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Health and Human Services Committee
November 06, 2009

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The Committee on Health and Human Services met at 9:30 on Friday, November 6, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments. Senators present: Tim Gay, Chairperson; Dave Pankonin, Vice Chairperson; Kathy Campbell; Mike Gloor; Gwen Howard; Arnie Stuthman; and Norman Wallman. Senators absent: None.
[CONFIRMATION]

SENATOR GAY: All right. We'll get started with some confirmation hearings today. Appreciate everyone coming and we've got quite a few to go through. You have the agenda in front of you. We got to start out this morning with two of the Department of Health and Human Services, Kerry Winterer, the chief executive officer, and Jodi Fenner, who is nominated to be the director, division of developmental disabilities. We'll start out with introductions. I mean, everyone knows everyone, I think. I'm Senator Tim Gay, the Chair. I will start, our legal counsel Michelle Chaffee is here, and the clerk Erin Mack. And I will have Senators introduce themselves starting with Senator Gloor.
[CONFIRMATION]

SENATOR GLOOR: Senator Mike Gloor from District 35, Grand Island.
[CONFIRMATION]

SENATOR CAMPBELL: I'm Kathy Campbell, District 25 from east, south and east Lincoln, all the way to the border. [CONFIRMATION]

SENATOR PANKONIN: Senator Dave Pankonin, District 2. I live at Louisville.
[CONFIRMATION]

SENATOR HOWARD: Senator Gwen Howard, District 9 in Omaha. [CONFIRMATION]

SENATOR WALLMAN: Senator Norm Wallman, District 30, which has BSDC and the Mosaic and Homestead National Monument, way to the Kansas border, and Lincoln.
[CONFIRMATION]

SENATOR GAY: All right. Sounds good. All right, thank you. Well, we'll get started. Kerry, you want to come on up and we've got an hour here, a pretty informal thing. We'll let you introduce and give your statement and then I think this goes to 10:30 whether we use all the time or not. We'll see how it goes. [CONFIRMATION]

KERRY WINTERER: (Exhibit 1) Good morning, Senator Gay and members of the Health and Human Services Committee. My name is Kerry Winterer, that's K-e-r-r-y W-i-n-t-e-r-e-r. I began as CEO of the Department of Health and Human Services on July 13, 2009. I'm honored that Governor Heineman to this position and will appreciate

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your confirmation of his appointment. To head a department as large and diverse and important as Health and Human Services is certainly a daunting task, and I knew how challenging this new job would be. At the same time, the fact that it is large and provides important and many life-sustaining services to citizens of the state is invigorating. Let me share a little bit of my background. I was born in Scottsbluff, graduated from Gering High School. While I've called Omaha home for many years, I still have a connection to Scottsbluff, where my sister lives. I graduated from the University of Nebraska-Lincoln and received my law degree from Columbia University in New York City, but after finishing school there, I realized that Nebraska was really my home. Many great opportunities helped me prepare me for the work of DHHS. There are a few I'd like to share at this time. My work with healthcare began in 1988. After practicing law and working in a number of positions, I cofounded a company called The Benefit Group that administers healthcare and other benefit plans for employers. I was with the company until a couple of years ago. This experience helped me learn a lot about the kinds of healthcare needs people have. At various times over the past 20 years, I've served on the board of Omaha's Heartland Family Service, twice as president of that board. Heartland Family Service provides important services like counseling, children and juvenile services, domestic abuse services, childcare resources, senior services, corporate employee assistance programs, and community and work site education. Heartland Family Service touches many people's lives, just as DHHS does. Probably the most personal connection with the department is that my father, later in his life, called the Western Nebraska Veterans' Home in Scottsbluff his home. He was a realtor who also served his community as a city councilman for more than 20 years and he had a great deal of influence on me. My family and I are thankful for the wonderful care that he received there. I served on the State Board of Education from 2007 to 2009, and have been involved in several community organizations, including United Way of the Midlands, Boy Scouts of America, and the Greater Omaha Convention and Visitors Bureau Board. On a personal note, I've been married to my wife, Norma, for 32 years, have two children. Grant is a student at Creighton University and Martha is in the 8th grade at King Science and Technology Magnet School in Omaha. Since coming to DHHS in July, I have learned a lot, as you might expect, and every day I learn more, but my priorities have not changed since I started. These continue to be: Focus the agency on customer service. We are, after all, primarily a customer service organization. Use tax dollars as effectively as possible. This means economizing and being as efficient as we can in delivering services, particularly now with the current budget concerns. Be accountable and transparent. We work for the people and are in all ways accountable to them for what we do. And, along with this, is my commitment to work with the Legislature more closely and more responsively than may have been done in the past, and I hope that each of you on this committee have already experienced this. Improve the public perception of the department. The department is not perfect, but we do good work. For the public not to know that hinders our work. Improve employee morale. When others view the department unfavorably, it has an affect on our employees' attitudes and effectiveness and inhibits our ability to do

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the best work we can. The department does face significant challenges, and no one knows that better than the members of this committee. I'm working closely with the division directors and we are making progress on these challenges. I'm committed to continuing these efforts. Fortunately the divisions are led by capable people who are very knowledgeable about their programs and their responsibilities. I see my job as working with these division directors to move the department forward, to help them do their jobs, to have a common approach to our challenges, but at the same time to hold people accountable for the jobs they do. On a final note, let me say that I believe that each of us has an obligation to help others who face challenges in their lives. This can be done in many ways, through our jobs and our community involvement. Anything each of us can do to help others will make a big difference to someone else in ways we may never really know. And I am particularly excited and challenged to have this great opportunity to make a difference. I would be happy to answer any questions you may have. [CONFIRMATION]

SENATOR GAY: Thank you, Kerry. We'll see if there's questions for you. I'm sure there is, but any questions? Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you, Chairman Gay. Thank you for taking this on. I know it's not an easy task. Through the years I was involved with...I worked for Health and Human Services I saw many people take on this hard job. I just have a few questions for you. First off with the child reform movement and the contractors that will be working with us, have all the contracts now been signed? [CONFIRMATION]

KERRY WINTERER: They have been signed, yes. [CONFIRMATION]

SENATOR HOWARD: All right. So all the contractors are on board? [CONFIRMATION]

KERRY WINTERER: Yes. We had, as you know, we had one contractor who at the eleventh hour decided they weren't going to continue with that, but all the others have signed and those contracts are in place. [CONFIRMATION]

SENATOR HOWARD: Am I correct in thinking that's boys and girls in South Sioux City? [CONFIRMATION]

KERRY WINTERER: It's the Alliance and that group of folks, yes. [CONFIRMATION]

SENATOR HOWARD: Okay. The second part to this question is, the positions that are now vacated in the direct line service staff, I know in Omaha there are at least two units that have been closed down because the workers have taken jobs with these...our contractors. Will the funding for those FTEs be returned to the General Fund? Is that how that will work? [CONFIRMATION]

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KERRY WINTERER: Yes, generally speaking that's what will happen. We've gone through our own process this week, as you might guess, to review our own vacancies and determine what are true vacancies and what are not funded vacancies. We've gone through that entire analysis. What we have done, certainly, is try to retain the services. Everything we've done to this point in time is focused on administration and trying not to cut services, to the extent we've determined that these vacancies need to be filled to provide those kinds of services they will be retained and our response to the budget proposal will be retaining those vacancies. [CONFIRMATION]

SENATOR HOWARD: But if the contract agencies...just so I understand this. If the contract agencies will be providing the direct service, seeing the child, seeing the family, doing the social work, going into court, are we going to be retaining FTEs that would, in fact, be a duplication? [CONFIRMATION]

KERRY WINTERER: No. No, not to the extent that those are duplicative services, certainly. And that's part of the analysis that we're going through relative to where are we now, we've the contracts in place for this, where are we now relative to services that vacancies we no longer may need to fill as a result of the current structure, and that's part of the analysis we've gone through at this point to determine what are the vacancies that we can give up, if you will. [CONFIRMATION]

SENATOR HOWARD: Okay. It would be very helpful to me if...as that information is available if I could have....if I could know just to see where things are from time to time. And then the last part of what I'm wondering right now is, are we moving forward with our relation with the graduate school of social work in terms of training? I know that training, the number of weeks of training for state employees now has been reduced to four weeks and then the contract agencies are picking up, doing the training as they choose with their employees. Our training, is that still with the Center for Families, Children, and the Law, or is that gradually shifting to social work? [CONFIRMATION]

KERRY WINTERER: Well, at this point in time we're not moving forward with additional dollars in that program as you probably know. So as far as I know at this point, it's as it has been. [CONFIRMATION]

SENATOR HOWARD: So we're continuing with the Center for Families, Children, and the Law. [CONFIRMATION]

KERRY WINTERER: Yes. [CONFIRMATION]

SENATOR HOWARD: Thank you. [CONFIRMATION]

SENATOR GAY: Senator Howard, I'm going to...actually we were thinking about asking the director, and I'll tell you now too, we've talked on the phone a little bit. We'd like to

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get an update on the budget but we're in the process still where they're going through it. Probably, well, I'm going to guess, middle of next week or you'll have to...we're going to have a meeting and try to get together with the director and some of his staff so we all understand what's going on with the budget as well before we have to go make those decisions. So we are working on that. It's an excellent question. [CONFIRMATION]

SENATOR HOWARD: That's good. The budget and the contract agencies, how that all messes together. [CONFIRMATION]

SENATOR GAY: Yeah, well, just in general how the recommendations and the recommendations have been now been involved and oh, kind of what's out there. But then we can do what we need to do from our...the legislative view. We have our priorities of what we'd like to see as well. But that will probably be, you know, I'm guessing, mid...before you have to go on the floor to make decisions, so. We'll get something set up for you. [CONFIRMATION]

KERRY WINTERER: Our appropriations hearing is Tuesday morning.
[CONFIRMATION]

SENATOR GAY: Tuesday, so. [CONFIRMATION]

KERRY WINTERER: And so we're working to that to have all of our details put together so by Tuesday morning we'll know that. [CONFIRMATION]

SENATOR GAY: Yeah, and how many people are going to be speaking at that? Are you, have all the directors or do you that on...? [CONFIRMATION]

KERRY WINTERER: I will be doing the testimony. The directors will be available to Appropriations to the extent that they need to be to respond to specific questions.
[CONFIRMATION]

SENATOR GAY: Okay. And I know, you know, I know we're making a large contribution to this, try to reconcile this budget, so it's important that we know what's happening. But they're going to limit you, I think to...aren't they limiting people to a very short time because they have to do this quickly. [CONFIRMATION]

KERRY WINTERER: Right. [CONFIRMATION]

SENATOR GAY: But however you want to do that we'll get together, probably the day after then. [CONFIRMATION]

KERRY WINTERER: Yeah, we'd be happy to do that because we clearly want this committee understand how this budget is going to lay out. [CONFIRMATION]

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SENATOR GAY: Yeah, so tentatively maybe we can, with Michelle right here too, maybe we're looking at a Wednesday, just we'll try to fit something in. I'll try to get us a room that we can talk. Or we might just do it in my office, so. All right. Sorry, sorry with that. Senator Wallman. [CONFIRMATION]

SENATOR WALLMAN: Yeah, thank you. Thank you, Chairman Gay. Thanks for being here Kerry. Appreciate what you did. I noticed you're also in the private field a fair time. Do you think our reimbursement rates are adequate to encourage more private involvement in this area? [CONFIRMATION]

KERRY WINTERER: Well, I think providers typically are always going to be concerned about reimbursements. Are we talking about Medicaid reimbursements? Are we talking about... [CONFIRMATION]

SENATOR WALLMAN: That's what I meant. [CONFIRMATION]

KERRY WINTERER: Yeah, I think that's always going to be an issue in terms of trying to on the one hand be effective with the dollar and at the same time satisfy the providers, if you will. It's a challenge. [CONFIRMATION]

SENATOR WALLMAN: I know the state of Iowa cut theirs, I think. So, yeah, I appreciate what you do. Do you think we ought to hook together more with schools or is that going pretty good? [CONFIRMATION]

KERRY WINTERER: Yeah, one of my, I guess, basic philosophies is, is that we ought to be looking for more and more opportunities to do what we do with others. Be that private sector being working with schools to provide services in schools, and we can get the kids, I think, much more effectively if we can be providing things with the schools and such. And so one of the things I'm always looking for is opportunities to do that with whoever it may be. The child welfare contracts, I think, are good started at partnering with private entities to provide these services. [CONFIRMATION]

SENATOR WALLMAN: Thank you. [CONFIRMATION]

SENATOR GAY: Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Mr. Chairman. And I'd like to join in my appreciation of your willingness to wrestle with one of the most sophisticated bureaucracies that this state has. And I don't mean bureaucracy in a negative sense. I'd like to talk to you about your management style as relates to that bureaucracy because I've got a little experience with much smaller bureaucracies, and what concerns me, the nature of department that is that big is by definition, I think, a bureaucracy. And individuals who

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haven't made a career of dealing with bureaucracies sometimes get discouraged, disheartened when they can't turn the aircraft carrier. Tell me how you plan to make sure that you don't become one of the walking wounded as relates to trying to get this department to make the kind of changes it's going to have to make to survive into the future. [CONFIRMATION]

KERRY WINTERER: Well, I think one of the advantages of somebody sitting in the CEO's position at HHS is that we have, I should say, I have division directors who come from a whole variety of different viewpoints, different experiences and such. And they may have some experience with bureaucracies, they may not. But those of us I think conform this team that ultimately can manage each of these divisions but then the department as a whole and it doesn't leave me, if you will, to be the Lone Ranger relative to trying to deal with some of these issues. I mean, you got to...in the scheme of things, you really kind of have a young agency, if you will. Obviously, each of these functions goes back a long, long, long time. But there's, we're still...we've had this reorganization, and created the CEO and created the structure just only two or three years ago. And I don't think we've fully adjusted that and I don't think we've fully gone through an effort to try to figure out, well, are we...are things in the right divisions? Do we have the people that we need? Are we organized properly and such? And I think it's, to a large extent, I think that's kind of the place to start to kind of say, okay, fine, now we have this thing, it's been operating for two or three years. Does it make sense the way it is? And should we be looking at different and better and more effective ways to do that, if you will? [CONFIRMATION]

SENATOR GLOOR: When you say that, do we have the people to do it, does that mean you're evaluating the talent sets and skills of those individuals who are heads of those individual departments, and what not? [CONFIRMATION]

KERRY WINTERER: That's right. [CONFIRMATION]

SENATOR GLOOR: Okay. Thank you. [CONFIRMATION]

SENATOR GAY: Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Gay. Kerry, I want to start out with just a comment to thank the department and I know you and I have had several conversations but for the good education that has been provided to the LB603 Oversight Committee, we decided to start out and make sure everybody had the same baseline information and I appreciate the commitment. If we can meet on the 20th we will be taking on Medicaid as it deals with Magellan, and so I'm...I have to say we're all looking forward to that session as we have a lot of questions. But my question is a little different in the sense that I think all of us are trying to watch the national healthcare reform, reading the articles, knowing that every day it's like you lift up the page and it's a new...what effort

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will you put together once we know if there is a national healthcare reform and how that looks, how will you put a plan in place to address that so that we have a fairly good idea what affect that will have on Nebraska? [CONFIRMATION]

KERRY WINTERER: Well, I think there's lots of unknowns relative to how this whole thing is going to play out. I think the one thing that's going to be most significant that could most significantly impact the state is to the extent that healthcare reform involves increasing Medicaid eligibility. And that's a part of this and that's what people are talking about, or people in Congress are talking about, how are we going an insured, we're just going to increase the eligibility of people and move them under Medicaid. And we've been trying to assess, what does that really mean? And we have estimates all across the board in terms of what does that really mean, but once that becomes clear, then we've got to come back around and say, well, what does that really mean for us? And to the extent that it means a bunch more eligibles under Medicaid, then I think we've got to...our job, I think, is to figure out, how are we going to do that? How are we going to pay for that? And at the same time, then you're going to have a huge effort to try to educate the public out there if, in fact, that's what the eventuality is in terms of what does that mean for them. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Thank you, Senator Gay. Kerry, I'm sitting here thinking about almost 40 years ago when we were a couple of students on the UNL campus and even though... [CONFIRMATION]

KERRY WINTERER: Right. Longer ago than we would like to remember.
[CONFIRMATION]

SENATOR PANKONIN: That's right. It seems like it's not very fast. But, first of all, from looking at your resume again I think you're uniquely qualified for this and I think knowing of some of your private business and careerwise to do this, I think is a reflection on the public service interest that you have and hopefully the people around this table...probably not the smartest economic decision that you can make. But I appreciate that but I also want to tell you from my experience here on this side of the desk for three years, is that I think the transparency and just information, a management style that I like whether it's my family or in my small business is, no surprises, you know. And there's going to be bad news from time to time and I think it behooves you, and I mean this is going to be a question too, try to share that and have your people, you know, since flowing up to you and you're in a situation where you're dealing with and I want people in the bureaucracy but people that have many challenging aspects going on in their lives and there's going to be problems, as you well know. But I think...and those of

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us that have sat through briefings on BSDC or we had the hearing on the Lincoln Regional Center, a move they made last spring that whether...I'm not making a judgment on that necessarily, but just the information flow. I think the question is, in common, I guess, is hopefully you'll...I think it works better if we know the bad news, if we know the challenges instead of having a series of drip, drip, drip type of events. Hopefully, you agree with that type of philosophy? [CONFIRMATION]

KERRY WINTERER: I agree with that 100 percent. I think if you ask any of the directors I think they would tell you that one of the first things I said to each of them was, I don't want any surprises. I want to know what's going on as soon as you know that may be some of an issue and some kind of a problem. In turn then it's our obligation, I think, to get others who are involved, who are responsible, who are concerned about this, to be aware of this as well. So that's one of the things that I've said is, no surprises. And the other side of it is also, we need to keep in mind and to the extent isn't shared by other people in the department that I need to know about this, but we need to keep in mind where our accountabilities are and we're accountable to the people out there. And to the extent there are problems in the department and issues with the department, I mean, it's a mistake if we're going to try to shield ourselves from that and take this personally in any way. I mean, we're all supposed to be on the same page here and if there's a problem out there, it doesn't do any good not to be up front and honest about it and deal with it. Yeah, we'll take some hits and some criticism about it, but that's the only way that this can work. It's the only way that you can revitalize, I think, people's view of the department with any kind of view of credibility at all to feel like, yeah, we're not going to shy away from this. We're going to be clear about this, this is a problem. We had an error, we had a mistake, something didn't work the way we wanted it to, and be up front about that. And my experience dealing with senators and with others is, once you're there, then they tend to be on your side and much more sympathetic about it and working toward whatever the solution needs to be at that point. [CONFIRMATION]

SENATOR PANKONIN: Appreciate that statement. I think that's the way this group would feel and I think that will serve you well in that position both with the people you're accountable to and the people that are accountable to you. That's a great philosophy. Thank you. [CONFIRMATION]

SENATOR GAY: Thank you. Kerry, I have a question to follow up on Senator Pankonin's question because I think we all would agree with what he just said about being informed, no surprises. We are the same way. But a little deeper into that. How do you...it's such a large agency, though, and every day you're getting something. Do you have a method set up to contact us or where, on your mind, it's not a problem for us? It may be a problem because we get a call from a news reporter or constituents or something like that. Is there a set policy or how does that work, I guess? Because I sometimes call and this is probably...I call your directors directly and I don't mean any...and probably others do too, I'm sure, but do you have a policy of how to inform us,

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or...? [CONFIRMATION]

KERRY WINTERER: No. No, not at all and I don't really know that that's necessary. I mean, part of what I've been trying to do is convey the idea with directors and everybody else in the department, let's be up front about this. Typically, in terms of making calls to you or anyone else that should be informed, that tends to be a decision that I make or an individual director makes and I'm comfortable with that. I think it's something that people need to be sensitive to. I don't think we need policy that says, well, in this case we call...part of it is a judgment thing, part of it is saying, well, this is something that the senator is going to want to know about or something. But those decisions tend to be mine and/or, in some other cases, the directors. I have no trouble at the same time with any individual senator calling any director at any point in time. That doesn't cause a problem for me. It's not affront to me and I don't think anybody ought to worry about that. And if you think you should call one of the directors because you've heard something in their division that's a problem or an issue for you, be my guest and call. Because I think you should do that. If I were in your chair, I'd want the same thing. [CONFIRMATION]

SENATOR GAY: And that's very good to hear because miscommunication and we've never had any problems with that but communicationwise many times it will be an issue that, let's say, Beatrice that Senator Wallman has to deal with Director Fenner on, or a children's issue, or somebody calls Senator Howard and we need to get that information quick so as long as we have that communication going I think that's excellent. Plus... [CONFIRMATION]

KERRY WINTERER: At the same if I might add, if that's not working for you or if you find situations where we have not done that, then I want to know about that because we should work through to the extent that you have other expectations, we need to know that. [CONFIRMATION]

SENATOR GAY: Yeah. And I have no complaints and I haven't heard any from the members of the committee as far as not having access or...actually it's been quite well. I've just taken this opportunity to make sure we're in the same page and everyone, everyone is listening. And we've got time here to...if you guys have other questions. Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Gay. Kerry, how are we doing on a couple of fronts. I still hear concerns about the length of the form that people have to fill out, food stamps, applying for eligibility and that they still are having problems regard to...they don't have the computer, or they don't have access to one. How...are we looking at anything differently there? Or how are we doing on that front? [CONFIRMATION]

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KERRY WINTERER: In the...you're talking about the application process and such?
[CONFIRMATION]

SENATOR CAMPBELL: Yes. Yes. [CONFIRMATION]

KERRY WINTERER: That's something that I think we have to be looking at. I think that the access of Nebraska and such will help that in terms of the electronic application.
[CONFIRMATION]

SENATOR CAMPBELL: I think part of the concern that's been expressed to me has been the length of it and the access to a computer. And not everybody has that and I realize they can probably walk into the office, an area office but just so that you know that there's still that concern that that application is really long. The other question I have is, how are we doing on the MIS system? Are we back to the drawing board on that contract, or are we moving ahead, or...? [CONFIRMATION]

KERRY WINTERER: Well, we...yes, we are back to the drawing board. As this committee certainly knows, we went through this effort and had a contract and ultimately determined the contractor was not going to be able to perform and terminated that. That's kind of a cloud that, in my estimation, kind of has a silver lining actually because we entered in that contract a couple of years ago. The state of the art, the state of the expectation on the part of the federal government was what it was at that time. It's kind of moved forward at this time and now we're really kind of looking at a different kind of project and a different kind of architecture now that the feds are saying, this is what states need to comply with. And the benefit to that is that many states who have invested heavily in doing an NMIS and bringing that up, are at this point in time now going to, in fact, have to modify those very new systems. And so it is kind of a moving target. What we expect to happen is, we want to do what is called a MIDA assessment, which is essentially a review of requirements and a review of doing a business case, if you will, of what NMIS needs to do because there are some other requirements now that didn't exist previously. There's some integration of that with the whole electronic medical record initiative and such. And the project has really taken on a different character and so what we plan to do at this point is to enter into a contract and probably go through the RFP process to do that assessment, which then in turn will provide the blueprint for what we need to do beyond that. [CONFIRMATION]

SENATOR CAMPBELL: So we really don't have a new timetable yet?
[CONFIRMATION]

KERRY WINTERER: No. No, we have a time...we're trying to get this accomplished as soon as we can but that assessment in itself is going to take some time. We do have some time frames on the back side that we need to meet but frankly, every state in the country is in the same boat in terms of trying to do this. We're not unique. We're not

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unique in terms of having difficulties with a vendor trying to deliver a product. It's just...I mean, that's just kind of part of the territory. But I feel very good at this point in time because I think we've got a better view now of what the end game is and what it is we really want to accomplish ultimately, when we get there, than maybe we did before. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR GAY: Any other questions? I have one last one and then we can close on that. This is a challenge and this is kind of a follow-up to Senator Gloor was talking about such a large agency and there are so many things going on. At the end of your time, you're going now and it's hard to keep track of everything, how would you measure success? What are you looking for when you leave and say, you know, here's what I did? What are you looking for? [CONFIRMATION]

KERRY WINTERER: Well, I would...certainly it goes along kind of the same lines of what I've talked about. I would like to be able to look back and say, well, the agency has a much better perception on the part of the public in terms of what we do. I believe that I would feel good if we had been able to tell the story of what it is that we do. I'd feel better if we had more of these private public partnerships in place and we're more effective in delivering those services. I mean, I kind of have this idea that, well, ultimately, wouldn't be nice if we could ultimately say in three, two, three, four, five years, we could point to this department and say, this was a model for similar departments all around the state...or, I'm sorry, all around the country. And wouldn't that be nice if we couldn't...and learn from other states and try to say, well, okay, what can we do and how can we be a model in all these different fronts. Now having said that, I understand that's very ambiguous and nebulous but it is something that you can put out there and say, well, you know, why not. Why can't we do as good a job as possible relative to all these services that we have to provide? But again, in terms of the priorities that I've already outlined, to a certain extent the priorities of the department haven't changed since it was originally put together two or three years ago and we need to go through the process department division by division of realigning those and understanding those, I guess. [CONFIRMATION]

SENATOR GAY: All right. Thank you very much. Appreciate it and we'll move on and get Jodi up here. And we will get with you and we will be talking, of course, everyone will with you but if we can get that appropriations update and go from there. [CONFIRMATION]

KERRY WINTERER: Do I need to fill this out? [CONFIRMATION]

SENATOR GAY: Erin, does he...no. [CONFIRMATION]

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KERRY WINTERER: Okay. Thank you. [CONFIRMATION]

SENATOR GAY: Thank you. We will close the hearing on Kerry Winterer and start with Jodi Fenner. Jodi, do you want to come on up? [CONFIRMATION]

JODI FENNER: (Exhibit 2) Good afternoon, Senator Gay and members of the Health and Human Services Committee. My name is Jodi Fenner. I began as the director of the Division of Developmental Disabilities in the Department of Health and Human Services on July 27, 2009. I'm honored that Governor Heineman appointed me to this position and I will appreciate your confirmation of his appointment. Let me start by sharing a little bit about my background. I was born in Omaha, but was raised in a small farming community in Oklahoma. I received my Bachelor of Science degree with an emphasis in accounting from Oklahoma City University in 1993. I was a governmental auditor and a financial administrator for a metropolitan area school district, where I completed a three-year certification program for school administrators through Oklahoma State University and obtained my license as a Certified Public Accountant. After giving birth to my two sons and putting my husband through his Masters program, I decided to attend law school in Oklahoma, but moved to Nebraska after my first year due to my husband's employment. I worked for the Nebraska Attorney General's Office right out of law school, where I practiced civil litigation, administrative law, and handled many appellate cases in the Nebraska state and federal courts and in several other appellate courts, including the D.C. Circuit Court of Appeals and the U.S. Supreme Court. In addition to leading the Attorney General's newly created Agriculture, Environment, and Natural Resources Section, I've taught adjunct accounting classes at Southeast Community College until I began as chief legal counsel at DHHS in 2007. During my first three months at DHHS I reorganized the legal and regulatory services and implemented several quality improvement initiatives. It was during this period that BSDC received its first notice of termination from the Medicaid program and a letter of intent to sue from the Department of Justice for civil rights violations that allegedly occurred in 2007. During 2008, I negotiated a comprehensive settlement agreement with DOJ, and while this agreement required significant resources for BSDC and Community Based Programs, DOJ agreed not to pursue civil penalties against the state. I have become very familiar with BSDC and Community Based Services and I care deeply about the well-being of individuals with developmental disabilities. I'm working closely and collaboratively with families, providers, and other stakeholders to improve services in Nebraska. I believe it's important to increase opportunities for individuals with developmental disabilities to access the most integrative, least restrictive services and supports. Our focus is on giving individuals quality choices in where they live, who they live with, and what they do during the day that is meaningful. We must do this, while maximizing our resources, so that we can serve as many individuals as possible with the resources entrusted to our care. Our division priorities include: Obtaining recertification for BSDC; continuing to implement the settlement agreement with the U.S. Department of Justice; expanding and improving community services; developing

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and delivering quality supports, particularly for individuals with enhanced medical needs and those with both a developmental disability and a behavioral health diagnosis; and finally, continuing to involve families, providers, and other stakeholders in an ongoing dialogue to ensure that the division stays current with best practices and is equipped to evolve as needed to serve individuals with developmental disabilities. It's going to take the efforts of our entire team, from frontline staff to providers, to parents and guardians and various advocacy groups to meet the challenges facing BSDC and community-based services. Other leaders in the division and I are meeting with staff in every BSDC home on every shift, including the event shifts, and in every service coordination office in the state. We will continue these visits quarterly or as needed to ensure ongoing quality communications. I am very grateful to have a leadership team and frontline staff that share my commitment and my passion. Thank you for the opportunity to serve individuals with developmental disabilities in Nebraska and I'm happy to answer any questions that you have. [CONFIRMATION]

SENATOR GAY: Thank you. Senator Wallman. [CONFIRMATION]

SENATOR WALLMAN: Thank you, Jodi. [CONFIRMATION]

JODI FENNER: Thanks. [CONFIRMATION]

SENATOR WALLMAN: I must say my phone isn't near as busy as it used to be. (Laughter) So I appreciate you working for us, and you think things are...it seems like things are turning around. I don't know if it's still apprehension, you know, what we're going to do with state institutions, but it's definitely a lot better. Thank you. [CONFIRMATION]

JODI FENNER: Thank you. [CONFIRMATION]

SENATOR GAY: Other questions? Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: And I would say that what I've heard in the short time that you've been there, although that short time may seem like a lot longer time for you given your challenges, have been very positive from individuals like Senator Wallman and others that I've asked about, so congratulations on the hard work that you've done so far. I'm going to ask you two questions. One is, your statement says, our focus is on giving individuals quality choices in where they live, and then under your priorities, expanding and improving community-based services. If you were to look into the future, three, four years, does that mean you'll see the census at BSDC lower than it is now, do you think? I mean, is that your anticipation? [CONFIRMATION]

JODI FENNER: I do. Primarily because we already have individuals who have indicated that they would like alternative services but perhaps not just the services that we have

existing. So I think we have a population at BSDC who already start in the transition process as we try to develop appropriate services for them. But then I think as other services become available, such as the Mosaic expansion into Lincoln, that we'll see individuals who want to take advantage of those services as well. Doesn't mean we won't have individuals at BSDC, it just means that it might be a different population than we have now. [CONFIRMATION]

SENATOR GLOOR: Okay. But a lower population is reasonable to think we'll be looking at? [CONFIRMATION]

JODI FENNER: I believe so. [CONFIRMATION]

SENATOR GLOOR: Okay. Any my second question probably is more comment than question but I've been pretty vocal in saying that I think the large problem...the largest component of the problem at BSDC was one of culture. That the facilities were good, maybe not great, but certainly the people who provide care to those facilities take a lot of pride in the campus and the buildings on that campus. The individuals that provide care, many of them don't just see it as a job but clearly as a calling. So you've got quality people, you've got good facilities, what's wrong here? And I think there was just an awful culture, just an awful culture, and I will measure your success not by whether we get the dollars reinstated from the feds, but whether that culture continues to see an improvement. And I've heard it has gotten a lot better. But building a culture that has legs is a real challenge and from what I hear, you've got the demeanor and personality to do it. But changing that culture, I think, will let everything else fall into place. So good luck. [CONFIRMATION]

JODI FENNER: Thank you. I appreciate what you're saying and I know my staff hate to hear the word culture because it has other connotations. But we really, truly did have two issues and one of them is the culture of, type of services we provided BSDC. We've always provided really good services but maybe not necessarily the type of services that we need to provide for an ICF/MR according to evolving Medicaid standards. So we have that culture as being a culture of support not a culture of care. That's one thing we work on. But the other thing is, and I think you hit on it, our frontline staff. Nobody wants to be in a job where they don't feel like they have a voice and that they feel important. And we couldn't run that facility without our frontline staff and so we've been trying to find ways to give them an effective voice. It doesn't mean we can do everything that they'd like to do, but we've already been able to learn things from our direct care staff that we can implement and improve their quality of life in their workplace. So we're working very hard to do that. [CONFIRMATION]

SENATOR GLOOR: Good. And don't give up on using the word culture. If you can find a better word, fine, but it fits. [CONFIRMATION]

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JODI FENNER: Yeah, I know and...yeah, and it is culture, but there's a lot of things that go into that, absolutely. [CONFIRMATION]

SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Jodi, thanks for coming today and much like Mr. Winterer, I think you have some unique qualifications and also that commitment to people and people in these...that have these situations. So I appreciate that. Unlike Senator Gloor, well, I should say unlike, I'm going to follow up on his question a little bit even though your CPA background also tells you that that money from the feds is important and I heard what he said. But I think it's still a very important piece of the puzzle for not only HHS's financial situation but for the state. What do you think a time line is that we could get recertified and the chances of? [CONFIRMATION]

JODI FENNER: Certainly, you all are aware of many of the changes that we've made at the campus and I'll be honest, I think that we're very close to being substantively providing the services and the appropriate supports that we need to at BSDC, if we're not already there. But the problem is, and this does go back to Senator Gloor's recognition of the cultural aspects of what we face, it isn't just about doing the right job. It's about being able to pass the survey and part of that is a staff that is battered and bruised and to even consider doing a survey at this point in time, even with a perfect campus I believe we would fail simply because of the stress and anxiety that that brings along with it. So what we're trying to do is work through some of those processes, deal with some of that healing on campus, and maybe that's not the right word, but that's how we see it. Getting to a point in the spring where we can start doing some mock surveys and working with staff so they know what to expect. [CONFIRMATION]

SENATOR PANKONIN: And that was going to be my follow-up question. Is there...when you say mock surveys, my question was going to be, who can you use to practice and to hopefully have...are there outside providers that do these mock surveys that...? [CONFIRMATION]

JODI FENNER: Yes, and we'll do a combination of both. I don't know that you've met Angela Server, my quality...assurance quality improvement director but we actually hired her because she used to be a surveyor. So many of the things that we need to do we can be good stewards of the tax dollars and do them internally. She answers independently of the other administrators that she would be surveying at the facility. We've done a really good job of restructuring the command, so to speak, at BSDC so we can have checks and balances. So she will do a large number of those. But then before we ask for a survey from CMS, we'll have an outside entity do that. There are a lot of entities that do that, so. [CONFIRMATION]

SENATOR PANKONIN: Good. Thank you. [CONFIRMATION]

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JODI FENNER: You're welcome. [CONFIRMATION]

SENATOR GAY: Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Gay. Jodi, I concur that's all been heard. I mean, we're hearing very good things. I want you to know that I appreciated your honesty with regard to the response to John McGee's reports. I think sometimes we've, in the last six months, we've all kind of heard, you know, flowery language but not, you know, this is an honest assessment. Do we have the ability to provide to the federal government and the courts, you know, a report saying, we disagree with these findings and we would like to make comment, or do we just have to sort of watch those reports being submitted and not be able to protest them? [CONFIRMATION]

JODI FENNER: We do. I've been in communications with Richard Farano, the Department of Justice. And everything we've provided to Dr. McGee and our concerns about the reports have been given also to the Department of Justice directly. We're toying with...well, we're trying to determine whether to file the formal response with the court. So those are...we do have an opportunity and we do continuously provide information directly to the Department of Justice so they know what our concerns are, and I'll be honest with you, they share some of those concerns. So we're working together to determine how we're going to go forward with that part of the settlement agreement. [CONFIRMATION]

SENATOR CAMPBELL: Because I think we've seen...we received copies of those reports and what seemed to me that if you do file anything formally, it might be helpful for the members at least of this committee to see that. Because I think your honest statements brought to light what some of us had been seeing in those reports but really didn't know how to articulate. So thank you for being a voice there. [CONFIRMATION]

JODI FENNER: Thank you. [CONFIRMATION]

SENATOR GAY: Any other questions? I've got one for you, Jodi. I was looking at, that CMS we were able to be, we were decertified as quickly as we thought we would be, which is a good thing. So there's \$10 million in savings in the budget that's going to be recommended we put back into the budget because we received those federal monies. But I guess on that, we're still on track then, the decertification, say that, we're still on track with the money we have now that was put in the other budget is substantial enough, you feel, that we can stay on track. Because I've heard great things too. I'd hate to get you off track but are you comfortable with where we're at there? [CONFIRMATION]

JODI FENNER: I am. In fact, the senior management team and I with a lot of middle

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management subteams have met to go through what we need to do for our...not just the recertification but DOJ compliance and that's where my accounting degree really helps is we've been able to go in and ensure that financially we have all of our needs met in the various areas and we do. We're very comfortable with the budget that we have. It doesn't mean that we'll just spend it because we have it. We'll be very diligent with the money that you've entrusted to us and if things change where we can save money, we'll certainly do that. But I'm very comfortable with the resources that we have at our disposal. We really appreciate that you've given us sufficient resources.
[CONFIRMATION]

SENATOR GAY: Yeah. Okay. Well, that's good to hear because I just wanted to make sure, you know, publicly that we're good because I don't want it to look like it's money we're taking away from what was budgeted to you. [CONFIRMATION]

JODI FENNER: No, it is not. [CONFIRMATION]

SENATOR GAY: Okay. Second thing was provider rates into the future. And I'm interested in where we're going as far as our community-based services. We're trying to get some established of course and I think it's going well with the contract with Mosaic, and all that. Do you think...and I know you can't answer for everybody, but is that on task and how are you following those, that progress? Because we don't follow it day-to-day, the Mosaic. Is it 15 homes we're doing? [CONFIRMATION]

JODI FENNER: Oh, okay. Eleven. [CONFIRMATION]

SENATOR GAY: Eleven. [CONFIRMATION]

JODI FENNER: And then some additional in Lincoln. They're actually going to expand into Lincoln as well. [CONFIRMATION]

SENATOR GAY: Hopefully, that will...you know, there's other money for that, but will that keep going on and how are you monitoring both the BSDC Center and the community-based services which is a large, probably the largest amount of what you do? [CONFIRMATION]

JODI FENNER: There are a couple of aspects of that. We have a team that actually works on the Mosaic project that...those are individuals in my central office administrative team and individuals at BSDC to kind of work through how do we ensure that we're on target with the homes and also filling them in the appropriate priorities. And so there's actually a team of individuals working on that. We are on target. I will admit that it's very hard for a parent or guardian to commit to a facility or a home until they've seen it. So I can't tell you that all those slots are filled and I don't think they will be until someone sees it. But we anticipated that when we signed the contracts and so

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we have processes in place to work through that. So that is actually going very well. You talked about provider rates which is sort of a different aspect in how we provide services in general in the community. We were very gracious. We were awarded a CMS grant, so to speak. They're paying for Robin Cooper, who is the executive director of the National Association of Developmental Disability Directors, to come in and help us with some strategic planning and looking at our service provision so that we can find ways to expand our services. Because part of the reason that provider rates are an issue is, we have individuals in traditional services who really could be served in other capacities and that's a struggle not just for us financially but for the providers to be providing services that could be provided in a more efficient way. So we're looking at things. The first and most important of those things is expanding our vocational programs by amending our Medicaid waivers to allow us to be more flexible and be a little more up-to-date on how we provide those services. And the fabulous thing is vocational rehabilitation is going to work hand-in-hand with us and we're not going to duplicate efforts any more. We're going to work together so we can maximize our efficiencies. The second item is retirement services. Right now individuals in their 70's and 80's are going to traditional sheltered workshops when that may not be something that is really suitable for their needs but yet they could still be provided alternative habilitation services. And the unfortunate aspect is many people end up going to a nursing home because they can't participate in our traditional types of services. So we're looking at ways to serve them more efficiently and in a way that's more responsive to their needs. And those are just a few of the examples of what we're doing to expand. And not just expand but change the mix of how we provide services. So does that answer your question? [CONFIRMATION]

SENATOR GAY: Yeah. Now, I think that's an important component of what's going on. We can sometimes get focused on a specific problem but then you've got so many other things going on, you know, in your division that we lose track. But I've heard good things there. Some of the...you know, I'm hearing good things as well like everyone else and I like your directness. I was on the BSDC committee and watched you work there and I think it's...people just want an answer. Being direct, I think that's a good quality and hearing good things. We're going to close as Senator Wallman has a question. [CONFIRMATION]

SENATOR WALLMAN: Again regarding provider rates, like Mosaic got a 1 percent increase, is that right? Is that right? [CONFIRMATION]

JODI FENNER: All of the providers are treated the same on the rates. [CONFIRMATION]

SENATOR WALLMAN: Okay. Is that going to stay the same? [CONFIRMATION]

JODI FENNER: Well, that depends on you guys. (Laugh) [CONFIRMATION]

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SENATOR GAY: Well, we'll get into that Wednesday, yeah, that's yet to be decided, I guess, so. But anyway, thank you very much for coming, both of you. Appreciate it and we're looking forward to great things from both. Thank you very much.
[CONFIRMATION]

SENATOR WALLMAN: Thank you, Jodi. [CONFIRMATION]

JODI FENNER: Great. Thank you. Thanks. [CONFIRMATION]

SENATOR GAY: All right, we'll...let's...my plan is we'll at 10:30, we'll take a short break at 10:30. We'll get into the Nebraska Rural Health Advisory Commission. I know four people, several...a few couldn't make it, four will be here. We'll do that. Get done when we get done. And then 1:30 we have Commission for Blind and Visually Impaired and 1:30 State Board of Health. It's important, though, at 1:30... [CONFIRMATION]

BREAK []

SENATOR GAY: I've got Peggy Rogers, Rebecca Schroeder, Michael Sitorius, and Roger Wells. Is that all you, right now? Come on up. We're going to...this is not a grill session by any means but we'll get started and I'll just...should we start out with Peggy Rogers? Peggy, do you want to come on up and just give a little statement and go from there. If there's any questions from the committee we'll ask you those. Go ahead and state your name and if you could spell it out too, because she's got to record all of this stuff. [CONFIRMATION]

PEGGY ROGERS: (Exhibit 3) Okay. My name is Peggy Rogers, P-e-g-g-y R-o-g-e-r-s. My real name is Margaret. You will see it both ways. I am an administrator for a long-term care facility in McCook, Nebraska. McCook is in the southwest corner of the state, population of about 8,000, county population of about 12,500. I have been involved in long-term care for about 19 years. I have been a nursing home and an assisted living administrator for 11 of those years, and I currently serve as director at-large for governmental entities on the Nebraska Health Care Association. I am also on the Nebraska Health Care Association Foundation and I work very closely with Pat Snyder. I was born and raised in McCook, Nebraska, and I still live there. I consider it quite an honor to be able to be the administrator of the nursing home and the assisted living community there in McCook. And I feel like I would be a good candidate to serve on this commission. [CONFIRMATION]

SENATOR GAY: Excellent experience. Is there any questions from the committee members? Senator Stuthman has one. [CONFIRMATION]

SENATOR STUTHMAN: Thank you, Senator Gay. Thank you, Peggy, for coming this

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distance to represent yourself for this. I think it's just wonderful that you are willing to serve. I think that's great. Your long-term living assisted place is Hillcrest Nursing Home? [CONFIRMATION]

PEGGY ROGERS: That is correct. [CONFIRMATION]

SENATOR STUTHMAN: Is that a privately owned nursing home or is it one of the...like the Golden Livings or anything like that? [CONFIRMATION]

PEGGY ROGERS: No. No, actually it is county owned by Red Willow County. We're independent, which I think takes us away from that corporate environment and probably allows us some independence in how we set our policies and procedures, probably some extra challenges. We do work with a variety of consultants that help us set those policies and procedures. We also manage our own money. The county does not become too involved in the administration of the nursing home. Whatever money we bring in is the money that we operate on for that year. I have actually made some money some years and I've lost some money some years, so you know it fluctuates. I do understand the arena of Medicaid, Medicare reimbursement, third-payor parties. I worked in...I was the business office manager for several years before I started with the administratorship of that facility. And actually we are a very vibrant piece of our community, very successful, very well respected, and I am happy to say, we deliver quality care. I do wrestle with the difficulties of being in a rural area with healthcare. Two years ago our orthopedic surgeon relocated to Leawood, Kansas, which is a part of Kansas City, and his name was Dan Farrell. I actually used to babysit him when he was a youngster, (laughter) so I knew him very well, but he was an excellent orthopedic surgeon. He certainly was helpful on the revenue end, not only for the nursing home where we do a lot of rehabilitation. Actually about 50 percent of the people that come into the nursing home now go home, which is a credit to what nursing homes do. And we're one of those. We do not have an orthopedic surgeon now and, of course, our census has dipped and so has our revenue. I do know that when I need an inpatient psychiatric evaluation for a resident, I am sorry to tell you but we go to Beloit, Kansas. We do not have access to that. And we face a shortage of nurses, of doctors. So I'm very familiar with what a commission does in that sense. [CONFIRMATION]

SENATOR STUTHMAN: Okay. Thank you. One question that I had, have you got space available for more or are you full, as far as your...? [CONFIRMATION]

PEGGY ROGERS: No, actually we are licensed for 120 beds. Today our census is probably 93. There was a time when we were licensed for 130 and we did have a population at 127. And, of course, the trend in long-term care is to keep people in their homes. We do have the money follows the person grants, we do have the assisted livings coming into play, and our census numbers have dipped. We have rode it out quite well. We're adapting. So I expect to continue to go forth into the future. But as far

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as physicians, specialists, like the orthopedic surgeon, nurses, dentists, we face all those shortages in our community. [CONFIRMATION]

SENATOR STUTHMAN: And that's...and I'm glad that you brought that up because these are the issues that we face here. You know, how do we keep people in those rural areas to stay there, but it's kind of surprising to me that an individual that was born and raised there and then he left. But it's dollars, is what it is. [CONFIRMATION]

PEGGY ROGERS: It is dollars. [CONFIRMATION]

SENATOR STUTHMAN: But we need to do everything possible and that's part of our job to try to attract people or keep the people in those rural areas, so. Thank you for your commitment. [CONFIRMATION]

PEGGY ROGERS: Okay. Thank you. [CONFIRMATION]

SENATOR GAY: Senator Pankonin has a question and then we'll go to Senator Wallman. [CONFIRMATION]

SENATOR PANKONIN: Peggy, thanks for being here. I'm sorry I was a little bit late from our break but your story resonated with me, I'm from Louisville, Nebraska, and our community owns the care center, assisted living facility in that community, and as a former council person and mayor and on it, in fact I...and we had to check here to make sure it wasn't like I was back on the advisory board as of a couple months ago. And one of the things, all of the things you've talked about I understand. And we've added assisted living over the last several years when I was mayor because it's such an important part of the system, it actually feeds people into the...I mean, you know, you almost need it. And I went through all those things. One of the things that has been an issue in our community a little bit is that with bond issues that the community is...and it's an economic benefit to the community, obviously, to have a care center. But some of the questions have been in our community about a return back to the city of, you know, when times are good, or whatever, and I'm just curious in your situation the county owns your facility as you've said. Do you sometimes remit money back up in the good years to the county? You don't get support from the county but have you had to...?
[CONFIRMATION]

PEGGY ROGERS: No. No, they have let us act independently. In fact, last year I did have a shortfall and I had put reserves aside that got us through that shortfall. So the money does not flow either way. All of the money brought in stays. [CONFIRMATION]

SENATOR PANKONIN: Yeah, and that's what our situation has been as well. Right.
[CONFIRMATION]

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PEGGY ROGERS: Yes, and that has worked very well. I answer to a five board member, a five-member board who is appointed by our commissioners. There are three of them and they are elected. [CONFIRMATION]

SENATOR PANKONIN: Sure. Same type of stuff. How many beds are in your assisted living or rooms or...? [CONFIRMATION]

PEGGY ROGERS: We 14 beds. We have 10 apartments and they are...they're full, most of the time and they're full right now. [CONFIRMATION]

SENATOR PANKONIN: Yep, and then you see a lot of those folks ending up in the care center, exactly. [CONFIRMATION]

PEGGY ROGERS: That is correct. And we see a lot of husband-wife situation where the husband might live in assisted living and the wife is in the nursing home. [CONFIRMATION]

SENATOR PANKONIN: And the wife's in the other...exactly, right. [CONFIRMATION]

PEGGY ROGERS: We also have a 45 childcare center for our employees. We do let community members use that too. And that has been a very positive feature for us. [CONFIRMATION]

SENATOR PANKONIN: A childcare. [CONFIRMATION]

PEGGY ROGERS: Right. We have run that for...we're in our 11th year now. So I am responsible for that income and outgo too. I... [CONFIRMATION]

SENATOR PANKONIN: Both ends on the spectrum, right? [CONFIRMATION]

PEGGY ROGERS: Right. Yeah, I keep it all going. [CONFIRMATION]

SENATOR PANKONIN: Is that been a positive cash flow, positive...? [CONFIRMATION]

PEGGY ROGERS: No. (Laughter) [CONFIRMATION]

SENATOR PANKONIN: No. [CONFIRMATION]

PEGGY ROGERS: No, but it's very important to our board of directors in recruiting and retaining nurses and nursing assistants. And every year we look at it and every year we decide that the benefits outweigh the negative. The intergenerational activities that we have... [CONFIRMATION]

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SENATOR PANKONIN: That's amazing, yeah, what do you think about that, right?
[CONFIRMATION]

PEGGY ROGERS: And it has been a good thing. [CONFIRMATION]

SENATOR PANKONIN: Well, thanks for what you do and thanks for your willingness to serve on this as well. Thank you. [CONFIRMATION]

PEGGY ROGERS: Yes, yes, certainly. [CONFIRMATION]

SENATOR GAY: I bet your county commissioners appreciate your stewardship with...that they didn't have to put in there, and so. Senator Wallman. [CONFIRMATION]

SENATOR WALLMAN: Thank you, Chairman Gay. Yes, Peggy, thanks for coming to your house here. In regards to your...we have one nursing home in my area that's going to close because they said they had too many Medicaid patients, you know. Have you got a percentage basis or you just take everybody obviously, huh? [CONFIRMATION]

PEGGY ROGERS: When I first started in this business the mix was 60 percent private pay. Now the mix is 60 percent Medicaid, so that is on the increase and we struggle with those rising numbers. We know those numbers are going to go up and indeed we're one of those providers that feels underreimbursed. And what we have done is, we have built our Medicare program up and that Medicare program covers the loss that we have through Medicaid. And that is why it is so important that we have an orthopedic surgeon. Certainly, those patients that go to the orthopedic surgeon need the rehab and that's where Medicare comes in. [CONFIRMATION]

SENATOR WALLMAN: Thank you. [CONFIRMATION]

SENATOR GAY: All right. I don't see any other questions. Thank you. This is your first time on the board, right? [CONFIRMATION]

PEGGY ROGERS: Yes. Yes, it is. It is my first time. [CONFIRMATION]

SENATOR GAY: Thank you for your service. I'm sure you'll enjoy it, I hope.
[CONFIRMATION]

PEGGY ROGERS: I hope so. I intend to. [CONFIRMATION]

SENATOR GAY: We appreciate the experience that you bring to it. That's nice Nebraskans step forward. So we all appreciate your service. [CONFIRMATION]

PEGGY ROGERS: Well, thank you very much. [CONFIRMATION]

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SENATOR GAY: All right. [CONFIRMATION]

PEGGY ROGERS: And it's nice to be here with you. [CONFIRMATION]

SENATOR GAY: Thank you very much. Now we'll go Dr. Rebecca Schroeder.
[CONFIRMATION]

REBECCA SCHROEDER: Good morning. [CONFIRMATION]

SENATOR GAY: Good morning, Doctor. [CONFIRMATION]

REBECCA SCHROEDER: (Exhibit 4) My name is Rebecca Schroeder, R-e-b-e-c-c-a S-c-h-r-o-e-d-e-r. I am a clinical psychologist and I live in Curtis, Nebraska, which is in Frontier County, just nearby Peggy in McCook. And I practice psychology both in Curtis and I have an office in North Platte. Today I am here in regard to my appointment to the Rural Health Advisory Commission. I have represented the mental health member on the board for the last 6 years and I am presently seeking a third term. I have enjoyed my work on the Rural Health Commission and feel that I can continue to contribute to the work that the commission accomplishes and what we're working on. The commission has accomplished a lot in the six years that I've been there with their main goal, of course, is to recruit and retain health professionals to rural areas. But there is more work that needs to be done. Both the student loan program and the loan repayment program have been successful in placing individuals out in rural Nebraska. However, there are some obstacles ahead including financial shortages. For example, our loan programs need to keep up with the increasing amount of debt that students are leaving school with. Right now we are well, well below the average debt that we see. Also we have a long waiting list for our loan repayment program. We have individuals ready with community matches, ready to go out, just awaiting the word that financing is available. We realize that there are many financial shortages occurring all over Nebraska. However, we hope that you and the rest of the Legislature will recognize the vital role that these healthcare programs play in building and maintaining rural healthcare in Nebraska. Residents of rural areas deserve to have quality healthcare delivered to them within a reasonable distance, and at a reasonable cost. And I hope that I can continue to make a contribution. [CONFIRMATION]

SENATOR GAY: Any questions? I've got a question for you. When your...you've been on the board and we appreciate your services. Is there...I mean you talked about the repayment programs and those, and they are important. Do you feel that, is the board looking at ideas though to bring to us. Many times we're...you know, we're the Health Committee and there's only 7 of us and there's 49 senators, but is there ideas out there that...and I know we get them, but do you communicate quite a bit with the senators or you guys coming up with ideas and say, because we get them, but I just wondered how

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that worked. [CONFIRMATION]

REBECCA SCHROEDER: We do, and we have some, yes. As a commission as a matter of fact we're meeting this afternoon which made this hearing very nice this morning. Good timing. But yes, we are working with that and we work with Office of Rural Health, of course, and put together proposals and put together ideas. At times we've worked on proposing legislation with various senators and that sort of thing. We are worried...we're worried about the programs being sustained. [CONFIRMATION]

SENATOR GAY: Yeah, and we've helped you. I think that needs to continue in the future because, you know, there's just so many things going on. Earlier we had the confirmation hearing on the director of Health and Human Services and it's such a huge agency, you know. And then we have our sets of problems, you know, but we rely a lot actually and I think we're going to have to rely more on ideas that other people in the state that practice in this bring to us because, you know, what can work, and what doesn't work. And I know money and the finances is a big issue and we have to kind of work it all together but like I say, we appreciate you serving on there, so. [CONFIRMATION]

SENATOR PANKONIN: Senator Campbell would both like to... [CONFIRMATION]

SENATOR GAY: Yeah, go, Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Dr. Schroeder, thank you very much for your service. Finding someone who is a behavioral health clinician and working out is tremendous in that part of the state. One of the things that I wanted to bring up and just mention to you is, as a part of the safe haven response there was a package of bills put together, LB603. And one of the components of that is a program that would hopefully build behavioral health practitioners across the state. And Dr... [CONFIRMATION]

SENATOR PANKONIN: Boust. [CONFIRMATION]

SENATOR CAMPBELL: Boust, thank you, I always want to put an R in there...visited with this committee on the workforce when we had the interim hearing. And she's just dynamic and they're really doing some wonderful things and, hopefully, your advisory board could link up with them because you're doing a great service being an advocate for rural health. [CONFIRMATION]

REBECCA SCHROEDER: Well, and you're right, Dr. Boust is wonderful, and we are communicating with her... [CONFIRMATION]

SENATOR CAMPBELL: Oh, good, good. [CONFIRMATION]

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REBECCA SCHROEDER: ...and I met with her last month and she's got some great ideas. Unfortunately, it's going to be a while before we see any difference, or before we see that come to especially our part of the state, but hopefully with time it will help. [CONFIRMATION]

SENATOR CAMPBELL: But she talked about it the same way that they had students who were ready to go into a community and her concern was that we try to link up the community earlier with a student so both have a "comfortability" about that person coming to practice in their communities. So whatever help you could give there I'm sure would be great. [CONFIRMATION]

REBECCA SCHROEDER: That's a great idea. [CONFIRMATION]

SENATOR CAMPBELL: Thanks. [CONFIRMATION]

SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Thank you, Senator Gay. Doctor, I had...some of that, I was going to make that same comment that Senator Campbell, but I had a follow-up question. And it's related in that, just looking where you were educated and whatever, I'm kind of assuming you were maybe a native Nebraskan. [CONFIRMATION]

REBECCA SCHROEDER: No, I was not. [CONFIRMATION]

SENATOR PANKONIN: And so I'm just curious because of a concern of us and particularly Stuthman about folks coming back to rural areas, just curious, how did you get back to Curtis? [CONFIRMATION]

REBECCA SCHROEDER: Well, that's a good question because I was born and raised in Minnesota and I went to Nevada, at Reno, to get my Ph.D. And actually it came down to finances. I was a single mom and Norfolk Regional Center had a predoctoral internship that paid the most in the country, and that's where I came. [CONFIRMATION]

SENATOR PANKONIN: Yeah, okay. [CONFIRMATION]

REBECCA SCHROEDER: And from there, I ended up in North Platte because of a great job offer, again, that had financial incentives. So I know personally how important finances play. [CONFIRMATION]

SENATOR PANKONIN: And that's...yeah, well, that's good and we're glad you're here and hopefully you're glad you're in our state. [CONFIRMATION]

REBECCA SCHROEDER: Yes, absolutely. [CONFIRMATION]

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SENATOR PANKONIN: And we appreciate your service there in that part of the state and sincerely, it's so important. And we know especially in mental health areas that sometimes we're very underserved in parts of Nebraska, so thank you for doing what you do. And that answers...it's part of a policy answer as well, so thank you.
[CONFIRMATION]

SENATOR GAY: Doctor, just a little follow-up to Senator Campbell's question that's going through my mind a little bit too. But I think on that, if we're trying to get these centers going with the residencies, and all that, is going to be a little bit about who is writing, who wants to do it as well. So I would encourage you to stay closely involved in that if you can because I've just seen through government it's sometimes it's the willing participants who raises their hands that...we'll do it here. We'll get maybe some of these services and when you say...and it will take a long time, I agree. And just what Senator Pankonin said about finances, we all understand that and that's just, you know, that is what it is, so we'll try our best on the financial end of things. But it's a challenge. Anyway, so...appreciate...any other questions. I don't see any. Thank you for coming today. [CONFIRMATION]

REBECCA SCHROEDER: Thank you for your input. [CONFIRMATION]

SENATOR GAY: Thank you. Appreciate it. We've got Dr. Michael Sitorius. Doctor, how are you? [CONFIRMATION]

MICHAEL SITORIUS: (Exhibit 5) Good morning. Michael Sitorius, M-i-c-h-a-e-l S-i-t-o-r-i-u-s. I'm going to be starting if you approve, I will be starting my 13th year on the Rural Health Advisory Commission. Maybe you won't now, (laugh) and want some new blood in there but this is one of the more important things that I participate in and my role is a faculty member at the University of Nebraska Medical Center. I grew up in Cozad, Nebraska. My father was a...I'd like to say he was a FP but he really wasn't. He was a GP because family physicians didn't exist as they are today at that time. My family...I still have three of my siblings that live in rural Nebraska. My mother is 91 and lives in Cozad, Nebraska, so I'm increasing aware of all the needs, not that I needed to be reminded, but it's personally important. I've spent my 30 years, faculty member at the UNM and I'm going to give a little history here. My whole goal was to be like my father and be a rural family physician. I married a pediatric radiologist. Well, there aren't a lot of opportunities in rural Nebraska for a pediatric radiologist, so I chose to stay on the faculty and focus my entire career, both before I was chairperson and now as a chairperson of the Department of Family Medicine at trying to develop programs that would identify young people that want to be in rural practice. Find programs to get them into medical school, sustain their interest during medical school, and then put them out at the other end and I think we've been reasonably successful, not as successful as we would like to be. There are a lot of mitigating factors that I don't have any control over

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but the educational piece of it I think we've got in place at the University of Nebraska Medical Center to help do this. The Rural Health Advisory Commission has been critical in that it provides the in point in the loan forgiveness, the loans at the front end, in looking at policies that help you all in state Legislature work towards programs that will sustain health. One of the things that has helped me a great deal on this Rural Health Advisory Commission is to realize it's not just physicians that are needed in these rural areas. You need PAs, nurse practitioners, you need...we need a lot more mental health providers in these areas. And during my tenure we've gone from a physician oriented commission to one that has expanded into other areas and looking for the healthcare needs. That I'd like to say that I've been a part of that. I clearly have not been the major mover but have done what I can from the academic side and from my work within the community. I will remain committed to work with the commission, with you, and with the other state agencies to figure out any ways we can to make the practice of medicine or mental health more attractive, to provide the financial incentives, and the wherewithal to keep our good Nebraska students here in Nebraska and some from outside of Nebraska to come into Nebraska. We've done a lot but there's a lot more to do.
[CONFIRMATION]

SENATOR GAY: Thank you, Doctor. Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Chairman Gay. The committee should know that Dr. Sitorius and I go back a ways, like to Hastings College where he was warping the top end of the grade scale in comparative anatomy and a few other courses. (Laughter) I've long since forgiven him for that. And I haven't teed this question up for him but do you believe medical home is a reasonable approach, a delivery system for addressing some of the challenges in rural health? [CONFIRMATION]

MICHAEL SITORIUS: I think it will be one of the solutions proposed. I think it's one that really fits the state of Nebraska where we get more of the services combined into one home. Yeah, I think it's going to be very important. [CONFIRMATION]

SENATOR GLOOR: Thank you. [CONFIRMATION]

SENATOR GAY: Any other questions? [CONFIRMATION]

SENATOR PANKONIN: Senator Gloor will give you a check a little later here. (Laughter) [CONFIRMATION]

SENATOR GAY: Doctor, I've got question on a loan repayment program.
[CONFIRMATION]

MICHAEL SITORIUS: And he didn't tee that up either. [CONFIRMATION]

SENATOR PANKONIN: All right. [CONFIRMATION]

SENATOR GAY: On the loan repayment programs and some of those things, the funding of it, and in your general...13 years you've been doing this, what's working, what's not working, what...to get people there and stay there? The whole idea is to get people through school, come back and stay there. What's working and what's not working, I guess? Use this time as a forum to tell us what we can do. [CONFIRMATION]

MICHAEL SITORIUS: Okay. Well, I would say in my 13 years we didn't have a loan forgiveness program when I started. It was just a loan program at the front end. And what I've seen is that the students, the young people no longer are very attracted to the loan program and are much more attracted to loan forgiveness. I think actually it works out better this way because you've got people that are more mature, further along in their career and you can get them very committed. So you're going to identify the people that really see this as their passion, their commitment, and where they would like to go. I think the loan forgiveness program is the wave that other states have seen be successful. We have seen it be successful. It's a bit more costly, because to meet the competitive nature, a student coming out of medical school now at the University of Nebraska has an average debt of somewhere between \$120,000 and \$130,000. I would suspect for other professional schools it's not far behind that. So it takes a fair amount of money to entice the young people to go. But I think the loan forgiveness program has been wonderful and I think expanding it beyond just physicians to physician's assistants, nurse practitioners and to some mental health practitioners has also dealt with some of the other issues. [CONFIRMATION]

SENATOR GAY: And I guess on the whole scope of...I mean, does it work when we're getting...give us some examples of where it's working that we're getting...and you know, is it expanding, is it just doctors? But if we need PAs and everyone else... [CONFIRMATION]

MICHAEL SITORIUS: I think it's worked in all those areas. For physicians, yes, and not just primary care physicians but general surgeons and obstetricians are...particularly, general surgeons are in very short need in rural America and rural Nebraska is no different. Family physicians, general internists, obstetricians, and then you have PAs, nurse practitioners, and then a wide variety of mental health practitioners. I think it...I don't have the data in front of me but I think it has been extremely successful. I've taken people that I don't think would have ever chosen some of these locations for their practice, gotten them there, and many of them...I won't say all, but many, if not most, have chosen to stay. [CONFIRMATION]

SENATOR GAY: Well, I'm cheating a little bit. I want to use your experience to...we could go find this out and we will as we look into these but, you know, I just wanted your...sometimes just that knowledge of what's going on. [CONFIRMATION]

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MICHAEL SITORIUS: It's one of the reasons I feel it's one of the more important things I do as a medical school representative on this commission is this commission versus many other things that I'm participating in. Not that they aren't important, so I don't want that to get back to my... [CONFIRMATION]

SENATOR GAY: No. Senator Campbell has a question. [CONFIRMATION]

SENATOR CAMPBELL: Dr. Sitorius, just as a follow-up to Senator Gay's comments, do you see a number of communities who step forward to sort of, you know, add money to the loan forgiveness or, you know, an enticement. Is that making a real difference? [CONFIRMATION]

MICHAEL SITORIUS: Well, yes, and they all really have to because the way the loan forgiveness program works is the community has to match half of it. So I think those communities who have been most successful have, one, had the resources to do it, and had the willingness to make that investment in the practitioner. I think our loan forgiveness program in this state is very good because it does require a commitment from the community to be part of the funding source. [CONFIRMATION]

SENATOR CAMPBELL: Do they continue...do you think they add other incentives? I mean, not just money, but are there other ways that the communities help someone that makes it more successful than another? [CONFIRMATION]

MICHAEL SITORIUS: Yeah, and I think again recruiting spousal, you know, it's...there that dealing with issues of education. I think they have been very helpful. The communities are really important as partners with the state in resolving these issues. [CONFIRMATION]

SENATOR GAY: Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Mr. Chairman. Just a quick question. Has the enrollment in the Rand program stabilized some? I know it was dropping for a while but is that rural health, especially for family practice? [CONFIRMATION]

MICHAEL SITORIUS: Yes, it has. [CONFIRMATION]

SENATOR GLOOR: Has it? Okay. [CONFIRMATION]

SENATOR GAY: I don't see any other, doctor. No other questions. Thank you for your service, appreciate it. [CONFIRMATION]

MICHAEL SITORIUS: Thank you. [CONFIRMATION]

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SENATOR GAY: All right. Roger Wells. [CONFIRMATION]

ROGER WELLS: (Exhibit 6) Good morning. My name is Roger Wells, R-o-g-e-r W-e-l-l-s. I'm a physician assistant, St. Paul, Nebraska. Have been honored to be a chairman in two terms at the Rural Health Commission. I was on the commission and left for a number of years to become a National American Academy Physician Assistant Board member and then returned back to the commission on its return. Today I'd like to just ask you to experience something that most of us have done in the past and that's put on a pair of glasses. A pair of glasses, that usually occurs somewhere between the age of 40 and 50 and you start off with one little pair, though, and pretty soon it's bifocals and pretty soon it's trifocals and I think you guys are into the quadfocals somewhere, because you get everybody coming after you wanting money, wanting this, wanting that, (laughter) and, but the glasses I'd like to have you look at today that I look through because I've been in St. Paul, Nebraska, for 22 years. During that 22 years I've had three physician assistants leave, five physicians either retire or leave, and the glasses that we look at today are what you're going to be looking at in the requirements and the updates that you'll see in the future of what we want Nebraska to be. You have those glasses to have to look forward. At this time, preretirement is one of our biggest issues. And preretirement is found in 35 percent of all...or not all, but physicians and there's practitioners, physician's assistants, dentists, physical therapy, etcetera, all about the 35 percent are ready to retire within ten years. For preretirement, they're going to be either slowing down or their full-time equivalence will be changing. And looking at mental health the psychologists...and mental health, behavioral health initiatives that we utilize are 40 percent of preretirement. Twenty-seven percent are female and physicians in the state of Nebraska but yet the enrollment at the Med Center is much higher in females. So we have some big obstacles to come. And how we get there is through those glasses is much of what we're trying to do when we put our report every year to you. The biggest challenges, though, through these glasses that we have right now is to say what you've already asked is, what do we do with the people coming out of the schools at \$120,00 to \$130,000? I've been very graciously blessed with the one child who is in medical school. One other child is in PA school, and one child is going to dietetics. Do they come...are they going to family practice? I don't know. They know what it's like. But it's very difficult in our town. We do have people on our staff in our hospital now that went through the Rural Health...I'm sorry, through the loan program and had received reimbursement. Those challenges, though, become now the state's now taxing the money that we give to them so they have a 35 percent...the money we give gets taxed back to the state. The critical access hospitals are now being challenged in some areas to be taxed so we give them money and it comes back to the state. And some of those little things in those glasses we have to modify so that they become in better focus so that we can do a better job. We have to do a better job at looking at the technologies and how we're going to implement them. And I think that you spoke really favorably by looking at other people in their role models. And the one that I

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really like to watch is one that was done at the Medical Center by Dr. Keith Mueller in Nebraska Health Workforce Planning project, which I'm sure you're all familiar with. And I got some data from him today. So the commission has lots of challenges and I think it's time for the commission to stop and not just do a loan repayment and suggestions but actually maybe harbor those individuals to look at growth models that we could utilize such as workforce models with team practices to show that you don't have to work with mental health where it's not your specialty, because that person has more than ten minutes and has a 45 percent chance of having a mental health issue just as high their physical health problem. And not to have the physical therapist enough to teach him physical therapy or have the injury to the head from an 8-year-old that I saw two weeks ago and had to send him, because he has a depressed skull fracture, was lots to follow up for mental health because we have so many challenges you just don't have the time to do that. And people come out with not that kind of understanding of how they can become overwhelmed and they just quit. And so to use those models, whether it be the medical home, or...but it's going to be a team model and to start enticing those, I think, is our next foothold to climb above and be the leaders in the United States for others to follow. [CONFIRMATION]

SENATOR GAY: Very good. Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Mr. Wells, I know I've been here awhile when I'm starting to see these people come back for reconfirmations. (Laugh) And so I want to, first of all, thank you for your continued service, not only on the commission but in your community and careerwise, because it is so important. And what I'm sensing then, that as you meet this afternoon and move forward, and that you may want to take your commission to even more of an advocacy position on some policy issues and be looking at some new things that hopefully we can help you with. I do think it's important. I think everything you said is very valid and I just appreciate it. But I guess that's the question. Are you thinking the commission of some different directions? Are you just going to go look at some new things as you begin this new stage? [CONFIRMATION]

ROGER WELLS: Well, Senator, I think that really the biggest issue, there's never been a leader. There's never been a leader. We have report, you have another report, you have another report, you have another report, and no one has ever put it together. And my suggestion actually will be to the commission today to actually have a round table of these individuals who put such great emphasis into issues but no one has ever come together and said, here's a work force planning project but no one has ever implemented it. How do you implement it? How do you start a model? What are you going to start with? Can you get someone? Even an insurance company may want to look at a model, say, jeez, if I could decrease my costs 10 percent in this model I would do that. Mayo Clinic has been doing it now with the medical home model, building family practice as fast as they can and actually not had any increase in costs in the last three years. And so there's things to do but no one stepped forward to initiate it. So that's my

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next goal. [CONFIRMATION]

SENATOR PANKONIN: Well, I think that's a good point and I think we are very fortunate to have Senator Gloor on this committee and in this Legislature who not only advocated medical home but has had his own experience close to your part of the state. And so I...going forward, I think we have people here on this committee that will try to help. And I agree, we get so many reports, but you know we have to get those defined down to taking actions that are appropriate, affordable, forward-looking, and that sort of thing. So I appreciate your efforts in that area. We'll try to help you. [CONFIRMATION]

ROGER WELLS: Thank you. [CONFIRMATION]

SENATOR GAY: Any...Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: I would tell the committee, from the standpoint of comfort level, that I've known Mr. Wells for I think probably his entire career in St. Paul. He mentioned the number of people that were physicians or PAs that have come and gone. He didn't mention the number of administrators. I think he's on his fourth administrator, my point being that he is the constant factor in that medical community. And when there are applicants or members of the board of...that I know personally of the quality of Mr. Wells and Dr. Sitorius, it really is encouraging to me. I mean this is a new experience for me also to see the people who serve on our boards and are expected to give us advice and some guidance. And we have some great individuals I don't know, but I'll tell you the quality of these two individuals specifically gives me great encouragement. And I appreciate Senator Pankonin's comments, but we've got a great committee and I think our challenge is to pay attention to what comes out of these boards and use it. [CONFIRMATION]

SENATOR GAY: Yeah. And just to follow up on that, I would agree with both of you. There's a certain thing, though, when you look at, you know, how to take an idea, get a concept through this process, as we all know, is not easy. But where is it...where we need to start relying more, I think we got...we really have a good committee but taking your knowledge and picking a few of us to be a leader and do that, I think we've got some excellent members here. Now we've got to remember, you're limited to six or eight years, which sounds like a long time, but when you get going here, you need to almost pick what we're going to do. So I...what Senator Pankonin is saying, I couldn't agree more. You need to be in an advocacy position. And I watch how I say that because I don't want every...there's a lot of boards and committees out there, but I think this one truly is, as we look at work force... [CONFIRMATION]

SENATOR PANKONIN: They're key. [CONFIRMATION]

SENATOR GAY: ...yeah, as we look at work force development. And we're all kind of

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laymen. We cover a lot of different issues other than this committee. We're all on other committees. We all have other things to follow. So if you do that, go to someone and keep...you got to keep pushing that too. So I'd tell your board, keep pushing it, keep bringing it to us. Because we're all public servants as well doing other things and...but that input. I'm really excited, too, to see the quality of the people that are on these boards and your board especially and all of you today. So I guess just a little...it's not a question, just a comment. Did you have a question, Gwen? [CONFIRMATION]

SENATOR HOWARD: No, I'm good. Thank you. [CONFIRMATION]

SENATOR GAY: No. Okay. Any other questions? I don't see any. Thank you all very much for coming. [CONFIRMATION]

ROGER WELLS: Thank you. [CONFIRMATION]

SENATOR GAY: Our plan, just so you know, is today we have some more hearings. We're going to try to put these on the floor on Monday and get them confirmed. So appreciate you all taking time. Thank you. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR WALLMAN: (Inaudible) Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Yes, they did. [CONFIRMATION]

BREAK

SENATOR GAY: Apologize, we're running a little late. Michael, Michael, come on up. Sorry we're running five minutes late here from lunch. We'll get started on a confirmation hearing for...going to serve on the Commission for the Blind and Visually Impaired and Michael Hansen. Michael, why don't you...well, let's start out, actually you know I got to open this again. We'll introduce ourselves, starting over here. Michelle, you want to introduce yourself? []

MICHELLE CHAFFEE: I'm Michelle Chaffee, legal counsel for the committee. []

SENATOR CAMPBELL: And I'm Kathy Campbell, senator from District 25, east and south Lincoln. []

MICHAEL HANSEN: Okay. []

SENATOR PANKONIN: I'm Dave Pankonin. I'm the senator from District 2. I live in Louisville. []

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November 06, 2009

SENATOR GAY: Senator Tim Gay from Papillion-La Vista. []

MICHAEL HANSEN: That's where I'm from. (Laugh) []

SENATOR HOWARD: Senator Gwen Howard, District 9 in Omaha. []

SENATOR WALLMAN: Senator Norm Wallman, District 30, which is south of Lincoln. []

ERIN MACK: I'm Erin Mack, the committee clerk. []

SENATOR GAY: All right. And we have a page. []

HALEY SCHWARTZ: Haley Schwartz from District 17. I'm from Homer. []

SENATOR GAY: Okay. Thank you. []

SENATOR HOWARD: Good. []

SENATOR GAY: All right. We'll get started. Michael, you want to go ahead and introduce yourself to the committee. [CONFIRMATION]

MICHAEL HANSEN: (Exhibit 10) Sure. My name is Michael Hansen. I live here in Lincoln now, work for the University of Nebraska-Lincoln, and have been appointed to the Nebraska Commission for the Blind and Visually Impaired. I believe it was official on September 23. [CONFIRMATION]

SENATOR GAY: Is this your first? This isn't your... [CONFIRMATION]

MICHAEL HANSEN: This is my first appointment. It's not a reappointment. The board appointment that I'm...term that I'm filling is actually...I'm actually the third person to fill this same term. The previous two appointees had to step down due...and actually it's a great thing they did or we're excited that they did, they were also blind individuals that had opportunities to succeed in their career fields a little bit more greater. So they had some career advancement possibilities, so. [CONFIRMATION]

SENATOR GAY: Excellent. All right. We have some information here in front of us that we've looked through. We'll open it up to any questions from committee members. Appreciate you coming. [CONFIRMATION]

MICHAEL HANSEN: Sure. [CONFIRMATION]

SENATOR GAY: Any questions from the...? I've gone one while we're looking through

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this, but I guess on this, what do you...we appreciate your service but what are you looking forward to being on the...I mean they told you what the commission does and all. What are you looking forward to that you'd like to accomplish on the...being a member? [CONFIRMATION]

MICHAEL HANSEN: Well, I think the Commission for the Blind does a fine job already and look to help to ensure that they continue to serve the public in the way that they are today, making sure that we continue to provide good services to the visually impaired constituents that they represent here in the state of Nebraska. Being visually impaired myself, that obviously has something that interests me a great deal, wanting to make sure that those services are available. [CONFIRMATION]

SENATOR GAY: All right. All right. Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Mike, you and I were visiting a little bit before, while we were waiting for everybody. [CONFIRMATION]

MICHAEL HANSEN: Uh-huh. [CONFIRMATION]

SENATOR CAMPBELL: You work at the university. [CONFIRMATION]

MICHAEL HANSEN: Yes, I do. [CONFIRMATION]

SENATOR CAMPBELL: What do you do for the university? [CONFIRMATION]

MICHAEL HANSEN: I work for the Department of Information Services. I take care of some of the computer-based phone systems for the university, voice mail system, other things like that for the university, take care of some of the PBXs around the state that provide some of our agricultural research centers and county extension offices to communicate back to Lincoln. [CONFIRMATION]

SENATOR CAMPBELL: I'm always so impressed with that. And then I also noticed that you were an Eagle Scout and very involved with scouting. Are you involved now? [CONFIRMATION]

MICHAEL HANSEN: Unfortunately, I'm not. I tried to be when I came to Lincoln. Contacted the local scouting office and said, you know, I'm a longtime scouter, would love to participate down here; you know, mentioned, you know, what I had done in the Omaha area; and they would never return my calls. I got the suspicion that they thought I was like some weirdo, you know, trying to get involved with boys or something. [CONFIRMATION]

SENATOR CAMPBELL: Oh, sorry about that. [CONFIRMATION]

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MICHAEL HANSEN: But, yeah, so I never got calls back. And because of that, looking to serve the community in some other way, I ended up getting involved with the National Federation of the Blind instead, so most of my time is spent there. [CONFIRMATION]

SENATOR CAMPBELL: Yes, you mentioned that. Well, we'll mention that to Senator Avery because he has a lot of contact with Eagle Scouts. So thank you. [CONFIRMATION]

SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: I noticed you worked for Ash Grove Cement Company a couple of summers. Is that when you were going to school or... [CONFIRMATION]

MICHAEL HANSEN: Yes. Ash Grove Cement has a program where employees' kids could come out and work, have a good-paying job for the summer, keep physically fit working out in the yard. (Laugh) So my dad is the chief engineer for Ash Grove Cement in Louisville, Nebraska, and so... [CONFIRMATION]

SENATOR PANKONIN: Well, being from Louisville, your dad's name is? [CONFIRMATION]

MICHAEL HANSEN: David Hansen. [CONFIRMATION]

SENATOR PANKONIN: Oh sure, okay. Well, great. Nice to know that. [CONFIRMATION]

SENATOR GAY: All right. [CONFIRMATION]

SENATOR HOWARD: The beauty of a small town--everybody knows everyone. [CONFIRMATION]

SENATOR PANKONIN: Exactly. Although unfortunately the cement plant in Louisville is laying off two-thirds of the work force coming up, so, you know, we're real saddened about that. They are good jobs. So the economy has caught up to that. [CONFIRMATION]

SENATOR GAY: Yeah. Any other questions? I don't see any. Well, we appreciate you're willing to be an appointee in service to the state. If you ever need, you know, if we look at these positions that are advisory positions, but I think we all are open, I know on this committee, to if you have something or if you see something happening in the, you know, in the commission that you want to extend to us, call any of us or, you know, send us an e-mail, whatever it is. Because we do take that seriously and hope you will

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do that. [CONFIRMATION]

MICHAEL HANSEN: I appreciate that. [CONFIRMATION]

SENATOR GAY: And especially in these times where we're looking for, you know, how we can improve things and do a better job. So keep that offer, that's an open offer, and appreciate it, so. [CONFIRMATION]

MICHAEL HANSEN: Okay. Thank you. [CONFIRMATION]

SENATOR GAY: You bet. Thank you. [CONFIRMATION]

SENATOR CAMPBELL: Thanks for serving, Mike. [CONFIRMATION]

SENATOR GAY: All right. Well, we'll...1:30, we have three members who are going to come. [CONFIRMATION]

SENATOR PANKONIN: Which three are coming? []

SENATOR GAY: I've got down Ken Kester, Rich Robinson, Rich is there, and then Gary Westerman, so Gary is out here. []

SENATOR PANKONIN: Okay. []

SENATOR GAY: So we've got...and we have a maybe. Russell Hopp had a deal going on that he wasn't sure if he could make it or not. []

SENATOR PANKONIN: Okay. []

SENATOR GAY: So...although, you know, I don't know...(recorder malfunction). Rich. Just going down this list here Rich. And, Gary, we'll just get right to you. []

RICH ROBINSON: (Exhibit 11) Good afternoon, Senator Gay and members of the committee. Rich Robinson; work for Kirkham Michael Consulting Engineers and I think most of you know that there's 17 members on the State Board of Health; 14 are in the medical community, 2 public at large, and then one registered professional engineer. And I would be serving that position as the registered professional engineer. It's an unexpired position. The previous appointee served for a year, so there's four years remaining on the appointment. Most of my background has been in drinking water. At the ripe old age of 28, I was asked to manage the Lincoln Water System and did that for a few years. And my previous employer was the city of Lincoln for about 25 years. So I've been with Kirkham Michael Consulting Engineers for about 14 years and have been heavily involved in drinking water. As you well know, that's the reason that the

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professional engineer is on the State Board of Health. So certainly have been to a couple committee meetings already and certainly enjoy it and look forward to the opportunity to serve. I've had a long career with drinking water and would like to give something back. [CONFIRMATION]

SENATOR GAY: Yeah. All right. Great. Any questions? Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Sir, thanks for serving. And as a former mayor and, you know, I always felt that my biggest nightmare was the water system didn't work and that truck had to come in with those gallon jugs. [CONFIRMATION]

RICH ROBINSON: Right. [CONFIRMATION]

SENATOR PANKONIN: So I appreciate that background because it is so important. And that service and waste water are services that people take...we take for granted every day. [CONFIRMATION]

RICH ROBINSON: Oh yes. [CONFIRMATION]

SENATOR PANKONIN: We don't realize the infrastructure and the dedication of the people, the qualifications of the people required to have those essential functions work. So I appreciate that background you bring and know how important it is. And that's one thing down here in this job, I don't worry about that one anymore. [CONFIRMATION]

RICH ROBINSON: Okay. Thank you very much. [CONFIRMATION]

SENATOR PANKONIN: But that was always my worst fear. [CONFIRMATION]

RICH ROBINSON: I still maintain my grade one water operator's certificate so... [CONFIRMATION]

SENATOR PANKONIN: Great. [CONFIRMATION]

RICH ROBINSON: ...and also have been very active with the National American Waterworks Association, served on the board of directors and the executive committee for a couple years, and a number of committees and councils. [CONFIRMATION]

SENATOR PANKONIN: Great background. And to keep that license up, it lets you be aware what people are having to do and... [CONFIRMATION]

RICH ROBINSON: Exactly. [CONFIRMATION]

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SENATOR PANKONIN: Yeah, perfect. [CONFIRMATION]

RICH ROBINSON: In fact, I just came back from the annual meeting in Kearney.
[CONFIRMATION]

SENATOR GAY: That is. That is one of those...excuse me, Kathy,... [CONFIRMATION]

SENATOR CAMPBELL: That's fine. [CONFIRMATION]

SENATOR GAY: That is one of those things where you do take it for granted, I mean that you just, you know, assume this is going to work (laugh) and be...
[CONFIRMATION]

SENATOR CAMPBELL: Exactly. [CONFIRMATION]

SENATOR PANKONIN: It's safe. [CONFIRMATION]

SENATOR GAY: Yeah, exactly, exactly. Kathy, did you have...? [CONFIRMATION]

SENATOR CAMPBELL: I knew Rich when I was on the county board. I'm so glad to see you still continue your service. So tell us, what's the state of drinking water in the state of Nebraska? How are we doing? [CONFIRMATION]

RICH ROBINSON: Well, I think I mentioned to you that at least the water stimulus funds have helped somewhat with some of the communities, especially some of the smaller communities. And Steve McNulty, with the Health and Human Services Environmental Engineering, has done a magnificent job of moving that along. A lot of planning and organizing went into that and, in fact, I heard him give a presentation yesterday that Nebraska is probably in the top five or six states as far as already obligating most of the money. They're at 75 percent already and all the money has to be obligated by February 17. There are some states, six or seven states and Puerto Rico, that are between 0 and 10 percent obligated, so they're very unlikely to use their money. So that money, after February 17 from all the other states, will go back into the pool and Nebraska should receive more money. Other than that, there's the normal issues with contaminants in water, primarily nitrates, arsenic, uranium are the top three. But everyone is doing a good job of meeting the regulations. [CONFIRMATION]

SENATOR GAY: Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you, Chairman Gay. I read in the paper that Lincoln has the best water, is it in the state? Of course, this is in the Omaha paper too. (Laugh)
[CONFIRMATION]

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RICH ROBINSON: (Laugh) Right. That was a front-page article. [CONFIRMATION]

SENATOR HOWARD: Well, I would... [CONFIRMATION]

RICH ROBINSON: That was actually part of the annual conference. Nationally, they've done this for some time at a national drinking water contest and utilities could bring in their water that go to the national meeting in June and they'd have a panel taste it and smell it and, you know, anoint it as the best water. So this is the first time that this has actually been done in Nebraska so MUD, Lincoln, Fremont, Norfolk, a couple other cities brought their water and the panel selected Lincoln's as the best.
[CONFIRMATION]

SENATOR HOWARD: Well, that's a good thing to have. Since we're down here quite a bit, I appreciate that. I did want to ask you what your viewpoint is on the fluoridation issue. [CONFIRMATION]

RICH ROBINSON: My personal viewpoint, I think it's...fluoridation is very good. I think it's pretty well demonstrated the value, you know, for children's teeth in particular. I know my two boys were raised on Lincoln's water and they have very few cavities. So that's a personal testimony, I guess. [CONFIRMATION]

SENATOR HOWARD: Well, I appreciate that. I remember...I remember the hubbub in Omaha in the fifties--I was just little but you catch these things--and, you know, all the concern and I think it's done a good job for us. [CONFIRMATION]

RICH ROBINSON: Oh yeah. [CONFIRMATION]

SENATOR HOWARD: I think we have better teeth as a result. So thank you.
[CONFIRMATION]

RICH ROBINSON: Thank you. [CONFIRMATION]

SENATOR GAY: Any other questions? I've got a question for you. Being an engineer on a panel of mostly medical professionals, how do you...I mean how do you...you learn a lot doing that? [CONFIRMATION]

RICH ROBINSON: Uh-huh, how do I sort through that? (Laughter) [CONFIRMATION]

SENATOR GAY: Yeah. [CONFIRMATION]

RICH ROBINSON: Well, I've had, let's see, just one bimonthly meeting so far and one committee meeting and it's pretty unique actually. Of course, when I was probably six or seven years old, I wanted to be a doctor. So I had some interest in it, but of course we

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all use, you know, use the services so in that fashion, I'm really kind of like, you know, a public member at large. [CONFIRMATION]

SENATOR GAY: Yeah. That's interesting. [CONFIRMATION]

RICH ROBINSON: But, no, I find it pretty fascinating. [CONFIRMATION]

SENATOR GAY: All right. I don't see any other questions. Thank you for your service. Appreciate it. [CONFIRMATION]

RICH ROBINSON: Okay. Thank you. Appreciate it. [CONFIRMATION]

SENATOR CAMPBELL: Good to see you, Rich. [CONFIRMATION]

RICH ROBINSON: Nice to see you again. [CONFIRMATION]

SENATOR GAY: Dr. Gary Westerman. [CONFIRMATION]

GARY WESTERMAN: (Exhibit 12) Well, good afternoon to all of you. [CONFIRMATION]

SENATOR CAMPBELL: Good afternoon. [CONFIRMATION]

GARY WESTERMAN: Gary Westerman. I'm serving or I'm applying for my second term on the Board of Health. I am the dentist member on the Board of Health. I was pleased to hear the question a moment ago related to fluoridation and I would like to outwardly thank this committee for its diligence and particularly Senator Johnson and his shepherding of the fluoridation bill forward. However, there is page two. Page two, many communities have elected not to include fluoride in their water supply. I think that's unfortunate for the populace in those communities, speaking as a dentist, speaking as a member of the Board of Health, which did endorse the fluoridation issue. I'll also bring out a comment related to this. I think that the issue of fluoridation would have been enhanced if we had a state oral and dental health director. We have not had this position filled for several years. If this position had an individual there, I think this individual could have championed the fluoridation issue even more so. So I do express that as a disappointment in the fact that we do not have that that position filled. What have I done on the Board of Health? I'm presently vice chair of the board, in the second year; anticipate possibly being the vice chair for the third year. I have served on several committees. I've been involved very much in the 407 process in at least four or five situations that have come before us on the Board of Health on 407, and have also been very much involved related to the appointment of board members to their respective health professional boards. And so those are the two areas that I've spent most of my time, not that much in the public relations area and not that much in the rules and regs discipline but it's been more in the professional licensure...or professional boards and

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the 407 area. Those have been my main areas as far as involvement on the Board of Health. [CONFIRMATION]

SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: Thank you, Doctor, for being here today,... [CONFIRMATION]

GARY WESTERMAN: Of course. [CONFIRMATION]

SENATOR PANKONIN: ...taking the time. Always interested in someone that went to Gonzaga... [CONFIRMATION]

GARY WESTERMAN: Yes, sir. [CONFIRMATION]

SENATOR PANKONIN: ...and then came to Creighton and then went to the University of Iowa, but obviously made the decision to come back to Nebraska,... [CONFIRMATION]

GARY WESTERMAN: Yeah. [CONFIRMATION]

SENATOR PANKONIN: ...and I'm just curious of why you decided to have your professional career in Omaha. [CONFIRMATION]

GARY WESTERMAN: Well, as my parents stated when I left Spokane, I was going east. Nebraska is considered east in their eyes. You go to school sometimes before you get accepted, and so I left Gonzaga as my predoctoral or predoctoral, went to Creighton for dental school, spent a couple years in the military as a dentist in the Army. I wanted to specialist in pediatric dentistry and was fortunate to get in to the University of Iowa. So once again, you go where you get accepted. I came back to Omaha because of the fact that Creighton treated me extremely well. Nebraska treated me very well and so I came as a faculty member and, at the same time, I was fortunate to meet my wife in this area and she's from Iowa. So my allegiance is very much the Hawkeyes from my professional postgraduate education and for the Blue Jays from a basketball arena. But at the same time, living in Nebraska for over 30 years, you start to wear a little bit more red and red and red so that's the way it goes. Answer to your question is you go where sometimes the application allows you to go. [CONFIRMATION]

SENATOR PANKONIN: Right. Well, we appreciate your career and your interest in serving our state in this fashion. So thank you. [CONFIRMATION]

GARY WESTERMAN: Thank you. Yes, sir. [CONFIRMATION]

SENATOR GAY: Senator Howard. [CONFIRMATION]

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SENATOR HOWARD: Thank you, Chairman Gay. I see in your...I also notice in your resume you still refer to the old St. Joseph Hospital. That really dates us. You know, now it is Creighton. [CONFIRMATION]

GARY WESTERMAN: Oh, I know it. I know it. [CONFIRMATION]

SENATOR HOWARD: My question is, have you participated in the Mission of Mercy? [CONFIRMATION]

GARY WESTERMAN: Yes. [CONFIRMATION]

SENATOR HOWARD: Good. Where...what location were you at? [CONFIRMATION]

GARY WESTERMAN: Well, let's see, we've had five Mission of Mercys and I've participated in four--and by the way, thank you, Senator Gay, for your assistance and participation in this particular area--in North Platte, Grand Island, Norfolk, and in Papillion. So the first one was in North Platte, I think it was. Anyway... [CONFIRMATION]

SENATOR HOWARD: No, I think it was North Platte. I think there's only been four, hasn't there? [CONFIRMATION]

GARY WESTERMAN: Anyway, yeah, okay, if it's four, I've been in three. I've participated in three of them. Yeah. [CONFIRMATION]

SENATOR HOWARD: Okay. [CONFIRMATION]

GARY WESTERMAN: I know that our Governor has used that as a very good example of the populace of Omaha being served by a health profession, and it has been truly a positive for not only professional dentistry but obviously the recipients. I know that the Board of Health is also in the process of, in the next meeting, which is a week from Monday, recognizing the Mission of Mercy, and so... [CONFIRMATION]

SENATOR HOWARD: Well, they're not ahead of us. I'm putting in a resolution thanking you. [CONFIRMATION]

GARY WESTERMAN: Yeah. Thank you. Yeah, it's been a great experience. [CONFIRMATION]

SENATOR HOWARD: It's really good, and if you can continue to urge other dentists to become involved, I think it's a wonderful thing. [CONFIRMATION]

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GARY WESTERMAN: Yeah. The next one is programming to be here in Lincoln but it's going to be a modified Mission of Mercy, at least in the planning stages, and it's going to be accompanied with a National Special Olympics which is going to be held here in Lincoln in July. As I say, there will be a modification of the Mission of Mercy participation in that activity in July. [CONFIRMATION]

SENATOR HOWARD: But it will be as inclusive. [CONFIRMATION]

GARY WESTERMAN: It will not be as inclusive, no, will not. [CONFIRMATION]

SENATOR HOWARD: Oh, it will not be as inclusive? [CONFIRMATION]

GARY WESTERMAN: No, it's not anticipated to be as inclusive. You know, the athletes are coming here to be athletes. They're coming here not for the purpose of Mission of Mercy but it will be part of their Healthy Athletes component of Special Olympics, is a dental assessment, a hearing assessment, a vision assessment. [CONFIRMATION]

SENATOR HOWARD: So it will be limited to the participants? [CONFIRMATION]

GARY WESTERMAN: Yes. That's my understanding. [CONFIRMATION]

SENATOR HOWARD: Okay. Well, I do appreciate the past Mission of Mercys. I think they've really met a need and it's really been the right thing to do. [CONFIRMATION]

GARY WESTERMAN: Yeah. Yeah. Thank you. Appreciate that comment. [CONFIRMATION]

SENATOR GAY: Where are they going to hold that in Lincoln. Where? [CONFIRMATION]

GARY WESTERMAN: It's going to be in Pershing. [CONFIRMATION]

SENATOR GAY: Oh, at Pershing. Close-by. [CONFIRMATION]

GARY WESTERMAN: Yeah, it's going to be in conjunction with what is called Healthy Athletes, which is an entity that is part of Special Olympics. I'm involved in Special Smiles, which is the dental end and that was the first of all of the Healthy Athlete disciplines and the history goes clear back into the Kennedy family and need for a special needs member of the Kennedy family and difficulty in finding access to dental healthcare. So it's got some very deep-seated roots and it goes clear back into the Kennedy-Shriver family. [CONFIRMATION]

SENATOR GAY: Will be interesting. Senator Campbell. [CONFIRMATION]

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SENATOR CAMPBELL: Thank you very much for your service on the board.
[CONFIRMATION]

GARY WESTERMAN: Oh, you're welcome. [CONFIRMATION]

SENATOR CAMPBELL: And I notice that you listed pediatric dentist. And other than fluoride, what do you think has been the best improvement that we've seen for kids and dentistry in the years? [CONFIRMATION]

GARY WESTERMAN: Well, I think that there's more education related to the public and that in itself has been a positive in a goodly number of the population taking advantage of dentistry. One area that I think we need to continue to strive right now is a dental home needs to be established and most people don't realize what age that is and that age is one. Unfortunately, even a lot of dentists are not aware of that. But a dental home needs to be established very, very early. That, once again, would help in better dental health. So to answer to your question I would have to go back to my original comment--better education and better awareness of the public. Yeah.
[CONFIRMATION]

SENATOR CAMPBELL: Excellent. Thank you. [CONFIRMATION]

GARY WESTERMAN: Sure. [CONFIRMATION]

SENATOR GAY: All right. Any other questions? I don't see any. Thank you for your service, Dr. Westerman. [CONFIRMATION]

GARY WESTERMAN: Of course. Thank you. [CONFIRMATION]

SENATOR GAY: Is Dr. Kester here? [CONFIRMATION]

KEN KESTER: (Exhibit 13) I'm Ken Kester. I'm the pharmacist member of the Board of Health. I appeared before this committee just about a year ago. I actually filled the last year of the term for Sam Augustine. Sam was elected as president of Nebraska Pharmacists Association and there was a conflict of interest, so I was nominated and filled in his final year, and that's up so I'm here for reappointment now.
[CONFIRMATION]

SENATOR GAY: Okay. Let's look this over a little bit. Any questions from the board? I've got one. How have you like it so far? [CONFIRMATION]

KEN KESTER: I like it. I do. You know, it's a great group of people to work with. As a pharmacist member, there's not a lot we deal with that's pharmacy specific. I enjoy that.

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I like kind of branching out like that. I'm involved in two committees. I'm on the public health education and legislation committee and I was immediately I was on the rules and regulations committee and I now chair that committee. So that's probably where most of my work is applied. [CONFIRMATION]

SENATOR GAY: Senator Pankonin. [CONFIRMATION]

SENATOR PANKONIN: As we're looking through the materials, Dr. Kester, obviously the juris doctorate from the University School of Law as well, so I'm just curious about that and how that came to play. [CONFIRMATION]

KEN KESTER: Well, yeah, I went to law school. I was what they call a nontraditional law student, which means I was old. I still am, but I practice pharmacy mostly in hospitals. I've got some retail experience, but mostly hospitals since I graduated in 1985. And about 12 years after that, I got the wild idea to go to law school and did so and practiced law with a firm here in town for a couple years. I was particularly interested in medical malpractice defense, which we did, and I did, as an associate attorney, whatever else they told me to do. But missed healthcare and ended up back in the pharmacy world. The only thing I do that makes me feel like I didn't totally waste five years of my life was I'm the compliance officer for the hospital where I work now too. And you don't have to be an attorney to do that but it's kind of helpful. [CONFIRMATION]

SENATOR PANKONIN: Well, I think it's helpful to your background overall and an interesting story. [CONFIRMATION]

KEN KESTER: It certainly, I think, helps me and piques my interest in legislation and regulations. [CONFIRMATION]

SENATOR PANKONIN: Sure. [CONFIRMATION]

KEN KESTER: Yeah. [CONFIRMATION]

SENATOR GAY: Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Chairman Gay. Dr. Kester, it's always nice to meet a Pharm.D. I'm sure over the years physicians flocked to you because of your pharmaceutical knowledge, pharmacological knowledge. I'm being a little bit facetious but... [CONFIRMATION]

KEN KESTER: Yeah, you are. (Laugh) Flocking I haven't really seen but... [CONFIRMATION]

SENATOR GLOOR: (Laughter) They should, which actually brings in my question,

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which is what's your opinion on preferred drug lists? [CONFIRMATION]

KEN KESTER: Well, I think it's...if I can put it this way, it's kind of necessary. As a taxpayer, I like to keep costs down. It does get cumbersome. It gets a little...I mean, I've been on both sides of that thing. As I said, most of my practice has been in the hospital as a pharmacist and we just don't have to deal with that. In the retail world we did and do, and I worked for about a year at a pharmacy that was...most of their clientele was Medicaid and, you know, you just get used to it. Some of the drug groups it's easy to do that with. Some other ones it's a little more difficult. But I'm not opposed to it. It just has to, you know, it has to make sense. But I can't say that it doesn't. I think, by and large, it does. Probably our most difficult part in the pharmacy world is waiting to hear back from the docs, you know, for waiting for approval to dispense something. [CONFIRMATION]

SENATOR GAY: Senator Howard. [CONFIRMATION]

SENATOR HOWARD: Thank you, Chairman Gay. I'm wondering if you're seeing, from your perspective, seeing an increase in the use, misuse of narcotic prescriptions. [CONFIRMATION]

KEN KESTER: I can't say that I am, not actual prescriptions. Now I have seen that also. I mean I've been around the horn a couple times and have learned about and also worked with some people that had some problems with controlled medications, some healthcare professionals. Fortunately, not a lot of experience in that regard. It's a two-edged sword. I mean there's ample opportunity to misuse those prescriptions and I think people are becoming more and more aware of the problems with children getting into medications that are in the home. The other side of that coin, you know, when we start banging the drum on that loudly and people start monitoring that, the feds, the DEA, etcetera, we can run into problems with patients not getting as much as they should, you know, because people sometimes back off, prescribers do, because they don't want to get in trouble. So, you know, again, there has to be a little bit of common sense applied on both sides of that. [CONFIRMATION]

SENATOR HOWARD: Well, we're one of the few states without a prescription monitoring program, and while I appreciate what you're saying about the availability for people that do sincerely need it, I feel that we've got to have some common sense, some...there's got to be some judgment enters into this with the prescribing of these very, very dangerous medications. [CONFIRMATION]

KEN KESTER: Uh-huh. Yeah. [CONFIRMATION]

SENATOR HOWARD: And I hope that you have observed that or feel that way as well. [CONFIRMATION]

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KEN KESTER: I do. I do, again, in the retail world. In hospitals, it's not something that we run into a whole lot. And where I work, I work at the Heart Hospital. We don't have an oncology unit where... [CONFIRMATION]

SENATOR HOWARD: Uh-huh. Uh-huh. You have much more control in that situation. [CONFIRMATION]

KEN KESTER: Exactly, and it's short term. [CONFIRMATION]

SENATOR HOWARD: Right. [CONFIRMATION]

KEN KESTER: But I can tell you in the retail world, I mean I got educated real fast on drug-seeking behavior, on what to look out for, on what's legit and what's not, and it's an eye-opener. There is a lot of shenanigans going on out there. There's just no doubt about it. [CONFIRMATION]

SENATOR HOWARD: And do you feel that the prescription monitoring has been helpful to the pharmacists? [CONFIRMATION]

KEN KESTER: I think so, again, with my limited experience but having a, for instance, if they're Medicaid or one insurer, that helps because you... [CONFIRMATION]

SENATOR HOWARD: Right. Then there's a control. [CONFIRMATION]

KEN KESTER: Exactly. You can really keep track of things, of who got their prescription filled where and when. Also, when sometimes difficult patients are locked in to a pharmacy, that adds certainly a degree of control that can be helpful. [CONFIRMATION]

SENATOR HOWARD: Okay. I appreciate that. Thank you. [CONFIRMATION]

KEN KESTER: Uh-huh. [CONFIRMATION]

SENATOR GAY: Any other questions? I don't see any. [CONFIRMATION]

KEN KESTER: Okay. [CONFIRMATION]

SENATOR GAY: Thank you for your service. [CONFIRMATION]

KEN KESTER: Thank you. [CONFIRMATION]

SENATOR GAY: Appreciate it. Dr. Russell Hopp. Doctor, how are you?
[CONFIRMATION]

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RUSSELL HOPP: (Exhibit 14) Good afternoon. I'm Russell Hopp. I'm a professor of pediatrics and medicine at Creighton University. I'm also a professor pediatrics and otolaryngology at University of Nebraska Medical Center and I'm full-time allergy director at Children's Hospital. I've been at Creighton for 25 years. I've been strongly involved with numerous public health advocacy issues, including smoking and, obviously, different issues with asthma. I'm an osteopathic physician and I took the place of Dr. Schiefen, who left to leave the state. He was actually president of the Board of Health and left the state for other practice opportunities, and so I filled his two remaining years of his position as the osteopathic representative to the Board of Health, and so I'm currently up for enrollment or reenrollment, obviously. So in addition to providing perspective as a physician, also as an academic physician with many years of academic experience and also public healthcare efficacy, so I think I bring a broad array of background and interest to the public health arena and then serving obviously as the osteopathic physician representative to the Board of Health. [CONFIRMATION]

SENATOR GAY: Thank you, Doctor. Any questions? Senator Wallman.
[CONFIRMATION]

SENATOR WALLMAN: Thank you, Senator Gay. Thank you, Doctor, for being here. I've had some experience in Creighton, being in the dental thing with a relative and stuff. I thank you for what you do. [CONFIRMATION]

RUSSELL HOPP: Thank you. Appreciate it. [CONFIRMATION]

SENATOR GAY: Doctor, I've got a question for you while they're looking at these materials. The amount of time that you all put in, I'm just going to ask you but I would others too, you put in a lot of time. You're all busy, very busy people. What, you know, as far as the board, what's the rewarding thing about it or what benefits, I guess, are we getting out of this? I know it's...we rely on it on the 407 and other things, but where are we going in the future and how can we improve it or how could we held your board do a better job? [CONFIRMATION]

RUSSELL HOPP: Well, I think, you know, I mean obviously there's legislative dictation to what the board... [CONFIRMATION]

SENATOR GAY: Sure. [CONFIRMATION]

RUSSELL HOPP: ...Board of Health does. I think you have, you know, very well-educated, obviously, people who are committed. We're not doing this for obviously monetary reward by any stretch of the imagination. So I think the Board of Health really should have a bigger roll. Now it's up to...it's maybe up to us to say what that roll could be. I think it's for the legislative body to say what could this group of very highly intelligent, motivated people help us with more and that probably at the administrative

level of the state say, you know, we appoint these people and why do we bring them together on a monthly basis or every two-month basis and what do we want from them. So I think it's a collective us and you, so to speak, saying what can the Board of Health do. I think there's some frustration on our part sometimes that it's a little bit rote and a little bit kind of dictated to us but...and so I think that's...I think sometimes see the frustration side of it. On the other side, I've learned a lot from the political aspects of medicine, which sometimes we'd like to ignore, also the public health aspects of medicine which obviously is important to me. So I think it's been education. I think I've learned a lot personally on how, you know, how the public health sector works in the state. But I think it's also, you know, again, you have the collective body of very, you know, very representative people and I think that body needs to be utilized as much as possible. So I'll just throw it back and say, yeah, we're here, we obviously service some purposes, but I think we're underutilized in some regards. [CONFIRMATION]

SENATOR GAY: Yeah, the reason I asked that, I mean today, well, today we're doing confirmations obviously on other...we have so many quality people serving so we're...earlier I said we're looking for input. It's a two-way street a little bit. We get busy on other issues, but if you all ever have issues, to contact us. And I know now and again, but I'm always open for that and I've talked to my colleagues and we're open for that. Because a lot of times we're hearing from a certain special interest and not just the provider out there. So I just throw that out there, but I figure you're the last one here today that we're going to talk to. But I'm curious about that because I think sometimes people don't approach us when we kind of wish they would, so. [CONFIRMATION]

RUSSELL HOPP: Right. [CONFIRMATION]

SENATOR GAY: Senator Campbell. [CONFIRMATION]

SENATOR CAMPBELL: Thank you, Senator Gay. The question from our conversation here from Senator Gay sparked a question. Do we need to go back and review the 407 process? Is it still working? [CONFIRMATION]

RUSSELL HOPP: You know, because of my commitment to a very busy academic career and I always applaud Gary's ability, Dr. Westerman's ability, to participate on the 407 at a leadership level, I think it's working and...but I think there's still...I think it's working. I think it's the...you know, we spend a lot, let's put it this way, we spend a lot of time, I think the committee spends a lot of time, the board spends a lot of time, and I think it's frustrating sometimes when decisions then are overturned and we don't understand why they're overturned or we just...it said, you know, our decision, our months and months and months of work with lots of people who have come to board meetings and these "subboard" meetings to describe what's going on. And the world is getting very complex, medicine is getting extremely complex, obviously people are in the financial...with financial issues, people are looking to expand their personal or their

profession's role and these get to be very technical, very maybe contentious, and so I think there's a lot of work that goes into it to come up to a decision and then...so I think the process works because that's the best way of doing it but then, obviously, we're oversighted sometimes and our decisions, our decisions are then overturned and that's sometimes a frustrating thing because we don't really...we see the work that we do, we don't see the work that the other side is doing to say, okay, well, we don't agree with what the 407 process was. So I'm probably not the right person to ask but other people have been involved with the 407 to a greater degree. But I think what we do is the appropriate...an appropriate methodology of evaluating. I think we're the only group that probably can do it in an efficient manner, but still somebody is still making another decision and just taking our work as a recommendation. [CONFIRMATION]

SENATOR CAMPBELL: Thank you. [CONFIRMATION]

SENATOR GAY: I just want to follow up on that a little bit and maybe we can have Dr. Westerman come back up because we have some time, if you'd like, or if you'd even want to address that. If you don't... [CONFIRMATION]

RUSSELL HOPP: And I think Gary has served as chairperson to a number of 407 processes and probably could speak it quite nicely. [CONFIRMATION]

SENATOR GAY: Yeah. And just because you're here, I'm going to ask you. But I guess on that 407 process as well, I always understood it, and many of us are new here, you know, I can see the professional input, what you should rely on and some of those things. The one thing in that 407 process that I always wondered and is, as we look at a state, we're looking at work force issues and this and that. And I know it's a competitive...there's business in medicine, of course, but you know how we're...when you look at those to grant, oh, a waiver I guess, whatever it would be, to allow someone to do something outside their scope of practice issue, there may not be the medical professionals out there. Is that factored into it at all? [CONFIRMATION]

RUSSELL HOPP: It should not be and I, you know, the particular...a particular group of professionals say, we've been trained to do this, now we think we need to do this, and sometimes it's only a fraction of those providers and it's not...and then that makes it difficult when you're saying, okay, 2 people out of 1,000 can do it because they had extra training, but now all the 998 say that they want to do it. So that gets to be...that gets to be a difficult issue. But I don't see any reason to consider rural healthcare requirements as a reason to jeopardize public safety and that would be my...that would be how I would look at any 407 process or any new...any provider group that wants to now do one additional thing that they think that their group is approximately trained for but isn't under legislative approval and they're going to the 407 to say, because we want to expand our scope of practice. I don't feel, this is a personal opinion, that because we can do it in a rural environment and it's not New York City, we should be able to do it in

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a rural environment, it's not New York City. Because public health still is, I think, is going to trump that every single time. [CONFIRMATION]

SENATOR GAY: And then but you talked about what you're learning about the political side of things or public policy's side of things. On the other hand, public policy side of things, here we see that we have these shortages and this and that, where's the balance between? And I agree with public safety of course but... [CONFIRMATION]

RUSSELL HOPP: It comes up frequently that we're...right. [CONFIRMATION]

SENATOR GAY: ...but we're kind of at the point where, you know, and I don't know the answer. I was just... [CONFIRMATION]

RUSSELL HOPP: Right. [CONFIRMATION]

SENATOR GAY: ...throwing this out there, but. [CONFIRMATION]

RUSSELL HOPP: It seems to be a common theme to some of the 407s that I've seen that we're a rural state, therefore, we need to take exception to...because we can't...you know, we have to have a particular...a particular...we want to do something because we're a rural state and,... [CONFIRMATION]

SENATOR GAY: Right. [CONFIRMATION]

RUSSELL HOPP: ...you know, it's nice that they can do it in Omaha but we want to do it...train people, but we want to do it in "da-da-da" because it's a rural state. Again, public health still has to trump that, that argument every time, in my perspective. [CONFIRMATION]

SENATOR GAY: The public safety part of it. [CONFIRMATION]

RUSSELL HOPP: Exactly. [CONFIRMATION]

SENATOR GAY: Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Thank you, Chairman Gay. Dr. Hopp, I represent a rural area of the state, not as rural as others, but the challenge outstate is an availability issue of services. And you represent a speciality that's primary care, pediatrics, although you're also into allergies and a degree of specialization. How are we going to get more students interested in pursuing your primary love, I'm guessing, which is pediatrics, as opposed to the specialization that goes out there? Because we lack for everything, not just allergists, also pediatricians and internal medicine, family practitioners. [CONFIRMATION]

RUSSELL HOPP: Sure. [CONFIRMATION]

SENATOR GLOOR: And is there anything that the board has talked about that we should be tuned in to that might be able to help...we might be able to help address that legislatively? But the argument for that is just give us more Medicaid money because that way we can pay for more Medicaid services. That part is a, and you can argue availability terms, accessibility terms, you're not accessible to health services if you can't pay for them. [CONFIRMATION]

RUSSELL HOPP: Sure. [CONFIRMATION]

SENATOR GLOOR: So if we can address accessibility by increasing Medicaid access for segments of the population, what if there are no pediatricians? [CONFIRMATION]

RUSSELL HOPP: Sure. What I meant by that is, you know, I think...I think...I think the cost of becoming a physician, becoming a primary provider, a physician's assistant, or a nurse practitioner is largely you got to, you know, they have to pay their tuition and certainly at Creighton, you know, we're very sensitive to tuition issues. But they're going to tend to go into specialities that somehow provide them a reimbursement for their...what they say is a commitment. So what I meant by money is looking at loan forgiveness or loan, you know, repayment, things like that, having communities or having state funds for repayment of or partial repayments of loans. That's what I was talking about with the money. [CONFIRMATION]

SENATOR GLOOR: Only if you go into primary care specialities or going to a rural area? [CONFIRMATION]

RUSSELL HOPP: Exactly, if you're staying in the primary care. So if you have a \$300,000 debt for medical education and then you want to go in to Kearney, Grand Island, etcetera, etcetera, but if you want to go to the next level, now you're buying a house and you're buying a \$300,000 you have to pay up. So you basically are paying two house payments and then you're starting a practice. So it would be nice if one of those payments would be, you know, helped at the state level. So that would be...I mean I don't have any answers for that whole issue except that we've had this discussion in the past at the veterinarian level. I know this was a big issue with our previous veterinarian representative that there was, you know, loan repayment for...to get the veterinarians in to smaller community areas in the state. I think it would be also applicable for family practice physicians, pediatricians, nurse practitioners, physician's assistants, etcetera, and that that level, again going back to Senator Gay's comment, I think that level I think most of the providers are well-educated and have a, you know, level of competency in practice that has not been...that needs be changed very much. I think it's the next layer of people that are looking to expand practice, expand their

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practice, and that's where we sometimes get in trouble with small technical issues with a particular group of providers that wants to do something that their group has never done before. And so that's where we still, again, I think public health and public safety has to be, you know, the main, the main issue. [CONFIRMATION]

SENATOR GAY: All right. Any other questions? [CONFIRMATION]

RUSSELL HOPP: And I'm sure Dr. Westerman has comments on the 407, so. [CONFIRMATION]

SENATOR GAY: Yeah, Dr. Westerman, if you want to, after we're done here, come on up. Dr. Hopp, hold on one minute. I wonder... [CONFIRMATION]

SENATOR PANKONIN: Should have left, he said. (Laugh) [CONFIRMATION]

SENATOR GAY: Yeah, I know. [CONFIRMATION]

RUSSELL HOPP: I'm putting him on the spot, obviously, so. [CONFIRMATION]

SENATOR GAY: I wonder if...and I think, well, Dr. Discoe could (inaudible) come up and then Luisa Rounds, but I think we've got everyone, right, Erin? (See also Exhibits 15, 16.) Okay. I just wanted to say...and then time is at a premium for everyone, especially you all. We appreciate you coming down but this is a good format, really, to ask these questions. We just don't get a chance to visit a lot. I know there's...and time is a premium for us too. We have a lot of different issues going on. We have other things happening. But we used to do the lunch, you know, [CONFIRMATION]

RUSSELL HOPP: Right. [CONFIRMATION]

SENATOR GAY: ...where we get together at least and then we come in and do a quick update. I think we need to start that again a little bit. We need to get it on the calendar, when you're going to have a meeting, because when we get down here we have so many things going on. But I think it's more and more...and maybe it's even a lunch where we talk about some substantial issues instead of a meet and greet kind of thing. [CONFIRMATION]

RUSSELL HOPP: Right. Right. [CONFIRMATION]

SENATOR GAY: So I'd like to see more of that. [CONFIRMATION]

RUSSELL HOPP: Sure. [CONFIRMATION]

SENATOR GAY: As you get term limits and turnover and some of these things, I think

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it's important for especially the bigger, you know, advisory boards that we have. And this is an important one. [CONFIRMATION]

RUSSELL HOPP: Right. Well, you know, we do hold a legislative luncheon in January, stand me corrected if I'm wrong, and we've discussed that every year, you know, with the term limit situation we're getting a turnover of the Health and Human Services Committee people. I mean what we do is really to help you folks do your legislative side of the equation. And so guess that's, you know, again, you have a collective body of people that are extremely educated, who are committed to doing what we do, and we all have public health at our forefront. And so questions about fluoride and asthma and smoking and you can name it, somebody on the board is there to...or collectively we provide opinions as a collective, you know, professional group. And so we obviously want to encourage questions from you, your committee members, your staff, what does the Board of Health think. We want to know what you guys want to know and we'll be happy to provide the information. That's why we're there. [CONFIRMATION]

SENATOR GAY: Yeah, and maybe it's not even during the session. That one we'll try to do a better job to make sure we attend those because, really, you get invited to a lot. This is an important one. But even some other time where we sit down and talk about like this 407 thing. It's a concern. I mean there are complex issues that just don't get done over lunch. So that's something maybe we could look into, so. But appreciate you coming today... [CONFIRMATION]

RUSSELL HOPP: Thank you. [CONFIRMATION]

SENATOR GAY: ...and then we'll just...we'll cease the public hearing but we do want to follow up a question with Dr. Westerman then, if that's okay. You don't have to but... [CONFIRMATION]

ERIN MACK: Tim, do you want me to turn this stuff off or keep it...? [CONFIRMATION]

SENATOR GAY: Well, actually, if...just if there were other questions. I wanted to follow up, since you're the vice chair, Doctor. [CONFIRMATION]

GARY WESTERMAN: Yeah. I don't care if it's on or off. On January 25, Monday the 25th, we do have that set aside to meet with the committee, the Board of Health,... [CONFIRMATION]

SENATOR GAY: Okay. [CONFIRMATION]

GARY WESTERMAN: ...at our annual...but I can appreciate that there could be better communication and possibly other times when we can get together, yeah. [CONFIRMATION]

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SENATOR GAY: Yeah, and it just gets to be so many issues going on.
[CONFIRMATION]

GARY WESTERMAN: Yeah. Senator Campbell, that was a very astute question from my perspective. I will respond this way. I think that the 407 process works quite well. That's not to say that I don't think...that I think it could be improved. One area that I think that some improvement could transpire is the four written criteria to which a decision is made. The wording is very challenging to understand. And so that being said, it can be challenging related to a yes or a no vote. So I think that the four criteria could be rewritten, which would make it easier to come to a definitive yes or no vote. Secondly, Dr. Hopp has already alluded to the fact that, yes, the Board of Health has put many hours and a lot of time, a lot of expertise into ultimately making a decision. On occasion, that decision has been overridden. Now not to say that advice or comments to a person or to a body should be 100 percent accepted, but if it is frequently altered or not accepted, that can be discouraging. [CONFIRMATION]

SENATOR GAY: By tweaking the formula, though, to give some leeway, I just think the issue is getting to be very complex, I'm sure. [CONFIRMATION]

GARY WESTERMAN: Yes. [CONFIRMATION]

SENATOR GAY: I can only imagine, from what I hear on our end. But, you know, yeah, maybe that's something we look into down the road but we need some input from the other side too. You're right, it shouldn't be a rubber...absolutely it can't...can't overturn.
[CONFIRMATION]

GARY WESTERMAN: No, there should never be a rubber stamp. [CONFIRMATION]

SENATOR GAY: We have that ability obviously,... [CONFIRMATION]

GARY WESTERMAN: Yeah. [CONFIRMATION]

SENATOR GAY: ...but we want to make right decisions or informed decisions. But probably, I think it's so important though going forward that we probably need to make sure there's some flexibility there or other options. And I'm not expert on this and I don't know if anyone really here is. [CONFIRMATION]

GARY WESTERMAN: And if a decision is made from another source, the reason for that decision should be disseminated back to the original. [CONFIRMATION]

SENATOR GAY: Is...go ahead, Kathy. [CONFIRMATION]

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GARY WESTERMAN: And I think that could be improved, not saying that it doesn't come back but I think that communication level could be improved. [CONFIRMATION]

SENATOR CAMPBELL: It's my understanding, though, we really haven't done very much to the 407, the criteria written over the course of the years, I mean we haven't altered. And what you're saying today on changing the wording of it is what I have picked up, too, not that the process... [CONFIRMATION]

GARY WESTERMAN: No. [CONFIRMATION]

SENATOR CAMPBELL: We should definitely keep the process... [CONFIRMATION]

SENATOR GAY: Yes. [CONFIRMATION]

SENATOR CAMPBELL: ...and definitely have that advising the Legislature. My colleagues are all going to laugh now because, I mean, I got more involved in the 407 process or thinking about it...see, they're laughing already, can you tell? [CONFIRMATION]

SENATOR GLOOR: It's not funny. (Laugh) [CONFIRMATION]

SENATOR CAMPBELL: ...when we dealt with the dental assistants and the dental hygienists, and that's when I started really paying attention to what was in statute. And maybe the time has come for us to have a very good dialogue with some of you on this process because you don't want to get into a situation where we as the Legislature are sitting there trying to decide between one health practice and another when we really don't have the background in order to do that. And we rely so much then on that 407 process. [CONFIRMATION]

GARY WESTERMAN: Yeah. Yeah. [CONFIRMATION]

SENATOR GAY: Is there a...the applicant, the applicant comes in, then there's people who don't want this to happen, there's people that do want to happen. Is it tilted any way or... [CONFIRMATION]

GARY WESTERMAN: Well, no, there's an effort made in the establishment of the committee. The committee consists of seven people, all right? It's chaired by a member from the Board of Health and the Board of Health chair will only vote in case there is a tie. Then there's an effort to make equal weight, as far as those that are proponents and those in opposition to the proposal that is being presented. And let's use the scenario that there's 2 in favor and 2 that are not in favor, and then the remaining should be and are generally lay public individuals that are noncommittal one way or the other. So that has been a challenge at times to have an equal weight related to the specific issue

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that's being introduced to have both sides of the table represented. [CONFIRMATION]

SENATOR GAY: Yeah. Well, we won't solve this today. [CONFIRMATION]

GARY WESTERMAN: No. No, no. [CONFIRMATION]

SENATOR GAY: We appreciate your input. [CONFIRMATION]

GARY WESTERMAN: Of course. [CONFIRMATION]

SENATOR GAY: The one thing that I kind of watch in that whole deal is where is the public policy where we can't just abdicate what our responsibility is either and just turn it over. [CONFIRMATION]

GARY WESTERMAN: Yeah. [CONFIRMATION]

SENATOR GAY: I mean an advisory is that, but ultimately we got to make public policy, informed public policy, and that gets very difficult for us too. And I know, think we said Senator Gloor has a good background, Dr. Johnson was, you know, here. But a lot of us just...we're trying to do the best we can and you learn quickly but there's no way we'd ever catch up with your knowledge. So...but anyway, with that, thanks for the... [CONFIRMATION]

SENATOR PANKONIN: But one last comment on that. [CONFIRMATION]

SENATOR GAY: Yeah, Dave. [CONFIRMATION]

SENATOR PANKONIN: When it gets to our level, though, then there's a political element... [CONFIRMATION]

GARY WESTERMAN: Yes. [CONFIRMATION]

SENATOR GAY: Yes, that's the... [CONFIRMATION]

SENATOR PANKONIN: ...of lobbyists and this sort of thing and then...and members going, being well-organized and going to senators directly, and so it really gets... [CONFIRMATION]

SENATOR GLOOR: Sticky. [CONFIRMATION]

GARY WESTERMAN: Yeah, you have to handle that, not us. [CONFIRMATION]

SENATOR PANKONIN: Yeah. It's not good. [CONFIRMATION]

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SENATOR CAMPBELL: It's not good. [CONFIRMATION]

SENATOR GAY: Well, but sometimes, yeah, exactly, but we're not shying away from that. [CONFIRMATION]

SENATOR PANKONIN: No. [CONFIRMATION]

SENATOR GAY: We just want better...know we're making the right public policy decision and not a political decision. [CONFIRMATION]

SENATOR GLOOR: The problem is one of being overwhelmed with information when you're not a knowledge expert in the first place. [CONFIRMATION]

SENATOR GAY: Yes. [CONFIRMATION]

SENATOR CAMPBELL: Yes. [CONFIRMATION]

SENATOR GLOOR: And sorting all of that knowledge that you're...it's bestowed upon you and separating the wheat from the chaff. And that's why trusting the board gets to be tantamount. [CONFIRMATION]

GARY WESTERMAN: Yeah. [CONFIRMATION]

SENATOR GAY: Yeah, Dr. Hopp, come on up. [CONFIRMATION]

RUSSELL HOPP: One of the things that we suggested that we didn't really have a way of carrying out is let's say provider group C, and I don't want to use names, says we want to change our scope of practice and so that's going to require a 407. What I had suggested early on is that that provider group actually give...can send with their application for a 407 a comprehensive medical...want to call them medical literature evaluation of what they are asking for. And so now it's removing it from the political football, financial issues, which it often I think is, and trying to say here's what we propose to do, here's the literature for it and against it. Otherwise, they...well, the 407 process might be very technical and complex, and we have the dentists and a physician and, you know, whatever, but we have to do a lot of that work, that background work ourselves. And I would...I suggested that the person, the group that's saying we want to change our practice actually have to support it in a nonpolitical way with medical science, and that's really the only way I think that's going to put the onus on the applicant to actually have some validity to what they're doing. Otherwise, they're going to say, well, we want to do this in northwest Nebraska because we don't have anybody who can do it in northwest Nebraska and that's the reason we want to do it, and that gets it away from the political arena and the public health, you know, arena, etcetera. It

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has to come down to science. That's really what it has to come down to. And we never have gotten to that point but that would...and then after you argue it, then I still agree with Gary that, you know, all those four criteria for deciding are pretty vague and sometimes you can vote for one for yes and no for the other, and I think those are vague and I'm not a lawyer but I think they're vague. [CONFIRMATION]

SENATOR GAY: All right. Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Just...I mean, this is an interesting discussion, but to emphasize the wheel spinning that sometimes goes on, on our side of the table here, you know, my comment about the PDL earlier, I think a Pharm.D.'s attitude and the Nebraska Pharmacy Association's answer towards PDLs is likely to be a little different than the Nebraska Medical Association's. And so which profession are we supposed to pay attention to that has the best science? Therein lies part of the challenge. [CONFIRMATION]

SENATOR GAY: The public policy connection. [CONFIRMATION]

SENATOR GLOOR: I, based upon my past experience, have a tendency to look more towards a Pharm.D. when it comes to PDLs than I would a general practice physician, but the Medical Association may not agree with me. [CONFIRMATION]

RUSSELL HOPP: Well, I'll give you an example. They recently did the Medicaid revision for all drugs, for what's preferred, the preferred list. [CONFIRMATION]

SENATOR GLOOR: Almost all drugs. [CONFIRMATION]

RUSSELL HOPP: Yeah, all the drugs. And so I'm an allergy specialist and so they didn't come and ask me. Okay? They didn't say what drugs do I use as a provider. So they took two drugs off that I use every day off their provider list for Medicaid and they put on...they left on two drugs that I haven't used for 15 years. Okay? So that doesn't make much sense, does it, if I use those drugs every day in children and adults with asthma and they left on two drugs that I physically have not written for in 15 years? Okay? So the group of physicians who did it had no clue what they were doing and so now I'm stuck with their end result with that preferred list for Nebraska Medicaid and two of the drugs are off the list. [CONFIRMATION]

SENATOR GAY: Right. With that, see, that's just what I'm saying, there's a lot of things to cover. [CONFIRMATION]

SENATOR PANKONIN: But I've got one more question though. [CONFIRMATION]

SENATOR GAY: All right. [CONFIRMATION]

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SENATOR PANKONIN: On these four questions that are somewhat vague in the review process, are those in statute or is that something that the State Medical Director can change or how...who...? [CONFIRMATION]

SENATOR CAMPBELL: It's in statute. [CONFIRMATION]

SENATOR PANKONIN: It's in statute. [CONFIRMATION]

GARY WESTERMAN: I think it's statute. [CONFIRMATION]

SENATOR PANKONIN: Okay. So we need to look into that. [CONFIRMATION]

SENATOR CAMPBELL: Yes, we do. Probably need an interim study.
[CONFIRMATION]

SENATOR GAY: All right. All right. Well, with that... [CONFIRMATION]

SENATOR PANKONIN: And we would really welcome your help on that then of what those questions should be so we can look into it. [CONFIRMATION]

SENATOR CAMPBELL: I'll be glad to volunteer. [CONFIRMATION]

SENATOR PANKONIN: No, I know. [CONFIRMATION]

RUSSELL HOPP: I think the intent of the four questions are there. It's just the wording.
[CONFIRMATION]

SENATOR PANKONIN: Well, but I mean if we need to change it, let's get going on it.
[CONFIRMATION]

SENATOR GLOOR: Sure. [CONFIRMATION]

SENATOR CAMPBELL: Yeah. [CONFIRMATION]

SENATOR GAY: Well, this is probably a clerk's nightmare to try to keep track of all these conversations going on. Sorry, Erin. So with that, though, let's...we'll close the public hearings on the nomination, appointment nominations. Appreciate you all coming here. Our plan is we're going to go into Executive Session now. Monday these go out to the floor for approval, assuming they get approved here, and then they go out Monday. And appreciate you coming down today. Thank you. [CONFIRMATION]

GARY WESTERMAN: Thank you. [CONFIRMATION]

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SENATOR GLOOR: Thank you. [CONFIRMATION]

SENATOR CAMPBELL: Thank you very much. [CONFIRMATION]

SENATOR PANKONIN: Thanks for coming. [CONFIRMATION]

SENATOR CAMPBELL: We'll be in touch. [CONFIRMATION]

GARY WESTERMAN: Thank you. [CONFIRMATION]

Chairperson

Committee Clerk