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Health and Human Services Committee
September 07, 2011

[LR37]

The Committee on Health and Human Services met at 9:15 a.m. on Wednesday, September 7, 2011, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR37. Senators present: Kathy Campbell, Chairperson; Mike Gloor, Vice Chairperson; Dave Bloomfield; Bob Krist; Norm Wallman. Senators absent: Tanya Cook, Gwen Howard. Senators also present: Bill Avery, Amanda McGill.

SENATOR CAMPBELL: Good morning, everyone. I want to welcome you to the second in a series of public hearings that the Health and Human Services Committee is having. Our first hearing on LR37 was in Grand Island. Today we are obviously here in Lincoln, then next week we will go to Scottsbluff and Norfolk, and round out the month in Omaha. So it is a special pleasure to see many of you here today. We will not start the regular portion of our LR37 hearing. We have two sets today. The first set, we will hear a report from the State Auditor, and I will come back to that in just a minute. The second part of it will start at 9:00...or at 10:00 and that will be the regular series and at that time I'll go through all the instructions about testifying and everything else. I want to introduce for you today the senators that are here and, as is our custom in our committee, the senators introduce themselves. So I'm going to start at my far right with a guest who is not on the committee but a very welcome guest. all the Lincoln senators in southeast area were invited to attend so you may see senators coming and going. So, Senator McGill.

SENATOR MCGILL: I'm one of those. Amanda McGill, state senator from northeast Lincoln.

SENATOR BLOOMFIELD: Dave Bloomfield from northeast Nebraska, Wayne, Thurston, Dakota Counties.

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SENATOR WALLMAN: Norm Wallman, District 30, Gage and part of Lancaster.

SENATOR CAMPBELL: Kathy Campbell, District 25, Lincoln and Lancaster County.

MICHELLE CHAFFEE: I'm Michelle Chaffee, legal counsel to the Health and Human Services Committee.

SENATOR KRIST: Bob Krist, northwest Omaha and Douglas County in Omaha.

SENATOR AVERY: Bill Avery, District 28, south-central Lincoln. I am also a guest.

SENATOR CAMPBELL: And we're glad to have you. To my far left, the woman who we cannot start with (sic) is Diane Johnson, who is the committee clerk. And our two pages today, Emily and Ayisha, will be here to help the senators if they need something as we go through the hearing. As I indicated, it is important today to note that in the LR37 process we had a number of people who stepped forward to say, I would like to help you. And in mid-October we will be having a hearing at which we will hear from three of those agencies and perhaps four who stepped forward and said, I would like to do a part of this. When we started LR37, the State Auditor stopped me in the hall one day and said, I'm interested in looking at what is happening with LR37, and offered to do a financial audit and wrote a scope of study that he presented to the Health and Human Services Committee. As we will proceed through LR37 this fall, each one of those agencies who stepped forward will be given time to present their report to the committee. And I'm very pleased to welcome the State Auditor today, Mike Foley--and, Auditor, would you come forward, please--who called and said, I feel it's important that the senators who started and have been working on LR37 have the first presentation that he was going to make on the financial audit. So welcome and thank you very much.

MIKE FOLEY: (Exhibits 1 and 2) Thank you very much, Senator Campbell and members of the committee. Good morning. As part of the LR37 process, as you know

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and ask Senator Campbell has indicated, the resolution actually speaks to a role for my office in taking a look at the child welfare reform efforts of Department of Health and Human Services, so it's very timely that the report would now just be concluded at the time of this hearing. So I thought I would take Senator Campbell up at her invitation and come in and give you the very first briefing on what it is that we found as a result of our work. Accompanying me this morning are some key members of my staff who worked on this project: Pat Reding, Mark Avery, Kris Kucera, Pam Peters, Jen Cromwell, Lance Lambdin, Mark Avery, and Tom Bliemeister. Most of them are with me this morning. I want to say a special word about Pat Reding, who served as the manager for this particular audit. Pat Reding is a CPA, she's a certified fraud examiner. She is extremely knowledgeable about Department of Health and Human Services. She's been with the state for a number of years, working all those years for the State Auditor's Office, and for most of her typical work year she is at HHS auditing one or more programs throughout the year. I don't think there's five people in the state of Nebraska who could claim that they know more about HHS than Pat Reding. She's a true expert, and so it was just very fortunate for my office to have her skills available to head up this audit team. Due to the complexity of this particular audit, we knew going into this that under the best of circumstances this would be a very difficult assignment. Unfortunately, we did not have the best of circumstances. I'm here to tell you that there is no agency of state government more highly skilled at obfuscation and at trying to frustrate the oversight and audit process than is the Department of Health and Human Services. They are the masters and they pulled out all the stops in an effort to frustrate and defeat this audit. And I'm sorry to have to tell you that, but that's what happened with this audit. Despite their best efforts, we have learned a great deal about how they have spent tens of millions of dollars. From the outset, DHHS touted the Family Matters reform as a way of enhancing the efficiency and accountability of child welfare services and doing so within existing resources. That's what they claimed they would be able to do. This report concludes, however, that DHHS failed at its stated goal of containing expenditures. Instead, the costs of child welfare services have skyrocketed over the past two years, and that's reflected in the first chart that I presented to you. More disturbingly yet, the

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audit report points to a critical lack of accountability, primarily in the form of missing documentation regarding how those public funds have been spent. A 150-page report which has been sent to all of you electronically by e-mail this morning, and an executive summary which I'll circulate to you in just a few minutes, summarizes the results of our audit work. I encourage all of you to at least spend some time with the executive summary. My staff did a great job of taking a 150-page technical report and boiling it all down into 9 pages so that we can all spend time with at least that much if you can't read the entire report. Here are the key findings. On June 15, 2009, DHHS initiated the Families Matter reform program by issuing \$7 million of implementation contracts to six different providers. The purpose of those agreements, of course, was to lay the foundation for the eventual privatization of child welfare services in Nebraska. We repeatedly asked DHHS for any background supporting documentation on how that \$7 million figure was arrived at. Not a scrap of paper, not an e-mail, not a note, nothing was provided to us to support the \$7 million expenditures. Subsequently, effective November 1, 2009, DHHS entered into service contracts with five of the six key contractors who were previously involved with the initial contracts. Those contracts, at first blush, were \$149.5 million, but as you know they've been amended some eight times now adding tens of millions of dollars more to the initial contracts. Contrary to HHS's stated goal of operating within existing resources, child welfare costs have increased significantly under the child...excuse me, out of the Families Matter reform effort, growing from \$107.7 million in 2009 in just two years now up to \$136.5 million and growing. And with these contract amendments, I would anticipate that those costs would continue to go up. That's a 27 percent increase in the delivery of these services over just two years. The developments in one particular service area illuminate the disturbing implications of these increasing costs. In the Eastern Service Area, essentially Douglas County, Sarpy County, the child welfare cases were divided in three roughly equal segments, parcelled out to three private contractors: Visinet, Nebraska Families Collaborative, and KVC HealthCare of Nebraska. Eventually, as you know, Visinet went out of business and HHS assumed responsibility for that third of the caseload. As you can see in the second chart that I've circulated to you, HHS, actually to its credit, was able to process and

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handle its third of the caseload at a cost of about \$15.4 million, while the two private contractors handled their third of the caseloads at about \$6 million more each, at \$21.4 million in the case of NFC and \$21 million in the case of KVC. We asked further about the \$25 million of contract amendments; couldn't there be an e-mail, a spreadsheet, somebody's note, some documentation that would show us how you arrived at this figure of \$25 million in contract amendments? That's contract amendment number five and number seven. Again, not a scrap of paper was provided to us. How is it possible that a state agency can initiate \$25 million of additional spending and nobody has any notes, nobody has any e-mails, and no documentation can be provided to the auditors? Either they're deliberately violating the law, which requires them to turn over this kind of documentation to my office, or it's true, they spent \$25 million and nobody has any notes and no documentation. It's extraordinary. We've never seen anything quite like this. An additional consideration important to the discussion of the increasing costs is that a significant portion of these expenditures do not necessarily further the best interests of the clients who the reform was supposed to benefit. Some of this money is actually flowing out of state, and we've provided to you a third chart which shows \$1.7 million payment from KVC of Nebraska to its Kansas parent corporation in Olathe, Kansas. The report also documents that HHS failed to publicly bid the service contracts; \$146 million in contracts and no public bidding. Now HHS would make the argument that they weren't required to, by their reading of the statute. We read the statute differently. But regardless of who's right on this, you don't put out \$146 million of contracts by just handpicking the providers. You should go to public bid in these things. And HHS missed the opportunity to take advantage of the experience and the resources of the Department of Administrative Services, who would have assisted with the public bidding process. Instead, they went out on their own and issued those contracts, and now they're having go to back and amend them and amend them and amend them. I think I've read in the newspapers at least a dozen times that Visinet, one of the early contractors, went bankrupt. They did not go bankrupt. In fact, they came out very, very well. It's true they made a filing for bankruptcy, but that filing was dismissed by the court. And by the time it was all said and done, we believe that HHS overpaid Visinet

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\$3.9 million. The audit examination revealed that Visinet was overpaid initially by \$1.8 million under the original terms of the contract and then, after they went out of business, they entered into settlement talks with HHS and HHS paid them an additional \$2 million. And then, to add insult to injury, when they paid the additional \$2 million, per the settlement agreement, they actually overpaid the settlement by \$127,000--just another example of the lack of financial controls in this agency. Additionally, due to the timing of the settlement agreement, DHHS actually made payments to Visinet for 76 days, during which Visinet provided no services whatsoever. They had shut their doors, they were out of business and HHS paid them for an additional 76 days when no services were provided. As part of that settlement agreed, HHS paid \$627,000 to satisfy Visinet's payroll and payroll tax obligations, but again they turned over no document to us to prove who actually got that money. They alleged that they paid \$158,00 to foster parents; again, no documentation as to who got that money. And as for the \$127,000 overpayment on the settlement agreement, again, no documentation, no explanation. We did some very limited sample testing of payments made by HHS to various contractors and we found a significant error rate. In just limited sampling of the expenditures, we found \$25,000 in duplicate payments that HHS paid. We also found \$128,000 of payments from a limited sample when the payments actually went to the wrong contractor. If you take that limited audit sample and extrapolate it to the whole population of expenditures, you're probably talking of close to \$1 million of inappropriate payments that HHS made. On the Visinet determination of services, HHS failed to obtain all the critical records from Visinet, and as Visinet was going through the settlement process, an attorney for Visinet contacted HHS by e-mail and said, look, we're shutting our doors, we're going to shred our files; there's 3,000 boxes of files here, what do you want to do with them? HHS went over and got a couple of boxes out of the 3,000. Whatever became of the rest we don't know. We think they were shredded. We can't prove they were shredded. Nobody can seem to find them. Those are highly sensitive records with a lot of HIPAA implications. You can't just stick these in somebody's basement. There's a procedure for the proper disposal of HIPAA records. And HHS failed to get the critical financial records that they should have obtained under

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that contract so that when it came time for the audit there were no Visinet records relating to subcontractor invoices, no bank statements, no accounts payable, no accounts receivable, no contracts, no payroll records, nothing. All the key financial records that we would have seen...would have needed to have seen to properly conduct the audit of the Visinet experience with HHS were all missing. Another critical finding in the audit: HHS failed to recognize...reconcile, excuse me, the service provider billings in N-FOCUS. Well, what does all that mean? N-FOCUS is a computer database. The state paid millions of dollars to establish a computer database of all the child welfare cases so that we could track the progress of every single case and know where the child has been placed, what the history of that child has been, what all the services have been delivered to that child. We found \$28 million of services that have not been entered into the N-FOCUS system. It's impossible for anyone to track the progress of these cases without the N-FOCUS data. The Foster Care Review Board can't begin to do its responsibilities by watching and monitoring these cases without complete and accurate N-FOCUS files. They don't have them. It's horribly out of date: \$28 million of services delivered but not entered into the system. We also found that the lead contractors failed to meet certain benchmarks for performance. As they would transition the cases from HHS control over to the contractor control, there were certain benchmarks that they had to meet. And all of those contractors failed to meet those benchmarks for progress. And despite their failure to meet those benchmarks, HHS continued to pay them the full value of the contract. We lose both ways. First, the contractors aren't doing the job completely; and secondly, HHS is having to absorb those costs because the contractors aren't doing the work. We found that former employees of the contractors continue to have access to the N-FOCUS database, which is a highly sensitive database, even after their termination working with those contractors. In some instances, employees who had left the service of the contractors for several weeks at a time still had access, and in some cases, they were even using that access to a highly confidential database even though they had been terminated from their employers. HHS has a responsibility for monitoring who has access to N-FOCUS and a terminated employee certainly should not have access, and they did. HHS failed to monitor the subcontractors that were hired

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by the contractors, and under those contracts HHS was required to monitor all of that and to monitor to make sure that the subcontractors were being paid in a timely manner. They didn't do it. We found a couple of direct providers out in the central and western part of the state, Family Skill Building out in North Platte and another company formed by Jeannine Lane, it's called McConaughy Discovery Group (sic) out in central Nebraska, we have problems with both of these direct providers. We're finding that these providers, which are for-profit corporations--they don't disclose their finances to me because they are for-profit, private corporations--we found that they're hiring uncredentialed workers who are working on child welfare cases who lack the credentials to do that kind of work. These are people that they hired from Taco Bell and Walmart. They're paying them \$10 to \$12 an hour and then they're billing the state of Nebraska \$47 an hour for services that they are not credentialed to provide. We know about Jeannine Lane, who is the proprietor of one of these corporations, because we have a history with her. A couple of years ago my office did an audit of the Ogallala Public School system and we found that one of their contractors was Jeannine Lane, who operated in educational services at the request of the...under contract to the Ogallala Public School District. And again, she was using uncredentialed people who passed themselves off as having teacher's credentials when they in fact did not have those credentials. And Jeannine Lane herself attempted to pass herself off as having active teaching credentials, which she did not have. When we exposed this in the audit, her contract with Ogallala Public Schools was terminated. We thought we were done with her. Now she pops up as a contractor under the Families Matter program. Again, a lack of cooperation from HHS, we asked them, for example, on June 20, again on July 5, again on July 8, where are the records to show how you spent that additional \$25 million? How did you come up with that dollar figure? Certainly somebody has got to have some notes. Again, nothing. All they could do is respond on July 19, a month later, and say, well, it was all the product of negotiation; there are no records. They've had our draft report for a month now. They had every opportunity to cure these defects in the audit and they failed to do so. As a whole, these findings note that HHS has exercised very, very poor fiscal management and control in the Families Matter reform effort. The

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consequences to the Nebraska taxpayers has been dramatic, including tens of millions of dollars in increased costs for child welfare services and a conspicuous lack of financial accountability that effectively frustrates any hope of transparency with regard to the expenditure of public funds. Again, I've got an executive summary for all of you here which I'll circulate. The full report is on-line. There's an e-mail link to all of you to that report. The auditors are here, my staff is here, we'll be happy to take your questions. Thank you. [LR37]

SENATOR CAMPBELL: Questions? We start on this side. Senator Gloor. [LR37]

SENATOR GLOOR: Thank you, Chairman Campbell. Thank you, Mr. Foley, for your presentation. How do we know that this oversight is new problems since Families Matter began as opposed to a continuation of perhaps oversight that's long been lacking within the department? [LR37]

MIKE FOLEY: Well, there have been weaknesses at the Department of Health and Human Services in many areas, and my audits have documented all of that. What's different now is that we're outsourcing the work to private contractors and when you write the check to these private contractors and sign contracts with these people, you then have an obligation to oversee that they're adhering to the contract, and they're not doing that. [LR37]

SENATOR GLOOR: Here's one of my questions that I ask at every hearing, but the relationship of these contracts, since we have lead agencies, and I'm speaking specifically of contracts related to the lead agencies and their contracts then with subcontractors, the documentation, the hours, the services that are provided, if the state's contract is with the lead agency and it is for an agreed upon, set amount of money that the lead agency is going to get to provide those services, what the subcontractors bill lead agencies and the documentation that may or may not exist there has no impact on what the state pays. The state is already contractually obligated to

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pay a set amount. And so a subcontractor can bill and bill and bill and bill, appropriately or inappropriately, but the state is not on the hook for any more. That's part of the challenge that we're trying to work through here with discussions on whether those payments were enough to begin with. But the state's need for oversight is certainly lessened because the state is not responsible for paying any more. [LR37]

MIKE FOLEY: But the state is responsible for enforcing the contract, and the contract with the lead agency provides that the leads must pay their subs within 45 days, and it's HHS's responsibility to make sure that they're actually paying those subs within that 45-day window, and they weren't doing that. They weren't monitoring that. We know that many of those subs were not being paid. But I agree with your central point, which is that it's the lead agency that has an obligation, a financial obligation, to the subcontractor. [LR37]

SENATOR GLOOR: Correct, yeah, as opposed to the state. [LR37]

MIKE FOLEY: Right. Right. [LR37]

SENATOR GLOOR: Okay. [LR37]

MIKE FOLEY: And that was part of the problem with the Visinet overpayment because the state took on the responsibility for all the payments that Visinet should have been making to the subs, and the state provided the funding in the settlement agreement to take care of all the subs. [LR37]

SENATOR GLOOR: And that's your accountability concern... [LR37]

MIKE FOLEY: Yes. [LR37]

SENATOR GLOOR: ...in part. That's part of your accountability concern. [LR37]

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MIKE FOLEY: Yes, it's the overspending concern also. [LR37]

SENATOR GLOOR: Okay. Thank you. [LR37]

SENATOR CAMPBELL: I'll finish up on this side. Senator McGill, did you have a question? [LR37]

SENATOR MCGILL: Well, first, I just wanted to thank you because we've been asking many of the same questions, not getting results, and so it's good to...well, not really good to know but to compare notes and see that that information doesn't exist. It's unbelievable. Like I said, we've been asking for a long time and to hear you come in and it actually sounds even worse than I could have imagined with the lack of records, no minutes being taken at any meeting, anything like that, that could have traced back to that \$25 million, for instance. I remember us asking a lot of questions about that. Any ideas on where we even begin on... [LR37]

MIKE FOLEY: Well, first of all, I've got to believe that there really are some records over there. I can't prove that because I can't go over there and rifle their files. But I can't believe that \$25 million would go out the door in contract amendments and there's not a scrap of paper anywhere. It's got to be there somewhere and I think we just have to keep pushing on this agency to be more forthcoming, more transparent in their transactions so that the whole world can see how it is that they're spending this money. And then we can make an assessment and you can make assessments, as policymakers, how much money do we want to spend on this effort. [LR37]

SENATOR MCGILL: Does the audit break down some of this spending in terms of how it's spent within the agency and...? [LR37]

MIKE FOLEY: Yes, there's a great wealth of detail within the report. [LR37]

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SENATOR MCGILL: I look forward to seeing it. [LR37]

MIKE FOLEY: Sure. [LR37]

SENATOR CAMPBELL: Okay. We'll come around here. Senator Krist. [LR37]

SENATOR KRIST: Thank you, Chairperson Campbell, and thank you, Mr. Foley, for your time and your diligence in this matter. Almost everyone who has sat in that chair has been the recipient of one question from me and from others--show me the money, where is the money? I've always been taught that if you follow the money train you can usually find out where your successes and failures are, and not one person who has sat in that chair from HHS has been able to give us any kind of recollection of where the money has gone. Your audit is testimony that there are serious problems within HHS. I don't want to put you on the spot but in 1996, when there was a legislative bill passed that made this monster out of DHHS and combined all family services and welfare and all these things that went on, it was probably a huge mistake to build something this big without the oversight that's required. Now to my question. It would seem to me that as...being familiar with contract and contracting requirements and the process at the federal level that one of the things we did wrong from the very beginning was not engage DAS and the expertise that they have, and you pointed that out. Is it too late now to go back, in your estimation, and employ DAS to try to scope out these amendments in going forward? And as you know, we've already seen another contract let in the Omaha area that makes little sense to me personally, but...so that is my question. [LR37]

MIKE FOLEY: Well, in terms of the contracts that have already been signed, it is too late. But I think there does need to be involvement on a forward-going basis with more involvement with the expertise and experience of DAS to assist HHS and the bidding process and the writing of contracts, making sure that we've got all the key provisions,

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all the key protections for the state in these contracts. And a lot of that was missing. There seemed to have been a rush to get this done, get the money out there, get it spent, get things transitioned out to the privatized network without thinking through all the consequences. A lot of these contractors perhaps never should have been put under contract in the first place. They were financially weakened enterprises that a reasonable person might never have contracted with in the first place. [LR37]

SENATOR KRIST: So vetting the company, obviously, would have been part of the DAS process... [LR37]

MIKE FOLEY: Right. [LR37]

SENATOR KRIST: ...in qualifying them to be able to go forward. And then finally, just in terms of the contract, I've said this since the beginning, we can't stand still because this isn't working, we can't go back because the system is broken there, we can't go forward with the system that we have right now, but we have to do something for the children. What's the immediate step? What is the immediate step that we need to take? Is it going to a zero-based budget and pulling back all appropriations until the agency comes to terms with what's being spent? [LR37]

MIKE FOLEY: Well, those are really policy decisions for state senators to make, not the State Auditor. (Laugh) I used to be one of those and I think I'd rather not overstep my boundaries here. I'm just here to report the findings of the audit and not make policy recommendations to you, Senator. [LR37]

SENATOR KRIST: Thank you, sir. [LR37]

SENATOR CAMPBELL: Senator Avery. [LR37]

SENATOR AVERY: Thank you, Madam Chair. Auditor Foley, thank you very much for

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your presentation. Did you find any evidence of laws that might have been broken in your investigation? [LR37]

MIKE FOLEY: Well, the law provides that the Auditor is to have access to all records of every public entity in whatever form those records might exist--electronic, paper, whatever. I'm to have access to all records simply for the asking. And when my auditors send e-mail after e-mail after e-mail and get no response and then were eventually told, well, it was all a product of negotiation, there's no records, there could be a violation of law, and we raise that in the report that there are very specific statutes regarding disclosure of records to the Auditor. Even confidential records that the public could not get access to, I have access to through statute. [LR37]

SENATOR AVERY: Do you anticipate another step in this process involving perhaps the Attorney General's Office? [LR37]

MIKE FOLEY: Well, perhaps. We've gone down that road before and it hasn't always been a satisfactory process, but we could try again. [LR37]

SENATOR AVERY: Thank you. [LR37]

SENATOR CAMPBELL: Questions? Senator Gloor. [LR37]

SENATOR GLOOR: Thank you, Senator Campbell. I'm going to follow up on Senator Avery's...I feel an obligation to follow up on Senator Avery's questions. If I heard you correctly, you think what you've discovered have been some HIPAA violations with records of confidential information that perhaps are missing or have been shared inappropriately. If I heard you correctly, I think you are under an obligation, under federal HIPAA statutes, to report that. [LR37]

MIKE FOLEY: Yes, that's true. That's absolutely true. When there's a known HIPAA

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violation the state has an obligation to report that to the federal government, and that's part of our report and that will be turned over to the Attorney General. [LR37]

SENATOR GLOOR: Okay. Thank you. [LR37]

SENATOR CAMPBELL: Senator Krist. [LR37]

SENATOR KRIST: One other follow-up. Thank you, Senator Campbell. On that note, when you say e-mail after e-mail after e-mail, are those e-mail addresses available within your report? Can we find out who in the agency? [LR37]

MIKE FOLEY: Yes. At the entrance meeting with the agency, we always ask, who is our point of contact, who should be the person to receive the e-mail requests, and then that person would farm them out to the appropriate person. And we have the e-mails to document that we worked through that contact person, with copies to other key players within the agency, and we can show the paper trail on all of that. [LR37]

SENATOR KRIST: Is that part of the formal report or is that on request? [LR37]

MIKE FOLEY: I don't know if we...well, I don't know. I don't know if we have those e-mails in the report. We make reference to them and we can share those with you because they're communications. [LR37]

SENATOR KRIST: Okay. I'd appreciate that. Thank you. [LR37]

SENATOR CAMPBELL: Other questions from senators? State Auditor, I really want to thank you very much for your report that you've given today. I have a feeling that my colleagues are much like I am, wanting to delve into the report and also that you gave a written report, and I would hope that as the HHS Committee has an opportunity to read all of this that you would be welcome to an invitation to return after we've had some...a

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chance to take a look at it. [LR37]

MIKE FOLEY: Sure. [LR37]

SENATOR CAMPBELL: I think you've certainly presented...I mean I was just writing down some of the more startling comments, and I mean that word "startling" comments, because I do think that you have raised a lot of issues for us as policymakers in how we look at the financial aspects of this whole reform effort. And so I much appreciate your taking on that task for the LR37. We decided early on that we were not qualified to look at the financial aspect. One of the questions that I do have, and I was struck by this when you talked about Visinet and that we had overpaid them. And as you looked was there any indication as to why they had not fully paid all of the subcontractors given the fact that we had paid them all this money? Because they got...those subcontractors got 70 cents on the dollar, not 100 percent, and yet you're saying they were overpaid. Do we have any idea what happened there? [LR37]

MIKE FOLEY: For reasons I don't fully understand, Visinet was treated very differently from the other two contractors that pulled out of the process--CEDARS, and Boys and Girls Home. Visinet was treated quite differently and entered into a settlement agreement. Even though Visinet was in breach of contract, the state entered into settlement with them and paid them for days of service that were never rendered and paid off their payroll and their foster families, and all the obligations that Visinet had an obligation to pay the state ended up paying. Why they were treated differently I don't know, but they were and it ended up being a windfall for Visinet. There was no bankruptcy of Visinet, as I stated earlier. [LR37]

SENATOR CAMPBELL: Because the sub...while the foster parents and families I think were paid 100 percent in the Visinet situation, the subcontractors, the agencies were not paid at 100 percent. [LR37]

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MIKE FOLEY: Right. [LR37]

SENATOR CAMPBELL: They were paid 70 cents on the dollar. [LR37]

MIKE FOLEY: Right. Right. [LR37]

SENATOR CAMPBELL: Then when you got to Boys and Girls, we have a similar situation in which we front-loaded those contracts, and I brought this up...have talked about this with some of the committee members, but we front-loaded those contracts in 2010 and in all three service areas they would have received a sufficient amount of money. And I'm assuming they used part of it to pay back pay. But again, subcontractors were left and now we're talking about 30 cents on the dollar. Do we have any sense about why that contractor did not pay fully their subcontracts? [LR37]

MIKE FOLEY: No, we don't, but we know that HHS was not monitoring the failure of Boys and Girls Home to promptly pay those subs, and that's been a big part of the problem. They put the requirement...one of the amendments eventually required the contractors to start paying those subs more promptly, but it does no good to put that language into a contract if you're not going to monitor the performance of the contract. And back to your earlier point, Senators, about where we go from here, obviously there's going to need to be a need for continuing oversight and my office would be delighted to assist you as we continue to oversee whatever it is we do next with this program. [LR37]

SENATOR CAMPBELL: As we put that framework together. [LR37]

MIKE FOLEY: Yeah. [LR37]

SENATOR CAMPBELL: Senator Krist. [LR37]

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SENATOR KRIST: Just one, thank you, Senator Campbell, one follow-up. I wasn't going to go down this road, but I think it needs to be traveled. You talked about how differently the different contractors were treated. I'm assuming that they had different focal point within the agency potentially, different people as focal point. [LR37]

MIKE FOLEY: Yes. Well, yes, to some extent. There's... [LR37]

SENATOR KRIST: Okay. Are you aware of a meeting that might have happened with one of those agencies who took the lobby, a strong lobby into the Governor's Office and asked them for more money specifically for that contractor? [LR37]

MIKE FOLEY: I'm not aware of that. [LR37]

SENATOR KRIST: Okay. And the \$20 million, \$25 million that you're referring to, was any part of that specifically going to one contractor versus another? [LR37]

MIKE FOLEY: Well, it's going to the remaining contractors that continue to provide services, NFC and KVC. [LR37]

SENATOR KRIST: Does the audit show a proportion of where that money has gone? In other words, if I asked you how much money KVC got out of that pot of money that was additional funds, could you tell me that? [LR37]

PAT REDING: Well, we can tell you what their contract increases were. [LR37]

SENATOR CAMPBELL: I'm sorry. We have to have you come to the microphone for the recording. [LR37]

MIKE FOLEY: Pat. This is Pat Reding, R-e-d-i-n-g. She was the audit manager. [LR37]

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SENATOR CAMPBELL: Thank you, Mr. Foley. [LR37]

PAT REDING: Yes, our report does show the amount of the contract increases to each one, to each... [LR37]

SENATOR KRIST: But not where the money came from, what program money. [LR37]

PAT REDING: Well, the money came from what we were told by DHHS is...there was basically three places where it came from. One was from some TANF money, Temporary Assistance to Needy Families, and TANF program does not have a set federal match. A lot of the federal programs do. It's like a 60-40 split between what the federal government will pay and what the state pays. TANF does not have that set federal match. They have a level of effort they need to meet. So they could have used those TANF money...they could have used more of the federal TANF money and less state money, thereby freeing up state money. We will be looking at the TANF expenditures when we do our single audit. The other, they also had cost savings from the switch in case management and that was one of the things that we also asked for, is show us the support for these savings, and that was also something that we did not get. And then a portion of it was from 2009 monies, General Fund monies that had not been spent. [LR37]

SENATOR KRIST: And the comment I guess that I would like to make on that question, a follow-up would be, that it seems to me like there's a shell game being played and the only way to get around the shell game is to go back to zero-based budget where the money that's put into a particular pot goes for a particular purpose, and if you're going to reappropriate or move money out of there then you need to come back to the people who will give you money, which is the Legislature, and tell them where it's going to go. So I do appreciate your time as well and nice to see you. [LR37]

PAT REDING: Okay. Thank you. [LR37]

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SENATOR CAMPBELL: Ms. Reding,... [LR37]

PAT REDING: Yes. [LR37]

SENATOR CAMPBELL: ...could you just stay for a minute and would you spell your name for the record. [LR37]

PAT REDING: Pat Reding, R-e-d-i-n-g. [LR37]

SENATOR CAMPBELL: Senator Gloor has a question before you leave. [LR37]

SENATOR GLOOR: Thank you, Madam Chairman. Ms. Reding, I'm trying to...I'm struggling, trying to figure how to phrase this question, but I'm looking at some of the stories that came my way early on when we realized there were challenges with some of the lead agencies, and the stories that I heard were issues of what's not unusual in the business world, the fact that many of the lead agencies, the one that served my area specifically, getting into cash flow challenges as a result of this type of contract, which provided them with up-front monies, a set amount of money that they knew they were going to have on a yearly basis to manage. And that faced with some of the traditional decisions that you make in a business, that being do you rent, do you buy, do you lease, do you buy, that some of the lead agencies in fact decided, well, we're going to be around for a long period of time, it's cheaper for us to sign leases and to pay monthly rent, it's cheaper for us to buy automobiles than to lease automobiles; and that as things began to unwind found themselves having made up-front cash payments that left them with not enough money coming in to pay for subcontracting. Did you find evidence that that sort of traditional business challenge happened? [LR37]

PAT REDING: We looked at some of the implementation or some of the start-up cost and we looked at that they had documentation for that, but we did not look at their

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decision as far as did they buy or did they lease. So we looked for the documentation of a supported document but not the... [LR37]

SENATOR GLOOR: Couldn't find those document...that documentation. [LR37]

PAT REDING: We did have for the lead agencies, except for Visinet, we did have those documents provided that we tested. [LR37]

SENATOR GLOOR: But does that documentation show that there was a preponderance of long-term decisions as opposed to short-term money management issues? I mean this is important to me because it shows that there was an expectation by the lead agencies that they planned to be around for the long haul and if they got into a cash crunch, again, that's not an uncommon thing that happens with a lot of start-up businesses, especially with a new kind of contract. But I'm looking for verification that as opposed to complete and utter mismanagement there was overexpectation, difficult decisions that proved to be wrong decisions as opposed to people who were just not caring or inept. [LR37]

PAT REDING: I think it runs the gamut. (Laugh) [LR37]

SENATOR GLOOR: Okay. [LR37]

PAT REDING: I think each lead agency was different. Each lead agency spent their money differently, and based perhaps on their experience they may have made different decisions than other lead agencies. [LR37]

SENATOR GLOOR: Well, I understand you can't put yourself behind the decision desk that was going on at that period of time, but I hear these stories time and again and they ring true. It would be nice if we could nail it down with some degree of documentation but I understand how difficult that is. Thank you. [LR37]

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SENATOR CAMPBELL: Ms. Reding or Mr. Foley, my question has to do with the handout and wouldn't...it's the payment...it's the payment to the, the third page, the payment to KVC, the parent company, and wouldn't that be considered a part of their administration? Is that what they considered it as? [LR37]

MIKE FOLEY: Yes, it's a management fee that shows up on the books of KVC of Nebraska, having been paid to the parent company. [LR37]

SENATOR CAMPBELL: Company. But each one of the lead agencies would have had and would continue to have administrative costs. You see that as above and beyond, or is it meant to show to us that it was a part of the administrative fee? [LR37]

MIKE FOLEY: Well, we think it may have been above and beyond the administrative fees that were already being incurred... [LR37]

SENATOR CAMPBELL: Okay. [LR37]

MIKE FOLEY: ...by the Nebraska officials. [LR37]

SENATOR CAMPBELL: So there's not necessarily any corresponding document that would say this \$1.7 million covers X. It's just a fee that was paid. [LR37]

MIKE FOLEY: Right. That's right. We don't have access to the books of the parent corporation to find out what exactly was provided in services back to the subsidiary companies. [LR37]

SENATOR CAMPBELL: I just wanted to make sure... [LR37]

MIKE FOLEY: Yeah. [LR37]

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SENATOR CAMPBELL: ...that I understood the intent here. [LR37]

MIKE FOLEY: Well, what we do see though is some pretty substantial salaries being earned by the top leadership at the parent company though, and there's some concern expressed in the report about that. [LR37]

SENATOR CAMPBELL: Okay. With that, we'll conclude our report this morning from the State Auditor and want to thank all of the audit staff and the Auditor for the work that has gone into this. The Legislature, while we deal with the policy decisions, as Senator Krist alluded do, we'll be greatly helped as we study this issue and go forth with the next five reports that we're going to have from other groups that are aiding us. When all of this information comes together, it should give us a very good picture, and you have started out with an excellent picture for us to look at for the finances. [LR37]

MIKE FOLEY: Well, thank you, Senator. [LR37]

SENATOR CAMPBELL: And thank you to you and your staff. We appreciate you coming this morning. [LR37]

MIKE FOLEY: We stand ready to be of assistance any way we can. [LR37]

SENATOR CAMPBELL: And we'll be back in touch, I'm sure. [LR37]

SENATOR FOLEY: All right. Thank you. [LR37]

SENATOR CAMPBELL: Thank you. [LR37]

SENATOR MCGILL: Thank you. [LR37]

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SENATOR WALLMAN: Thank you. [LR37]

SENATOR CAMPBELL: We will take a five-minute recess before we start the 10:00 session. [LR37]

BREAK

SENATOR CAMPBELL: Would you all please find your chairs for the second session. What I'm going to do is go through some instructions while I'm waiting for my colleagues to return. I think most of you were very kind to turn off your cell phones or to put them on silence. I didn't hear any cell phones during the first session. Handouts are not required by the testifiers, but if you do have them we would like 20 copies and certainly the pages can help identify where you could get those extra copies. We'd ask that if you are signing in over there on the testifying sheet, only if you plan to testify, and please print your name and provide all information, your form should be given to the clerk prior to your testimony so that...and the reason we ask people to fill out the testifier's form is that we make sure that we have the name spelled right. But we are going to ask that each testifier come forward and state their name for the record and spell their name so we're very clear. We do use a light system and for the first session today those testifiers that are listed as invited testifiers came to us in one of two ways. The first way is that we're trying, in each of the five hearings, to hear from certain, and I'm going to call them, categories of testifiers. For instance, we have invited the county attorney's office to testify in each five, a guardian ad litem, a Foster Care Review Board, a CASA volunteer, a foster parent, an advocate, a provider, so that we are ensuring that in each one of the five hearings we're getting similar information. The second way may have been whether an individual came forward and visited with either myself or someone in my office and said that they had testimony that they wanted to give and we considered them an invited testifier. If you are not listed as a testifier but intend to testify after them, how many people would that be? One, two, three, okay, and that's great. We're glad you're here and we welcome your testimony. We're just trying to figure the time. What

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we're going to do this morning is the invited testifiers have been given five to seven minutes, and we'll be holding the public folks to about five minutes. So at the sixth minute, I think, figure, Diane will put the yellow light on, so as you're kind of watching you can keep tabs of the yellow light. We will continue this session until 1:00 if need be, primarily so that we don't break it up. We had thought about stopping at noon and having anybody come back who hadn't had a chance, but then we thought, no, that's an inconvenience. So we will keep going if need be until 1:00 so all of you in the audience can know that. I think that's all the announcements I have for this morning and we will start with the first person on our list, Vicki Maca. Ms. Maca, as you're making your way forward, we start and want to start each one of the hearings--we started in Grand Island--we invite the service area coordinator to sort of lead us off and kind of give an overview of the service area so that we have some idea as we are visiting the different communities. I would like to say for the record and be very clear that I much appreciate Ms. Maca coming and I would say to my colleagues, she came on the job, and we're going to have her kind of outline her job for just a second here, she came in, in the last few months, and I would really ask my colleagues to give her the courtesy of not asking her questions (laugh) with regard to the financial figures and what may have been presented. I think that's somewhat unfair. That's not her expertise. She's not expected to do that. And we will certainly find a time when the department, if they wish to visit with us about the Auditor's report, will bring their finance people, not...I'm not impugning your ability of the finances, Ms. Maca, I want you to know, but I think it's unfair for us to go back to those questions. As you begin your testimony today and perhaps you're going to cover this, but what exactly for us...frame for us exactly your responsibilities in terms of the five service areas across the state or the two so that we kind of get an idea of how your job is now structured. So you may want...you can cover that as you want to,...

[LR37]

VICKI MACA: Okay. Sure. [LR37]

SENATOR CAMPBELL: ...but we will need to cover that, I think. Good morning. [LR37]

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VICKI MACA: (Exhibits 3 and 4) Good morning. Before I start my testimony, I can...
[LR37]

SENATOR CAMPBELL: And you want to spell your name. [LR37]

VICKI MACA: My name is Vicki Maca, V-i-c-k-i M-a-c-a. [LR37]

SENATOR CAMPBELL: Perfect. Thanks. [LR37]

VICKI MACA: Maybe what I'll do is I'll go through the testimony and if you have questions about my specific job, if I don't answer them well enough, I'm happy to come back and... [LR37]

SENATOR CAMPBELL: Okay, we can do that. [LR37]

VICKI MACA: ...provide more information. [LR37]

SENATOR CAMPBELL: That's fine. [LR37]

VICKI MACA: Good morning, Senator Campbell and members of the Health and Human Services Committee. My name is Vicki Maca. I am the DHHS administrator responsible for Families Matter in the Eastern and Southeastern Service Areas. I have been in this position since June 17 and, while I am relatively new to this position, I have over 25 years of professional experience in child welfare and behavioral health. My primary responsibility as the Families Matter administrator is to ensure that children and families served by Child Welfare and Juvenile Services in the 19 counties comprising the Eastern and Southeastern Service Areas receive the best possible outcomes. Those overarching, statewide outcomes involve safety, permanency, and well-being for Nebraska's children. There are several different strategies currently being utilized by the

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Eastern and Southeast Service Areas which have been implemented specifically to improve the safety, permanency, and well-being of children. I would like to highlight a few of these strategies identified as being high priorities for the Eastern and Southeastern Service Areas. As you know, in January of this year DHHS contracted with KVC and NFC for case management responsibilities. KVC provides all case management services in the Southeast Service Area and for approximately one-third of the families in the Eastern Service Area. NFC provides case management for one-third of the families in the Eastern Service Area and, by October 15, will assume case management responsibilities for an additional 600 families. Our number one priority with this transition is that it be as seamless as possible for the children and families involved. We have worked closely with staff to ensure that they have immediate information and opportunities to pursue positions with NFC and/or DHHS internal vacant positions available in the Initial Assessment Unit and the Outcome Monitoring Unit. Having all case management responsibilities provided by the lead contractors will provide clarity to those who receive services, those who coordinate and provide services, as well as to community partners. Transitioning case management responsibilities to the lead contractors will also allow DHHS to enhance our focus on the statewide Child Abuse and Neglect Hotline, initial assessments, and outcome monitoring. Once a report has been accepted by the hot line, it is assigned to a DHHS worker to begin an investigation. In some cases, DHHS collaborates with law enforcement to complete investigations. In other cases, only DHHS conducts the investigation. As you know, law enforcement is the only agency with the authority to remove a child. In order to ensure that we are making the best possible decisions about whether or not children are safe, we will soon begin utilizing a different assessment tool developed by the Children's Research Center. Later this fall we will implement the structured decision-making model, which is a series of evidence-based tools that aid investigators and case managers with making objective and reliable decisions about safety. This fall, training on the structured decision-making model will begin. Although DHHS staff are required by law to conduct the investigation, NFC and KVC staff will also attend the training and be expected to implement structured decision making upon completion of their training

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as it is critical that those completing investigations and those who have the ongoing case management responsibilities utilize the same tools and speak the same language when it comes to child safety. This past July in the Southeast Service Area we implemented a new strategy designed to improve our ability to effectively connect children and families with community-based resources. Many times the families we investigate do not have immediate or high child safety threats present. Often, these same families have complex and urgent needs for things such as housing, food, day care, transportation, and/or parenting assistance. The DHHS investigator now has the ability to have specially trained NFC or KVC staff, in a team effort, accompany them to the family's home to immediately connect the family to the resources or services they need. From July 4 to August 26, this team, referred as the Initial Response Unit, or IRU, in the Southeast Service Area, served 59 families with 39 percent of those families connecting to the community resources they needed without formal court involvement. In the Eastern Service Area, the IRU teams were initiated in February of this year and have served 261 families, with 48 percent of those families safety being served without formal court involvement. Strategies such as the Initial Response Unit are the types of interventions that provide families with the resources they need while keeping children safe. There is no formal system involvement or unnecessary child trauma due to being removed from the family home. We will continue to develop these types of differential responses that provide us with flexible, individualized, and urgent approaches to responding to families and reducing child risk factors. The majority of children entering the court system in the Southeast and Eastern Service areas are not children who have been abused or neglected. On average, the highest volume of children being made state wards or receiving court supervision are status offenders and youth who have committed a delinquent or criminal act and have been committed to the Office of Juvenile Services. In August this represented 79 percent of the youth in the Southeast Service area and 71 percent in the Eastern Service Area. We have much to do in collaboration with community partners to develop and implement the type of services that intervene much earlier, before the onset of status or delinquent behavior and target prevention efforts for youth at risk of truancy or engaging in delinquent and criminal

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behaviors. Nebraska is one of only four states that manage youth delinquency within their child welfare system. Our efforts to effectively communicate have included a variety of recent meetings with the juvenile judges, representatives from the county attorney's office, the Foster Care Review Board, the system partners involved in the Through the Eyes of the Child Initiative, the statewide Partner's Advisory Council, and the Center for Children, Families, and the Law. We will continue to share information as well as plan and coordinate with all those who impact outcomes related to Nebraska's child welfare and juvenile services system. Over the past eight months DHHS has transitioned the majority of our staff from providing case management to staff who are not monitoring case management. We have moved from entering data to largely analyzing and monitoring data. Over the last eight months we have been challenged to do our work differently, train our staff differently, supervise our staff differently, and evaluate our work differently. Unfortunately, there is no science or evidence-based practice to guide how we manage these types of complicated system transitions. We are, however, learning and making rapid system adjustments as we identify more effective and efficient practices and management strategies. We are strengthening our continuous quality improvement activities and using data to guide our decisions and evaluate system outcomes. We have revised tools to more frequently and effectively monitor progress made with outcomes. We are working diligently with national experts and other states that have had similar experiences to ours in order to expedite our learning and maximize our resources. We have shifted resources to focus solely on the business of Families Matter and are much more effectively mastering the balance of holding contractors accountable for specific deliverables while at the same time collaborating with them to ensure that Nebraska's children are safe. We look forward to the future. There is much to do and much to learn as we focus on continually improving child welfare and juvenile services in Nebraska. Thank you for the opportunity to provide you with these updates and I would be happy to answer any questions you have. [LR37]

SENATOR CAMPBELL: Okay. Follow up? Senator Krist, questions? [LR37]

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SENATOR KRIST: Thank you, Vicki. It's clear then that your area of supervision is the Eastern and Southeastern. [LR37]

VICKI MACA: That's correct. [LR37]

SENATOR KRIST: It's also clear, we were all notified by phone by Mr. Winterer and then saw in the newspaper the new contract that was let in your area. What assurance can you give me that the documentation for money spent and that this contract isn't another in a long line of failures? [LR37]

VICKI MACA: Uh-huh. Yeah. I can tell you that we are doing things differently. There are many strategies that we're now implementing to more effectively monitor contracts. One of those is the amount of time that I'm spending with both KVC and NFC. I meet with them weekly, every Thursday afternoon for the entire afternoon, and we walk through contract deliverables. We also are looking at data very, very closely, not an overwhelming list of data reports. We are being very focused now with the data that we are reviewing with the lead agencies. We are also looking at...we have started to...I put together a team of people that are looking just at the financial picture of this. We receive monthly financial information from both KVC and NFC, and I have put together a team of people that are now reviewing that financial...those financial reports that have financial expertise and that can really understand financial reports as well as information on the program side of things so that we really have a full picture of financially how does this look and from a service delivery how does this look. That's new and that will continue. [LR37]

SENATOR KRIST: I know we're not supposed to ask you any questions that go backwards, so I'll ask you and ask you to provide the information in the future. [LR37]

VICKI MACA: Okay. [LR37]

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SENATOR KRIST: There, after you can totally absorb the Auditor's report,... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR KRIST: ...and he points out in one of your agencies that you supervise that there's a large amount of money being paid and those administrative costs are convoluted, I would like you to come back to us and tell us where that money went... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR KRIST: ...and why it's not going to or how it's going to if it needs to in the future. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR KRIST: And then a comment that I've made in the past, if you tell me it's going to cost \$10, we'll going to give you \$10. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR KRIST: If you tell me it's going to cost \$10 and you come back and you can't tell me where the other \$15 that you spent on it, a total \$25, that's going to be unacceptable. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR KRIST: So I think one of the Auditor's comments this morning is particular to your area and that is you have an agency that has a large amount of money that's gone to it for what could be termed undetermined value for the Nebraska taxpayer, and

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that's...I think that would be a task that we'd ask you to come back or I would like to. So thank you very much. [LR37]

VICKI MACA: Yes. You're welcome. [LR37]

SENATOR CAMPBELL: Senator Wallman. [LR37]

SENATOR WALLMAN: Thank you, Chairman Campbell. Thanks for coming here, Vicki. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR WALLMAN: And I look at here and we're only one of four states with delinquency or truancy... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR WALLMAN: ...run through HHS and is that a huge part of the budget you think or are we doing a good job there? Why did we do this, you know? [LR37]

VICKI MACA: Yeah. You know, I can't, Senator, explain historically why the decision was made or even when it was made to integrate the OJS youth into the child welfare population, but what I can tell you is--and I'm not the administrator of the Office of Juvenile Services either--I think it's interesting and I think it's significant that only four states are choosing to integrate this specific population into their child welfare system. [LR37]

SENATOR WALLMAN: I do too. [LR37]

VICKI MACA: I think the department will continue to explore whether or not that makes

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sense to continue to do so in the future. I think there are many, many questions. I specifically put that in my testimony to make the committee aware of that and I think that topic deserves much more exploration. [LR37]

SENATOR WALLMAN: Thank you. [LR37]

SENATOR CAMPBELL: Senator McGill. [LR37]

SENATOR MCGILL: Thank you, Senator Campbell. On that real quick, I believe Senator Ashford has been having conversations with the Chief and Kerry Winterer about that issue, and so we may have something coming up next session that may change that. Anyway, I am really excited about the initial, what are they, response units, because I do think we are taking too many kids out of the home. You go into a home where the family is poor and it looks like it's neglectful and we just take the kids out. [LR37]

VICKI MACA: Right. [LR37]

SENATOR MCGILL: Yeah, so...but how many of those do we have right now? How many, because I see in our Southeast Service Area that we serve 59 families. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR MCGILL: Is that a lot, a small part of the population? Is that a lot of it? Can you... [LR37]

VICKI MACA: Yeah. [LR37]

SENATOR MCGILL: Yeah. [LR37]

VICKI MACA: What I can tell you, Senator McGill, is that what we saw in the Omaha

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area is the start-up is a little slower. It takes a while for everybody to kind of get the feel of what this is going to look like, when do you call the IRU, how do we coordinate this. What we did to expedite things in the Southeast Service Area is I had the staff who are doing IRU in Omaha travel to Lincoln and spend time with those staff. So I think the 59 families is just...I think we're just scratching the surface. [LR37]

SENATOR MCGILL: Okay. Well, that's good. [LR37]

VICKI MACA: Yeah. I think as time goes on those numbers will grow. [LR37]

SENATOR MCGILL: So are these...are the people who are part of these units people that are being retrained that used to do other jobs before the contracts? [LR37]

VICKI MACA: Yes. Yes. [LR37]

SENATOR MCGILL: Because I'm sure that's financial data we'll want to see in terms of the investment in these... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR MCGILL: ...versus taking the kids out of the home, because hopefully it does have very positive results. [LR37]

VICKI MACA: Absolutely. [LR37]

SENATOR MCGILL: ...results. It seems to me that it would in the long run, but it would be nice to have financial data to back that up as we work in that direction. [LR37]

VICKI MACA: Absolutely. We're collecting baseline data now... [LR37]

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SENATOR MCGILL: Okay. [LR37]

VICKI MACA: ...so we should have that information for you. [LR37]

SENATOR MCGILL: All right. Thanks. [LR37]

VICKI MACA: You're welcome. [LR37]

SENATOR CAMPBELL: Ms. Maca, one of the things that I heard about as I visited with a group of folks from Lancaster County was a new system in which we had instituted putting two of the CFOMs, I think is the correct term,... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: ...inside KVC, and I'm assuming... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: ...that NFC would have them, too, and their whole job was to review the case plans as they came forward. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: And then there were an additional four CFOMs inside the Lancaster Juvenile Court system that had the reports and were there... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: ...if the judge had a question. My question is of the two people inside the agency and the four people inside the courts, none of those people know the

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child though. They only know... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: ...what's in the file. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: Are we losing something in terms of being able to respond to the judges? I have to tell you, I was really... [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: ...questionable about that. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: Can you explain... [LR37]

VICKI MACA: Uh-huh. Uh-huh. [LR37]

SENATOR CAMPBELL: ...how that information is? Who knows the child there? [LR37]

VICKI MACA: Yeah. Yeah. Yes, I do want to clarify, we have spent a lot of time looking at that very issue. One of the things that we learned was that part of our challenge was case plans and court reports have to be developed by the case manager at KVC or NFC, the person that knows the family the best. They need to develop and write those case plans and court reports. The department's role in that is to review that information and to make sure that all of the information that needs to be present in that court report, there are different elements, that it's there. Part of the challenge was that getting the

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court reports from the lead agency to the department, having the department review them and then send them back, there was kind of this back and forth and it was slowing things down. And so what I suggested was that we look at having department representatives within those agencies so they could walk down the hall and have conversation with the case manager, who does know that family very well. Exchanging information via e-mail was not effective, and so this collocating is our attempt to help expedite the issue to foster communication between the case manager, whose job it is to know that family inside and out, with the department person who needs to review the information and who is the expert on department policy. The e-mail didn't work so we are collocating. Having CFOMs also in the courtroom, we are not present in court to testify about information specifically about the family. That is what we pay KVC and NFC to do. The court CFOMs are there to answer any policy-related questions that the courts may have and also to be eyes and ears in the courtroom, so... [LR37]

SENATOR CAMPBELL: Okay. Are we then tracking...is the department then tracking how many...I mean I'm assuming that the importance here is of that case coordinator. Are we tracking the change? [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: I mean early on we were hearing like, okay, I've had four of these in a month. [LR37]

VICKI MACA: Uh-huh. [LR37]

SENATOR CAMPBELL: Are we watching to make sure that they're trained and that there's a consistency here? [LR37]

VICKI MACA: Uh-huh. [LR37]

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SENATOR CAMPBELL: Because if that's the person who's supposed to know that child the best, are we watching and making sure that those folks have the training and stay in the job to know the family? [LR37]

VICKI MACA: Uh-huh. Uh-huh. [LR37]

SENATOR CAMPBELL: I mean I'm assuming that you've put into place... [LR37]

VICKI MACA: Yeah, I have had many conversations with the representatives of KVC and NFC about work force and work force stability, as well as work force training. We have spent hours brainstorming and developing strategies that will allow us continuity with case management and reduce changes with case management. We know that that's disruptive to families. We know that it's difficult for new case managers to grasp volumes and volumes of information about families in a short amount of time and we have spent a lot of time focused on that issue. [LR37]

SENATOR CAMPBELL: Okay. Any other questions? Senator Krist. [LR37]

SENATOR KRIST: Very quickly, we've heard...in every hearing we've been a part of we have heard that there is performance-based criteria that tends to make that person paint a brighter picture than actually exists in order to move people along with the system. And I know it's there because I've heard it from the people inside and some families, and we've heard actual testimony in Grand Island and other places that it's happening. What are you doing to make sure that that's not a performance-based, move the product along, the more widgets we get done the better we do? What are you doing to ensure that that's not happening in the Eastern and Southeastern? [LR37]

VICKI MACA: Yeah. And actually the system is designed with a number of checks and balances in it to make sure things like that don't happen. There are guardian ad litem who review information, who meet children, certainly review court report and case

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plans, have access to all the information available on that family. So they're one level of legal review to ensure that families aren't being scurried along to move on out of the system before they're ready to do that. So we have the guardian ad litem whose sole job it is to make sure that the best interests of children are attended to. We also have parents' attorneys involved in that review; judges, of course, who ultimately, with our court, involve families, have the final...make that final determination whether children need to remain in the system or whether they can move on. So the system really has inherent in it several different checks and reviews, along with the department's oversight. So I think there are several different professional reviews to make sure that what you described doesn't happen. [LR37]

SENATOR CAMPBELL: Okay, quickly. [LR37]

SENATOR MCGILL: Yeah, because it does happen in...well, anyway. But perhaps what we could do, I guess this is a suggestion, is you know is there a way to track if a caseworker or whoever might be scurrying it along, what the rate of...it's not recidivism, of reentry back into the system is or having to go to a higher level of service? Is there a way to track that to certain managers... [LR37]

VICKI MACA: Uh-huh. Uh-huh. [LR37]

SENATOR MCGILL: ...so that if you're seeing that a lot it can be dealt with, if maybe they are trying to just scurry people along? Is there a way to do that? [LR37]

VICKI MACA: Yes, we do... [LR37]

SENATOR MCGILL: Okay. [LR37]

VICKI MACA: ...track reentry rates. [LR37]

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SENATOR MCGILL: Yeah, but do we match it up with who their manager was to be able to track if that person seems to be someone who's just pushing a kid through the system in order to look like they have good numbers? [LR37]

VICKI MACA: Yeah. I believe KVC and NFC do have that capability. [LR37]

SENATOR MCGILL: Okay. [LR37]

VICKI MACA: I do not have that capability... [LR37]

SENATOR MCGILL: Okay. [LR37]

VICKI MACA: ...from the department's position,... [LR37]

SENATOR MCGILL: Okay. [LR37]

VICKI MACA: ...but I know that they do have that and that can be something that I can follow up with you on. [LR37]

SENATOR MCGILL: Because that could be one way to track if there are particular people... [LR37]

VICKI MACA: Uh-huh. Uh-huh, down to the employee. [LR37]

SENATOR MCGILL: ...that are pushing, yeah, exactly. [LR37]

VICKI MACA: Uh-huh. Uh-huh. [LR37]

SENATOR CAMPBELL: Okay. Thank you, Ms. Maca, for joining us today and I'm sure if we have any follow-up questions we'll send them on to you. [LR37]

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VICKI MACA: That sounds great. Thank you, Senator Campbell. [LR37]

SENATOR CAMPBELL: Thank you. Next on our list is Mr. Jeff Schmidt, former administrator. Good morning. [LR37]

JEFF SCHMIDT: (Exhibit 5) Good morning. [LR37]

SENATOR CAMPBELL: And thank you for coming. [LR37]

JEFF SCHMIDT: Well, thank you for the invitation. My name is Jeff Schmidt, J-e-f-f S-c-h-m-i-d-t. From February 2007 to May 2011, I was the service area administrator for the Southeast Service Area of the Nebraska Department of Health and Human Services. In 2007, when I was named service area administrator, that role included some responsibilities in addition to child welfare and juvenile justice matters, primarily economic assistance, developmental disabilities service coordination and some related functions. In shorthand, the DD responsibilities were removed at some point I think in 2009, I'm trying to do this from memory, and the economic assistance duties changed with the implementation of ACCESSNebraska and the piloting in Lincoln and the Southeast Service Area. That paperless system went along with that and the call center opening. In addition to my duties as service area administrator, I was for a period of time the coleader of the department's child welfare reform effort. That was from early 2008 till sometime in the spring, summer, fall of 2010. It's hard to pinpoint the exact point that changed. The director in 2008, Todd Landry, asked Chris Hanus and myself to colead this project. The purpose of it was to reform the way the department contracted for services, the idea being that the system then in place of having literally hundreds of separate contracts resulted in an ineffective oversight system, that has been mentioned here, as well as some gaps and redundancies in the system of services that were provided around the state. Sometime in spring and summer of 2010, my role in the reform project diminished and came to really kind of an end due to Mr.

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Reckling, Mr. Winterer, Ms. Hanus, and the agency's legal counsel becoming more involved in matters and the central office really handling those matters and me not being involved. There are some...there's so many things that could be talked about, but in the interest of time there are a few things that I've listed in the written testimony that I've provided. I can go over those things; I can answer questions. It really is your preference. They're there for you but it's very brief and very surface. There's a lot of information within the department's records, e-mails, electronic files that I don't have access to that you would have access to that may provide you additional information. But rather than reading through all this, I'd be happy to answer questions at this time. [LR37]

SENATOR CAMPBELL: Senator Krist. [LR37]

SENATOR KRIST: Were you present and did you participate in the contracting process? [LR37]

JEFF SCHMIDT: Yes. [LR37]

SENATOR KRIST: Is it your opinion, and because you're not involved with the agency anymore or the department anymore I can safely say you're going to tell me your opinion,... [LR37]

JEFF SCHMIDT: That usually didn't stop me anyway, so... (Laughter) [LR37]

SENATOR KRIST: Is it your opinion that the contracting process would have benefited from the DAS involvement? And why was it excluded? [LR37]

JEFF SCHMIDT: I'm going to give you an unpopular answer. I don't think necessarily the DAS process would have helped it. It as publicly bid. It just wasn't publicly bid through the DAS process. The initial service coordination contracts were put out in a request for bids. We took...we used a process that was designed or intended to first

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identify potential contractors that would be qualified to take on a task of this magnitude, and there are very, frankly, few of them in Nebraska and this part of the country. Once those folks were identified, then we implemented or used kind of a collaborative process with them of trying to design the details of the contract and the reform in a way that worked for the contractors and worked for the department. So it was a different process. It was something that to my knowledge had not been utilized before. But there was a public bidding portion to the process. [LR37]

SENATOR KRIST: Is it safe to say...I have a few "follow-ons," if I could. [LR37]

SENATOR CAMPBELL: Sure. [LR37]

SENATOR KRIST: Is it safe to say that--we've heard the Auditor's report and some of us have had conversations about it--you wanted to take the same amount of money that you were executing the program with and privatize and outsource? [LR37]

JEFF SCHMIDT: That was our direction from Director Landry. We were to come up with some kind of a plan that would work within existing resources. [LR37]

SENATOR KRIST: So here's my problem with that conceptually. I'm spending a hundred pennies on the dollar to take care of that young man in whatever capacity. You have the state employees to do that right now. You're going to give that hundred pennies to...all of that hundred pennies to somebody to do that who has no overhead structure, cannot access all the databases that you have access to and not give them any, quote unquote, GNA or administrative fees above and beyond what's currently being spent to take care of that young man, and you expect that contractor...you expected that contractor to do what you were doing for a hundred pennies and still support the structure that he or she needed to do that. Is that a fair assessment? [LR37]

JEFF SCHMIDT: No. Part of it are, there are portions of it though that are based on an

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improper premise. Part of it is that the services dollars that were allocated to this project, for lack of a better term, did contain some case management dollars that had been paid to the regions to provide purely case management. So there were some...I think it was about \$13 million of just case management money that was part of the pot. In addition, every services contract--and here's our...whether we were right or not, here's what we were thinking--every services contract with the individual contractor contained some portion of administrative costs for them to provide a service. [LR37]

SENATOR KRIST: Built into the contract. [LR37]

JEFF SCHMIDT: Built into the contract. Now it wouldn't necessarily be separated out in that way, but there is a report, and I'm sorry, it's been too long, I don't remember the name of it or even who did it anymore, but there was a report we had access to that someone had come in and reviewed the department's contracts and said, well, approximately this percentage of all your services contracts are overhead, administrative costs. And we took that information and used that in our assessment that there was enough money there to support the contractors. The other premise that we used, that frankly I think was faulty, was I guess a philosophical belief that private contractors, because they are businesses and they have to make money, would do the job better and more efficiently than government. And after going through the experience I guess I'm very comfortable in saying I don't think that's correct. [LR37]

SENATOR KRIST: And I think we all agree. But I guess the point that you just made, were you ever aware of a contractor, a prime, coming back and saying, this is not working, we need to have more funding? [LR37]

JEFF SCHMIDT: Yes. [LR37]

SENATOR KRIST: Yes. And the answer to that question is yes, and then the response that I would have is why weren't they given help? Why were they not funded at the

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proper level to maintain that? Is that...was that ever...it seems to me, and we've heard the audit report, we've heard other pictures that have been painted in terms of how those were handled, and some were given pots of money to continue and some were said there's nothing more, you need to do more with less. And trust me, I've been there. You know, you can't do always more with less and services being cut. Could you talk to me about that? [LR37]

JEFF SCHMIDT: Unfortunately, I can't really answer your question. My understanding throughout the process was we did not have access to more money. I was, frankly, stunned when the director called myself and Mr. DeJong in Omaha on a Saturday evening and said, hey, we're putting more money into this. Well, we didn't know there was more money. So that was a surprise to myself. I heard the discussion about where the money came from and how they accessed it and that's...as much as I know about it is what you've heard. [LR37]

SENATOR KRIST: Thank you. Thank you, Chair. [LR37]

SENATOR CAMPBELL: Senator McGill. [LR37]

SENATOR MCGILL: Thank you, Senator Campbell. To the best of your knowledge, where does the buck stop in HHS? When it comes...in your testimony, you talk about red flags and decisions being made to move ahead with contracts even when maybe the money isn't there. And who's making these calls and these assumptions that are leading us down this...or have led us down this path? [LR37]

JEFF SCHMIDT: As the sponsors, we made recommendations to the director. The director made decisions based on those. How much he did or did not consult with Mr. Winterer or with the Governor's Office, I don't know. [LR37]

SENATOR MCGILL: Okay. Thank you. [LR37]

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SENATOR CAMPBELL: One of the things that you talk about, Mr. Schmidt, in your testimony is that from the outset we didn't have the financial management oversight of the contracts. I think I'm paraphrasing that correctly. Do you want to elaborate on that a little bit? [LR37]

JEFF SCHMIDT: The best example I can give is that we used to, in kind of gallows humor, Ms. Hanus and I used to joke that here's a couple of English majors trying to make some of these financial recommendations. [LR37]

SENATOR CAMPBELL: You have to be careful about English majors. (Laughter)
[LR37]

JEFF SCHMIDT: Well, that being an English major, I can say things about myself and my financial abilities or inabilities. And in fact at one point another administrator, Lindy Bryceson, and myself were supposed to work with the contractors to develop the financial reporting forms that they were going to provide to us and we were in the bizarre position of, frankly, having to ask the contractors' financial folks, what is this, what should we get. We had no background in this and there was...we were...Mr. Reckling asked us to consult with Matt Clough, who was the operations director, I forget the exact title, so we talked with him a little bit and came away from that meeting with I guess the message from him that we were probably asking for enough or too much but nothing that really, in my mind, helped us understand what should we be doing. We needed a financial analyst of some sort. [LR37]

SENATOR CAMPBELL: Another premise in your report that I'd like you to elaborate on is the assumption that the whole reform effort took place was that the system was broken and wasn't working and wasn't serving children and families, and you call that premise into question. [LR37]

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JEFF SCHMIDT: I...and that made me pretty unpopular but I...yeah. Nebraska's mental health and substance abuse treatment system isn't...needs some help. I mean that was our biggest issue, frankly. We could not access assessments in a timely fashion. We had difficulty finding folks that were willing to do the work for what Medicaid would pay, for example, or the behavioral health system had limited dollars. And then there were federal restrictions on how they could use the dollars because there's a priority of IV drug-using or illegal drug-using mothers and then three or four after that, and Vicki would remember those better than I, but there are so many limitations and so few resources in the mental health treatment and substance abuse treatment issue. I think if you ask any juvenile court judge they will tell you that one of their biggest frustrations is getting quick assessments of parents and kids with mental health and substance abuse issues. As I said, the best time to intervene in those matters is when you've got law enforcement and DHHS at your door taking your kid. That's when parents are motivated. That's when a kid is motivated to make some change. You wait three months, four months and, you know, the motivation is less significant. [LR37]

SENATOR CAMPBELL: When you started working on this as a part of that team, did you have a strategic plan in front of you where you wanted to go year one, year two and on? [LR37]

JEFF SCHMIDT: No, it was more of a direction to...we want to change the way we contract. We want part of that to be privatizing some portion of the case management, this was the direction to us, and it has to be within existing resources; now see what you can do with that. We decided, and by looking at some reports from the U.S. Department of Health and Human Services and other educational institutions I think it became very apparent to us very quickly that privatizing case management couldn't effectively be done within existing resources. It doesn't work. And privatizing case management doesn't automatically guarantee you success. The results have been mixed around the country. Everybody points to Kansas and Florida, but if you point to Kansas and Florida better look at the financial piece of it as well because they dumped tens of millions of

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dollars into their system. And so we went back to the director and said, well, privatization of case management isn't going to get you what you're looking for but here's something that we could offer as an alternative to try and meet your requirements, and that was the initial service coordination contracts, that arrangement. And in terms of a strategic plan, we recognize that any shift in the system is going to take probably three to five years based on the experience of other jurisdictions, but I couldn't tell you that we had a year-to-year strategic plan about how it was going to look. [LR37]

SENATOR CAMPBELL: Okay. I'm going to go one more question and then we'll go to the next testifier. [LR37]

SENATOR KRIST: Were you...thank you, Chair. I just...in 1996 we lumped all this stuff together. You're telling me that there were issues that were brought up that could be solved, that needed to be solved. There were parts of the system that were broken and there were parts of the system that were working. Did you make that recommendation to them at the time and was there an awareness that at some point this was costing much more money than it was intended? [LR37]

JEFF SCHMIDT: Well, and I guess I'm not sure specifically which one...which piece of it you're talking about in terms of the...I go back to the treatment issue. Director Landry, one of the roundabouts we used, maybe that's not the right term but if you talk to line staff, they find ways to get around administrative roadblocks and one of the things that we had done for quite some time was to use child welfare dollars to supplement treatment so we could try and get it in place in a timely manner. Mr. Landry directed that we were not going to do that. That was a behavioral health issue, that was a treatment issue and we needed to use those resources and not use child welfare dollars to supplement, and that tied our hands a bit and made it pretty clear that any recommendation about treatment issues was something that, one, he was already aware of and had already made some decisions about. So, no, I didn't take that to

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Director Landry at that time. [LR37]

SENATOR KRIST: Thank you. [LR37]

SENATOR CAMPBELL: Mr. Schmidt, I'm sure that all the senators would like an opportunity to look over your written testimony and if we have additional questions I hope you're welcome to us getting back to you to maybe sit down for another conversation. [LR37]

JEFF SCHMIDT: Anything that I did in my role as service area administrator was done as a public employee, so in my view I'm obligated to come tell you what I did, so, right. [LR37]

SENATOR CAMPBELL: Okay. And I thank you for that effort and coming forward. I appreciate it very much. [LR37]

JEFF SCHMIDT: Thank you. [LR37]

SENATOR MCGILL: Thank you. [LR37]

SENATOR CAMPBELL: Our next testifier is Mr. Jon Braaten. Am I saying that correctly? [LR37]

JON BRAATEN: Braaten. [LR37]

SENATOR CAMPBELL: Braaten. Should have brought my German today,... [LR37]

JON BRAATEN: There's only one word it rhymes with and so... (Laugh) [LR37]

SENATOR CAMPBELL: ...okay...who acts as a guardian ad litem, and so we'll start off

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today and we do need you to spell your name. [LR37]

JON BRAATEN: My name is Jon Braaten, J-o-n B-r-a-a-t-e-n. For those that are in the room that know me, five to seven minutes was going to be difficult, and now I've got about another hour's worth of material after sitting here for an hour. (Laughter) I've been a lawyer for ten years, primarily in Lancaster County, but I do go to Gage County, Sarpy County, Seward County, and various other counties practicing in juvenile court as well. I've represented probably over 300 families in juvenile court over the course of my ten years of being a lawyer. In that ten years, I would estimate that I've probably spent 200 to 250 hours in meetings with DHHS, with KVC administration, in Through the Eyes of the Child meetings, in advisory committees and similar type discussions, so I've spent a substantial amount of time discussing these issues with the people that are making the decisions and the people that have the knowledge into making these decisions. Some of the things that have been talked about today are things that the lawyers and judges have been talking about for years. There was questions about CFOMs. CFOMs for KVC, for in the courtroom, it doesn't make sense. They are going to be responsible for potentially 200 to 250 cases. HHS administration will say that they're not there to testify, but HHS in the majority of cases is still the legal custodian, not KVC, and that's been a primary issue that we've been addressing throughout our discussions. KVC cannot make a decision without the authority with HHS to make a placement change or to make a change in visitation. The CFOM sitting in court is going to have to make that determination. They don't have any information about the cases. Either they're going to say yes in all circumstances or no in all circumstances, but they are not going to be able to critically analyze what's actually gone on in court. It's important for the committee members to recognize, court reports are supposed to be written probably 20 days ahead of time, prior to court. They're supposed to get to the parties ten days in advance. This never occurred in the last five years probably. We generally get the court reports either at court or within about 24 hours prior to court. As a guardian ad litem, that's insufficient. We have to write our own court report. Based on that, we can't do it. As a parent's attorney, that's insufficient because then we're put in the position of having our

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clients come to court, have a five-minute conversation about a 45-page document and determine what we want to do. And so we've resulted in continuing court hearings, delaying services, and delaying things that happen. In preparing for my testimony today, I spent...I sent a lawyers...I sent an e-mail to all the lawyers that primarily practice in juvenile court in Lancaster County, which is about 40 lawyers, and within about 15 minutes I had 20 responses. My e-mail to them was fairly generic: I am testifying at the legislative hearing in front of the HHS Committee tomorrow morning regarding the reform. Any anecdotal or other type input as to success or failure would be appreciated. Not one of the e-mails I had, had anything positive to say, and that's unfortunate. None of the judges that I've talked to, both in this county and other counties, in the last 24 hours had nothing to positive to say about the reformation. I think we have to start back at the beginning and, frankly, it's unfortunate and a little disheartening to know that we're asking these questions now. We weren't asking these questions two years ago. Five years ago when Judge Heavican was appointed as the Chief Justice we had an Eyes of the Child meeting in Nebraska City with several hundred members. All the judges that do any juvenile court work, all the county court judges that do any juvenile court work were there. Back then it wasn't Through the Eyes of the Child because we decided on the name at that meeting. HHS administration was there. We spent the next three and a half years meeting on a monthly basis in each of our counties to institute change, to work on permanency, to work on early implementation of services, to work on how we can get kids home quicker. All that has been basically...the rug has been pulling out from underneath our feet. We do not have any Through the Eyes of the Child that are of any benefit anymore because all we do is we get together and HHS and KVC talk to each other and they help each other understand what the current process is, what the current policy is. I would read some of the e-mails just very briefly that I've gotten: The lack of consistency for the families is unbelievable; caseworkers are constantly changing. My clients are I are bewildered by the rapid turnover of caseworkers; it is bad for everyone. I will say that I've noticed that foster parents are woefully uninformed about permanency options. Let's be truthful, it's much worse. Not only does KVC have the same problems as HHS workers did--work overload and

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underpaid, there are simply additional problems--transportation issues, workers not knowing departmental policies or legal procedures. It is as if we've multiplied the effects of getting new case managers times ten. All I have seen is more passing the buck, slower implementation of services, and absolutely no benefit to parents or kids. That's what we see on a daily basis. And I've met with KVC administration, HHS administration and nauseam and they know all the stuff that I'm going to say because I've said it to their face. I would include them as my friends and I would tell them that I am the staunchest advocate for KVC and HHS and I've been their harshest critic now because I have a realization as to what potentially needs to occur and I see a difficulty in the people that are making the decisions actually making the changes that we need. Juvenile court is not simple. Families come into juvenile court. You identify the problem, you implement the services, you oversee the implementation of those services, and either the case closes by way of a relinquishment, a termination, or the kids are returned home. That's it. It is not overly difficult. What works in the boardroom does not necessarily work in the courtroom. And we can call this child welfare but it really is juvenile court and the four judges in Lancaster County and all the judges throughout the state are the ones that direct what happens within the courtroom. Our judges will tell you, KVC does not appear in the statutes, Magellan does not appear in the statutes. Those things that everybody comes in and says we can't do things because of XYZ, those do not appear in the statutes, and our courts are directing what happens in these cases. The issues that we're seeing now, by and large, are the same issues we've seen for the ten years that I've been practicing in juvenile court. I'm talking as quickly as I can, so let me take a breath. [LR37]

SENATOR CAMPBELL: You're okay. We'll give you some extra time, just relax.
(Laughter) [LR37]

JON BRAATEN: There is a fundamental premise that needs to be addressed when dealing with reform. Reform has to start at the beginning. If the caseworkers are working 1 to 16 case ratio, which does not really mean 1 to 16 families, it means to 1 to

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20 families or 1 to 24 families, they could all be out-of-the-home kids, there can be some in-the-home kids, in juvenile court 24 families probably means 50 to 75 kids. You cannot expect a worker to be able to work a case with 75 kids, 75 kids who need therapy, 75 kids who need transportation to visitation or transportation to services. That can't happen. It's never going to be successful. You can take the smartest administrators in the world, they couldn't do the job. Bottom line: Unless we decrease the case ratio per caseworker, there's no amount of reform that is ever going to make any level of change in what we do. That is a premise that I believe all judges and all lawyers would agree with me on and, frankly, all caseworkers would agree with me on, because now we are seeing from KVC what we've seen from HHS for years--implosion from within, caseworker turnover because they're unsatisfied in their job, they're being sold out by their supervisors or administrators. That's what happened at HHS. Everybody who's here from HHS and KVC will probably disagree with me but everybody else will probably agree with me. We have workers that don't know what they're doing. I invite anybody to come to the courtroom. Then you'll find out really what happens in the real world of juvenile court. It's embarrassing. It's embarrassing to hear workers not know how to pronounce people's names, it's embarrassing to hear workers not know whether or not people are in therapy, it's embarrassing to have workers that don't know much about anything, and when you keep changing caseworkers that always happens. So what does that mean? That means that a case that should be a year long is a two or three year long case, that means that the budget for juvenile court is just astronomically increased because we are having cases that should close within one year remaining open because the judges cannot trust the people coming into court to make changes when that person doesn't know much about the case. I could go on for a couple hours. If anybody wants to talk to me, I've included my e-mail. I personally would come over and meet with anybody because the people that run the system are in the courtroom. It's the judges, the prosecutors, the lawyers. It's the CASA representatives, the Foster Care Review Board representatives, and the people that are involved in the case. We know what's going on. What works in the boardroom doesn't really work in the courtroom.

[LR37]

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SENATOR CAMPBELL: Thank you, Mr. Braaten. Senator McGill. [LR37]

SENATOR MCGILL: Hi. While I've, you know, talked to judges and stuff over the last year and a half, it seems like there has been horrible communication between HHS and Families Matter and what they were trying to do and the courts, and I wonder how much that is the cause of a lot of the problems, I mean, because HHS did make these decisions, Families Matter, with out consulting the Legislature or the courts. You know, they kind of made that decision and just said, this is it, and then didn't really communicate with the judges the changes they were making, who was in charge of what. And so I do wonder if there were better efforts made at communication of what the goals were. Right now it seems like the courts and HHS and KVC have become very polarized and no one wants to listen to anybody or, you know, be as cooperative. Do you think there's room for that? [LR37]

JON BRAATEN: There was a lack of communication. When we built the new courthouse and we built the new courtrooms, we said, can we have somebody who's actually been in a courtroom help design the courtroom so that we don't have, you know, a witness stand over here and the judge over here and someone else sitting somewhere else. You need people from within that understand what really goes on in the real world. That communication I don't think included the courts. There is a little bit of a...hard to understand how someone from HHS would just come over and talk to a judge about something, and there's a little bit of an odd relationship there, but there's really no level of communication. We were told this is what was going to happen, this is what happened, and now we're dealing with the aftermath, which if I could say that we were in the same position that we were five years ago I think that would be beneficial. You know, when Jeff Schmidt talked about the fact that there was a fundamental premise that the system was not broken, we spent hours on Through the Eyes of the Child project to try to make the system better under the system that we had. All that has just been thrown out the door. And so there is a fractured relationship. I don't think that

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communication is going to change anything because the workers still don't know what they're talking about when they're in court, they still...I had a case where I needed a client to get a substance abuse evaluation, a \$55 evaluation. It took six weeks for that authorization to go from KVC to LCAD. That's unacceptable. That's six weeks where I, frankly, should have just paid it out of my own pocket to have my client go over and do that evaluation because that's six weeks out of a time frame that we cannot deal with that's unfortunate. [LR37]

SENATOR MCGILL: Uh-huh. [LR37]

SENATOR CAMPBELL: Senator Krist, do you have a question? [LR37]

SENATOR KRIST: You talked about in statute KVC does not exist or other entities do not exist, it is HHS, which leads to obvious question on my part. What part...is it changing the statutes that's going to help solve the problem or is it reversing and going back to the only recognized authority under statute, which is the department? [LR37]

JON BRAATEN: I believe that there are some things that the government should be in control of. I believe that that should be something like child welfare services. We either have to do one or the other, because both of them together is a nonsensical result on anything that we're doing. Either we get rid of HHS and KVC becomes the statutory legal guardian for the children, or we get rid of KVC and we have HHS continue in their role which is outlined by statute. I think that we were making great strides in the last five years in making HHS successful. We had the same problems. Workers were unsatisfied. Workers had a hard time. These workers aren't social workers; they're case managers. They go from emergency to emergency. They fill out authorization after authorization. They do not have time to think, with their case ratio, on how to problem solve, how to help the family out, how to get little Johnny back to the therapist that little Johnny wanted to go to or why we have children placed in Omaha that are still going to school in Lincoln and just crazy things that if you come to juvenile court you're going to

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be probably embarrassed that that's the way the system operates, because it seems to be so inefficient. [LR37]

SENATOR KRIST: Thank you, sir. [LR37]

SENATOR CAMPBELL: Questions? Mr. Braaten, I asked a question earlier about who knows the child. In today's courtroom, who knows the child? [LR37]

JON BRAATEN: Well, I've spoken at a variety of different seminars and dealt with a variety of different groups. I, frankly, think that the CASA representative is probably the most influential person in the child's life. The guardian ad litem, by statute, is required to go out every six months. If I show up at a kid's house looking like this, generally the guardian ad litem are probably doing that before court, and that means something is going to happen, something is going to change in my life. A guy in a suit came over to my house. I don't like that guy. I don't know what's going to happen. So the caseworkers switch so much, I think that if you ask kids that aged out the services ten years later who they remember in a case, I would bet you it would start with CASA, the next may have been the caseworker that was on the case the longest. I don't think the guardian ad litem is high on the list but in some of the e-mail responses I did receive they have indicated that we as lawyers and we as guardian ad litem are required to work probably twice as much as we did in the past because we are going to have to do the case management. We have to follow up with calling LCAD. We have to follow up with making sure that visitation occurred. We need to review the visitation worker notes because if someone else reviews them we don't really know if we're getting an honest assessment as to what really occurred at the visitation. So I think CASA and the guardian ad litem are in the child's knowledge of who people are. But if you have a worker that stays on a case, that worker would clearly be the person that has the most involvement with the child. We're just not seeing that and, frankly, we've never seen that in many of our cases over the course of years. [LR37]

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SENATOR CAMPBELL: Mr. Braaten, I'm sure that I speak for all the senators. Thank you very much for your forthright testimony. And if you wouldn't mind, I mean you can delete all of the names, but if you would like to share any of the comments you can, you know, leave them with the clerk and we'll get back to you. Also, if we have additional questions, I'm sure you'd be welcome to coming back and having more conversations with us. [LR37]

JON BRAATEN: My office is just across the street. I can come over any time. [LR37]

SENATOR CAMPBELL: Okay. Thank you and thank you for speaking for a lot of the guardian... [LR37]

SENATOR AVERY: Madam Chair. [LR37]

SENATOR CAMPBELL: Oh, I'm sorry, Senator Avery. [LR37]

SENATOR AVERY: Could I have one question? [LR37]

SENATOR CAMPBELL: Oh sure. [LR37]

SENATOR AVERY: Okay. Thank you. I've had conversations with KVC and the question has come up why the problems and difficulties that we keep hearing about. In my office, probably 95 percent of our constituency complaints are on this subject, and they tell me this is normal for a transition of this kind. Do you agree with that and, if not, why? [LR37]

JON BRAATEN: I have no real basis for experience as to transition in things like this. We do hear anecdotally what we hear from all the other states that have transitioned to things like this. All I can say is that if the transition is going to take two to five years, it better be a dang good system in five years and we better be able to say the five years

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of families that had to suffer as guinea pigs through this change were worth the five years of suffering. I don't think we can ever make a system that doesn't recognize a reduction in caseworker caseload that's going to make any difference whatsoever. So I don't know what benefit there is from a change. I don't think the system was bad in the first place and I don't think it's worth waiting for a long time to see whether or not this experiment is going to work. [LR37]

SENATOR AVERY: So you don't think the system was bad in the first place, meaning the old system with DHHS in charge. [LR37]

JON BRAATEN: I routinely would e-mail lawyers and we would have meetings over at juvenile court and I said to the lawyers one time, if everything is perfect we can stop meeting, and I asked for a show of hands for if anybody believed everything was perfect and nobody raised their hands. Was it a perfect system? No, but the system has become so convoluted, so confusing, top heavy as far as decision making, and the people, the infantry, the workers, the front-line workers are the people that need to have the knowledge, the services provided to them to be knowledgeable so that they can have the time to spend with their families. So that system has always been a broken system. It was broken with HHS and I see it's broken with KVC because there's too many cooks in the kitchen. You know, all the coaches for Nebraska can't sit in the press box, somebody has got to come to the field, and that's where we need the work. [LR37]

SENATOR AVERY: But I...it was my... [LR37]

SENATOR CAMPBELL: Senator Avery, I'm really sorry, but I need...I've got to move along here. Could you quickly ask your last question here? [LR37]

SENATOR AVERY: Yeah. It was my understanding that you said the system was pretty good that we're trying to change. It was my understand that we had an unusually high number of institutionalized children or in residence treatment rather than in homes or

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with families, and that cannot be good. [LR37]

JON BRAATEN: No, I would agree and we're not going to have many RTC levels of placement anymore. I didn't say the system was pretty good; I said it wasn't bad. But there is a level of services the kids need. I think Lancaster County has too many cases and I think it's important for the entire committee to remember when you're dealing with different areas it's different rules, and Beatrice is different than Lincoln, it's different than Seward. In Lincoln we have too many cases. I blame the county attorney for being in too many cases and I talk to the judges about adjudicating too many cases, so we all have a role to change the cases that we have in juvenile court so that we can keep the cases that need to be there, there with the attention that they need. [LR37]

SENATOR CAMPBELL: Thank you very much. Next is Carol Stitt from the Foster Care Review Board. And while she is making her way to testify, I think it's appropriate to make a comment after Mr. Braaten's testimony, and that is the HHS Committee has had a great amount of cooperation from the Chief Justice of the Supreme Court and the Eyes of the Child and the court improvement project, and I do want to note that. Good morning. [LR37]

CAROL STITT: (Exhibits 6, 7, and 8) Good afternoon. I would like to thank the committee for your work on this issue and for this opportunity. In particular, I'd like to thank Senator Campbell, who has assisted me as I've tried to respond to different requests for information. I do think it's important to look at 2006 to 2008. We reduced the number of children in out-of-home care by 2,000. It was definitely a focused reform effort. It was led both by the Governor and the Chief Justice, and I think, you know, I do feel I guess an issue of fairness here for the lead agencies who stepped up to this task. This was not a focused approach. We had communication issues throughout. We had insufficient attention to infrastructure, capacity, and knowledge of the Nebraska legal system. We transferred cases far too quickly and all those issues continue to be problematic today. I really wanted to talk to you...sorry, my numbers are falling down...I

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really wanted to talk to you today about really three main problems we see and actually I'm a little bit like Mr. Braaten. I added another one. We have a serious problem with worker retention and it causes problems the life of the case and it's very expensive for the state of Nebraska. I have specific numbers in our information and they're concerning. In Lancaster County, we've had three or more lead agency staff assigned to these cases and almost 30 percent of our cases we've had four or more lead agency staff. What that means is you're constantly transferring and trying to catch up the issues. I think we absolutely have to look at worker turnover, we have to look at retaining this entire work force. The second issue are foster parents. Foster parents repeatedly report to us they're receiving less money. They receive a one-time clothing allowance. They do have access to the Kidz Closet but, again, it's something...it's sometimes difficult for them to get there. And also, foster parents are not being reimbursed or provided respite, and some of that again has to do with the people they work with constantly turning over. We're also really concerned about placements and that is the lack of information on placements. This is mentioned by the State Auditor, was one of the first things I put in place for the Foster Care Review Board is documenting what was missing, which is quite a task, and I'd like to commend my staff and all the people who worked on this issue. We have documentation at a very alarming rate lacking on placements, we have it lacking on visitation and other areas, so that's an issue that is not only problematic in the financial area but it's problematic in the service area. So there are many more statistics in here. I do want you to note, and I'm sorry my list fell down, but on the map in this area, which I had for the senators, we have 1,211 children in out-of-home care; we have 485, 40 percent, who have been in care more than once; we have 603 children who have had four or more placements; and we've had 357 children who have more or more agency staff assigned to their cases; and we have 55 percent of children who have had four or ore different HHS workers. It's a lot of change for those children and families trying to adjust to at a point when they're in crisis. And so, you know, well, I really, really appreciate the committee's work, I think we really do have to ask some of the questions that you're asking today. The Foster Care Review Board recommended this committee and I would like to tell you, you far exceeded our expectations or at least

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mine. I think there's a lot of information to absorb here but there have been some very critical points and I think one of the most critical points is how many infrastructures can we afford in Nebraska to develop. Does it really make sense to have two infrastructures for essentially the same work? And I think Senator Krist's point on that is really on the target as I've tried to wade through this information. There's more in my testimony but I know you have a long day. Those are really the areas that for children I wanted to bring to your attention. I think a point I want to make is how all, the lack of information, the lack of support to foster parents, the lack of service delivery, and the lack of documentation, it all impacts the child's case and that's our number one concern--how do we get the system back to serving children and their families. [LR37]

SENATOR CAMPBELL: Thank you, Ms. Stitt. I would like to comment that certainly by statute the Foster Care Review Board was established and one of their major responsibilities is to provide data to the Legislature. And I sort of had to refresh my memory of the statutes as we began working and I thank the Foster Care Review Board and particularly Carol Stitt for whenever we've asked for data they certainly comply and provide a lot of information. For the senators that are sitting here, one of the most eye-opening parts of LR37, I think, for those who could be there was the morning that we spent at the Foster Care Review Board learning how they put the data together. And Carol specifically asked me if she should bring an example and I said, yes, I think she should because it was a startling morning for us in terms of how you put all of this together. And so we have a better understanding of the reports that you've sent. So if you have not been over to see how data is put together, it would be helpful I think for you. [LR37]

CAROL STITT: Briefly, I would just like to say HHS and the courts report to us, and then our reviewers, when they conduct reviews, fill out another data form and that's how this data system is built. When reformed occurred, we realized we had to track additional information so we could provide to you how many lead agency worker changes there were and that type of information, but it is really important to look at some of these

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numbers. There have been some things that have been slight improvements, number of placements, but there have certainly been things that are more problematic and one of those I highlighted for you and that's the workers. I do apologize for my list falling. One of the things that I'll put up there and I want you to pay attention to is how many little kids we have in the system. The pink are birth to fives and it's startling. And also the older youth are the yellow. My concern for both those group of kids, we have kids aging out who we need to do a better job of independent living services and we have to make more timely decisions on those birth to five kids, and that I would agree with Jon, we lost that. The Chief Justice and the Governor were providing a lot of leadership on that issue and with reform we're all just trying to figure out where are the kids, you know, what is happening, where's the documentation. We're not up here where we need to be, so... [LR37]

SENATOR CAMPBELL: Questions? We'll start with Senator Krist this time. [LR37]

SENATOR KRIST: Just...and this will be very brief. I would be interested, and we can do this...it's a tasking, I think, if you'll accept it. I would be interested in a consolidation of all the databases that exist right now. We're hearing about legislation that came forward and it's done a wonderful job in terms of developing a database. We hear about the state data. We hear about the HIPAA issues that are involved with the database. [LR37]

CAROL STITT: So data issues. [LR37]

SENATOR KRIST: We don't have access to all the data on all of the kids. Seems like you have the bet culmination. [LR37]

CAROL STITT: Uh-huh. [LR37]

SENATOR KRIST: And I'd be interested to see what else is out there and potentially maybe one of the things we need to fix is establishing a database that we can share

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across the board on issues, which... [LR37]

CAROL STITT: Yeah. I think that's a good point. I think we also have to fix documentation and making sure. I don't think the state should lose data entry. [LR37]

SENATOR KRIST: But you don't... [LR37]

CAROL STITT: That's a plea I'd like to make. [LR37]

SENATOR KRIST: See, I think, just to the documentation, it has to be part of a database. [LR37]

CAROL STITT: Uh-huh. [LR37]

SENATOR KRIST: It can't be a paper file that follows the lawyer into the courtroom. It has to be a child's record and continuity, which then I would... [LR37]

CAROL STITT: I would agree with that, but some of those records, like the visitation records, we're seeing some of those on the computer but sometimes, Senator,... [LR37]

SENATOR KRIST: I see. [LR37]

CAROL STITT: ...we're seeing nothing. [LR37]

SENATOR KRIST: I see. [LR37]

CAROL STITT: I mean we're...when I'm...that's...and I should have clarified that response. [LR37]

SENATOR KRIST: Yeah. Thank you, Carol. [LR37]

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CAROL STITT: Yeah. [LR37]

SENATOR CAMPBELL: Questions? I thought I saw someone's hand around here.
Okay. [LR37]

CAROL STITT: Thank you so much... [LR37]

SENATOR CAMPBELL: Thank you. [LR37]

CAROL STITT: ...for everything you've done. I really appreciate it. [LR37]

SENATOR CAMPBELL: And there will be a quiz on the report. [LR37]

CAROL STITT: Okay. (Laughter) I'm going to go get some more tape because I want
you to look at those lists. [LR37]

SENATOR CAMPBELL: Okay. [LR37]

CAROL STITT: (Laugh) Okay. [LR37]

SENATOR CAMPBELL: Thank you very much. All right, I lost my list here for a minute.
Our next testifier is Dawn Rockey, who serves as the CASA director here in Lancaster
County. Good morning. [LR37]

DAWN ROCKEY: (Exhibit 9) Good morning. I am Dawn Rockey, and it's D-a-w-n
R-o-c-k-e-y. I am the executive director of court-appointed special advocates, or CASA,
for Lancaster County, and I want to thank Senator Campbell for the invitation to appear
today. I've been with CASA for almost five years. In that short time there has been a
tremendous amount of change in Nebraska's child welfare system. At CASA, our

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volunteers and staff spend a great deal of time trying to navigate that system to ensure that children's best interests are being met. Navigating the system has been problematic at best and at worst downright impossible. I am going to share with you some of the obstacles that we feel delay permanency for children who are wards of the state. Caseloads are too high. I would echo what Mr. Braaten said. KVC now manages all abuse and neglect and truancy and OJS cases here in Lancaster County. Turnover in staff has been a constant. Much of the time turnover is due to people leaving their position at KVC but, however, all too often that turnover in case management has occurred due to internal reorganizations within KVC, so caseload is being moved from one team to another and one worker to another. We've had situations in court where neither the KVC family permanency specialist nor their supervisor or the Health and Human Services CFOM representative know much of anything about the children and the family because the case was just transferred to them. We have had a few hearings continued so that the previous FPS could appear in court to get relevant facts on the record. Some FPSs have reported to our volunteers and staff that they have as many as 25 cases and really haven't had time to follow up on numerous requests just due to their caseload. Prior to KVC taking over, large caseloads were identified as a major roadblock to effective case management. I don't believe progress has been made in this area. I've heard it suggested in the past that more money and more workers won't necessarily make a difference but I think it might be a good place to start. Hearings are often continued, which delays permanency and keeps children in foster care longer than necessary. During June, July, and August of this year we had approximately 81 hearings. Not all cases are referred to our program so we have what I call kind of a cross-section of cases. We're right now at about 30 percent; 28 to 30 percent of abuse and neglect cases in Lancaster County Juvenile Court have a CASA representative or have been referred. Of the 81 hearings during those months, 26 percent were continued and that delayed progression of cases for those children. Many of the hearings were continued because needed evaluations and assessments had not been completed. I can't lay the blame for this totally on KVC's doorstep, much of it does come though from a lack of follow-up by KVC staff, follow-up with parents who have been directed to make

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appointments, follow-up with providers to get reports, to find out why a report hasn't been received. The larger, I think, contributor to continued hearings has been late case plan and court reports. As Mr. Braaten said, many times we're getting that case plan and court report as we're walking into the hearing, and if you're a parent's attorney, that means you haven't had time to sit down with your client and talk about what was in that report and, as such, you're within your bounds to ask for a continuance because you haven't been able to say whether or not your client agrees with all of the recommendations and all of the plans within the report. I have been told that KVC and DHHS are implementing some new strategies to make sure court reports are submitted on time and that the content is correct, and I hope these measures are successful. The longer a child is in foster care, the longer their case is continued and their court hearings are continued, the higher the anxiety is about what can happen next, and with that anxiety often comes bad behaviors. And so then we have absolutely magnified the behavioral health component that affects these kids. Communication problems permeate the system. Communication between KVC staff and other professionals assigned to the case is often inadequate. Phone calls and e-mails are not returned in a timely manner or at all. We also see a number of court orders for services not being implemented. When this occurs, our volunteers and staff try to find out where the problem is, are there authorizations or referrals that are not being made, is it an issue getting appointments made or a service set up. Calls and e-mails to the FPS assigned to the case are not returned so we end up not being able to assist in getting service up and going because we don't have enough information. In some cases it would even be helpful to get a response that says they're aware of the issue and that they're working on it. The lack of effective and regular communication has a negative impact on the team of professionals assigned to a case and being able to work to get the case moving and to get an outcome that's in the child's best interest. My recommendation on remedying this problem is for KVC to enforce a policy where workers return calls and e-mails within a specified time period. I know that sounds easy and I know it's not easy to implement but, boy, it would sure help. In some cases, CASA volunteers have been put in the position of policing the case plan and court report. In other words, our

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volunteers have to continually ask if a service ordered by the court has been implemented and if not, why not, and often asked, we hope, what they can do to get things going. When things still aren't happening, CASA staff intervenes and I have had days when I feel like the class tattletale because I'm e-mailing administrators within KVC to see if we can get some answers or some movement because the FPS isn't responding. For example, we had a case in court a few weeks ago. The children have been placed at home with their mother but there isn't sufficient stability to close the case. In January 2011, FPS worker told the mother the children needed dental appointments and to get the children to a dentist. They are wards of the state so they have Medicaid. There was no follow-up by KVC staff, even though the FPS was supposed to be seeing the children once a month and there was also a family support worker in the home. The CASA volunteer and volunteer coordinator assigned to the children visited the kids in late July and were absolutely horrified. These are kids who are 9 and 11 and have their teeth literally rotting in their heads. No dental appointments had been made and there was no follow-up until we went to court in August. We've had incidents where state law and HHS policy isn't followed, have a family where six kids were removed from the case. As you know, placing six kids in the same home is often impossible. They were put in two separate foster homes right before school started. There was little or no effort made to keep these kids in their same schools. Only one of the children is in their same school. When we brought this up in our CASA report, the judge also noted it in his remarks and cited statute that says the effort needs to be made, there's federal law called Fostering Connections that also cover that. I... [LR37]

SENATOR CAMPBELL: Please finish. Go right ahead. [LR37]

DAWN ROCKEY: Okay. I will. I don't have to much more. I think there's a myriad of problems in our current system but I keep coming back to the training of workers as being an underlying problem that is there. I don't think the training is adequate. New workers often do not know what decisions are theirs to make or what needs to be cleared with a supervisor or what they need HHS to sign off on. The result is sort of a

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case purgatory where nothing is resolved and no progress is made. One suggestion I would make is to include shadowing of current workers as part of the training. No two cases are alike, but hopefully if you could watch how a case is worked and some of the issues that come up, that could help these workers be able to think on their feet and be able to address some of those issues. Likewise, being able to discuss the different nuances of a case with another worker can help workers think through to resolutions that are possible. In closing, I feel like we have too many children falling through the cracks. I'm encouraged by some of the recent information I've received from KVC and HHS about additional changes to the system, however, we shouldn't forget that the time it takes to implement more and more changes is also a time that children are needlessly lingering in the child welfare system or in what I call child welfare system limbo. It isn't good for the children, it's not good for their families, the foster parents, and ultimately it isn't good for the taxpayers of the state of Nebraska. I really appreciate your interest in tackling this issue. I'd be happy to answer any questions and I want you to know that I intend for CASA to be a part of the solution. Thanks. [LR37]

SENATOR CAMPBELL: Questions? Any of the senators have...Senator McGill. [LR37]

SENATOR MCGILL: Just real quick, what are some of those positive things you're encouraged by? [LR37]

DAWN ROCKEY: I'm encouraged that they're at least looking at how can we get case plan and court reports done better. I'm not sure the solution is the right one. I do agree with some of the remarks that were made that you end up having people reviewing these case plans that don't know the children, but maybe they'll do...and, okay, I wasn't an English major but definitely liberal arts person. I go nuts reading a report that has all this placement information but it's all written in the present tense, so the kid must be placed at five different places because nothing is given in any chronological order. So there's aspects, mechanical aspects, to the reports that I think can be improved. I know they're trying. Nobody is sitting on their hands going, well, live with it. I think, you know,

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people are looking at ways to solve the problem. I just think that there's just...the problem continues to grow. [LR37]

SENATOR MCGILL: Thank you. [LR37]

SENATOR CAMPBELL: Senator Gloor. [LR37]

SENATOR GLOOR: Thank you, Madam Chairman. And thank you for your testimony and I especially want to thank you for coming forward with a suggestion to...and would agree, shadowing is one of those things that is not incredibly difficult to implement but can be incredibly effective. And I have an acute care background in hospitals and it was rare that you'd find a hospital that would send a nurse right out to take care of patients without them having some time to shadow a nurse who had been providing care on that unit, and unit to unit can also be very different. So that's one of those recommendations that is so straightforward and has been proven to be so successful in so many Health and Human Services area that I hope somebody is taking notes and we'll keep that in mind. I certainly will. So thank you. [LR37]

DAWN ROCKEY: Right. Thank you. [LR37]

SENATOR CAMPBELL: While Ms. Rockey is not an English major, she was a former State Treasurer, so she certainly could understand the financial figures. [LR37]

DAWN ROCKEY: I don't know, that sounds like a struggle. [LR37]

SENATOR AVERY: She was a political science major, I would point out. [LR37]

SENATOR CAMPBELL: Was she? [LR37]

SENATOR AVERY: Yes. [LR37]

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DAWN ROCKEY: (Laugh) Senator Avery was one of my professors. [LR37]

SENATOR CAMPBELL: She has multiple backgrounds. Senator Bloomfield, do you have a question? [LR37]

SENATOR BLOOMFIELD: Yeah. I think this is a question I'm going to start asking everybody that's coming forward here and I'll catch up with Carol Stitt later and ask her the same question off the record. We have, in my mind, we have children halfway across a river and they're drowning. Do we tell them to swim forward to a system we don't know what's going to be, or do we tell them to turn around and swim back to a system that maybe wasn't as good as it could be but at least seemed to work? What is your opinion on that? [LR37]

DAWN ROCKEY: You know, and I've wrestled with that. I've thought about it. You know, I almost think we've gone too far down this road to turn around completely, but at the same time there are still...and since Mr. Braaten was so nice to say good things about CASA, I will laud him for his testimony, but part of what he said was, you know, there are some roadblocks. If we're not...if we are going to continue to go forward then we need to get clear lines of decision making. There needs to be, you know, KVC needs to have freer rein to make those decisions or we need to take it all back in with HHS. I don't know. But I also know that the time we're taking to figure all of this out maybe would have been time better spent on the front end, when we were trying all of these incremental changes, to take a step back and say that didn't work, why didn't it work, what could we have done better before leaping to the next big change. I think we're in the middle of that river and we're on one rock in that middle of the river and both of the next rocks are too far to jump to. [LR37]

SENATOR BLOOMFIELD: I'm not sure we're on the rock. (Laughter) [LR37]

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DAWN ROCKY: They were clinging to it. I don't know. [LR37]

SENATOR CAMPBELL: Senator Krist. [LR37]

SENATOR KRIST: Yeah, it's a you can't go back, you can't go forward, and you can't stay here, you know, because the kids are...and the families are the most important thing. My problem with...in all of the hearings that we have so far heard and those that we will continue, my problem is that we...your area of expertise within the courtroom, Mr. Braaten's expertise in defending it, we have DD, we have behavioral issues, and then we have, God bless him, Senator Ashford out there on his own doing things with the judges, and the judges' reports, and that's what this is all about. [LR37]

DAWN ROCKEY: Uh-huh. [LR37]

SENATOR KRIST: We're going to bring all this information together and potentially we're going to find that this works, this works, this works, the organization needs to be smaller, and statutowise we're going to have to make some decisions I think legislatively. But I'll ask you the same question that I asked Mr. Braaten. Is it better to disengage and look at current statute and go back to that point, or is it better to look at in terms of representation for the child, only for the child in this particular situation, or for the families? Is it better to go forward and change the statutes so that we enable that contractor to act on behalf? Mr. Braaten's answer, if I paraphrase it, was basically he believes that the state needs to stay in control of that particular facet. Where are you? [LR37]

DAWN ROCKEY: Uh-huh. I'm probably in that same camp. I hesitate to wholesale change state statute and have a contractor or a nonstate entity be the sole guardian of wards of the state. There's something that I don't think my political science background would let me go there on that. I do think, though, if we're not going to go there then we need to look at how we're going to do this. And it's...to go back, and we've...those of us

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on this end of it, we've been asking, and I think if you talk to Jeff Schmidt he will tell you that in meetings all along here myself and others have said, what is Plan B. What if all of this goes to hell in a handbag? What is Plan B? And the answer really was there is no Plan B. [LR37]

SENATOR KRIST: Yeah. Thank you for your candid answer and I believe plan B is to develop plan C. [LR37]

DAWN ROCKEY: Yeah, could be. [LR37]

SENATOR CAMPBELL: Any other questions? Thank you very much. [LR37]

DAWN ROCKEY: Thank you, Senator. [LR37]

SENATOR CAMPBELL: Our next testifier is Leigh Esau. Leigh has been a foster parent and I think still is a foster parent. She also originated and directs the Foster Care Closet here in Lincoln and also, I'm assuming, soon to be in Omaha. Is that correct? [LR37]

LEIGH ESAU: We're hoping. We're hoping. [LR37]

SENATOR CAMPBELL: Ms. Esau, would you spell your name for the record. We need to make sure we've got this one right too. [LR37]

LEIGH ESAU: Sure. My name is Leigh, L-e-i-g-h, Esau, E-s-a-u, and as Senator Campbell just pointed out, I'm a foster parent, an adoptive parent, and the executive director of the Foster Care Closet located here in Lincoln. I would like to start off by recognizing that the questions you have asked for us to prepare are phrased in such a manner that they lead to giving only negative feedback. I believe we would be remiss if we did not also recognize the positive changes that have come about because of the attempt to privatize. I would also like to express that my testimony is a compilation of

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insight shared with me from foster parents who are with all the different agencies. It also is important to note that because of the trust we have earned with various workers, such as case managers in the old system, meaning HHS, PSW workers and guardian ad litem, to name a few, that much of my observation is from hearing from the various views of those involved. The top three issues experienced with KVC as a lead agency, I believe that one of the biggest hardships that KVC is facing is that they are the only lead agency in the Southeastern Service Area. KVC is responsible, through contract, for everything from placing a child to transportation for visits to case management, including such crucial responsibilities of court reports and recommendations. This, in my opinion, is expecting one agency to be an expert on every aspect of the foster care system. I don't believe that any one agency can be an expert on all the multidisciplines of the foster care system. I think almost everybody here can agree that when the expectation of the Department of Health and Human Services was to be that expert in every aspect, it also failed. I then ask and observe why would we believe it to be any different with a private agency? Another difficulty for KVC has been to establish positive working relationships with other community services that could be beneficial to the positive outcomes they desire to achieve. KVC, just in name alone, has become polarizing. To some who casually observe foster care from a distance, they read about KVC getting millions of dollars and then getting more and wonder why they should help at the community level. Others were against the whole thought of privatization to begin with and believe that KVC should fail. And then there are those who would be willing to help KVC but their resources are already limited and can't stretch to meet the demand. Another area of great concern from my perspective is the demand that has been placed on the work force at KVC. I have had KVC employees come through my doors and cry. They have expressed their inability to meet all the job demands because of the increasing pieces KVC has chosen to take on, in this case, case management. Employees were interviewed for the task of service coordination, now have to take on case management as well. Many of them have expressed to me they had no desire to do case management and that is not what they interviewed to do. Others were simply overwhelmed with the amount of work and felt that they could not adequately meet the

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needs of the families they were involved with. We are seeing where the turnover at KVC is affecting the confidence that a family has in the foster care process. I have families that are coming into the Closet and sharing that they have had three or four new workers in a matter of months. I've heard from KVC employees that employees are lasting only weeks out of training before giving notice. As this trend has continued, those who are left standing are being asked to take on larger caseloads. As the caseloads continue to increase, this prevents KVC from being able to practice the very model that HHS deemed to be best practice when the contract was awarded. One of the things you also asked for was top three issues facing me currently or, in this case, the Foster Care Closet. Earlier in my testimony I shared that I believe that there has also been positive things that have come out of the reform effort. One of those positive things would be...and I'm kind of tooting my own horn here, is the fact that the Foster Care Closet is being used effectively and efficiently to meet the clothing needs of the children in the foster care system. When the Closet began serving families five years ago, it was from 99 percent used clothing. Last year we signed a contract with KVC to be able to begin to provide new socks and underwear. KVC saw the benefit and we knew our job. Through that partnership, we have not only been able to provide the new socks and underwear but we have also provided new shirts, pants, shoes, and seasonal items such as winter coats and swimwear. I know that in the big scope of things, clothing is just a blip on the radar, but my point is if we can get it right with clothes, which I believe we have, we can get it right with other, bigger things as well. I personally believe the struggle is because everybody has their territory to protect and it's a battle to let others in. If we can't get past this thinking, then the very families we strive to serve will continue to suffer. And as far as recommendations, let me start by reiterating I'm not expert. I have no capital letters at the end of my name. I'm a mom, a citizen of this greatest state in the Union, and I want to see so much more for our families. With that being said, here are the areas I see needing to be addressed before anybody can be successful with the future of the foster care system. I believe that HHS and KVC have got to get on the same page. The communication between the two of them has got to be consistent. When a family calls because they are not getting issues resolved at an

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agency level, then I believe the department has the responsibility to take on that concern. Telling a family that they have nothing to do with anything is not acceptable. We are working with hurting families. Don't drive a dagger deeper into the hurt. I also believe that KVC and the subcontracting agencies have got to figure out how to play nice in the sandbox. I know that there are people who are hurt and feel things are unfair, but it goes both ways. In the meantime, our families we're supposed to be serving are getting caught in a game of tug-of-war. I don't even know if I answered that question right, but I do feel strongly that everybody, myself included, figuring out how we can best serve these families builds support and success into their lives in getting kids to permanency. [LR37]

SENATOR CAMPBELL: Thank you, Ms. Esau. Questions that they have? Senator Wallman. [LR37]

SENATOR WALLMAN: Yeah, thank you for being here. Thank you for being a foster care mom too. And do you, you know, now we have these billboards all over the place, we need foster parents. And do we have, you feel, more trouble now getting foster parents than we had four or five years ago or three years ago? [LR37]

LEIGH ESAU: I think we are seeing a reduction in the number of foster parents. I think one of those issues does have to do with the financial support that a foster family is receiving. For example, for our family, when the reform took place we dropped from \$28 a day down to \$12, and there are some placements that are receiving as low as \$10 a day. And as you know, even if you've got a little one, \$10 a day doesn't cover the groceries. [LR37]

SENATOR WALLMAN: No. [LR37]

LEIGH ESAU: Also the demands of the foster families are becoming more. We're having families who have to take time off of their jobs to go and take kids to visits, take

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kids to doctors' appointments. The visitation or the transportation issue has become a big barrier for a lot of families. So those, I think, are some of the reasons why. [LR37]

SENATOR CAMPBELL: Ms. Esau, one of the things that we've looked at is...and I want to know if you know, from your connections in other states, whether there are states who do a base amount, a base rate for all foster parents across the state that cannot be, you know, lowered, and then knowing that there's other factors that come into play for more pay. Are you aware of any states that do that? [LR37]

LEIGH ESAU: I'm sorry, Senator Campbell, I don't. I am not aware how that operates. [LR37]

SENATOR CAMPBELL: Okay. Because that's one of the things we're looking at. [LR37]

LEIGH ESAU: Yeah. [LR37]

SENATOR CAMPBELL: Okay. Any other questions? Senator Krist? Oh, sorry. [LR37]

SENATOR KRIST: Did they give you a reason why the funding dropped? Did they explain? [LR37]

LEIGH ESAU: It was just the way that the privatization piece of it fell, and again I'm speaking from my personal opinion. We went from having HHS and the agency we were contracted with, from them being partners together to adding a third party, and each one of those parties has overhead. [LR37]

SENATOR KRIST: Right. [LR37]

LEIGH ESAU: So they're going to cover their overhead, in my opinion, they're covering their overhead before...and then what's left over is what we have to give to the foster

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families to support those kids. [LR37]

SENATOR KRIST: I asked the question just to hear you articulate it. We heard the same thing in Grand Island and that's the perception, is that the same amount of money was stretched and another intermediate, which took more money away from the child or away from the foster care program. Thank you for what you're doing. [LR37]

LEIGH ESAU: Uh-huh. [LR37]

SENATOR CAMPBELL: Senator Bloomfield. [LR37]

SENATOR BLOOMFIELD: I'm going to go back somewhat to the same question I asked earlier. If without hopefully jeopardizing any relationship you may have with what we're doing now, were you able to give the kids better care under the old system or do you think we're going to be better off where we're going or would you rather not express an opinion in that area? [LR37]

LEIGH ESAU: I was hoping you would ask me that question because my answer to that is I'm getting out of the boat and I'm jumping in the river with the kid. And I think that that really depends on...I think how you support those kids that you take in your home is so individual to that family. We supported the children we took care of regardless of who we answered to because our goal was to meet the needs of that child. Our goal wasn't focused on do we have a relationship with this person or that person. And I think that...I think it's really important to understand that while we have to have some continuity and consistency for the foster care system, we're dealing with people and everybody is an individual, and trying to put everybody into this nice neat little box isn't going to work. And I think to some degree we've seen that in both the department and with KVC trying to provide services to a wide gamut and maybe taking on more than what they're able to handle. The department couldn't handle the same amount of workload any better than what KVC has. I think all we're seeing is those same problems are magnified. [LR37]

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SENATOR BLOOMFIELD: Thank you. [LR37]

LEIGH ESAU: Uh-huh. [LR37]

SENATOR CAMPBELL: Any other questions? Thank you, Ms. Esau. [LR37]

LEIGH ESAU: Thank you. [LR37]

SENATOR CAMPBELL: Our next testifier is Sarah Helvey representing the advocacy community and is with Nebraska Appleseed. [LR37]

SARAH HELVEY: (Exhibit 10) Thank you, Senator Chairman...Senator Campbell (laughter) and members of the HHS Committee. [LR37]

SENATOR CAMPBELL: You're fine. [LR37]

SARAH HELVEY: When you first became the Chairwoman I was always in tune to whether you were being called Chair or Chairwoman, so I'm sorry that I bungled that. [LR37]

SENATOR CAMPBELL: I answer to lots of names. [LR37]

SARAH HELVEY: Okay. (Laugh) Good afternoon. My name is Sarah Helvey, that's Sarah with an H, last name H-e-l-v-e-y, and I am a staff attorney and director of the child welfare program at Nebraska Appleseed, and I want to I guess just go straight to Senator Bloomfield's question and say to this point Appleseed's position on this thing, I think we've walked the line. At first we said if we're going to privatize let's pilot. Then we said, okay, let's slow down the process, let's be careful. Then we supported the moratorium. Then we began to say let's pull this thing back. I think, particularly with the

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release of the Auditor's report this morning, that it's time that we need to say enough, enough is enough. There is a growing body of evidence now that this reform is failing and I would hope that the department would begin to acknowledge that, and if they're not willing to do so then I would call upon the Legislature, you know, as part of setting policy for the state, to also say enough is enough. And I appreciate the work that you're doing asking for recommendations, investigating this and trying to get to that point and to say that and to look very critically at what we need to do to begin to turn this around. With the request was to outline three of our primary concerns and then three recommendations that we would offer. I'll just jump right into that. And to give background on Appleseed's work in the Southeast Service Area and across the state, we've had a number of contacts with attorneys, parents, foster parents, relatives, providers, and other stakeholders, and so I testify today on behalf of Appleseed only but those contacts inform our concerns and our recommendations. One of the primary concerns that we hear from parents and caregivers is from parents and caregivers who have children with significant behavioral health issues. And I know that you also get a lot of calls from folks in that situation, and it ties into the privatization, because in too many cases when Medicaid denies services parents are given the draconian option of making their child a state ward, not because of abuse or neglect but in order to get a court order and, thus, payment for services. Under the privatization contract, this shifts the cost from Medicaid to private providers or any areas that are not privatized. This shifts it to state-only child welfare funds. And for children already in the foster care system, when Medicaid denies a service required by the case plan or ordered by the judge, that shifts the cost to the private agencies. This, of course, stopgap process exerts additional pressure on limited state dollars and on the privatization contracts. It unnecessarily breaks up families, places children in a system that wasn't intended for them, and we believe it's financially unsustainable. Second concern that we have is that the existing service area in the state is inadequate to meet the needs of children and families. We are particularly concerned that the state does not have adequate prevention and supportive services to support the goal of flipping the pyramid, which is a goal that we share. We also are concerned that the state lacks sufficient wraparound

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or "B-level" services, and as has been mentioned earlier, we also have concerns about the effect that the privatization has had on the recruitment and retention of foster parents and on the service capacity in the state with a number of providers having either closed their doors or limited their services, particularly in rural areas of the state. And lastly, we have I guess our number three top concern is lack of oversight. We've had concerns about that from the beginning. And you've heard also testimony today with state caseworkers providing an increasingly restricted role that results in them having more limited knowledge of the case but yet being in a position to play the overarching oversight role, and that makes that job difficult. I won't, you know, I guess go into the details about the Auditor's report, but that was a perfect example of the lack of oversight, transparency and monitoring, and that has been a concern from the beginning as far as the financial side of it. In light of the current instability and unsustainability of the system, we believe the state should pull back the reform until core issues are addressed. First, one of the primary changes we believe must occur is for the state to provide, as required by federal law, all necessarily behavioral health services for children under Medicaid. Providing federally mandated services under Medicaid is a responsibility of the department and this responsibility needs to be enforced. The department, and not private providers, should be responsible for payment of court-ordered services denied by Magellan. This could be accomplished by state legislation clarifying that all necessary behavioral health services under our state Medicaid plan should be provided with only reasonable limitations based on an individualized medical necessity assessment. In addition, we believe there should be additional legislative and public input into the guidelines that dictate whether a service is covered. When a service is denied, parents and providers should be given enough information in written paperwork regarding the denial in order to effectively challenge the denial. And finally, legislation could make clear that the department is responsible for court-ordered services denied by Medicaid or that in the future private contractors are not at risk for such services. In terms of the service array, you know, we believe that the state has a responsibility to provide access to an adequate service array, and unfortunately while this reform was premised on widely shared goals to improve

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outcomes and to serve more children in home, it was launched before the necessary service infrastructure was in place to support those goals. And so we believe that the state should pull back from this reform and that the moratorium on future privatization should remain in place at least until a system of care is created or recreated that is stable and sufficient to support the goals that we all want for children and families in the system. This could be accomplished either by legislation limiting privatization or aspects of privatization, at least until an adequate service array is in place, or by legislation providing for additional prevention, in-home, and wraparound services. Finally, we believe the state must provide a clear oversight structure. We believe it's critical for the Legislature to make clear what duties can and cannot be delegated to a private agency and what level of oversight the state should retain. Also, I think as is clear today from the report, clear financial reporting, LB433, which was introduced last session, is still in committee, includes some pieces that could be looked at for that in the future. And then the last recommendation we have is to look at creating an oversight body to provide direction on the future of reform, and that we think should include some way of obtaining input from all three branches of the government, families and consumers, and also stakeholders. Thank you. [LR37]

SENATOR CAMPBELL: Questions? Senator Avery. [LR37]

SENATOR AVERY: Thank you, Madam Chair. Thank you for your work on this. I admire the work that Appleseed does. But going throughout your comments seem to be the argument that we need to stop the process and move back to where we were. Is that really a practical option for us or has the train left the station and are we too far down that track to turn back? For example, do we have caseworkers now with the Department of Health and Human Services to cover the workload that they have to take on again? [LR37]

SARAH HELVEY: Uh-huh. Yeah, and I think that those are all challenges, I think. You know, as we've seen this has been sort of a moving target, it seems like the process

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has changed every few months as it is, and that is a sort of instability that we're very concerned about and that underlies our recommendation to begin to pull it back. And so I recognize that pulling it back would, you know, in that moment to be another shift, but I think ultimately the alternative to that is to continue to see this ever-shifting process and experiment with the system. And so better to, you know, I think pull it back and stabilize the system and be very clear about reform so that moving forward it's successful. And I also think, you know, the pulling back could mean a lot of different things. We're always going to need private providers in the state to provide some level of service, you know, whether it be under this model or a fee for service or to somehow stabilize the financial reporting. There could be various options to do that. [LR37]

SENATOR AVERY: So you don't see an option to make privatization work. [LR37]

SARAH HELVEY: No, I think that it is possible to make privatization work, but we haven't seen that today. And I think that the system has become so unstable that we need to pull it back and address some core oversight processes and create the service array that can support that success, and we just don't, we just don't have it at this time, in my opinion. [LR37]

SENATOR AVERY: I understand we don't get a second chance at children who are not being adequately served now, and that's a real problem, but if we have already gone too far down the path of reform or change to go back to the old system, we need some creative ideas about how to make privatization work. And you seem to be more focused on going back and making the old system work. [LR37]

SARAH HELVEY: Well, I mean I wouldn't necessarily say that. I think that some of my recommendations today, you know, could be implemented under the current privatization model. You know, one core problem I think that has to be addressed is this cost shifting, and so I think you could continue with the private contracts but to, you know, control some of these costs or eliminate some of the cost shifting, because

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as...the way that I see it financially, it's just untenable the way that it is. So I think if you address some of those issues, you know, it would change the nature of the privatization contracts as they are currently. But I don't want to say that it would necessarily make the privatization contracts successful, but I do feel that it's just untenable the way it is now so those issues would have to be addressed. [LR37]

SENATOR CAMPBELL: I'll take Senator Gloor and then Senator McGill. [LR37]

SENATOR GLOOR: Thank you, Madam Chairwoman, Senator Campbell. See, I covered all the bases. (Laughter) Thank you, Sarah. This is helpful. This document especially is helpful. But tell me, under LB433 and the components of the oversight pieces that you made reference to that you thought would be a help or could serve as a model, is that in a previous document we would have gotten back during session? Is it something that you could share with the committee? [LR37]

SENATOR CAMPBELL: It's still there. [LR37]

SARAH HELVEY: Oh, LB433 is still in committee. [LR37]

SENATOR GLOOR: LB433. But you said your comment was that it includes some kinds of oversight pieces that could serve as a model... [LR37]

SARAH HELVEY: Uh-huh. [LR37]

SENATOR GLOOR: ...with some concrete oversight pieces, which tells me it's not everything that's in LB433. So I'm wondering within LB433 obviously Appleseed didn't find all of it helpful. [LR37]

SARAH HELVEY: Well, we, you know, we supported that bill. Some things have changed since that bill was introduced in terms of the system is not the same now as it

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was at the time that that bill was introduced and, you know, the committee has learned a lot since that time. And so we support that bill but I just think since it's still in committee there are some pieces from that, the basis of which were looking at statutes in other states, and so, you know, I think we would be in support of that bill advancing. But I was just suggesting that that could be, you know, something that could be looked at in terms of some concrete examples of oversight. [LR37]

SENATOR GLOOR: Okay. I thought maybe you had some very specific paragraph, sentences and clauses, so on, that... [LR37]

SARAH HELVEY: Well, I thought that I had printed off a copy of that bill today. I know that, yeah, you can access a copy. [LR37]

SENATOR GLOOR: It sounds like you can access it and that's what I'm looking for. [LR37]

SARAH HELVEY: Yeah. [LR37]

SENATOR GLOOR: Thank you. [LR37]

SENATOR CAMPBELL: The bill was put together with a lot of help from a number of people and it was meant to be a framework and a placeholder so that as we finish the work of LR37 we could begin interjecting, we had an avenue to go. So it has some suggestions in it but it would need to be changed. [LR37]

SARAH HELVEY: I would agree. [LR37]

SENATOR CAMPBELL: Does that...is that helpful? [LR37]

SENATOR GLOOR: Thank you. [LR37]

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SENATOR CAMPBELL: Senator McGill. [LR37]

SENATOR MCGILL: Thank you, Senator Campbell. The longer I sit here the more my blood is beginning to boil, so (laugh) in terms of to go back or go forward, based on, you know, what we heard this morning, I don't know if I trust putting it all back in HHS, to be honest,... [LR37]

SARAH HELVEY: Uh-huh. [LR37]

SENATOR MCGILL: ...because the leadership there at the top, and this is nothing towards you, but there are people making decisions... [LR37]

SARAH HELVEY: Uh-huh. [LR37]

SENATOR MCGILL: ...that aren't in the best interests or they're not following and documenting their decisions and so who knows why they're making them. I don't know if I feel comfortable wanting to go back entirely. At least now we have some other people at KVC or whatnot to be communicating with and try to provide different thoughts. Regardless of where it's housed, at the state or at KVC or somewhere, you know, a lot of these problems are the same as they were before and I think it's a leadership issue in a lot of cases and too many kids in foster care, which is why I'm excited about the front-end stuff and trying to keep some kids who are really just in poverty out of the system and, you know, I think that's a key, you know, here. But in terms of many of these problems it's leadership who won't give us information or tell us why they're doing things. I don't know if you...this is more of a comment than a question but... [LR37]

SARAH HELVEY: Sure, and I... [LR37]

SENATOR MCGILL: ...me just getting frustrated and (laugh) need to vent a little bit.

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[LR37]

SARAH HELVEY: Yeah. And, no, I share your frustration and also your concerns. I guess I would say, you know, I would make two distinctions. With only the state or state sort of having some of the more primary responsibility, again, I'm not saying take it all back because we are always going to need to draw on the strengths of private providers in this state. We did that before privatization. So I'm not, you know, I don't have the blueprint for exactly what it looks like, unfortunately, but beginning to pull it back I think has one...the first advantage is that there are less layers and so... [LR37]

SENATOR MCGILL: That's true. [LR37]

SARAH HELVEY: ...there's less need for oversight, there's less levels of decision making, so it's a little bit more simple to provide oversight under that kind of structure. The second thing I would say is that...and this may go to Senator Krist's comments or questions, you know, legally, at least the way that things are structured now, the ultimate legal authority for children who are in the custody of the state rests with the state, and so when you begin to pull back and be clear about the state's authority then you're having those decisions rest with the entity that is ultimately in charge. And so that I think clarifies some of those concerns that you're, you know, being clear about. The decision rests with the person who's legally responsible. [LR37]

SENATOR MCGILL: Well, thank you. [LR37]

SENATOR CAMPBELL: Okay. Thank you very much, Ms. Helvey. Our next testifier this morning is Pam Robinson. Ms. Robinson is with the Lincoln Public Schools. Good morning. [LR37]

PAM ROBINSON: Good morning. [LR37]

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SENATOR CAMPBELL: Oh, I have to say good afternoon. [LR37]

SENATOR WALLMAN: Yep, it is good afternoon. [LR37]

PAM ROBINSON: It's close. [LR37]

SENATOR CAMPBELL: It is good afternoon. It's close. While Ms. Robinson is sitting down, I just, as a moment of levity, probably the best title that I have these days is Mimi for my grandson, so that's the title I like the best these days. [LR37]

SENATOR MCGILL: Awe, Grandma Campbell. [LR37]

SENATOR CAMPBELL: Just a little levity for you all out there. [LR37]

SENATOR KRIST: So we can all call you Mimi for the rest of the day? [LR37]

SENATOR CAMPBELL: You could. (Laughter) I may not respond quite the same but...Ms. Robinson, thank you so much for coming today. [LR37]

PAM ROBINSON: Thank you for inviting me. [LR37]

SENATOR CAMPBELL: Are you ready, Diane? Okay. [LR37]

PAM ROBINSON: (Exhibit 11) All right. My name is Pam Robinson, it's P-a-m R-o-b-i-n-s-o-n, and I'm an administrator with student services with Lincoln Public Schools. And what I thought today would be helpful for you is to not only talk to you a little bit about the issues but to give you some suggestions and feedback that I received from school counselors, parents, administrators, social workers, basically which are several of the areas that my department works with specifically. I can also give you some personal examples. Having worked at student services for the past five years as

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an administrator, I work very closely with families. Especially when there are discipline issues and attendance issues, families are frequently referred down to my office and I meet with them as well as with the school representative. I also, prior to being in student services, was an administrator at Lincoln High School for ten years so I worked closely then with HHS workers and families at that time. To start with the KVC issues, the communication was number one that I heard from everybody that I talked to. I did talk to the group of counselors, which is about 60 counselors at just the high school level alone, and communication was number one. Said when the school staff needs to contact the KVC worker, the information is frequently not current and this is basically either due to the staff changes, you know, the turnover of staff, or the calls are not returned in a timely fashion or returned at all. But I do think it's important to note that this same issue existed with HHS workers as well, so this is not a new concern that the schools are expressing at this time. As well as number two on the list you would see is lack of information. The KVC workers are not always given the current information and, again, when you start talking about the hierarchy, it comes from above. You know, in a timely fashion, when are they receiving the information? And I think schools are somewhat confused about what exactly should we be asking for. What will the KVC workers know about these students? What will they know about these families? The workers themselves experience difficulty getting information from the Health and Human Services guardian and, again, just that layer, you know, as we're starting to peel away layers. If they have to ask, you know, for permission or get signatures and things like that, that's just an additional delay. And to be honest with you, some of these students don't need any additional delays to their education. Some of the school social workers that work directly with the families said they sometimes get the feeling from the KVC workers that they're a little adversarial and wish that they would work more in a partnership or in forming a partnership with the schools. The third concern was the expectations. Staff, students, and parents commented they're frequently confused about the role of the KVC worker and the role of the Health and Human Services guardian. Sometimes it's even unknown to a foster parent or anyone who comes into the school who exactly has the educational rights; do the parents still have the educational rights or

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not? And again, it's just that lack of...it comes down to that lack of communication. Foster parents of the high school age students are not always given guidance as to the direction that they should be regarding student schedules and working with them as far as getting services, you know, outside regarding, you know, some specific issues that they're having, whether it be mental health issues, substance abuse, that type of thing. Also, I heard from several of the administrators that they feel that the students in the juvenile justice system are often not held accountable in a timely fashion. You know, we kind of try to operate under if the judge orders something, we assume that it's going to be followed up on. Today, just this morning before I came here, I met with a family and the judge had ordered that the student would have two UAs a week and the student has been out of the basically juvenile justice system for a month and has yet to have a UA. And so the frustration, you know, from the family and expressing that just there doesn't seem to be a timely fashion that these things are handled and dealt with. As far as Lincoln Public Schools, some of the additional issues that we're seeing right now are the support services, and the students and families are not always receiving the support services right away and it's not always clearly communicated with them. But there's also...the issue goes a little bit further in the community. There are not always resources for the KVC workers, especially regarding the mental health issues that many of the students and the families are facing. The high schools comments that one of the things that they were looking forward to was that KVC was going to assign each high school a tracker and a worker there to work with students who had had truancy cases or, you know, truancy cases were pending. And the problem again has been the turnover and, again, communicating who now...who do we contact now, who do we get in touch with. One of the staff members said that they had contacted a Health and Human Services guardian, was told that they should not contact them first; that, you know, they should not bother contacting them; they needed to get a hold of the KVC worker. So again, just the communication piece I think is probably the key, as well as the mental health support. This has been an ongoing concern that our district is addressing because we really don't have support for those students and families, you know, in our school system as well. So we are revamping what we call our student assistance process,

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which would be a wonderful way for whether it be KVC or HHS to partner with the individual schools and the families, because that means the families, the teachers, the administrators, everybody is coming together as a team. The school staff did feel that students are remaining with families more under the KVC guidance, which was seen as a positive. Yet a few staff members expressed a concern because they felt that sometimes abuse cases are not always dealt with, you know, as soon as they would like to see them handled. The middle and high school staff stated it gets too long to get students help who are in abuse situations at the secondary level. Many of the high school students, and I can speak about this on a personal level, they are afraid to report abuse cases just based upon the amount of time that it takes to get, you know, students assistance in the home. A lot of times then if the parent finds out that there's been any type of a report made then the abuse gets worse for the students, and so they're very, you know, hesitant in coming forth and talking to staff members, because we are obligated. We have to report that if there's any concern of abuse. Sometimes there's the concern that when there are attendance issues for some of these state wards, as they get older, they start to go lower on the priority list with regarding attendance or services. And probably my fifth point that I have here is just, you know, overall, the overwhelming thing was a lack of communication, and I feel that, you know, it's not a one-way street here by any means. It involves the Health and Human Services, the juvenile justice system, all of the school systems and buildings and staff, and I feel that probably in creating more of a partnership and removing some of the layers of where the decision making lies will benefit the students more. And, Senator McGill, to kind of give you my thought on whether we go backward or forward, I've never gotten anywhere going backward, but I don't think it hurts that you look at what worked in the past, what are the concerns that are...that, you know, you're facing right now, and again put everybody back at the table and have open and honest conversations. And I do appreciate you allowing me to come today. [LR37]

SENATOR CAMPBELL: Questions? Thank you very much for coming today and for your report. [LR37]

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PAM ROBINSON: Okay. All right. [LR37]

SENATOR CAMPBELL: Our next testifier is Amy Peters, who is a former youth in the foster care system. Following Ms. Peters' conversation with the committee, I will go to the three people who raised their hand. Okay. Good morning...good afternoon. I'll get this right. Good afternoon. [LR37]

AMY PETERS: Good afternoon. [LR37]

SENATOR CAMPBELL: Good afternoon. [LR37]

AMY PETERS: Thank you so much for having me today. My name is Amy Peters, A-m-y P-e-t-e-r-s, and I am a foster care success story. At 21 years old, I have already overcome insurmountable odds and I am not a statistic. I am a successful college student, I am an active member of my community and, believe it or not, I have never been arrested. Unfortunately, the outcomes for many of my brothers and sisters in the foster care system are not so bright. Since aging out of the foster care system, I have served as an advocate both in the state and on a national level for foster youth, because I truly believe that if you can make the world a little bit better for children you will have succeeded in making it better for everyone, and I hope you all will agree. I am here for one reason. I am here to remind you all of why you are here and why it is that you do what you do. I'm going to keep my testimony fairly short because I would really like to answer any questions that you might have, so let me just begin by giving you a brief background. I entered the foster care system by reasons of parental abuse and neglect when I was 13 years old. After failed attempts at reunification, I spent the next six years bouncing from placement to placement until I aged out of the system. I aged out of foster care in 2008, around the time that the reform efforts were just beginning. During my six years in foster care, I went through eight different homes and changed schools twice. If you were to ask me how many state caseworkers I went through, I

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probably would not be able to tell you because I lost count. I also cannot describe to you what my guardian ad litem looked like because I only met with her once and that was before a court hearing. I hope that this all tells you that the reform was necessary. The system was broken and it needed some repairs. Unfortunately, there is no owners manual as to how to run a foster care system and so reform is going to be difficult. If you were to ask me the one thing that I would have changed in my experience in the foster care system, I would have told you normalcy. I would have given anything to have been able to live a normal life like my peers. Now one of the ways that my life could have been more normal when I was in foster care is if I would have been treated like a child, a youth, and not a commodity. Another way that I could have been more normal in foster care is if my foster parents would have had a little bit more rein. I would have liked for my foster parents to have been able to sign releases at school for me to go on field trips or for them to decide whether or not I could stay the night at a friend's house. I would like to talk a little bit also about the risk-based payment system used in foster care. I was in foster care with an agency. Now I was a fairly good kid when I was in foster care so I...usually there were different levels. I would be on that continuity level, which meant I was on good behavior. But when you go into a new foster home you're in just basic level, agency-base level, and then they move up to treatment level, and then further up from there. Now the foster parents get reimbursed based on those levels of foster care so when I would enter the foster home, I would be just regular agency-base level foster care. After six months or so of good behavior, I would get moved down to continuity and I would get from a foster home because the foster parents were taking a pay decrease. Now that is treating children like a commodity. That's not treating them like children. That's also not allowing for normalcy within foster care. That's one of the biggest issues I saw. These are the biggest issues I saw when I was in foster care. Now after aging out, I, like I said, I went on to become an advocate. I have worked with youth in a youth worker training program. I've been involved in youth panels, youth advisory councils. I'm involved with Project Everlast, also known as the Nebraska Foster Youth Council, and I've heard about the reform and the effects that it's taken on the youth. And so what I'd like to do now is to open it up to any questions you all might have about my

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experiences or about the experiences that I have seen happening with my peers. [LR37]

SENATOR CAMPBELL: Ms. Peters, you are a very articulate advocate for foster youth, so thank you for coming forward. [LR37]

AMY PETERS: Thank you. [LR37]

SENATOR CAMPBELL: Are there questions from the senators? Senator Avery. [LR37]

SENATOR AVERY: Yeah, I'm impressed your testimony. So many of the people who have a foster care experience do not emerge from that as you did. So what do you think was different about your experience that makes you different from so many other children who go through that process? [LR37]

AMY PETERS: I think quite a few things were different about my experience. In light of everything I told you, I had, you know, changing caseworkers, I didn't know my guardian ad litem. You know, I came from less than ideal circumstances, but I did have one or two people who were there for me to help me along the way. The agency that I was in foster care with, while I had several different state caseworkers at the time, I only had one agency caseworker that entire time and I felt very fortunate to have only had that one caseworker because I knew I could call her. And I also had an amazing independent living specialist. Now I know that not all youth these days are given independent living specialists and they haven't been, but for me, she was the one person that really made the difference and encouraged me to pursue higher education and helped me find the resources to do so. And so I feel very fortunate to have had those two people. I also, you know, I think that I had a lot of personal ambition and a lot of drive that maybe a lot of youth who come from such broken homes and less than ideal circumstances maybe don't have, and so maybe a combination of those factors. [LR37]

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SENATOR AVERY: Thank you. [LR37]

SENATOR CAMPBELL: Other questions? Senator Gloor. [LR37]

SENATOR GLOOR: Thank you, Madam Chair. Thanks for your testimony. Thanks for reminding us not to get too nostalgic about the old system that you came through. But I think in the previous hearing we heard some of the challenges faced by foster kids when they just drop out of the system. [LR37]

AMY PETERS: Uh-huh. [LR37]

SENATOR GLOOR: How did you transition? [LR37]

AMY PETERS: Okay. [LR37]

SENATOR GLOOR: How did that go for you? [LR37]

AMY PETERS: I actually was released from foster care when I was 18 years old. My judge had made the decision to release me before my 19th birthday, partly because I had pushed to so because the foster home that I was in just wasn't a good...it wasn't a good place for me. But that was very difficult for me because at 18 years old you can't sign a lease, you can't even sign a cell phone contract. And so had I not had my independent living specialist and other people in my life who were there to help me through the process, I would have been homeless. And I feel very fortunate, like I said, to have had those people that were there to help me because, you know, it took months and months of negotiating with a landlord to get a lease for me to be able to actually move in somewhere. So it was very hard for me transitioning, but, you know, like I said, I don't think I could have done it without those amazing people that I did have in my life. [LR37]

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SENATOR GLOOR: Thank you. [LR37]

AMY PETERS: Uh-huh. [LR37]

SENATOR CAMPBELL: Ms. Peters, as we look ahead in terms of this, are there any other recommendations that you would make on behalf of many of the youth that are in Project Everlast? [LR37]

AMY PETERS: Uh-huh. You know, I think it all goes back to normalcy. I think it goes back to treating these children like just that, like children, not treating them like a commodity, not treating them like a case number. Senator Campbell, I think you mentioned several times earlier that who actually knows these children, are the caseworkers getting to know the children. It's kind of sad when they can't even pronounce their names in court. Does the guardian ad litem even know the children? You know, the guardian ad litem is the person who's supposed to be, you know, fighting for their best interest in court, and how can they do so if they don't even know the child? So it really just goes back to the basics. It goes back to treating these children like children, realizing that as the state we are...we are the state's...we're the children's family, we're their parents as the state. When they come into our care, we have to take that parental role because, you know, otherwise that's all they are is a case number and a commodity. So go back to the basics. [LR37]

SENATOR CAMPBELL: Did you spend your life here in Lincoln? [LR37]

AMY PETERS: No, I grew up in western Nebraska in the Scottsbluff area, and so I watched the whole Boys and Girls fiasco shortly after aging out of care and...but, yeah, I was in western Nebraska the majority of the time and I came here to go to school. [LR37]

SENATOR CAMPBELL: Well, we wish you the best of success at school and certainly,

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from your appearance today, I'm sure that will happen to you. You are a very articulate young woman. [LR37]

AMY PETERS: Thank you. [LR37]

SENATOR CAMPBELL: Thank you. [LR37]

AMY PETERS: Thank you for having me. [LR37]

SENATOR CAMPBELL: And we won't hesitate to call you if we need additional information. Diana probably knows how to get a hold of everybody in the world so thank you, Ms. Peters, for coming today. We will now go to the three...and I saw two hands over here so I'm going to go there first. I'm going to take the three people who raised their hands initially, which were the two people over here and one person in the back, and we'll go through that and then we'll see where we are on time. Yes, Mr. Nicklas. [LR37]

GREGG NICKLAS: (Exhibits 12, 13, 14, and 15) Good afternoon. My name is Gregg Nicklas, G-r-e-g-g N-i-c-k-l-a-s. Mimi, I am Papa. (Laughter) [LR37]

SENATOR CAMPBELL: Welcome. [LR37]

GREGG NICKLAS: Yes. In addition, I am co-CEO of Christian Heritage. We're a nonprofit, faith-based, COA-accredited organization that my wife and I founded in 1980. We currently have over 100 foster families working with us, serving approximately 130 children every day. We have offices in Lincoln, Omaha, and Kearney, so we're in three service areas. I do want to begin by thanking each of you for taking the time to listen to the testimony being presented today. We sincerely appreciate your efforts to convene, to listen, and to gather facts, and trust that you will then take the necessary steps to assist in assuring the success of Nebraska's child welfare reform. I'd like to make three

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specific steps of action. First, would you please encourage the department to assume the moral, if not legal, responsibility of paying providers who had subcontracts with Boys and Girls Home, and by paying I am suggesting 100 cents on the dollar. I represent an organization that is owed \$118,937.50 for foster care services that we provided in August and September of 2010. Included in the packet that I provided are five pages of open invoices. We paid our foster parents 100 percent of what they were owed and yet the department has recently asked us to accept 35 cents on the dollar. I'd like for you to know that we pay our foster parents an average of 44 percent of what we receive and accepting what the department offered us wouldn't even cover the amount that we have already paid out to foster parents. In the event that you're unsuccessful in your efforts to encourage the department to compensate foster parents and providers what we are owed for the provision of services to children who are wards of the state, would you please take the bold and courageous step of introducing legislation to assure that we are paid? Doing so will not only lessen the financial burden placed upon those of us who provided these services but I believe that you will also be taking a significant step in restoring the confidence of Nebraskans in our state system. Secondly, I would like to ask you to encourage the department to return their FC pay scale to the level that was in place prior to their contract with Boys and Girls Home. That scale determines the rate that providers are reimbursed for foster care and, in turn, the amount foster parents receive. On two occasions I met with the director of the Children and Family Services Division to convey our concern about the increased scale rates resulting in reduced payment rates, and I've attached copies of the two letters that were sent to him prior to our meetings. Our revenue for the Central Service Area alone dropped \$13,000 the first month following the department's reassuming the contract after Boys and Girls' contract ended. On both occasions, when we met with the director I was told, quote, you are the only provider expressing concern over this issue. Finally, I would ask that you assure that the lead agencies have the adequate funding that they need to cover not only the mandatory contractual requirements placed upon them but also sufficient funding for providers and foster parents. When lead agencies have been under financial duress and when their contracts have been terminated, the repercussions have been traumatic

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for providers, for foster parents, and in many cases the children and the families that we're serving. In summary, three requests: that payment from the department be provided for providers and foster parents at 100 cents on the dollar and if the department is unwilling to fulfill the obligation that you would introduce legislation to assure that we are paid; secondly, I'm requesting your assistance in encouraging the department to return their FC pay scale to the level it was prior to their contract with Boys and Girls; and finally, that the lead agencies have adequate funding to cover contractual requirements and adequate funding for providers and foster parents. I appreciate your time, your consideration, and most importantly your courage in taking the necessary steps to assure the reform, the success of the reform through competent decision making, adequate funding, and reimbursing those who have made sacrifices and provided services with declining compensation. [LR37]

SENATOR CAMPBELL: Thank you, Mr. Nicklas. Senator Krist. [LR37]

SENATOR KRIST: Thank you, Mr. Nicklas, for coming. And in full disclosure, I have had several conversations with Mr. Nicklas and I vowed to you then privately and I will do it publicly now again, it is my intention to try to get the agency, the Department of Health and Human Services, and Mr. Kerry Winterer to slow down and make sure that every dollar, 100 cents on the dollar, is paid out. I know we can throw technicalities in the way. I know we can bounce it against our legal principles. But it's the right thing to do and it is restoring confidence in the system. I find it almost disingenuous that we can find millions of dollars and we can't find \$118,000, and I don't know the exact number but we can't find that amount of money to make you whole. I think the services that you provides are exemplary and that you did so in good faith under contract, and that you I'm sure will continue to do it for nothing if you could but that's not what you're in business to do. So again, thank you for your service. We have had conversations, both as committee in whole and individually. We, I believe it's the right thing to do to reimburse you for everything that you have spent, particularly when I look at the period of time that we were doing roundtables, we were looking at contracts, we meaning the department, and

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possibly not carrying forward with the obligation. So once again, I...there will be a time I think for us to introduce legislation. It's...those who are patient with the process, I think it's going to take well into the session, but I believe that there are enough of us that believe if it's the right thing to do that we will continue to do that until they beat our dead carcasses to the (inaudible), so... [LR37]

GREGG NICKLAS: Well, thank you very much and we will be patient and it was a bit discouraging to hear Mr. Foley indicate that Visinet was in fact not bankrupt. We were owed nearly \$50,000 from them. As Senator Campbell indicated, that was settled at 70 cents on the dollar. We ended up writing off \$15,000 because of that. And we would just appreciate your help where the department was responsible for the children prior to Boys and Girls, ultimately responsible for the children during the contract with Boys and Girls, and immediately assumed responsibility for the children following Boys and Girls' contract. [LR37]

SENATOR KRIST: I think it's also important to note here, in case it's not been clear for everyone, the department did business and let's just say 100 cents on the dollar prior to privatization. During privatization we know, or that attempt for reform, we know what's happened. After, they're coming back to you and offering you less than they did initially by changing the pay structure. [LR37]

GREGG NICKLAS: That's correct, the scale, FC pay scale. [LR37]

SENATOR KRIST: Right, which I find confusing at best. [LR37]

GREGG NICKLAS: Just one other comment. It was also mentioned by Mr. Foley that the department had actually lessened their expenses in Omaha and were actually showing that they were caring for children for less money than the other two providers. And I might add that that may, in part, be due because...due to the fact that they changed that scale (laugh) and they were paying out less money to providers and, in

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turn, foster parents... [LR37]

SENATOR KRIST: Right. [LR37]

GREGG NICKLAS: ...to provide those services for children. [LR37]

SENATOR KRIST: Thank you, sir. [LR37]

SENATOR CAMPBELL: Mr. Nicklas, would you repeat for me, because I was trying to write and listen to you at the same time? [LR37]

GREGG NICKLAS: Sure. [LR37]

SENATOR CAMPBELL: What was the amount of money that you were owed under Visinet? [LR37]

GREGG NICKLAS: It was right about \$50,000, it was \$49,000 and some change,... [LR37]

SENATOR CAMPBELL: Okay. [LR37]

GREGG NICKLAS: ...and we received 70 percent... [LR37]

SENATOR CAMPBELL: Right. [LR37]

GREGG NICKLAS: ...so we ended up writing off approximately \$15,000. [LR37]

SENATOR CAMPBELL: Right. In addition to the amounts that you have talked about here, has your agency also supplemented those dollars in other ways? [LR37]

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GREGG NICKLAS: You mean like borrowing? [LR37]

SENATOR CAMPBELL: Well, no, I mean in terms of you have fund-raisers and do you have to put any of your own agency's money into the day to day...? [LR37]

GREGG NICKLAS: Absolutely. We have had to take board discretionary funds and use them to make foster care payments or to pay payroll, and we do have donors who help support our work. And honestly, it has been frustrating and discouraging to have to go to them and ask for money to help us pay the expenses that we have that we believe the department should be paying us for and not being able to use those dollars from our donors for expansion of new services into the areas of fatherhood, supporting marriages, and the area of adoption, but instead, we're having to raise money to take care of expenses that have not been reimbursed to us. [LR37]

SENATOR CAMPBELL: Thank you. Any other questions? Oh, Senator Avery, I'm sorry. [LR37]

SENATOR AVERY: Briefly. Thank you, Madam Chair. Would you...I have two letters here, I guess everybody else does, too,... [LR37]

GREGG NICKLAS: Yes, sir. [LR37]

SENATOR AVERY: ...to Mr. Reckling referring to a tier system. [LR37]

GREGG NICKLAS: Yes, sir. [LR37]

SENATOR AVERY: Would you explain that so I can understand what it is? [LR37]

GREGG NICKLAS: Certainly. [LR37]

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SENATOR AVERY: Because it appears that you're objecting to some children being reclassified in the tiers. [LR37]

GREGG NICKLAS: Correct. If you will look at the letter sent on December 1, at the bottom of that page it refers to Tier 3 children. With the Boys and Girls Home schedule, they had to score 41 points or higher on the FC pay scale. So if a child was a 41 on the scale, we received \$69 a day. [LR37]

SENATOR AVERY: Yeah, you're talking about the money. I want to talk about the tiers and what these scores are. [LR37]

GREGG NICKLAS: Okay. The tiers and the scores relate specifically to dollars. The... [LR37]

SENATOR AVERY: Does it have to do with the level of care they need? [LR37]

GREGG NICKLAS: It has to do with the behaviors that the youth exhibit, yes, the level of professionalism that the foster parents would need, and so when a youth was at a particular level with Boys and Girls or the department previously and then the department reassumed responsibility, they changed their scale so that a child would have to score significantly higher to maintain the same level of care and payment, frankly. Yes, sir. Does that answer your question? [LR37]

SENATOR AVERY: No. I mean I'm concerned because the implication here is it's all about the money and not about the kids. [LR37]

GREGG NICKLAS: Sir, that's absolutely correct. [LR37]

SENATOR AVERY: That's too bad. [LR37]

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GREGG NICKLAS: Indeed it is. [LR37]

SENATOR AVERY: It ought to be about the kids. [LR37]

GREGG NICKLAS: Honestly and from our perspective, that is what it's about. So whether we received the \$118,000, we're committed to caring for the kids and we have for 30 years and we're going to continue to do that, and whether it's with KVC and privatization or it goes back to the department, we're committed to caring for kids. We believe that the privatization can and should move forward because there was justification for it in the first place and that hasn't changed. But it's... [LR37]

SENATOR AVERY: But I see here in the December 7 letter a listing of children who are dropped from one tier to another. That has financial implications, I understand, and reimbursement implications. But were there some rational and logical reasons why a child might have gone from Tier 3 down to Tier 2? Maybe it's the level of care they need changed and, therefore, the reimbursement rate changed. [LR37]

GREGG NICKLAS: I would disagree. I would say that the decision was made to change the FC pay scale because it would save money and that that was conveyed to us only in a contract that we were given the option to sign or not to sign. [LR37]

SENATOR AVERY: I see that, the difference in the per diem and scale, but that still doesn't answer the question. If you had 13 children were dropped from Tier 3 to Tier 2,... [LR37]

GREGG NICKLAS: Yes, sir. [LR37]

SENATOR AVERY: ...there may have been some valid reasons why those 13 were changed from Tier 3 to Tier 2 that had financial implications for providers, obviously. Are you contesting that or are you simply saying that moving them had financial implications

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for us and we don't like that? But it might have been more appropriate for the children. [LR37]

GREGG NICKLAS: I would say that we made absolutely certain that each of those children stayed in the home that they were in irregardless of the amount of money we were being compensated for those children. To have heard Amy just give her testimony that the most important things for these kids is normalcy and stability, we believe that these kids should stay with their families. Did their behaviors change from one day to the next? No, sir, they did not. Did their tier drop? Yes. Did the compensation drop? Yes. Did we change their placement? No, sir, we did not. [LR37]

SENATOR AVERY: But Amy mentioned that she was moved around a lot of times because of the reimbursement payments. [LR37]

GREGG NICKLAS: Yes, she did, and our intent is not to move children because of the scale, and our program director sitting beside me leaned over and said, if a foster parent said to us, the rate has changed, the child's needs have changed, I'm getting paid less, I don't want to work with this child anymore, we would request that they no longer work with our organization because they're not concerned about the best interest of the children. [LR37]

SENATOR AVERY: (Inaudible) [LR37]

SENATOR CAMPBELL: Going to take one last question. Senator Krist, you had a question? [LR37]

SENATOR KRIST: You made the point when Ms. Peters was giving her testimony, if we're going to find a normalcy for these kids then we can't change pay scales in the middle of the stream. [LR37]

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GREGG NICKLAS: It disincentivizes. [LR37]

SENATOR KRIST: It makes no sense to me that when they were administering the program they were paying at a certain rate. Then we got in the middle of this thing and we ran out of money, and then they reassess these people. And I'd like to see the science behind the reassessment that equated to the lack of money. That's my point. [LR37]

SENATOR CAMPBELL: Okay, thank you, Mr. Nicklas. Yes, ma'am. [LR37]

GREGG NICKLAS: Thank you. [LR37]

SENATOR CAMPBELL: Thank you. Good afternoon. [LR37]

HEIDI LONG: Hi. My name is Heidi Longe and I am a foster parent, H-e-i-d-i L-o-n-g-e. Initially, I became a foster parent because I had direct child-specific placement in my home and that was very contentious for me because I had a U.S. consulate's office calling me, asking me to help him open a case here in Nebraska and HHS would not listen to me. I ended up having, after several attempts to the hot line, to call the Governor's Office and then something was done. And through this whole thing everybody keeps telling me, well, you have a very complicated case. Well, I don't care if it's complicated. I just want help. The foster support workers were not there when I needed them. I have them now but I've got the system figured out. It was very frustrating initially because no one would believe me. I had documentation. I was not believed. The safety plan was violated and the child that I have was required to go on a visit the next day without any workers coming to visit with her because it was over a weekend and no one works on the weekend, and I had e-mailed everybody that I have e-mail contacts for. When visits were occurring, I had to keep track of...we have three different agencies doing visits. I had to keep track of all of those agencies, who was doing the visit, what time they were coming to pick her up, and most of the time the

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caseworkers would call me and say who's doing the visit that day. And I was getting \$10 a day because I was a child-specific placement and that was ridiculous. I was doing their work. I've been trying to be licensed as a foster home since October of 2010. Finally, in July, after I've called Senator Wallman's office, your office, Senator Campbell, and they received an e-mail from your office did KVC finally agree to license me. They kept telling me I couldn't be licensed because there was a state statute, because I have a nonrelative roommate in my household. And I read the state statute and it is not a state statute. And then so I went back to KVC and said, okay, it's not a state statute, I've read it, and they said, oh, it's this memo from 1995 and it's basically to prevent any foster child from being in a gay/lesbian household, which mine is not but I was still being limited because of this memo from 1995. So now they have agreed to license me but they won't place any other children in my home. I'm fit to take care of this one child but not any other children. With this, the HHS, the CFOM, we've had a couple different ones, I have tried to call them because they have to make medical decisions. I needed immunizations. They needed the chickenpox immunization, second one, before they could attend school, so I made that appointment at the health department and the appointment was Monday. On Wednesday I started calling the CFOM, wasn't in; I called three different people at HHS and no one would return my call; ended up having to cancel that appointment and make it for Friday. And finally, I went down to HHS and said, I am not leaving here until someone signs this. And, lo and behold, the CFOM was there and then tried to give me all these excuses why it was KVC's fault, and I said, no, you have to sign medical releases, this is your job. I have since talked to supervisors at HHS and, I mean, it's just ongoing. I always need something signed and then it's, well, we don't meet with foster parents anymore; we don't meet. And I said, you need to meet this foster child; she's 17 years old; you need to meet the person that you are making decisions for. We don't have time to do that anymore, was what I was told. And I said, no, I'm bringing her down here and you're going to meet her; she's 17, she needs to have a say in what's going on and she needs to know who is supporting her. And finally, because I just went down there and said, can you please call so-and-so to meet with us, that they actually met her. And so I do believe that there are people in the courtroom

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that are making decisions that are not in her best interest because they don't know what that is. I pay thousands of dollars out of my pocket for her to participate in activities for school and extracurricular activities, because she's an athlete, that I don't get reimbursed for because KVC doesn't think that that is a mandatory activity. Well, she wants to play basketball in college. It is mandatory for her to do that. And if I don't pay thousands of dollars for her to do that she won't have that opportunity, and I can't deny her that opportunity because she's in foster care. (Laugh) So we...I pay thousands and I made KVC back pay me till October of when I should have been licensed because I felt like they weren't...they were not licensing me because they didn't want to pay me. And so they did back pay me. They're like, oh, you're going to get \$900. That's nothing compared to the thousands I've already spent out of my pocket. They're like, you should be happy about that you're getting that, and I am happy that they back paid me but it wasn't till I talked to all the heads of KVC that I got that. And I...they wanted to change our KVC workers. I called Dan Little from KVC and said, that cannot happen, you cannot change our worker; everybody tells me I have a complicated case, you can't change my worker. And they haven't because I've been insistent that that not happen. [LR37]

SENATOR CAMPBELL: When did you first have the young woman come live with you? [LR37]

HEIDI LONGE: It was February of 2010. [LR37]

SENATOR CAMPBELL: Okay. I was just trying to make sure. Questions for Ms. Longe? Thank you so much for coming and being patient. [LR37]

HEIDI LONGE: Uh-huh. [LR37]

SENATOR WALLMAN: Thank you. [LR37]

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SENATOR CAMPBELL: Oh, and I think there's one lady in the back who raised their hand. If...because at this point we're probably going to, after this testimony, we're going to take a break. And then if you did not get a chance to testify today we'll take your written testimony. You're always welcome to send it in. But we have appointments then all the rest of the afternoon, which will be in closed session. So I think you are the testifier today. Thank you for your patience. [LR37]

STEPHANIE JACKSON: (Exhibit 16) You're welcome. My name is Stephanie Jackson, it's S-t-e-p-h-a-n-i-e J-a-c-k-s-o-n. Thank you for giving me the opportunity to testify on this matter before you today. I'm not going to read my whole written testimony, was going to highlight some things in there. I'm here to give testimony because I'm a mom who's had to work through the system. I want to give you some feedback on my experiences along with some of my observations. On September 15, 2009, my daughter Jasmine Jackson was taken from me by law enforcement and DHHS and made a ward of the state due to my addiction to drugs and the situations I was putting here in due to that addiction. She was just six months old at the time. I deserved to have Jasmine taken from me at that time. I wasn't glad then, but in retrospect I'm glad that it happened. I had an opportunity to get my life together while she was kept safe. I want to make a note that I didn't even try to get her back for nine months. It took me some time to get sober and reprioritize my life. However, DHHS and CEDARS, who was with my case at that time, they never gave up on me. When I was ready to turn my life around to get my daughter back, they were right there willing to help me in every way possible. Very quickly, after my case opened, my case transferred from CEDARS to KVC. Here's a list of services that were provided to my husband and me as of May 1, 2010. They set up visitation four days a week with drug testing before each visit and also drug testing on a random basis. The visitation was scheduled around my family's schedule. It was flexible. Transportation was provided, even (inaudible) were provided. The visitation time was gradually increased over a time we our case progressed and eventually moved to our home in Lincoln instead of being in Papillion, where Jasmine had been living. We had excellent supervising workers and the visits smoothly transitioned to

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monitor visits and then overnight visits. Second, they provided court-approved substance abuse treatment at a facility that we could choose from, which included intensive outpatient treatment, outpatient, and aftercare, as per the recommendations of our drug evaluations. They also paid for us to take court-approved parenting classes, set me up with psychiatric support. They provided our family with counseling, with family counseling along with individual counseling. And I have to say that the first and probably the most important service that was provided to us was that KVC was always aware of family court order and they helped interpret that for us and helped us accomplish each and every requirement. On August 22, 2011, our family court case was closed and Jasmine was fully returned back to our care. There are a few things that became clear to me as we went through this whole process. At first, I was confused about the role of the DHHS worker versus the role of the KVC caseworker, but as I first was keeping in touch with both of them it became obvious to me that the DHHS worker did not have time to return my calls, whereas my caseworker with KVC always returned my calls. The DHHS worker relied heavily on the KVC worker to be on top of everything and arrange everything. Cynthia Sobotka, who was our case manager with both CEDARS and then when our case went to KVC she also...there were some efforts made to keep her with us, she always returned my calls. She was the person addressing all of our family's concerns and questions and making things happen. She was the person implementing every detail of the judge's order and helping us never lose sight of any aspect of that court order. Here are some of my other observations and concerns as we worked our way through the process of getting our daughter back. First, over the course of the two years that our case was opened, the judge's court order would change in little ways. For example, one order would require family counseling and then the next court order wouldn't even mention it. There was some confusion about this and which court order to follow. What we ended up doing is following the most current court order but we ended up including those things that were mentioned in previous court orders too. The second concern I had is there was a big difference in substance abuse treatment centers. One facility I went to was excellent but my aftercare had to be done through another facility and it wasn't nearly as helpful, and this made me wonder if there's any

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statistics kept on the success rates of these treatment facilities or if there's any way to compare and rate them. I just, in my opinion, it would be a good idea to do so. I would think the state would have an interest in seeing how their money is being spent at these treatment centers. And my last concern had to do with things that I was listening to today. There's a lot of roadblocks that are being mentioned through different facilities on what to do with this and what to do with that. In my experiences, whether has been through probation or through family courts or through treatment, the attitude of the person going through that system has a huge effect on their success and failure rate. Personally, I had...I was my own advocate. I didn't sit around and wait for someone to say it's about time for you to do this or go get this evaluation or take this. I was calling my caseworker and saying when can I take this class, when can I start this counseling, so the communication was just always going on. I guess I was just wondering what could help parents who aren't motivated to do what they're being asked to do, what can be done to help that, because to me that's a big roadblock. In conclusion, our family was blessed to have KVC bring our daughter back home and get our case closed. Although we didn't cooperate at first, no one gave up on us. They didn't judge us when we weren't initially doing the right things, although I'm sure that they were disappointed. They were patient with us and when we were ready to do what was being asked of us, KVC was right there to help us every step of the way. I have no doubt that we would have been overwhelmed if our case manager didn't help us work through the process. KVC made a huge difference in our family's life and we're together today because of their help, and that means everything to me. And I appreciate your time. [LR37]

SENATOR CAMPBELL: It's very good for us to finish on a reaffirming note and I'm sure that it is your perseverance, too, that made a great difference. Are there any questions for Ms. Jackson? Senator Gloor. [LR37]

SENATOR GLOOR: Thank you, Senator Campbell. And first of all, good for you for dealing with your addiction. I can tell you that...and to answer your one question in here that I have an answer for and that is substance facilities keeping track of their success

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rates. I think most do and know what their recidivism rates are but usually only for a matter of months because the nature of dealing with addictive disease, most people like to maintain their anonymity and we're a mobile society and people leave, so it's hard to keep up with them. And although most may share what their recidivism rate is over three months or maybe six months, after that you lose track of those people or they want to be lost track of, and so you don't know whether a year, two years, three years later they still remain sober, dealt with their addition, whatever the case may be. So it's a tough one to get your arms around, but I know organizations can give you short-term success rates. [LR37]

STEPHANIE JACKSON: Thank you. [LR37]

SENATOR CAMPBELL: Thank you very much. [LR37]

STEPHANIE JACKSON: Thank you. [LR37]

SENATOR CAMPBELL: I would like to enter into the record a letter, and, Senator Gloor, you may wish to make comment about this letter that we all received. [LR37]

SENATOR GLOOR: (Exhibit 17) It's a constituent I know who was at the hearing in Grand Island, a sharp fellow, has been involved in issues that are important to this discussion for a number of years and sent me this letter and asked that I share it, and so I have done so. And if you have any specific questions, you can visit with me or you could call him. I know Jim would be glad to take a phone call. [LR37]

SENATOR CAMPBELL: Okay. Thank you all for coming today. Remember that you can send information to us or testimony at any time, just get it to my office and we'll send it out. We will resume this afternoon with closed sessions at 2:00. (See also Exhibit 18) [LR37]