

Transcript Prepared by Clerk of the Legislature Transcribers Office
Health and Human Services Committee February 3, 2021
Rough Draft

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ARCH: Good morning and welcome to the Health and Human Services Committee. My name is John Arch, I represent the 14th District in Sarpy County and I serve as Chair of the HHS Committee. I'd like to invite the members of the committee to introduce themselves starting on my right with Senator Murman.

MURMAN: Good morning, I'm Senator Dave Murman from District 38, and that is Clay, Webster, Nuckolls, Franklin, Kearney, Phelps and southwest Buffalo County.

WALZ: Good morning. My name is Lynn Walz and I represent Legislative District-- which is all of Dodge County.

M. CAVANAUGH: Senator Machaela Cavanaugh, District 6: west-central Omaha, Douglas County.

B. HANSEN: Ben Hansen, District 16: Washington, Burt and Cuming Counties.

ARCH: Thank you. Also assisting the committee is one of our legal counsels, Paul Henderson, and our committee clerk, Geri Williams, and our committee pages, Sophie and Erin. A few notes about our policies and procedures. Please-- first, please turn off your or silence your cell phones. This morning we will be hearing three bills, we will be taking them in the order listed on the agenda outside the room. The hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. For those of you who are planning to testify, you'll find green testifier sheets on the table near the entrance of the hearing room. Please fill one out, hand it to the one of the pages when you come up to testify. This will help us keep an accurate record of the hearing. We use a light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last name. If you are not testifying at the microphone, but

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want to go on record as having a position on a bill being heard today, please see the new public hearing protocols on the HHS Committee's web page on nebraskalegislature.gov. Additionally, there is a white sign-in sheet at the entrance where you may leave your name and position on the bills before us today. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The agenda posted outside the door will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. And this committee has a strict no-props policy. With that, we will begin today's hearing with LB143 and welcome Senator Kolterman.

KOLTERMAN: Thank you, Senator Arch. Good morning, members of the Health and Human Services Committee. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District. I'm here today to introduce LB143. It's a bill that will provide for greater communication and cooperation between the Department of Health and Human Services and our local school districts concerning the placement of a child who is in the care of the state. LB143 provides that if a determination is made by the Department of Health and Human Services that is in the best interest of the child who is in the care of the department to not remain in the same school district after a placement change is made, the notice of placement change that is filed with the court shall be provided to the new school where the child will be enrolled. Last year I, I introduced LB759. During that hearing, we heard that the department will provide what is known as a "superintendent letter" that provides information on the student to the new school district. But there's no statutory time line as to when this letter must be provided to a school district that's receiving the child. Due to the other technical issues with the legislation, I made a commitment to work with the interested parties to craft better legislation over the interim. Since that hearing, I've worked closely with advocates of our schools organization and Judge Larry-- Judge Larry Gendler, a juvenile justice judge from Sarpy County, who has extensive experience in this field to craft the legislation that's in

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front of you today. You should have received a letter of support from him, but I'm going to-- and I have provided you a copy of that today as well. In consultation just yesterday with the Department of Health and Human Services, I submit AM105 for your consideration. AM105 will eliminate concerns the department raised through their fiscal note. Current DHHS guidelines require the report pertaining to an emergency placement be completed within 72 hours in order to accommodate weekends and holidays if an emergency placement is made. With AM105 we are not requiring an official report be made to the school districts that an emergency placement has been made, but instead we're asking the department within 24 hours to give a heads-up to the school about an emergency placement, either by phone call or by an email. Once the receiving school is notified by the department that a placement has been made, they're required by federal law to immediately contact the school last attended by any such child to to obtain relevant academic and other records. I've been told that the department has changed its internal policies to address this issue the bill seeks to fix, and I'm thankful to hear of those changes. But as we all know, policies can, can and do change. So our stakeholders seek to enshrine this practice in statute to give schools greater assurances going forward into the future. You will hear from testifiers from me why they believe this legislation is needed. But I do want to thank all those who worked with me, including the Department of Health and Human Services and, and helped craft this legislation that it's amenable to everybody that's involved. So with that, I welcome any questions that you may have and I look forward to hearing the testimony that's behind me today.

ARCH: Thank you. Are there questions for Senator Kolterman? Senator Hansen.

B. HANSEN: So we're talking about like just a letter that you send out?

KOLTERMAN: Well, what would typically happen--

B. HANSEN: Or an email?

KOLTERMAN: We, we weren't getting like, we weren't getting a notification. That's why I brought the bill last year. And so we worked out so that they can either make a phone call for an emergency placement or send an email and the courts will automatically send an

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email to the school district. The way I understand it, that's where Judge Gendler came into play. They'll send an email to the new school as well as the old school if they make a change at the courts. So really, they'll hear about it about the same time that DHHS hears about it.

B. HANSEN: OK, I ask, and maybe somebody afterwards will testify. But you said the amendment will, does address the fiscal note. I'm trying to figure out why they have to hire--

KOLTERMAN: Well, they were going--

B. HANSEN: --three new FTEs.

KOLTERMAN: They thought because of the weekends they were going to have to hire three people to address the issue, because it had to be done within 24 hours. And my, my conversation with them yesterday indicated that we're not asking for it, I mean, we don't need all the formal stuff. All we want is a heads-up that they're coming. And within 72 hours, you should be able to get that information out to them. So they, they eliminated the three part-time or three full-time people.

B. HANSEN: That's what confused me, three full-time people, two resource developers and one case aid to make a phone call.

KOLTERMAN: Well, now--

B. HANSEN: And I--

KOLTERMAN: --now that it's just a phone call within 24 hours.

B. HANSEN: OK.

KOLTERMAN: That's what the amendment does.

B. HANSEN: Yeah, OK. Well, that just confused me when I saw it, so I didn't know what that meant.

KOLTERMAN: I was, I was, when I got that fiscal note yesterday, I was a little bit dismayed.

B. HANSEN: I would think so.

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KOLTERMAN: But they, we already had a meeting set up with them and they agreed that this was an amiable way to take care of the problem.

B. HANSEN: OK, maybe I'm missing something. I'm just curious.

KOLTERMAN: And I don't think they really understood what we were trying to do that-- and Judge Gendler said when he, when the courts rule, they send an email to DHHS right away. And he said there's no reason we can't just include the school districts in that email as well, so they get a heads-up that it's come-- they're coming.

B. HANSEN: OK, sure.

KOLTERMAN: A simple solution to a \$170,000 problem.

B. HANSEN: Yeah.

ARCH: All right, other questions for Senator Kolterman? Seeing none, thank you very much. We'll now invite the first proponent for LB143. Welcome to the HHS Committee.

BRAD BEST: Thank you. Good morning, Chairman Arch and members of the committee. My name is Brad Best, B-r-a-d B-e-s-t, I'm the superintendent of schools at Heartland, which serves the communities of Henderson and Bradshaw in York County. Truly honored to have the opportunity to testify in support of LB143. I have nearly 40 years of experience in Nebraska schools and over 30 of those years in school administration. I hope that after our short time together, we will agree that this bill is highly important to the children of our state. It's been long understood that one of the key factors in supporting a child's success in a foster placement is the child's ability to form trusting relationships within their new environment. Foster children often look beyond the home to the school setting for increased stability, guaranteed good meals, collection of people who genuinely care about them. Many would agree that the school component of a child's life is at least as important as the foster care family-- as the school environment surrounds them with a routine in which they can take comfort in that things were going to be OK. The missing component surrounding a change in placement in the state of Nebraska is that current practices do not ensure that the receiving school district obtains information about a child in a timely manner. And rarely are the school's available resources taken into consideration in placement

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decisions, especially in the rural areas. Some of you were on the committee last year and you may recall stories in which children were placed in schools without accompanying information, and in many cases without regard for the safety of the students and the staff of the receiving school district. In my particular school district, even after conversations with the DHHS about a child placement, we had no option than to pull services away from other established students to serve a young foster child with high need. I struggled with the question as to why wasn't there a phone call to make sure that we are in a position to effectively serve this young man and his needs? And what are the child's interests and what are his behavioral triggers? So I have emails from dozens of school districts sharing these same frustrations. And at the top of their list of concerns are the obstacles of not immediately knowing a foster child's needs and interests and being forced to make do with current services or staffing. Rather than being able to provide the support from day one, the student often struggles and unnecessarily indicates to the school that they need special attention. Schools are frustrated that their ability to provide a best placement is seemingly not taken into consideration, and the lack of timely information creates an immediate instability in the student's programming. Please allow me to be clear. This bill isn't about schools wanting to dodge difficult children in their district. Currently, however, we are put into positions at times where vulnerable students are dropped at the doorstep with little or no notice and with limited or no background information and no consideration as to whether or not we have the educational, behavioral or mental health services available for that child. There are times that a neighboring school district would be much more prepared for specialized needs, and for anyone to assume that the district will make it work with who they have is not only unnecessary but irresponsible in formulating a best-care situation for that student. The adults in these situations should be working together to give the child the best opportunity to be successful. I firmly believe that child welfare personnel are the experts when it comes to determining the appropriate time to remove a neglected child and place them in a more stable home. We, however, are the experts when it comes to determining what services that child needs in terms of education, social growth and working with the foster parents to rebuild the child's trust, where little or no may have previously existed. Just as child welfare workers try to find a fit for a good home care, the same energy needs to be invested in ensuring appropriate educational

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services for that child. Placing a child in an environment ill-equipped to handle specialized needs sets the child up for failure. LB143 simply requires the courts to provide information directly to the school when a placement decision is made and to offer the opportunity for a school to appeal the placement of the necessary specialists or resources are not available or reasonably accessible. Some might argue that a school's right to appeal the placement decision will result in a child being bounced from district to district, but I don't believe that any school will appeal a placement if there's a way to successfully serve that child in their district. And secondly, only the courts would have that authority to change a placement. If the home and school combination is a good fit the first time, students will be more successful from day one and will not need to be removed as often as they are now, in my opinion. A common goal in schools across the state of Nebraska is to always do what's best for kids. My personal goal is to do the right work for students each and every day. Senators, this bill will go a long way in helping us reach those goals with those children who need us the most. I sincerely appreciate your time. I hope that LB43 has been forward in a rapid fashion. It's a critical layer of support for our children. Thank you.

ARCH: Thank you for your testimony. Are there questions? Senator Walz.

WALZ: Thank you. Thanks for coming in today and thank you for testifying on this bill, it is important. I'm just curious about the communication that in this new piece of legislation, and I maybe should have asked Senator Kolterman. In the past, you have not been able to get any records, so if that child had an IEP, you wouldn't have known about that?

BRAD BEST: So last year we tried to submit a-- a very detailed report requirement. I think that that is, if all school districts are aware and work together on this, that if we get that notification that we're going to be receiving a child immediately, we can then call the prior school district and receive that information from them in a much more timely manner.

WALZ: OK.

BRAD BEST: So I do think it's workable. I would like in the future, however, if all juvenile courts would adopt a common requirement, if

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you will, to provide specific information within the record for those schools so that we don't have to search out folks and wait for answers.

WALZ: All right. Thank you.

BRAD BEST: Uh-huh.

ARCH: Other questions? I have one.

BRAD BEST: Yes, sir.

ARCH: I do recall last year's hearing on this, on this issue. And this isn't directly related to this bill, but the question is, obviously, there's-- there is varied degrees of expertise within the school districts across our state to handle some of the special needs of these youth. How-- what are, what options do school districts have if they don't have that expertise in house? How do they, how do they address some of these issues?

BRAD BEST: Yeah, and thank you for bringing that up. Especially in the rural areas, we, we do lack resources. There is a fair number of counties in the state of Nebraska that do not even employ a mental health practitioner in the entire county. And so when we receive students that need that type of support, we are obligated and to find that help oftentimes hours away. And so one of the examples that's near us, they received a young student in the elementary school. There is no way that they had the training or the personnel or the expertise to handle it, and that student is put on a van and driven to Lincoln every day. And so they spend two and a half hours on the road every single day with a driver and a para, and not to mention the tuition at that specialized school. That child may have been better served in a district that already had those, those things in place. And so we're asking for a more conscious decision as to placement of those children to start with so that they can hit the ground running, everybody is on the same page and that child has a stable environment. So that's, that's what our hope is, that moving forward. But oftentimes it's at a high expense and that child is end up being transported out of the district to receive those services. And unfortunately, prior to this bill, we would maybe not have known what those needs were until days or weeks after the child was in the school. And they have already, as I mentioned, they've already unfortunately indicated to us that we're

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not cutting it. We don't have the resources and it becomes a huge distraction, and in some cases, safety issues for staff and other students. Had we known that from day one, that child would get a better start and our, and our position would be much, much greater to serve that child appropriately from day one.

ARCH: Thank you. And perhaps as we expand telehealth and those-- that technology, there may be some opportunities for specialists to, to be available--

BRAD BEST: Yeah.

ARCH: --with that.

BRAD BEST: I would agree with you on that. That's, that's a great resource for rural Nebraska.

ARCH: Thank you. Other questions? Senator Cavanaugh.

M. CAVANAUGH: Thank you. What-- could you give an example of what some of the services are that children have to, like, if a child had to go to Lincoln on a bus, what kind of services are they receiving in Lincoln?

BRAD BEST: So most of the time students of that nature have behavioral disorders or emotional disorders that we just don't have the training or the personnel to handle in some of our rural schools. And so the schools that a lot of times that are specialized in that area, all the entire staff is trained in those services and they have programs and protocols in place to handle those students and to provide mental health counseling and to provide resources to help that child adjust and learn. What ends up happening a lot of times in rural schools is we don't have those people in, on-- in-house. We couldn't find them if we wanted them. You know, we try at times to find those people and they just aren't out there. And so that limited number of people that are trained to specifically handle those students are oftentimes found in larger communities like a Lincoln or an Omaha or--

M. CAVANAUGH: So how do you serve students that aren't placed in your community but live in your community?

BRAD BEST: Then, then we have no option other than to try to find those resources. And that's what ends up happening with those students

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as well, is to-- we would treat them the same way. If we don't have the resources, we need to find the resources. The difference to me in this situation is when a student moves into our district, there are no other options other than that we find those resources versus adults having the opportunity ahead of time to make that determination of a best fit. I think we need to take that extra pause to make sure that that student is going to be well-served. And it is a, that's an overgeneralization because there are so many different types of needs that we would, you know, we would be able to handle the majority within our own school district. But there are specialized cases where we just can't and we need to find them elsewhere.

M. CAVANAUGH: Thank you.

ARCH: Other questions? Seeing none, thank you very much for your testimony.

BRAD BEST: Thank you.

ARCH: Other proponents for LB143.

KYLE MCGOWAN: I always feel like I'm gonna slide off this chair when I--

ARCH: After it's been cleaned, it's a little slick. Welcome.

KYLE MCGOWAN: Good morning, Chairman Arch and members of the committee. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n. Today I'm representing the Nebraska Council of School Administrators, the Educational Service Units Coordinating Council, NSEA, NASB, STANCE and NRCSA. So we'd like to thank Senator Kolterman for his efforts. It's changed my testimony, he's cleared up a number of things, and that's one of the reasons that I'm testifying for so many other groups because of some clarifications. Simply speaking, LB143 is requiring communication to take place between two very important organizations. And we feel that we have overlapping missions and that educators have some expertise in what's best for children, as does HHS. So the requirement that those two groups do talk about what is best for children in a timely fashion is critical not only for the child itself, but also for the, the other children that will be surrounding the, the child in the emergency placement. So the information and the timeliness is critical for everybody involved. I do appreciate what

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Brad was saying, because, and I'll just emphasize that public schools serve every child that wants to be served. And when, like Senator Cavanaugh was asking about, well, how do you do that? Well, it will be done in-- regardless of the expense, regardless of the work. That's what public schools do. And in no way is this an effort to shirk that responsibility, because, frankly, we're proud of that responsibility in public schools to, to have such a awesome responsibility. However, we, we do have multiple partners and we want to make sure that those partners work together to, to accomplish this goal. So I'll just end the testimony with that. And, and again, appreciate Senator Kolterman's work and be happy to answer any questions.

ARCH: Thank you. Are there any questions? Senator Murman.

MURMAN: Thank you, Senator Arch. And thank you for coming in. When I first read this bill, I thought it was just a notice for when the child changes districts that that district would be notified ahead of time. But is there also something in this bill that allows a school district to transport a foster child or a child that moves into the district to a different district when they can?

KYLE McGOWAN: No. I interpret this as there's an appeal process. So if HHS says this is your placement and, and the school says, we don't think that's the best placement, then there's a process to take it to the judicial system to make a decision. I see this bill also-- it's one thing to just say, here's the placement. Here comes the child, you know, coming to you. We need to get information, and that's the 72 hours piece, within 72 hours, if we really can-- if, if that child is going to show up in your school, we need to know about that person.

MURMAN: Sure, I totally agree with that.

KYLE McGOWAN: Yeah.

MURMAN: I guess I've got some concern that--

_____: I'm not sure I understand.

KYLE McGOWAN: I'm sorry about that. I'm not sure I understand why that went off.

MURMAN: Some concern that if, you know, the family lives in the district that the child is moving to, that this would give the school

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district an option to transfer the responsibility to another school district rather than handle that, their obligation themselves.

KYLE McGOWAN: You might need to explain that scenario to me. If the, if a child is in foster care, living in that district and the emergency placement is put in that same district?

MURMAN: In a different district.

KYLE McGOWAN: Yeah, if the emergency placement is put in another district, District A, in another district, then of course that's, that's what we're talking about happening most of the time. So District A has to be notified that this child is coming, and District A within 72 hours will have data and information on that child. So where the child originated from, District B, you know, may not have responsibility, although I might defer to our legal counsel in terms of, of cost of services for a foster child. So a foster child belongs to the state in terms of financial responsibility. And maybe Senator Arch knows more about that, than, than most so.

MURMAN: Yeah, I guess my concern was not only a foster child, but any child moving into a different district. But I guess, well, either a foster child or the emergency placement wouldn't have to necessarily be a foster child, I guess.

KYLE McGOWAN: Absolutely, yeah. Now, if it's an emergency placement, I think right away they become the loco parentis of the state to make that placement.

MURMAN: Thank you.

ARCH: Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here, Mr. McGowan. Following up on Senator Murman's questions, I'm looking at page 5, lines 9 through 12. And I'll just read it to you quickly.

KYLE McGOWAN: Thanks.

M. CAVANAUGH: If a determination is made that it is not in the child's best interest to remain in the same school after a placement change, notice of placement change shall be sent to the new school where the child will be enrolled. It doesn't say who is making that

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determination. Is this giving the schools the ability to make that determination?

KYLE McGOWAN: Yeah, so I think HHS would first say this is where we think the best placement is. The school then, as they get that notice right away, would have an opportunity to say, you know, what's all involved here? These are our services and-- but my understanding and, and again, maybe there's somebody behind here that can clarify, is they wouldn't call-- HHS wouldn't necessarily call the school and say, hey, are you OK with this placement? They would say this is where the placement is. This is about the child, this is their needs. And then the school would say, OK, this is, we can handle this or these are pieces that we really would struggle with. This is what-- we, we think this is a bad placement. And either they would work that out or it would go to a third party.

M. CAVANAUGH: And who would the third party be?

KYLE McGOWAN: The judicial system. A judge.

M. CAVANAUGH: OK, I guess to Senator Murman's question, this language to me reads as though this is giving schools the authority to refuse a child.

KYLE McGOWAN: It's giving the schools the authority to appeal the decision.

M. CAVANAUGH: OK. I--

KYLE McGOWAN: That's-- and again, that's what I'm working off of what this bill does, but if I'm wrong--

M. CAVANAUGH: I think it probably needs further clarification.

KYLE McGOWAN: OK.

M. CAVANAUGH: But thank you.

ARCH: Thank you. Other questions? Seeing none, thank you very much for your testimony.

KYLE McGOWAN: You bet.

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ARCH: Other proponents for LB143. Welcome.

KAREN HAASE: Thank you, Senator Arch. My name is Karen Haase, first name is K-a-r-e-n, last name is Haase, H-a-a-s-e. I'm an attorney, my law firm specializes in representing public school districts. Of the 244 school districts in the state, we represent about 190 of them. And we represent a school district in every of your legislative districts, because I quick looked it up while I was sitting back waiting to testify. I do not appear here as a lobbyist. I'm not a registered lobbyist. It's important that you understand I'm testifying here as someone who considers herself a member of the education community. I also serve on Judge Lawrence Gendler's committee. We are a group of attorneys and educators who are attempting to find ways to improve the educational outcomes of court-involved youth. If you look at the data on the educational success of foster children, it is appalling. Nationally, foster children only graduate with their cadre at about a 30 percent rate. In Nebraska, we do much better. According to the Nebraska Children and Families Foundation, about 43 percent of foster children graduate with their cadre, as opposed to 81 percent of noncourt-involved students. So again, we need to do better to improve the educational outcomes of foster kids. Now, the national Fostering Connections Act has provided that, as a public policy matter all across this country, we should work to maintain educational stability for foster kids. The idea is, if you have been removed from your home and the food is different and the smells are different and the pets are different, we should maintain some stability for that child in his or her educational placement. We also know, those of us that have parented our own biological or other children that we've acted as parents to, that as parents we try to maintain educational stability for our children. So I come at this from the public policy perspective, not that a school district should be able to refuse a difficult or troublesome child, but that a troubled child, whether or not it's through any fault of his or her own, should be afforded the same educational stability that noncourt-involved children are afforded. So let me start, and that-- so that's sort of my, like, overview, right? So let me start by addressing the concerns of Senator Cavanaugh and Senator Murman. This bill does not give a school district the ability to simply refuse a difficult or troublesome child. Under, under 79-215 of the Nebraska statutes, subsection (9), a child who is placed into foster care is presumed to remain a resident of the school district in which he or she was warded. So, for example,

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a kid from West Point, if they are made a foster child and they go to a foster family home in Pender, the presumption is that child will continue to attend West Point. And really with the geography of Nebraska and the time kids spend on busses anyway, that's not really an outrageous thing for us to continue when we put the inconvenience of transportation against the benefit to the child of educational stability. So 79-215 (9) presumes that the child remains a resident of the school district where he or she was made a foster child. Then 79-215 references 43-1311, which is where the case manager or the child's team can make what's called a best-interest determination. So, Senator Cavanaugh, the language in the bill that you were talking with Mr. McGowan about, that best interest determination is a term of art. In the Fostering Connections Act, the federal law, there's a whole list of things that the case manager is supposed to consider in determining whether or not it's, it's in the child's best interest to stay in West Point or to transfer to Pender. So what this bill does, what LB143 does, if Pender has a foster child that has significant needs that West Point has been successfully serving and the case manager says, no, kid should go to Pender, either Pender or West Point could ask the juvenile court judge to review that best interest determination. Now, the school is not going to just be able to say, he's a pain, she spits, you know what I mean? I mean, foster children are sometimes traumatized. They can have difficult behaviors. But what the school is going to have to do is explain to the juvenile court judge why they believe one of those two districts is better equipped to serve the other. I will tell you, in 25 years of working with schools, I've had just as many schools calling me to ask about how they can continue serving a child as, you know, that they're distressed, the child has been removed-- you know, Minden wants the kid to remain a Whippet-- as I've had schools trying to avoid their obligation to children. If, if that makes sense. I see my yellow light comes on, so I have to quick look at my notes and make sure I'm telling you everything I wanted to say. I do think that the other thing about this population that we sometimes forget is that court-involved children often have experienced significant trauma. And trauma-informed practices in education tells us that stability, predictability, similar triggers that a child has from one situation to the next, all of those things argue in favor of keeping the child as stable as possible. So I certainly don't want you to hear this as a bunch of schools trying to duck their obligations to serve students who need educational services. What we're trying to do is to make sure

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that there's open communication between DHHS and school districts. And if we don't agree on what's in the child's best interest, that there's a rapid process for us to take that disagreement to a judicial decision maker to have that issue determined. So I'll see my time is up.

ARCH: Thank you very much. Questions? Senator Murman.

MURMAN: Thank you, Senator Arch. And thank you for testifying. Yeah, that was the reason for my question. I was trying to weigh is stability in a certain school district and the services there more important than, you know, a just different school district would have to trans-- my, my biggest fear is transport a long distance or transport away from the family where they were placed.

KAREN HAASE: Absolutely. And most of the time, the goal in these cases is family reunification. So a lot of times the foster family home is geographically proximate to the original school district, but not the same district. North Platte is a great example, where students are placed in foster care that started out in North Platte could be placed in Hershey or Maxwell or Sutherland. Well, those are not impossible distances for us to transfer the child back to North Platte. North Platte is a good example, too, because they run block scheduling in their high school. So a kid that is jumped out of North Platte and into Hershey and then back again will have lost a whole semester because the, the curriculum doesn't align so.

MURMAN: Thank you.

ARCH: Other questions? Senator Hansen.

B. HANSEN: Thanks for coming to testify, by the way.

KAREN HAASE: Thanks for having me.

B. HANSEN: Sound like you know your stuff so. This is probably a question I probably could have asked Kyle, but I'm going to ask you. Do you know if the parent or the school gets some sort of supplement, supplemental income or payment? Like say, say the judge says, OK, well, this school is better off. That's 30 miles away--

KAREN HAASE: Yep.

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B. HANSEN: --versus one that's 10 miles away, parents are driving there all the time. Do they receive some kind of supplemental income from those, from the state or does the school get some kind of supplemental income to, to deal with the child that might have some more issues, that they spend more time on? Do you know if there's any kind of--

KAREN HAASE: That's a huge short oversight, a shortcoming of the Fostering Connections Act. Transportation, there's no funding for transportation. In Nebraska, under 79-611 if a school district lives-- or if a child lives more than four miles from his district of residence or from the neighborhood school, the school has to provide mileage or transportation. So there-- I think there are mechanisms to get mileage, but there's not a mechanism in place to provide a driver.

B. HANSEN: OK, so if the parent decides to drive versus taking the bus, there's-- OK.

KAREN HAASE: Yeah, the transition-- the transportation piece is something that as a state we probably need to address.

B. HANSEN: OK.

KAREN HAASE: But there's no federal funding or any additional funding for that right now.

B. HANSEN: OK, thank you.

ARCH: Other questions? I have one. In your experience, and this isn't again, isn't-- thank you for educating us on these issues. In your experience, is-- are the case managers at DHHS considering the services that are available in those school districts before placing the child, which would prevent an appeal of this determination?

KAREN HAASE: Let me preface my answer by saying in my work on Judge Gendler's committee, I've realized that the education community is frustrated with DHHS and DHHS is frustrated with educators. And we both have difficult jobs, and I hope we can do a good job of working together better. But we did survey our clients as part of Judge Gendler's committee and 38 percent of Nebraska schools do not get any notice before a foster child shows up. So that tells me that we-- if, if the caseworker doesn't tell the school that the kid is coming, how can the caseworker know what services the school has available? So I

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think the community, again, I want to be mindful of the fact that caseworkers have a lot of balls to juggle, but that communication piece is not always happening.

ARCH: And this bill addresses the communication piece.

KAREN HAASE: Yes. And I think it's a fantastic step to add to make sure that we are as adults having a unified system of serving kids instead of having to be piecemeal.

ARCH: Thank you. Any other questions? Senator Walz.

WALZ: I'm just going to follow up on Senator Arch's question regarding the services in the school. I'm just curious, are they also considering, you know, in rural Nebraska where there are no mental health resources to help kids, are they also making those considerations when they're--

KAREN HAASE: I, I have had a number of schools contact me struggling to continue therapeutic services for a child that started out in the metro and that has now been placed in Scottsbluff. Telehealth has helped, but I, I-- that is a concern. Is that--

WALZ: Thank you.

ARCH: Any other questions? Senator Hansen.

B. HANSEN: All right, I'm going to follow up on Senator Walz's question. Is it typically the responsibility of school to help with mental health?

KAREN HAASE: Yes.

B. HANSEN: Or is that when a foster child, do they-- is it the responsibility of maybe a counselor or somebody else outside of the school?

KAREN HAASE: Such a good question. So schools are obligated for students with disabilities, which is about-- I wrote it down-- 35 percent of foster kids are special education verified. So if it's part of the child's disability and the therapeutic counseling is necessary for the kid to receive education, then it would fall on the school. I'm so triggered by math that I have a meltdown, the school would have

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to do some counseling with the child. If the therapeutic counseling is necessary because of other events in the child's life, but that they don't have an adverse educational impact, then the responsibility for the therapy would fall back on DHHS.

B. HANSEN: OK.

KAREN HAASE: So it all turns on whether it's necessary to access education.

B. HANSEN: Makes sense. OK. All right, thanks.

ARCH: Any other questions? Seeing none, thank you very much for your testimony.

KAREN HAASE: Thank you so much.

ARCH: Other proponents for LB143? Welcome.

SARAH HELVEY: Thank you. Good morning, my name is Sarah Helvey, it'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. Last year we expressed some concerns about the previous version of this bill because we felt that some of the standards could unintentionally conflict with state and federal school stability requirements. However, at that hearing, we heard really impactful testimony from school officials, and I know some of you have said that you recall that as well, and other advocates about the lack of communication provided to schools before children are placed in a home or other setting in their district, and the intense challenges that that lack of communication creates and their sincere efforts to meet the needs of children. And so we fully support this bill and think that the notice provision will help to improve those concerns. I want to just mention from a child welfare perspective that these placement decisions are really difficult. They are made by HHS, the juvenile court has an opportunity to consider them. There are a lot of factors that go into that decision. You know, one of them is the obligation to reunify with the family, so to keep the child where they can have visits with the parents. School stability is one. Relationship with sibling, sibling placement. Those are-- cultural and language issues, all of those are already in the law. And there's not really a hierarchy of how to weigh those out when they conflict in some cases.

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There's other factors just generally under the penumbra of best interest that aren't specifically codified in law, like maybe you have a child who is on a baseball team and, you know, that is what motivates them and that's what kind of keeps them going. So these are, of course, really difficult decisions the department is making and that judges have to consider, that I don't read the bill to give an appeal process, per se, or a right to appeal of school districts. They, I think can, as I read it, file an objection. And then the juvenile court may order a hearing to consider that. And so I think that strikes a good balance because I trust our judiciary to understand the obligation of schools to meet the child's needs when they move into their district, either they move there or are placed there, and to balance all of those factors that go into these difficult decisions. And just because I'm in a room with so many school leaders, I also want to say as a child advocate how much I appreciate the work that they do to serve the needs of all children, especially during a pandemic and including those children who are system-involved. So I want to thank Senator Kolterman for reaching out and helping-- asking for our input in the interim and the school leaders as well. And I would ask that you vote to advance the bill.

ARCH: Thank you. Questions? Seeing none, thank you very much for your testimony.

SARAH HELVEY: Thank you.

ARCH: Are there other proponents for LB143? Seeing none, are there any opponents? Seeing none, are there any-- is there anyone that would like to testify in a neutral capacity? Seeing none, Senator Kolterman, you're welcome to close. While you're coming up, I would say that we received three letters of support for LB143 and we also received written testimony this morning. And, and John Skretta from the Educational Service Unit, a proponent; Josh Fields, Schools Taking Action for Nebraska Childrens' Education, a proponent; Sadie Coffey from superintendents, a proponent; and Jack Moles, proponent from the Nebraska Rural Community Services Association. Senator Kolterman.

KOLTERMAN: Thank you, Senator Arch. And thank you, committee, for asking the questions that you asked. Two points that I want to make. Number one, we're not changing any responsibility for anybody here, and the schools are not ducking any responsibility. That's not the intent of this bill. What we are doing is we're asking for quicker

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notification so that if we do have troubled child coming to a school district, we're aware of that trouble that might be there and we're allowing-- giving us a little bit more time to at least set the, set the wheels in motion to deal with what's coming. In my industry, there's an old saying that says: No one has endurance like the guy who sells insurance. This is the second time I brought this bill. I don't give up very easily. I think the most important thing that has come out of this for me or the interim is I called Appleseed because they are opposed to this last year. And we had a very, very good conversation with their legal counsel and their executive director. And they steered me towards an individual named Larry Gendler, who's a judge for juvenile justice courts. Learned a lot from Judge Gendler. But the interesting thing is we've been able to bring together the court systems, attorneys, school districts, DHHS and Appleseed to get to where we are today with this legislation. AM105, I can't say enough good about Andrea Lowe at DHHS and Bryson Bartels, who we met with yesterday. They were willing to work with us to find resolve on how we could make this happen without \$180,000 fiscal note or \$170,000-some fiscal note. I think this is what we've been striving to get to. So I would ask that you give it serious consideration. You should have the amendment filed with you already. I would hope that that answers the questions. DHHS has been wonderful to work with and they had already, as a result of last year's hearing, they had already changed many of their policies and procedures. So I think that we're going in the right direction. And I would, I would ask that you move this bill forward and give us an opportunity to talk about it on the floor of the Legislature. With that, I would answer any questions you might have.

ARCH: Thank you. Are there questions for Senator Kolterman? Senator Hansen.

B. HANSEN: Just to clarify, though, with the amendment, that will-- department indicated that will like nullify the fiscal note or change it dramatically?

KOLTERMAN: Yes, they indicated that that's what they needed to-- as you know, the department will only talk to a green copy of the bill and they won't address amendments. And so rather than come in in opposition to the green, they said they're not coming at all.

B. HANSEN: OK.

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KOLTERMAN: I can't put words in their mouth--

B. HANSEN: Yeah.

KOLTERMAN: --but that's the reality.

B. HANSEN: OK. All right, thanks.

ARCH: Thank you. Are there any other questions? Seeing none, thank you very much.

KOLTERMAN: Thank you.

ARCH: And this will close the hearing for LB143. And we will open the hearing for LB425, and I've asked Senator Walz to Chair the committee for this.

WALZ: Good morning, Senator Arch.

ARCH: Morning. We are going to-- this is the, this is the first of several bills that we'll be hearing for the YRTC. And this is a direct result of the work of the special committee this summer that identified and produced a report in December, identified certain issues as we continue to work with the department in improving the care of our youth at the YRTCs. We've identified several-- we had recommendations at the conclusion of that committee. You're not going to see a lot of testimony today on these YRTC bills, primarily because all of that information is well-documented, the testimony well-documented in the report. You can refer to that in support of these recommendations. So with that, I'll begin with LB425. Good morning, and members of the-- members of the Health and Human Services Committee, my name is John Arch, J-o-h-n A-r-c-h, and I'm before you to open on LB425, which was introduced by the Health and Human Services Committee. LB425 is the first in a series of bills brought by this committee arising out of the recommendations of the YRTC Special Oversight Committee in its December 15, 2020 report. The first recommendation of the Special Oversight Committee was to fund a cost and needs assessment for an inpatient hospital or psychiatric residential treatment center to be housed within the Lincoln Regional Center. As background, last session the Health and Human Services Committee introduced LB1143, which is substantially identical to the bill before you today. Like LB425, LB1143, as introduced, would have required the Department of Health and Human Services to contract for

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the completion of a needs assessment and cost analysis for the establishment of an inpatient adolescent psychiatric unit at Lincoln Regional Center. LB1143 advanced from this committee as part of the committee amendment to LB1140 and advanced on General File with 45 yes and zero nos on March 10, 2020. Unfortunately, just a few days later, the Legislature recessed for a prolonged period due to COVID. Because of the budget constraints and uncertainty due to the pandemic, when the Legislature reconvened in July of last year we amended the bill on Select File to allow for such a needs assessment and cost analysis, but to not require it, thereby avoiding a fiscal impact and leaving the funding of the assessment to the discretion of the future Legislature. LB425 sets out to finish what we started last session by requiring the Department of Health and Human Services to complete such a needs assessment and cost analysis and providing the funding needed for such an assessment. As I mentioned earlier, funding this assessment was a recommendation of the YRTC Special Oversight Committee. A common theme both the HHS Committee and the YRTC Special Oversight Committee have heard is that some of the youth being served at the YRTCs have serious mental health issues, and the YRTCs are not equipped to handle a youth's severe mental illness. DHHS has expressed a desire to utilize a continuum of services for the youth committed to its care, recognizing that the needs of these youths vary. However, it is difficult to create programming at the YRTCs that can address both behavioral problems of some youth and the serious mental health issues of others. The work of this committee and the YRTC Special Oversight Committee has highlighted the significant gaps in the continuum of care for the youth in Nebraska, including the lack of an inpatient adolescent psychiatric unit. Indeed, in 2019, the juvenile court judges committed a few youth to the Lincoln Regional Center, despite the lack of an adolescent unit because there was no other appropriate placement. As a result, the HHS Committee feels it is appropriate to explore the need for and the cost of reopening an inpatient adolescent psychiatric unit at the Lincoln Regional Center, which had such a unit in the past. LB425 does just that. It requires DHHS to contract with an outside consultant with expertise in cost and needs analysis of health care facilities within 60 days after the effective date of this act. LB425 also requires DHHS to submit a report electronically to the HHS Committee on or before December 15, 2021 with the results of the assessment. LB425 includes an emergency clause to effectuate the ability of the department to submit this report by the December 2021 deadline. This study will provide critical information as the

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Legislature and department continue to find ways to improve Nebraska's YRTCs and the juvenile justice system to best serve youth in the state's care, and I appreciate your consideration of LB425. I want to make just a couple other comments on the need for this bill. It was, it was apparent when we toured, when we, when we-- particularly when we saw the Lincoln Regional Center and the two youth-- this would have been last, at last fall, the Lincoln Regional Center and the two youth that were that were hospitalized there that, that we-- we have multiple needs within the YRTC population. And I, and I say that we as a committee, we as a Legislature, sometimes we refer to the youth as, as the, the YRTC youth as though we're talking about a homogeneous group of youth, meaning that the program should be the same for all of these youth and it works for all of these youth. I think that in our discussions with the department, as well as, as well as our own, our own examination of the issues, I think one thing that became very clear is that we have varied needs within the youth within the YRTC community. And some of them, and this is, this is this, this-- I say the struggle that we have with the YRTC program, treatment, rehabilitation. It is the youth rehabilitation treatment center, and, and yet the rehabilitation at the YRTC is not a psychiatric residential treatment facility. It is not an inpatient psychiatric unit. And, and in our assessment and in our discussions with the department, I think it became obvious that that continuum, that, that piece is missing as we see it, within the options that even the department has for treatment of some of these youth. So it was based upon that assessment that we were bringing LB425, and we brought a bill last year asking the department, requiring the department to, to do an exploration of how many youth would benefit from this program, where should the program be located? The multiple issues of really a cost, cost and an assessment of the need. So that is what the bill is, and that's what we saw when we, when we toured and when we completed our report on the YRTC program. So with that, I would, I would pause and open to any questions that you might have.

WALZ: Thank you, Senator Arch. Questions from the committee? Senator Hansen.

B. HANSEN: I just have one brief question. Did the Fiscal Office or the department mention, like-- so this has to be done within 60 days, right?

ARCH: I'm sorry?

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B. HANSEN: This has to be done within 60 days of enactment of the bill.

ARCH: It has to be done, we have to have a report by the end of the year. It has to be initiated 60 days post.

B. HANSEN: OK. All right.

ARCH: Yeah.

B. HANSEN: Again, just surprised by the fiscal note again. So [INAUDIBLE].

ARCH: Yes. I think last year when, when, when this was being discussed in committee, I think it was \$100,000, \$100,000.

B. HANSEN: Yeah.

ARCH: Yeah.

B. HANSEN: OK. All right, thanks.

WALZ: Other questions from the committee? All right, are there any proponents? Any opponents? Anybody that would like to speak in the neutral? I see none. We did have three letters that were all proponents that came in. Would you like to close? Senator Arch waives closing. That closes our hearing on LB425 and it will open our hearing on LB427.

M. CAVANAUGH: Knows how to clear a room.

ARCH: Welcome, Senator Cavanaugh, and you may open.

M. CAVANAUGH: Thank you. Good morning, Senator Arch-- Chairman Arch and fellow members of the Health and Human Services Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I represent District 6, west-central Omaha, here in the Nebraska Legislature, and some might say the best district in the state. I am before you today to open on LB427, a bill introduced by the Health and Human Services Committee. LB427 is based on the third recommendation to come out of the YRTC Special Oversight Committee's December 15, 2020 report. That recommendation was developed and enact-- developed and enacted language to clarify the Legislature's intention that there

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shall not be a waiting list for youth seeking certain treatment, including treatment for youth who sexually harm and youth who are chemically dependent. As a member of the YRTC Special Oversight Committee, I joined Senator Arch and Senator Murman and other members of the committee on a series of tours, including the YRTC campus in Geneva, the Hastings Regional Center campus, the new Lincoln facility for high-acuity and high-risk youth, and the Whitehall campus in Lincoln, which is serving the youth chemical dependency program and the program for youth who sexually harm. The chemical dependency and sex offender programs currently housed at Whitehall are not part of the YRTCs, but rather are licensed residential psychiatric treatment facilities under the hospital at the Lincoln Regional Center. Youth committed to the YRTCs may be referred to these programs if needed-- if need is identified, or youth may be sent directly to these programs by order of the juvenile court. In the course of our tours and hearings, concerns arose regarding youth who were waiting to be admitted to the chemical dependency program at the Whitehall campus in Lincoln. During the tour of Whitehall on October 23, 2020, Whitehall facility administrator Dr. Jesse Foster stated that there was a waiting list for youth to be accepted to the program. This mention of a waiting list was concerning to many of us, especially due to the fact that the chemical dependency program had just recently been moved from the Hastings Regional Center, which had a 24-bed program to the Whitehall campus in Lincoln, which had capacity for only 8 youths in the chemical dependency program at the time of the move. At the Oversight Committee's hearing later that day, representatives of the department clarified that the waiting list was due to post-referral evaluations and COVID concerns, and not due to capacity issues. Mark LaBouchardiere, which I probably did not pronounce correctly, but I tried, administrator of the Office of Juvenile Services, expressed confidence that capacity would not be an issue at any facility, as the goal of DHHS was to shorten the length of stay due to more efficient and effective programming. Notwithstanding the department's assurances, the YRTC Special Oversight Committee felt and this committee agreed that it was important to clarify the Legislature's intent there should not be a waiting list for the youth chemical dependency program or the treatment program for youth who sexually harm. LB427 accomplishes this by providing that it is the intent of the Legislature that no institution under the supervision of the Department of Health and Human Services at which the department provides inpatient or subacute substance abuse or behavioral health

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residential treatment for juveniles under the jurisdiction of a juvenile court shall delay such treatment to a juvenile when such treatment has been determined necessary and appropriate after the juvenile's commitment to the Office of Juvenile Services or has been ordered by a juvenile court. While LB427 is simply intent language, it provides clear guidance to the Department of Health and Human Services as they plan for the future of these important and necessary programs for youth in our state. Thank you for your consideration of LB427. Thank you to the committee legal counsel for helping prepare this documentation, and thank you to Senator Arch for bringing this forward and for chairing that very important oversight committee.

ARCH: Thank you, Senator Cavanaugh. Are there questions? I just, I just have, I just have a comment. You and I both served, of course, on the, on that oversight committee, and the previous bill, LB425 talked about the the psychiatric care, the inpatient or psychiatric residential treatment facility care for psychiatric needs. The two programs that you're referencing in the Whitehall, the program at Whitehall are also psychiatric residential treatment facilities for different, for special needs, for different, different purposes. But I guess as, as, as we toured, I think, you know, that the state and the intent language here, as I recall our discussions together, what-- is it, is, is saying to the state and recognizing that the state in a lot of cases really is the last resort for some of our youth in for care. Whether it be for inpatient psychiatric residential treatment facility or the two, or the two programs at Whitehall. Do you have any, do you have any comments on, on that statement?

M. CAVANAUGH: On the state being the last--

ARCH: The state, the state needs to be in that position where they can--

M. CAVANAUGH: Oh.

ARCH: --care for--

M. CAVANAUGH: Yeah.

ARCH: --the youth. Private providers may not be able to. The state must.

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M. CAVANAUGH: Yeah, the state must because the state is the only no-eject, no-reject option. And private providers, as wonderful as they are in the services that they provide, they, they have other needs that they have to meet. And so they, they might decide not to take on a youth that is particularly challenging. And I think some of the youth, the original population at Whitehall, those that have sexual offenses are that population for sure. And so, yes, the state-- this is a very crucial need that the state fills for our youth, is the no-eject, no-reject. We will take care of you, you're our responsibility.

ARCH: Thank you. Any other questions? Seeing none, thank you very much.

M. CAVANAUGH: Thank you.

ARCH: Are there any proponents? Are there any opponents? Is there anyone that would like to testify in a neutral capacity? Seeing none, I would say that we received two letters. One was a, in proponent and one was neutral for LB427. And with that, we will close LB427 and we will also close the hearings for the morning. We will regather at 1:30.

[BREAK]

ARCH: Good afternoon, and welcome to the Health and Human Services Committee. My name is John Arch. I represent the 14th Legislative District in Sarpy County and I serve as Chair of the HHS Committee. I'd like to invite the members of the committee to introduce themselves starting on my right with Senator Murman.

MURMAN: Hello. I'm Senator Dave Murman from District 38 and seven counties to the west, south and east of Kearney and Hastings.

WALZ: Hi. My name is Lynne Walz, and I represent District 15, which is all of Dodge County.

ARCH: Also assisting the committee is one of our legal counsels, Paul Henderson, our committee clerk, Geri Williams, and our committee pages, Kate and Rebecca. A few notes about our policies and procedures. Please-- first, please turn off or silence your cell phones. This afternoon we will be hearing three bills and we'll be taking them in the order listed on the agenda outside the room. The

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hearing on each bill will begin with the introducer's opening statement. After the opening statement, we will hear from supporters of the bill, then from those in opposition, followed by those speaking in a neutral capacity. The introducer of the bill will then be given the opportunity to make closing statements if they wish to do so. For those of you who are planning to testify, you will find green testifier sheets on the table near the entrance of the hearing room. Please fill one out and hand it to one of the pages when you come up to testify. This will help us keep an accurate record of the hearing. We use the light system for testifying. Each testifier will have five minutes to testify. When you begin, the light will be green. When the light turns yellow, that means you have one minute left. When the light turns red, it is time to end your testimony and we will ask you to wrap up your final thoughts. When you come up to testify, please begin by stating your name clearly into the microphone and then please spell both your first and last names. If you are not testifying at the microphone, but want to go on record as having a position on a bill being heard today, please see the new public hearing protocols on the HHS Committee's website on nebraskalegislature.gov. Additionally, there is a white sign-in sheet at the entrance where you may leave your name and position on the bills before us today. Due to social distancing requirements seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The agenda posted outside the door will be updated with each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. The committee has a strict no-props policy. With that, we will begin here today-- this afternoon's hearing with LB428, which I will be presenting. So I will turn the committee over to Senator Walz.

ARCH: Good afternoon to the members of the Health and Human Services Committee, my name is John Arch, J-o-h-n A-r-c-h, and I'm before you to open on LB428, which is a bill introduced by the Health and Human Services Committee. One of the recommendations of the YRTC Special Oversight Committee was to clarify the state's responsibility for the

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education of youth in state facilities. And if you recall from this morning, we had a couple YRTC bills. We're going to have a couple more of the YRTC bills, which came as a result of the recommendations from this Oversight Committee. So it includes, one, identifying the entity or entities responsible for addressing special education needs. Two, clarifying responsibility for educational outcomes and oversight. Three, creating an education system for youth housed within the Department of Health and Human Services and the Department of Corrections, and four, ensuring consistent funding and resources. This recommendation is unquestionably the most ambitious initiative to come out of the YRTC Special Oversight Committee, and it won't be accomplished overnight or even in a single legislative session. This committee began the task of addressing education at the YRTCs as part of the YRTC legislative package in 2020. LB1188 passed last year required DHHS to establish the position of Superintendent of Institutional Schools to administer the education programs at the YRTCs. In March of last year, DHHS entered in an interagency agreement with the Department of Education, which granted the Department of Education administrative oversight over the YRTC education programs. This agreement allowed the Department of Education to appoint a director of schools who works collaboratively with DHHS to implement long-term plans regarding curricula, staffing and student developing-- development within the YRTC educational systems. LB428 provides guidance and legislative intent as the Department of Ed and DHHS work together to plan a path forward for the important education needs of youth in the YRTC system. First, LB428 clarifies that juveniles committed to the YRTCs are entitled to receive an appropriate education equivalent to educational opportunities offered within the regular settings of public school districts across the state. Additionally, under the statute as currently enacted, the educational credits awarded by the YRT-- by the YRTC schools must be accepted by the juvenile's home school district. LB428 provides that the credits will be accepted by any public school district in the state of Nebraska. This clarification is appropriate as many of the youth at the YRTCs may have a number of different placements, both before their commitment to a YRTC and after their discharge. Finally, LB428 clarifies that the YRTC schools shall maintain accreditation by the State Board of Education to provide an age appropriate and developmentally appropriate education program. Accredit-- accreditation by the Board of Education is not a new requirement for the YRTCs, but this cleans up what the Department of Education felt

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was an ambiguity in our statutes. The Department of Education will follow me to provide more information about their work on the education of YRTC youth and their vision for the future of what these schools can and should be. I might add that another one of the outcomes of the-- of the YRTC Oversight Committee was a request that we extend the Oversight Committee for another year. And I am sure that this issue of education will probably be one of the-- one of the larger issues that we will work on over the summer and over this year as we really strive to improve the educational experience for the youth in the YRTC program. With that, I will close my opening and answer any questions that you might have.

WALZ: Thank you, Senator Arch. Questions from the committee? I see none. Thank you.

ARCH: Thank you.

MATT BLOMSTEDT: So good afternoon, members of the committee, Senator Walz, Senator Arch, thank you. My name is Matt Blomstedt, M-a-t-t , last name, B-l-o-m-s-t-e-d-t, and I'm the Commissioner of Education for the state of Nebraska, and so here to represent the Department of Education in support of this bill. Senator Arch did such a good job, I'm not sure I have a lot more to say, but I'll share a few additional thoughts. Number one, as-- as you know, really the purpose of this particular bill is not to solve all of the issues with education, instead really to begin to engage the committee, as Senator Arch talked about and all, and yet a longer probably conversation about how we continue to make improvements in the educational outcomes for students in the educational programming that's available through YRTCs and ultimately put ourselves in a position that we are, I guess, in one accord about what the expectations are for the educational programming across-- across the YRTC schools. Ultimately, the Department of Education actually, again, one of the components of this bill is about accreditation and has long had the responsibility to accredit the YRTC programs. But they've changed over time and over the years and I had the-- a quick review of the-- of the report that you-- that this committee or the joint committee issued back in-- at the end of 2020 and lots of good and important history is part of that. But you can definitely see that-- that students that have come into that program need, you know, clearly a direction on education that's going to be impactful for their lives and ensuring that we're doing that. So there's a couple of the key points I want to make that are

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specifically in LB428 that the point about on page 2, line 25 through 30, if my notes are right anyway, the importance that educational settings and expectations, as Senator Arch already mentioned, that we want to make sure that these credits are transferable to any public school. Why that's important is we've had quite a few cases of where students go and take classes and then return to their school and are required to go back into those-- those same classes and that would be quite frustrating. And I actually talked to students, both boys and girls in those settings that have experienced that. And so we're really looking for a way to ensure that number one, that's an expectation of the educational program and that we're able to get that done. Perhaps even more important than that is that every student has a path that they're going to ultimately complete and that we're giving them age appropriate, developmentally appropriate educational opportunities. That would always be our expectation in our schools, but it's-- it's interesting that we've had to be very explicit about that for the-- for the YRTC programs. In the past, that the programs looked very much like a school setting and this doesn't do anything necessarily that we intend to change that, but we want to be very intentional and make sure that that-- that is still the expectation as we go forward. And while students at YRTC are entitled to educational experiences that are afforded to another public school settings, we also want to make sure that they're getting the right educational opportunities that they need individually. And so, again, just measuring and doing that and being thoughtful about that, as Senator Arch mentioned, we obviously have been much more involved in this than we had been in the past. Normally, we would have been the regulatory body on the outside looking in, you know, throwing out some ideas, perhaps, but-- but now we're actually deeply engaged in it and I think that's been a very good and important relationship. And we've appreciated our work with DHHS and the team that's been there. It's not always easy. Don't, don't get me wrong. It's not always that we can find exactly the right way to get things done, but we've also appreciated this relationship we've had with the Legislature to try to build this and continue to build this in the appropriate way. One thing I want to highlight and I've highlighted in prior-- in your prior work over the last year or so, special education responsibilities are really important as well. Now, one unique dynamic that when students are placed court ordered into the YRTC, they no longer have a-- I'll call it home school district. I shouldn't use their quotes, but I know it's being transcribed but a home school

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district, well, their-- their home district now is that YRTC. They're actually taken off the rolls of other public schools or other schools and put on the rolls there with one small and not small exception, but one exception, special education responsibility, which I will tell you I think is the wrong way to go about it. This bill doesn't try to fix that. This bill, I just want to be able to kind of put a point or pin in that particular issue for later conversation. Ultimately, students that-- that arrive at YRTC still have a one tieback for their special ed services that should be at least in concert with their-- with their local school. Here's what happens, unfortunately. These students are passed around through the system, and that gets lost in the-- in the middle of that. Our team includes, first of all, Scott English, who's been the principal in place out there. We've essentially had Dr. Deb Frieson as the superintendent of the schools. She's on our staff as the deputy commissioner. And then we've hired a special ed student services coordinator that's-- by the name of Jodie Sams. And so as we've looked at this, we really believe that that's going to be an issue that we need to work on with you. I really do see my time is up and I think I've said most of what I need to say, but I certainly would take questions.

WALZ: Questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here, Commissioner Blomstedt. If-- before I ask my question, was there anything else you wanted to add?

MATT BLOMSTEDT: Oh, I'm sure there was something. I think the one thing that I would say is just as we kind of clarify the settings and where the settings are at, that's not been part of our responsibility. As you determine where these settings are, our intent is that the educational program needs to be in place as part of that particular work. So that might have been my last point.

M. CAVANAUGH: OK. So, the special education, I want to revisit this. So can you kind of take us through that a little bit more in detail? So a youth goes to, let's say, to Kearney and they have special education needs, they have an IEP that doesn't go follow them to Kearney?

MATT BLOMSTEDT: Ideally it should. Here's-- here's one of the unique circumstances of who's responsible for special ed. So a student, when

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they're placed or become a ward of the state at any point in time, not just going to YRTC, the-- the responsibility for special education ends up generally falling where they're at. So if they go into foster care, for instance, that the special ed responsibility goes to a different district wherever they're placed in, in foster care, and then they might move a couple times in the system for different reasons. And that-- that responsibility keeps going and it's kind of geographically tied to wherever they're at. However, once they go into a YRTC, it goes back to the original district where they became a ward of the state. And so that's how that gets lost along the way. Really, what I would probably advocate for in the long run is that we actually think about the YRTCs becoming the place where we actually make sure we go back through the IEP process. They become responsible for it. The resources should be there for special ed. But unfortunately, the staff at YRTCs would have to backtrack and find the right contacts at a school district. In many cases that happens, so don't get me wrong, they work very hard to try to find that out. But it is a hard thing to explain to a school district where a student has been off their rolls and then you suddenly come back to them and say, now you're responsible for this student. And they-- maybe they hadn't seen them in months, if not years, so.

M. CAVANAUGH: And what would be-- so what is the-- how do we address that?

MATT BLOMSTEDT: I think, and maybe this goes a little bit to where the education committee realm could be in the long run. I think the special ed responsibility, we actually ought to treat it like it-- much more like we would a school district and that they would have a special ed appropriation for those students. I think we could actually better maximize the federal resources in the service of these particular students. Have a little bit more organized. It's a little bit-- it's treated very different than other school settings are for all these different purposes. Like the budget for this, it gets embedded within HHS and I think you could have a school budget that-- that tied this back in a similar fashion that we do for the rest of the schools in the state.

M. CAVANAUGH: OK. So the youth now that have special education needs, they-- either the schools at the YRTCs are having to track down those-- those documents or they're doing a reassessment for an IED.

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MATT BLOMSTEDT: Right. They-- that would be one of-- one of two options. And certainly my preference would be that you wouldn't have to go back and do another assessment and that you would go through that process and do that appropriately. I think what happens is, students might have several different educational needs. And then by the time you get them to that-- that level of assessment, you go through a program and then you end up, you know, perhaps by that point in time, the original IEP wasn't maybe appropriate even anymore. But you might spend all your time going back and finding that original one and getting it there. I think we could be much more assistive as a state in kind of organizing that. If we had the-- it would give us both fiscal accountability in a-- in a structure as well as records accountability to share that. Right now, the Department of Education is somewhat left out of that-- that transaction, although we're working on ways that we can actually improve that without having any changes in law. But I think in the long run, there's a system problem that could be improved and to make that all the better.

M. CAVANAUGH: Thank you.

WALZ: Other questions from the committee? Senator Murman.

MURMAN: Thanks, Senator Walz, and thanks for coming in, Mr. Blomstedt. The IEP, is that-- I think it's typically updated yearly, isn't it? Can that be updated more often?

MATT BLOMSTEDT: Oh, that's actually probably a question, you know, above my head, actually, a little bit. I think-- I think so on agreement by certainly the parties that would be involved, the parent and any guardian that would have educational responsibilities. In fact, I would actually recommend for these students it probably should be constantly reviewed and not just as the special ed responsibility, but perhaps the other needs that they have as a student and be able to tie that together. And-- and I'm pretty sure that Jodie Sams and Scott English, will really give you a better, you know, kind of perspective on that, on running it within the YRTC's. But we do know that that's-- that's probably a part of the system that just has to be improved. And if we burn up the time of the staff at the YRTC trying to chase down that other information, I think we can get it so much more efficient for the-- for the benefit of those students.

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MURMAN: Well, that's exactly what I was thinking. I'm glad you voiced that. I'm thinking when a-- when a student comes into the YRTC would be a good time to update the IEP or shortly after they've, you know, after they've been in the YRTC for a short time, possibly.

MATT BLOMSTEDT: Yeah. I think one of the things that, you know, at least when I've talked to students out there and when I've had those occasions, it's, you know, they get very frustrated. They're in a system that's there to, to, you know, they presume to help them right through those steps or processes. And they've been in other placements most likely, and had other other types of challenges so that the more that we can do that proper assessment, get them those supports, I think the better off the whole system will be. But most importantly, the better off those students will be.

MURMAN: Yeah, I agree. Thanks.

WALZ: Thank you, Senator Murman. Other questions from the committee? I see none. Thank you for coming in today.

MATT BLOMSTEDT: That's pretty easy. Easier in here than Education.

WALZ: Oh, I didn't-- [LAUGHTER]

MATT BLOMSTEDT: Just kidding. Oh, no, I shouldn't have said that.

WALZ: Mine is-- mine is easy. I was just as you were talking, you know, I was just curious about what's been one of the most positive outcomes of this experience so far.

MATT BLOMSTEDT: Yeah. I mean, for us to be involved, and just so you-- and I know I've shared it before, but our first day of a contract with the YRT-- with HHS to be serving in this role was the first day that we had a COVID case. It was on March 6th, right the first identified day. And, you know, we-- it's been a challenging time. I think-- here's where I'm most optimistic and I shared this with Senator Arch actually right before the hearing. I think I'm most optimistic in the partnerships that we're starting to develop, the understanding of the system changes that can be made, and ultimately that we can make a real difference and make-- make this system function and work well. I know we have a lot of work. I mean, work yet to do, but I'm encouraged. I, you know, I would have spent probably and have spent years worried about what happens in the course of the system that

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leads the YRTC and where-- where students are at. I think I'm very optimistic that we're in a moment in time where we can get those things resolved for the-- for the better. And probably some other commissioner in the past said that, I hope to be able to live up to that and it's really one of my passions that we get this resolved, so, and I am optimistic for that.

WALZ: Great. Thank you.

MATT BLOMSTEDT: Yeah. Thank you very much. Appreciate being here.

WALZ: Next proponent. Do we have any opponents that would like to speak? Anybody in the neutral position that would like to speak? Senator Arch, you're welcome to close. Oh, we did have which was one-- we did have five letters that were written-- or six letters that were written. Five of those were proponents and one neutral. And we also had one written testimony from the Nebraska Children Health and Education Alliance.

ARCH: Thank you, Senator Walz. I'm really excited about this. I mean, I think-- I think really this can make a huge difference in the lives of these youth. And so I-- I-- I am anxious to work with Commissioner Blomstedt on this and with the committee and anyone else that's interested in this. I-- I take you back and I-- and I-- and I reference our-- our committee report from December 15, 2020. And within that report, there was a document that was-- that was published by the Department of Health and Human Services dated October 21, 2019. And there was a section in there on education and unification across the DHHS/OJS Special Purpose School system. It-- it laid out recommendations, additional goals, requirements and all of that, and then it calls for a special purpose agreement. But then I also reference another document in the-- in this report, and that was from the Nebraska Department of Education dated October 23, 2020. And within that report, the commissioner who just spoke had-- had several recommendations and they're very similar, very similar. So I think we-- we-- that we have two departments that have identified the issues, have identified the needs, have decided to work together, and that is applauded. And I think we have an opportunity to really make a difference here. And with that, I would answer any questions,

WALZ: Any other questions from the committee? Senator Cavanaugh. I wanted to say Machaela.

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M. CAVANAUGH: I just want to echo your enthusiasm and thank you for bringing this forward. This is exciting. And as we went through all of the facilities and it's one of those things that as the outside entity looking in, it never really occurred to the Legislature, like, oh, they need our help to make this happen. And so I appreciate the work that you and again, our committee counsel has put into this. So, thank you.

ARCH: And I-- and I might add to that as well, that-- that it is-- it is the beginning. Right. And so this bill is- is just a beginning is all it is. However, you know, as we start-- as we start peeling the layers of the onion back and start looking into this further, we have-- we have kids in state institutions across the state, not just the YRTC that I'm sure could benefit from this-- from this thinking as well. And so maybe-- maybe even a bigger opportunity than what we recognize today, so.

WALZ: Any other questions from the committee? Thank you, Senator Arch. That closes our hearing on LB428 and we'll open with LB429.

ARCH: Thank you, Senator Walz. Good afternoon again, members of the Health and Human Services Committee. My name is John Arch. J-o-h-n A-r-c-h, and I'm before you to open on LB429, which is a bill introduced by the Health and Human Services Committee. LB429 would require the Department of Health and Human Services to notify the Legislature prior to implementing substantial changes to the facilities and programs under the jurisdiction of the Office of Juvenile Services, or OJS. OJS is the division of DHHS, which oversees and controls the youth rehabilitation and treatment centers. Additionally-- additionally, LB429 would require that the department not implement such substantial changes to OJS facilities or programs until the conclusion of the earliest regular session of the Legislature in which there has been a reasonable opportunity for legislative consideration of such proposed changes. As you all know, in August 2019 the situation at YRTC Geneva, had deteriorated to the point where DHHS had to urgently relocate the girls at Geneva to other facilities. In a YRTC Special Oversight Committee's report we described the situation at Geneva in the summer of 2019 as a quote, multiple system breakdown. To state it briefly, there wasn't adequate staff, there wasn't adequate programming. The buildings had deteriorated to an unsafe condition, in large part to the girls vandalizing the buildings, the sprinkler system in particular, doing

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much of the damage. In response to the crisis at Geneva, this committee, as well as the YRTC Special Oversight Committee and the programming, have engaged in over a year of fact finding and analysis regarding the crisis at Geneva and the overall condition of the facilities and programming at Nebraska's youth rehabilitation and treatment centers. Through this process, one thing that has become apparent is that the breakdown within the YRTCs did not occur overnight, but rather had been many months in the making and that long-term planning and oversight were lacking. The purpose of this legislation is to ensure that the Legislature isn't caught by surprise as it was with the crisis in August 2019 and to ensure appropriate oversight of future changes the YRTCs. LB429 is not intended to indicate a lack of confidence in the current administration's plans for the YRTCs or its diligence in working to restore the YRTCs to the rehabilitative function they were intended to serve. We've been encouraged by many of the steps the department has taken in response to the crisis at Geneva and we eagerly anticipate the department's five year operations plan for the YRTCs, which is due to the Legislature by March 15 under LB1140, which passed last session. However, understanding that administrations change and department administrators-- administrators come and go, this committee feels it is appropriate to provide a framework for accountability and transparency in the operations and future planning for the YRTCs. I understand that the department is going to testify in opposition to LB429 this afternoon and I would say, we have been working on some language, some draft language that may resolve some of these issues. So frankly, we just kind of ran out of time. But I'm certainly willing to listen to their concerns and I'm hopeful this committee can work together to address those concerns without compromising the purpose of the bill. Thank you for your consideration of LB429 and I would just add one other thing, that the language that we used for drafting this is actually found in statute in other sections of law. And so this isn't brand new language, but it was something that we had-- we had seen in other situations. So with that, I would answer any questions you might have.

WALZ: Thank you. Questions from the committee? I see none.

ARCH: OK, thank you, and I will stay to close.

WALZ: OK. Proponents.

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JENNIFER CARTER: Good afternoon, Chairman Arch, and members of the Health and Human Services Committee. For the record, my name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as your programming. The Inspector General's Office, as you know, provides accountability for Nebraska's child welfare and juvenile justice systems through independent investigations, including mandatory investigations of deaths and serious injuries and investigations of other allegations of wrongdoing and statutory violations. Our oversight also includes the identification of systemic issues and recommendations for improvement. As the committee is aware, on January 5th, 2021, we released our special report of investigation, the deterioration and closure of Geneva's Youth Rehabilitation and Treatment Center, where we examine the crisis-- or the events and circumstances that led to the crisis in August 2019 necessitating the closure of that facility and the moving of all the female youth to YRTC Kearney. So while that report scope was limited to what led to August 2019, as we mentioned to the YRTC Oversight Committee last fall, the-- after the initial crisis, there were many substantial changes that were made to the YRTC system in a short amount of time, and many of them are listed there that I know you are well aware of. They ranged from very specific issues like issues that occurred in moving the youth, the female youth to Kearney, having to do with proper facilities for sleeping, bathroom, privacy issues, just the nature of having to have sight and sound separation between the boys and girls and changing of schedules. There were also major issues, as we just heard, around education for the girls, having to make a major purchase of modular buildings for Kearney. There were significant structural changes made to the YRTC system that are just sort of foundational to it in two different proposed business plans six months apart. One in October 2019 and one again in July of 2020. The October plan created a new facility in Lincoln. The July plan moved a longstanding chemical dependency program from Hastings to Whitehall in Lincoln. There were changes in leadership. There's a new contract with the Missouri Youth Services Institute. There were many, many changes and it created a good deal of instability in the system and many of them were significant changes and yet there really wasn't any legislative action or policy change driving it or even sort of approving it. And so also that breadth and frequency of change made it hard for our office as an Oversight and Accountability Office to really monitor what was happening and what the effect was on the youth and be able to help the Legislature understand those changes. So after

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working on all of that in October of 2020, our office recommended to YRTC Oversight Committee that there be a halt as much as possible to any further major disruption within the YRTC system while the planning process identified under LB1140 moved forward and that there should be significant and meaningful stakeholder input in that process. So particularly as it involves the creation of new facilities or the relocation or creation or elimination of any programs in the system. So we believe that LB429 aligns with that OIG recommendation and it actually strengthens that recommendation by ensuring appropriate legislative input and oversight and providing an appropriate amount of time for any legislative action, if necessary, before any other significant changes to the juvenile justice or YRTC systems are made. So we appreciate the bill and thank you for your time and consideration and I'm happy to answer any questions.

WALZ: Thank you so much. Questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here, Inspector General Carter. You said that this aligns with the recommendations that the OIG made. Is this-- and I apologize because I don't have that report with me, was this one of the recommendations that the department accepted?

JENNIFER CARTER: No, I appreciate you clarifying that. So this was not a recommendation that came in an official investigative report.

M. CAVANAUGH: OK.

JENNIFER CARTER: It was a recommendation we made to the YRTC Oversight Committee--

M. CAVANAUGH: OK.

JENNIFER CARTER: --when asked to sort of--

M. CAVANAUGH: Yes.

JENNIFER CARTER: --report.

M. CAVANAUGH: And correct. OK, thank you.

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JENNIFER CARTER: So it isn't one we sort of will track formally in our-- in our annual report.

M. CAVANAUGH: Thank you.

WALZ: Other questions from the committee? I see none. Thanks for coming in today.

JENNIFER CARTER: Thank you.

WALZ: Next proponent. Any opponents?

LARRY W. KAHL: Good afternoon.

WALZ: Good afternoon.

LARRY W. KAHL: Chairperson Arch, members of the Health and Human Services Committee, my name is Larry W. Kahl, L-a-r-r-y W. K-a-h-l, and I am the chief operating officer for the Department of Health and Human Services. I am here to testify in opposition to LB249 as initially introduced by the committee. In particular, we have concerns about the language prohibiting DHHS from implementing any substantial changes to facilities and programs under the jurisdiction of the Office of Juvenile Services until the end of the earliest regular session of the Legislature in which there has been a reasonable opportunity for legislative consideration of the proposed changes. However, we recognize the intent to increase communication prior to changes at the YRTPCs and look forward to working with the committee to improve this legislation and ensure appropriate notification to the Legislature in the future. The current version of LB429 will limit DHHS's ability to implement necessary changes to facilities or programs. For example, as written, there are no exceptions for emergency situations such as the facility deterioration or damage or harm to youth or DHHS teammates. LB429 also does not define what would be considered a substantial change. This could result in DHHS and the Legislature operating under different understandings of what constitutes a significant change. Clearly stating what constitutes a substantial change will be essential to ensure no misunderstanding occurs. DHHS looks forward to working with the committees to develop an amendment that would meet the intent of this legislation and strengthen communication between DHHS and the Legislature. DHHS fully supports maintaining a cohesive relationship with the committee, as

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well as other members of the Legislature, better communication and a stronger working relationship between DHHS and the Health and Human Services Committee. It is in the best interest of both parties, as well as the youth served in DHHS facilities, their families and Nebraska residents. We respectfully request that the committee not advance the legislation in its current form. Thank you very much for the opportunity to testify today and I'd be happy to answer what questions I may.

WALZ: Thank you so much. Questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you for being here.

LARRY W. KAHL: Absolutely.

M. CAVANAUGH: So the issue is that define-- clarifying what substantial changes are, is that the main?

LARRY W. KAHL: Yes, that is one of them. Yes.

M. CAVANAUGH: OK. And not allowing for emergency situations, and I don't-- I haven't had the chance to review, but I don't see this striking any allowance for emergency changes that we might have already in statute, so.

LARRY W. KAHL: That would be important relative to timeliness. Case in point, the situation in Geneva that was mentioned previously, which was before my time, I might add, but I think did require urgent action for the safety of the youth that were involved in the facility and it--

M. CAVANAUGH: But we have-- we have allowed for that. That's-- that's transporting them from a dangerous situation to a safer location. This is talking about substantial changes to the facility, such as renovating a building in Geneva and then leaving it empty with no plan.

LARRY W. KAHL: When it comes to being able to have conversations around being more foresighted in terms of being planful, it's my hope that our 5-year planning document that will be delivered for the committee yet this spring will help answer a lot of those questions. And while it probably is not going to be perfect in its-- in its form,

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I think with the 5-year plan, with an annual review certainly allows it to be a living document and allows us all to be able to have a little bit more foresight into the current situation for where we-- where the organization finds itself and what changes are needed.

M. CAVANAUGH: But that, to me, sounds like they're working together, not against each other. This is saying that we want to make sure that all future five years from now in that document is no longer valid, that we still are going through this diligent process. And so, I mean, you're already doing the process that we're asking for in this bill.

LARRY W. KAHL: I'm just speaking to its current form and context and in particular the-- some of the terminology relative to substantial without additional definition.

M. CAVANAUGH: OK. Did you talk to Chairman Arch in advance of this hearing?

LARRY W. KAHL: Much to the statements that he had made initially, yes. We have had some initial conversations and believe that we're moving in an appropriate direction. But as Senator Arch had identified with the absence of appropriate time for us to be able to have the full conversation relative to what those modifications might be, I felt that it was necessary that we oppose its original form.

M. CAVANAUGH: OK, thank you.

WALZ: Other questions from the committee? I do have just a kind of a follow-up question from Senator Cavanaugh. You were talking about, you know, a lot of this information will be revealed when the plan comes out. I'm assuming-- you know, I don't know if there should ever be exceptions for emergency situations such as facility deterioration, because we should never have to get to that point. Is that part of the plan that you're talking about?

LARRY W. KAHL: Yes, ma'am.

WALZ: Addressing ongoing--

LARRY W. KAHL: I think Senator Arch was very articulate when he identified that it was an issue of staffing. It was an issue of facilities, and it was an issue of programming. All three of which, in my belief, were inadequate and were responsible for the collapse and

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what happened. My job overseeing the 24/7 facilities for DHHS is to make sure that that doesn't happen, or at least making sure that everyone is adequately aware of where the potential pitfalls are. And my suggested recommendations are what we may do to change those. And that's-- I'm committed to that, to being able to continue to, as we've mentioned, work-- work well together moving forward.

WALZ: OK, thank you. And then just one more quick follow-up question. I would assume that every facility has an emergency plan in place. If there was a flood or or something like that, every facility should have a plan in place or they--

LARRY W. KAHL: Agreed.

WALZ: OK, all right. All right. That's all. Any other questions?
Senator Cavanaugh.

M. CAVANAUGH: Going back to-- OK, so I'm not aware of any past incident where a building deteriorated rapidly to the point that the Geneva campus did, that we had to have an emergency evacuation not because of a weather or tornado or something like that hitting, but because of just neglect. And we're working on a 5-year plan and with a year review on how to handle facilities moving forward and to Senator Walz's point, there shouldn't really be an emergency situation like what we had at Geneva. That's something that we all, I think, can agree, we don't ever want to see again. So I just-- I'm still just not understanding the opposition to the bill because it's codifying what you're doing now for future administrations. And the issue of substantial changes is a-- I mean, we can put intent language in easily enough, whether or not you like what that intent language is, I guess is-- is what's at issue here?

LARRY W. KAHL: Oh, you have my written testimony, Senator Cavanaugh.

M. CAVANAUGH: I know I have your written testimony, but I'm not-- I need clarification from you. What is at issue here, the substantial changes or that we're trying to codify what you're already doing for the future?

LARRY W. KAHL: Per the statement, we're concerned about the definition of substantial, the potential for there being disagreement or

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confusion between the two organizations, between the Department of Health and Human Services and between the legislative committee.

M. CAVANAUGH: So if we define substantial clearly, then the opposition would go away or would the-- would the definition have to be something that you liked?

LARRY W. KAHL: We--

M. CAVANAUGH: Is it the lack of clarity, or is it that you want to have control over what substantial is?

LARRY W. KAHL: I believe that's a lack of clarity.

M. CAVANAUGH: OK.

LARRY W. KAHL: Matter of fact, it states in the testimony that clearly stating what constitutes a substantial change will be essential to ensure that no misunderstanding occurs.

M. CAVANAUGH: OK, thank you. That helps.

WALZ: Any other questions from the committee? I see none. Thanks so much for coming in today.

LARRY W. KAHL: Thank you very much for having me. Thank you, Senator Arch.

WALZ: Next proponent. Oh, opponent. Any other opponents? Anybody in the neutral position that would like to speak? We did have a letter written as an opponent and there was no-- as a proponent and there was no written testimony.

ARCH: Thank you. In closing, I just want to mention that one of the-- one of the issues that we always wrestle with here in the committee or Legislature in-- in general and administration is where is that line? Right. Where's-- where's the line between Oversight and-- and almost becoming the administration? And we want to-- we want to avoid that. That's not our role. And so I think that working on some clarification on that definition of substantial so that it's not like, well, if you-- and I will use an extreme here, it wouldn't include if you want to change leadership personnel within one of the YRTC's, you have to hold off until you get approval from the Legislature. So somewhere on

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that line of-- of-- of major changes, where would we-- where are we most interested in knowing the larger impact on the youth and having advance notice of that? And so that's what we're going to be-- that's what we'll attempt to do as a committee and work with the department in trying to-- in trying to get some clarification on that-- on that definition. So with that, I would close and I'll open to any questions you might have

WALZ: Questions from the committee? Senator Cavanaugh.

M. CAVANAUGH: Thank you. Thank you, Senator Arch, Chairman Arch. The-- the definition of substantial. Do you feel like you have in your mind what that is?

ARCH: Well, it was interesting in listening to the OIG testify, Jennifer Carter, the-- the-- the Inspector General of Child Welfare, Jennifer Carter. I-- I-- I found it interesting that she mentioned facilities because that's really what triggered our major concern is-- was facilities. When we're going to close this, we're going to move this, we're going to open that, we're going to, you know, start this. We're going to, you know, it's-- it's-- those are major issues. Now, I say maybe not just that, but-- but I think-- I think probably that is-- is one of the larger issues when it comes to substantial. It's the opening, closing, starting, moving that-- that creates turmoil for the youth. And we want to-- we want to minimize that and have-- and have good planning. The other thing I would say is that the 5-year plan is excellent. I mean, I haven't seen the 5-year plan, but I mean, the process of planning for a 5-year plan is excellent, but we know administrations do change. And-- and we've all been involved in organizations where some things sit on the shelves and-- and it may-- it may change, whatever. We just want to have some-- we want to have some guardrails here for substantial changes so we're notified of that.

M. CAVANAUGH: So, and just in rereading the-- the language that we have here, it is specific to facilities and programs. It's not about the population and moving the children because that's something that we've addressed through other courses. So it really is about substantial changes to facilities--

ARCH: Yeah.

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M. CAVANAUGH: --like we've had. That's my understanding. Is that your understanding?

ARCH: Well, I think-- and I-- and I think clarification would be good because as administration same-- change, so do Legislatures.

M. CAVANAUGH: Yes.

ARCH: And we'll be terming out and memory will be forgotten and it would be good to have this clar-- clear so that in the future, Legislatures know exactly what was intended by that language.

M. CAVANAUGH: Yes. Well, hopefully the-- the staff that's working at DHHS will be here five years from now. but we do know that the administration itself will be different. So thank you.

ARCH: Yes.

WALZ: Any other questions from the committee? Seeing none, thank you, Senator Arch.

ARCH: Thank you. Thank you, Senator Walz. That will close the hearing for LB429 and we will now open the hearing for LB490. Senator Cavanaugh.

M. CAVANAUGH: Thank you, Senator-- Chairman Arch, and members of the Health and Human Services Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I have the privilege of representing District 6, west central Omaha. I'm here today to introduce LB490, a bill to add another way to monitor the youth-- the youth rehabilitation and treatment centers. We all sat in this room and listened to the appalling tale of mismanagement and neglect of two different state agencies surrounding the Geneva YRTC, the speed at which a building-- an A-plus building in Geneva was allowed to fall into ruin was astonishing. Although the YRTCs have a variety of accreditations they try to meet, these accreditation organizations only require facilities, visit or inspection-- a facility visit or inspection about every three years. That rapid deterioration of the state's assets in Geneva demands that the department and the Legislature find a way to prevent this from happening again. LB490 would require the YRTCs to be licensed in the division-- by the Division of Public Health. The Division of Public Health regulates many types of facilities, including those that provide care for

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children. Why not have the Division of Public Health regulate the facilities of the YRTCs and make sure there are regular inspections of the facilities. The YRTCs must be able to meet the basic facility requirements that all other child care centers or facilities are required to meet. They should actually exceed those requirements because in the current situation meeting basic requirements would be an improvement. The Office of the Inspector General for Child Welfare recommended more frequent inspections of the facilities by the Division of Public Health and even named a particular licensure. I'm not against that particular licensure, I'm just saying that the Division of Public Health might have other child care facility licenses that would be acceptable. If the committee or the Department of Health and Human Services Division of Public Health wants to name a specific licensure, I would be happy to amend the bill. This, as I stated, came out of the recommendations from the Inspector General, and it is entirely possible that they will be addressing this in their plan that they present to us. But I wanted to ensure that we have the option of having a license in place and in the event that they don't include that in their plan that they present to us, this gives us as a committee the opportunity to have this conversation further. And with that, I will take any questions.

ARCH: Are there any questions? Senator Walz.

WALZ: I-- I should know this. I know I should know this. So the Division of Public Health would be in lieu of who?

M. CAVANAUGH: It's not in lieu of anyone.

WALZ: OK.

M. CAVANAUGH: So when the Inspector General of Child Welfare came and gave us a briefing at the beginning of session. There were the recommendations that they gave to the department and the department accepted all of the recommendations except for this one. And they said it was because they were going to pursue licensure themselves. And so they didn't-- well, they maybe they did specify. If they did I don't recall. If they specified one, this is just what my office, through our research, we thought was-- but we're open to any option. We just want to make sure that there's licensure so that we can have regular inspections--

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WALZ: OK.

M. CAVANAUGH: --as a result.

WALZ: Thank you.

M. CAVANAUGH: Yeah.

WALZ: Thanks.

M. CAVANAUGH: And they very well may include this in their plan, but I want to make sure we had that option for action.

WALZ: Got it. Thank you.

ARCH: Other questions? I just have one. As in-- in your-- your intent here is regular inspections.

M. CAVANAUGH: To allow for regular inspections and management.

ARCH: And-- and regulations that would allow for reporting to-- you know, so if a hospital's license, they can report to the department of any--

M. CAVANAUGH: Right.

ARCH: --complaints or issues or-- and-- and having that kind of a process--

M. CAVANAUGH: Yes.

ARCH: --would be beneficial for a YRTC.

M. CAVANAUGH: Yes.

ARCH: Correctional facilities, which the YRTC is not, but correctional facilities I don't believe they're licensed either. And that's-- that's an aside, but I mean, I think the challenge may be what license is appropriate, right?

M. CAVANAUGH: Right.

ARCH: A child carrying license, which would be more like a group home, but that's something the department would need to wrestle with.

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M. CAVANAUGH: Right. And that's something, as I stated, I am more than open to amending. We picked one that we felt was-- my office helped me pick one that we felt was appropriate, but certainly not set in stone and we can always amend it. And, you know, again, we could get a report tomorrow that has what they're doing and this would all become moot. But if this isn't included in their plan, this is a conversation that I would like us as a committee to have about what is the appropriate license and, of course, include the department in that conversation.

ARCH: Thank you. Any other questions? Seeing none, thank you. Is there anyone that would like to speak as a proponent of LB490? Welcome.

JENNIFER CARTER: Hi. Good afternoon again, Chairman Arch, and members of Health and Human Services Committee. For the record, again, my name is Jennifer Carter, J-e-n-n-i-f-e-r C-a-r-t-e-r, and I serve as your Inspector General of Child Welfare. As has been mentioned, we released our report on the crisis at Geneva in October 2019 and we did recommend specifically in that report that all the YRTCs be licensed as a residential child caring agency through the Division of Public Health. Just to provide a little sort of baseline or background, YRTC Geneva and YRTC Kearney are now accredited through the National American Correctional Association. The Lincoln facility is not, which is housed in the Lancaster County Detention Center, is currently not accredited by the ACA of the YRTC. YRTC Geneva and YRTC Kearney are also members of Performance Based Standards, PDS project. And apparently the Lincoln facility, according to the HHS website, is also going to be participating in that. That does involve comprehensive reviews every six months, but never an on-site inspection for that particular standard. Also, all the YRTCs have to abide by the Prison Rape Elimination Act and those regulations. Geneva and Kearney both passed their pre-audit in 2018, but Lincoln has not had an audit. I think the difference is that all of these standards, ACA, PDS and PREA, they're all in a correctional model and I believe the YRTCs are moving sort of away from that. But it's also really important to note that the ACA and PREA audits happen every three years. So there isn't frequent on-site inspections that way. As a result, that's why our office decided to recommend that an additional standard of-- an oversight of a different type would be useful through licensing. The licensing program provides for a more regular review monitoring supervision of programs, activities and policy. They are also meant to ensure the safety and well-being of youth placed in out-of-home care.

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And these licenses conduct annual inspections. And also any time they get a complaint, they can go out and check. And, in fact, that was part of what we saw as early as October 2018 there was a hotline call from the YRTC in Geneva, and a CFS worker went out to-- to do an out-of-home assessment, as would happen, and found that-- that where the youth was staying was hazardous not only for the physical health, but also the mental health. And it really-- the area wasn't safe for youth or staff. They were already seeing the deterioration of the facility. That kind of thing is the type of thing that would be a complaint or a report to a licensing agency that might have been investigated sooner. And so we may have known about the deterioration a little bit sooner. So our specific recommendation was to use a residential child caring agency license because they-- that license address staff qualifications and training, staff to youth ratio, facility and building requirements, health and safety requirements, discipline rules and recordkeeping. It's just a way of ensuring the human sort of health and safety and care appropriately met, and anybody who wants to operate a child placement facility in Nebraska is usually licensed. But the YRTCs who do provide care and treatment and education for youth in Nebraska are currently not, as we know. HHS did reject this recommendation, but they did note in their response that they are open to exploring the licensing requirement as part of their ongoing discussions about what appropriate accreditation might make sense for the YRTCs. I did want to note that in their recommendation and their rejection of this recommendation, HHS expressed a concern about having redundant credentialing processes with licensing and accreditation. But the state's PRTS are both licensed and accredited. For example, Whitehall, where many youth from YRTCs go, is accredited by the Joint Commission but is also actually duly licensed both as a PRTF and as a residential child caring facility. So being both licensed and accredited is not redundant. Each credential offers a different focus and different timelines for Oversight and different tools for Oversight. And those differences, we believe, are critical. When you combine them, it provides a more comprehensive approach that can make an important difference for youth in those facilities. So while LB490 does not specifically require the residential child caring agency license, it does align with the OIG's recommendation. And we believe it's possible that another license would also be appropriate or that could even create a license that would make more sense for the YRTCs. But we believe what is paramount is that the YRTCs be licensed

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and, and that the state have that tool at their disposal. Thank you for your consideration. I'm happy to take any questions.

ARCH: Are there any questions? Senator Walz.

WALZ: Thank you. I just have a quick question. They're accredited currently.

JENNIFER CARTER: Yeah.

WALZ: Do those standards-- are those facilities safety accreditations or does that also include programmatic?

JENNIFER CARTER: I think that it is more focused on the facility, but to be honest, I have not actually had the chance yet to figure out like the very specifics of the ACA accreditation, for example. But I don't know how much it-- I mean, they might go into some staff ratios, but I think it is also a little bit more about what do you have in terms of the facility? Do you have appropriate safety protocols? Do you have like the Dickson unit in Kearney, which is very secure? Are there certain-- I think there's a meeting certain standards in that way. Where the licensing for us was a little bit more about the timing of the Oversight that there could be complaints and somebody would come right out and take a look at it. That is not going to happen under your accreditation standards. So you could have a problem six months after you were accredited and they wouldn't know that or look at that for another two and a half years. So I think that to us was a big piece of it.

WALZ: All right. Thank you.

ARCH: Other questions? Senator Hansen.

B. HANSEN: So if we are licensed as a residential child caring agency, will that make a difference on, like, dealing with problematic situations with violent residents? You know these kids, like their youth, because there's an officer sitting here. There's discipline rules, so.

JENNIFER CARTER: Yeah.

B. HANSEN: As opposed to, you know, because there are some--

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JENNIFER CARTER: Right.

B. HANSEN: --you know, problematic situations that do arise. But now with the lessons of the child caring agency, you know, is there a difference in how we handle those then?

JENNIFER CARTER: Right. I think that there may be and again, I apologize. I don't know that-- I'm not well-versed in the specifics of all that. And that was not something mentioned specifically in HHS's response, but I think there is a possibility. I would doubt that they would conflict too much. Certainly like staffing ratios are going to be lower for the licensing usually. But it could be that there would be-- that might be the one area, the disciplinary area could be the one area where there'd be more of a conflict if you wanted to remain accredited by a correctional facility. But I know HHS is also looking at different accreditations that might make more sense for YRTC's and those may end up working better, jiving better with a residential child caring agency license.

B. HANSEN: OK, yeah, that's my-- that's my biggest concerns, because I know this is a passion of Senator Cavanaugh's too is like the use of shackles at appropriate times.

JENNIFER CARTER: Right.

B. HANSEN: The use of, you know, other restraint measures, but only under--

JENNIFER CARTER: Right.

B. HANSEN: --certain, very specific situations now. A child caring center might say, no use of shackles at all whatsoever. And, you know--

JENNIFER CARTER: Right.

B. HANSEN: --sometimes it may be needed and I don't really know for sure, so--

JENNIFER CARTER: Yeah.

B. HANSEN: --that's the dilemma that I'm kind of seeing here a little bit.

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JENNIFER CARTER: Yeah.

B. HANSEN: But I appreciate that.

JENNIFER CARTER: Yeah.

ARCH: Other questions? Senator Murman.

MURMAN: Yeah, thank you. The problem that was in 2018 that-- I think you said there was a phone call, if I remember right.

JENNIFER CARTER: Yeah.

MURMAN: What building was that in, do you know?

JENNIFER CARTER: You know, that's a great question, and we tried to figure that out as part of our investigation for the report. And I don't think it was clear. Initially we thought it was an actual room that's used for room confinement. So that would have been-- no, I'm going to draw a blank on the building that that in Geneva where the room confinement rooms are. But then it was-- we clarified it wasn't necessarily a room confinement room. It was just a room that the youth was in or staying in. So it could have been-- I don't think we ever figured out which-- because of-- because it wasn't a room confinement room, which would only be in one of the cottages, then we were less sure which cottage that it was actually in at that time. But the kinds of things I think were described were-- maybe there were some holes in the walls. There were some exposed-- some, you know, exposed wires or things like that. It wasn't-- it was similar to what we later saw after more significant damage had been done.

MURMAN: Well, the reason I'm asking, I do agree that lack of staffing and lack of programming were contributing factors to the building problems at Geneva. But the way I understand it, the damage to the buildings was kind of a-- well, it was maybe a continuing thing, but-- but when it was done, like, for instance, maybe in 2018, the-- the census was small enough that the girls were moved to buildings that were still in good shape.

JENNIFER CARTER: Right.

MURMAN: And the-- the ultimate damage that occurred were sudden things, I think, like torn-off sprinklers, those types of things,

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that-- and it wasn't like a-- you know when I think of deterioration, I think, you know, like something that's old and getting worn out.

JENNIFER CARTER: Right.

MURMAN: But these were sudden vandal type things that actually damaged the building. So I'm not sure, you know, inspections would be very helpful. Definitely not, unless they were surprise inspections, because these things happen quickly. And, you know, we did respond quickly when the building-- enough buildings were damaged--

JENNIFER CARTER: Right.

MURMAN: --that the girls couldn't be safely kept there. But that was a sudden thing again.

JENNIFER CARTER: Yeah, I-- I will-- if I am misstating this, I will let you know but my memory from our report is that there were actually one or two sprinkler pulls in the fall of 2018 and so damage was starting. So while the-- the sort of big crisis in early August happened when the terrible flooding handed-- happened. In fact, Julia-- there was sort of this progression of some deterioration or vandalism or if-- I mean, I think we would not necessarily call vandalism. But, you know, the girls were acting out and were damaging parts of the buildings. And I mean, some of it may have been combined with just being older facilities, too, but so I do think it was a slower decline than it was just like one weekend in August. There were-- there was a progression of that. And so I do wonder if somebody had gone out in October 2018 and said, hey, why is there a hole in this wall or what-- you know, then maybe there would have been some recognition that there were some programming issues or there was something that was sort of driving that behavior sooner would be the cause.

MURMAN: My understanding was when there was damage to a building, they were moved to a different building. So that damage wouldn't have been a problem for the girls, you know, after they were moved.

JENNIFER CARTER: Oh, yeah. I do think when they still had LaFlesche in use, that higher behavioral need girls were put in LaFlesche is my understanding. But-- but as we-- the reports of the particular instances, particular of sprinkler poles would be maybe they would

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have a few rooms that were closed off for a few days and then everyone was back in and the repairs were never totaled. And so that you might still-- there might still be some damage that was obvious while they could then reuse that room because it wasn't no longer wet or, you know, something like that.

MURMAN: OK, yeah, I guess I didn't realize that they were just moved out temporarily from a few rooms, but each of the-- damages to the buildings, so I think were kind of the sudden things like dug a hole or punched a hole in the wall, however, the hole in the wall occurred--

JENNIFER CARTER: Right.

MURMAN: --or pulled off sprinklers or--

JENNIFER CARTER: Yes.

MURMAN: --pulled off lighting, those types of things.

JENNIFER CARTER: Yes. And certainly they got more frequent so there was less time to fix in-between.

MURMAN: OK, thank you.

ARCH: Any other questions? Seeing none, thank you very much.

JENNIFER CARTER: Thank you.

ARCH: Any other proponents for LB490? Are there any opponents who wish to speak? Is there anyone that would like to testify in a neutral capacity? Seeing none, Senator Cavanaugh, you may close. We do not have any letters, I don't believe. Senator Walz, is there anything on that-- oh, I'm sorry. No, no letters and no written testimony on this bill. You may close.

M. CAVANAUGH: Oh, well, thank you all, and thank you for your questions. As I said, this is open to just give us the opportunity to do something in the future if we deem necessary. And we can, of course, discuss with DHHS what the most appropriate licensure would be. And with that, I'll take any questions you might have.

ARCH: Are there any questions? I don't see any. Thank you very much.

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M. CAVANAUGH: Thank you.

ARCH: This will close the hearing on LB490 and we'll close the hearings for the day for the committee.