

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Board February 4, 2020

HILGERS: [RECORDER MALFUNCTION] to the Executive Board hearing. My name is Mike Hilgers. I represent District 21, which is northwest Lincoln and Lancaster County. I'm the Chair of this board. We will start with self-introductions. Senator Stinner.

STINNER: John Stinner, District 48.

LOWE: John Lowe, District 37.

McCOLLISTER: John McCollister, District 20.

CHAMBERS: Although I need no introduction, I'll give it anyway: Ernie Chambers, District 11, Omaha.

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

HUGHES: Dan Hughes, District 44, ten counties in southwest Nebraska.

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

HILGERS: Senator Vargas is the Vice Chair of this committee. To my right is legal counsel Janice Satra. To my far left is Paige Edwards, the committee clerk. And we have our page today, John, from-- John?

JOHN OTTE: Connecticut [INAUDIBLE].

HILGERS: Connecticut. That's right, John from Connecticut, not Connecticut, Nebraska. We have two items on our agenda, LB1144 and LR298. From the request of Senator Howard-- both of these are-- she will be opening on both. She has asked that we start with LR298, so that is what we are going to do. A couple just housekeeping notes beforehand. Please make sure your cell phones are off or in silent mode. We're going to start with introducers, proponents, opponents, neutral testimony, and then Senator Howard-- Howard will have the opportunity to close. If you'd like to testify, please fill out one of the green sheets and hand it to our page when you come up to testify. When you start, we will-- we are going to be on a timer, and right now-- let me-- give by a show of hands, who is intending to testify currently? Three, four, OK. We are going to be on a three-minute light system. We-- because this board meets over the lunch hour, we have a little bit less time. If there is any follow-up questions of the board, any member of the committee will be able to ask you any

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question to get additional testimony, but we'll be on a light system. It will be green until there's one minute left, and then there will be a yellow-light warning. When you come up, please introduce yourself and spell your name for our transcribers. If you forget to spell your name, I will remind you politely. With that, I think we have-- we are ready to go, so we are going to start with LR298. Senator Howard, welcome.

HOWARD: Good afternoon, Senator Hilgers and members of the Executive Committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha. Today I'm here to present to you LR 298, a resolution creating the Youth Rehabilitation and Treatment Center Oversight Committee of the Legislature. The state has a legal obligation to care for children who enter the child welfare system as a result of abuse and neglect and the children in our juvenile justice system. When children enter the juvenile justice system, the goal is to provide them with treatment and rehabilitation to address the issues that have led to their behavior and to help set them on the right course for their future. The Youth Rehabilitation and Treatment Centers, or YRTCs, in Geneva and Kearney have played a crucial role in the system. The homes at what are now YRTC-Kearney and YRTC-Geneva were originally created in 1879 and 1882, respectively, and became the Youth Rehabilitation and Treatment Centers in 1994. Responsibility for the YRTCs is housed within the Office of Juvenile Services, or OJS-- you'll hear that acronym-- and the Office of Juvenile Services was originally part of the Department of Corrections, and then in 1994 the Legislature moved it under the Department of Health and Human Services. This summer, the conditions at the Youth Rehabilitation and Treatment Center in Geneva, which served our female youth, reach a crisis point. On August 12, I was informed by Dannette Smith, the CEO of the Department of Health and Human Services, that the conditions at YRTC-Geneva were unsafe and the girls living at Geneva would be moved. At that point in time, the conditions at YRTC-Geneva had deteriorated significantly. The girls at Geneva were not receiving treatment. There was no programming. There was little recreation offered and the girls weren't allowed to go outside. Two buildings on campus had previously been closed, and all of the girls were housed in the two oldest buildings on campus. On August 19 of 2019, CEO Smith informed me that all of the girls of Geneva were moved to YRTC-Kearney, and they remain there today. The girls are segregate-- segregated from the boys. They've received new mental health evaluations. They're attending schools. And why there--

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while there are many challenges with keeping the girls at Kearney, the situation has stabilized. And since that time, the Health and Human Services Committee conducted a since-- a six-month-long intensive analysis. That included tours, hearings-- we had several hearings-- interviews with staff, family members, current and former youth, and this culminated in the report that was released to the Legislature two weeks ago. It looks like this. You all should have copies. It's enormous. But the first 48 pages are the really important part of it. We decided as a committee to unanimously create a report for three very discrete reasons. The first is that there was no written history of the Youth Rehabilitation and Treatment Centers, even though we know that every eight to ten years this issue comes up and is before the Legislature. Second, we wanted the Legislature to be on the same page with the committee as to what happened in August and-- and what type of work we had been doing up to the present day. And then finally, we wanted the Legislature to have our unanimous recommendations on what the-- what our next steps should be as a body. So this bill is one of the unanimous recommendations from the committee. The recommendation for an oversight committee is not come to lightly. It really came because the Health and Human Services Committee has a very discrete sort of oversight capacity. We can look at the YRTC's, at what goes on inside of a YRTC, what the programing is, that sort of thing, but we're really hamstrung when you consider how a youth gets to the YRTC, how a youth gets out of the YRTC, what happens when they get out. All of those pieces are housed within the Judiciary Committee. We also had some challenges with where is the money going, how is the money being used, who is in charge of-- who is in charge of maintenance? That became a bigger issue because under the Appropriations Committee, the Department of Administrative Services was given maintenance functions. And what we saw was that some of the-- the-- there was a lot of confusion with, even though the funds had been moved to DAS, who was in charge of maintenance of those buildings. And then finally, we have a real challenge with the educational offerings at the YRTCs. And I will tell you, the Health and Human Services Committee is not an expert on our education statutes. These are considered special schools, so they have a principal but they didn't have a superintendent, so one of our recommendations was they need a superintendent and they need to be under the Department of Education. But we also need to look at our special education offerings there, what sort of training are the teachers getting, that sort of thing, and that's really outside of the wheelhouse of the Health and Human Services Committee. And so the recommendation from-- from our

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committee was that there be three members from the Health and Human Services Committee, three members from the Judiciary Committee, one from the Education Committee, one from Appropriations, and one member at-large. We believe that this-- this would give you sort of a broad swath of senators to really continue looking at the Youth Rehabilitation and Treatment Centers over the next interim. The expectation is that they would produce a report sort of as a follow-up to this one, so they wouldn't have to do any of the history or any of those things. But they would really look at how-- how things are going as the department recovers from the crisis in Geneva and as they sort of implement any changes that we decide to make to the YRTCs in statute this year. They would issue a report December 15 of next year, and then the committee would be dissolved. We did speak with-- and I will also put a plug in. Oversight committees are a good way for you to get a cross-section of senators with a variety of expertise. Right? What I don't want to have happen is if we don't have an oversight committee, we have four LRs in four different committees that are doing four different sets of tours at three different facilities, and they're not talking to each other. What we saw this year was that I could have a joint hearing between Judiciary and HHS, but having a joint hearing between Judiciary, Education, HHS, and Appropriations would be very difficult. Right? We would-- we might as well just sort of meet in session because there would be so many of us there. So we wanted to make sure that there was sort of a point-person committee for the department to work with as we considered ongoing oversight for the Youth Rehabilitation and Treatment Centers. I did meet with the department about this-- this-- the oversight committee, and they did have one suggestion or one concern. And while I know they're coming in opposed to the oversight committee, they did have a concern, and you have an amendment there. And that just says that-- it removes-- that the Exec Board is authorized to hire outside legal counsel, consultants, and investigators, and I would ask that the committee consider that, should they choose to move forward with the oversight committee, just because I think that was left over from an older bill. We were sort of cribbing off older bills. The Department of Health and Human Services has conducted some visioning sessions, and I believe that they'll continue to do those. But what we saw was that they started them in July of 2019. They had a second meeting in August of 2019. They had a Sept-- a September meeting scheduled, and then it wasn't scheduled again. And the visioning group is actually meeting again on Thursday of this week, which is very exciting, but I don't think that would replace the work of the Legislature, especially

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because we are the true sort of policymakers around this work. So I appreciate-- I appreciate the committee's time today and your consideration of this issue. And I'm happy to try to answer any questions you may have.

HILGERS: Thank you, Senator Howard. Are there questions? Senator Vargas.

VARGAS: Thank you very much for coming and putting together this report. It's very comprehensive, and I know one of the recommendations is specifically the special committee. I wondered if you could talk a little bit on-- you know, we have a lot of different special committees that come to us and there's always a question as to why it would not stay in this specific subject matter, and I know you made the case that since this is across probably four different committees-- if there are others specific structures or special committees you looked at to try to inform, to make sure that this is balanced and, you know, has the appropriate oversight influence and the ability to do that, if you could speak to that.

HOWARD: Sure. So we cribbed a little bit off of the Beatrice State Developmental Disabilities, so the-- the-- the crisis at BSDC was a little bit similar in term-- to this one in that something happened over the interim, we knew that there was a crisis, and so we knew that we needed to have some legislative oversight. And so the language that you see is very similar to BSDC. I think in the past I've chaired-- we had an ACCESSNebraska special. It started as an investigative committee, it moved into an oversight committee, and then it dissolved because the-- the-- the wait times for ACCESSNebraska, it went from sort of a half an hour to an hour down to five minutes, and that was acceptable for people who were waiting on the phone. And so I think it's very telling to you that the Health and Human Services Committee did not ask for an investigative committee. We feel as though we have done the investigation for the Legislature on what happened and what next steps should be. This is an oversight committee, and it's really to continue that partnership with the Department of Health and Human Services with the right partners at the table.

VARGAS: Great. Just one more question--

HILGERS: Please.

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VARGAS: --right at the moment. There are there are a lot of recommendations in this report. I wanted to just give you the opportunity if-- not-- I don't want to say that they're not all created equal, necessarily. That's up-- that's up to you. But I wanted to give you the opportunity. How important do you see this in terms of the other recommendations, this specific creating a special committee?

HOWARD: I view this one as-- as sort of the backbone for all of the work that the committee is going to try to do over the next couple of days, and all of the statutory recommendations. I feel as though this committee is-- is sort of our ability to make sure that the pieces that we move forward to the Legislature are-- are sort of overseen and implemented and that there's support for the department as they implement them from the Legislature. So this to me is sort of that backbone structure for the rest of the statutory work that-- that-- that the Health and Human Services Committee is doing.

VARGAS: Thank you.

HOWARD: Thank you.

HILGERS: Thank you, Senator Vargas. Senator Lowe.

LOWE: Thank you, Chair. And thank you, Senator Howard, for bringing this before us. We talked earlier about the-- the members of this oversight committee. And you said it's just for basically a one-year oversight committee. Is there anything in the LR that strictly makes it a one-year or could it continue on?

HOWARD: So if-- if it-- if the next Legislature decided that they want-- that-- that we needed an ongoing oversight, they would have to bring another oversight bill to the Exec Board and they would have to approve it. So it would-- it concludes at the release of the report on December 15, and then should you need it to continue-- for instance, ACCESSNebraska, we needed to continue for two years after the investigation-- then you would come back to the Exec Board with another-- with another bill-- or an LR, sorry.

LOWE: My-- my concern was-- was, as we stated, that senator from the 37th District would probably be the at-large member. And if it went on for multiple years, it may not be that person or the-- the senator who's currently on Judiciary Committee would represent Geneva. And my

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concern was if it continued on over the years, those senators may no longer be on those committees, so.

HOWARD: Yes. I think the ideal is that we see a lot of improvement over the-- over the interim and by December 15, a report is released that things are on the right track and that we don't need another oversight committee. But I think its makeup could certainly be altered to reflect making sure that the senators from those respective areas with a YRTC are included in the future, absolutely.

LOWE: OK. Thank you very much.

HOWARD: We could include it now if you wanted.

LOWE: OK.

HILGERS: Thank you, Senator Lowe. Senator McCollister.

McCOLLISTER: Yeah. Thank you, Chair-- Chairman Hilgers. Both John Stinner and I served on the ACCESS committee with you.

HOWARD: Oh, yeah.

McCOLLISTER: What gives you the confidence that you can resolve this in a single year?

HOWARD: I have no confidence that I can resolve this in a single year, but I have confidence in-- in our legislative oversight capacity, and I think the expertise of multiple senators will be invaluable. I mean, I'm on my way out, Senator McCollister, and so I view my role as making sure that there are supports, there's appropriate mentorship in place for the next Legislature, so that there are enough folks in the body who understand this issue and can really tackle it if there are further issues beyond December 15, 2020.

McCOLLISTER: Thank you.

HILGERS: Thank you, Senator McCollister. Senator Stinner.

STINNER: In your bill, you talk about a business plan that's been released and was put together without-- on a condensed time-- timeline, without consultation or input from the Legislature or stakeholders. I-- I-- I did receive some updates and calls from the department. But it-- is it your vision that you would oversee the

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business plan and the execution of the business plan? And you may even enlighten me about the business plan--

HOWARD: Sure.

STINNER: --and the length of it--

HOWARD: And the business plan is definitely--

STINNER: --which is in there. I get that.

HOWARD: --in the report.

STINNER: Yeah.

HOWARD: I would say our vision is more focused on whatever statutes are passed this year. We want to make sure that there is statutory compliance and full implementation of the work that we're going to be doing on the floor this year. But I think the business plan is a piece of what the department's vision for the YRTCs is. And so we-- we really want to make sure that the statutes that we put in place and the business plan and their implementation are overseen effectively by the-- by the Legislature.

STINNER: OK. Thank you.

HOWARD: Thank you.

HILGERS: Thank you, Senator Stinner. Other questions? Seeing none--

HOWARD: Didn't expect so many questions.

HILGERS: --thank you, Senator Howard. For those of you who have walked in since she began, we have-- we have started with LR298, and we will follow up with LB1-- LB1144, so proponents. Welcome, Madam Ombuds--

JULIE ROGERS: Thank you.

HILGERS: --Madam Om-- is that the right terminology?

JULIE ROGERS: Yes, I think so. Good afternoon, Chair Hilgers 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 the Ombudsman within the Office of Public Counsel or Ombudsman. Prior to January 14 of this year, I served as the Inspector General of Nebraska Child Welfare. I wanted to talk to

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you-- Senator Howard, talked to you about the complexity of the issue and the complexity of how YRTC-Geneva got to a crisis point where the female youth there had to be moved. I would like to give you an idea about the complexity of the youth that the YRTC-Geneva serves. We analyzed 35 female youth committed to the YRTC-Geneva in August of 2019. Over half of these youth are now being served at the YRTC-Kearney. These youth were adjudicated as OJS wards from ten different counties, covering all DHHS service areas and three different tribes. Nine youth had one or more previous commitments to the YRTC-Geneva. One youth was born while her mother was committed to YRTC-Geneva. The ages at the time of commitment were anywhere between 14 years old and 18 years old. Ten youth had also been adjudicated as state wards, and 14 others had a history of being state wards. Four youth were in the legal custody of a tribe. Thirty-three out of 35 had a documented history of being abused and/or neglected, including being sex trafficked. All 35 youth have been diagnosed with a behavioral disorder and/or a mental health disorder. Twenty-seven out of the 35 youth were prescribed one or more psychotropic medication at some point during their commitment. The YRTC issue is a complex one, not only with complexity of the youth that are being served, but also in the complexity of the issues that surrounded the closing of the YRTC-Geneva. As decisions are made for these youth, the decisions cut-- cut across every branch of Nebraska state government. As the Office of Public Counsel and the Office of the Inspector General of Nebraska Child Welfare continues to look into these issues and complaints about the YRTCs, we will help with the special committee in any way we are able. Thank you.

HILGERS: Thank you.

JULIE ROGERS: And I'm happy to answer any questions.

HILGERS: Thank you for your testimony. Are there questions? Senator Kolterman.

KOLTERMAN: Thank you for being here today. So YRTC has been around for many, many years. It's always served the state well. And I think, from what I've gathered as I've talked to people from Geneva, people who have worked there in the past, while it's always been somewhat of a challenge, it hasn't been until recent years that it's has fallen into such disarray. And I've-- I've read aspects of the report. I haven't read the whole report. But why would we as a state allow it to become in such disarray and not help where it was necessary? Somebody fell

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asleep at the switch, in my estimation. So can you explain that to me a little bit? Because It's just been the last couple of years.

JULIE ROGERS: Yes. And we are in the process on the Inspector General side of looking into that very issue. There are differing opinions from both former and current employees of the YRTC-Geneva. There are different reports, like a Prison Rape Elimination Act audit report, or there's performance-based measures. So we're looking into a lot of different items to see what the timeline has been in terms of the de-- deterioration of the campus, not only the physical campus but also programing, staffing, all of those issues.

KOLTERMAN: Can I?

HILGERS: Please.

KOLTERMAN: So I support what we're trying to do here. And I'm-- I'm extremely disappointed in the fact that decisions were made to make radical changes, in my estimation, to a program that's worked so well over the past, and the idea that we can't staff people properly in-- in rural Nebraska is a bunch of gobbledygook. It's not true. We have quality people that are wanting to live in Geneva, Nebraska, or surrounding areas, and I think that's a misnomer. If anything, we ought be looking at ways to enhance rural Nebraska. I think the youth center there was enhancing, and I think I'll-- I'll back you 100 percent on what you try to do. I think it needs to stay in Geneva.

HILGERS: Thank you, Senator Kolterman. Other questions? Seeing none, thank you for coming down.

JULIE ROGERS: Thank you.

HILGERS: OK. Other proponents for LR298? Welcome.

JULIET SUMMERS: Thank you. Good afternoon, Chairman Hilgers. Members of the committee, 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. And in the interest of saving committee time, I am hoping to present supportive testimony from both LR286 and LB1144 in one, if that's acceptable to the committee. So we all benefit from a juvenile justice system that is structured to ensure youth receive meaningful rehabilitative services and can grow into healthy adults. Every investment we make in our system is an opportunity to set youth up for success, to improve lives and heal families, to keep communities safe, and to disrupt

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cycles of recidivism and incarceration that drive the overcrowding of our adult correctional system. This applies across the spectrum of our system response, from prevention and community interventions all the way to commitment to the Youth Rehabilitation and Treatment Centers at Geneva and Kearney. Voices for Children supports both the LR298 and LB1144, which are before you today, because each will ensure that crucial oversight and long-term planning occurs to protect young people involved in our juvenile justice system, both currently and in the future. You've heard about the crisis in Geneva. Some of you have witnessed what happened firsthand. And it's our perspective that both that and the ongoing uncertainty for girls and boys at Kearny are tragic and unacceptable. Conditions should just simply never reach that point. And, Senator Kolterman, in response to what you were saying, as an external organization that has long been a critic and a watchdog of these facilities, we were as ashamed as anybody that-- that that could happen while we're in Nebraska trying to look out for these young people. Unfortunately, I have-- I've attached with my testimony a 30-year timeline of the YRTCs drawn from Omaha World-Herald, Kearney Hub, Lincoln Journal Star archives, as well as past Inspector General reports and annual reports of the YRTCs, and from those, you can see that critical incidents and crises at these facilities are not new. As was al-- already noted, about every ten years, sometimes even sooner than that, we come around to special committees and-- and developing longer-term plans for the YRTCs. We believe that these before you today, the bill and the LR, present an important piece of the puzzle to ensure appropriate, immediate, and long-term legislative oversight of the operations and the planning. And I want to add that when I talk with CEO Smith and with members of the administration and OJS right now, we are optimistic about their vision for these facilities and-- and where they want to take the state. But as you can see, we have a long history to overcome, and some of that is major culture change that needs to take place. So by requiring quarterly reporting to the IG in LB1144, as well as the creation of a special legislative committee to oversee immediate statutory changes and these first steps in the longer-term visioning process, we really believe that-- that it's going to create that oversight that's going to be crucial, as well as allowing better information for the Legislature, which is the ultimate policymakers and funding body. I've hit my red light, so just thank you again to the Committee of Health and Human Services for all the work they've done this fall and to this committee for your time and attention.

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HILGERS: Thank you, Ms. Summers, for coming down and your testimony. Are there questions? Senator Vargas.

VARGAS: Thank you very much for coming. I just-- this is helpful, a timeline. What's your-- what's been your role? Are you continuing to work with the strategic planning, business plan process as it-- in its current form?

JULIET SUMMERS: Yes. So we were invited to be part of the long-term visioning, the first meeting that took place this summer. We came out of that meeting really excited and optimistic. There were a couple smaller group meetings that were scheduled in the fall, as Chairman Howard noted, and then the-- the October meeting was canceled. And HHS came out with the business plan, which had taken some, from our perspective, some ideas that had been articulated in those visioning sessions, but not all of them, and-- and taking them in-- in certain ways that the group may or may not have agreed with. We were invited to be part of the next meeting, which is scheduled for Thursday. I've been corrected twice now. I keep thinking it's tomorrow. And-- and we remain committed to partnering as we can to ensure that the voices of youth are heard in this process and that it is based on best practices for young people. We appreciate those invitations. We reserve the right to object when we see it going directions we-- we think aren't in the best interest of youth.

VARGAS: Thank you.

JULIET SUMMERS: Yeah, thank you.

HILGERS: Thank you, Senator Vargas. Other questions? Seeing none, thank you for coming down.

JULIET SUMMERS: Thank you.

HILGERS: Other proponents for LR298? Anyone wishing to testify in opposition? Welcome. Please proceed. Good afternoon.

DANNETTE R. SMITH: Good afternoon, Chairman Hilgers and members of the Executive Board. My name is Danette R. Smith, D-a-n-n-e-t-t-e R., last name Smith, S-m-i-t-h, and I am the chief executive officer for the Department of Health and Human Services, DHHS. I am here to testify in opposition to LR298. This resolution would create a special oversight committee focused on Youth Rehabilitation and Treatment Centers, known as the YRTCs. In practice, oversight is current-- currently now, as I

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am-- am in frequent comm-- communication with Chairperson Howard and Co-Chairperson Arch and all of the Health and Human Services Committee members, particularly on the matters concerning the YRTC's. A Youth Rehabilitation and Treatment Center Special Oversight Committee of the Legislature is, therefore, duplicative and unnecessary. Everyone agrees that changes are needed within the YRTC system. We are making those changes. We have a long way to go, with help from the executive, legislative and judicial branches, as well as numerous stakeholders. My staff and I must stay focused on implementing and improvements of the YRTC system to ensure the care of youth and ultimately returning them safely to their families. An additional oversight body may hinder our ability to move swiftly and expeditiously in managing the necessary changes. Since April of 2019, I have met with members of the HHS Committee to discuss emergent issues in our YRTC system. I have previewed our YRTC business plan before releasing it. I called each committee member before announcing an organizational change at Geneva facilities. I have traveled to meet with numerous senators over the last six months that I've been here whose committee-- communities are directly impacted by the YRTC's. I have a doz-- I have made dozens of calls, meetings at the Capitol, and meetings in districts to make sure that I inform everybody of what the department is doing. In addition, I have testified on the YRTC matters at multiple hearings, including in December at the joint hearing of the HHS Committee and the Judiciary Committee. This morning, we held tours at the new facility in Lincoln and invited senator [SIC] judges, and stakeholders. My leadership staff and I have been consistently responsive and forthcoming with the legislators. We will continue to be. We also will continue to communicate with key stakeholders, including juvenile judges and probation administrators. We can achieve our mutual goals without an additional oversight committee. Thank you for the opportunity to testify. I would be happy to answer any of your questions this afternoon.

HILGERS: Thank you for your testimony, CEO Smith.

DANNETTE R. SMITH: Thank you.

HILGERS: Are there questions? Senator Kolterman.

KOLTERMAN: Thanks for coming. I appreciate your perspective. Who made the decision to spend millions of dollars and sign contracts in

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Lincoln before oversight people had an opportunity to weigh in on that?

DANNETTE R. SMITH: The de-- department had the authority to make those contracts with Lancaster County.

KOLTERMAN: I'm not-- so the department made the decision?

DANNETTE R. SMITH: The department made the decision.

KOLTERMAN: And just kind of really took the rural setting out of the picture?

DANNETTE R. SMITH: Not at all, sir. And thank you so much for your question. As you're aware, we're continuing to have programming in Geneva. That programming in Geneva has to do with reentry. And you may be asking, why such a small program there? That's because we believe that Geneva-- Geneva is a viable community. We've continued to work with the city of Geneva. And we think that with a small program, we would have the staff, the programming, and the facility to be able to care for the girls as they reenter into the community.

KOLTERMAN: So you don't-- can I continue on?

HILGERS: Please.

KOLTERMAN: So you don't particularly think that had the ability to handle the type of numbers that they had in the past?

DANNETTE R. SMITH: No, I do not. When we looked at the data, and even before I even got here in February of 2019, there were difficulties in maintaining the staff, not just the frontline staff, but also our clinical staff. A part of running a program like the Geneva, the YRTCs, is you not only have to have day-to-day operational staff, but you also have to have clinical staff. And toward the end of Geneva, in August, latter part of July, we were having our clinical staff travel from Kearney all the way to Geneva to provide services. That didn't seem to be appropriate because the girls needed far more than what could be given to them by having a staff member commute from Kearney to Geneva.

KOLTERMAN: You're-- you're going to have a hard time selling me on that.

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DANNETTE R. SMITH: I understand, sir. We'd love to meet with you and talk more with you about it.

KOLTERMAN: I'm open.

DANNETTE R. SMITH: OK. Thank you.

HILGERS: Thank you, Senator Kolterman. Senator Vargas.

VARGAS: Thank you very much for being here.

DANNETTE R. SMITH: Thank you.

VARGAS: And-- and-- and I will say, you know, talking with different members, I know you've taken time to talk with different members, not only on the committee and outside the committee. I have a couple questions. It's kind of following up on what Senator Kolterman asked. One was the decision to-- to contract with-- with Lincoln for this new facility made internally in-- in-- with-- in DHHS?

DANNETTE R. SMITH: I would say somewhere in August, September, maybe.

VARGAS: OK. Now was that made before or after the final business plan was created?

DANNETTE R. SMITH: Hmm. Things move so fast.

VARGAS: Well, is-- is the business--

DANNETTE R. SMITH: I would almost say-- almost-- because we were creating the business plan, once we moved the girls, we wanted to have a plan that drove the decisions that we were making. OK? And so part of getting the facility and having the business plan, we wanted that to go hand-in-hand.

VARGAS: I think this-- the reason why I ask this question is I think this highlights part of my concern and why-- why the-- the-- this-- this oversight committee would be needed is, if decisions regarding the creation of a new part of the system, specifically a new facility, were made before the business plan was finalized, and I think it's still technically even in draft form, it seems like a really major decision to be made before all the stakeholders are on the same page about the structure of support for these youth. I'd love to get your reactions to that.

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DANNETTE R. SMITH: OK. So I guess, Senator Vargas, what I would say to you is at the time we felt we were in crisis. We needed to have space that was accommodating for the kinds of youth that we were seeing within the YRTC system, which means that we were seeing kids with substantial behavioral health issues. And then I also had the issues of the girls. So at the same time that I'm dealing with the facility, I also was dealing with the development of a business plan that would guide us in how we were going to make those decisions moving forward. Again, I want to remind you that the business plan is an interim step to a long-term plan, for which you heard Voices, and you also heard Senator Howard talk about we're having another planning meeting that we're doing on Thursday. So I would say that it was more or less simultaneously. What I didn't want to do, Senator Vargas, I didn't just want it to be about a facility. See, what I wanted it to be about was programing. And when you have good programing, then your facility helps you actualize what has to happen.

VARGAS: And-- if I may?

HILGERS: Please.

VARGAS: No, and I-- and I hear that. And I-- I don't think-- and one thing I've heard so far is nobody's debating whether or not there's a step in a direction, in the right direction for-- with the business plan. But to your-- but to your testimony that this oversight committee would be duplicative and unnecessary, I'm trying to wrap my head around if, within your purview, your doing this business plan is allowing you to manage this but within-- it's necessary within the Legislature's purview to make sure that we are having appropriate oversight, specifically on statute and legislative, to make sure that it's happening, why you would-- why you think it'd be duplicative and unnecessary.

DANNETTE R. SMITH: So here's what I've tried to do since I've been here. I've tried to over-communicate everything that I'm doing, and when appropriate, asked for feedback. I have never once went to the Health and Human Services Committee demanding that things are so, but to say here's the reason, and I always try to give the why. I believe that my staff and I have over-communicated. I've been open to hearing feedback when people don't agree with me. I've been open to hearing feedback of where I may have to change a perspective on how I need to get the work done. And so to have an oversight committee, in my view, when I've been very transparent, my staff have been transparent, maybe

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it's not at the level that everybody would want us to be, but I've been as transparent as I possibly can. And I think that communication between the Health and Human Services-- Health and Human Services Committee and the department is important because I treat them as though they are providing oversight to me. That's why I have no problem sharing what I'm doing. I treat it that way. I stay in constant conversation with Senator Howard. I stay in constant conversation with Senator Arch on everything that we do. And I'm trying to be methodical in the methods and how I am actually operationalizing the work that has to happen not only for the YRTC's, sir, but for the work with the Health and Human Services. So I've been very transparent and so has my staff.

VARGAS: Thank you. And-- and again, I appreciate that. I'm just reading your testimony, and I-- I'm still not necessarily hearing a reason as to why it would be a bad idea for us to have oversight when there are more committees and more individuals in the Legislature that would touch upon this subject matter and that it would probably aid and support the existing structures and systems that you're trying to push forward. But I-- I appreciate your testimony.

DANNETTE R. SMITH: Thank you.

HILGERS: Thank you, Senator Vargas. Are there other questions? I have one brief question, CEO Smith. I appreciate the transparency you've had, and the communications. Sounds like quite a few conversations with a lot-- many of my colleagues. Would having a committee, an oversight committee as supposed to an investigate-- investigatory committee, maybe help, from your perspective, narrow and funnel those-- some of those communications instead of being pulled in 20 different directions; you've got one formal committee that's a cross-section of the Legislature that might make your-- your job and communication a little bit easier and streamlined? How would you respond to that?

DANNETTE R. SMITH: You know, I feel like I have continued to communicate to Health and Human Services. They're part of the Legislature. I would assume that they would be able to communicate with those interested parties. We stand prepared as a department to communicate with anybody that wants to know what we're doing. And so I feel as though I treat the Health and Human Services Committee as my oversight. I know that Senator Howard communicates with the legislating-- legislation quite a bit and has assured me that she gets

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the word out on what we need to do. And-- and that's just where I'm at right now. I think that the Health and Human Services Committee is who I report to--

HILGERS: OK.

DANNETTE R. SMITH: --and who have-- I have been treating that provides the-- the necessary oversight on what's happening in the Department of Health and Human Services.

HILGERS: OK. Thank you.

DANNETTE R. SMITH: Thank you.

HILGERS: Any other questions? Oh, Senator Lowe.

LOWE: Thank you, Chairman. And thank you, CEO Smith. I just wanted to say that you've been very open with me. Anytime anything has happened at YRTC-Kearney, I've been on the phone with you shortly thereafter, and the phone call was not initiated by me but was init-- initiated by you. So I appreciate your openness, and I assume that that will continue.

DANNETTE R. SMITH: Yes, sir, it will.

LOWE: Thank you.

DANNETTE R. SMITH: Thank you.

HILGERS: Thank you, Senator Lowe. Senator Chambers.

CHAMBERS: The legislature is the steward of the people's money, and the fact that we have an oversight responsibility indicates that we have not carried out that oversight simply by having one committee of the Legislature, the Chairperson of that committee. There have been discussions within the body about what has happened with those various facilities, and the current set of circumstances are not acceptable. Some of them are intolerable. And there are members of other committees, committees which have a role to play in this entire complex of activities, and those committees want to determine for themselves whether or not the duty they have as a committee is being discharged by relying on a different committee, who is not taking the same approach, who is not looking at the same kinds of legislation might-- that might be necessary. And I appreciate your input. That's

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why there's a hearing. But the Legislature has to conduct oversight in the way it deems necessary. I've been on several committees through the Judiciary Committee that looked at Corrections, and we would not have been satisfied to let somebody else do that work and then report to us. We wanted to be in a position to have direct observation, direct input. So this is not a criticism of you. It's an assumption of our responsibility as the Legislature. The Governor cannot really give us of that responsibility. You cannot relieve us of that responsibility. And we have to satisfy ourselves. Senator Howard does a good job, but her eyes are not my eyes, her evaluations are not my evaluations, and this is such a serious area, because it affects our children, I don't think one committee-- well, let me put it this way so it won't be negative. I think the more eyes that are watching, the better; the more opinions that are expressed by people who will be genuinely concerned, the better. And it's not going to place a very heavy burden on a few people, so I-- everybody else is kind of tiptoeing. I'm for the oversight. And having seen how much value oversight committees can do, I will definitely support the resolution. And I don't want you to leave here thinking that because I hadn't said anything, I'm just *comme ci, comme ça*. I believe that there are people who are trying to do the job that ought to be done. But when I saw photographs and the conditions under which these young women live, the concerns that family members have, I would not be doing my duty as a legislator. And it's not for the Health and Human Services Department, it's not for the Health and Human Services Committee, it's not for the Governor or anybody to relieve me of my self-imposed duty. So I just want you to know what my view is on this. And in the same way you are open to talking to other people, I'm open to talking to you, but I've never had an approach from anybody from HHS and they don't have to report to me. But this committee will be my eyes and my ears, and I just wanted to put that on the record.

DANNETTE R. SMITH: Thank you so much for your feedback. And I'm going to make sure that I reach out to you.

CHAMBERS: You see this eye?

DANNETTE R. SMITH: Yes, sir.

CHAMBERS: There's nothing in it but--

DANNETTE R. SMITH: Got it. Thank you.

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HILGERS: Thank you, Senator Chambers. Seeing no other questions, thank you for your testimony.

DANNETTE R. SMITH: Thank you so much for having me.

HILGERS: Are there other opponents of LR298? Anyone wishing to testify in a neutral capacity? While she's coming down, are there-- how many are intending to testify on L-- LB1144? OK. Oh, I thought she was-- I'm sorry, so no one in a neutral ca-- I'm sorry. I was confused. Senator Howard, you're welcome to close.

HOWARD: Sorry. And I'll be really fast with both the opening and the closing. I just want to thank CEO Smith. She has been very transparent. She has met with us individually. I think our challenge is that those are private meetings, and so it doesn't help with the public transparency that we need to have as part of our role for the Legislature. And I really feel as though HHS, if we remain as the-- as the sole overseer, we will provide you with disjointed recommendations in the future. We really do need the judiciary system, we need Appropriations, and we definitely need Education, because I don't know very much about that. So I'm happy to try to answer any questions, but I'm also happy to go right into the next bill.

HILGERS: Senator Kolterman.

KOLTERMAN: Senator Howard, thanks for bringing this. Would you be open to adjusting the committee so that we definitely have a representative of each of the locations?

HOWARD: Absolutely.

KOLTERMAN: As an example, Senator Brandt should be involved, from Fillmore County, Senator Lowe at the present time, but that should be open to whoever is in those seats. Would you be open to that?

HOWARD: Absolutely, yep.

KOLTERMAN: Thank you.

HILGERS: Thank you, Senator Kolterman. Seeing no other questions, we'll close the hearing on LR298. We'll-- we have to be out of here for the next committee hearing in about 40 minutes.

HOWARD: Real fast.

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HILGERS: So we'll stay at three minutes. Senator Howard, you're welcome open on LB1144.

HOWARD: All right. Good afternoon, Senator Hilgers and the members of the Executive Committee. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 of midtown Omaha. Today, I'm here to present you LB1144, a bill creating an annual review of DHHS facilities by the Nebraska Ombudsman's Office and an addition-- an additional notice given regarding the Youth Rehabilitation and Treatment Centers to the Office of the Inspector General of Child Welfare. This bill is one of the unanimous recommendations that were put forth. It's actually part of three recommendations that were put forth in the Health and Human Services Committee's report on the Youth Rehabilitation and Treatment Centers and the events that occurred in the summer of 2019. The bill has four main components. First-- and we'll walk just through the green copy, if you'd like. First, the Office of Juvenile Services will report to the Inspector General of Child Welfare as soon as possible after a PREA violation occurs or any of the following instances. A PREA violation, PREA stands for Prison Rape Elimination Act, and so that would give the Inspector General notice when there's been a violation. And then it also listed-- lists notice of an assault, an escape or elopement-- "elopement" is a fancy word for escape-- attempted suicide, self-harm by a juvenile, property damage that is not normal wear and tear-- so we would have known about the sprinklers being pulled at YR-- at Geneva long before it became a bigger issue-- the use of mechanical restraints on a juvenile, and any significant medical events for a juvenile. These are just notice. For instance, last week we had two boys, a 16- and 17-year-old, escaped from YRTC-Kearney. They found the tunnels underneath. They climbed out a school window. They stole a car. They got all the way to Seward. They got off the road in Seward. They were picked up, spent the night in Seward, and then they were-- then the department sent Mid--sent Midwest Transport to go pick them up. They made a stop in York for gas and bathroom. The-- one of the boys assaulted the driver in a bathroom in York. They tried to steal the car, ran out of gas because they hadn't gotten gas yet, and then they were picked up by the York Police and they were taken back to Kearney. That's the type of incident that we would like the Inspector General to be aware of when it-- when it occurs. Second, the department shall notify the Inspector General of any leadership changes within-- within the Office of Juvenile Services and the YRTCs. One of our challenges when we were looking at who is in charge of the YRTCs, who is the best person to ask for information,

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there was some confusion about who was in charge of Geneva and-- and who was in charge of Kearney and of which services, and so we really would like to know leadership changes or at least have the Inspector General know those. And then third, beginning October 1, a quarterly report from OJS and the Department of-- to the-- to the Inspector General regarding grievances. The kids put their grievances in a box, and then we would just like an aggregate of those grievances so we can tell, is it an issue around they're not getting their hygiene, the food isn't right, things like that, so you can kind of see those thematic grievances. We don't need the individual grievances. And then finally, a yearly report to the Legislature on or before December 15 of a review of each public institution under DHHS, so those are YRTC-Kearney and -Geneva, Hastings, Lincoln, Norfolk Regional Centers, and BSDC. Specifically, these are the facilities where people live, and so what we're asking the-- the Ombudsman's Office to do is lay eyes on the-- on the wear and tear of those facilities, because had we had an annual report about sort of the-- the physical status of our-- those facilities, we would have seen the trench that was dug in Geneva, we would have seen the holes in the wall in Geneva, and we would have known that we needed to-- to intervene. Also, we're asking for staffing information for each facility; that includes staffing levels, the number of assaults on staff, staff retention rates, and turnover. We did meet with our new Ombudsman, who had some language changes. We had used the word "inspection," which is a bigger word than what we're looking for. We're looking for a physical review, lay eyes on that facility, let us know if something is falling apart. And so we're asking for a report to the Legislature from the Ombudsman on that. And also, I would note, I forgot-- my Health and Human Services Committee has done an incredible amount of work and they're here. They came today to make sure that these bills sort of get their-- their-- my due diligence and yours. And so I just am really very grateful for their time. I will waive closing in the interest of time, but I'm happy to try to answer any questions you may have.

HILGERS: Thank you, Senator Howard and members of the Health and Human Services Committee, for coming down today. Senator Chambers.

CHAMBERS: Senator Howard, you know we can talk anytime, and we talk a lot. But do I have your permission to be excused? Because I do have something I have-- I had planned to-- well, I had obligated myself to do before today.

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HOWARD: Yes, sir.

CHAMBERS: So may I be excused?

HOWARD: Yes, sir, only if I have a yes on all the bills.

CHAMBERS: Thank you very much.

HOWARD: That was easy.

HILGERS: Any other questions? Thank you, Senator Howard.

HOWARD: Thank you, sir.

HILGERS: Proponents for LB1144?

JULIE ROGERS: Good afternoon.

HILGERS: Welcome back.

JULIE ROGERS: Thank you, Chair Hilgers, members of the Exec Board. For the record, my name is Julie Rogers, J-u-l-i-e R-o-g-e-r-s, and I serve as the Ombudsman within the Office of Public Counsel. Prior to January 14 of this year, I served as Inspector General of Nebraska Child Welfare. It was embarrassing, to say the least, that we did not know the crisis we were in. We're part of the Legislature's oversight and our office is only as good as the complaints and the information we received. The Office of Public Counsel and the OIG are complaint driven. The OIG receives critical incidents from agencies to communicate significant issues. Our office can only look into issues if we know what the issues are. This bill will help in tracking those issues as they occur. DHHS is very good at responding to requests for information, but the Office of Public Counsel and the Inspector General's Office has to know what the issues are in order to request the information. I am going to skip a lot of my written testimony. In the packet, one item that was mentioned is the Prison Rape Elimination Act. The department, there is an annual report. The most recent found on the Department of Health Human Services' website is about the Prison Rape Elimination Act and the occurrences in 2017. So this report, for example, would not have helped us understand what is happening with any of those substantiated complaints or violations this summer, for example. We didn't know-- how that there was a sprinkler pull, let alone several. So in conclusion, this bill will greatly help with knowing what information to request and tracking

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issues as they happen so we can have a part in solving problems before they become a crisis.

HILGERS: Thank you.

JULIE ROGERS: And I'm happy to answer any questions.

HILGERS: Thank you, Ombudsman Rogers. Are there questions? Seeing none, thank you very much.

JULIE ROGERS: Thank you.

HILGERS: Next proponent for LB1144. Anyone wishing to testify in opposition? Welcome.

MARK LaBOUCHARDIERE: Thank you. Good afternoon, Senator Hilgers and members of the Executive Board. My name is Mark LaBouchardiere, and I'm the director of facilities for the Department of Health and Human Services. I'm here to testify in opposition of LB1144, which would increase reporting requirements to the Child Welfare Inspector General and would require annual review and inspection by the Office of Public Counsel of 24-hour care facilities operated by the Department Health and Human Services. The Youth Rehabilitation and Treatment Centers already report many of the instance detailed in this bill. LB1-- LB1144 contains additional and overly broad categories of reporting that will take staff time away from priorities such as face-to-face time with our youth. The broad categories of reporting listed in the bill lack definitions. Without definitions, reporting could be inconsistent or consist of documentation of minor, common instances, in addition to major events. For instance, self-harm could mean someone setting intention to hurt themselves or actual physical harm to their body. While YRTC staff take seriously comments about self-harm, reporting each instance is unnecessary. Property damage could mean scuffing a wall during age-appropriate horseplay or intentionally breaking a window. Another reporting requirement is for the use of mechanical restraints on a juvenile. I'd like to clarify the appropriateness of mechanical restraints for our population. While we certainly discourage overuse or unnecessary restraint of youth, mechanical restraints are routinely used to promote safety while youth are transported to court, doctor visits, and other appointments away from a YRTC campus. These restraints are crucial to ensuring the safety of other youth, as well as our staff. Reporting on each use of

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such restraint is unnecessary and burdensome for our staff. Thank you for the opportunity to testify, and I'm happy to answer any questions.

HILGERS: Thank you for your testimony. Are there questions? Seeing none, thank you for coming down. And for the record, Voices for Children testi-- I'm sorry-- testified previously in the interest of time, but we want to recognize that they've test-- are testifying in support of LB1144 and we have their written testimony here. Other opponents? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none Senator Howard-- Senator Howard waives closing. We have no additional letters. We have no letters on LB1144. We do have one for LR298, support from the Children and Family Coalition. With that, that closes our hearing on LB1144 and our hearing for the day. Thank you all.