

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee February 24, 2021  
Agency 28, Agency 25  
Rough Draft

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**ERDMAN:** [RECORDER MALFUNCTION] Steve Erdman, District 47, 10 counties in the Panhandle.

**CLEMENTS:** Rob Clements, District 2, Cass County and parts of Sarpy and Otoe.

**STINNER:** John Stinner, District 48, all of Scotts Bluff County.

**WISHART:** Anna Wishart, District 27 here in west Lincoln.

**KOLTERMAN:** Mark Kolterman, District 24: Seward, York, and Polk Counties.

**VARGAS:** Tony Vargas, District 7, downtown and south Omaha.

**DORN:** Myron Dorn, District 30, Gage County and southeast part of Lancaster.

**STINNER:** Assisting the committee today is Brittany Sturek, our committee clerk. And to my left is Fiscal Analyst, Nikki Swope. For the safety of our committee members, staff, pages, and public, we ask that those attending our hearings to abide by the following: submission of written testimony will only be accepted between 8:30 and 9:30 a.m. in the respective hearing room where the bill will be heard later that day. Individuals must present their written testimony in person during that time frame or can sign the submitted written-- written testimony record at the time of submission on the day of the hearing of the bill. Individuals with disability as defined by the federal Americans Disability Act can appoint somebody to submit their written testimony. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress or the agency hearing in progress. The bills will be taken up in order posted outside the hearing room. The list will be updated after each hearing to identify which bill is being-- currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request-- we request that everyone utilize the identified entrance and exit doors to the hearing. We request that you wear a face covering while you are in the hearing room. Testifiers may remove their face covering during

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testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chairs between testifiers. Public hearing for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a sergeant at arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. To better facilitate today's proceedings, we ask that you abide by the following: please silence your cell phone. Move to the front row when you are ready to testify. Order of testimony will be introducers, proponents, opponents, neutral, closing. Testifiers sign in, hand your green sign-in sheet to the committee clerk when you come up to testify. We ask that you spell your name for the record before you testify. Be concise. It is my request that you limit your testimony, at least initially, to five minutes. I may change that as we go depending on time, because there is time specific here that we have to be out of here. If you will not be testifying at the microphone, but want I go on record as having a position on a bill being heard today, there are white sheets at the entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. We ask that you please limit or eliminate handouts. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the page for distribution to the committee and staff when you come up to testify. We need 12 copies. If you have written testimony but do not have 12 copies, please raise your hand now so the page can make copies for you. With that, we'll begin today's hearing with Agency 28, Department of Veterans' Affairs. Good morning.

**JOHN HILGERT:** Good morning, Chairman Stinner, members of the Appropriations Committee. For the record, my name is John Hilgert. J-o-h-n H-i-l-g-e-r-t. I'm director of the Nebraska Department of Veterans' Affairs. We support the committee's recommendation in response to the budget proposed by Governor Ricketts. The Nebraska Department of Veterans' Affairs consists of a state service office that represents 86,921 veterans through USDVA accredited powers of attorney in order to assist them in obtaining all benefits which they

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are legally entitled. The Nebraska Department of Veterans' Affairs operates a State Veterans Cemetery in Alliance and is currently planning a second State Veterans Cemetery in Hall County, Grand Island, Nebraska. We also operate four veterans homes located in Scottsbluff, Kearney, Norfolk, and Bellevue. We appreciate your support for the programs and the teammates that provide them in support of Nebraska's veterans. Mr. Chairman, that concludes my testimony, but I'll certainly be happy to answer questions you or the members might have.

**STINNER:** Thank you. Any questions? Senator Wishart.

**WISHART:** Well, thank you for being here. And before I ask my question, I just did want to give you a compliment. I have heard from several constituents that your handling of vaccines in the pandemic has been excellent. So thank you.

**JOHN HILGERT:** You're very welcome. Thank you.

**WISHART:** Yeah. Just a quick question on the Kearney facility. How are you doing with staffing, filling vacancies? Is there anything that we can do as a committee to help?

**JOHN HILGERT:** Well, there are vacancies. The Kearney facility, as you know, opened up in January of 2019. We opened up to 36 members. The capacity is 204-- 225 licensed beds; operating capacity is 214. The number of-- the census increases as we can staff it. And you may remember in the summer of 2019, we had to pause admissions because of a lack of dietary staff. That pause was brief and we continued on the way of staffing up and increasing census and then the pandemic came. So right now we stand at 168 is our census in the Central Nebraska Veterans Home in Kearney. We do have a way forward. We are aggressively advertising. We are focusing on retention. But I think not only at the Kearney or Central Nebraska Veterans Home, but frankly, Senator, all four homes has been tough during the COVID-19 pandemic. Staffing has been a challenge and to compete with the private sector at times with the high demand for front-line healthcare workers has been difficult, as it is throughout the state and for all healthcare institutions. We were not exempt from that. So we have a plan forward. We're slowly increasing census. Once again, our

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retention is one of our smart goals for our team throughout our-- all four facilities. But you know, Senator, we need to grow Nebraska. We need to have more Nebraskans. We would like to have more individuals that would apply for our jobs. I think it's the best job in the state caring for America's heroes. I think our benefits package is competitive. I think our management team works well with trying to accommodate the unique situations that people might find themselves. We have part-time PRN positions open, part-time positions open. I think we are flexible to a certain extent. Because of, frankly, the 24/7 nature with three shifts, there's opportunity and it's a great mission.

**WISHART:** Thank you.

**STINNER:** Additional questions? Seeing none, thank you very much.

**JOHN HILGERT:** Thank you. Thank you.

**STINNER:** Any additional proponents? Any opponents? Seeing none, anyone in the neutral capacity? Seeing none, that concludes our hearing on Agency 28, Department of Veterans' Affairs. We will now open with Agency 25, Department of Health and Human Services. Good morning, Director.

**DANNETTE SMITH:** Good morning, Senator Stinner. How are you?

**STINNER:** Very good.

**DANNETTE SMITH:** It's been a morning already. Good morning, Chairperson Stinner and members of the Appropriations Committee. My name is Dannette R. Smith, D-a-n-n-e-t-t-e, middle initial R., last name Smith, S-m-i-t-h, and I am the chief executive officer of the Nebraska Department of Health and Human Services. Today and tomorrow you will hear from members of the agency's leadership team who will present information on their departmental budgets. They are Tony Green, Division Director of Developmental Disabilities; Stephanie Beasley, Division Director of Children and Family Services; Sheri Dawson, Division Director of Behavioral Health; Kevin Bagley, Division Director of Medicaid and Long-Term Care; Dr. Gary Anthone, Division Director of Public Health; and finally, Larry Kahl, he's my chief

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operating officer and he will be discussing facility budgets. When I came to Nebraska two years ago, and this might be shocking to you, but tomorrow is my anniversary here with DHHS. Believe it or not, I've made it two years. I never imagined the challenges that would be in front of me and in front of the world. Over the past year, so much of our attention has been turned to public health and to COVID-19. I am proud of the work of my team and this administration and what we've done on behalf of Nebraskans. And I want to just say that I'm really proud of my team. This last year, all of my division directors, the leaders in my public health department, they have stood tight to make sure that we're serving Nebraskans appropriately. And so I'm very proud of the work they've done this year. In 2020, DHHS administered over \$90 million in the coronavirus relief funds through the Community CARES Grant program. These grantees included child care providers, charitable organizations, licensed healthcare providers, food banks, housing and shelter organizations, and centers of worship. This funding has helped thousands of Nebraskans respond to and recover from the impact of COVID-19. Our divisions also modified numerous programs, procedures and rate structures to support our clients and the providers through the challenges of 2020. You will hear more about these efforts from our leadership team. The work of DHHS has not been limited to public health emergency. During the past year, DHHS launched Medicaid expansion and integrated eligibility system. We initiated the Redevelopment and Transition Initiative for our youth residential facilities and we will be presenting a five-year operational plan for the youth facilities to the Legislature in March of this year. The department is developing a behavioral health strategic plan, and we continue to implement and monitor the progress toward the goals outlined in the Olmstead Plan, a roadmap for serving people with disabilities in the most integrated settings. In the past year, DHHS formally kicked off I Serve Nebraska. It's a business transformation initiative focused on integrating programs and services across DHHS. So in other words, our constituents come, they come in, they apply for services and a one-stop shop environment. The aim I Serve is to deliver more effective, more efficient, and customer-focused state government through our programs and projects. As you know, DHHS has also re-engineered the contract with our largest child welfare vendor, St. Francis Ministries. We entered into an emergency contract with St. Francis to continue case management

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services in the Eastern Service Area, ensuring continuity of services for children and families. We are able to increase the contract amount to meet the Eastern Service Area needs without requiring additional appropriation, and Director Beasley will provide more detailed granular information on child welfare finances in her testimony. I would like to acknowledge concerns the committee has had with the state's comprehensive annual financial report, the CAFR, and-- and DHHS's role. I understand the State Auditor has found a number of inconsistencies through the CAFR process. DHHS will be working with DAS and the State Auditor on additional training and increasing our collaboration and oversight with DAS to address these concerns up-front and to reduce these findings in the future. The Department of Health and Human Services supports the Governor's recommended biennial budget of \$3.38 billion in General Fund appropriations. Overall, the agency was able to reduce our General Fund requirements by \$44.2 million the first year of the biennial and hold ourselves to \$2.2 million increase in the second year. Our leadership will address a number of relatively small variances between the Governor's recommended budget and your committee-- your committee's preliminary recommendations. As always, I would like to thank the Appropriations Committee for their support of DHHS. Your support enables us to continue to serve residents across Nebraska, helping them live better lives. I sincerely appreciate your time and commitment. As I close, I want to thank my team for their thoughtful approach to the process in our budget requests and their tremendous work to support children and families and clients during COVID. And I just can't underscore the type of support and leadership I found in my team. I would like to thank the Governor for his recommendations that will allow further support for programing and initiatives within DHHS. The department's leadership team will follow me today and tomorrow and will be able to answer any particular questions you may have on the division's specific request. Again, I want to thank you and this does conclude my testimony. Thank you so much.

**STINNER:** Thank you. Between YRTC's, St. Francis, and COVID, you've certainly had a full plate.

**DANNETTE SMITH:** So the other day the Governor said to me that I will be able to organize a D-Day event if that ever happened because of all that I've had on my plate this year. Again, Senator Stinner, I am glad

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to be here. I'm very gracious about the successes that my team has had this year. And I'm also gracious about the opportunities going forward with the YRTC's and with St. Francis. To be honest with you, it just strengthens my leadership. The more you know, the more you learn, the more you get better at it.

**STINNER:** OK, very good. Any questions? Senator Wishart.

**WISHART:** And I know Director Beasley will be up, but I do want to ask some questions regarding St. Francis because she is, I believe, new, came in before-- came in after the St. Francis decisions were made initially. So I would like to ask you some of those questions. I want to run through a bit of a timeline to get my head around the situation, because there's been a lot in the papers. And from an appropriation standpoint, you know, we're seeing a large amount of additional money to be spent to solve some of this issue. So in January of 2019, when we bid for this Eastern Service Area contract, St. Francis' bid was significantly lower than PromiseShip, who was the current service provider. I believe, and I've got some of these numbers, the original bid for five years for PromiseShip was \$305 million. St. Francis was \$196.4 million. Does that sound correct?

**DANNETTE SMITH:** Something to that, yeah.

**WISHART:** Yeah. So a difference of about \$108 million, which is about a 64 percent difference. Why-- at that time, what-- what was your thought process for how a a contract could come in so much lower than the current service provider? And why did you decide to move forward with them at that time?

**DANNETTE SMITH:** Well, at the time we believed that they could do the work that they said they could. They had given us evidence. We had scored the proposal. There were oral testimonies that have been done by them and by PromiseShip, and they maintained that they could provide the level of support that was needed to support the Eastern Service Area. There were numerous conversations with them as I gave in my testimony, I think in January, with them that they felt that they could provide the necessary support.

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**WISHART:** OK, and I recognize that a lot of what we have learned when we were learning it, you were also learning it.

**DANNETTE SMITH:** That's correct.

**WISHART:** So I understand that that there have been a lot of sort of bombshells dropped about this issue that you didn't know about when this contract was coming. But, you know, I do have concerns moving forward to think through how-- how we make sure because that with bids, if somebody comes so sort of grossly under bid of the current-- of a current provider, that that is taken into account. So with PromiseShip, my understanding is that their bid was on target for what, you know, they had been providing services for before it was on target. It's not like they were asking a ton of extra money. Is that correct?

**DANNETTE SMITH:** That's correct. But there had been significant increases in their contract even prior to me coming.

**WISHART:** OK, and so was-- what was your thought process then for, you know, they were growing at not a significant amount from the previous year. But again, your thought process was for going with St. Francis that you thought they could do it [INAUDIBLE]

**DANNETTE SMITH:** We thought they could do-- we thought that they could do the job.

**WISHART:** OK. A couple more questions. So we fast forward and we have all learned that St. Francis is financially-- has been financially unstable and involved in layers of fraud. Recently, they admitted knowingly submitting a fraudulent bid in 2019 that they knew that they wouldn't be able to-- to-- to meet the needs of our child welfare system with that bid. Knowing this information, why did we decide to continue to move forward and extend their contract and work with them?

**DANNETTE SMITH:** Well, because they do have the ability to serve the kids that we have right now. We have signed a 25-month contract that gives us an opportunity to work with them and to really ensure that they can serve the children that they have in their care. We have a pretty strategic and very stringent-- stringent oversight of the



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contract that they have right now. We are meeting very frequently and I'll tell you, Senator Wishart, which is really different than maybe the first time around. I'm using data, data, and data and I'm actually looking at cases and will be looking at cases to make sure that kill-- that children are maintaining to be safe in their care. So not only am I going to deal with the finances, but I'm also going to deal with the licensure and I'm also going to deal with the care that they're supposed to provide for children. And I can tell you that this time around, it's a lot more stringent and a lot more meticulous.

**WISHART:** Because this is a company where when you look at the fraud and some of their financial issues, it was-- it was significant and so I have concerns.

**DANNETTE SMITH:** So Senator Wishart, what I would say to you is significant. They're under new leadership. That leadership is very transparent with us. They have been above and on board with sharing with us all the difficulties. There were leadership issues prior to this new leadership that is in place right now that for whatever reason wasn't quite honest with us.

**WISHART:** OK.

**DANNETTE SMITH:** This leadership team is extremely transparent. They're learning a lot about child welfare. We are coaching, working with them, but I think we're holding them different-- accountable in a very different way. And so that's not only just having conversations. We're looking at the data and against the data, we're looking at whether or not children are being served and being served appropriately.

**WISHART:** So my understanding is the new contract is a two-year contract that we have--

**DANNETTE SMITH:** That's correct.

**WISHART:** --gone into with them at \$147 million?

**DANNETTE SMITH:** About.

**WISHART:** About that. So that's pretty close to, if not more than, the initial request for PromiseShip. Is that correct?

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**DANNETTE SMITH:** Close to.

**WISHART:** OK. I have also been made aware that St. Francis has some performance problems and they currently have five corrective actions.

**DANNETTE SMITH:** That is correct.

**WISHART:** One of those being not doing background checks for their workers. I mean, that's looking out for people who are child  
[INAUDIBLE]

**DANNETTE SMITH:** Well, they're getting in line with their background checks. They have a process in place. They will be reporting that with us every-- every week. They're doing that with my staff to let us know. So with those corrective action plans that they have, they are giving us data that is showing us whether or not they're moving into compliance.

**WISHART:** OK. They also have issues with filing plans with the court in a timely way.

**DANNETTE SMITH:** Yes.

**WISHART:** And caseload ratio remains an issue.

**DANNETTE SMITH:** That is correct.

**WISHART:** So when I have done some research into DHHS, for example, and your ability to meet sort of some of the standards set on the federal level, you're not experiencing those problems similar to that to St. Francis. Is that correct?

**DANNETTE SMITH:** That's correct.

**WISHART:** I also-- just one, couple more questions.

**STINNER:** That's fine.

**WISHART:** I have also been made aware that you have had to assign staff and new staff to oversee and monitor the St. Francis contract.

**DANNETTE SMITH:** New staff?

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**WISHART:** New staff?

**DANNETTE SMITH:** That is not correct.

**WISHART:** OK. But have you had to move some roles from-- from staff who were doing other things to focus more on monitoring the St. Francis contract?

**DANNETTE SMITH:** Not at all.

**WISHART:** OK. So there have not been any administrative overhead increases in having to sort of monitor this contract because of the issues.

**DANNETTE SMITH:** And you're talking about DHHS staff, correct?

**WISHART:** Yes.

**DANNETTE SMITH:** No. As I said earlier and let me just go back to the testimony I gave in January, and I'll explain to you what the oversight is looking-- looking like. In the field, we have two administrators, contract administrators, who are overseeing the actual contract. Above that, we have one of our season program administrators who was in that role, who's also making sure that she's partnering with St. Francis to make sure that the daily deliverables are getting done. On the second and fourth Tuesday of every month or second and fourth Wednesday of every month, we have an executive leadership, which is my executive team that includes Stephanie Beasley, Alger Stet-- I can't say Alger's last name, but Alger, my chief of staff, our finance department, Mike Michalski, and our legal counsel, who meets every other week with St. Francis' executive team. And then on the first and third of the month, it is Alger and his operations team, which isn't any new people that I know of, that are meeting with St. Francis. We're making sure that we have this covered from an operational standpoint, from a contract standpoint, all the way up to the executive leadership, which I set with Stephanie and our team to make sure there's oversight. So in terms of new positions or people being reshifted to monitor the contract, absolutely not. It's really those of us who are at the leadership at the division at the executive

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level, then at the deputy level and then at the program level that's overseeing the contract.

**WISHART:** So there-- so just to be clear, from the change from PromiseShip to St. Francis, you and your leadership team and your staff have not had to put in any additional hours above and beyond what you were contributing to monitor the PromiseShip contract previous to [INAUDIBLE]

**DANNETTE SMITH:** I would say to you that we're putting in a lot of hours.

**WISHART:** A lot of hours.

**DANNETTE SMITH:** We are putting in a lot of hours. And as the CEO of DHHS, along with all that I am managing, this has become my top priority. So I am partnering with my team to make sure that we are indeed overseeing that contract with the level of specificity that probably never been seen. I've done it in other jurisdictions where I've worked, but I can tell you that we are monitoring the-- the contract with specificity.

**WISHART:** OK. The one last question I have is it is my understanding that Kansas has also experienced issues with their contract with St. Francis and that similar to what you are doing, they have changed their contract to allow for a lot more oversight of St. Francis because it's necessary. But there is also a stipulation that potentially Kansas could move in a different direction. And that put St. Francis, which from looking at them is already financially unstable. They-- I recognize that they have changed leadership.

**DANNETTE SMITH:** Understand.

**WISHART:** That doesn't change their financial situation.

**DANNETTE SMITH:** That is correct.

**WISHART:** How are we prepared to take back that contract, recognizing that we can't contract our way out of our ultimate responsibility of taking care of the welfare of children in our system? How are you prepared that if the chips-- if the cards fall and Kansas no longer

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moves forward with their contract and St. Francis is out of the kind of money that they need to be financially solvent, how are we prepared to say, well, we're going to have to bring this in-house?

**DANNETTE SMITH:** So always when you are initiating a contract with a vendor, you always have to think about a backup plan. And I can tell you that the Department of Health and Human Services is always planning,

**WISHART:** OK. And so what is that backup plan?

**DANNETTE SMITH:** Well, I don't have all of the details right now that I could share with you. I don't want to share something and then later have to come back and tell you I had to change the plan. And so what I can say to you is we always have a plan, a backup plan to what we're going to do if things do not work out well with St. Francis. Senator Wishart, if I were in Chicago, Illinois, which is where I came from and where I started my child welfare career as a private, I always had a backup plan. Some of those details, quite honestly, and I know you will understand this, just wasn't appropriate for me to share at this time. Right now, we are doing our level best to make sure that we help St. Francis be successful. They have made a commitment to us that they want to be successful, but we recognize sometimes things happen and we may have to have further steps. And I don't want to be too premature talking about the plan until I know for sure where we stand.

**WISHART:** OK.

**STINNER:** Just so you know, Director Smith, I asked Senator Wishart to kind of take the lead as it relates to DHHS issues. So that's why she had a lot of questions.

**DANNETTE SMITH:** That's OK. That's OK.

**STINNER:** Senator Kolterman, you had a question.

**KOLTERMAN:** Thank you, Senator Stinner. Yeah, I have a couple of questions. You had-- you had approximately 35 people that were hired to do casework that had not gone through the full process and had the background checks. Now that those background checks have been done,

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were any of those 35 people-- did-- did you find any problems with any of them?

**DANNETTE SMITH:** You're talking about the St. Francis staff?

**KOLTERMAN:** Yes, ma'am.

**DANNETTE SMITH:** Not to my knowledge.

**KOLTERMAN:** OK. And then-- then the other side of this is on the St. Francis issue, you know, I had a bill last year that dealt with procurement.

**DANNETTE SMITH:** Yes, sir.

**KOLTERMAN:** And it dealt with an appeals process. And the only way right now that anybody can appeal something is really sue-- sue the state. I realize there was significant savings. Had my bill been put in place, we might have been able to avoid a lot of this, but that's past us. But my question is, you know, there was supposedly be a ton of savings and people said to me, well, in fact, if it doesn't work out, we've got plenty of money extra that we can always fight off the lawsuits. I don't like to do business that way. But my question is, where's the money coming from? We didn't appropriate that kind of money for the contract that you have in place. What-- where are you coming up with all this extra money to pay these increased costs that St. Francis is going to cost us now? Do you--

**DANNETTE SMITH:** So I'm--

**KOLTERMAN:** Go ahead.

**DANNETTE SMITH:** I'm sorry. I'm getting that money out of my child welfare budget. There were some dollars that we had not used in 2020 and 2021 that I'm using to be able to spend to close that gap.

**KOLTERMAN:** And that's millions of dollars.

**DANNETTE SMITH:** Yes.

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**KOLTERMAN:** Are we overappropriating the money that we're giving you to try to child welfare--

**DANNETTE SMITH:** Absolutely not.

**KOLTERMAN:** --that you've got that kind of money to just come up with now out of the blue and pay off these other?

**DANNETTE SMITH:** Absolutely not. Every bit of the money that you have given us, we are using to make sure that kids in the child welfare system are safe.

**KOLTERMAN:** That's the most important goal.

**DANNETTE SMITH:** And I can tell you that's what we're striving for. It may not seem as though we are, but I can tell you at the level of my involvement, at the level of my executive team's involvement, that's what we're out to ensure, that children are safe, they being-- they're being cared for appropriately and that we have eyes on to make sure that we know that the level of care for kids who are the most vulnerable in this state, that they're getting what they need.

**KOLTERMAN:** So how much overall, how much difference was there from the first bid and PromiseShip?

**DANNETTE SMITH:** So I don't have those numbers at hand. I can certainly get that for you. I don't want to say something that I don't have here, but I can get that number for you.

**KOLTERMAN:** I mean, we're talking about large amounts of money.

**DANNETTE SMITH:** Yes, we are.

**KOLTERMAN:** Large amounts of money, hundreds of millions of dollars that could have been used elsewhere. Just trying to make a point here. This is nonsense.

**DANNETTE SMITH:** Thank you.

**STINNER:** In my budget, in my budget, in our budget that we submitted and the Governor's budget, there was nothing put in there for

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increases in provider rates. And the reason was that we needed to hear from the providers. And we have heard from the providers very strongly that indeed there-- they've got some COVID gaps and they've got some needs. And obviously in several agencies and several, whether it be DD or behavioral health, public health, they've been lagging behind and having a hard time continuing to attract and retain people, for one thing, et cetera. So this-- as a look-back over 20 years, we've averaged between 1.5 to 2.5 percent increases in provider rates. And obviously our committee is going to look at something in that range. I guess-- and there was only two budget cycles where we had revenue shortfalls, where we kept it flat. And I think there might have been a decrease before I ever came. So my question to you is, is if we do increase provider rates, is your department ready to pass out that money and pass the provider rate increases to-- to the providers?

**DANNETTE SMITH:** I know that we have received several letters recently from the provider community about increases. And so one of the things that we wanted to do was to be able to go back and evaluate if it got passed or didn't get passed, what we could or could not do. I don't know that I have a specific answer for you, but I know that we received some letters from some of the providers about needing increases.

**STINNER:** I guess what I'm really asking, to be totally frank, is will you as director make sure that the money goes out because we've had some problems in the past?

**DANNETTE SMITH:** Well, I think, you know, we're going to do what we need to do for the providers. If you do pass it, we want to be fair. We want to make sure that we give what they need to be able to provide services.

**STINNER:** Is that your determination or our determination of what they need? That's [INAUDIBLE]

**DANNETTE SMITH:** Well, I would think that we would kind of determine it-- determine that. That's why we want to look at the letters that we've received and then be able to have a dialog about it.



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**STINNER:** OK, we'll have some more discussion about that. On the St. Francis side, I think you indicated that you have looked at St. Francis financials.

**DANNETTE SMITH:** We have.

**STINNER:** It's interesting. When you were negotiating the first time, I asked for a financial statement and I got a reply that, oh, they have a bank loan. And that was all the financial information I got at that time, which I found to be extraordinary because I'm a banker and I know how quickly those relationships could change. Have you done any inquiries with their banking relationship or are they on solid footing or are they?

**DANNETTE SMITH:** To our understanding, to my understanding, they're on solid footing. They were able to get additional lines of credit to make sure that they are able to meet their-- their-- their responsibility.

**STINNER:** OK. Your assessment of St. Francis is they're doing fine even though their ratings have gone down.

**DANNETTE SMITH:** Here's what I would say to you. I would say to you that this contractor is in a year-long contract. It's in the two-year contract with us. The first year for any contractor, I've been a private myself, the first year of any contract can be very tumultuous. It just can be. What coupled their difficulty is all the turnover in staff, the turnover in leadership, and most importantly, the finances. I think they have a way to go and that's just being pretty transparent with you. They have a way to go. We recognize that they have a way to go, but right now would not be in the best interest of children to try to go back out and get a vendor. Right now, from what we can see, kids are safe. They're being taken care of. Are there areas of improvement? Absolutely there are. Is the state prepared to monitor and ensure that they are holding up their end of the contract? Absolutely we are. We're prepared to do that. And we're prepared to have those tough discussions if we feel that they're having difficulty consistently in being able to do it. But I can tell you that as a private, it takes time to get your footing and to get it consistently.

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**STINNER:** I appreciate that.

**DANNETTE SMITH:** And so we're giving them a little bit of time to do that.

**STINNER:** Thank you. I appreciate that. Actually, St. Francis was already up and running in Kansas.

**DANNETTE SMITH:** That's correct.

**STINNER:** Should have been able to make that transition.

**DANNETTE SMITH:** And, Senator Stinner, St. Francis was up and running right here in Nebraska in the western part of the state doing a fabulous job. So it wasn't like St. Francis was new to us.

**STINNER:** Right.

**DANNETTE SMITH:** We have a history with St. Francis. The work that was being done out in the western part of the state was fine. And we assumed the same in the Eastern Service Area because the work in the western part of the state was very good.

**STINNER:** And just for-- just for the record, the Appropriations Committee did look at the contract and we said there's no way that they can perform at that level. We left \$9 million of extra appropriations in there. We didn't take as much savings as the Governor did. Just wanted to put that on the record.

**DANNETTE SMITH:** Thank you.

**STINNER:** The last thing I want-- I want you to be aware of and we're getting fiscal notes out of DHHS that make no sense as it relates to what we understand we're asking for. And I know you're going to get some-- some feedback, blowback from the legislators that now are sitting with fiscal notes and they're shaking their head and wondering, what is this about? So you just need to be aware of that.

**DANNETTE SMITH:** Thank you.

**STINNER:** So-- and maybe we can have a later discussion about that--

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**DANNETTE SMITH:** We can.

**STINNER:** --as well. So did I-- Senator Vargas, I'm sorry. I just jumped ahead of you.

**VARGAS:** No, you're OK, Chairman. Don't have to apologize to me.

**STINNER:** OK.

**VARGAS:** Thank you very much, CEO Smith, for being here. So a couple things I want to get on the record and just a few-- two questions in particular. So the answer to Senator Kolterman's point, my understanding is that the \$197 million from the original bid over five years from St. Francis was less than 60 percent of the bid of PromiseShip. Is that correct?

**DANNETTE SMITH:** About.

**VARGAS:** OK. The other thing in the record is that-- that PromiseShip in the original bid, PromiseShip outscored St. Francis on all areas except cost. Is that correct?

**DANNETTE SMITH:** Thereabouts, yes.

**VARGAS:** So maybe this is where the concern is. If for me, if PromiseShip outbid St. Francis on everything except cost and months later they're coming back saying we actually need more funds to meet our statutory obligations for caseload and meet the services and change in negotiation, why? I understand and you've been quoted saying that we need continuity of services. But it seems like the only reason we went with them was because of their low cost. Why not reconsider and-- and figure out what we should do differently. Maybe we we look at PromiseShip or-- yeah, so I wanted you to respond to that because that-- it's very concerning that the only reason we went with them is cost and then it actually isn't any cheaper.

**DANNETTE SMITH:** Well, you know, I think it's more than just the money. There was-- they have a model of how they care for kids in care. And so I think that there were a lot of factors that we took into consideration. Again, as I said before on the record, and I'll say it

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again, we did ask, can you do the service? Can you provide the services? And the answer was yes.

**VARGAS:** So this gets to my second question. And we have had this conversation, you and I, off in separate meeting.

**DANNETTE SMITH:** Yes.

**VARGAS:** And I know you asked if they can do the service, but it's clear that they were not able to do the service. So I appreciate your sort of self-reflection to recognize that there was-- there wasn't enough of that investigation or evaluation done, kind of took them at their word, not completely at their word. There's obviously a bidding process you evaluate--

**DANNETTE SMITH:** That's right.

**VARGAS:** --but you still took them at their word and we ended up where we are. So the question I have is there's a separate bill in Executive Board. I think that there is a question on whether or not there's more oversight needed. You've communicated to me that there is a corrective action plan. There are metrics in place using data to more accurately hold them accountable during this period of 25 months, which are all admirable things. I still believe that there's a question mark on why did we miss the boat? Why did we miss this call in evaluating and taking them at their word in the first place? That we should figure out what we did wrong, everybody, the collective we, right, what was potential missteps on DHHS, on our part, on-- on playing a role as legislators, you know, with DAS. I don't know. But if-- if taking them at their word led to the gap, you know, that's a real concern to me. And I shared that with you also in our meeting. And I wanted to give you an opportunity to react to that.

**DANNETTE SMITH:** Well, and I think I shared back to you that we've probably analyzed this and me as the leader of DHHS have-- have probably analyzed and did my own quarterbacking of my own leadership. And so what I am attempting to do is to make sure that I'm providing the oversight and the leadership that's needed to make sure that we're on board with where St. Francis has to land. As I said to you, I'm not sure that more oversight of the department is necessarily the answer.

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But I do know that what we have in place right now today is certainly going to get us where we need to be in the next 25 months. And I also think that it's going to give rise in terms of how we look at contracting in the future. I think there's some real clear things that we'll be asking in a different way.

**VARGAS:** I appreciate that. I appreciate the concerns you've made, the corrections you've made. I'm still extremely concerned because while this has all been happening, we went off the word of an original-- original bid and it was done because of the cost savings and the people that have suffered are our constituents. And I'm really looking to this next 25-month period to demonstrate that children are getting the services they need. But I appreciate your efforts to improve on that.

**DANNETTE SMITH:** Thank you.

**STINNER:** Senator Hilkemann.

**HILKEMANN:** Thank you for being here. I'm sorry I had to miss. I was doing a pre-- an opening on my own bill, so I missed some of your introductions. But a couple of things you've said today. Number one, I'm glad that you're making this your number one priority, getting this thing fixed in Omaha or in the eastern district.

**DANNETTE SMITH:** Thank you.

**HILKEMANN:** Secondly, another thing you said that concerns me, is you said they're starting to learn the process. Our kids are better. We don't need to have hiring people that need on-the-job training.

**DANNETTE SMITH:** Oh, no, that's not what I'm suggesting.

**HILKEMANN:** Well--

**DANNETTE SMITH:** OK, so let me clarify.

**HILKEMANN:** --you said, the term was that they're starting to learn the process [INAUDIBLE].

**DANNETTE SMITH:** Let me clarify, OK?

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**HILKEMANN:** I just wanted to clarify that. That's how I heard it.

**DANNETTE SMITH:** Let me clarify.

**HILKEMANN:** OK.

**DANNETTE SMITH:** Let me clarify, because that's not a comment about taking care of kids. That's a comment about how we're going to be monitoring them. And they need to really understand what that monitoring looks like. It is not in the ability to care for kids.

**HILKEMANN:** OK. And number, just the whole thing with the procurement. If I had a-- if I were going to do a major remodeling on my home and I had four contractors come to take a look and I had three of them that had a bid within \$500 to \$1,000 of it, and I had one come at about half of what-- on any other contract, my antennas would go up. What are you going-- what are you-- how can you do this for half of what the other three people could do? And I-- and I-- I think unfortunately, I think your department has learned that-- that just going with the lowest priced contractor, there's probably a reason why they're doing it for a lower cost. They're not providing the product that you're going to get from the other. Those are my comments on it.

**DANNETTE SMITH:** Thank you. And I received them.

**STINNER:** Senator Dorn.

**DORN:** Thank you, Chairman Stinner. And thank you for being here. I appreciate you answering some of these questions. And I look at this whole program. And I-- in your earlier comment, you said a lot of good things are being done. And I agree with you. Unfortunately, when we have issues like this, that's what comes to the forefront. Also looked at in the book there that you have, I think, 4,600 employees. That is a tremendous amount of staff and employees of the state of Nebraska. My question, and I don't know if you can answer it or not, I guess. Were you ever concerned through this time with St. Francis or in the discussion with [INAUDIBLE] renegotiating this, that they were going to walk away?

**DANNETTE SMITH:** Always concerned. If I were, as I said to Senator Wishart, I'm always concerned. I'm always concerned. I'm always-- this

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was a new contract to the largest service area. And I'm always concerned and I'm always trying to figure out how you manage it in a way that does right by the agency. But most importantly, we're providing the right services to children. So I'm always concerned, doesn't matter what contract it is. I'm always concerned. And now because of this, I'm probably more hypervigilant than I probably need to be.

**DORN:** I would agree with you very much. Part-- part of what the constituents, some of them visit with me about, do you feel the state was backed into a corner on the negotiations on this? We had no choice.

**DANNETTE SMITH:** I don't know that I feel that way. I, you know, I think I've owned up that probably needed to look a little harder, do a little bit more digging. And there were-- and we followed the procurement process. But again, you can always look-- look a little harder at things. And I think we've owned that.

**DORN:** I think that's part of sometimes negotiations. This, unfortunately, was on a real high level.

**DANNETTE SMITH:** Yeah.

**DORN:** And a real large dollar amount, as many of the senators have talked about. When the Governor's budget staff was in, one of the questions I asked them then was, how is this going to be funded? Senator Kolterman dwelled a little bit on that. And he made the comment and a little bit like you did that this was-- there was funding within the budget. They knew this was coming before they presented their budget. So they had incorporated that. And I think you talked about the more from I call it additional child welfare funding. My concern is, as Senator Kolterman asked, we-- I can understand you can use it from that and use it within that program. Will we or will we see a shortage in all of the other programs? Will they have an issue now with funding or will they be adequately funded going forward? In other words, there's only so many dollars out there.

**DANNETTE SMITH:** [INAUDIBLE]

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**DORN:** Now you're shifting those. Did those come from some program that now will suffer?

**DANNETTE SMITH:** No, it has not come from any of the programs that will suffer within CFS or any of the other divisions. We've been pretty meticulous in managing it. Michael has done an excellent job with me and making sure, no, I'm not taking from anybody else.

**DORN:** Not taking from anybody else. I guess I'm still trying to get my hands around it then.

**DANNETTE SMITH:** I'm not taking it from any other program--

**DORN:** Program, right.

**DANNETTE SMITH:** --within Children and Family Services. I am not taking from within-- within their budget, but not from a program to-- to do this. There were additional allocations within appropriation in 354 that we had not used that I'm using now to do this.

**DORN:** Will that be the similar situation in, I call it the rest of this two-year contract or even the original five-year contract? Or will we-- I guess when I'm looking, I'm trying to look ahead too.

**DANNETTE SMITH:** Yes.

**DORN:** Will you be coming back and asking for additional funding?

**DANNETTE SMITH:** I don't believe so at this time. I don't believe so at this time.

**DORN:** Thank you.

**STINNER:** Senator Kolterman.

**KOLTERMAN:** Thank you, Senator Stinner. I just have one last question. And it's primarily-- I'm a newbie on this committee and I've only been here six years. Now I've only got two years left because of term limits. But understanding this process that we go through on bids, where does the buck stop? Does DAS make the decision to accept the contract? Do you have a lot of play in that? Does the Governor have



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the final say in, yes, we're going to do this? Where does the buck stop?

**DANNETTE SMITH:** I think in this particular situation, it was discussion between us and DAS.

**KOLTERMAN:** Us meaning just HHS?

**DANNETTE SMITH:** Department, Department and DAS.

**KOLTERMAN:** So you made the final decision originally to accept the bid--

**DANNETTE SMITH:** We did.

**KOLTERMAN:** --with DAS?

**DANNETTE SMITH:** We did.

**KOLTERMAN:** Even after looking at all the data, the final decision came down to you as-- as director of DHHS.

**DANNETTE SMITH:** Senator Kolterman, it has. And I have taken-- I've died on the sword so many times it'd make your head spin.

**KOLTERMAN:** And I--

**DANNETTE SMITH:** So I've taken that responsibility.

**KOLTERMAN:** I'm not-- I'm not questioning what you're doing because I think you've got a tough job ahead of you. And I believe in your heart you really want to do what's best for kids, as do all the people sitting in these seats.

**DANNETTE SMITH:** Yes, sir.

**KOLTERMAN:** But our-- our-- our role as senators are to make the-- to make the rules that you guys administer and follow--

**DANNETTE SMITH:** That's correct.

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**KOLTERMAN:** --come up with the laws. And we're talking about a lot of dollars here. And more-- and more importantly, we're talking about a lot of kids that maybe aren't getting the services that they need. That's the most important thing here, because we want to make them productive members of society. And if they're being bounced from home to home to home and they're not getting the services they need, that's a problem. And so when I ask the hard questions like where does the buck stop, somebody's got to answer that.

**DANNETTE SMITH:** And I think during this whole process, sir, I've taken responsibility for it.

**KOLTERMAN:** All right.

**DANNETTE SMITH:** I've taken full responsibility for it.

**KOLTERMAN:** All right. Thank you very much.

**DANNETTE SMITH:** Thank you.

**STINNER:** One of the things that caused me pause when I read in the paper and I found out about the \$10 million we gave them,--

**DANNETTE SMITH:** Yes.

**STINNER:** --was that bonus money?

**DANNETTE SMITH:** Oh, no, sir. May I explain?

**STINNER:** Yes, please.

**DANNETTE SMITH:** OK. They had went over their do not exceed cap and we did not pay them from I think May all the way to June. That's where that \$10 million comes from.

**STINNER:** OK. There was some testimony that said that they had loaned-- Kansas had loaned them \$10 million or Nebraska \$10 million and this was to pay it back.

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**DANNETTE SMITH:** What they do with it, I don't know. But what I'm saying to you is there was an outstanding payment on our end of about \$10 million.

**STINNER:** I think a lot of us are concerned about the services as well--

**DANNETTE SMITH:** Absolutely.

**STINNER:** --as you, and you're going to stay on top of it from what I hear. My-- my angst might be just the financial status of this company. And I think we need to explore that a little bit deeper at some point. But, you know, I hate like heck to throw this out. I don't want to throw money at a bankrupt company--

**DANNETTE SMITH:** I understand.

**STINNER:** --to keep them alive. And that's--

**DANNETTE SMITH:** I understand.

**STINNER:** --a little bit of what caused me pause so. Senator Vargas, additional questions.

**VARGAS:** So follow-up on-- on-- on some of the questions here. Senator Dorn asked this most recently. So you're using unexpended funds within the child welfare program. Is this because you have additional funds from a lack of utilization in programs? Where were these--

**DANNETTE SMITH:** No.

**VARGAS:** --original funds? And it's also to Senator Kolterman's point like were these just accumulating and not being used?

**DANNETTE SMITH:** It was additional. And I'm going to be honest with you, I'm not going to explain it right.

**VARGAS:** That's OK.

**DANNETTE SMITH:** And so if you would allow me to get you the right information, I would rather do that. But there were appropriations

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that had been in our child welfare budget that we had not expended. You had appropriated that some time ago. We had not used all of the money. I want to be clear that we're not saying that the money wasn't used because we didn't provide services. It was additional money for the kids that we had served. The appropriation was for a larger amount of kids in care. We haven't seen that amount of money. And so that money sat on the side and it was appropriations. I was able to take that money to take care of St. Francis.

**VARGAS:** We'd appreciate a clarification on that. And the reason is, you know, we-- we deal with some really tight budget years--

**DANNETTE SMITH:** Absolutely.

**VARGAS:** --and hearing that there's an unexpended amount because of utilization, not because services were cut--

**DANNETTE SMITH:** Right.

**VARGAS:** --but because there wasn't enough still means it might be in your budget, but it was meant for a specific purpose.

**DANNETTE SMITH:** Right.

**VARGAS:** Not for shoring up a new contract.

**DANNETTE SMITH:** That is correct.

**VARGAS:** So--

**DANNETTE SMITH:** That's correct. That is correct.

**VARGAS:** --thank you.

**DANNETTE SMITH:** Um-hum.

**STINNER:** I'm just going to make one comment and thank you for being here.

**DANNETTE SMITH:** That's OK.

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**STINNER:** When I first started seven years ago on Appropriations, we were-- we were into clawbacks and fines and fees. And if the funds are in different programs or in different fed programs, we do not want to get into a situation where we may have a clawback or because I know those funds are all prescriptive.

**DANNETTE SMITH:** Yes.

**STINNER:** And I'm presuming that this is appropriate.

**DANNETTE SMITH:** That is correct.

**STINNER:** Thank you. Any additional questions? Senator Erdman.

**ERDMAN:** Thank you, Senator Stinner. Thank you for coming today. I've seen your comments. You talked about the financial reporting to the DAS and I read a report from the State Auditor. And you made a comment that said you'll be working with DAS and the State Auditor on additional training to increase our collaboration with DAS to address the concerns. I don't believe it is the Auditor's job to train your people how to do accounting. They audit your accounts and that's not their job to do auditing. The other question I would have because of DAS's inability to record their information correctly, you made the look-- need to look for someone with more ability to train your people to do the job correctly. So as I read through this, the Auditor pointed out that this wasn't the first time. This wasn't the first time they had issues with the way you were accounting for things. So have you seen that report from the Auditor's Office?

**DANNETTE SMITH:** I have. I have.

**ERDMAN:** So what have you done or what are you going to do to solve that problem so we don't come back next year and talk about this again?

**DANNETTE SMITH:** So a couple of things. I do want to highlight that we want to work with DAS to make sure that we're all on the same-- on the same page about how we're going to be reporting our expenditures and everything to them. I think also we've had an opportunity after that report to look at some internal processes. And those internal processes we're going to be strengthening and we're going to make sure

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that my internal processes are aligned with DAS so that when they report to the State Auditor, everything lines up. We've also made sure that our timing of reviewing everything is more synchronized, both internal to the department and pushing out to DAS so that DAS has everything they need to push out to the State Auditor. When you talk about training, let me tell you what that means. My CFO is working and training his staff to make sure that they understand the importance of the CAFR and that this isn't something that we just pull documents to pull together and give to DAS. But here's the why behind it. So he is working with his team to make sure that they know what the expectation is. And then we're having DAS come in and tell us what their expectations are so that we continue to be aligned. Because I think what that report might have shown is that all of us weren't aligned and we're going to fix that.

**ERDMAN:** Yeah. I'm not so sure that DAS is the expert in this situation because of the faults that they had. But this isn't the first year that this has happened. This has been-- they said they had realized this in the past and then we see it again this year. So I would hope that next year when we get this report that we don't see those things; because if we do, there's a continuation there of somebody failing to do the job that they need to do.

**DANNETTE SMITH:** Thank you.

**ERDMAN:** Thank you.

**STINNER:** Additional questions? Seeing none, thank you very much.

**DANNETTE SMITH:** Thank you for having me today.

**STINNER:** Absolutely.

**DANNETTE SMITH:** Senator Stinner, my staff will be up next. I'm going to leave it that's OK.

**STINNER:** Yes, absolutely.

**STEPHANIE BEASLEY:** Good morning.

**STINNER:** Good morning.

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**STEPHANIE BEASLEY:** Chairperson Stinner and members of the Appropriations Committee, my name is Stephanie Beasley, S-t-e-p-h-a-n-i-e B-e-a-s-l-e-y, and I serve as the director for the Division of Children and Family Services within the Department of Health and Human Services. I'm here to testify in support of the Governor's recommendations for the biennial budget for fiscal years 2022 and 2023. The Division of Children and Family Services administers a range of programs serving Nebraska residents in need, including child welfare services, utility assistance payment-- payments, supplemental nutrition assistance programs, other food programs and homeless assistance. Today, I will address foster care rates, funding for the St. Francis Ministries case management contract, appropriation levels for the homeless assistance programs, and how CFS responded to COVID-19. First, I want to talk about Program 354, which is our child welfare. The primary purpose of the child welfare program is to provide for the safety, permanency, and well-being of children and to offer services and benefits to children, youth, and families in need due to abuse, neglect, and dependency. Program 354 provides an array of services to meet the needs of children and families, as well as placement costs for children who are in out-of-home care. A 2 percent increase in rates for child welfare home-based and community-based services was implemented both fiscal years 2020 and 2021. As a result, additional rate increases are not being requested by the agency at this time. Foster care rates are reviewed every three years and were recently reviewed in 2020 by the Foster Care Reimbursement Rate Committee. Historically recommended foster care rate increases are requested through specific legislation when the Rate Committee determines an increase, increase is needed. Next, I want to talk a little bit about St. Francis Ministries. The department entered into an emergency contract with St. Francis Ministries for the Eastern Service Area or as we reference, ESA, on January 29, 2021, at an estimated \$68.9 million for the period of January 29, 2021, through January 31 of 2022 and for an additional estimated \$78.3 million for the period of February 1, 2022, through February 28 of 2023. An administrative cap of \$24.3 million was established in the first year contract with an administrative cap of \$27.6 million for year two. While this is the administrative cap, as a reimbursement contract, St. Francis must ensure all expenses are allowable and allocable. St. Francis shall remain within a 5 percent

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variance of the average cost per child incurred by the department for children in out-of-home care. Failure to meet this benchmark may result in penalties applied to the administrative cost. Program 354 has appropriations available without requesting additional General Funds due to an approximate \$31 million deficit request in 2018. In 2017, the department had realized a trending increase in the number of children in care and cost associated with these children. Due to these increased service needs, the department requested a \$31 million appropriation increase and the deficit request was approved. In 2019, the department realized a decrease in the number of children in care. As a result-- as a result, the \$31 million increase from 2017 was not utilized. These funds allowed the department to enter into the emergency contract with St. Francis Ministries without requesting additional funding. Next, I want to talk about the Nebraska Homeless Assistance Program. The Appropriation Committee's initial budget includes an approximate \$2 million dollar decrease in spending authority for the Homeless Shelter Assistance Cash Fund. We recommend instead a reduction of \$1.4 million, which will allow the program to maximize expected revenue. The Homeless Shelter Assistance Fund is within Program 347 public assistance. The fund supports two programs, the largest of which is the Nebraska Homeless Assistance Program, or, as we reference, NHAP, funded by the U.S. Department of Housing and Urban Development Emergency Solutions Grant and by the Nebraska Homeless Shelter Assistance Trust Fund. Nebraska Homeless Assistance Program funds ensure that individuals and families who are experiencing or at risk of homelessness have safe, appropriate housing services. The Nebraska Commission on Housing and Homelessness serves as an advisory body to Nebraska Homeless Assistance Program. These funds are distributed among seven recipients through a competitive application process. From fiscal years 2012 through 2017, the Nebraska Homeless Assistance Program did not expend the full amount of funds available, so significant fund balance built up. In 2016, the program began spending down the balance but exceeded official spending authority. This accelerated spend down reduced the carryover fund balance, but spent at a rate that exceeded annual revenues. In state fiscal year 2020, the Legislature increased the fund's spending authority to match the existing cash balance. The increased spending authority for state fiscal year 2021 allowed the department to pay all of Nebraska Homeless Assistance Program reimbursements from state



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fiscal year 2020 and all of state fiscal year 2021. The anticipated balance of the Homeless Shelter Assistance Trust Fund will be \$710,000 as of June 30, 2021, which is both manageable and appropriate. Now that the large balance in the fund has been spent down, spending authority can return to a level consistent with annual revenues. The department recommends spending authority of \$3.3 million for the Homeless Shelter Assistance Cash Fund. This level of spending authority will allow the department the flexibility to maximize expected revenues for future years. And I want to highlight some of our COVID response with CARES Act funding and our FMAP increase. The department has been responded-- responsive to the impacts of the COVID-19 pandemic on childcare providers and working families who rely on childcare assistance, enacting multiple strategies to support both providers and families. In 2020, the department received \$20 million in Child Care and Development Fund, or CCDF CARES Act funds for stabilization and incentive grants for child-- childcare providers. Additionally, CARES Act funding supports a number of other programs and services, including the Community Services Block Grant, low-income housing or Low Income Home Energy Assistance Program, family violence prevention, child welfare services, SNAP benefits, the Emergency Food Assistance Program, Bridge to Independence, Nebraska Homeless Assistance Program, school-aged care initiatives, and a new childcare referral website. In March of 2020, a temporary increase of 6.2 percent of the qualifying state federal medical assistance percentage, that's what references the FMAP, was granted to the department. This increase was effective retroactively from January 1 of 2020 and extends through the last day of the calendar quarter in which the public health emergency terminates. Nebraska has qualified for the extra 6.2 percent enhanced FMAP for the Title IV-E foster care programs and has claimed the appropriate additional funds. Funding freed up for the child welfare budget Program 354 has been used to provide virtual visit options for providers and PPE for provider staff to conduct visits and transport youth safely. Finally, the department changed child welfare service rates, offering providers a case rate instead of an hourly rate to adjust for decreased services due to the COVID-19 pandemic. This helped providers stabilize during the early days of transitioning to virtual services during the pandemic. In 2021, the department received an additional \$59 million in CCDF CARES Act funding required to submit a plan for the use of these additional

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funds to the Federal Office of Child Care by February 26, 2021. I'd like to thank the Appropriations Committee for supporting the Governor's budget last session. CFS is committed to managing the funds at the level recommended by the Governor. Below, you'll see a brief chart of additional CARES Act funding amounts for a variety of our CFS programs. I'll be happy to answer any questions.

**STINNER:** Questions? Senator Dorn.

**DORN:** Thank you, Chairman Stinner. Yeah. Thank you for being here. Appreciate your report. Just wanted to, I guess, back to the St. Francis thing a little bit and maybe I asked Director Smith a little too quick. You estimate that the new contract will cost \$68.9 million for the first year, basically here and \$78 million for the second year. And down below in the next paragraph, you comment that you will use \$31 million from a deficit request in 2018. Explain, I guess, the difference between the \$31 million and the rest of that, because I did ask her if there would be additional funds going forward that we would need to appropriate and she said no. And the \$31 million here is not going to cover near all of that. Maybe I'm looking at it wrong.

**STEPHANIE BEASLEY:** So the \$31 million was ultimately we saw an increase in the number of kids who were coming into care in 2017. That leveled out pretty quickly. And actually while we have seen a blip in 2020 most recently, those numbers have continued to trend downward. And so we have had carryover and I can get the numbers for the specific carryover amounts for you. But those carryover dollars actually added to our base have allowed us to continue. They'll allow us to contract for the emergency contract this year and next.

**DORN:** OK. Maybe I'm asking the question wrong then. So those \$31 million have carried over for several years. So you built up that fund to a greater amount so that there is enough to cover all of this proposed 69 and \$78 million.

**STEPHANIE BEASLEY:** So I believe last year we had a carryover of I think it was \$26 million.

**DORN:** Pardon?

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**STEPHANIE BEASLEY:** \$26 million. And so it ultimately-- so of what was previously appropriated for last year. So we had \$16 million in previous appropriations and then an additional 10 carryover. So that carryover actually has allowed us to pay for this next year. But remember, it's really the-- the decrease in the number of children in care that have-- that we can't plan for that somewhat unexpected that we don't know is going to continue. But that's ultimately how we are where we are today. Those expenditures decrease when the number of kids in care decrease.

**DORN:** I can see maybe that in the first year this-- this proposed additional amount. But in the second year, then where does the carryover come from? And how do you know that, I call it our child welfare, number of those kids won't increase sharply this year? And I refer a little bit back to I call it the COVID issue. I can understand where numbers could fluctuate with COVID, but sooner or later we will kind of come out of COVID and we'll get back to a more normal maybe time frame. And if we do and those numbers do increase, then what happens?

**STEPHANIE BEASLEY:** Senator, I think that is the, certainly as we think about safety of kids, that's always first and foremost of our mind. You know, we've been looking at our-- our trending decrease. And I'll talk a little bit about program changes that have happened in the last several years to be very intentional about the decrease in out-of-home care, not the services that kids and families receive. But it is really intentional to-- to ensure that kids aren't unnecessarily coming out of the home. And, yes, that ultimately equates to dollars, but really it's about trauma for kids and families and keeping kids and families intact and so investing early prior to that crisis coming. So our program design, our intent when we are looking to procure service providers, we are really focused on ensuring that it's the front end and that those crisis, early intervention services are being provided and prevention services. I would love to sit here and say to you that that's going to guarantee that more kids don't come into the system. I think we're intentional. We've got evidence-based practices we're contracting for. We have a fantastic provider network doing incredible work. Our staff do amazing work. But you're right. I, you know, that's a bit of difficulty. If we saw numbers increase for the number of kids who needed to come into care, that that does impact

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it. Based on our projections right now, we believe that we can manage within our appropriations.

**STINNER:** Senator Kolterman.

**KOLTERMAN:** Thank you, Senator Stinner. Director Beasley, thanks for being here. On your-- on your testimony here under Program 354, child welfare, go down under the second paragraph there. And I'd like you to comment a little bit about that 2 percent increase that they utilized in 2020 and 2021 and now you're not doing anything for 2021 through '23. How do you explain that? Would you explain to me what you're not giving rate increases for?

**STEPHANIE BEASLEY:** So the foster or the foster care rate increases that are proposed by the reimbursement committee typically goes through a separate process. So if those-- that rate increase is approved and moved forward, then that isn't in here. We would not obviously have the appropriations for that within our current budget and that would need to be addressed. You know, last summer when we started this conversation, we-- there was uncertainty around the pandemic. We had just given provider rate increases. And these are for the community-based services and things like family support services, supervised visitation services, and drug testing services. So those are the things that they did get the 2 percent increase in both fiscal years 2020 and 2021. And so we did an address-- addressed it in this next round but are certainly open to discussion about rate increases in the [INAUDIBLE]

**KOLTERMAN:** My question to you is this. You know, I don't deal with St. Francis. They're not in my area. They're not in my district whatsoever that I'm aware of. And yet I've got a lot of providers that are really struggling. Lot of service providers that you're talking about here are having a tough time making ends meet. And for us to all of a sudden we're going to allocate another \$68.9 million, \$78.3 million and not give them a rate increase. We're taking-- we're taking their rate increases off the back of St. Francis, in my opinion. And that bothers me. And we don't have any rate increases or provider rate increases for the people that we deal with on a day-in and day-out basis. And they are struggling. So I think that that needs to be looked at. And I'm going to support the idea of provider rate

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increases. And if that means that St. Francis has to be looked at harder, then it needs to be looked at harder.

**STEPHANIE BEASLEY:** Thank you, Senator.

**KOLTERMAN:** Thank you.

**STINNER:** I'm going to unpack that as well in this Program 354. First of all, is there a study out that I missed somewhere about the rates and where they should be for these providers?

**STEPHANIE BEASLEY:** Senator, I don't believe so.

**STINNER:** OK, so who makes up the Foster Care Reimbursement Rate Committee?

**STEPHANIE BEASLEY:** So that's part of the commission. So it's the children's commission. It's sort of a subset of that. And so you really have multiple people who participate on that. There are members of DHHS. You have providers who sit on this as well as, I believe, probation is a member as well. And so there are multiple people who've been in this field for a very long time. They do significant research on, you know, anything from the cost of raising a child to their provider analysis of what they're paying their staff.

**STINNER:** I've raised this question before, by the way, just for your information. And frankly, I heard you do a great job, so I'm not going to try to pick on you.

**STEPHANIE BEASLEY:** Thank you, Senator.

**STINNER:** But I've got an analysis done here by the Nebraska Alliance of Families. And of course, the two rate increases went from \$47 to \$47.94, \$48.90. But the wages that that support is \$12 to \$15 an hour. Compare and contrast that to DHHS's initial wage of \$15.86. And then apparently there was an internship program or some kind of 90-day probation. Then you go up to \$18.60, the maximum rate of \$26. And I think it all gets back to attracting and retaining the right type of people to do this work. And I know that from my experience in the Panhandle, we're having a heck of a time finding people to work in that field. So and then I will share with you that, you know, there's

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two pages of cost increase that our providers are getting-- continuing to get laid on as it relates to regulations and compliance and the like of that. So their costs continue to go up, continuing to squeeze that \$47 more toward trying to run the place and be in compliance and still attract and retain the people. And we're asking them to do a lot of hard work, try to attract and retain people, stay in compliance. And then we say, well, they don't need a provider rate increase. I'm sorry, I'm with Senator Kolterman on this. This is one area that I have looked at extensively in the past. And I've actually talked to the people and I know the people that are out there providing the service. So I just have a hard time with the conclusion of that. The second thing that I want to ask about, it's in the St. Francis, you're talking about a decrease of \$31 million in one year because of a decrease in people and the children in it. That's a lot of children. How many children is that that it decreased?

**STEPHANIE BEASLEY:** So I think it was what we saw in 2007-- and I'm going from memory so this might be a little dangerous-- but I think it was about an 8.9 percent increase in the number-- in our census that was coming in the door. So when we saw that, immediately we were projecting an issue in it and there were also additional costs per capita that were coming in the door, I think at about 5.5 percent. And so we were projecting this deficit and there again, it leveled off and it came back down. And, you know, to get into the whys, I don't know that we've really understood the why-- why we saw that decrease happen as quickly as we did. But it ultimately did decrease. While we-- we really projected we were going to have a pretty urgent issue, ultimately that leveled off and continued to decline. And part of that decline really is a focused effort on prevention and serving kids and families in the community prior to their need to come in to care. Nationally, there's a focus on that as well. I think Nebraska is ahead of the curve in the really intentional focus on keeping kids and families safe in their own homes.

**STINNER:** I'm trying to-- trying to understand when-- when we talk about St. Francis' contract being \$25 million and \$25 million in this next biennium and we have money in there, I continue to look at what actually we spent in '19-20 and then we appropriated 172, which is \$15 million, and then our request is 171, 171 pretty flat, and I can't come up with that \$25 million and \$25 million extra money. And I-- I

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don't know if that's because you're going to use COVID money or fed money the same way. I mean, we got \$2.7 million fed money straight across or cash, excuse me. Fed money bounces around from 40 to 32 to 35. There is no \$25 million, \$25 million in this that you're not using because it cost you, the last time we took a look at this, \$200 million and it goes to 210 in request. What are you cutting out to get this done? That's my first question is and what are we taking it from? The numbers don't fit. Let me just say that. So I need really kind of, I mean, just in the sandbox, take me from A to B to C so that we can determine where those funds are coming from, because unless-- unless St. Francis is not in this program, which is 353, child welfare, I presume it is.

**STEPHANIE BEASLEY:** They are. So certainly, Senator--

**STINNER:** That's the angst I have and I'm just scratching my head every time I listen to a presentation that we have the money available, we're going to take it. We had some extra. Really?

**STEPHANIE BEASLEY:** Senator, if you'll let us we'll-- we'll present.

**STINNER:** I appreciate that. And I don't mean to be unkind, but the second question I have on the 6.2 percent, have we spent that money that we got in the FMAP? Or is it just sitting there in an account?

**STEPHANIE BEASLEY:** So those dollars-- so we use that offset for the FMAP increase as we were doing some things for COVID. We were buying PPE for families so they could have visits; for providers we were, you know, wanting families to be able to have virtual visits. So we used it for, you know, really supporting families in the crisis so they could continue to see their kids, sometimes virtually if someone had been exposed, et cetera. So it really was as we took those funds, we looked for ways to address some of the urgent needs during the pandemic.

**STINNER:** So it's your testimony, both 6.2's that we got-- 6.2 percent, 6.2 percent have gone out already, or is that money spoken for or is it just sitting there?

**STEPHANIE BEASLEY:** It is spoken for.

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**STINNER:** OK.

**STEPHANIE BEASLEY:** If you look at the CARES Act funding amounts too at the, I'm sorry, there are-- these are-- many of these dollars have also gone out the door. Right? So we have our one example would be the Nebraska Homeless Assistance Program. We actually have already, you know, obligated that and given those awards to community partners to be able to disseminate those services in those programs for outreach and ensuring that we're serving people who are at risk or experiencing homelessness.

**STINNER:** OK, and we need to talk about the homeless shelter but, Senator Wishart.

**WISHART:** Thank you for being here. So just one quick question about St. Francis. I have found out recently that we have paid the entire amount of the two-year contract in the first seven months. We're going to be paying that out.

**STEPHANIE BEASLEY:** So for two years, we paid-- so are you referring to this, the first contract that we were in for fiscal year '20-21, they expended those dollars by about-- they were February 15 of this year, they would have expended the entire contract amount. Yes.

**WISHART:** OK. OK. In terms of the homelessness funding, I have some questions on this. I've been trying to-- I've been speaking with some of the nonprofits that work with this in this funding and just trying to get my head around, you know, what the need is and what this fund can handle. So my understanding is we would need from-- from your notes here, we would need to reduce the reduction that we did as an Appropriations Committee. We-- there is money available for us to not take \$2 million, but instead 1.4.

**STEPHANIE BEASLEY:** Yes, we would like the spending authority to be, I think, at 3.4--

**WISHART:** At three--

**STEPHANIE BEASLEY:** --so that we could fully expend and not build up that balance in the future and then come back in just a few years and



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say, now we have this balance and we need an additional spending authority.

**WISHART:** Does the need, and let's-- let's remove the pandemic for a moment because we were having these issues and these discussions pre-- prepandemic. From-- from your understanding, is the-- the needs for assisting and ensuring people are able to stay in their homes instead of going into the homelessness system, is it being met by this funding source?

**STEPHANIE BEASLEY:** You know, Senator, that's a really great I mean, I think housing instability across the nation, you know, is-- is an issue. I, I think that's-- I can-- I can find out the information for you about are there waitlist. What's the further need and what that would be and get that information back to you. But I do know we have a-- we have Nebraskans in need for the support and services around preventing homelessness,

**WISHART:** Because my concern is that the funds, you know, we're restricted in terms of what revenue we bring into this fund. I believe it's with the doc stamp. And so our committee may need to look if there is more need. Now taking COVID into account, you know, I recognize that there was a significant amount of federal funds that came in to help. And you put here about \$8.5 million came in to help with homelessness.

**STEPHANIE BEASLEY:** Yes, I think you're right.

**WISHART:** Did those funds go through this-- this program, the-- the Nebraska Homeless Assistance Program or directly to the nonprofits?

**STEPHANIE BEASLEY:** Well, it actually was an award to those nonprofits who were serving-- who are in the service provider network. So those awards went to those providers.

**WISHART:** OK.

**STEPHANIE BEASLEY:** And I can get you a list of that, those providers if that would be helpful.

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**WISHART:** That would be helpful. Now, I recognize this is one-time funding so they wouldn't be able to staff up or for a long term--

**STEPHANIE BEASLEY:** Right.

**WISHART:** --decision making. The other question I would have is, and I've heard from some of the providers that the federal funding went to really help a portion of the population who, would it not be for the pandemic, probably wouldn't be in a situation where they're dealing with potential homelessness. Is that your understanding?

**STEPHANIE BEASLEY:** You know, for the program eligibility, I don't know, you know, how the shift has happened in those that they are serving, but I can get that information.

**WISHART:** OK, that's-- that is my-- my takeaway. It would be helpful to know what the demand is. I hear from the providers of these services that the demand exceeds the amount of dollars available in this fund. And that last year when we ended up reducing our spending authority, that there was a significant amount of staff positions cut and services decreased. And again, that's coming at the same time when I'm hearing the need has increased.

**STEPHANIE BEASLEY:** I think we were able to address it when you increased our spending authority last fiscal year. I think we were able to address and pay those-- pay those providers in the amount. But certainly I, I would agree, Senator, that oftentimes the needs are significant and having the appropriate spending authority, which is why we're asking for the increase in spending authority, is important.

**WISHART:** OK, thank you.

**STEPHANIE BEASLEY:** Thank you, Senator.

**STINNER:** Any additional questions? Seeing none, thank you.

**STEPHANIE BEASLEY:** Thank you, Senator.

**STINNER:** Morning.

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**SHERI DAWSON:** Good morning. Chairperson Stinner and members of the Appropriations Committee, my name is Sheri Dawson, S-h-e-r-i D-a-w-s-o-n, and I serve as the director of the Division of Behavioral Health in the Department of Health and Human Services. The Division of Behavioral Health, or DBH, is dedicated to delivering high-quality, effective, and efficient mental health and substance use disorder prevention, treatment, and recovery services to over 32,000 Nebraska-- 32,000 Nebraskans across the state. DHHS believes there is no health without behavioral health. Our division administers services through contracts with behavioral health regions and tribes for consumers who are not Medicaid eligible and who do not have insurance. Additionally, we manage the Nebraska Family Helpline, the rural hotline, and contract with family organizations and other providers. As the Division of Behavioral Health closed out fiscal year '20 and entered fiscal year '21, COVID-19 altered the lives both of people served and those providing services. Consumers and providers adapted to alternative service delivery and new ways of engagement. And I applaud the responsiveness of those individuals, teammates, and partners whose effort allowed services to remain open. The division received a disaster recovery grant of \$6.7million from the Substance Abuse and Mental Health Services Administration, or SAMHSA, for disaster outreach. This crisis counseling project offers outreach to connect people with counseling services and other resources. We also received a \$2 million COVID-19 emergency grant from SAMHSA to increase access to treatment services for those directly impacted by COVID-19. When determining budget request, DBH considered provider COVID-19 funding, the uncertainty of behavioral health needs resulting from COVID-19 pandemic, and implementation of Medicaid expansion, among other variables. The department did not put forward a request for a provider rate increase this biennium. In state fiscal year /20-21, the Legislature authorized funds to implement the cost model rate changes completed by DBH. These rates were implemented and continue to be paid. DBH continues to review rates paid for behavioral health services through the cost model. In the event that a rate needs to be changed based on this work, the rate change will be funded to the extent allowable within existing appropriations and DBH will take steps necessary to increase specific rates. The state fiscal year 2022-23 budget, the request for DBH centers on two primary areas: outpatient competency restoration and access to safe and affordable

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housing. LB686, enacted in 2019, authorized DHHS to establish a network of contracted facilities and providers to provide mental competency restoration for defendants who have been found incompetent to stand trial beginning July 2021. These outpatient competency restoration programs are designed to reduce the number of individuals on the state hospital court waitlist and provide an outpatient option for competency services to those who do not require the intensity of the inpatient psychiatric hospital. The establishment of criteria, training, and operational procedures to implement this is well underway. The related budget request addresses funding for the delivery of outpatient competency services, which will serve approximately 20 to 25 individuals per year and is supported in the Governor's budget recommendation. Secondly, the community-based provider system works to ensure consumers are discharged from services to stable living arrangements. Stable living is a key recovery outcome and to assist this, DBH provides transitional housing-related assistance to eligible Nebraskans as a bridge to other permanent housing resources. In state fiscal year 2019-2020, DBH provided housing-related assistance to 1,078 individuals residing in 51 counties. The lack of safe and affordable housing impacts this transition to stable living arrangements. We thank the Legislature for supporting the \$800,000 one-time increase in spending authority in state fiscal year '20-21 that enabled the division in collaboration with the Nebraska Investment Finance Authority, or NIFA, to fund two housing projects in Fremont and Omaha. These two projects are underway and will create 45 mixed income affordable housing units with at least 24 of those units targeting very low-income households. If enacted, this budget would provide DHHS an increase in spending authority of \$1 million each year of the biennium for rehabilitation or acquire additional housing units across the state. We will be leveraging this funding with NIFA and the Department of Economic Development, which should provide for an additional 84 to 168 safe and affordable housing units. I'd like to thank the Appropriations Committee for supporting the Governor's budget last session and including these requests in your preliminary budget recommendation. The budget proposed by Governor Ricketts for the state fiscal year 2022-2023 biennium continues our strategic initiatives and priority services. DBH supports and is committed to managing the funds at the level recommended by the Governor. The budget proposed by Governor Ricketts

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for the biennium enables us to be effective and efficient in our stewardship of taxpayer dollars and supports our mission. I'm happy to answer any questions.

**STINNER:** Thank you, Director. Questions? I've had a conversation with some of the behavioral health folks, and they have not seen that shift of the Medicaid expansion folks and realized the savings that they were projected to have. Have you analyzed what's going on there--

**SHERI DAWSON:** Yes.

**STINNER:** --and what we need to do to help those folks?

**SHERI DAWSON:** Sure. And actually, we have shared the information that we do have on the folks that have shifted from behavioral health to Medicaid. We do have a report in our data system. When individuals are entered into that, it hits up against the Medicaid eligibility file so we can see that change in payor. And so in the first six months of Medi-- Medicaid expansion, there's about 3,306 individuals. We had anticipated on a yearly basis for Medicaid expansion that it would be about 4,800 individuals. So if we prorated that at nine months, Senator, it would be about 3,600 individuals. So there are individuals that are receiving services. In fact, we have heard from some providers between COVID and then some of the changes in Medicaid expansion they certainly have had a concern about the number of individuals, you know, that they're serving.

**STINNER:** Have you heard from the providers about the increase in activity that they're getting on the hotline and having-- having problems meeting the demand that's out there right now?

**SHERI DAWSON:** So our family helpline, I don't know if that's the the line you're referring to, but it has absolutely increased in the number of callers, both related to just COVID and really needing services, but just general mental health and substance use disorders. And they've seen an increase in individuals that have expressed suicidal thoughts and have gotten connected to services.

**STINNER:** OK. Any additional questions?

**WISHART:** Yes.

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**STINNER:** Senator Wishart.

**WISHART:** Going back to following off of what Senator-- what Chairman Stinner was saying about some of the issues that providers have given me feedback for with Medicaid expansion and changing over to coverage that way. One of the issues and actually this is a testament to the work done at the state is that there's a lot more administrative bureaucracy in dealing with Medicaid than there was previous to expansion with-- with-- is there anything that we can do from your perspective to-- to help with that? Because, you know, some of these service providers are small--

**SHERI DAWSON:** Um-hum.

**WISHART:** --smaller, and to have to hire, you know, new teams to address sort of the bureaucracy with some of the managed care entities is tough, when previously we were doing it quite well here at the state.

**SHERI DAWSON:** So I think that's a good comment for me to know, Senator. We certainly have our behavioral health data system and it has an automated authorization process so that there are individuals that increased in Medicaid, obviously, there would be, you know, additional calls as opposed to entry. Certainly can have that conversation. I personally have not heard, you know, the specific amount of time and, you know, some of the challenges. We certainly have heard some, but we'll continue to work with Director Bagley and-- and identify that. And-- and just a reminder that, you know, in our cost model, we did include some of that data and QI and administrative operational costs.

**WISHART:** OK, thank you.

**STINNER:** Additional questions? Senator Dorn.

**DORN:** Thank you, Chairman Stinner. Thank you for being here. I appreciate this very much. You know, last-- I think last year or two years ago, we had the discussion about in the budget at that time that there was, I call it the provider-- Medi-- expanded Medicaid was going to pick up so much. And we-- part of that was the funding was reduced.

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Is just piggybacking on there, is that flowing pretty good? I mean, as far as the funding now going to those providers, just because that was part of the budget? And are they going to end up at the end of the year, I call it short?

**SHERI DAWSON:** So I think what you're talking about is that \$4.35 million that was in offsets. So anticipating that individuals would be served in Medicaid,--

**DORN:** Yeah.

**SHERI DAWSON:** --that came from our 038 budget. And so we are meeting regularly with Medicaid and looking at their numbers and our numbers in regards to that. I would say in some ways, looking at where we are between COVID and Medicaid expansion and just some other factors we still are going to look at unexpended dollars. So I would say right now, I can't say that that \$4.35 million may harm individuals just based on the balance. But certainly I think it's an opportunity for us as we're doing our strategic planning to really look at what those investments are in the future to build out our continuum.

**DORN:** Knowing where we're at today in expanded Medicaid, are you looking at I call it higher numbers of participants going forward?

**SHERI DAWSON:** We are seeing our numbers down. And again, for those that the behavioral health regions and other behavioral health providers are serving, that would be paid by 038. Part of that is probably COVID related. Part of that is that switch in Medicaid expansion.

**DORN:** So I guess my trying to get at, do you think that it was a pretty smooth flow through then for those people that before weren't on expanded Medicaid and now are? Or I guess I don't know, Senator Wishart there referred to a little bit that some-- I guess there's a longer lag time or whatever.

**SHERI DAWSON:** So I-- so a couple of things I would-- I would say. I think it was smooth in-- in terms of individuals accessing whether they were eligible or not. And we require our providers that are region funded to also be Medicaid. And so from the consumer

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experience, most of the time they would not have had to switch their actual provider or that experience. From the administrative or authorization standpoint, that is different between our two divisions.

**DORN:** OK. Thank you.

**STINNER:** Additional questions? Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Director Dawson. I was looking at your comment on the second page. In the event a rate needs to be changed, the rate change will be funded to the extent allowable within existing appropriations. Do you have some appropriations that would be available if a rate change is needed?

**SHERI DAWSON:** Well, I think if we're looking at spending projection at the end of the fiscal year, there would be some region funding as well as some of the other General Fund 038 dollars. What we have done, though, is really, I guess the best description is line item that cost model dollars so that that continues to save for cost model. So as those rates get done in the cost model process, we're able to use those dollars. And you might remember that we didn't fund fully the cost model. We did it at a percentage. So, again, the future for us to really look at what dollars are available in addition to completing our work, we do think that there will be dollars within our existing appropriation.

**CLEMENTS:** Thank you.

**STINNER:** So did I hear you say we did not fully fund the cost model?

**SHERI DAWSON:** No. When we did the the cost model previously, it was at about an average. I don't know if you remember all the different percentages because it varied by service. And what we had indicated is that we would switch because some of the service provision and costs were either non-fee-for service so expense-based reimbursement or there was a region rate instead of a state rate. And so when we looked at that overall, I think it was about-- we had asked for six point, I'm going to have to get to you, but we did not fully fund it, Senator. I can get you those numbers.

**STINNER:** OK. I'd like to know those numbers.



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**SHERI DAWSON:** Yeah.

**STINNER:** The other befuddling thing, and you may want to explain this to me, these folks out there in Scottsbluff, Panhandle, et cetera, are running businesses. Right? And they have ongoing operating costs. And you have ongoing operating cost because you've-- you've got employees working for you. So every year you give them a 2 percent raise or 2.4 or whatever we do.

**SHERI DAWSON:** Um-hum.

**STINNER:** And then we turn around with our providers and say, well, they don't need a rate increase. That makes no sense to me. These are businesses that are running out there that we're expecting them to-- we're handing off responsibility to them--

**SHERI DAWSON:** Um-hum.

**STINNER:** --and then not compensating them for or acknowledging the fact that they have ongoing operating costs. I-- just the idea of that just befuddles me. So you might want to enlighten me on that.

**SHERI DAWSON:** Well, I'll tell you about our thinking anyway, Senator. Certainly, I appreciate that costs go up. I think, again, if we look at our cost model and look at the actual costs within what we counted, last session there were bills passed that other payers needed to come up to the Division of Behavioral Health or be within a certain percentage. And part of that is a good strategy because you don't want to incentivize a provider to only be with a payer, which would leave some capacity challenges elsewhere. And so in really trying to look at where we are right at this moment and also with our COVID gap funding, that did assist providers that had a decreased utilization, we just didn't feel-- and the Medicaid expansion-- we just didn't feel like we had enough data to really say this percent this much, these services.

**STINNER:** OK. Senator Wishart.

**WISHART:** Just to add to that, when we do cost models or rate surveys, you know, if they happen-- say we do a rate survey in 2017 and then we work our way up to eventually trying to get to that rate in 2017. Do you take into account that there's also been a cost of living increase

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those four years that we've been working our way up to get to the 2017 numbers?

**SHERI DAWSON:** No, I understand what you're saying. And again, in looking at the cost model and we did do it in phases so-- so I hear your point. Again, I think the opportunity for us, though, with so many variables, Senator, is to really look at where we are looking at our appropriations, our balance and be able to make a data-informed decision so.

**WISHART:** If we as a committee decide that we want to get providers, in this case behavioral health providers, up to a true cost of living-- living increase so that the services they're providing are kind of-- the cost of that is matching with what we are providing in terms of rate, would you-- would you have the capacity to be able to get those dollars out quickly to them?

**SHERI DAWSON:** Well, in past years, we-- there has always been a percentage that had been designated and that did go out to the contractors.

**WISHART:** OK.

**STINNER:** Additional questions? Seeing none, thank you very much. Just so the committee understands, we are going to work through lunch, so whatever you have to do to make arrangements, we're going to continue on. Good morning.

**TONY GREEN:** Good morning, Chairpersons Stinner and members of the Appropriations Committee. My name is Tony Green, T-o-n-y G-r-e-e-n, and I am the division director for the Division of Developmental Disabilities within Department of Health and Human Services. I appreciate the opportunity to come before you today regarding our division and want to thank you for the preliminary work on the budget recommendations and supporting the Governor's biennial budget recommendations to better serve those with disabilities. The Governor's recommendation includes six adjustments to appropriations for our division. I'll cover several of these briefly, but first want to review the reappropriations of current year funds in the recommendation and talk about service rates for providers. Three of

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the adjustments that we'll touch on today are funded in the first year of the upcoming biennium, using reappropriations from the current fiscal year. These funds are available because of the temporary 6.2 percent increase that we received in federal Medicaid-- medical assistance percentage or what you hear as FMAP, authorized during the COVID-19 public health emergency. This temporary increase in a FMAP effectively freed up about \$23 million in General Funds in Program 424 budget in the current fiscal year. The division used a majority of this additional funding to invest in the emergency provisions for individuals served on the Medicaid home- and community-based waivers for developmentally disabled that included rate increases for additional expenses related to COVID-19, such as increased overtime costs due to staff or participant quarantine requirements or increased supply costs for cleaning and sanitation. We also used that funding for retainer payments for providers who were unable to provide services due to reasons related to the pandemic. The division paid approximately \$35 million, 14 in state and 21 in federal, to providers related to these provisions funded by the FMAP increase. The recommendation reappropriates an additional \$5.3 million in state funds from the temporary FMAP increase. So as it relates to service rates for-- for providers, DHHS did not propose to appropriate an adjustment to fund an increase in service rates. LB1008 in 2020 fully funded the rates determined by the division in the 2018 rate study. The Centers for Medicare and Medicaid Services requires states to ensure that service rates are adequate and that rate determination methods are consistent with the provisions of Section 1902 of the Social Security Act and the related federal regulations at 42 CFR 447. States must review the rate setting methodology at a minimum every five years to ensure that rates are adequate to maintain an ample provider base and to ensure quality of service. The division recently established a cost reporting process to facilitate the planned rate study in 2023, which would be our five-year mark. Beginning in July 2020, we informed providers that they are required to submit an annual cost report to the division that includes detailed cost data for each HCBS waiver service that they provide. This will provide a structured process to identify changes in cost of providing services, including those attributable-- attributable to inflation. Having that data on an annual basis will now inform the division if provider rates continue to be adequate or need an earlier review than the mandatory five-year

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mark. So moving into the specific adjustments within the budget, the first one as it relates to the comprehensive developmental disability waiver for individuals on the registry of eligible persons, or more commonly referred to as the waiting list. I think everyone's aware Nebraska statute identifies six priorities for our division to receive funding. That first priority is folks that are in immediate crisis. Priority two for funding would be for individuals transitioning from institutional care, which is defined as a nursing facility or somebody from BSDC, individuals who are transitioning at the age of 19 out of child welfare or the probation system and don't have long-term supports available. Priority four is for the individuals that transition from the education system, which generally occurs at 21 years of age. We also have priority five, which is for individuals who are dependents of a member of the armed forces and in Nebraska for their military assignment. And then finally, priority six in our funding order is for individuals on the waiting list that live in the community and have applied for services on the comprehensive waiver. The Legislature last appropriated targeted funding for individuals on the waiting list under that priority six category in the '18-19 biennial budget. This appropriation will allow us to provide additional slots on that comprehensive DD waiver each year of the biennium. An additional adjustment in the budget is related to the new graduates and funding those that will be transitioning from the educational system in the upcoming biennium. Those are the individuals I referred to in priority four above. The funding-- this funding provides services on the adult day waiver for these individuals. We track the number of children on our registry annually and we historically have about 130 children that transition out of the public education system each year. An additional adjustment is related to the Court-ordered Custody Act, or you'll hear it referred to as the DDCA, which was passed in 2005. This act provides an alternative to incarceration when appropriate for individuals with developmental disabilities. As indicated in our last annual report to the Legislature, we have received 33 DD custody cases into our program since 2009. And finally, the fourth adjustment increases funding by \$75,000 in our administrative budget to fund the integration of the InterRai assessment tool into our existing case management software framework. This funding is part of the Governor's recommendation, but was absent in the preliminary recommendations from the Appropriations

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Committee. This is funded by a commensurate adjustment in the BSDC program and would ask that you reconsider this request, including funding for this in the biennial budget. I thank you for the opportunity to come before you today and share information about the Developmental Disability Division's budget and happy to answer any questions I can.

**STINNER:** Any questions? Senator Wishart.

**WISHART:** Thank you, Director Green, for-- for being here. Is it the first time you've testified in front of us or last--

**TONY GREEN:** It's not. As the director, yes.

**WISHART:** As the director, yes. Well, welcome.

**TONY GREEN:** Thanks.

**WISHART:** So kind of following up on the question that I asked Director Dawson, you know, I've gotten some information, some graphs to show that the cost for providing DD services have increased at a level that has surpassed what we are funding in terms of provider rates and wondering what are your plans for getting those-- the dollars that we invest in DD services to be sort of equal to what the cost of those services are?

**TONY GREEN:** It's a great question. And I think, as I kind of alluded to in the testimony with the requirement we implemented in January '20, I think it's-- it's a responsibility as well to articulate where exactly are those costs coming into play. Correct? And so with the-- the new requirement that at the end of this fiscal year in June, providers are required to submit annually now a cost report that was actually used in the original rate model build up back in-- when we implemented it in 2018, 2019. And we always have the opportunity to go in earlier than our five-year requirement with CMS and make adjustments when needed. I think as-- as you've heard earlier as well, that right now it's the unknown of where exactly are those costs that aren't keeping up? Is it in payroll? Is it in benefits? Overhead administration? You know, what are the costs so that we can adjust

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those factors within the rates. And today, not having that information is exactly where those costs are incurred, incurred by the provider.

**WISHART:** Well, when I walk through and our kind of history of DD funding and look back at 2017 when that rate study happened, it took us by the time that study came out, it took us several years as a committee to get the funding up to the percentage of increase that that rate study recommended. Well, by that time we're then getting to a percentage that would have been correct for 2017 but we're a significant amount of years down the road. So we haven't taken into account any just general cost of living increases. So it makes-- it's pretty clear to me then why we continue to be behind.

**TONY GREEN:** So I just-- I just want to point out that we did-- so you're correct. The rate study that everyone refers to as the 2018 rate study did use cost data that began in '16. And then it was ultimately implemented in '19 when it got approved by CMS. One of the things just so you have the information and there was in that rate study knowing that the costs that we evaluated were from an earlier period, the contractor did factor in an inflation rate of 5.32 percent that covered the period of July '16 to December 31 of 2018 into that existing rate model. So sometimes-- I just want to make sure you understand that it wasn't all the way back to 2016. There was a factor that took us through '18.

**WISHART:** OK.

**TONY GREEN:** But otherwise that would be accurate since 2018.

**WISHART:** OK. And then just touching on adding kind of what Senator Stinner asked of Senator [SIC] Dawson, I mean, is your team getting a cost of living increase, your staff, your team for salaries and benefits?

**TONY GREEN:** Yes.

**WISHART:** So why would we not then every year recognize just the basic cost of living increases for providers who are out working in Chadron and Scottsbluff and kind of doing what I would call yeoman's work

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takes a certain level of heart to do what they're doing? Why wouldn't every year?

**TONY GREEN:** I think it's a fair question. And I think it's something that once we have the data, I think the department will absolutely be able to articulate where we're short in those existing rates. And if it is in provider or, excuse me, in direct care wages, then-- then I think we would fund and stipulate that that's where the rate is falling short and ensure that it's used in that capacity.

**WISHART:** And then just the last question. If our committee determines that in talking with the providers, there is a need for increasing the rates beyond what was recommended in-- by your budget and the Governor's budget, do you have the mechanism and team in place when we appropriate those dollars to make sure that they get out in a timely fashion to providers?

**TONY GREEN:** We have the team in place that would submit the necessary paperwork relatively quickly, immediately to CMS because we would have to update our waivers with the-- with a new fee schedule.

**WISHART:** OK. Thank you.

**TONY GREEN:** Yes.

**STINNER:** You know, I have to ask. I was trying to figure out why we turned you down on \$75,000 for this software program. It was priority 10 of 10 in my book. So I was thinking, yeah, but the software will give you a, what, an assessment tool or is that? And how does that work?

**TONY GREEN:** Yeah, it's a good question, Senator. This is really an issue. And certainly those on the Health and Human Services Committee are familiar with it. But it's the level of care tool for children that were on the aged and disabled waiver and moved to the DD waiver as a result of us utilizing a different tool previously. And so we have adopted a new nursing facility level of care tool, one specific to adults and one specific to children. And this is-- this money is used to incorporate that tool from that vendor externally into our existing case management software so it's all housed together.

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**STINNER:** OK, thank you for that. My guess is it is kind of a priority to get this done. So interesting. And I heard-- I don't know if I heard your testimony that we did fully fund that cost study. Did we close that gap? I thought that's what I heard.

**TONY GREEN:** We believe you did. It-- in total, that rate study showed that we were underfunding at the time by 6.6 percent.

**STINNER:** Right.

**TONY GREEN:** And so in 2020, we implemented the 4 percent rate as a result of LB294. And then we did another 2.6 with LB1008 the following year to get us the full six months.

**STINNER:** That's my recollection as well. Puzzling thing to me was when I looked at the total state General Fund appropriation for Program 424, 2017 we actually appropriated \$179 million and in 2018 \$170 million and then \$157 million. Expenditures from the department varied quite a little bit during that particular point in time, but it didn't match the appropriations. So there obviously was a gap between the-- what the committee was or what the department was actually sending out as aid as expenditures and what was being appropriated. The interesting thing was, is we actually increased the population during that time by 207 books people. And with the increase in cost study of 6.4 percent and the increase in numbers, I would have expected the expenditures and/or appropriations to continue to go up. And-- and this really comes back to if I'm going to break it down per person and follow per person, you know, when we passed 6.4 percent increase, I expect those dollars per person or per unit to reflect that. And-- and I can't make that correlation. And so I'm wondering, is the money going out to the providers and, you know, just what's happening?

**TONY GREEN:** Yeah, well, it's going out the door. I can-- I can say that. As far as the-- so you talk about average cost of waiver. Our average cost per participant on both of our comprehensive waiver and our day waiver, which serves generally the graduates, are both going up year over year. And so we have gone from in 2015 an average cost per person of \$71,000 to in 2020 that's now \$81,000 per person.



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**STINNER:** OK. I'll be interested to take a closer look at that. Is there additional questions? Senator Hilkemann.

**HILKEMANN:** Thank you, Tony. It's good to see you again.

**TONY GREEN:** Good to see you.

**HILKEMANN:** You and I had a visit. So from what your testimony is saying, it's just that we've-- we're up to date to 2018 in our rates for providers. But that does not account for '19, '20, and '21.

**TONY GREEN:** Well, what I would say for '19-20, we gave the additional money, the rate increases last year from March through December. So they received a six-month, 15 percent rate increase last year in-- from February through September. And then we went to a 10 percent increase and then a 5 percent and then in January went back to our 2018 fee schedule.

**HILKEMANN:** That was to-- that's to get in line with 2018 study, the 15, 10, and 5 percent.

**TONY GREEN:** Those were temporary increases specific to COVID that we-- we passed through last year. And so what we're trying to figure out now is with that money and the existing rate, what is the picture today? And I think that's the difficult question that-- that all of our providers are having is--

**HILKEMANN:** Right.

**TONY GREEN:** --is laying that out. But I think once we get through this first year of cost reports that will come in anywhere beginning in July as providers close out their books, it will certainly give the department a much better picture of where is the costs falling short.

**HILKEMANN:** So you said that you were-- you're working on that cost study now. You-- now you're from just what you just said, you're not anticipating that that's going to be completed until the end of this year, at least.

**TONY GREEN:** It is an annual requirement at the close of the fiscal year, they then submit the cost report to us. The requirement for us

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that I mentioned earlier is in 2023. That's our five-year mandatory window in which we have to go through a rate rebase, official rate rebase process and as part of the CMS requirement for the waivers.

**HILKEMANN:** OK.

**STINNER:** Senator Kolterman.

**KOLTERMAN:** Yeah. Thank you, Tony, for being here.

**TONY GREEN:** Sure.

**KOLTERMAN:** I appreciate it. Second page of your report under service rates for DD providers, second paragraph it talks about CMS and five-year rate methodology-- methodology, and how you do that every five years. And what I'm hearing from you is you're in the process of doing some of that at the present time and doing the cost analysis and the tools that we will fund will allow you to do that. My question really deals with process and it deals with the fact that-- and I keep going back to what I hear from my-- my constituents,--

**TONY GREEN:** Um-hum.

**KOLTERMAN:** --the small businesses that are trying to help you do your job. When are we going to, as a state, be proactive instead of reactive? Because everything I'm hearing goes back to 2018, 2017 and we're in 2021.

**TONY GREEN:** Um-hum.

**KOLTERMAN:** And so what we're funding now is the past and trying to bring them up to speed. And it goes back to what Senator Stinner and Senator Wishart and Senator Hilkemann have all asked, when are we going to get to the 21st century, 2021, and look at that and say you're far from-- you as providers, you as private providers aren't getting paid what we're paying our own staff. Why is it we should have to come to work for the government to make a better paycheck? Why don't we take care of the entrepreneurs that are out there trying to help you succeed? I think that the providers that we have in the private industry can do a yeoman's job. I'm not saying they can do it better, but they can do a yeoman's job--

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**TONY GREEN:** Um-hum.

**KOLTERMAN:** --of taking care of these people that need-- have the need. When are we going to make that transition? Because all I hear is past, past, past. And even CMS, our federal government says, well, we're going to deal in the past, the past five years. Are you in a position to make that change? Why shouldn't we be ahead of the curve from CMS?

**TONY GREEN:** It's a good question, and I think we actually are positioning ourselves to get exactly to where you want us to be and we want to be. So part of this, the way we set rates for this 2018 rate study, we've never set rates like this before in developmental disabilities that we're actually an open, transparent process of providers submitting their financial data to the actuarial firm that really looked at where all of the costs were going as we built it. We made a commitment as a team, and the team is myself and our network of providers, that we're not going to wait until 2023 and then ask you to submit these again. We're going to require you to submit them every year so that we can do just that. So when I get those reports at the end of June or beginning July on, I should have a pretty good picture of what is the state of the state for provider payments today based on last year's cost that allow us then, I think, the opportunity to have those discussions, if we need to come back here and say they're not right. There is cost significantly increasing in health insurance that weren't factored in the original model or that wages for direct care staff have-- have not kept up. I think we're going to be in a position coming July to really know our cost on a much closer basis than waiting the five-year mark.

**KOLTERMAN:** So did you-- so did you put this budget request together for your department?

**TONY GREEN:** Yes.

**KOLTERMAN:** So in your own gut, did you feel like that we're amply taking care of the people that are doing the services, or do you think that we're behind the curve?

**TONY GREEN:** I think we have an awesome provider network. And I think I can't answer the question of where those rates are at. I can see what

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we pay in other states from my colleagues, but I don't know exactly from their data yet where are we off in that original model? And so I felt it was premature to-- to put that in there at this point until I know exactly what those costs are that are increasing. You know, I would also say that, you know, we need our provider network and they do a tremendous amount of work. We have new providers coming in on a regular basis. In fact, we've had 21 new providers open companies for developmental disability services since July of 2019.

**KOLTERMAN:** OK. Thank you.

**STINNER:** Senator Clements.

**CLEMENTS:** Thank you, Mr. Chairman. Thank you, Mr. Green.

**TONY GREEN:** You bet.

**CLEMENTS:** That was going to be my question. Are you losing providers availability? You've had 21 new providers, or have you lost some previous providers?

**TONY GREEN:** No, very, very minimal. There have been a couple smaller ones. And one of those is is one of the newer ones that decided it wasn't for them. But we are not seeing established providers in the system leave.

**CLEMENTS:** Is the-- is the state funding the only source of funds the providers have? Do they receive funding outside of state?

**TONY GREEN:** There are providers in the-- in the regional, old regional system that do receive county funding, but not a majority of the providers.

**CLEMENTS:** And a general question. On the budget figures I'm looking at, you're talking about CMS, but there is no dollar amount in federal spending. It's-- there's General Funds and cash funds. You know why there is nothing showing as federal when you keep talking about CMS? So I would have thought that-- that's more of an internal question for the committee. Program 424, are there federal dollars involved?

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**TONY GREEN:** In our programs, yes, but they are captured in Program 348 in Medicaid--

**CLEMENTS:** Oh. And then you--

**TONY GREEN:** --is where the federal dollars are kept for, because we administer the Medicaid waivers as the operating agency for Medicaid, and so the federal portion of those are in the-- in the 348.

**CLEMENTS:** All right. Thank you.

**STINNER:** You said something about you look at other states and compare our rates. That would be helpful for the committee if we could take a look at some of those comparisons to see how we do stack up. And just to say, again, if you are staying up to date on an annual basis, that will help solve that big gap that we had the last time. I mean, 6, 7 percent gap is pretty significant to providers. So that said, is there additional questions? Thank you very much.

**TONY GREEN:** You're welcome. Thank you, Senator.

**STINNER:** Just for the record, we do have written submissions, submitted written testimony from Children and Family Coalition as an opponent. Letters for the record Agency 25 DHHS Children and Family Services support from the Youth Emergency Services. Any additional proponents? Please. Yes. Morning.

**RYAN STANTON:** Good morning, Chairman Stinner and members of the Appropriations Committee. My name is Ryan Stanton, that's spelled R-y-a-n S-t-a-n-t-o-n, and I'm the CEO of Compass in Kearney. We are a member of the Nebraska Alliance for Family and Child Service Providers, which is an organization of seven agencies who serve vulnerable families and children in over 60 counties. Together, we employ over 385 Nebraskans and annually drive over 3.5 million miles, serving over 5,400 families throughout the state. Our agencies contract with DHHS to provide child welfare services such as family support, foster care, drug testing, intensive family preservation, supervised visits, and in-home safety. I'm here today to once again thank the Legislature for giving us a 2 percent rate increase for 2019 and 2020. You might remember this was the first rate increase that

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we'd seen in nearly 10 years. From the handouts I provided, which were also emailed you prior to today's hearing, we've experienced significant increases in our costs and a decline in revenue due to DHHS imposed changes to our contracts dating as far back as 2012. These are in addition to increases in our operating costs and expenses. As a result of these changes, we hope that you will again take the opportunity in the upcoming budget to direct more dollars to providers in the Western, Central, Northern, and Southeast Service Areas. We believe that as stakeholders in the child welfare system, every child in every county, community, and corner of our state deserves access to quality services and resources they need to put them on a path for success. Based on what you see, it's likely no surprise that we're increasingly concerned with the amount of pay that we're able to offer our staff. Again, the document I shared with you compares what we're able to pay our employees versus what the state's able to pay their employees in similar positions. As a result of the disparity in wages, we often serve as a training ground for state employees who are better paid, have better hours, and better benefits. In addition, many entry level retail and food service businesses are able to pay more. We can't compete and we can't continue down this path so we need your help. Supporting child welfare providers by increasing our contracted rates will become even more crucial as the federal government continues to increase standards and accountability for DHHS through the Family First Preservation Act and other legislation. Without a considerable rate increase that allows us to pay for qualified staff, it will be increasingly difficult to achieve the outcomes expected of us. We know there are many tough decisions to be made in the weeks and months ahead. As a result of only receiving a 4 percent increase since before 2012, we're asking the Legislature to direct DHHS to increase the rate paid to child welfare providers in the counties outside of the Eastern Service Area by 12 percent. This will make up for going several years without a rate increase. In the past two years alone, contract changes mandate by DHHS quickly consumed that 2 percent increase we were given each of the last two years. Thus, the additional dollars didn't help us keep up with inflation. We need additional dollars to allow us to keep better pay for our staff and be competitive in the market. As always, we do want to partner with you and the Governor and DHHS to serve vulnerable families and children across our state in a manner that's fair,

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compassionate, consistent, and uses limited state resources wisely. I'd be happy to answer any questions.

**STINNER:** I didn't quite catch. You're asking for an increase of 12 percent?

**RYAN STANTON:** Yeah, we did say 12 percent.

**STINNER:** I thought I was [INAUDIBLE] hearing.

**RYAN STANTON:** So regarding the 12 percent, it's not an across-the-board rate increase. We're really focused and targeted on the services like family support, intensive family preservation, drug testing, those types, supervised visitation, those services specifically for the 91 of the 93 counties that are outside of Douglas and Sarpy County. And I think if you look at the overall number, the number is going to be a way less number than what maybe comes to mind. We've asked the Department of Health and Human Services to-- to tell us what they paid for those services in 2020, just to give you a frame of reference of what that overall number is. We didn't get that information in time to be able to provide you with that. But I can definitely provide you with that number. I think it's going to be way less than the numbers that we've been hearing thrown out today, earlier today, you know, the 25 or \$35 million, \$31 million. It's going to be way significantly, just a fraction of those types of numbers.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**RYAN STANTON:** OK, thank you.

**STINNER:** I do want to ask, how many testifiers do we have? How many people plan? OK, I may have to go to a three-minute clock on you once we-- we'll stay at five for a period of time because we do have some additional hearings at 1:30 so. We are in the proponent section of the hearing. So are there proponents?

**DORN:** They did have on the door that Exec Board is going to meet across the hall.

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**STINNER:** Do we have-- is this a proponent? OK, come on up. Pretty close to the good afternoon.

**LEE HEFLEBOWER:** I know. I was going to say good morning, but I'm not sure exactly what time it is.

**STINNER:** Close.

**LEE HEFLEBOWER:** Well, good, good whatever, Chairman Stinner and members of the Appropriations Committee. Thank you. My name is Lee Heflebower, L-e-e H-e-f-l-e-b-o-w-e-r. I am the domestic violence and economic justice specialist at the Nebraska Coalition to End Sexual and Domestic Violence. I also serve as the vice chair of the Nebraska Commission on Housing and Homelessness. Test-- testimony today is given as a representative of my agency and not on behalf of the commission. I'm here to testify in support of appropriations to the Nebraska Department of Health and Human Services for the Nebraska Homeless Assistance Program, also known as NHAP, which is funded by the Homeless Shelter Assistance Trust Fund. This program is critical in providing statewide support for people experiencing or at risk of homelessness and those fleeing domestic violence. The Nebraska Coalition to End Sexual and Domestic Violence is a statewide advocacy organization working to enhance safety and justice for survivors of domestic violence, sexual assault and human trafficking. We support the work of our 20 network programs across our state, providing shelter and supportive services in our local areas. Many of these programs rely on the funding through the Homeless Shelter Assistance Trust Fund to provide the level of crisis response and support needed when survivors and their children are escaping abusive and dangerous situations and seeking safety. Individuals and families served by our network programs receive crisis counseling, case management, legal and medical advocacy, connection to mainstream benefits and housing resources, and support in rebuilding their lives free from abuse. The Homeless Shelter Assistance Trust Fund and NHAP also provide critical funding for a continuum of organizations statewide working to address and end homelessness on all levels. Through street outreach, emergency shelter and rapid rehousing programs, adults, youth, and children who are experiencing homelessness are provided the assistance needed to address the crisis and move them to safety and stability. Within the Nebraska State Plan to Address and End Homelessness, solidification



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and expansion of critical shelter and support services is identified as a key component in addressing this important issue across our state and serving people at a highly vulnerable point in their lives. NHAP and the trust fund have historically provided stable funding for these programs and services, which has been key in reaching state and federal benchmarks. For example, Lincoln and the balance of state rural counties have received national recognition for achievements in addressing homelessness among veterans, and Omaha has made significant strides in this area as well. The balance of the Homeless Shelter Assistance Trust Fund is being depleted, however, and the programs funded through it are at risk of having to cut services and reduce their capacity to serve people most in need. In rural areas of our state, this is a particularly harmful situation as programs are limited and often serve many counties. Across our network of domestic violence programs, agencies may serve up to 10 counties. For those programs receiving NHAP funding, reductions in services mean that all persons in those counties have fewer options when in crisis, as there are no other programs providing those specific services in those areas. Likewise, many homelessness programs generally serve a specific region and a loss in funding limits shelter and supportive services across all of the counties served. It is also important to note that a reduction in homelessness services directly affects the state's ability to receive federal funding for similar services. The Continuum of Care grant program through the U.S. Department of Housing and Urban Development most recently awarded \$9.9 million to Nebraska for shelter and supportive services to address homelessness. When applying for this annual funding competition, statewide levels of shelter and housing supports must be reported. A decrease in these levels due to reduced NHAP and trust fund dollars results in a loss of substantial points on the application, putting the state at risk of losing these federal dollars. Although Nebraska has recently received federal funding to address the COVID crisis, this funding is short term and does not provide support to NHAP funded organizations for sustainable, comprehensive approach to homelessness. After the pandemic has subsided, Nebraskans will continue to experience poverty, domestic violence, and affordable housing crisis for low-income renters and other factors which put them at risk of homelessness. I asked the committee to appropriate the funds needed to support NHAP and seek alternatives to address the Homeless Shelter Assistance Trust Fund

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deficit in order to provide comprehensive services for Nebraskans experiencing homelessness and domestic violence. And I'd be happy to answer any questions.

**STINNER:** Yeah, I think that's what the committee is trying to figure out is how much is needed. I mean, we don't have census data. We obviously increased it dramatically the last biennium and depleted the fund, as you say. But we, I don't think, have a real good grasp on how much is needed. So more information is needed, hopefully from yourself and department or whoever. We're also grappling with on the homeless shelter side, how many sources of revenue do you have? Obviously, there's federal money, state money, maybe local money. Those are things that we'd like to know about.

**LEE HEFLEBOWER:** And as far as the shelter funding goes, each program is going to be a little bit different on that. So we could try to develop some sort of a summary from what-- the information that we have.

**STINNER:** Yeah.

**LEE HEFLEBOWER:** As far as the gap goes, when the trust fund had excess funds in it over the past several years, I believe at the highest amount, \$4.7 million was being allocated out to programs. Programs had ramped up their services at that point to-- to use that money that was granted to them. And it was the services they were providing was very much in line with our state plan to address and end homelessness. We made significant strides towards addressing that need. With the current spending authority through DHHS for the trust fund dollars, I believe it's \$2.9 million. The anticipated deficit then would be that approximately 2,700 households would not receive the services. I believe the 2019 number was the last number that I saw. Around 9,000 people received either a rapid rehousing or homelessness prevention or shelter services through those funds. So about a third of that would be reduced. So there's a significant gap there.

**STINNER:** Do the shelters, all of them get COVID money as well to kind of fill in the gap?

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**LEE HEFLEBOWER:** Some of them did. Some of our organizations that provide prevention funds in the ESG dollars did receive some of that. What we're hearing from programs is that many people who are applying for those funds and receiving them are not the typical people that would be normally reaching out to those services. Most, if not all, of those COVID dollars are for people who are at risk or experiencing homelessness specifically due to the pandemic. They've lost income or employment specifically for that reason. So all of the other reasons that people might be experiencing that are not necessarily covered and those needs would continue beyond that, beyond those CARES dollars.

**STINNER:** Thank you. Any additional questions? Seeing none, thank you.

**LEAH DROGE:** Good afternoon.

**STINNER:** Good afternoon.

**LEAH DROGE:** I can safely say that now. Chairperson Stinner and members of the Appropriations Committee, my name is Leah Droge, L-e-a-h D-r-o-g-e, and I'm here today on behalf of the Lincoln Homeless Coalition, which includes Lincoln's Continuum of Care. The coalition represents more than 45 member organizations who provide shelter and services for those who are at risk of or currently experiencing homelessness in Lincoln, Nebraska. I'm also an employee at Friendship Home who receives Nebraska Homeless Assistance Program, or NHAP, funding through the Homeless Shelter Assistance Trust Fund, specifically to provide emergency shelter to victims of domestic violence. As of the 2020-2021 NHAP program year, there was a significant decline in the trust fund dollars for homeless service system in Nebraska. In Lincoln specifically, this was a 45 percent decrease in our allocation. An assessment of our local system indicates the reduction will result in significant negative long-term impacts. Emergency shelters currently operating at or above capacity and I will note that was before the impact of COVID, which obviously changed how congregate shelter was able to be provided. There will also be increases in homelessness due to fewer prevention services. That, coupled with the fewer shelter bed nights, will result in more people being unable to access shelter and force them into unsafe living conditions. As someone who works at a victim service provider agency, I'm particularly concerned about this. COVID-19 has brought a

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new layer to our work as members of our community, who are already struggling to maintain safe and stable housing, have required assistance. We did a point in time assessment and in early January there were 156 households in Lincoln specifically who had applied for COVID relief funds for prevention, which meant that they were housed but at risk of losing that housing. The reality is that these funding streams, including those federal dollars, are time limited and the need is ongoing. The resources dedicated to responding to homelessness in our community were inadequate to meet the need prior to the pandemic. We're concerned that as federal relief funds lapse our system will be ill equipped to respond to the level of need. At that same point in time assessment, Lincoln's All Doors-- All Doors Lead Home coordinated entry system showed that there were 225 households waiting for housing opportunities. This included transitional age youth, victims of domestic violence, individuals and families waiting for permanent supportive housing, or rapid rehousing assistance. Many are residing in emergency shelters as they wait for permanent housing. In closing, the coalition urges you to consider the long-term impact of the Housing Trust Fund reduction for our state's network of homeless service providers. It's critical that emergency shelter, rapid rehousing, prevention, and outreach be maintained for those at risk of or experiencing homelessness in our community and across the state. Thank you for your time today and I'd be willing to answer any questions.

**STINNER:** Questions? Seeing none, thank you.

**LEAH DROGE:** Thank you.

**STINNER:** Any additional proponents? Seeing none, any opponents? Good afternoon.

**ALAN ZAVODNY:** There's a lot more prep work as I get older. Good afternoon. Chairperson Stinner, members of the Appropriations Committee, my name is Alan Zavodny, A-l-a-n Z-a-v-o-d-n-y. I am the chief executive officer of NorthStar Services, which provides supports for people with intellectual disabilities in the 22 counties in northeast Nebraska. I'm also privileged to be in my third term as mayor of the 2,906 fine citizens of David City, Nebraska. This year will mark my fortieth year working in the field of developmental

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disabilities. I appreciate the opportunity to testify today on behalf of the Nebraska Association of Service Providers or NASP. NASP provides supports for thousands of people that experience intellectual disabilities in Nebraska. NASP is engaged in providing supports that include employment, residential settings, and many other habilitation supports on behalf of the state of Nebraska. I'm here today because the initial budget request from Agency 25 does not include any increase of funding for provider rates. The state of Nebraska began a rate rebase process in 2017. This was in response to a requirement by our federal partners, CMS. This process revealed that the state of Nebraska was funding services 6.6 percent below the actual cost of providing supports. The 6.6 percent did not account for any profit margin, but simply revealed how much additional money was needed to reach the level to meet costs. LB827, thank you, Senator Hilkemann, was the mechanism used to fully fund the rate methodology at that time. We thank the committee and Senator Hilkemann for addressing that issue at that time. LB827 builds upon the 4 percent investment made by the Appropriations Committee. Those commitments made us compliant with CMS requirements. The providers of NASP accept rates as set by the state of Nebraska. The expectation of the federal government is that Nebraska meets the cost of providing supports. The providers that make up NASP exist solely for the purpose of doing the work of the state of Nebraska. These community-based providers are able to provide supports at a much lower cost than state-operated supports. We always seem to be appearing before you in catch-up mode. I don't realistically see a day when we are able to fund current costs. We feel that history has shown us that it takes about a 2 percent increase in each biennial budget to keep pace with costs. The state and federal match, which are very close to a 50/50 split, are, for all intents and purposes, the sole funding source for Nebraska providers. It is absolutely true to say that any other revenue sources are very incidental to the mission. We are not allowed to bill outside of the mechanism established by the state. We encourage you to consider a 2 percent bump in provider rates to close the gap between costs incurred and the current funding level. We remain concerned about external factors that we cannot control. These include ongoing pandemic, potential changes to minimum wage, and funding shifts due to the state's redistribution of resources based on the ICAP system. I offer one more closing thought. The DD system is more fragile than we care to acknowledge frankly. Forty years ago when

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I first started, we had six regions, Bethphage, Martin Luther Homes, and LOMR or the Lancaster Office of Mental Retardation. Today-- today there is close to 40 providers. There is a finite number of people that the state is willing to fund. Government should never be in the position of picking winners and losers. The market will determine which provider the person chooses to receive services from. The unintended consequences-- consequence of so many providers is the risk of financial volatility to all providers. Some smaller providers are absolutely dependent on getting paid on time with no unexpected problems. Large providers, to some extent, lost the advantages of economies of scale. It is like a small community with one grocery store. There's enough business for that store to hire employees it needs and stay operating. If a second grocery store were to open, maybe both can squeak by with enough business. However, if six grocery stores try to operate in that same small community, it is conceivable that all six would fail. I encourage you to monitor and evaluate the overall financial health of your provider system. I know that the department has taken initial steps to do this. We have seen providers just up and quit business, leaving some people with intellectual disabilities scrambling to find a new provider with little or no notice. We appreciate all that the developmental disability system has done and continues to do. Please understand that my testimony is in no way an affront to them. Our only reason for testifying is that a provider increase was not included in the budget request. Thank you for the opportunity today and I'd be happy to answer any questions from the committee.

**STINNER:** Thank you. Senator Kolterman.

**KOLTERMAN:** Thank you, Senator Stinner. Welcome.

**ALAN ZAVODNY:** I'm always happy to see my neighbor from Seward.

**KOLTERMAN:** Yeah. So question for you. And I just want to make a point here. How many employees do you employ at NorthStar?

**ALAN ZAVODNY:** Roughly 200.

**KOLTERMAN:** Two hundred employees. How long you been-- you've been doing it for 40 years?

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**ALAN ZAVODNY:** NorthStar, I've been in the industry 40 years. NorthStar started in 1974, actually, parents started most of the six regions.

**KOLTERMAN:** And you're in a smaller community. Where are you located at?

**ALAN ZAVODNY:** Our central office is in Wayne. But we have programs in Bloomfield, Columbus, Norfolk, West Point, Valentine, South Sioux City, Fremont.

**KOLTERMAN:** When you don't get adequate provider rates, where do you turn?

**ALAN ZAVODNY:** I can tell you what's happening right now. Part of the reason we're struggling so much is we've had to pay a ton of overtime. We are having trouble recruiting anybody. We actually gave a bigger increase than our funding increase because we knew we-- we gambled that we had to pay people more to try to get more. And it's it's not keeping up. It's not working. Now, maybe part of it's COVID. But the fact is, even in small towns where we used to count on a certain number of employees, we are struggling. We are running ads all creative ways and no one's applying and we're paying \$13.25 an hour. You'll hear that this afternoon. But--

**KOLTERMAN:** So-- so you're one of those providers that I was talking about earlier that in the rural trenches meeting day to day, putting your personal assets on the line to try and make a business go. And you're-- you're bureau-- you're fighting bureaucracy really here, aren't we?

**ALAN ZAVODNY:** Well, we're fighting a system that we don't have a TEEOSA type formula or anything like that. We are playing catch-up all the time and we are playing-- we're operating at 2018 rates based on a study done in 2016, 2017, and it can't keep up with-- health insurance keeps going up. And if you don't offer that, you're not going get any employees. We're just paying a ton of overtime; and at \$13.25 an hour, people can do a lot easier jobs with a lot less responsibility.

**KOLTERMAN:** Thank you. I appreciate you coming in today.

**ALAN ZAVODNY:** Thank you.

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**STINNER:** Additional questions? Seeing none, thank you.

**ALAN ZAVODNY:** Thank you.

**MELISSA NANCE:** Good afternoon, Chairman Stinner and the Appropriations Committee. My name is Melissa Nance, M-e-l-i-s-s-a N-a-n-c-e, and I work for CEDARS Youth Services, a child welfare serving organization here in Lincoln. We provide services to youth of all ages and all across southeast Nebraska. I just want to first thank several of you for the comments and the questions that you've already expressed in-- throughout all of this morning as it relates to provider reports or provider-- provider rates. I'm here today to testify in opposition to the committee's proposed budget as it does not yet contain provider rate increases, specifically foster-- foster care provider rate increases. I'm here to encourage this committee to adopt the increased rates as proposed by the Nebraska Children's Commission Foster Care Reimbursement Rate Committee. In fact, your committee colleague, Senator Hilkemann, has introduced LB495 to recommend these increased rates be adopted in accordance with the Children's Commission 2020 report. As you may know, that report recommended increases by 2 percent each of the next six years. And while that bill is being considered in the Health and Human Services Committee, we would ask that these increased amounts be included in your budget recommendations. I think as stated previously throughout this morning, we all know current rates provide far less than our actual care of cost. And with payment rates so low, it makes it hard for there to be enough supply of service providers. To sustain the demand for safe places for vulnerable children to go, it makes it difficult for providers like CEDARS to sustain the staff, the resources that we need to provide for the best possible support for the children and families that we serve. We are being tasked with more and more by the state every year, like paying for background checks, fingerprinting, and that's not to mention the numerous challenges that have been faced with the COVID pandemic. We're grateful for this committee's work in ensuring that our state's budget provides for the care and protection of the most vulnerable-- vulnerable in our communities. And the modest rate increases recommended by the rate committee will help ensure the quality of care for children who have been so mistreated that they have been removed from their homes. Thank you. And I would be happy to answer any questions.



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**STINNER:** Thank you. Questions? Seeing none, thank you very much.

**MELISSA NANCE:** Thank you.

**STINNER:** Good afternoon.

**JOE KOHOUT:** Chairman Stinner, members of the Appropriations Committee, my name is Joe Kohout, K-o-h-o-u-t. I'm appearing today as a registered lobbyist on behalf of the Autism Center of Nebraska. The Autism-- and I passed out a copy of my testimony. I will-- I will seek to highlight certain parts of it. ACN is a certified provider of services to children and adults with autism and developmental-- other developmental disabilities. During their 13-year history, they've become accustomed to tight margins as they try to balance limitations of the funding system and the urgent need to provide high-quality, individualized services. The most recent rebase in 2018 was based upon actual costs from previous years, as we're constrained by the rates in place at the time, and it was not completely implemented until 2020. During the two-year implementation period, the rates paid to providers did not meet the rates identified in the rate methodology and certainly did not provide for demonstrated increases in costs in the intervening time period. We struggle with mandatory increased costs, such as the implementation of the required electronic visit verification processes, which has resulted in additional staff training expenses. I would note and I have a copy of this, I put this in-- in the testimony. But when we talk about costs and appreciate the questions from several of the committee members in regards to those costs that-- that providers such as ACN continue to face, I would note that-- that their health insurance costs went up 45 percent this year. And that was only because they had a con-- their previous contract said that they couldn't raise it any more than 45 percent. And that was the low bid. So when we talk about trying to retain a strong work force and to keep wages fair, this is-- these are-- are those folks who are-- who are on the front lines of that. It becomes evident that an increase in rates is absolutely essential. We would ask for your help. A 2 percent across-the-board increase would make it possible for agencies such as ACN to meet their expenses and allow for uninterrupted service delivery to Nebraska's population of persons with developmental disabilities. We are as essential as law enforcement or public schools, and a 2 percent increase is also

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essential. Thank you very much for your time and I'll try to answer any questions.

**STINNER:** Thank you. Questions? Seeing none, thank you.

**JOE KOHOUT:** Thank you.

**JENNIFER CARTER:** I can [INAUDIBLE] neutral testimony.

**STINNER:** Actually, just taking opposition right now. So any additional opposition testimony? Seeing none, anyone in the neutral capacity? Great to see you again.

**JENNIFER CARTER:** I was told that was probably going to happen. Sorry. Good afternoon, Chairman Stinner and members of the Appropriations Committee. I know I'm keeping you from lunch, so I'll be pretty brief, but my name is Jennifer Carter, J-e-n-n-i-f-e-r, and I and I serve as your Inspector General for Child Welfare. The Office of Inspector General for Child Welfare provides accountability and oversight for the child welfare and juvenile justice system through independent investigations, identification of systemic issues, and recommendations for improvement. Our office was actually created in 2012 out of the challenges and failures that occurred in the initial attempt at privatization in child welfare. And so we pay close attention to the Eastern Service Area contract and we were monitoring the situation with St. Francis. Our office does not take a position on privatization in general because our duty is to just oversee whatever is happening in the Eastern Service Area in whatever way and through whatever personnel. But I did think I could maybe offer a little bit of perspective and make sure you knew we are a resource to you. And if I can answer any questions, I'm also happy to do that. One thing I guess we do always want the-- the child welfare system to be properly resourced. And that has been a challenge. During privatization, each contractor has come back repeatedly needing additional funds. So I think that's something to be thinking about. But of particular interest to us is the department's ability to take back case management if necessary. Historically, so far what we've seen is that the private contract is often not in the control of the department. It has been terminated by the other providers or one provider actually went into bankruptcy. And that transition back to the state for case

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management took days, not months. I mean, it was very quick. And so I think we want to make sure with the overall financial stability of St. Francis still in question, we want to make sure that the department is prepared to do that. And actually, one other thing to consider, too, is that it is also within the department's right to terminate the contract if the provider continues to breach it. And right now, we're under five correction action plans. And so I think there are potential challenges there. So we just want to be clear on what their transition plan is. And I don't know if that would require additional appropriations. I mean, what I believe has happened in the past is that the infrastructure is there. The department hires the workers of the private contractor. They take over the subcontracts so that there's some continuity and not that there aren't bumps in the road for that, but that is generally the possibility. I don't know if that's the plan this time. But to Senator Dorn's point, I think if you're not ready to take it back as the department, then that increases the concern that your contract negotiations are when you're backed into a corner. So that is just-- we just wanted to raise that issue and let you know I'm available if we can be of any help,

**STINNER:** Any questions? Senator Wishart.

**WISHART:** Well, thank you for being here. Welcome to the position.

**JENNIFER CARTER:** Thank you.

**WISHART:** Would your office be able to help work with us to-- and the department to get that plan put in place? And I know when I spoke with the director, she said she has one, but I will sleep easier at night knowing that you and Monika with the Foster Care Review Office and the Appropriations Committee, that we were all working from a solid understanding of what that would look like. Because what I'm hearing is that there's issues going on in Kansas as well. So even if everything's going well here--

**JENNIFER CARTER:** Right.

**WISHART:** --there may be financial issues that are caused in Kansas that will then reflect on what happens here,

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**JENNIFER CARTER:** Correct. Yes. And we're happy to help in any way. And certainly as an oversight office, we're very interested in having that level of transparency about what the plan actually is. And so being able to be confident that there is one in place that can be easily and quickly implemented, as I think the department has done in the past. You know, do you just know who you're going to call if this gets terminated? Who's talking to the caseworkers to get them on board? Who's, you know, in legal is redoing the contract? Those types of things, just to have those steps in place.

**WISHART:** OK.

**STINNER:** Additional questions? Are you getting cooperation with the administration--

**JENNIFER CARTER:** Yes.

**STINNER:** --in your oversight role?

**JENNIFER CARTER:** Yes, so far we have and Director Beasley in particular, I think she appreciates the role of the office. And so it's been a-- and on the child welfare side, I think we've had some really good communication, so we're grateful for that.

**STINNER:** Appreciate that. Any additional questions? Seeing none, thank you.

**JENNIFER CARTER:** Thank you.

**STINNER:** Any-- anyone else in the neutral capacity? Seeing none, that ends our hearing on Agency 25, Department of Health and Human Services, and that also concludes our hearing for this morning.