth do we have in those categories and what's the cost per FTE to accomplish this task. Could you help me better understand that? [AGENCY 25]

KERRY WINTERER: If I could defer that to Director Fenner, I'm sure she can provide all that to you. [AGENCY 25]

SENATOR HARMS: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 25]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you again, Director. I guess just one point to follow up on Senator Mello's dialogue, that at I think at this point, you know, there certainly are people, you know, throwing out hypotheticals about what could happen, but the enforceability of the Affordable Care Act, there is no question about that at this point. The two judges that have ruled it unconstitutional, one rule severed the bill...the individual mandate out and everything else was still enforceable, and the other stayed the ruling until it could be ruled upon by an appellate court. But I want to transition to issue of provider rates here, and certainly Director Chaumont, I think, will

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be able to comment on this as well. If I'm right, and I don't know if this was across all categories, but I think we raised provider rates the previous two years, 1.5 percent the first year and .5 percent the second year for most classes, if not all of them. You noted in your testimony that funding for provider rates has increased the last two years. That's an accurate statement. Do we have any estimate or analysis on what that 1.5 percent the first year and .5 percent the second year, how that compares to the rate of medical inflation in general? Has the department looked at that and how we're keeping pace with those services? [AGENCY 25]

KERRY WINTERER: I couldn't give you any specific numbers. I think everybody knows the rate of medical inflation is high... [AGENCY 25]

SENATOR NORDQUIST: Uh-huh. [AGENCY 25]

KERRY WINTERER: ...and probably is higher than those rates. [AGENCY 25]

SENATOR NORDQUIST: Okay. Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you. Just a couple of questions also in regards to the provider rate issue, and maybe more general than technical in nature, but if you could just provide a general response to your understanding of kind of the landscape in Nebraska so to speak. I think in the wake of the safe haven crisis that we saw in Nebraska and the implementation of LB1083 and behavioral health reform overall that was started years before many of us were here and before you were in your position, it seems to me that it's fair to say that in recent times Nebraska has been making steady progress forward in terms of our behavioral health system and those policy developments really illustrate that. Would you agree with that, Director? [AGENCY 25]

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KERRY WINTERER: I think so. [AGENCY 25]

SENATOR CONRAD: I think so too. And I think the department has tried to be a good partner in that regard with the important community providers that we have serving these populations as well. And doesn't it seem incongruent to you or inconsistent then that we would implement a 5 percent cut to providers in the behavioral health arena and really wouldn't that be turning back the clock on the progress that we've made in this critical area in the past many years? [AGENCY 25]

KERRY WINTERER: As is the case with a lot of these reductions in consideration of budget issues and such, I mean there's a variety of perspectives based on your perspective, based on a program or aid that you're interested in, none of these, including the provider rates, are easy decisions. And if we had our druthers, we wouldn't be cutting anybody of course, or we wouldn't be reducing funding, but you have to kind of...you have to pick and choose among the various programs and determine how can you spread out the pain of the fiscal situation that we're in. Providers have had an increase, albeit not a lot, over the last couple years. If you look around the country, it was unheard of for provider rates to be increased even at that point in time. Provider rates consistently around the country, as I understand it, have continued to be reduced over the course of the last few years, particularly in the current economic situation. Is it something that...and you make choices. You choose this versus that, and you choose this versus that. And in our business, if you will, we deal with a lot of needs among a lot of folks, and any time we make a choice that says, well, we're going to do this instead of that, or we're going to do this less than that, or something like that, you are making these choices. You're making choices that will, will affect people. But that doesn't mean the choices don't have to be made. [AGENCY 25]

SENATOR CONRAD: No, I appreciate that. And I think it's also important to note, of course, that even with modest increases, because of healthcare inflation and because of where the rates were initiated from, of course we're not matching dollar for dollar

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actual reimbursements to the providers in any number of programs, but it's rather just a portion of their costs. And so that's something I think that's important to keep in mind as well. Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Wightman. [AGENCY 25]

SENATOR WIGHTMAN: Thank you, Chairman Heidemann. Director Winterer, thank you for being here and for your testimony. [AGENCY 25]

KERRY WINTERER: Sure. [AGENCY 25]

SENATOR WIGHTMAN: I wanted to discuss provider rates and funding as well. As has been pointed out, I think we've had a 1.5 percent and a .5 percent increase in the last two years, and I think you've indicated that that hasn't kept up with the cost of medical services. At what point do we reach a situation where providers are not going to be able to provide the services that will be required or we hope they would provide and then we have to do it through a state agency? [AGENCY 25]

KERRY WINTERER: Well, I think that's a very good question. People, whenever we start talking about reimbursement to providers, people start questioning the access issue: Are we going to have a lower number of providers participating in that? And I don't know that I have answer to that question, what is that level. We also have to point out, however, that there are certain providers that are not participating in that. Primary care providers, for example, are not participating in that rate cut. So there should be continuing participation on the part of the primary care providers. We would hope that we will be able to maintain participation in the Medicaid network even after we go through some provider reimbursement...or provider funding cuts this time around. [AGENCY 25]

SENATOR WIGHTMAN: Many of the providers I talk to say that they just don't know

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how they will continue to provide the services that they've been providing and that they are either going to have to reduce services or perhaps not be able to provide services at all. And it seems to me, as we look at that, we've got to take into account that if we lose those providers, which I think it's fairly certainly we are going to lose some of them, will our costs perhaps go up? Or are we being penny wise and pound foolish, so to speak, in now at least keeping them at a subsistence level, which we may not be doing?  
[AGENCY 25]

KERRY WINTERER: Yeah, I understand that. I understand that concern, and I would expect that there may be providers who decide that they can no longer take Medicaid patients. I think that isn't the same thing as saying that Medicaid patients will not have access to services. [AGENCY 25]

SENATOR WIGHTMAN: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Fulton. [AGENCY 25]

SENATOR FULTON: Thank you, Mr. Chairman. Thanks for being here, Director. Some exclusions, so the 5 percent decrease to providers, that's the theme here, the 5 percent decrease to providers, there were some exclusions? [AGENCY 25]

KERRY WINTERER: Yes. [AGENCY 25]

SENATOR FULTON: And you touched on that in your testimony. You know, I understand, I think we understand the difficulty in making decisions such that the dollars all match up at the end of the day, and it would be therefore useful maybe, I think is a good word, to this committee to understand some of the rationale that was utilized in order to derive that these particular services--primary care, childcare, child welfare, juvenile service providers, and DD--why were those exempted from the 5 percent cut? I guess can you share some of the rationale as to how that was arrived at? [AGENCY 25]

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KERRY WINTERER: Yeah, and I'll have Director Chaumont, I think, can address it more, maybe even more specifically, but there were questions. We were concerned about access. We were concerned that Medicaid participants were going to be able to go find a provider and a primary care provider, and I think there's some issue in terms of reimbursement levels to them versus other practitioners as well that maybe they were not being reimbursed concomitant, if you will, with other providers. These others represent providers for whom we are...were concerned about those specific populations, if you will--developmental disabilities and child welfare. [AGENCY 25]

SENATOR FULTON: Okay. And I can save some more of the question for later, but thank you for that. [AGENCY 25]

KERRY WINTERER: Uh-huh. [AGENCY 25]

SENATOR HEIDEMANN: If we move the Bridges Program out of the regional center, what will be left there? [AGENCY 25]

KERRY WINTERER: We have a youth substance abuse program that's connected with Kearney. [AGENCY 25]

SENATOR HEIDEMANN: And knowing the facility and how big it is and how it operates, wouldn't it be wise then to ask funding for...to move that program someplace also? [AGENCY 25]

KERRY WINTERER: Well, I think that is an issue that sooner or later needs to be addressed. And there's...the regional center there has been, obviously, through transition for a long time in terms of the character of services being offered and the need for that physical facility, if you will. If Bridges moves away, then we have the substance abuse program. To a certain extent, we have similar issues I think relative to

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the building and the suitability of that building for that service as well, so there are going to be some additional questions then related to that. [AGENCY 25]

SENATOR HEIDEMANN: Okay. Thank you. Any other questions? Senator Mello.  
[AGENCY 25]

SENATOR MELLO: Director Winterer, I know it's something that this committee discussed in the 2009 Special Session and I believe we included it also in the 2010 deficit appropriation bill. Has the agency utilized furloughs at all in regards to dealing with budget reductions over the last two years? [AGENCY 25]

KERRY WINTERER: Well, we've used...we've done furloughs as in keeping with the rest of the state, the rest of state government. [AGENCY 25]

SENATOR MELLO: So in the sense that each program area has been utilizing furloughs to help reduce costs due to budget reductions... [AGENCY 25]

KERRY WINTERER: Well, we've just... [AGENCY 25]

SENATOR MELLO: ...we've made in the Special Session and last year? [AGENCY 25]

KERRY WINTERER: Uh-huh. We have been...we've participated in the furlough program that the Governor requested code agencies to participate in. Is that your question? [AGENCY 25]

SENATOR MELLO: No. Actually, I think we distinctly put in the budget, both in the special session budget that we produced as well as last year's, I think, LB935, we also put language in there, intent language, urging the agencies to utilize furloughs instead of layoffs in regards to reducing their operations budgets. And my question is if the Governor chose to do that after the Legislature did that, that maybe it just accentuates

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what we were trying to push. My question is, did your department utilize any furloughs?  
[AGENCY 25]

KERRY WINTERER: We participated in the statewide furlough program that the Governor requested us to do that. We have not done other things relative to layoffs specifically for that purpose. We've done staff reductions relative to change in functions and such. [AGENCY 25]

SENATOR MELLO: Uh-huh. How many employees do you know furloughed or furloughed over the last fiscal year or estimate? [AGENCY 25]

KERRY WINTERER: I'm not sure. I mean I can...I can certainly give you that number.  
[AGENCY 25]

SENATOR MELLO: Was it nonbargaining or bargaining units? [AGENCY 25]

KERRY WINTERER: They were bargaining. [AGENCY 25]

SENATOR MELLO: Bargaining units were furloughed? [AGENCY 25]

KERRY WINTERER: Yes. [AGENCY 25]

SENATOR MELLO: So nonbargaining units were not furloughed? [AGENCY 25]

KERRY WINTERER: That's right. They had...those...the nonbargained employees have experienced a salary freeze essentially for the last two years, which will continue, as you know, through the next year. [AGENCY 25]

SENATOR MELLO: That leads me to my next question, which is interesting because I was reading through the Governor's budget proposal where it appears that the

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nonbargaining unit employees receive a 1.5 percent salary increase both years of the biennial budget where the bargaining units only receive a 2 percent increase the second year. And the Governor, I think, laid out the rationale in his budget proposal that it was based on the furloughs and salary freezes from the previous two years. Is that something that you could shed light on? Is that just a unilateral decision agency...all agencies or...? [AGENCY 25]

KERRY WINTERER: I have...I don't think I have anything to...any light to bring upon that issue. [AGENCY 25]

SENATOR MELLO: Okay. All right. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you very much for testifying today. Just in order, we're going to hear from the three division heads--Director Adams, Chaumont, and Fenner--in the order that they want to come up, and after that we will open it up to everybody else that wants to testify. Just out of curiosity to see what we have before us, who is wanting to testify on Agency 25? Please raise your hand. All right. Thank you. Welcome. [AGENCY 25]

VIVIANNE CHAUMONT: Good afternoon, Senator Heidemann and members of the committee. My name is Vivianne Chaumont, V-i-v-i-a-n-n-e C-h-a-u-m-o-n-t, and I'm the division director for the Division of Medicaid and Long-Term Care, and I don't have any prepared remarks, just here if you have any questions left after the questions to Mr. Winterer. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nordquist actually has one left. (Laughter) [AGENCY 25]

VIVIANNE CHAUMONT: He was saving it for me. [AGENCY 25]

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SENATOR NORDQUIST: Maybe a couple. Thank you, Mr. Chairman. Thank you. Thank you, Director, for being here. I guess a first question is we took a...in the budget, we expanded managed care statewide in Medicaid. Would that potentially reduce the cost of the Milliman study if all those new enrollees now outside of the ten counties that we already have managed care in would be enrolled in managed care when the Affordable Care Act is implemented? [AGENCY 25]

VIVIANNE CHAUMONT: I think that the Milliman studies were based on our current spent, so if we did that there should be some savings. [AGENCY 25]

SENATOR NORDQUIST: A reduction, okay. I guess on the provider rate issue, we corresponded about trying to get some numbers on it and I understand that there are some concerns about the data, but is there...yesterday when we were doing the childcare subsidy, we talked to Director Reckling about trying to get us some information on the number of childcare providers, and when we froze the rates in '02-03 what happened to providers at that point for the childcare subsidy. Is there any way for us to look back historically at what provider rate cuts have done to access to providers? [AGENCY 25]

VIVIANNE CHAUMONT: I don't know historically in Nebraska because I haven't been here. But I mean when you cut provider rates, it's expected that you might lose some providers but it isn't expected that necessarily you would have access issues. [AGENCY 25]

SENATOR NORDQUIST: Is there any data that you know of or that the department would have available to be able to pull that together without a lot of work? I don't want to... [AGENCY 25]

VIVIANNE CHAUMONT: No. (Laugh) [AGENCY 25]

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SENATOR NORDQUIST: Okay. (Laugh) Okay. I guess the other question, and maybe it comes on Senator Wightman, at what point...I guess let's say, for instance, nursing homes, so we keep cutting, we keep cutting or we don't give them enough increases, then we start to lose more and more, and is there a distance, time travel for a family to be in nursing home care on Medicaid before we say we've cut too far and now at some point the state has to step in and run? Or is it just...I mean, if there's no access to a provider in the Panhandle, you know, we'll ship them east, we'll find a nursing home for them there? Is there a point where we're...where we would draw the line? [AGENCY 25]

VIVIANNE CHAUMONT: I think there might be a point at some point, but, you know, your example of nursing homes, Nebraska is over bedded in nursing homes. We have lots more beds than we currently have Medicaid clients and private pay clients for. We have many nursing homes with occupancy in the 50 and 60 percent range, which is both inefficient and not, you know, cost-effective for the Medicaid Program because we're paying rates based on a facility when the facility is only half full. So there might be a point at some point that you ask someone to drive a half hour to see their loved one in a nursing home as opposed to five minutes. [AGENCY 25]

SENATOR NORDQUIST: Yeah, sure. Yeah. Yeah. Do we...for the I guess the nursing home example, do we have any kind of analysis county by county or breakdown of beds available to a client, to potential clientele, I guess, or... [AGENCY 25]

VIVIANNE CHAUMONT: We might have that data, I believe. [AGENCY 25]

SENATOR NORDQUIST: Okay. [AGENCY 25]

VIVIANNE CHAUMONT: I believe that data is available. [AGENCY 25]

SENATOR NORDQUIST: Okay. That's probably all I have for right now. [AGENCY 25]

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SENATOR HEIDEMANN: Senator Fulton. [AGENCY 25]

SENATOR FULTON: Thank you, Mr. Chairman. Same question I posed to Director Winterer: Can you share some of the rationale as to how the...with respect to provider rates, which ones you guys exempted? [AGENCY 25]

VIVIANNE CHAUMONT: I just have to do with the Medicaid ones, which would be the primary care. [AGENCY 25]

SENATOR FULTON: Yeah. [AGENCY 25]

VIVIANNE CHAUMONT: And it's primary care codes, not primary code providers. So if you're, you know, an internist billing a primary care code, and they're basically office visits, you would not be subject to that. So it's certain codes that we're exempting and the bottom line was we wanted...we thought that that would help assure access. And those are some of the lower rates in the Medicaid Program so we didn't want to affect those. [AGENCY 25]

SENATOR FULTON: Okay. That's very helpful. Thank you. [AGENCY 25]

VIVIANNE CHAUMONT: Uh-huh. [AGENCY 25]

SENATOR HEIDEMANN: Senator Hansen. [AGENCY 25]

SENATOR HANSEN: Thank you. Director Chaumont, I want to go back to the expanded physical care managed health too. It's in a ten-county area now, is that correct? [AGENCY 25]

VIVIANNE CHAUMONT: Correct. [AGENCY 25]

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SENATOR HANSEN: And then it will cost about \$1.1 million to go statewide. Is that correct? [AGENCY 25]

VIVIANNE CHAUMONT: It would save to go statewide. And the way we calculated the savings would be to exclude the two counties where we are currently running a medical home pilot just because we want to give that an opportunity to see if that...if there are savings there. [AGENCY 25]

SENATOR HANSEN: And I understand that is through United HealthCare and Coventry. Is that... [AGENCY 25]

VIVIANNE CHAUMONT: Currently, we have two contractors in the ten-county area, and that's United Health and Coventry, yes. [AGENCY 25]

SENATOR HANSEN: We found that in our problems with the Western Service Area, the Central, and the Northern, that in our children's services, in our children's providers, we lost, I don't know, we lost close to a dozen providers because the state went statewide on the state wards and everything without doing a ten-county or a pilot project anywhere. We don't have those providers out there. We lose a provider, they're gone and we don't have anybody to replace them. And I fear a little bit about the state running or a private agency running this physical managed care throughout the state that we're going to have more problems, similar to what we did in our childcare. [AGENCY 25]

VIVIANNE CHAUMONT: To be honest, in a way I think managed care actually would help. I mean some states bring managed care to rural counties to actually increase access because the managed care company that takes that contract has a contractual obligation and a federal law obligation to provide access to clients. So they have to have a network that works, and if they need to sign up a doctor that wouldn't otherwise want to take Medicaid or wasn't part of it, they need to do whatever it takes to get that particular provider signed up. So some states actually use managed care to provide

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access, to increase access for Medicaid clients, not to decrease it. [AGENCY 25]

SENATOR HANSEN: Would those providers be statewide or would they be located maybe in the eastern part of the state? [AGENCY 25]

VIVIANNE CHAUMONT: The managed care company might run a contract statewide, but they contract, they're obligated to develop a network throughout the entire area that they cover. So let's say they cover the entire...you know, they contract to provide managed care for the entire state. They would be responsible for making sure that there are providers available to clients in the areas and to transport them, if there are areas where, for instance, they don't have a neurologist, to transport them to wherever there is a closest neurologist so that they can get the care. The managed care company actually manages that portion much more than we currently manage it in the fee for service world. [AGENCY 25]

SENATOR HANSEN: Okay. I just still have a problem with the managed care, statewide managed care located in the eastern part of the state covering the statewide issues and running out of providers in the western part of the state. [AGENCY 25]

VIVIANNE CHAUMONT: I... [AGENCY 25]

SENATOR HANSEN: I'm just not clear that that's going to happen... [AGENCY 25]

VIVIANNE CHAUMONT: Yeah. [AGENCY 25]

SENATOR HANSEN: ...unless they do the providing, and I can't see that there are going to be new providers out there. [AGENCY 25]

VIVIANNE CHAUMONT: I understand your concern. The managed care companies don't necessarily have to be in the western part of the state. [AGENCY 25]

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SENATOR HANSEN: Yeah. [AGENCY 25]

VIVIANNE CHAUMONT: I mean eastern part of the state. [AGENCY 25]

SENATOR HANSEN: Unless we have to transport to the east. [AGENCY 25]

VIVIANNE CHAUMONT: Right. [AGENCY 25]

SENATOR HANSEN: We've done that before. [AGENCY 25]

VIVIANNE CHAUMONT: But...and you know, Senator, that happens now. There are Medicaid clients, fee for service, who in, you know, in northwestern...not very good at geography, northwestern part of the state that don't have the providers in Nebraska that are available. They get transported to Denver. You know, as it gets closer east, if they don't have the available providers, they get transported to the eastern part of the state in order to get the care. With managed care, they would actually have a company managing that access and managing making sure that people get the services that they need. [AGENCY 25]

SENATOR HANSEN: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nelson. [AGENCY 25]

SENATOR NELSON: Thank you, Chairman Heidemann. Thank you for coming today,... [AGENCY 25]

VIVIANNE CHAUMONT: Sure. [AGENCY 25]

SENATOR NELSON: ...Director. I'm simply going to...you were present when Director

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Kerry Winterer testified and we asked him a lot of questions which we covered pretty well. We've covered a lot. But is there anything that you would like to expand on, I mean in your area here, that you thought would be helpful to us? [AGENCY 25]

VIVIANNE CHAUMONT: You know, I would just like to expand a little bit on what Mr. Winterer said about rates and about that, you know, this isn't anybody's favorite thing to be doing. I just want to be real clear about what the options are for reducing a Medicaid budget. There are only three ways to reduce a Medicaid budget: You can cut eligibles so you don't have as many people eligible; you can cut benefits; or you can cut rates. When we are asked to...you can't cut eligibles these days because of the ACA, the health reform legislation. You would lose federal funding if you cut eligibles. So now you only have two ways to cut a Medicaid Program. You can cut it...you can cut benefits, less benefits for people, or you can do rates. So when you're faced with that, the big pot of money is in rates. [AGENCY 25]

SENATOR HEIDEMANN: Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. And thank you, Director Chaumont. I guess the question I have regarding the provider rates issue is that has your division at all looked into research, done any planning in regards to any of the risk the state might have in regards to equal access standards under the federal Medicaid law in regards to providing equal access to providers, regards to the provider rates,... [AGENCY 25]

VIVIANNE CHAUMONT: The Medicaid... [AGENCY 25]

SENATOR MELLO: ...because it's caused litigation in other states... [AGENCY 25]

VIVIANNE CHAUMONT: Sure. [AGENCY 25]

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SENATOR MELLO: ...for what they've done similarly? [AGENCY 25]

VIVIANNE CHAUMONT: Sure. The Medicaid Program is required by federal law to assure a certain amount of access and we don't have any data as exactly. We have not lost providers in the past. There's been talk of, you know, providers leaving. It hasn't happened, which doesn't mean that, you know, that we don't run that risk, but there weren't a whole lot of choices. And I am confident that Nebraska providers will step up. [AGENCY 25]

SENATOR MELLO: Okay. All right. [AGENCY 25]

SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 25]

SENATOR NORDQUIST: Thank you, Mr. Chairman. I guess just two issues. I guess one is still on healthcare reform. Maybe the discussions that you've had with the Department of Insurance to plan for the exchange and to make sure that the exchange is a one-stop shop and people are able to transition appropriately back and forth between the private market with subsidies and Medicaid, maybe if you can brief us if you've had discussions with them. [AGENCY 25]

VIVIANNE CHAUMONT: And we're really not to that point yet... [AGENCY 25]

SENATOR NORDQUIST: Okay. [AGENCY 25]

VIVIANNE CHAUMONT: ...but the ACA clearly requires, what do they call it, a superhighway of eligibility, so we're familiar with that requirement which is part of the costs to get to the superhighway are those...some of those costs that we were talking about, the administrative costs. [AGENCY 25]

SENATOR NORDQUIST: Okay. And then the other issue, the electronic health records

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incentive or initiative, incentive payments, can you quickly brief us on where that is and if there's any cost to the state or is that all federally funded? [AGENCY 25]

VIVIANNE CHAUMONT: The medical Medicaid Incentive Payment Program, known as MIPP, of course it has to have a catchy name, we hope to have a state Medicaid HIT plan ready this spring and to start being able to pay incentive payments to providers in the fall. The incentive payments are 100 percent federal dollars but the administration of the program is not. [AGENCY 25]

SENATOR NORDQUIST: Okay. Okay. And is that absorbed into your current budget or was that in the request, budget request? Did you request additional funding for that? [AGENCY 25]

VIVIANNE CHAUMONT: No, we did not. [AGENCY 25]

SENATOR NORDQUIST: Okay. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for testifying today. [AGENCY 25]

VIVIANNE CHAUMONT: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

SCOT ADAMS: Good afternoon. My name is Scot Adams, S-c-o-t A-d-a-m-s. I serve as the director of the Division of Behavioral Health and I also have no testimony and will respond to questions. [AGENCY 25]

SENATOR HEIDEMANN: Are there any questions? Senator Nelson. [AGENCY 25]

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SENATOR NELSON: Thank you, Scot. I'll ask you the same thing I did of Ms. Chaumont. Do you have anything to add or expand to any questions that were asked earlier or any topic in your Behavioral Health area? [AGENCY 25]

SCOT ADAMS: Well, I think what I would add is simply that the country is going through a very difficult time economically. Nebraska is experiencing its share of that. Across the country, about \$1.8 billion has been taken out of the mental health system in a variety of ways across the states and there have been very difficult times in which to manage these services. And so they are important services and it will be important to maintain them as best we can. [AGENCY 25]

SENATOR NELSON: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you very much. [AGENCY 25]

SCOT ADAMS: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

JODI FENNER: Good afternoon. I, as well, have no testimony, Jodi Fenner, here to answer any questions you might have. [AGENCY 25]

SENATOR HEIDEMANN: Senator Mello. [AGENCY 25]

SENATOR MELLO: Thank you, Chairman Heidemann. And thank you, Director Fenner. I think most of us and probably many of the people in the room here have read recently the good news regarding BSDC in regards to one of the five areas being recertified. My question is what ultimately...I know in the preliminary budget we have fully funded BSDC again... [AGENCY 25]

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JODI FENNER: Uh-huh. [AGENCY 25]

SENATOR MELLO: ...in regards to the general funded component that we had originally had utilized federal funds to run the facility. My question is, what's going to happen as not just this one, this first wing or first area that's been recertified, but future areas that get recertified, what's going to...what is your plan or the administration's plan within HHS to do with those General Fund dollars as we start to get recertified and applying for federal dollars again. Will the agency just hold on to those funds till let's say next budget year or in two years or...? [AGENCY 25]

JODI FENNER: No, sir, actually the Legislature provided us with General Fund monies, additional monies, in the last two years. You'll note or maybe when you see the final reports, we actually won't be using all of the money that you provided us this year because we are receiving federal funding. So we've tried to be very conscientious of the money that you have provided us and only use what we absolutely need. Obviously, in the next biennium, that federal money will replace the state money completely.  
[AGENCY 25]

SENATOR MELLO: So just so I get it right, I mean you're going to utilize then the existing. In our preliminary budget, I believe, I'm trying to find it here, I believe we provide you roughly \$50 million, \$51 million plus in General Fund dollars over the next two years. You're going to utilize those existing \$51 million in General Funds...  
[AGENCY 25]

JODI FENNER: We will... [AGENCY 25]

SENATOR MELLO: ...for the operation of BSDC? [AGENCY 25]

JODI FENNER: Yeah. We'll use the General Fund funds and then we'll supplement that

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with the federal funds whereas in the last two years, two fiscal years, you the Legislature have supplemented the federal funds in those places. So we had a 60/40 match on the federal funding, but we do still spend state funds. We just also get the 60 percent match. In the current fiscal year we won't be spending, I think it's approximately, \$3 million of the General Funds that you granted us. [AGENCY 25]

SENATOR MELLO: So what ultimately happens in two years, let's say, when BSDC is fully certified again, regarding the General Fund budget? Because we've essentially covered all the federal funds, I believe, when we were decertified, what happens to those General Funds? Are they just...is BSDC going to continue to request that money in the future? Is it going to stay within Developmental Disabilities? [AGENCY 25]

JODI FENNER: No, sir, that additional funding was one-time money and it's not in the next biennium budget at all. [AGENCY 25]

SENATOR MELLO: Okay. [AGENCY 25]

JODI FENNER: But we thank you for giving it to us. [AGENCY 25]

SENATOR MELLO: Okay. [AGENCY 25]

SENATOR HEIDEMANN: Senator Harms. [AGENCY 25]

SENATOR HARMS: Jodi, thank you very much for testifying. I want to first thank you for what you did with Beatrice. [AGENCY 25]

JODI FENNER: Thanks. [AGENCY 25]

SENATOR HARMS: You know as well as I know what you were confronted with. I was on the committee that...again, to look at Beatrice. And you've done some really great

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work and I want you to know how much I appreciate that. To be honest with you, I didn't know whether we were going to get that all taken care of or not. But through your leadership and getting control of the issues and the problems, you've done some really great work and so I want to thank you for that part of it. So had a chance to see that firsthand. Jodi, the question I have is in regard to the transition program for developmental disabilities, teenagers that are graduating from high school. [AGENCY 25]

JODI FENNER: Uh-huh. [AGENCY 25]

SENATOR HARMS: I just look at my own community and know the folks who are in the special ed areas in that region. There's an awful lot of those kids graduating and my concern is what's happening to them and how is this program working. I talked to a number of people that have gotten some a little bit frustrated because there may not be the right services available for them to make that next step. Can you help me better understand this? [AGENCY 25]

JODI FENNER: Certainly, Senator. The way special education services are set up, if you receive special education services, you're entitled to those until the age of 22 or the age of 21. Then DD services takes over at the age of 22. So I think school districts struggle with serving the population of individuals who are in that 18 to 21 phase and I understand and respect that challenge, but it isn't something that you have funded my program to support, and so we don't do that. [AGENCY 25]

SENATOR HARMS: How many...do you have any idea how many teenagers we have that are short and what the cost is and how successful we have been in those communities...I guess community transition programs for these kids? [AGENCY 25]

JODI FENNER: I can't even guess at the numbers. I guess I could guess but it wouldn't be very accurate. I know every year we bring in between 150 and 250 new people,

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those are people at the age of 22, into our day services. So I suppose you could multiply that times four and potentially get the number of individuals. As far as how different communities handle that, again, each school district or ESU, educational service unit, handles that in a different way. Some ESUs have fabulous programs, others struggle, quite frankly. We've tried to reach out and start working with the transition programs. We've done a lot of presentations with special education teachers and with some of the ESUs themselves to try to explain what DD services look like when you do turn 22 so that maybe we can partner, and so that as they're developing skills and services we can make that more seamless. The reality is, you know, we already have high caseloads and we're really struggling with offering that assistance. We're very much trying to do that. But it is a challenge. We understand that. [AGENCY 25]

SENATOR HARMS: Yep, because the public schools have been a lot more successful now in getting those kids all the way through and getting them to that point where they can, you know, get out of high school and they want to make that next move, but the parents and I think even the children, to a certain degree, are a little frustrated about the fact they don't have those services available. [AGENCY 25]

JODI FENNER: Yeah. And I'm not sure if you've already done the Department of Education budget, but I do have to give lots of kudos to the Department of Vocational Rehabilitation. They've partnered with the Arc and they're doing some pilot programs in...I think it's in Omaha, and I may be speaking out of turn but they're looking at new and creative ways, because Voc-Rehab does have funding to address and into some individuals who are graduating and looking for employment and they do have some offerings and they are looking at different ways of addressing that from the Department of Education perspective. I wish I had an easy answer for you, Senator, and... [AGENCY 25]

SENATOR HARMS: Yeah, I understand. I am going to look at a program I think in the

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future to see if we can't address that issue. I've seen some pretty tragic things happen with kids who fall in that age of 20-21. They just need a little help to be able to get to the next level. And one of them that we worked with in our own family ended up in prison and there was no need for it, absolutely one, and we could have saved that young man by being able to have the right kind of program available. And so I'm sure there's a lot of people just like this young man and what he went through, and so firsthand I've seen some things that I wasn't real excited about so I'm definitely going to look at that. I know our funding is going to have to be a heck of a lot better but, yeah, three years left and maybe if it's not there when we get to the end of this thing we can find somebody else to carry it on. But I think it's really important for us and, again, thank you very much.  
[AGENCY 25]

JODI FENNER: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Senator Hansen. [AGENCY 25]

SENATOR HANSEN: Thank you. Director Fenner, could you update us a little bit on the DD waiting list and where those numbers are going? And also the second part of the question would be, is Beatrice accepting any new residents? [AGENCY 25]

JODI FENNER: The first side, on the waiting list, we did the original three rounds of offers. As I shared with you, we're really challenged right now with service coordinator caseloads and so we're very gracious to the Legislature for giving us the new additional service coordinators because that is a big hindrance to us completing serving people on the waiting list. So we are again getting ready to do additional offers on that. I don't have the numbers on the waiting list. As of today, they change every day. I believe there's still around 1,600. [AGENCY 25]

SENATOR HANSEN: What's the trend line, going up or down? [AGENCY 25]

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JODI FENNER: Well, I would love to tell you it's going down, but the reality is there's a perception that get on that waiting list as soon as you know you have a developmental disability, and so you may have five-year-olds on the waiting list. And again, people, I think, tended not to ask for services when they knew there wasn't hope. So I think there are a lot of reasons for increases on the waiting list and I think they're good reasons. I think that education and, again, access to services is a very good positive thing. So at this time, we're not seeing any decreases but we're also not seeing as many, what we call, priority cases, which is people in crisis who we have to prioritize for services. So I would say that, to me, is a shining star that what you did was a fabulous thing because you prevented those...I think you've prevented those individuals coming into those crisis situations. So I'd like to tell you the numbers are going down. They're not, but we are seeing positive benefits from that. [AGENCY 25]

SENATOR HANSEN: Okay. Are you expecting any increase in the residents at Beatrice? [AGENCY 25]

JODI FENNER: At this point in time, we are, I believe, doing very well with the resources that we have. We are still significantly struggling with staffing. We are so happy to see the economy improve but that means we have individuals who are leaving for local factory jobs that are being opened and some things of that nature. And so we still have some significantly high overtime that we're addressing. And so until we're fully certified and we have those resources addressed, we're really not prepared to take new residents at this time. [AGENCY 25]

SENATOR HANSEN: What about the increase in beds for DD patients? Is there an increase in those? I've heard it's been very small. [AGENCY 25]

JODI FENNER: An increase in beds? I'm sorry. [AGENCY 25]

SENATOR HANSEN: In beds, available by providers. [AGENCY 25]

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JODI FENNER: Okay. We don't pay for room and board. We don't pay for beds. We pay for habilitation services. I know we've had significant increases. I believe our providers have really stepped up and started offering services, both the people on the waiting list and the people from BSDC. We have I think three new providers this year and that doesn't include the expansions from some other providers. We have, I think, one or two providers who have downsized in some service areas, but I don't think we're seeing a decrease in services, absolutely not. [AGENCY 25]

SENATOR HANSEN: Okay. All right. Thank you. [AGENCY 25]

JODI FENNER: Thanks. [AGENCY 25]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Thank you, Director Fenner, and I'll just add my congratulations... [AGENCY 25]

JODI FENNER: Thanks. [AGENCY 25]

SENATOR CONRAD: ...and gratitude that Senator Harms expressed earlier in terms of your leadership in this division, and I think we've really seen positive changes. So thank you... [AGENCY 25]

JODI FENNER: Thanks. [AGENCY 25]

SENATOR CONRAD: ...for that, because I know that you work many, many long hours away from your family, and the families who rely on these services notice that as well and they're the ones who have contacted my office and sung your praises. [AGENCY 25]

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JODI FENNER: Thanks. [AGENCY 25]

SENATOR CONRAD: So it's important to not let that go unnoticed. I did want to ask just a couple other questions. You may have heard me ask Director Winterer about the proposed cut to the Developmental Disabilities... [AGENCY 25]

JODI FENNER: Uh-huh. [AGENCY 25]

SENATOR CONRAD: ...Aid Program, and Senator Harms asked about this a little bit too. And I want to know, based on your projections, your comfort level with removing one penny from that program and what the potential effect could do for youth with developmental disabilities. And if you want to follow up with the committee later with specifics, that's fine, but... [AGENCY 25]

JODI FENNER: No, I can share that. [AGENCY 25]

SENATOR CONRAD: ...I think that we all need some specific reassurances as to how that was crafted. [AGENCY 25]

JODI FENNER: Absolutely. And actually, Senator Conrad, that dovetails exactly on what Senator Hansen was just discussing. When people used to leave the system, whether they moved out of the state or passed away, there was a small amount of money freed up every year and that money was used to fund what we call priority cases, individuals in crisis essentially. Because you gave us waiting list money, we aren't seeing many of those at all. And the ones that are on the waiting list and get prioritized, they come out of the waiting list pocket. So what we've seen, and we ran the statistics for 2010, and that freed up \$1.4 million, and that looks to be pretty consistent with historical practice. And so that's why we believe, at least for this biennium, we can absorb those new graduates into our current budget. I can't say the same for the next

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biennium because we won't have any waiting list money remaining, but because we do, we believe we can do that for this biennium. [AGENCY 25]

SENATOR CONRAD: Okay. That's very helpful. Thank you. And then in relation to the waiting list,... [AGENCY 25]

JODI FENNER: Uh-huh. [AGENCY 25]

SENATOR CONRAD: ...which I think we have made great progress on, and some statistics that were presented to me, from media reports and advocates who work in this area, that prior to 2008 we had 2,597 folks on the waiting list and in December of 2010 there were 1,500 people. [AGENCY 25]

JODI FENNER: Uh-huh. Yeah. [AGENCY 25]

SENATOR CONRAD: So even though those numbers might be ticking back up for the other reasons you mentioned, there's no question that's a significant decrease and the infusion of those resources has indeed made a great difference in many lives across the state. And I think that if you look at our preliminary budget, there are some lapses of funds that we've allocated for these purposes back into the General Fund, maybe about \$7 million or so, and I'm wondering about the appropriateness of that action and really if we should keep those funds that we've already set aside to help with the waiting list, with the waiting list, with folks in the developmental disability programs, rather than just getting chunked back into the General Fund. And if you want a chance to address, please feel free to do so. [AGENCY 25]

JODI FENNER: I can. The problem with increasing services is that once you offer those services, I would argue, it would be extraordinarily difficult to take them away because you create a reliance on those supports. So as much as I would love...I mean I will spend any money you give me, but the reality is, if you put that money into my budget

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and you can't continue it, then you potentially harm individuals in the long run. And so that's a gamble that it isn't really my decision to make, but I do appreciate...I appreciate the thought. And of course, again, I know you have a lot of really hard decisions.  
[AGENCY 25]

SENATOR CONRAD: Right. So that does help to clarify and illustrate the point, I guess. And, you know, it seems to me that if we've already set aside dollars to help with these issues, those dollars should stay there, and if they're going for what they're intended for that then we'll have to figure out a way to covering them in ongoing budgetary cycles. But I appreciate your response. Thank you. [AGENCY 25]

JODI FENNER: Thanks. [AGENCY 25]

SENATOR HEIDEMANN: Any other questions? Senator Fulton. [AGENCY 25]

SENATOR FULTON: Quickly, the questions have been asked already. I just want to echo what Senators Conrad and Harms have done. I have not been on any special committees with respect to BSDC but have watched from back, at my vantage on the Appropriations Committee, and you've done a good job, inspired confidence and brought some pride back to Nebraska with respect to developmentally disabled citizens. So thank you. [AGENCY 25]

JODI FENNER: Thanks. I wish I could take all the credit. I have an amazing team, so...  
[AGENCY 25]

SENATOR HEIDEMANN: Is there anything else that the Appropriations Committee or this Legislature could do to make your job any easier or better? [AGENCY 25]

JODI FENNER: Oh my gosh, you know, (laughter) that...you know, I feel at this point anything I say would sound greedy but I think that the education, as painful as that

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process has been, has been good for Nebraska in the long term and we want to keep that up. As you have new senators come in, we will make a dedicated effort to continue that education. We just can't say enough for the support that we've received, not just financially but just verbal support and praise. Our staff at BSDC has been beaten up over the years and they're just amazing staff. They have hearts and dedication like nobody that you'll ever meet. And so just to continue the education component, because our hope is we won't always be in this budget situation and we want to, when you do have money in the future, hope that you think of us. But again, I appreciate being spared many cuts because we do serve a vulnerable population and we can't say it enough, just appreciate it. So not at this point, though thank you. [AGENCY 25]

SENATOR HEIDEMANN: Thank you very much for what you do. Seeing no further questions, thank you. [AGENCY 25]

JODI FENNER: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: At this time, we will start taking testimony from everyone here. I do want to say appreciate your patience with us over the last over two hours. So at this time, if anybody else wants to testify on Agency 25, feel free to come forward. [AGENCY 25]

MARY BARRY-MAGSAMEN: (Exhibits 144 and 145) Good afternoon. My name is Mary Barry-Magsamen. I will spell that one. B-a-r-r-y-M-a-g-s-a-m-e-n. Good afternoon, Senator Heidemann and members of the Appropriations Committee. I'm the president of NABHO, which is the Nebraska Association of Behavioral Health Organizations. I'm also representing CAFCON this afternoon so that we don't repeat our message. And I'm also the executive director of St. Monica's Behavioral Health Services for Women, and we serve women not only in Lincoln but from across the state, partially because there aren't services, like those described earlier, for women and children in all parts of our state. On behalf of the 45 NABHO member organizations located across Nebraska and

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representing approximately 1,200 employees, I'm here to first thank you for reducing the proposed provider cut in your preliminary budget but, of course, we'd like to ask for more help. Behavioral health services have consistently been underfunded and you've heard our voices over the years regarding the reduced access. In 2003, there was an aggressive effort to reduce our rates because of budget concerns, and those efforts were unsuccessful. At that time, we were 48th among all states in per capita spending for behavioral health. In 2005, efforts were successful in raising rates 3 percent and that was a major victory for us. In 2006, a rate study, paid for by the Nebraska Behavioral Health Coalition, showed Nebraska rates were significantly low compared to other states, and this committee, and we thank you, added \$547,000 to the second year of the biennium, as well as \$308,000 to the behavioral health regions' money, increasing the rates by about .25 percent. In 2007, a 3 percent behavioral health provider rate was increased and approved by the Legislature that flowed through the regions and child welfare, so not to all providers. Increasing access to mental health and substance abuse service was seen as part of the solution to the safe haven crisis. The Governor vetoed that rate increase to 2 percent and excluded Medicaid providers, which significantly cut the number of providers actually realizing the increase. In 2008, our rates increased between 2 to 4 percent over the biennium for behavioral health. In 2009, providers saw another 2 to 3 percent increase when all healthcare provider rates paid to (sic) the state were increased. Since then, those rates have been stagnant, and I think you had a question about that earlier. We remain at the bottom of the quarter of states nationally in that per capita spending on behavioral health. So while we did begin to creep up a little bit, we're kind of falling back down again without those increases. Behavioral health providers are small businesses that must deal with costs outside of our control, like any business, so insurance costs, gas prices, those especially impacting rural providers who have to travel many miles to their various locations. LB383, passed by the Legislature and signed by the Governor, will dramatically affect behavioral health services across Nebraska. Cities and counties have supplemented our services to protect those services, but now much of that will be reduced or cut altogether. These effects are already occurring right here in Lancaster County where

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some of our members are already cutting staff, have already let go of program directors, and are looking at other cuts as we move into this budget. In the past several years, our services have seen dramatic change by the state and remain an ever-changing target with increasing demands on providers. In 2010, there were 101 provider bulletins from the department, changing many different aspects of service delivery, and 39 regulation changes. And just to give that a perspective, that's part of what makes it difficult for us, is that while our increases don't keep up with our costs, the regulations continue to impact us. And so we have standards to meet in order to be licensed by our state, and yet our rates don't always keep up with those requirements, the kind of staff we have to employ. Some of the providers located in larger communities have the ability to access charitable funding or other funding sources to offset budget gaps. You've heard about a federal grant earlier with Family Works, but with these cuts proposed, the demand and the requests to local foundations will increase dramatically and we already know accessing them will be more and more difficult. With all these forces working against us, more closures will be assured. And after fighting for small increases here and there to hold our system together, we are hit with a reduction that takes us back to those 2008 levels. The impact to our communities will be devastating and costly and we'll all pay for those cuts with increased emergency room use, increased police involvement, increased impact to the criminal justice system, all of those things, very costly. And that doesn't speak to the human toll it has on individuals and families who will suffer with longer waiting lists and even fewer options. I think you saw firsthand earlier the impact that programs for women and children can have and what fewer of those available places will mean to those families. So I'm here today representing the vast majority of behavioral health providers in our state. We have successfully patched together a system that has survived, despite odds against us, but with more cuts that patchwork will unravel and, unfortunately, many rural areas will be the hardest hit. Again, like everyone else, we understand the difficult decisions you're faced with, but we thank you for your time. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for testifying today, Mary. Are there any

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questions? Seeing none, thank you. [AGENCY 25]

MARY BARRY-MAGSAMEN: You bet. [AGENCY 25]

SENATOR HEIDEMANN: I would like to remind everybody, if you would like to address your concerns but wouldn't...don't want to testify, nontestifier sheets are near the back doors. Just fill them out and hand them in. Thank you. Welcome. [AGENCY 25]

ALAN ZAVODNY: (Exhibit 146) Thank you. Chairman Heidemann, members of the Appropriations Committee, for the record, my name is Alan Zavodny, A-l-a-n Z-a-v-o-d-n-y. I'm the chief executive officer for NorthStar Services. Thank you for your thoughtful deliberation and consideration of funding for developmental disabilities. Your participation is of utmost importance due to the fact that you are, for all intents and purposes, the overwhelming funding source for these services. Thank you, and I'd be happy to answer any questions from the committee. At the bottom of the sheet I handed out, I got done before she could pass them out, but are the providers which represent a vast majority of the people served in the state of Nebraska who supported our testimony today. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in and testifying. Senator Fulton. [AGENCY 25]

SENATOR FULTON: Thank you, Mr. Chairman. Thanks for being here, Alan. [AGENCY 25]

ALAN ZAVODNY: Thank you. [AGENCY 25]

SENATOR FULTON: I guess can you...this is an opportunity for us to hear from boots on the ground how this cut is going to affect business, so fire away. [AGENCY 25]

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ALAN ZAVODNY: Well, we are in the second year of our staff salary freezes. We run adds that no one responds to. It's difficult. We've seen some contraction in our services. I think...it's always difficult to answer that question honestly because it will make some people mad, but I think from top to bottom the quality of our services has been steadily in a decline, which is not probably what you want to hear on things but it's the reality of what we're facing now. And we have, in the community-based at least, have been holding on to not have a repeat of the serious issues you had at BSDC. So we're doing what we can and hanging on, but it's not the rosiest out there but it's tough everywhere. We understand that. [AGENCY 25]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thanks, Alan. [AGENCY 25]

ALAN ZAVODNY: Uh-huh. [AGENCY 25]

LAWAUNA WIX: Senator Heidemann,... [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

LAWAUNA WIX: Well, thank you. My name is Lawauna Wix, it's L-a-w-a-u-n-a. This is going to be easier for me to read because I won't remember it. [AGENCY 25]

SENATOR HEIDEMANN: All right. [AGENCY 25]

LAWAUNA WIX: Dear Senator Heidemann, I am submitting written testimony for the committee hearing, March 15, regarding the reduction of behavioral healthcare provider rates. I oppose this reduction because I have utilized the community-based system, South Central Behavioral Services, and they have helped me by utilizing of Unity House and increase my standard of living. They have increased my self-worth and introduced me to a number of peers of which I call friends. I am opposed to the 5 percent reduction

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as it will only hurt the consumers. I have managed to stay out of a mental hospital this past five years since coming to Unity House. Before that, I was in a mental hospital five times a year. I can guarantee another hospitalization if Unity has to close because of budget cuts. My daughter wrote a paper trying to explain what it means to live with a bipolar parent and this is what she wrote: Growing up, I always knew my mother wasn't your typical parent. We simply regarded her as weird, not knowing what she was truly going through. This story is to help explain how the bipolar disorder affects everyone. As a teen, I saw my mother rarely. She was a single mother raising three kids with waitress wages. When she did have time available, she would self-medicate. She used to say, I don't live here, I just pay the bills. A person with bipolar disorder goes through many stages of depression and mania. The depression causes extreme withdrawal and lack of all emotional attributes. The mania causes extreme irrationality and selfish impulses. As a child dealing with this disease, I would like to say it truly does affect everyone. That's it. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming today and testifying and letting us know your concerns. Are there any questions? Seeing none, thank you. [AGENCY 25]

LAWAUNA WIX: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

TIM NICKEL: Senator Heidemann, welcome. Thank you, Senator Heidemann and committee members. My name is Tim Nickel, T-i-m N-i-c-k-e-l, and I'm a consumer for the southwest...South Central Behavioral Services Unity House out at Kearney, Nebraska, and I oppose this reduction because of...the reduction of behavioral healthcare provider rates. I oppose this reduction because without Unity House I would just stay at home vegetating. Unity House provides me with structure. Without that structure, I basically...without Unity House I wouldn't take showers or take my medications. I just wouldn't care. Unity House provides me with a structure, provides I'm

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around consumers with the same diagnosis as me. The support system gives me suggestions on how to live my life, my daily life, how to deal with my life struggles. Unity House provides five hours of constructive time having classes, doing crafts, cooking, and recreational activities. Structure in my life helps me to remember to take my medication, have good hygiene, and to feel good about myself. Unity House helps me to have a good outlook on life and to have higher self-esteem. We have a good family at Unity House. It would be a shame to close it or cut its funding. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in today and testifying, Tim. Are there any questions? Seeing none, thank you. [AGENCY 25]

TIM NICKEL: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

KIM ANDERSON: Hi. My name is Kim Anderson, A-n-d-e-r-s-o-n. I just wanted to share a little bit about my life. Before I became an employee of South Central Behavioral Services, I was a client. I got to go there through the women's treatment, although that didn't work for me. I needed a higher level of care for my drug and alcohol use. I went inpatient treatment. After I got out of inpatient treatment, my husband utilized South Central for his drug and alcohol problem. We're both going to be celebrating 12-year sobriety in May. And I, after one year of sobriety, I became an employee of South Central Behavioral Services. The first eight years there, I was the manager of Freedom House, which was the men's halfway house in Kearney, Nebraska. The miracles I got to see there, of course not everybody succeeded, not every man, but I saw a lot of men come and get reunited with their families, become full-time employees of businesses in Kearney, get involved in the community, get involved in their children's school, get involved in churches. And I am now a counselor and I work in peer support at Unity House, wonderful programs that, if we get budget cuts, that may not survive. I've got to

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see women go through our intensive outpatient programs for their drug and alcohol use, get reunited with their children. And I just wanted to share with you my concerns of the cut that we're facing. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in and testifying. We like to hear stories like you just shared with us. Are there any questions? Thank you. Welcome. [AGENCY 25]

BOB RAUNER: (Exhibits 147 and 148) Hello. I'm Dr. Bob Rauner, B-o-b, last name R-a-u-n-e-r. I'm a family physician representing Nebraska Medical Association and the Nebraska Academy of Family Physicians. I'd like to hit a couple issues, one first that the first page of the handout, the Kaiser one, there are other ways to lower costs other than the managed cost approach. One of those main ways is to make sure that people get the care where they should. The most expensive place to take care of a patient is in the emergency room or the hospital. If you can get them taken care of in a less expensive place, meaning a family physician's office out in primary care, a pediatrician, it's much less expensive. You might take care of them for \$60 or \$70 a visit versus, say, \$300 at an emergency room. And so there are other ways to lower costs. And, Senator Nordquist, you talked about innovative ways to save money. This is one of those areas that they're touting and this is the kind of thing that can be done. Most of the medical home pilots that are working are showing savings in just this area. That's the whole point. There's also some misleading things that, although there are no cuts to primary care codes, there still are cuts to primary care physicians and more so in rural areas, because in rural areas family physicians, pediatricians, internists do more nonprimary care things like hospital visits, emergency room visits, obstetric care, things that would suffer some cuts. And so that's not quite true to say that primary care is not cut. It's also misleading to say that there's some access, that there is. One of the things that happens, although a lot of physicians do take Medicaid, most of them cap Medicaid if they can. And so what happens in Lincoln, we'll have times where we'll be down to two providers taking new Medicaid, and those are the two that can't close to Medicaid.

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Others will intermittently open as they lose a few patients, but they may cap their Medicaid at 5, 10, whatever percent, because they're only willing to take so much loss. In addition, in a rural area, you are unable to close to Medicaid. So if you're in, say, Lexington, Nebraska, and you're the family physician there, if you close to Medicaid, the patient just goes to the emergency room, in which case you're legally obligated to go see them within a certain specified time, which means you have to close your clinic, not see your paying patients and go see the ER visit patients. And so in rural areas this is a big issue, is that they can't close to Medicaid. They don't have that market power to go one way or the other, and that is a big issue in the rural areas. It is causing "inaccess" area in areas. My hometown of Sidney, Nebraska, my wife and I practiced there first. In the last decade they've lost a G.P. due to retirement, my wife and I another family physician and a surgeon, and they've only replaced them with one person so far. And this is actually, if you look at manpower studies, this is going to be a worse issue because we have a peak of primary care physicians in that 50 to 60 age range, and so in about ten years we don't have near enough people to replace them. So that's an issue that we have to worry about. And of course if I'm proposing that we prevent a cut, I have to find a way, where would you come up with that money. Well, the medical side of me thinks it's LB436. It might go over better if we called the cigarette tax a user fee because that's, in effect, what it is, is a user fee. The other handout I have is actually the state attributable medical cost per pack. It's \$1.25 to Medicaid. It's \$5 in healthcare costs overall. And so \$1.99 per pack barely even covers that. So just like if I'm going to the parks I should pay for some of the costs of the upkeep for the park, if I'm going to smoke cigarettes I should pay for some of the upkeep for me as a smoker. So really maybe it would go better if we called it a user fee instead of a tax. So thank you.

[AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming and testifying today. Are there any questions? Seeing none, thank you. [AGENCY 25]

BOB RAUNER: Thanks. [AGENCY 25]

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SENATOR HEIDEMANN: Welcome. [AGENCY 25]

ANN SCHUMACHER: (Exhibit 149) Chairman Heidemann, members of the Appropriations Committee, my name is Ann Schumacher, A-n-n S-c-h-u-m-a-c-h-e-r. My testimony today comes on behalf of Alegent Health and BryanLGH Medical Center. I'm a chief operating officer at Alegent Health, the largest faith-based, not-for-profit health system in Nebraska. And at Immanuel Medical Center, we are one of the largest providers of inpatient and outpatient behavioral health services in the region, caring for some of the most vulnerable members of our communities. These fragile members are people and they need your help. They need your wisdom and they need you. They are people like Gary. He had had enough of life. He was frustrated, hopeless, and suicidal, as well as a practicing alcoholic. He family had given up on him and he had nowhere to turn. He engineered a drunken encounter with police, trying to commit suicide by provoking them to shoot him. Fortunately, his plan was unsuccessful and he was admitted to our acute care unit at Immanuel. During his stay, he received treatment for his bipolar disorder and alcoholism, and he establish his first sobriety in several years. In the year since his discharge, Gary has not had to be readmitted and has remained sober. He has shared with his outpatient treatment team that the hospitalization saved his life. On any given day at Alegent Health we care for 21,500 behavioral health people, people like Gary who are on the edge of despair. Serving them costs Alegent millions of dollars every year, so why do we do it? Because it is who we are. It's who we've always been. Our commitment to behavioral health dates back 125 years to our founders--the Deaconesses and the Sisters of Mercy. We have stood the test of time and every time risen to the occasion. Senators, the provider cuts you are considering could very well be the greatest test of all, not just for Alegent Health but for the state's mental health system, which is already in crisis. We know the Medicaid budget is a huge challenge for our state and we are grateful for this committee and the work you've done to reduce the proposed provider cut from 5 to 4 percent. It's an important start, but we'd like to say it isn't enough. Alegent Health loses 48 cents on every \$1 caring for

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Medicaid patients. Healthcare reform will cut \$11.5 million per year in Medicare reimbursement. We provided \$74.8 million in charity care last year--of that, \$32.6 million was charity care--excuse me, community benefit. In behavioral we lose \$8 million every year by providing the needed services to our community and our state. We've anticipated the provider cuts that you are considering will cost us another \$2 million. We've been a strong partner of the state, most recently demonstrated during the safe haven crisis where we cared for the majority of the children in need and we were at the table to find solutions. We are not far from another more far-reaching crisis. We understand the difficult position the state of Nebraska is in and we hope that you will consider the difficult position that providers are in. Thank you for your service to our state. This committee spends countless hours trying to make very difficult decisions and we greatly appreciate your dedication. We hope that you'll consider us as a resource as you deliberate on this important matter. On behalf of Alegent Health and BryanLGH, we urge you to carefully reconsider the proposed cuts to Medicaid reimbursement. Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for testifying today, Ann. Are there any questions? Senator Hansen. [AGENCY 25]

SENATOR HANSEN: Thank you, Mr. Chairman. Ann, you're the first hospital representative to come up and testify today. How long do people wait and what was the number again that come through your doors for behavioral health services, 21,000? [AGENCY 25]

ANN SCHUMACHER: We have...we are responsible for, on any given day, today for example, 21,500 persons with behavioral disorders. At Immanuel, to give you an example of the access issues that currently exist in our system, last month at Immanuel we had nearly 160 patients waiting in our emergency department for an average of 14 hours. We've had patients wait as long as eight days to get into inpatient care. So there are significant access issues. We have expanded our outpatient care. Frankly, we lost

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more money in our outpatient care. We have an extensive network of psychiatrists that we employ in order to gain access to less expensive care for our consumers, keep them out of the highest cost of care of inpatient, but the reimbursement we get does not cover our costs. [AGENCY 25]

SENATOR HANSEN: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. [AGENCY 25]

ANN SCHUMACHER: Thank you. [AGENCY 25]

BRENDON POLT: (Exhibit 150) Good afternoon. My name is Brendon Polt, that's B-r-e-n-d-o-n P-o-l-t, and I'm here representing the Nebraska Health Care Association and Assisted-Living Association. There's about 200 nursing home members and 200 assisted-living members, and I doubt you're sitting there scratching your heads wondering what the nursing homes and assisted-living facilities think of the provider rate cuts, so I'll be brief. The reality though is our members, to them these reductions are of extreme importance and will cause significant devastation across the state, and so we did want to be officially on record in opposition. However, at the same time, I will say I know that I think multiple, if not every member of the committee, has been looking to restore funding to provider rates. We do appreciate that. As a previous testifier said and I wanted to say something similar, we don't oppose cuts without a solution and we do have another piece of legislation, LB600, that was prioritized by Senator Campbell. We hope that could restore some funding for provider rates and we'll look for the Legislature's support in that regard. A couple of issues that came up earlier in the hearing I wanted to address. One of them had to do with whether or not nursing facilities are inefficient due to a low occupancy rate, and I think there was a statistic cited of about 50 or 60 percent. Well, I checked the department's data, and we get our data from the department, and the occupancy rate is hovering around 80 percent. The most recent data says 78.5 percent. I also looked at where Nebraska ranks at, the facilities, where

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do they rank in terms of providing costs per service...cost per resident nationally. We're the 13th best. Where are our rates and reimbursement, the margin between costs and reimbursement? We're at the bottom of the country. Where do we rank with CMS in providing quality healthcare services? If you go to nursing home compare, Nebraska is at the top of the country. So we're doing everything we can, providing low-cost services, and what we're saying is that a 4 percent cut over two years, that's not sustainable. So please help us continue our successes. And with that, I conclude. [AGENCY 25]

SENATOR HEIDEMANN: Thanks, Brendon, for coming in today. Senator Hansen.  
[AGENCY 25]

SENATOR HANSEN: A quick question, Brendon, and thank you for coming and testifying here today on provider cuts. Could you get a map for us, I mean we do this all the time about, per district, where occupancy is,... [AGENCY 25]

BRENDON POLT: I have that. [AGENCY 25]

SENATOR HANSEN: ...because I think that we're higher than 80 percent in my district? I mean there are waiting lists for people looking for a nursing home and assisted living, both. [AGENCY 25]

BRENDON POLT: I suspect that could be the case in your part of the state. I do have that by county. I think I've put it down to legislative district. Just in case someone ever asked, I did break it down. [AGENCY 25]

SENATOR CONRAD: I'll bet you did. [AGENCY 25]

SENATOR HANSEN: Thank you. [AGENCY 25]

BRENDON POLT: You bet. I'll provide that to your staff or staff of the committee.

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[AGENCY 25]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you. [AGENCY 25]

TYE KOZISEK: Hello. My name is Tye Kozisek, it's T-y-e K-o-z-i-s-e-k, and I'm here with Able House. It's a short-term facility center for people recovering from mental illnesses. And there's a day program that I go to called Opportunity House, and if that place closed down there would be many homeless people roaming the streets, and so crime would probably increase. I just wanted to say one in three people suffer from a mental illness in the U.S. Many of these people take medication and go through therapy. It is because of the utilization of medication and therapy that allows for many of these people to be productive members in professions and also in society. When we take away these people's medications and their therapy, you will have many mentally ill people who will be unproductive. So that's...I was nervous. I was pretty nervous. (Laughter) [AGENCY 25]

SENATOR HEIDEMANN: You did a great job and we appreciate hearing the story. So it's very helpful for us to make that decision then when we finally have to. So any questions? Thank you very much for coming up today. [AGENCY 25]

TYE KOZISEK: Okay. Yeah. Yeah. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

CHARLES GREGORIUS: Thank you, Senator Heidemann and members of the committee. I'm Dr. Charles Gregorius, that's C-h-a-r-l-e-s, Gregorius is G-r-e-g-o-r-i-u-s. I'm an anesthesiologist at BryanLGH and I am president-elect of the Nebraska Medical Association, and it is for the NMA that I am here today. I am following up a little bit on what prior speakers have said to you and I'm primarily here to respond to Senator Nordquist's inquiry about the relative cost differences or differences between what it

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costs to deliver care in clinical offices versus what the physicians are being paid. I was president of the Lancaster County Medical Society in 2002 and the most common call our office got was I'm new to Lincoln, I'm on Medicaid, I can't find anybody to take me into the office. My colleagues who are in office practices told me that in 2002 Medicaid didn't pay the freight. It was red ink. In the last ten years, in the last decade, the costs of delivering care have gone up 48 percent and the 1 to 2 percent increase in payments that we've heard about in the last two years has occurred over that entire time. So that has come out over a decade. It would be about 26 percent. The average cost of delivering care, that is in an office, is about 65 percent of revenue. If this is your cost of doing care and this is your revenue, and your revenue is dropping, pretty soon that cost can get higher and higher. Eventually, in order to just keep your office open, you have to start saying no to somebody and you say no to the red ink. I inquired about 30 minutes about Lancaster County and on any given day there are three to five offices closed to new patients. As Dr. Rauner had mentioned earlier, it's kind of a moving target. Depends on whose office has lost a patient for one reason or another and can take on another. But the red ink is there and it's going to close more offices more of the time if this 4 percent cut goes through. If there's any other questions, I'd be happy to answer. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in and testifying today. Are there any questions? Seeing none, thank you. [AGENCY 25]

CHARLES GREGORIUS: Uh-huh. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

BRENDA COOK: Hi. Hi. My name is Brenda Cook, C-o-o-k, and I'm here today...first of all, I want to thank you all for listening to my testimony. I'm kind of here wearing two hats. The first hat that I wear is I am a community provider. I work for South Central Behavioral Services in the specialized children services division. We provide in- and

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out-of-home care for children that are referred to us through the Department of Health and Human Services. So part of my job is to recruit and train foster homes and then place those children that are referred to us. My second job and my much more important job is my role as a mother. I am a foster parent. My husband and I have fostered for over ten years now. We've had a variety of children that have come into our house and some of them have stayed. Currently, we have four special needs children that live with us. When I start hearing reports of having budgetary cuts, it directly affects me and I wanted to talk to you about those concerns and worries. Right now, three of my children I drive over 90 miles every week to receive the specialized treatment that they need for their severe behavioral and mental health issues that they have. That's 90 miles every week, usually on a Friday night. It's my standing Friday night date. I'd like to have it with my husband, but I get to have it with my kids. I'm worried right now. Five years ago my son that came to live with us when he was 11, I was able to access services in my community three times a week. Today he's a 20-year-old that graduated from high school, was on the state football team that won the state championship three years ago, and he has successfully completed a program out at Chadron and is now gainfully employed in the state. The other four children that are in my house right now I'm worried about because I don't know if those services for those children are going to be there five years from now. They're not there now for them. I have a ten-year-old that has just been diagnosed with the possibility of bipolar disorder. I don't know where I'm going to get services for her. And those services, if they're not in my community, will mean that I will have to place her out of my home. I'm going to have to separate her from her eight-year-old sister and that's very concerning to me. I'm very worried about what the future holds for my children, and when we talk about budgetary cuts I want you to realize with your diligence in your work that it does impact us directly, and I'm worried, and I just wanted to share those concerns with you today. Thank you so much for listening to me. [AGENCY 25]

SENATOR HEIDEMANN: As a foster parent, what's been your working experience with the foster system? [AGENCY 25]

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BRENDA COOK: It has brought me the greatest joy in my life, and that's my children, and it's brought me probably the worst times in my life also. But a lot of those goes with just the fact of fostering. It's been a very difficult last two years for most foster parents, I think that's pretty common throughout the state, but it does feel like we are coming, you know, back out of it. I enjoy my work as a foster parent, I enjoy my work with the biological families that I've worked with in the past as far as reunifying children that have been in my home. Currently, my two daughters, I work very closely with their grandparents. The four children that are in my home right now, all of their family members are in the penal system. I want to break that cycle with my kids. [AGENCY 25]

SENATOR HEIDEMANN: Do you feel like you work with the system or fight the system? [AGENCY 25]

BRENDA COOK: You know, as far as working with Health and Human Services, I feel that our relationship...we live in rural Nebraska, I live in Blue Hill, Nebraska, which is about 20 miles south of Hastings. Where I fight the system is just trying to procure services for my children. It can be anywhere from just having a medication approved by Medicaid because they're all, you know, Medicaid provided, to finding the appropriate therapist, especially therapists that specialize in trauma, severe abuse and neglect. That's where I feel like I'm fighting the system just trying to find those services within an area that's close and more conducive for my children to complete their education and receive those special services that they need. [AGENCY 25]

SENATOR HEIDEMANN: Thank you. Are there any other questions? Seeing none, thank you. [AGENCY 25]

BRENDA COOK: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

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DOROTHY RAGUSI: Hello. My name is Dorothy Ragusi, R-a-g-u-s-i. I live in Hastings and I attend Opportunity House on a daily basis, five days a week. I currently have a multidiagnosis of mental health issues. Without the support of Opportunity House and medications and with the help of Medicaid, I would probably not be here right now. And also with the support of my community support worker, I have been able to do things like go to the grocery store. Without the help of my community support worker, I was unable to even walk into a grocery store by myself. It has been the help of my unit coordinator and my therapist and my med provider that I am capable today of accomplishing my goals of...I'm sorry. I'm very nervous. (Laugh) [AGENCY 25]

SENATOR HEIDEMANN: You're doing a great job. Just take your time. [AGENCY 25]

DOROTHY RAGUSI: Living my daily life, I'm living independently now. When I first came to Nebraska, I was in very bad shape. I was in the Hastings Regional Center for about a year and a half and the woman that helped me get out of there and start a new life was Mary Ann Warner, who I met from Opportunity House and presented me to Able House in Hastings, and I started a new life there and they helped me get back on track. And without those programs, I don't know, I just don't know where I would be without them. So we really need these programs for future people to be able to succeed. And that's pretty much all I have to say. [AGENCY 25]

SENATOR HEIDEMANN: What brought you to Nebraska, out of curiosity? [AGENCY 25]

DOROTHY RAGUSI: Well, actually a job brought me to Nebraska. In Iowa, there was very little possibility for me to get a job that paid, you know, very much for me to live on. I was kind of poverty stricken actually. And I had a friend that lived in Kearney, Nebraska, and she put...I put in an application at the hospital there in Kearney and I actually got an interview over the Internet, and I actually got the job, which I was

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amazed, and I have been in Nebraska ever since then and that was 2002. [AGENCY 25]

SENATOR HEIDEMANN: Well, thanks for coming in and telling your story. Are there any other questions? Seeing none, thank you. [AGENCY 25]

DOROTHY RAGUSI: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

PATTI JURJEVICH: (Exhibit 151) Thank you. Good afternoon, Chairman Heidemann and members of the Appropriations Committee. I am Patti Jurjevich, J-u-r-j-e-v-i-c-h, and I appear before you today representing the Nebraska Association of Regional Administrators, a coalition of the administrators of the six behavioral health regions across the state of Nebraska. I am the administrator for Region 6, which encompasses Cass, Dodge, Douglas, Sarpy, and Washington Counties in eastern Nebraska. Let me begin by expressing the appreciation of the regional behavioral health authorities for the hard work you've done on the budget. We understand and appreciate the difficult budget issues that you face in this budgeting process. However, I appear before you today to express the opposition of the regional behavioral health authorities to the 4 percent reduction and provider rates and to register our concern regarding the proposed reduction of \$2.3 million to the regional behavioral health budgets. First, as to the reduction in the provider rates, we believe that the proposed 4 percent cut to provider rates will cause a catastrophic effect across the continuum of care within Nebraska's mental health and substance abuse system. Also, many of the providers located within our regions will also see an additional 5 percent cut in Medicaid reimbursements, making the impact more severe. While you are aware of this, I think it is important to highlight that, since 2008, 22 programs in our facilities across the state have closed because the payment for services does not cover costs. With these reduction in rates, we will only see that number grow and most likely in the more rural parts of our state.

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The providers in our regions are already making tough cuts to an already overburdened system, including cuts to both staffing levels and to employee pay and benefits, all this while trying to maintain the standards required by service definitions, mandatory licensing, and accreditation. One suggestion that we would offer to the committee is, for the rate cuts to mental health and substance abuse providers, to translate that cut to a dollar amount and reduce the behavioral health regional budgets by that corresponding amount and to allow us, based upon our expertise and the statutory guidance provided to us under Nebraska law, to make the appropriate cuts within our individual regions. Second, as to the proposed reduction of \$2.3 million in regional behavioral health budgets, since the beginning of the current fiscal crisis approximately three years ago, transfers of approximately \$12.7 million have occurred out of the Division of Behavioral Health of what were known as rainy day funds to the General Fund. These rainy day funds were those funds identified as savings realized from the closure of the Norfolk and Hastings Regional Centers. Originally, these were savings realized and identified for the development of community-based services across the state. However, during the fiscal crisis, these funds have been transferred to the General Fund to assist with the projected shortfalls in revenues. We knew then that this was a distinct possibility that these funds could be utilized for this purpose. However, with the proposed reduction of \$2.3 million, we are beginning to become extremely concerned about our ability to maintain the continuum of care for behavioral health across the state. These cuts are directly affecting the level and kinds of services being provided across the state. While your committee continues to deliberate future actions that will reduce our budgets or those funds available to providers, we have actively supported alternative ways to address these losses. One such way was through our support of LB436, Senator Gloor's bill to increase the tobacco tax and provide additional, much needed resources for the state's behavioral health system. In conclusion, I appreciate your consideration of our two concerns regarding your preliminary recommendation and would be happy to try to answer any questions you might have. [AGENCY 25]

SENATOR HARMS: Thank you for your testimony. [AGENCY 25]

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PATTI JURJEVICH: Thank you. [AGENCY 25]

SENATOR HARMS: Do we have any questions? Seeing none, thank you very much.  
[AGENCY 25]

PATTI JURJEVICH: Thank you. [AGENCY 25]

SENATOR HARMS: Welcome. Thank you for being here. [AGENCY 25]

CAROLE BOYE: Thank you for having us all. [AGENCY 25]

SENATOR HARMS: You're welcome. [AGENCY 25]

CAROLE BOYE: (Exhibit 152) My name is Carole Boye, C-a-r-o-l-e B-o-y-e. I'm the chief executive officer of Community Alliance, which is a mental health organization that serves about 2,000 adults every year in the Omaha Region 6 area. Boy, you're heard a lot today, but I do think I read faster than I summarize. So if you'll bear with me, I'll try to pick out some things here. We know you've heard about the negative impact now in terms of provider rate cuts and other cuts in the system, and we really do echo the comments of many of our colleagues about the human pain and measurable consequences that cuts like this really do cause. So our initial plea is to please find another way. Let us work with you to find another way to deal with the economic challenges that are facing our state. But if we can't find another way or maybe in addition to trying to find a halfway point here, we have also a few other tangible suggestions to request as to how we might be able to mitigate the damage here. First of all, we're going to ask you to please be fair. Do not allow community-based services to bear the brunt of the knife over that of state-operated services which have historically been funded on an expense basis which better absorbs increased wages and benefits and operating costs. HHS departmental and administrative budgets, and the costs of

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operating the state regional centers really should be included in behavioral health reductions in equal measure to community-based services. It is not fair nor can we expect to keep community-based staff if they are forced to accept frozen and reduced wages, increased healthcare costs, and other costs when such sacrifices are not being asked by our state operated facilities. Second, to echo something that Patti Jurjevich just said, permit the regions and local provider networks flexibility in administering the reductions that are imposed. We understand that you calculate proposed reductions based on a percentage of current rates, but we ask that you don't mandate that those cuts actually be made by a reduction in rate but rather allow the regions and local communities to decide where they might be able to make those cuts with less harm. When you do it across the board with rates, it's kind of the proverbial death by a thousand cuts, where good business management and system management principles says, let's look at things like service demand and effectiveness and geographic differences that you've heard a lot about today, and the relative balance of services within a region's continuum of care. Third, we're going to ask you to help us mitigate the impact by providing us with some relief from burdensome regulations and unfunded mandates. Let me be very clear, we are not advocating for less quality or accountability, only for relief from regulations that add requirements, and, therefore, costs, without demonstrating measurably increased quality or effectiveness of care. Both the Division of Behavioral Health and Medicaid are on the brink of instituting new, additional, and seemingly redundant regulatory requirements that many providers agree will substantially increase our operational costs at the very time that we are being asked to eliminate costs. Let me use a quick analogy. Let's say a business is manufacturing and selling a quality product at the exact break-even cost of \$1,000. Under the current budget proposal, this business will now have to find a way to manufacture that same product for \$950 or \$960, if the 4 percent reduction goes through. We have to reduce our cost, however, current regulations require that we have at least five line workers tightening the bolts on this product for each and every product that we manufacture. So even though advances in technology and skill and production methods would allow us to reduce those line workers by four, we still have to keep five line workers via

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regulation. Then we add, if we continue this analogy, additional regulations that are being adopted. One new regulation would now require this same business to have a higher paid, advanced or master level bolt tightener (laughter) within to supervise the five line workers. In addition, that master level bolt tightener would have to do...to create a brand new blueprint for every potential product that we're trying to manufacture. This is the impact of the regulations. So now in this analogy what we have is, even while we're trying to get that cost down from \$1,000 to \$950, actual costs are going to go up to \$1,100 or \$1,200 and we have no room to maneuver here. And that doesn't take into account any of the wage adjustments or the \$3.50 a gallon gasoline that we're all facing, or the increased health costs, or I would say there was a lot of discussion on your part about the cost of coming up with an electronic health record and all those things. We are all facing those same kind of costs. It's an unsustainable business model. This is the kind of things that drive providers out of business. We simply cannot continue this. So what we really want to ask you to do today is to consider helping us by putting language in the appropriations bill that helps mitigate some of this. Give the regions and local entities the authority to administer behavioral health cuts flexibly and include in the appropriations bill a two-year moratorium on costly new staffing requirements and inflexible old ones, redundant processes, and unfunded mandates. Better yet, require the Division of Behavioral Health and Nebraska Medicaid to grant deemed status to provider organizations that are nationally accredited--a method used by states across this country to reduce redundant costs on both providers and the regulatory agency. We do understand the difficult choices you're facing. We want to help. We're asking for your help to do that. Thank you. [AGENCY 25]

SENATOR HARMS: Thank you, Carole. Do we have any questions? Yes, Senator Conrad. [AGENCY 25]

SENATOR CONRAD: Carole, thank you for your passion and very clear illustration of a day in the life of a provider, I guess. And it's very compelling when you lay it out for that and very easy for us to understand. So thank you for that. And I did just want to state for

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the record, and I'm sure that other members of the committee feel the same way, from the other advocates that are here and the consumers and the administrators and the associations and interest groups, it speaks volumes to this committee that we had a packed house here today. And we've seen, in my office at least, I've seen countless e-mails, phone calls and letters from people who are also concerned about these issues. And so just because we may not have a lot of questions and it is getting late in the day and I wanted to make sure people knew, in case they had to leave by 5:00, your presence here makes a difference and it means a lot and we really, really appreciate you all taking the time to come down. So thank you so much and thank you, all.  
[AGENCY 25]

CAROLE BOYE: Thank you. [AGENCY 25]

SENATOR HARMS: Thank you, Senator Conrad. Do we have any other questions? Carole, thank you very much for coming in. Welcome. Thank you for being here to testify. Appreciate it. [AGENCY 25]

TIM CUDDIGAN: (Exhibit 154) Good afternoon, members of the Appropriations Committee. My name is Tim Cuddigan, T-i-m C-u-d-d-i-g-a-n, and I'm the president of NAMI Nebraska, the National Alliance on Mental Illness. We represent individuals and families affected by serious mental illness, as well as their friends and their supporters. Before I get started on my presentation, and I'll make it brief because many things have been said already, the face of mental illness isn't just some stranger. It's our coworkers, our neighbors, our friends, our families, and sometimes ourselves. Nebraska's mental health system is in crisis. We've heard that a number of times this afternoon. I'm not going to go over that again. The important take-home message from what I think we've seen this afternoon is that treatment works, but it only works if it's available. And these provider rate cuts will make access to treatment difficult, and that will make the recovery difficult for individuals affected by mental illness. I just give you the example in Douglas County, and I know our example is not maybe perfect. It takes quite a while to have

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access to a psychiatrist for a first visit at the Douglas County mental hospital. The availability of services is limited in rural areas of the state as well. I know that your budget cuts are difficult. The hour is late. I'm not going to repeat what's been said already today. Please just consider how important access is and how the viability of providers and their ability to deliver services is important. Thank you for your time.  
[AGENCY 25]

SENATOR HARMS: Thank you very much. Do we have any questions? Seeing none, thank you, Timothy. Could I see a show of hands, how many people are here to testify for Agency 25? Would you hold your hands up? Thank you. Welcome. Thank you for being here to testify. Appreciate it. [AGENCY 25]

JAMES SUMMERFELT: Thank you for having me, Senators. [AGENCY 25]

SENATOR HARMS: You're welcome. [AGENCY 25]

JAMES SUMMERFELT: (Exhibit 153) Thanks for giving me this opportunity. My name is James Summerfelt, J-a-m-e-s S-u-m-m-e-r-f-e-l-t, and I'm the chief executive for the Visiting Nurse Association but also a member of the Nebraska Association of Home and Community Health Services. There's 129 licensed agencies in the state and thousands of caregivers that are employed by these agencies. The VNA in Nebraska has been around for 115 years. Home and community-based services aren't a new idea, a new concept. We didn't start billing for our services until the entitlement programs began in the 1960s. Up until that time, everything was done through donations and contributions. And I don't need to explain the Medicaid system to you all but let me provide you a little bit of information here. But I'm urging you to not reduce the Medicaid funding for home and community services for the citizens of Nebraska. Reducing these...funding for these services is penny wise and pound foolish. It's serious. It will seriously jeopardize the health and well-being of many children, disabled citizens, and elders in Nebraska. My testimony will give you four critical issues. One, the budget cuts will reduce access to

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healthcare in the state. It will actually increase expenses through use of emergency rooms, hospitalizations, and nursing home admissions. The quality of life will be diminished in the state and unemployment will also increase. Reductions in access to home and community services, the recent cost reports already show that 60 percent of the licensed agencies in Nebraska are operating at zero or negative margins, so a 4 percent reduction in Medicaid is going to result in decreased access. Agencies will either go out of business or stop accepting admissions if Medicaid is the payer source. The expenses to operate these agencies continue to go up and up with increased salaries, health benefits, the cost of gasoline. We obviously go to people's homes, so our caregivers have to drive from home to home. In rural Nebraska sometimes that's an hour or better between homes. And as I said, with the cost of gas going up over 10 percent in the last couple of weeks, our expenses continue to rise with reduction in our federal funding as well as now proposed state funding. The increased utilization of emergency rooms and rehospitalizations, patients are being discharged from the hospitals with more complex healthcare needs than ever before. People are less prepared to deal with their health needs. People have more prescriptions, more instructions to follow. They're expected to cope with all these once they return home and usually they're living alone without caregivers at home. The average person who's covered by Medicaid doesn't have the health education or the informal caregiver support to comply with the elaborate and complex instructions given to them by their physician. Registered nurses, licensed physical therapist with advanced degrees in training and education follow these patients back home to ensure that they understand and comply with their doctor's orders. Without that professional care in the home environment, people will quickly return back to the hospital, the emergency room, be admitted to a nursing home, and that's where the increased expenses actually occur. The parents of children with disabilities who depend on Medicaid-supported services now will have to quit their jobs, drop out of school that they're trying to improve their lives, to be to stay home and take care of their children. The parents...those children who have higher needs, for example, like tracheotomy care, will have to be institutionalized because they can't stay at home because the caregivers won't be there

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to take care of them. With fewer home and community health agencies in the state, nurses and other professional caregivers will have to leave the state to go work elsewhere. So to close, reducing Medicaid benefit for home services by 4 percent or any amount will result in increased expenses to the state for Medicaid. The state will also lose federal matching funds that come along with that. Citizens of Nebraska will suffer. Children's families, disabled adults and elders will be forced to live a lower quality of life. If the budget reduction passes, Nebraska will not be anyone's idea of a place to raise a family, receive an education, or live their lives after working all their lives. Nebraska will abandon those that need us the most. So thank you for the opportunity to address you today. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in and testifying, for the information. Are there any questions? Seeing none, thank you. [AGENCY 25]

JAMES SUMMERFELT: Thank you. [AGENCY 25]

SCOTT FARMER: Good afternoon, Senators. My name is Scott Farmer, S-c-o-t-t F-a-r-m-e-r, and you have my letter before you. I oppose the 5 percent Medicaid cut. I've been mentally ill since 1986 and receiving Medicaid since 1997. I feel I've kind of tried from '86 to '97 to get my life together and work without the benefit of Medicaid and Medicare, but it didn't work out for awhile. But I am not back on board pretty good. I haven't had any delusions of people thinking...me thinking people are watching me, you know, and stuff and...but without those problems, I probably could go back to work. But I have a question for all of you. Where are the jobs? Where are the jobs? And I've been helped immensely. I wanted to repeat that I've been helped immensely by Opportunity House. I know this isn't a hearing on jobs but I just ask. You know, you look in the paper, you don't see very many dish-washing jobs or something per...I know they mentioned, they said like, oh, people with developmental disabilities. I may have one a little bit. And it's hard for them to get started in a young age, you know, and that's a problem I'm finding, you know, in getting that ticket to work and responding work back

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and saying, yes, I have been pursuing work and I'm willing to work, you know. But it's just that the jobs aren't out there right now. And that's all I have to say. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in and testifying. And thank you for continuing to look for work opportunity. [AGENCY 25]

SCOTT FARMER: Uh-huh. Thank you. Thank you. [AGENCY 25]

CONNIE COOPER: (Exhibit 155) Thank you. Good afternoon. My name is Connie Cooper and I'm the director of the Area Agency on Aging in Norfolk and also the chairman of the Nebraska Association of Area Agencies on Aging. We wanted to provide you some information this afternoon. The Area Agencies on Aging do provide a comprehensive and coordinated service system for older adults. This is accompanied by...or accomplished by working with federal, state, and local officials, older Nebraskans, as well as service providers. The state of Nebraska does fund two home and community-based service programs--Care Management, and also the Community Aging Services Act, also known as CASA. In fiscal year '11, state funding for Care Management and for CASA was over \$7 million to the Area Agencies on Aging. The Governor's budget proposes a 5 percent cut in Care Management and CASA, totaling nearly \$400,000. This decrease in funding will reduce our ability to provide home and community-based services. Some clients then may be forced to look and seek nursing facility care. The average nursing facility Medicaid cost is \$3,620 per month. If even 30 Care Management clients seek nursing facility placement, it would cost over \$108,000 monthly or over \$1 million a year. The state pays 40 percent of this cost or over \$520,000. Instead of saving nearly \$400,000 in funding reductions, the state may experience expenditures over \$500,000 in nursing facility care. It is in the interest of the state of Nebraska to encourage home and community-based services. I do have a case history that's attached to that to let you know a little bit about how the network does work. The Senior Care Options Program is Nebraska's nursing facility preadmission screening process. An individual must be 65 years or older and requesting Medicaid

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funding to cover the cost of care at a nursing facility. This means an individual has submitted an application for Medicaid. An assessment is completed by the Area Agency on Aging and the individual must meet certain eligibility criteria, called nursing facility level of care, in order for Medicaid to pay for someone's nursing facility care. This is in addition to being financially eligible for Medicaid through the Department of Health and Human Services. This case history involves an 82-year-old female who has been residing at a nursing facility for three months. Her nursing facility stay was being paid for by Medicare. She made application with the Department of Health and Human Services to pay for her nursing facility stay after Medicare would no longer pay. Of not, Medicare oftentimes only pays for a short amount of time in a nursing facility. The individual was then subject to the Senior Care Options Screening process, and the Area Agency on Aging was contacted. Her diagnosis, as you can see: recent hip replacement, glaucoma, atrial fibrillation, hypertension, hypothyroidism. This individual was hospitalized after a recent hip surgery. She was then admitted to the nursing facility for rehabilitation. She received physical and occupational therapy to become stronger in hopes of returning home. She was assessed and did not meet the requirements for nursing facility level of care. This meant that Medicaid would not pay for her level of care in the nursing facility. This can at times be a somewhat unpopular decision, especially when the individual's family is not in favor of her returning home. Without Medicaid paying for her care, she was considered to be paying privately for her nursing facility care. A referral was then made to the Area Agency's Care Management Program to assist in setting up services to meet her needs. Assessment was completed and services set up. This is a good example of several programs and services working together to assist an individual who, through a medical crisis, would not fall through the cracks. The nursing facility served as an important role to get her the rehabilitation she needed after her hip surgery. The Senior Care Options Program was there to assess and, when she did not meet the assessment criteria, to explain options for her in-home care, and then the Care Management Program was there to assist in setting up services and provide ongoing monitoring of her care. Costs for in-home services is \$500 a month, costs for Care Management was \$250; and the cost for the nursing facility

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services if there was no Senior Care Options would be around \$3,500. Thank you.  
[AGENCY 25]

SENATOR HEIDEMANN: Thank you for the information. [AGENCY 25]

CONNIE COOPER: Okay. [AGENCY 25]

SENATOR HEIDEMANN: Are there any questions? Thank you for coming in and  
testifying today. [AGENCY 25]

CONNIE COOPER: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

AMY RICHARDSON: Hi. Good afternoon, Chairman Heidemann and Appropriations  
Committee members. My name is Amy Richardson, A-m-y R-i-c-h-a-r-d-s-o-n, and I'm  
vice president of program for Lutheran Family Services, and you'll be quite relieved that  
I do not have prepared testimony. I just wanted to respectfully request that a letter I  
brought that kind of got in with all the NABHO members from the statewide board of  
directors from Lutheran Family Services is put in on the record. (See Exhibit 145)  
[AGENCY 25]

SENATOR HEIDEMANN: So noted. Are there any questions? Senator Hansen.  
[AGENCY 25]

SENATOR HANSEN: Thank you, Mr. Chairman. Amy, thank you for coming. [AGENCY  
25]

AMY RICHARDSON: Uh-huh. Sure. [AGENCY 25]

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SENATOR HANSEN: What are the green ribbons? Everyone has green ribbons on except us. [AGENCY 25]

AMY RICHARDSON: The green ribbons are for the behavioral health to make sure that we do not get a cut in services in our provider rates. [AGENCY 25]

SENATOR HANSEN: Okay. Thank you. Lutheran Family Services has a great program in North Platte and I'm really worried about it, because if we lose that service I don't know who's going to be there to pick it up. Could you tell us a little bit about the financial situation that the North Platte office is in, North Platte and then I think there's another one in Lexington too. [AGENCY 25]

AMY RICHARDSON: Right. We also have one in McCook, Lexington, Gothenburg, North Platte, and those offices are absolutely critical as far as the system of care goes. We're one of the largest outpatient behavioral health providers out there for children and adults. And last year we had to supplement. We receive about 40...we lose 40 cents on every \$1 of Medicaid dollars, and the concern is definitely that the amount of money we have to supplement that. And last year it was over \$300,000 for the Western Area. And this year, with these kind of cuts, we're looking at way over a half million dollars and we will not be able to sustain that. And we have many employees out there, we have employees that speak different languages for our Lexington office. We know we're critical and that system of care for those kids and adults out there, not only behavioral health but the drug and alcohol piece, too, and it will be very concerning because a primary healthcare provider can do the med management but they don't do talk therapy and they will not have that out there. [AGENCY 25]

SENATOR HANSEN: How many employees in that Western Service Area, do you know offhand? [AGENCY 25]

AMY RICHARDSON: Ah, let's see, 36. [AGENCY 25]

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SENATOR HANSEN: 36? [AGENCY 25]

AMY RICHARDSON: Uh-huh. [AGENCY 25]

SENATOR HANSEN: So that's a pretty slim number of people working for that many...  
[AGENCY 25]

AMY RICHARDSON: Uh-huh. [AGENCY 25]

SENATOR HANSEN: ...that big an area. [AGENCY 25]

AMY RICHARDSON: Uh-huh. [AGENCY 25]

SENATOR HANSEN: Know you service Ogallala, too, even though you don't have an  
office there. [AGENCY 25]

AMY RICHARDSON: Right. Right, right. Many people, because there are not enough  
mental health providers out there, will drive a long distance. We also have telehealth  
available in North Platte. [AGENCY 25]

SENATOR HANSEN: So you have been using some technology to... [AGENCY 25]

AMY RICHARDSON: Uh-huh, absolutely. [AGENCY 25]

SENATOR HANSEN: ...to spread the labor force around. [AGENCY 25]

AMY RICHARDSON: Uh-huh. We'd like to do that more, yes. [AGENCY 25]

SENATOR HANSEN: Yeah. Well, I appreciate it and I appreciate what you've done and

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I hope that we can come up with a solution, because I know if Lutheran Family Services are gone, it's going to be really hard to replace. [AGENCY 25]

AMY RICHARDSON: Thank you. [AGENCY 25]

SENATOR HANSEN: Thank you. [AGENCY 25]

AMY RICHARDSON: Thank you for your time and questions. [AGENCY 25]

SENATOR HEIDEMANN: Seeing no further questions, thank you, Amy. [AGENCY 25]

AMY RICHARDSON: Thank you. [AGENCY 25]

SENATOR HEIDEMANN: Welcome. [AGENCY 25]

MARK INTERMILL: (Exhibit 156) Good afternoon. Thank you. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here representing AARP. Very briefly, I just want to make three quick points. Some AARP members receive home and community-based services, so we're very interested in that, but all of our members are taxpayers so we're also interested in making sure that services are provided efficiently and economically. We believe that the home and community-based services programs that are operating in the state add to this efficiency, and I've included in the packet of information just some information about the trends in Medicaid. When I came to Nebraska in 1990, we had kind of a regular deficit appropriation for Medicaid, which I don't think we've had since 2000, and a big part of that is some changes in terms of how the cost of Medicaid services for people over the age of 65 which have essentially remained flat for the last eight years. So we think that the home and community-based services do provide an efficient way of delivering services for long-term care for our population. We also...another point I'd like to make is that Area Agencies on Aging have been working with the ACCESSNebraska Program and we have had...seen some

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additional work that they have had to take on as a result of that. Changes in the way that those services are...the eligibility determination process is taking place have added to the workload of those agencies. It's also disrupted some eligibility for people who are receiving home and community-based services through the Medicaid waiver. We have been working with a number of organizations to try to take a look at how we can make sure that ACCESSNebraska works well because I think we do need to have something like ACCESSNebraska. I'm just not sure it's quite working as well as it could be right now. We are looking at the possibility of just having a little bit more...some performance measures that we might be able to incorporate into the process so that we could kind of take a look at what are the steps that need to be...we need to be looking at in order to make sure that we have a system that works as well as possible. So with that, I'll conclude. [AGENCY 25]

SENATOR HEIDEMANN: Thank you for coming in today. Senator Conrad has a question. [AGENCY 25]

SENATOR CONRAD: Thank you, Mark. Good to see you. [AGENCY 25]

MARK INTERMILL: Sure. Good to see you. [AGENCY 25]

SENATOR CONRAD: Thank you for the information. And I did want to just touch briefly on the point you made regarding ACCESSNebraska, because we heard about that yesterday as well during the other component of the Health and Human Services budget hearing. And I'm wondering, I'm guessing you have probably an extensive list of ideas, but if you could just talk a little bit more about specifics in terms of what we can do from a budgetary perspective through...in intent language or otherwise to encourage the department to provide more public accountability or transparency or to do more collaborative work with consumer groups to ensure that this system is implemented appropriately. [AGENCY 25]

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MARK INTERMILL: I think the thing that we have looked at is to set some performance measures. For example, how many cases are closed might tell us in some cases if we have some people who are being closed who may still be eligible but just because of falling through the cracks. We have, for example, some people who are blind who got written notices that they weren't able to...they didn't really realize what they were. So we do have some ideas of things and not necessarily to cast any aspersions on the program but just to be able to recognize some potential problems that might arise so that we can try to address them early and make sure the program works well. [AGENCY 25]

SENATOR CONRAD: And I'm guessing it's AARP's position and other consumer groups that are involved in this process, it's again not to provide an avenue for criticism, but because individuals', and some of the most vulnerable individuals in our state really, fundamental rights are impacted by some of these decisions related to benefits and eligibility and notice and due process that it's really important that we're as proactive as possible. And it's easier to do things at the outset than after bad notices go out. [AGENCY 25]

MARK INTERMILL: I couldn't have said it better. [AGENCY 25]

SENATOR CONRAD: Well, I doubt that, but thank you. [AGENCY 25]

MARK INTERMILL: Thanks. [AGENCY 25]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thanks, Mark. [AGENCY 25]

MARK INTERMILL: Thanks. [AGENCY 25]

SENATOR HEIDEMANN: Is anyone else wishing to testify on Agency 25? (See also

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Exhibits 157 through 165.) Seeing none, we will close up the public hearing for Agency  
25. [AGENCY 25]