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Executive Board Committee
February 12, 2018

[LB1078 LR288]

The Executive Board of the Legislative Council met upon adjournment on Monday, February 12, 2018, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1078 and LR288. Senators present: Dan Watermeier, Chairperson; John Kuehn, Vice Chairperson; Kate Bolz; Sue Crawford; Dan Hughes; Tyson Larson; John McCollister; and Jim Scheer. Senators absent: Ernie Chambers and John Stinner.

SENATOR WATERMEIER: All right. Welcome to the Executive Board Committee hearing. My name is Dan Watermeier. I'm from Syracuse. I represent the 1st Legislative District. I serve as Chair of the Executive Board. Our hearing today is your part of the legislative process, your opportunity to express your position on proposed legislation before us. The committee members may come and go during the hearing. We get called away for various reasons. It is not an indication we are not interested in the bill, but we do have other things going on in the building at the same time. To better facilitate today's proceedings, I ask you abide by a couple procedures. Please silence or turn off your cell phones. The order of testimony will be the introducer, proponents, opponents, neutral, and then closing. If you are testifying, please make sure you fill out a green testifier sheet. When you come up to testify, please hand the green sheet to the page; please state and spell your name for the record at the start of your testimony. Each testifier will have five minutes to speak. After four, you'll have a yellow light. And when the red light comes on, I'll ask you to please close it up. If you will not be testifying but want to go on the record as having a position on a bill today, there are white sheets in the back of the room as well. Written materials may be distributed to committee members while testimony is being offered. Please hand these to the pages and we'll make sure they get passed out. We would like to have 12 copies. I'd like to make you aware of a new policy that the board has chosen this year. If you're planning to submit a letter for the record, please send it to my office by 5:00 p.m. the day before the hearing so that we can make sure that it gets into the permanent record. To my immediate right is legal counsel, Janice Satra; to my left is committee clerk, Laura Olson. And I'd like to have the members introduce themselves today, starting with Speaker Scheer.

SENATOR SCHEER: Jim Scheer, District 19.

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SENATOR McCOLLISTER: John McCollister, District 20.

SENATOR BOLZ: Kate Bolz, District 29.

SENATOR HUGHES: Dan Hughes, District 44.

SENATOR KUEHN: John Kuehn, District 38.

SENATOR CRAWFORD: Sue Crawford, District 45.

SENATOR WATERMEIER: And our page helping us today is Heather Bentley from Miller, Nebraska. All right. We'll take up the bills that are posted on the agenda, and I have LB1078 up first. So, Senator Crawford, welcome.

SENATOR CRAWFORD: (Exhibit 1) Thank you. Good afternoon. Chairman Watermeier and members of the Executive Board, for the record, my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County, and I'm honored to be here to introduce LB1078 for your consideration. In 2017, the Nebraska Inspector General of Child Welfare issued the child sexual abuse report. Sadly, during this investigation, the OIG identified 50 children who are victims of sexual abuse that had been substantiated by DHHS or the courts between 2013 and 2016. Of these 50 victims identified, 27 were in state care at the time of their sexual abuse and 23 were sexually abused in an adoptive or guardian home in which the state had placed them. In light of these tragic findings, the OIG's Office made 18 recommendations to the Department of Health and Human Services. These recommendations were based off of systemic shortcomings that were identified while investigating these cases of child sexual abuse. The first recommendation made by the OIG was that DHHS create a system to collect and review information about allegations of sexual abuse of children and youth served by the state's child welfare and juvenile justice programs. Although the department rejected this recommendation on the premise that they already have an intake system that collects information on all types of allegations, when the OIG requested information on sexual abuse allegations on system-involved kids, DHHS was not able to immediately provide that information. While investigating the 50 cases outlined in their report, the OIG's Office found

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that some cases of sexual abuse involving a state ward it was clearly documented on the hot line intake report, the alleged abuse that happened while the child was in the state's care. Unfortunately, in other cases, there was not indication in the hot line intake report that the alleged victim was a state ward. That being said, there was no protocol that requires the hot line intake reporting to clearly indicate when an alleged...allegation of the abuse involves a child in state custody. Currently, whether or not this detail is documented well depends on the individual completing the intake. Further, in the critical incident report forms that the department sends to the OIG's Office when something major happens to a state ward, sexual abuse is not listed as a type of critical incident that the staff can select. I have the page distributing a copy of this form for your review. This results in cases where a critical incident report is not completed and sent over to the OIG for allegations of sexual abuse involving a state ward. Probation, on the other hand, is already sending the OIG's Office critical incident reports for incidences of alleged sexual abuse involving juvenile probationers. Frankly, sexual abuse allegations is not a clear data point being collected and analyzed. That means there's no quick and efficient way to pull information on the number of sexual abuse allegations made in a certain time period involving children in the state's care. LB1078 will require the department to create a documentation process that clearly indicates when a victim sexual abuse allegation is a state ward or in the state's care. It is critical that the department and the OIG's Office have access to timely and accurate information about the frequency of these allegations. This data can then be monitored to identify patterns and implement necessary interventions if a systemic problem is identified. LB1078 also ensures that the number of sexual abuse allegations that occurred for children being served by the Division of Children and Family Services and the number of sexual abuse allegations that occurred while placed in a residential child-caring agency, as well as the results of those investigations be shared with the Health and Human Services Committee of the Legislature in the department's annual report. This includes allegations made in residential facilities licensed by Public Health. It is important that this data be shared on an annual basis to allow for accountability and oversight. In conversations with the department about this bill, they acknowledge they're already tracking this data but would need to modify their existing internal processes to get the data in a centralized format that could be easily analyzed and shared. LB1078 simply requires that the information be shared and allows DHHS the flexibility to determined internal processes best to collect and distribute that information using existing resources. LB1078 will allow the department and the OIG's Office to analyze in real time the number of sexual abuse cases being reported that involve

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children in the state's care. When vulnerable children are being abused or allegations of abuse on our watch, we as a state must respond to the systemic shortcomings that allow these tragic incidents to occur and put safeguards in place to ensure children are better protected moving forward. Access to critical information about the sexual abuse allegations reported to DHHS will ensure the Legislature is able to respond appropriately with meaningful policy and budget changes that strengthen Nebraska's child welfare system. With that, I thank you for your attention to this important issue and I am happy to try to answer any questions you have. [LB1078]

SENATOR WATERMEIER: All right. Thank you, Senator Crawford. Are there questions from the committee? Speaker Scheer. [LB1078]

SENATOR SCHEER: On your handout, "B.," it shows sexual assault under "LAW ENFORCEMENT." You're assuming then that's not sufficient enough to add sexual abuse? [LB1078]

SENATOR CRAWFORD: So that, my understanding of that box is that is when the ward was engaged with law enforcement because they were doing the sexual abuse. Does that make sense? Like this is law enforcement, legal... [LB1078]

SPEAKER SCHEER: So if it had... [LB1078]

SENATOR CRAWFORD: ...legal allegations, or arrest of DHHS youth for serious criminal activity. Do you see? So that's when the youth itself was doing the...okay. [LB1078]

SENATOR SCHEER: Right, but there's a comment that talks about other different ones and I...but you're saying they all go back to the very first, so that's not what you're...that you do not perceive this to be the (inaudible), a separate box, essentially. [LB1078]

SENATOR CRAWFORD: Right, that is for alleged sexual abuse, right,... [LB1078]

SENATOR SCHEER: Okay. [LB1078]

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SENATOR CRAWFORD: ...right, of the person in state care, right. [LB1078]

SENATOR SCHEER: Correct. Okay. [LB1078]

SENATOR CRAWFORD: Right. Does that make sense? [LB1078]

SENATOR SCHEER: Thank you, Senator Crawford. Thanks, Senator Watermeier. [LB1078]

SENATOR CRAWFORD: Yeah, thank you. Thank you for the question. [LB1078]

SENATOR WATERMEIER: Thank you, Speaker Scheer. Further questions from the committee? All right. Thank you, Senator Crawford. [LB1078]

SENATOR CRAWFORD: Thank you. [LB1078]

SENATOR WATERMEIER: Can I ask who's here today to testify on LB1078, how many, get a show of hands? One, two, three? Okay, we'll give you five minutes, so come on up. Welcome, Inspector General. [LB1078]

JULIE ROGERS: (Exhibit 2) Thank you. Good afternoon, Senator Watermeier and members of the Executive Board. My name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s, and I serve as your Inspector General of Nebraska Child Welfare. The Office of Inspector General, or OIG, housed within the Legislature, investigates concerning incidents, including deaths and serious injuries and allegations of wrongdoing and improper performance of individuals and agencies responsible for the care and protection of children in Nebraska child welfare and juvenile justice systems. In its investigations, we identify recommendations for system improvement. LB1078 increases transparency and accountability surrounding the sexual abuse of children involved with Nebraska's child welfare and juvenile justice systems by instituting new reporting requirements. In December, our office released a report into the sexual abuse of state wards, youth in adoptive and guardian homes, and youth in residential placements. Between a roughly three-year time span from July of 2013 through October of 2016, we opened up our investigation based on a continuing stream of concerning sexual abuse incidents referred to our office through complaints

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and critical incidents. As you heard, as part of our investigation, I identified 50 victims of sexual abuse who are system involved. We had not received notice about the majority of these allegations through complaints or critical incidents. Instead, we discovered victims by individually combing through 971 reports to the Nebraska Child Abuse and Neglect Hotline as DHHS did not comprehensively track how many or which children served through the child welfare system had been victims of sexual abuse. We recommended that DHHS create a system to collect and review information about allegations of sexual abuse of children and youth served by the DHHS Division of Children and Family Services' child welfare and juvenile justice programs in order to monitor the problem of sexual abuse in these systems, analyze trends, and identify needed improvements. As you heard, DHHS rejected this recommendation. LB1078 would ensure that DHHS both collects and reports on sexual abuse allegations to the Legislature. It will also ensure that our office receives timely notice of sexual abuse incidents from DHHS, Probation, and others, so that we can monitor these issues, review cases, and, when appropriate, launch an investigation. Thank you for your time and attention and I... [LB1078]

SENATOR WATERMEIER: All right. Thank you, Ms. Rogers. Questions from the committee? Speaker. [LB1078]

SENATOR SCHEER: Thank you for coming, Julie. Real quick, you talked about the 50 reports. I just wanted to clarify. Those are 50 different individuals rather than just 50 incidents. [LB1078]

JULIE ROGERS: That's correct, yep. [LB1078]

SENATOR SCHEER: Okay, thank you. [LB1078]

SENATOR WATERMEIER: Okay. Further questions? All right. Thank you for your testimony. [LB1078]

JULIE ROGERS: Thank you. [LB1078]

SENATOR WATERMEIER: Further testimony in proponents of LB1078? Welcome. [LB1078]

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IVY SVOBODA: (Exhibits 3 and 4) Thank you. Executive Committee, my name is Ivy Svoboda, I-v-y S-v-o-b-o-d-a. I'm the executive director of the Nebraska Alliance of Child Advocacy Centers. Thank you, Senator Crawford, for introducing this initiative and your thorough understanding and support of the Child Advocacy Center model. Over the last 25 years, this Legislature has adopted policies that ensure a coordinated approach to all child abuse investigations. We know that multiple agencies respond best when they work together. Today, a clear and deliberate policy drives the child abuse investigation process for law enforcement, Child Protective Services, prosecutors, and child advocacy centers. Nebraska has seven nationally accredited Child Advocacy Centers and nine fully functioning satellite offices that have been mandated through the Nebraska Legislature to assist the county attorneys in all 93 counties via Nebraska Revised Statute 28-728(d)(iii) to provide forensic interviews, and (4) of the same statute to facilitate the case-review process on court-involved and non-court-involved cases, establish protocols and ensure training within all the multidisciplinary teams. I have three recommendations related to LB1078 to be codified by the Legislature from the child advocacy centers: (1) that the Department of Health and Human Services create a mechanism within N-FOCUS, their tracking...their electronic tracking system, to notify child advocacy centers of intakes from children of out-of-home placements; (2) to provide the CAC's access to NCJIS/NDEN, which is the Crime Commission's system, and N-FOCUS, which is the department's system, for all the child abuse and neglect intakes to facilitate the sharing of information between agencies and to adequately coordinate the multidisciplinary teams; and (3) for the DHHS hot line to mark all intakes as "CAC Coordination Required," according to statute, to include cases of sexual abuse, serious physical abuse and neglect, those witness to violent crime, those found in drug-endangered environment, and children recovered from kidnapping, not just sexual abuse. In reference to the Office of the Inspector General's child sexual abuse report action items, number 5 under the child welfare system, to "Improve multi-disciplinary coordination in child sexual abuse investigations," we understand that the department deferred the recommendation to the child advocacy centers, indicating that we are the primary entity responsible for coordinating the multidisciplinary teams. We agree that we assist the county attorneys with this duty, therefore, we are asking the Legislature to codify and provide clarification of the role of the child advocacy centers to meet this action item, thus my first recommendation for DHHS to create a mechanism to notify the CACs of intakes of children from out-of-home placements, so we can work as a team to ensure the safety of the child throughout the process. The child advocacy centers across

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the state provide coordination to over 110 multidisciplinary teams. The teams review over 12,800 cases each year that are reported to the child welfare system through law enforcement or the hot line. At present, the hot-line system automatically marks CAC coordination on just sexual abuse cases, while other reports of child abuse will be subject to the Structured Decision Making tool and subjective identification by the hot-line employee. This subjectivity and antiquated screening tools are what leads to a multidisciplinary team member making a referral to the CAC coordinator for team review. With those numbers adding up, the county attorneys rely on the CAC coordinator's access to NCJIS/NDEN and N-FOCUS to be able to adequately facilitate the case review, which leads...led to me second recommendation. Currently, the CAC coordinators sit through all the referred cases, vetting the ones that meet case-acceptance criteria for review by the team, as the statute states, and even more within the same statute that cases referred from any member of the team when a systems response has been identified. Lastly, my third recommendation to make this work more efficient for the CAC coordinators to improve all cases CACs are mandated to coordinate, we recommend that the DHHS hot-line employee mark all intakes according to that statute, that section (3). The CACs believe these steps will assist in the number of recommendations from the Office of Inspector General's report for specifically number...their recommendations to the department on number 1, number 5, number 6, and number 10 of the recommendations. The work of the teams functions best when all information is available, organized, and shared between investigative parties. The DHHS workers are tasked with conducting a safety assessment of the home and law enforcement are tasked with conducting an investigation of the criminal act. The sharing of information between two agencies are essential in holding offenders accountable and keeping children safe. Multidisciplinary teams convene subject matter experts within the community to provide guidance and recommendations for case professionals to use in their case and treatment planning, for the county attorney to consider how and when to prosecute a case. Ultimately, case-planning decisions are made by DHHS and charging decisions are made by the county attorney; however, it is immensely beneficial to access system partners to make their decisions with accurate and complete information, thus, my recommendations, again, the 1, 2, and 3. I won't go through them. And then on behalf of the child advocacy centers, I wanted to thank you for your time. [LB1078]

SENATOR WATERMEIER: All right. Thank you for your testimony, Ms. Svoboda. [LB1078]

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IVY SVOBODA: Yes. [LB1078]

SENATOR WATERMEIER: Any questions from the committee? All right. Thank you for your testimony. Another proponent? Welcome. [LB1078]

JULIET SUMMERS: (Exhibit 5) Good afternoon, Chairman Watermeier, members of the board. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here representing Voices for Children in Nebraska in support of LB1078. All children deserve to be safe from harm, and it's the duty of the state to adequately safeguard those who have already experienced abuse or neglect and the trauma of removal from their home and family. We support this bill because it would ensure that allegations of sexual abuse of children in care continue to be investigated and reported to the Legislature for appropriate further action. Even one child sexually assaulted or abused while in the care and custody of our state would be a tragedy and an outrage, and you've already heard the numbers that over the course of three years there were 50 verified individuals where sexual assault or abuse of children occurred in the state's care and custody. I won't give you the same numbers you've already heard, but I will note that half of all of these were also...were abused by caregivers. That was also identified by the IG. And unfortunately, these numbers are almost certainly an under-representation of the true number of children exploited while in the state's care, first because, broadly speaking, it tends to be true that allegation...or incidents of child sexual abuse are underreported because children don't come forward to report, but more specifically to Nebraska because there were other cases that the Inspector General found had been improperly screened out or not investigated properly, so the collateral information wasn't there to verify whether that had occurred, and, secondly, because the report at least did not appear to include youth on probation who were not also placed in facilities under the jurisdiction or governed by the Division of Public Health. So in the report, as you've heard, the IG identified 18 recommendations to improve system response to these allegations and seven action items for the broader child welfare system. We believe that it's vital that the office continue to investigate and report to the Legislature not only on the numbers of youth sexually abused while in care but on the progress made regarding these recommendations. It's important, also, that this investigation include youth on probation who are also under the state's supervision, and particularly youth on probation who are placed in out-of-home care, such as detention facilities our out-of-state placements that aren't governed under our Nebraska Division of Public Health.

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Voices for Children supports LB1078 because it provides the appropriate statutory requirement and authority for the IG to do so. So with that, I'll wrap up. We thank Senator Crawford for bringing this bill and we thank you for your time and your commitment to Nebraska's kids. [LB1078]

SENATOR WATERMEIER: All right. Questions from the committee? Thank you for your testimony, Ms. Summers. [LB1078]

JULIET SUMMERS: Thank you. [LB1078]

SENATOR WATERMEIER: (Exhibit 6) Further proponents of LB1078? Seeing none, are there opponents to LB1078? Anyone in the neutral position? All right. I have one letter in support of LB1078 from Kristen Mayleben-Flott of the Nebraska Planning Council in support of. Senator Crawford for closing. Senator Crawford waives closing on LB1078. That will close the hearing on LB1078. All right. We'll open the hearing on LR288. Senator Bolz. [LB1078]

SENATOR BOLZ: (Exhibits 1 and 2) Good afternoon, committee. For the record, my name is Kate Bolz, K-a-t-e B-o-l-z, and I bring LR288, a resolution calling for the creation of the Nebraska Child Welfare Death and Abuse Special Oversight Committee. The committee would consist of the chair of the Child and Maternal Death Review Team, the executive director of the Foster Care Review Office, the Inspector General for Child Welfare, the Chair of the Health and Human Services Committee of the Legislature, the Chair of the Judiciary Committee of the Legislature, and three additional members of the Legislature appointed by the Executive Committee. And I have brought an amendment clarifying some language to ensure that it fits with the appropriate structures expected by our branch. The Child Welfare Death and Abuse Special Oversight Committee would study the problems and circumstances of incidents of child abuse, sexual abuse, and death among children placed in the care of the state of Nebraska. The committee would further compile a report of its findings including any recommendations they deem appropriate to improve the safety, permanency, and well-being for Nebraska children. As state senators, we all take our role in providing oversight for children safety very seriously. This resolution addresses both our responsibility for protecting children and provides an opportunity to work with Department of Health and Human Services to improve our child welfare system. As

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a state, we must do our part to prevent tragedies for children in the first place. As you have heard, both through media reports and through Senator Crawford's bill, there are several reasons for legislative oversight and action. The first is that during the fiscal year 2015-16 the child welfare Inspector General investigated 22 cases of system-involved children who died or were seriously injured. The December 2017 report substantiated...related to the substantiated sexual abuse of 50 state wards youth in adoptive or guardian homes and/or youth in residential placements. Consistent with the information provided by the Department of Health and Human Services' annual statutorily required caseload report, the Office of the Inspector General has repeatedly noted in annual reports that the department has never complied with the minimum caseload standards required by law since 2012. The reports illustrate areas where challenges are directly related to "miscompliance" with existing state law regarding abuse reporting and investigation of allegations of abuse. And as you know from following media reports, there is a fiscal shortfall in our ability to pay for needed services in the Division of Children and Family Services that's being addressed by the Appropriations Committee. So these are all challenges in our system that deserve our attention. I do want to briefly address a few comments that I've heard in response to this idea. The first is that we have already heard...already have committees and entities doing this work, including some of the ones that are enumerated in the bill. And I think one of the values of the bill is that we bring all of these entities together and try to come up with a collaborative approach. It's also important to note that most of the entities that we have in place, including the Inspector General, the Children's Commission, and the Maternal and Child Death Review Team, may only make recommendations. It's really only the legislative branch or body that can move forward with statutory change. And I would also note that this is not different from other special committees that we have put together such as the Corrections oversight committee, the economic development committee that some of my colleagues worked on for the summer. So this is in line with precedent. The second comment I have heard is that the department is already working to address these challenges, and I would agree. I give the department credit for moving forward, for doing things that have been in response to some of the troubling information that we have received. But I truly believe that in order to address these challenges the branches need to come together. Statutorily required caseload standards have not been met since 2012, and we must make sure that all the stakeholders are coming together to problem solve. As you also heard from the Governor's State of the State, one in three removals of children from their homes involved parents using methamphetamine. And so these issues and

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problems cross different divisions, cross judicial and human services, issues cross Appropriations and committee jurisdiction issues and they deserve action, attention, and the involvement of multiple agencies and stakeholders. During the recent public release of results from the federal 2017 Children and Family Services Review, the administration was adamant that the challenges facing the child welfare system were not the department's alone to address. They asserted that the review was a review of the collective system and that collectively we must work to create solutions to improve outcomes for children. We would agree. In the sense of collaboration, I think we do need to provide oversight to lean in, in our role as legislators and to heighten the urgency to strengthen child welfare services to promote safety and well-being. So I'll leave it there. I think it is our responsibility to respond to the troubling information that we've heard, and I think that LR288 is a vehicle to do so. [LR288]

SENATOR WATERMEIER: All right. Questions from the committee? Thank you, Senator Bolz. Can I get a show of hands of who is here to testify on LR288, how many? One, two...six. Let's limit this to four minutes or I'm afraid with questions we won't make it. So we'll go ahead and open up with proponents of LR288, those in favor of LR288. Anyone pro? I know you are. I'll wait as long as I can. All right. Welcome. [LR288]

SARAH HELVEY: (Exhibit 3) Welcome. Chairman Watermeier, members of the Executive Board, my name is Sarah Helvey, that's S-a-r-a-h, last name H-e-l-v-e-y, and I'm a staff attorney and director of the child welfare program at Nebraska Appleseed. The death or serious injury of a child in the state's care and custody is a devastating tragedy. In other states, individual child deaths have prompted resignations and system reforms; and the death of children in private, for-profit foster care agencies prompted a recent congressional investigation and report. The response in Nebraska to the death and serious incidents of 22 children, as investigated by the Inspector General, has not to date included comprehensive efforts to correct inadequate procedures and policies identified in the system. As the branch of government setting fiscal and state policy, we believe this is a critical role of the Legislature and we therefore strongly support the creation of the Nebraska Child Welfare Death and Abuse Special Oversight Committee. We believe the proposed committee as set forth in LR288 would establish a helpful structure for the Legislature to study this issue, including utilizing the fact-finding and recommendations of the Office of the Inspector General as well as the expertise of the Child and Maternal Death Review

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Team and the Foster Care Review Office. Importantly, we believe the proposed committee would create necessary focus and oversight to prevent future deaths and abuse of children in the care of the state. We want to thank Senator Bolz for her leadership on behalf of children. And we respectfully request that you vote to advance LR288. [LR288]

SENATOR WATERMEIER: All right. Thank you. Questions from the committee? Thank you for your testimony, Ms. Helvey. Further proponents on LR288. [LR288]

JULIET SUMMERS: (Exhibit 4) Good afternoon, Chairman Watermeier and members of the Executive Board. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s. I'm here on behalf of Voices for Children in Nebraska to support LR288 because the deaths and sexual abuse of children in care deserve the scrutiny of the legislative branch. We believe that this body, as much as the executive branch, has a duty to ensure that this stops now. In recent days, including in Senator Crawford's bill just a few minutes ago, I have testified before other committees in the Legislature on several bills responding to the outrages that children have experienced in our system. And each time the information feels like a punch to the gut. Even one child death or sexual assault while under the state's protection would be too many, would be a tragedy. And in recent years, we have witnessed many. The IG's report has identified 50 verified cases of sexual abuse or assault of children over the three most recent years while in the state's care and custody. And the office has also investigated 32 deaths or serious injuries involved in our child welfare or juvenile justice system since the start of fiscal year 2015. These numbers are intolerable and every effort must be made to remedy the systemic factors that underlie them. Voices for Children in Nebraska supports LR288 because we believe that this body has a duty of care, responsibility, and the authority to assist the children of our state, just as the executive branch and the agency do. External oversight and collaborative oversight is necessary and should be welcomed when it is flaws in the system that are giving rise to these tragedies. To that end, we support this bill or this resolution in the hope that this will be the year that the Inspector General has zero child deaths or sexual abuses to investigate. We thank Senator Bolz for bringing this and for her strong commitment to the children of our state. And we thank you for your time and your commitment to assisting the children of our state. And with that, I would respectfully urge you to move this resolution forward. [LR288]

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SENATOR WATERMEIER: All right. Thank you. Questions from the committee? Thank you for your testimony, Ms. Summers. [LR288]

JULIET SUMMERS: Thank you. [LR288]

SENATOR WATERMEIER: All right. Further proponents on LR288. Seeing none, those in opposition. Welcome. [LR288]

SENATOR RIEPE: Thank you, Mr. Chairman, members of the Executive Board. My name is Senator Merv Riepe, that's Merv, M-e-r-v, last name is Riepe, R-i-e-p-e, and I stand in opposition to LR288 for the following reasons. All deaths and serious injuries of children need to be taken seriously and there must be a no-tolerance policy for sexual abuse or injury of children. The Division of Children and Family Services is one of five divisions which the HHS Committee has jurisdictional oversight. That's why I'm here today is because of the responsibility or accountability of HHS for jurisdictional oversight. The HHS Committee will continue to provide oversight over this division and all divisions of Department of Health and Human Services. The members of the HHS Committee acts as subject matter experts regarding HHS issues and therefore should remain with the jurisdictional committee, the Health and Human Services Committee. As Chairman of the Health and Human Services Committee, I oppose LR288 and am willing to work with all members of the Unicameral to improve accountability and outcomes of DHHS. Thank you for your consideration. [LR288]

SENATOR WATERMEIER: All right. Thank you, Senator Riepe. Questions from the committee? All right. Thank you for your testimony. [LR288]

SENATOR RIEPE: Thank you, sir. [LR288]

SENATOR WATERMEIER: Further opponents on LR288. [LR288]

MATT WALLEN: (Exhibit 5) Good afternoon, Chairman Watermeier and members of the Executive Board. My name is Matt Wallen, M-a-t-t W-a-l-l-e-n, and I am the director of the Division of Children and Family Services in the Department of Health and Human Services. I

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am here to testify in opposition to LR288, which creates the Nebraska Child Welfare Death and Abuse Special Oversight Committee to study the prevalence and related circumstances of abuse, sexual abuse, and death in Nebraska's child welfare and juvenile justice services systems. The Division of Children and Family Services currently works with, participates on, or is subject to oversight and recommendations by roughly 30 different committees, commissions, work groups, advisory organizations, and task forces. The division is obviously subject to ongoing, permanent oversight by the HHS and the Appropriations Committees of the Legislature. In addition to the 30 existing stakeholder advisory groups, the Inspector General of Nebraska Child Welfare, the Foster Care Review Office, the Child and Maternal Death Review Team, the Nebraska Governor's Commission, and federal oversight, it is unclear why a separate legislative entity is needed. In fact, the Health and Human Services Committee already provides necessary legislative oversight, as it can call a hearing concerning the Division of Children and Family Services at any time. Over the past couple weeks, the Health and Human Services Committee held oversight briefings on the Office of Inspector General for Nebraska Child Welfare's annual report and special report on sexual abuse; caseload standards, and work force initiatives. Additionally, any senator can, and does, request the agency's presence at a meeting or for a briefing at any time. The Division of Children and Family Services attempts to share all records and information as allowed by law with the entities conducting case reviews. As I mentioned previously, each of these groups makes recommendations that the division reviews thoroughly and tries to address based on state and federal requirements and in consideration of other initiatives the division may already be implementing. In addition to the overarching concern of duplicate oversight, LR288 lists several items the committee would study, including child deaths and abuse incidents, background checks, staff training, and the OIG's recommendations. With regard to child deaths and abuse incidents, The Inspector General of Nebraska Child Welfare and the Child and Maternal Death Review Team both review cases of child deaths; and the Inspector General reviews cases involving serious injury. As you are aware, the Inspector General shared several recommendations with the department and external stakeholders. The department has implemented several of the recommendations and is working on several others. The department also conducts an internal review of policy and practice to identify any systems issues that may need to be addressed by training, policy or procedure updates, or other change in practice. I'll skip to the last bullet. Inspector General Recommendations: The Division meets with the Inspector General for Nebraska Child Welfare regularly to review and discuss recommendations.

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The department has fully implemented over 20 recommendations made by the Inspector General and is working on several others. In addition to being held accountable by the Health and Human Services Committee, the OIG, the Legislature, system stakeholders, and all the citizens of Nebraska; in addition to the 30 organizations and commissions that oversee and recommend system improvements; the division submits over 30 quarterly and annual reports to the Legislature for your review as well. These reports detail everything from specific expenditures to program performance to overall system metrics. To be clear, I do not object to oversight or transparency, and I believe we are holding ourselves to a high standard in that regard. The Division of Children and Family Services is always open to working with senators and all stakeholders and will continue to collaborate with the Legislature to ensure our system protects the children in our care. However, I do oppose LR288 given duplication of existing oversight structure, which also takes more of our time away from serving Nebraskans. Thank you for the opportunity to testify before you today. I am happy to answer any questions you might have. [LR288]

SENATOR WATERMEIER: All right. Thank you. Are there questions from the committee?
Senator Crawford. [LR288]

SENATOR CRAWFORD: Thank you, Chairman Watermeier. And thank you, Director, for being here today and for outlining these different methods of oversight. So I wonder if you would respond to the comment that this team actually provides an opportunity for all these entities that are providing oversight to come together for conversation. So I think they all are providing different reports. I don't know if there are any other opportunities where you're really bringing these entities together to learn from one another and think about ways that those pieces of information fit together and ways to move forward. [LR288]

MATT WALLEN: I think of...let's take the Children's Commission, for example. I see most of the folks that are identified on the new special committees list as also being members of the Children's Commission meetings... [LR288]

SENATOR CRAWFORD: Okay. [LR288]

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MATT WALLEN: ...including legislators and other informed stakeholders. There's a few of the other commissions. I know through the Nebraska Children and Family Foundation a number of commission meetings that take place there that have also the similar kind of overlap of folks that we see attend those meetings and participate regularly in those work groups. [LR288]

SENATOR CRAWFORD: Thank you. [LR288]

SENATOR WATERMEIER: Thank you, Senator Crawford. Senator McCollister. [LR288]

SENATOR McCOLLISTER: Yeah. Thank you, Chairman Watermeier. And thank you for appearing, Director Wallen. As I read the second page of your testimony, you indicated that you're working on various plans to get (inaudible). When do you anticipate those plans, an action plan will be completed that you could publicize to interested members of the body? [LR288]

MATT WALLEN: With regard, we work through and meet regularly with the Office of the Inspector General on kind of the ongoing list of recommendations and throughout kind of regular updates. We work through issues. We work through items. We get guidance from them. And it's an active work list that we continue to work through and make improvements on. Some are more difficult than others to achieve so some may take longer than others. But we...it is in the forefront of what we are doing and we work through that list. And my hope is to get, you know, through all 40 recommendations--we've already completed 20 of those recommendations--and to continue to work through the remaining recommendations to make improvements to the system. [LR288]

SENATOR McCOLLISTER: That's great. Can you forward us the checklist and how it stands right now? [LR288]

MATT WALLEN: I'd be happy to do that. [LR288]

SENATOR McCOLLISTER: Okay. When do you anticipate it being completed? [LR288]

MATT WALLEN: The full checklist? [LR288]

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SENATOR McCOLLISTER: Yeah. [LR288]

MATT WALLEN: I mean there are a few items on that list that are I would say longer term, systemic improvements that need to be made as far as...one of the ongoing things is how we do our internal assessment process and then some of our caseloads that we've talked about today and recently in the HHS Committee. That's not something that's going to happen overnight, but it's something we've made steady improvements at over the last few years. [LR288]

SENATOR McCOLLISTER: So a couple of years you'll have it done or are we looking five years? [LR288]

MATT WALLEN: My goal would be have it done much before five years. [LR288]

SENATOR McCOLLISTER: Thank you very much. [LR288]

MATT WALLEN: More the immediate future. [LR288]

SENATOR WATERMEIER: Thank you, Senator McCollister. Senator Kuehn. [LR288]

SENATOR KUEHN: Thank you, Chairman Watermeier. Thank you, Director, for coming here today. I want to home in on just one aspect towards the conclusion of your testimony and that deals with the nature and the quantity of your quarterly and annually reports. So as someone through official capacity in another committee has spent a significant amount of time looking through the nature of reports that are coming to the Legislature and they're made available, one of my concerns is we talk about continued expansion of whether that's oversight committees or investigative committees is it seems we are buried in reports and that is great and important that we have that transparency. My concern is we have a lot of stakeholders who don't know that the reports are there who have never necessarily read the report and that oftentimes we till the same ground over and over talking about the same reports. So I think this is an important venue to discuss. When you make these reports available, how is that notification process, where can the public and stakeholder groups identify those reports? And...when we seem to have this ongoing frustration about accessibility to this information, what tips you may have about improving

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accessibility and even public awareness of the large volumes of data that you are already providing publicly? [LR288]

MATT WALLEN: Sure. The reports are posted, they're transmitted to the Legislature, the Clerk of the Legislature, and then they're posted...there's a report section on the Legislature's Web site. So they're all posted and listed there and easily accessible through that route, if you will. The annual reports are completed shortly after the end of the year and then the quarterly reports I think have 2 weeks to 30 days after the close of the quarter when we get those reports submitted. We don't put a press release out or do any of that, but generally I believe they're electronically transmitted over to the Clerk and then they're posted quietly on the Web site. I know a lot of the reports are...there's a lot of good information in those reports and I refer back to them pretty frequently for a lot of things. And they're very informative as far as practices, policy updates, program improvement areas. I mean, some of those reports obviously identify areas where we have opportunity for improvement, and we're not shy about putting that in the reports as well so. [LR288]

SENATOR KUEHN: I guess my recommendation is we have these discussions about a lot of issues regarding children and family welfare and they're important conversations to have that maybe the department look at a little bit more active process in terms of public notification. I know you can also get too many press releases, but I think all too often reports are posted and people don't know the report has just been posted or don't know where to go find that information. And there's so many volumes of good information, as much active dissemination of the information and active notification of people who are interested in this issue that the report is now available would certainly to my mind alleviate a number of these concerns which continue to surface about notification and oversight. [LR288]

MATT WALLEN: Thank you. That's good feedback, appreciate it. [LR288]

SENATOR WATERMEIER: Further questions? Thank you, Director Wallen, for your testimony. [LR288]

MATT WALLEN: Thank you. [LR288]

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SENATOR WATERMEIER: Further opposition to LR288. Anyone in the neutral capacity? All right. Welcome, Inspector General. [LR288]

JULIE ROGERS: (Exhibit 6) Thank you, Senator Watermeier and members of the Executive Board. My name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s, and I serve as your Inspector General of Nebraska Child Welfare. For the record, the Office of the Inspector General or OIG is housed within the Legislature, investigates concerning incidents including deaths and serious injuries and allegations of wrongdoing and improper performance of individuals and agencies responsible for the care and protection of children in the Nebraska child welfare and juvenile justice systems. In our investigations, we identify recommendations for system improvement. The page has handed out from our most recent annual report, which was September of last year, Appendix A which is our recommendations and the implementation status of each. We meet regularly or ask for information regularly from the agencies that we make recommendations to, and we update each recommendation as to whether the agency has rejected it. We see that it's incomplete, there's no further action, there's progress, or the recommendation is complete. So I just wanted to make sure that the committee had that information and I'd be happy to answer any questions. [LR288]

SENATOR WATERMEIER: All right. Questions from the committee? Senator Kuehn. [LR288]

SENATOR KUEHN: Thank you, Mr. Chairman. And thank you, Ms. Rogers. Crazy question here. So how often--I see Ms. Hawekotte is here--so how often do you guys pick up the phone and talk to each other, collaborate when an issue comes up? [LR288]

JULIE ROGERS: With... [LR288]

SENATOR KUEHN: Regarding any of these issues. Like how often do you think you, on a monthly basis let's say, that may be too big of a time period... [LR288]

JULIE ROGERS: Yeah. [LR288]

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SENATOR KUEHN: ...communicate with some of the other stakeholders that are identified in this commission? [LR288]

JULIE ROGERS: I would...well, I sit on the Child and Maternal Death Review Team so we meet quarterly. I sit on the Children's Commission. We meet every other month. Picking up the phone, I can't...I mean I can't count... [LR288]

SENATOR KUEHN: Yeah, I'm not trying to trick you. But you guys communicate frequently... [LR288]

JULIE ROGERS: Sure. [LR288]

SENATOR KUEHN: ...right, both in formal and informal settings. [LR288]

JULIE ROGERS: That's right. [LR288]

SENATOR KUEHN: So I guess--and Ms. Hawekotte can probably know she'll get the same question as well--so we talk about collaboration and trying to find creative solutions. Is it fair to say that because you're all working on the same issue and many cases dealing with the same cases and the same individuals and there's so much interaction do you feel there's just not enough opportunity for you to collaborate or do you feel that there's good collaboration and creative problem solving? Is it a matter of just formalizing an intention to work together and collaborate? Because you've got a lot of talent and I know you're working together and you're communicating formally and informally. [LR288]

JULIE ROGERS: Yes. [LR288]

SENATOR KUEHN: How do we channel that in either a better productive way or give you the tools to be more productive and effective with that? [LR288]

JULIE ROGERS: Well, first, I have to speak to the word, I guess, "collaboration" because the Inspector General is supposed to stay neutral and objective and not necessarily...and we're in the

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legislative branch so we're not in the executive branch that's executing. And we are very careful about making recommendations to not overstep the expertise of the executive branch, for example. So it's...in addition, we are looking into issues and we're doing investigating and the investigations have to stay...I mean, if we're interviewing someone for an investigation, it is a very formal process. But in terms of recommendations that we make, we are a voice at the table. I mean, your question is hard to answer because I don't know what the magic wand is. I feel that everyone has good intentions of coming to solutions. It's a very good question. [LR288]

SENATOR KUEHN: I just...I think again, there's a lot of people with great intentions and we're all rowing in the same direction here. And whether an oversight committee is the mechanism by which you bring all those stakeholders together in a formal oversight committee and generate more and more reports that don't necessarily get read or whether there are both informal and other mechanisms that we can get that degree of information sharing and facilitate that, that is dynamic and responsive to situations as they change on the ground... [LR288]

JULIE ROGERS: Um-hum, yes. [LR288]

SENATOR KUEHN: ...I think is ultimate what we're trying to get to and that is protecting the best interest of children and ensuring that these issues are resolved permanently is ultimately our goal. [LR288]

JULIE ROGERS: The other...the two other balancing acts that our office runs into is confidentiality so if there is a death of a child or serious injury that we keep that information as confidential so I'm not going to call folks and say, hey, there's, you know. We are going to wait until our investigation is finished. And then secondly, that brings up timeliness. So in terms of getting to the issues that each tragedy presents itself, we want to make sure we're timely in identifying those issues and then sort of announcing in a formal way these are our findings and recommendations. [LR288]

SENATOR KUEHN: Appreciate your professionalism and being very aware and sensitive to those issues. Thank you. [LR288]

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SENATOR WATERMEIER: Thank you. Speaker Scheer. [LR288]

SENATOR SCHEER: Thanks again, Julie. Looking at the information on all the recommendations, it appears that most of the rejections are coming from Probation, not necessarily Health and Human Services as far as I can tell. In fact, the only one that I'm noticing that's coming from Health and Human Services was the OJS as a full-time employee. You note it as rejected but they actually do have somebody in place now. [LR288]

JULIE ROGERS: That's correct. [LR288]

SENATOR SCHEER: So I mean, to me, that's more of a complete than a reject but I mean (inaudible). [LR288]

JULIE ROGERS: Well, and that's how we've chosen to identify each recommendation so. [LR288]

SENATOR SCHEER: Fair enough. But I guess then from your perspective Health and Human Services is making due diligence maybe more so than Probation, however you'd like to phrase that. [LR288]

JULIE ROGERS: Well, from the information that we've received, we can update the implementation status of the recommendations we've made to the Department of Health and Human Services in an easy manner. We have...they are very forthright in the information they give us. They give us formal responses. And one thing I failed to mention about this handout, this is from last fiscal year so there's been some work done since this came out. So there are... [LR288]

SENATOR SCHEER: (Inaudible) more progress being made. [LR288]

JULIE ROGERS: Right. There's more progress but also more rejections of some of our recommendations so. [LR288]

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SENATOR SCHEER: Okay. Fair enough. Thank you. [LR288]

SENATOR WATERMEIER: All right. Good question. Thank you. Further questions from the committee? Thank you, Inspector General. Very good. [LR288]

JULIE ROGERS: Thank you. [LR288]

SENATOR WATERMEIER: Is there further testimony in the neutral position? Welcome, Ms. Hawekotte. [LR288]

KIM HAWEKOTTE: (Exhibit 7) Chairman Watermeier and members of the committee, my name is Kim Hawekotte, K-i-m H-a-w-e-k-o-t-t-e, and I am the executive director for the Foster Care Review Office. As each of you are well are, the FCRO is an independent state agency; and we are responsible for the oversight of all children in out-of-home care in the state, whether through the Office of Probation or Health and Human Services. We do that at two levels. We do over 4,000 individual case file reviews every year, looking at children and making recommendations and then we also collect data from those and provide you with annual and quarterly report, along with recommendations that we feel would improve the system. One of the first questions I always get is what's the difference between the Office of Inspector General, the OIG, and the Foster Care Review Office. And going to Senator Kuehn's question, yes, we do work very closely together. But we do have very separate missions that are complementary of each other. The OIG looks at death and serious injury and critical incident reports, very valuable and needed. Foster Care Review Office we look at all kids that are in out-of-home care and develop recommendations based upon all kids because things happen in foster care that don't always rise to the level of a critical incident; but it might be something important that as a system we need to work on. So I looked over this past year through our 4,000 reviews, one of the data that we collect things...information on is when a child changes placement, why are they changing placement? And through those reviews we found that we had 45 children that changed placement because there was an abuse in that foster home. Now most of these did not raise to the level of a critical incident, but I have listed in my testimony 44 percent of those were abused in a relative placement; 29 percent were abused in a nonrelative placement; so an agency-based, 25 percent were abused by their parent in a failed trial home visit. I gave in my testimony some

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examples: a preschooler who was hospitalized due to medicine left within reach; unexplained bruises, abrasions, or other injuries that didn't rise to the level of a critical incident; lack of supervision which led to children having sexual assault on other children within that home or looking at inappropriate Internet connections with pedophiles; withholding food as a form of discipline. Those are the type of cases that when we see that we are advocating in those courtrooms constantly to say this child needs to be moved. This is an unsafe placement. You know, in addition as we do our reviews, some of the other areas of concerns that we found is that there has been some what we would consider, lack of a better word, dubious relative placements that we have concerns about that type of placement. And we're working with HHS and with PromiseShip to say I'm not sure this is in the best interest of the child. So we do that at the individual level. On the second page of my testimony, what I thought would be very interesting is to look over the last five years of our reports because I've been in my position now for five years. What have we recommended as a system each and every year and has that been done or not done? So what you see is a list on page 2, a list of all of our previous recommendations, what year we recommended them in, and the reason they're still on this list is because they have not been completed. So that's one of the reasons why, regardless of whether we go through this proposed committee that's under LR288 or any other means, we really feel the Legislature as a whole needs to be aware of the issues that are impacting the safety of children who are state wards as a whole. We strongly believe that we know children grow best in families and that all stakeholders have a duty to ensure this occurs in a timely manner. And that we also believe when a child is out of home they should not be subjected to further harm. So we need to come together as a system to do it. I thank Senator Bolz for bringing this important issue forward. And if this is a mechanism or some other, we need an answer to your question, both Senator McCollister and Senator Kuehn, we need to come together. I agree with Director Wallen. We have 30 different committee meetings out there and I sit on most of them. May I continue? [LR288]

SENATOR WATERMEIER: Yeah, please go ahead. [LR288]

KIM HAWEKOTTE: But there's no coordinated effort at each one of those. We are dealing in silos on specific issues instead of looking at things from a systemic view. My hope would be some type of committee like this with the right people around the table you could actually develop the long-term plan that Senator McCollister is looking for so that all of us are rowing

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that boat in the right direction and doing what needs to be done. One other thing that I just wanted to quickly mention that I know it was asked that currently the Nebraska Children's Commission will sunset in June of 2019 so we need to keep that in mind, too, and if that's one of the mechanisms or considerations. So thank you for your time and letting me go long. [LR288]

SENATOR WATERMEIER: Absolutely. Further questions from the committee? [LR288]

KIM HAWEKOTTE: Did I answer your question, Senator Kuehn? Great. [LR288]

SENATOR WATERMEIER: Thank you for your testimony. [LR288]

KIM HAWEKOTTE: Thank you. [LR288]

SENATOR WATERMEIER: (Exhibit 8) Further testimony in the neutral, LR288? All right. I do have a letter in support on LR288 from Terry Werner of the Nebraska Chapter of National Association of Social Workers in support of. Senator Bolz. [LR288]

SENATOR BOLZ: Thank you. Thanks to this committee for your thoughtful questions and to the testifiers for their thoughtful input. These are challenging areas that deserve our thoughtfulness. I do think that LR288 could be a part of the solution in terms of bringing together the right stakeholders and entities. And to your point, Senator Kuehn, catalyzing action or catalyzing change, making what is reported to us that we find unacceptable different. So that is the vision for which we bring forward LR288. And it is in response to what I think is important to remind ourselves: very real people and very real circumstances. After their experience with the child welfare system, E.L. attempted suicide; M.C. was hospitalized; T.I.'s abuser was incarcerated. So these are intense and difficult problems that deserve our time and attention. The thing that I think is most concerning from sitting in the legislator's seat and hoping for catalyzed action is the number of items in the Inspector General's report that are noncompliance with existing statute. So the caseload standards; failure to call the hotline or law enforcement; requirements in state law where allegations of sexual abuse were not investigated; and areas where the Division of Public Health did not have the capacity to adequately investigate and respond to sexual abuse allegations in residential facilities. So these are complex areas of

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law that aren't working as they should and deserve a response for the safety and well-being of our kids. I would say that I was very pleased to see a number of bills brought forward this year by a number of colleagues relating to training, caseload standards, reporting, access to services, and appropriate investigations. And perhaps if a package moves forward this year, that action or that change might be something that we watch and see put into place. But if there is not action by the legislative body or there is not consensus in the legislative body for those important changes to be made, I would argue that an oversight committee is necessary to continue to push forward those important conversations and to keep the need for those changes at the top of our minds. So sorry to be a little bit long-winded, but that's my summary of where I think these issues and this bill stands. [LR288]

SENATOR WATERMEIER: All right. Further questions for Senator Bolz? All right. Thank you, Senator Bolz. That will close the hearing on LR288. And we will move into an Executive Session so I would ask the room to clear out, please. [LR288]