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Education Committee
February 03, 2009

[LB64 LB163 LB228 LB281 LB393]

The Committee on Education met at 1:30 p.m. on Tuesday, February 3, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB228, LB64, LB163, LB281, and LB393. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: Bill Avery and Abbie Cornett. [LB228]

SENATOR ADAMS It's 1:35 p.m. and though we're still missing a couple of senators--they're on their way--we're going to begin this hearing of the Education Committee. And I want to make some initial remarks given the number of people who are here today as to the way that we will proceed. We have a large number of bills that we're going to hear and possibly by the time that I'm done we'll have the senators that we need, and we can get started. The first thing that I would ask you to do is the obvious, and that's turn off those cell phones or put them so we can't hear them. We have a lot of people here today. There are people that want to give testimony, and people like me that want to hear. And so I'd ask that you do that. As we are proceeding along today, given the number of you who are here and probably want to testify, what we are going to do today, we're going to run on a light system. It will be right there in front of you and we're going to give three minutes of testimony per person and I'd ask you to respect that so that everyone that wants to speak has that opportunity. I'd also ask you to, even though I don't want to discourage anyone from testifying particularly if you've driven from afar, the reality of it is that after awhile, if it becomes repetitive and we've heard that same testimony over and over again, I'm just going to amend the process, and we'll have to move on to other things. Let me begin by introducing empty chairs. They will be here. First of all, to my right is Becki Collins. She's the committee clerk. And the one thing that I would ask all of you to do, those of you who are going to testify, you need to fill out a form, and you need to hand it to her, put it in that box or you're not going to be able to testify. I'm going to have to stop, you're eating up your three minutes while you're filling out the form before we hear from you. It's necessary that the transcriber has all of your name and all the information that we need. Be sure you speak into the microphone, and be sure that you start out by stating your name and spelling it for the record so we have that clear into the record, and so that Becki can hear everything that she needs to. If you are here and intend to testify on two different bills today, and that may be the case, you'll need to fill out the form twice; once for each bill as we go through. Next to her should be Senator Ashford, and he's on his way. Next to him, Senator Giese who's introducing a bill in another committee right this moment. Next to him, Senator Abbie Cornett who will be here later. Kris Valentin, the research analyst for the Education Committee. I'm Greg Adams. Next to me is the Vice Chair of the Committee, Senator Howard; Senator Kate Sullivan from Cedar Rapids; next to her, Senator Avery who will not be here today; Senator Haar from the Malcolm area; and our legal counsel, Tammy Barry, who will be here after while. With all of that, I think that we can begin this hearing, and again, I'd ask that we limit the amount of testimony, and the

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number of testifiers, and so that everybody can hear what's going on. And remind you again, be sure to fill out the form to testify. Senator Rogert, we begin the hearing on LB228. [LB228]

SENATOR ROBERT: Thank you, Chairman Adams, members of the Education Committee. Good afternoon, my name is Kent Rogert. I'm the senator from the 16th Legislative District, today here to introduce LB228. A bill is written that prohibits high schools from membership within an organization that sanctions or punishes students or infringes upon their ability and choice with parental consent to engage, participate, train, or compete in activities in high school with relation to nonschool activities after school hours. Currently, a high school student who is involved in high school athletics is not allowed to participate, train, and compete in a sport if they are involved in the same sport within the same season for a private club. For example, let's say in high school, there is a swim practice in the morning before school that starts around seven, and an after school practice depending on the choice of the athlete around three or four and then a night practice at eight for their private club sport. A high school coach can sanction or punish or limit the student in high school from practicing or training or competing in the evening for their private club sport. Opposition to this idea claims that such practice hours diminish and promote injury by overworking the same muscles. However, if the student wants to participate and compete in another sport during that same season, they are allowed to do so. For example, they could...you can play volleyball for your high school team, and play in a club soccer sport at the exact same time. Some of these sports require the same kind of work or strain on the same muscles and the same kind of physical exertion required for training, practice and successful competition as in similar sports. Opposition will also claim that a student is not able to keep up with their academics or grades if involved with dual sport participation with high school and private club sports. It seems to me that we may want to reconsider preventing or sanctioning any students from wanting to reach the stars, strive, achieve, and accomplish more than what is required of them or generally allowed. These are things that build self-confidence, self-worth, and individuality which are so important during the transition years from childhood to adolescents to adulthood. Students and children excel, flourish, and grow on many different circumstances depending on their environment and in many different levels and ways. One person's success is sometimes the result of their surroundings, how much they have been exposed to, and how much they have been encouraged to achieve in that age group or lifetime. In these surroundings, many role models emerge to motivate and encourage children in a way that high school athletics may not be based on common values and close-knit communities. Sometimes a coach or an environment of teamwork and special peers can make all the difference in the world for a young, impressionable, growing child. What a high school team or coach cannot always provide for was self-esteem, confidence, growth, and special expertise; perhaps another organization or coach can. For example, the YMCA, the church, a charity organization; all serve to contribute to the community at the same time, encourage our youth to excel, not only to win, but be a

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part of something greater that builds self-esteem, confidence, and purpose in life, which is so essential for a growing team. This is not about an elite group of parents or students. This is about children who need or desire the opportunity to grow, excel, and be a part of their communities in order to learn about themselves and the world around them, and to grow to their highest potential in any environment. We don't want to inhibit their opportunities; we should expand them. To sanction or punish a student from participating in high school sports and competition isolates them from the rest of their community, but just as importantly, from their high school community, identity, and peers. The choice creates divided and compartmentalized development when it should be a comprehensive enhancement. An important priority for high school children is to have a sense of belonging with their peers in school, but also to differentiate themselves from the rest. To be able to identify with their innermost aspirations, fears, goals, and successes. Growing up is a part about...it's all about overcoming obstacles in the process of individual learning, success and merit alongside with cooperation and support from community and peers that can help mold these children into who they will become in the future. Please take this into serious consideration. Thanks. [LB228]

SENATOR ADAMS: Thank you, Senator Rogert. Are there questions by committee members for Senator Rogert? Senator Haar. [LB228]

SENATOR HAAR: Yes, thank you. Just real quickly, this is not the first time you've introduced that, is that correct, Senator Rogert? [LB228]

SENATOR ROBERT: Well, this is a little different angle than what I had last year. Last year I had a bill that strictly was allowing dual participation in sports. This deals with all activities. [LB228]

SENATOR HAAR: Okay, thank you. [LB228]

SENATOR ROBERT: Um-hum. [LB228]

SENATOR ADAMS: Are there other questions for Senator Rogert? Guess not. We'll begin this process with, first of all, the proponents to the bill. So would the first proponent please come forward. Could you state and spell your name for the record please? [LB228]

MARCIA ANDERSON: (Exhibit 1) Yes. My name is Marcia Anderson, M-a-r-c-i-a A-n-d-e-r-s-o-n. I do go by the name of Marty, though. I come today to speak with this group, and we thank you for your time. I am a parent of three adult children all of which participated in activities and athletics at the high school level, and I also serve as the head administrator for the Nebraska State Soccer Association Olympic Development Program. The NSAA is valued. And it is valued because of their guiding force regarding school activities and athletics. They give an opportunity to all high school students to

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participate in various activities and the athletic sport of their choice. A year ago at this time, this very committee, at the end of the hearing, asked us to come together with the NSAA, and see if we could reach a compromise. Page 1 of the handout that I have lists the process that was taken throughout the year. There are three very, very bold parts to this process that need correction. Number one, in May, there was a working committee. It was disproportionate. The NSAA had two persons from each district plus four administrators to our three Parents for Students, and we had to ask for a fourth for expertise. In October, we asked if we could go before District 2 and give a presentation. It was suggested by an athletic director. We were denied, and Dr. Tenopir came and gave his take on the proposals. This issue went before a vote, and it did not even cross Robert's Rules of Order. There was never a motion, never a second, never a discussion, and definitely not a vote. Some other areas that we're going to be talking about today and other people will be presenting are waivers, the democratic response, and the response of the NSAA to its membership. And we will also be revisiting student activities and the fact that if a student is a musician or a theatrical person, they can do anything they choose. But if you are an athlete, you are limited in what you can do. We thank you for the opportunity to speak. There's many areas that we care to cover. And the people following me will touch upon those issues. [LB228]

SENATOR ADAMS: Marty, thank you. Thank you for respecting our time, and it sounds like you have some of your work divided up with other speakers. That's appreciated. Are there questions for the testifier at this point? Seeing none, thank you. Next proponent. [LB228]

LISA McNEEL: (Exhibit 2) Good afternoon, Senators. My name is Lisa McNeel, that's L-i-s-a M-c-N-e-e-l. When I sat in this chair a year ago, I was asked a question by Senator Howard. At that time, I did not know the answer, and truthfully, I have spent the past 12 months trying to find out that answer. The question was in regards to how does a student athlete apply for a waiver, and how difficult is it to get one? I can now say that even though I have personal experience with the waiver process, I am still not sure how it is supposed to work. And from my own experience and speaking with other families and athletes, I believe it is very difficult to get that waiver. What I have discovered is most coaches, athletic directors, and school administration do not know how to go about requesting a waiver. There is no clear process outlined for them by their schools, the districts, or by the NSAA. Many school representatives do not know what qualifies an athlete to even request a waiver. I also discovered there is no standardization of the waiver process. There is a hardship waiver form on the NSAA Web site, but it is so incredibly confusing that it actually creates more of a hindrance than a help with that process. Some schools use that hardship form to request a waiver. Some do not. The hardship waiver form is used for some types of waiver requests, but not all of them. Athletes are discouraged from submitting a waiver. When asking for a waiver, many athletes are not directly told they can't request one; rather their coach, athletic director, or school administration tells them that they will or could be sanctioned from their high

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school team or worse, kicked off of that team. Many are told they are not a team player, that they are only thinking of themselves. Some are told that a waiver just isn't allowed even when that is not the case. There is no consistency to who gets a waiver and who does not get a waiver. Lincoln Public Schools does not allow a waiver request for a competition to even be submitted to the NSAA for consideration. The LPS bylaws support this. Athletes from Omaha, on the other hand, are given the opportunity to apply for a waiver to attend an Olympic Development competition. In other words, if a Lincoln athlete qualifies for an Olympic Development meet, they are not even allowed to submit a waiver. End of story; there is no appeal. There is no other option for them. There is no accountability for the waiver process. Dr. Tenopir has stated that he has never turned down a waiver. That may be true in part because he does not get very many of them. When we asked the NSAA for the actual number of waivers that have been submitted to them for consideration, we have been told by Dr. Tenopir that he does not keep those numbers on file. In conclusion, I have come to believe that the waiver process is deliberately kept very confusing and frustrating to deter athletes, parents, and even school personnel who want to help from even attempting to request a waiver. I have come to believe that guilt, intimidation, and fear of sanctioning are often weapons used to discourage athletes and their parents from requesting a waiver. I have come to believe that, for the most part, the waiver process is not about people working together to support an athlete, but rather just a barrier to that athlete's success. Along with my fellow proponents, I am here today to ask you, the Senate Education Committee, to advance LB228, and at the very least, to develop an interim study committee to explore all the information brought before you today. Thank you. [LB228]

SENATOR ADAMS: Thank you, Lisa. Committee what questions do you have for this testifier? Yes, Senator Howard. [LB228]

SENATOR HOWARD: Thank you. Thank you, Mr. Chairman. Lisa, I have to thank you for your being so diligent. I had not recalled the question, but that really is significant, and thank you for your research and following up on that. [LB228]

LISA McNEEL: Um-hum. You're welcome. [LB228]

SENATOR ADAMS: Any other questions? Yes, Senator Haar. [LB228]

SENATOR HAAR: Yes, thank you. Give me an example of where somebody would ask for a waiver. [LB228]

LISA McNEEL: Let's say you are, and I can speak personally about swimming. If you are on the high school swim team, and you have qualified for an Olympic Development Meet in say Columbia, Missouri. A lot of college recruiters go to those, and you would want to go to be seen, but it's during the high school swim season. You would have to ask for a waiver to be able to be allowed to go to that. [LB228]

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SENATOR HAAR: Thank you. [LB228]

LISA McNEEL: Um-hum. [LB228]

SENATOR SULLIVAN: Senator Ashford? [LB228]

SENATOR ADAMS: Yes. Senator Sullivan. [LB228]

SENATOR SULLIVAN: Ashford, excuse me. Yes, do you know, to your knowledge, have waivers actually been actually granted? [LB228]

LISA McNEEL: Yes. [LB228]

SENATOR SULLIVAN: In swimming? Or do you know the circumstances? [LB228]

LISA McNEEL: I know that there has been some waivers granted. It's difficult to tell, Senator Sullivan, because we can't get any numbers of how many have been requested. We know that, I can recall one that I can think of that has been allowed. [LB228]

SENATOR SULLIVAN: Okay, thank you. [LB228]

LISA McNEEL: Um-hum. [LB228]

SENATOR ADAMS: Other questions? Senator Giese. [LB228]

SENATOR GIESE: Thank you. Are there waivers granted for other sports as well? [LB228]

LISA McNEEL: I cannot speak to that. [LB228]

SENATOR GIESE: Okay. Thank you. [LB228]

SENATOR ADAMS: Lisa, let me ask specifically then, and I'm sure I can ask the same question of someone on the other side. This waiver process that you're describing...so your, I believe it's your daughter...wants to compete in this Olympic Development event that you just described. Then you would request the waiver from the coach, the AD, the school principal, who is it? [LB228]

LISA McNEEL: Um, you would start with your coach and then the AD and then your school administration. They have approve it, and I'm speaking just from Lincoln Public Schools. If they, according to LPS bylaws though, you can't even do that. But let's say

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you did, and actually the parent behind me is going to address this a little bit more. Part of the problem is if your school says no, you're done. You can't go any further. There's no appeal process. That's it. You don't even get to the NSAA to be denied. [LB228]

SENATOR ADAMS: Okay. So what you're saying is, in your particular case, it's your belief that LPS has guidelines that says you can submit the waiver to us, you can make the waiver request to us, but that's as far as it's going. [LB228]

LISA McNEEL: In my experience, there has not been a request that has been sent. [LB228]

SENATOR ADAMS: And in your specific case, the NSAA has never had an opportunity to make a ruling on... [LB228]

LISA McNEEL: For me personally? [LB228]

SENATOR ADAMS: Yes. [LB228]

LISA McNEEL: You know, I'm going to...my daughter is going to address that a little bit more, but we did, we were allowed to go through the waiver process. Something that you kind of need to understand, too; most waivers, I believe, are about a specific competition alone. One single event. Ours was a little bit different. We were looking for something more. We were looking for a waiver to be able to practice in addition to the high school team, but with the club team. So kind of a more extensive process. We...it took me, well, I have a stack of e-mails over there. It took me months to get through how to do the process. My daughter's high school was incredibly supportive. They just didn't know how to do it. We started out with a hardship waiver form which I had given to you folks, thinking that was the right way to go. That's how they thought it was the right way to go. It became so confusing, I have stacks of e-mails that I had sent to Dr. Tenopir and the NSAA, trying to figure out just...I wanted to do it, they wanted to help me. We just didn't know how to make it happen. [LB228]

SENATOR ADAMS: Okay. Thank you. Appreciate your testimony. [LB228]

LISA McNEEL: Um-hum. Yep. [LB228]

SENATOR ADAMS: Next testifier. [LB228]

NANCY HENRY: (Exhibit 3) My name is Nancy Henry. It's N-a-n-c-y H-e-n-r-y. Thanks for letting me speak here today. My name is Nancy Henry, and I'm here to tell you about our experience with trying to get a waiver. I have a child who is a student athlete here in Lincoln, and his goal was to compete in college, and he has worked very hard for Olympic Development meets where he could be seen as a...with college recruiters. Last

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summer, he went to speak with the athletic director of his school about his goals and the need to go to one of these meets during the high school season. The athletic director told him no. He had to choose between either his high school or his club team. In September, I went to the Lincoln Public Schools athletic coordinator to see if he could...she could help us out...a way to, so he could go to one Olympic Development meet. She said no and that she supported the decision of the school athletic director. When I asked her how kids in Omaha got permission to go to these meets, she said, I don't care what the kids in Omaha do. As long as I'm in charge here in Lincoln, this is the way it's going to be. I then went to the school athletic director myself to talk to him about why...why it is important for my son to attend the meet, and he again said no. When I asked him what would happen if my son did go to this meet; he would be kicked off the team when he came back. I know there is other options where athletics are sanctioned from their high school team the same number of days that they missed. But I was told that he would just be kicked off the team. I am asking for your support with LB228. Thank you. [LB228]

SENATOR ADAMS: Thank you. Are there questions for this testifier? Seeing none, thank you. [LB228]

NANCY HENRY: Okay, thank you. [LB228]

SENATOR ADAMS: Next proponent? [LB228]

KRISTA RICKMAN: (Exhibit 4) Good afternoon, Senators. My name is Krista Rickman, and that's K-r-i-s-t-a R-i-c-k-m-a-n, and I am a graduate of Lincoln Southeast High School and the mother of three daughters who also graduated from Lincoln Southeast High School. Although I believe also the NSAA is a very important part of regulating and organizing Nebraska School Activities and Athletics, I am here today to voice my concern about the governance and the representation of the NSAA. My first concern is that students are not proportionally represented in the NSAA, and I put a little scheduled sheet for you down below. School Districts I and II have approximately 54,000 students and two representatives on the Board of Control. And as you can see, School Districts III, IV, V, and VI have approximately 24,000 students, and they have four representatives on the Board of Control. As you can see, this gives the majority of the votes to a control group with the smallest percentage of the student population. Many proposals and issues may not even effect that group of people. Secondly, the board of control has granted themselves override authority, and they have executed it. This makes it possible for the member schools to vote on a proposal, and if the Board of Control doesn't agree with the outcome, they can override the vote of the membership. One example of this happened in April, 2007, with district assignments for Class A. The membership voted down a proposal for a change in the seatings and the Board of Control overruled the decision without going back through the legislative process. Thirdly, because the NSAA is classified as a private organization, they are not subject to

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either open meeting laws or open requests. Parents have no access to the decision-making process. If a parent goes to their member high school representatives like Nancy did, and they don't agree with you, there is no appeal process, and there is nowhere else you can go. Lastly, their rule making and enforcement is arbitrary. To quote Peter Drucker: businesses and organizations have a natural human tendency to cling to yesterday's successes, rather than seeing when they are no longer useful. Athletics have changed, activities have changed, and 45 other states have changed their rules. It's impossible for the NSAA to monitor kids outside of school without being arbitrary. Let parents do that monitoring outside of school. I hope you will grant an interim study committee to look into the activities of the NSAA and support LB228. Thank you. [LB228]

SENATOR ADAMS: Thank you, Krista. Are there questions for this testifier? Senator Haar. [LB228]

SENATOR HAAR: Yes, thank you. Who are the board members? Where are they elected from? [LB228]

KRISTA RICKMAN: They are elected from the membership, I believe. From the membership of the NSAA. The Board of Control comes from the membership of the NSAA. [LB228]

SENATOR HAAR: Okay. But the members, the board members themselves, does each school, I mean, do these come from within school personnel or parents or students or? [LB228]

KRISTA RICKMAN: Yes. And if Dr. Tenopir testifies, he could probably answer that exactly for you, but I believe that each school has like the athletic director and the principal are a part of the membership of the NSAA. [LB228]

SENATOR HAAR: Okay, thanks. [LB228]

SENATOR ADAMS: Are there any questions? Seeing none, thank you. [LB228]

KRISTA RICKMAN: Thank you. [LB228]

SENATOR ADAMS: Next testifier. [LB228]

JACKIE BERRY: (Exhibit 5) Hi, my name is Jackie Berry, J-a-c-k-i-e B-e-r-r-y. I am here as a proponent of LB228. There are many parents who are not in the position to make the educated decision about participation for their own child, potentially placing that student at risk of repetitive motion injuries or jeopardizing study time or family time. This was the expressed feeling of the NSAA membership during the discussion of the 13

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proposals during the fall district meeting. This was printed in the newsletter, and distributed by the NSAA in January, 2009. As a former high school, club, college athlete, and a former coach, and now a parent, I was insulted, am insulted. This organization makes policies regarding our children, but the opinion they have of the parents seems to be very disconcerting to me. While the Nebraska State Activities Association provides essential services to high school activities and athletics, there seems to be a disconnect between that organization, the children, and their parents. An example of this is the education requirements for participation. They require four passing grades to participate in sports which equates to four D minuses. Many parents, including myself, find this to be simply inadequate for participation in sports. And interestingly enough, this will not allow you to graduate in four years. While I realize that not every child can earn a 4.0 and maybe some students are not capable of a B average; for the NSAA to set this as a requirement, I find it ridiculous. Ridiculous. Nearly every state in the country allows some form of contribution into the relationship between parents of in-school or out-of-school activities. Are these other states wrong? Are the states and these parents...are the parents in these states more educated about the participation for their children? If 45 other states allow this, how can they all be wrong? And as the NSAA has mentioned before, this will be the end of high school sports. If that is the case, why has this not occurred in 45 other states? When children enter the education system, the parents are told you are the number one key to your child's success. This principle should continue through the NSAA regulated activities. Parents, coaches, and educators should be working together for the best interest of the student athlete. Instead, the NSAA and the school districts have been inconsistent and nonuniform in their response to outside participation. Life is not always about sports or school activities, but in the end, families should have the opportunity to decide what is best for them. When a student has been given the privilege of representing their school, it's a chance to tie them to the community and for them to feel a connection to the majority. But when an individual has been given the gift of talent, drive, passion, and support for a particular activity, decisions made regarding that person's participation outside of school time should be made by the people who know them best, the parents. Thank you. [LB228]

SENATOR ADAMS: Thank you, Jackie. Are there questions for Jackie? Senator Giese. [LB228]

SENATOR GIESE: Thank you, Senator Adams. Ms. Berry, can you give me just a couple of examples of what other states do, how they allow participation? [LB228]

JACKIE BERRY: I can speak for Kentucky because that's where I'm from. They have no rules regarding dual participation. [LB228]

SENATOR GIESE: None. [LB228]

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JACKIE BERRY: None. I was...I stayed with my club all year round and participated in my high school regional meet and my high school state meet all four years of high school. [LB228]

SENATOR GIESE: And what kind of result did that have on your high school team on participation and numbers? Was there a direct correlation to that or no? [LB228]

JACKIE BERRY: I don't think so, because most of the individuals on my high school team participated in club. We had a small team. My sport is not quite as large in Kentucky I would say, but we had a small team. Most of us did participate in our club all year round. And that was kind of how it was done. And that was the best option for me as an athlete. [LB228]

SENATOR GIESE: Thank you. [LB228]

SENATOR ADAMS: Are there other questions? Senator Haar. [LB228]

SENATOR HAAR: Thank you. Are you more discouraged or angry? [LB228]

JACKIE BERRY : Um, that's a hard one to answer. I think a little bit of both. I'm very passionate about this, but it does make me angry that people believe that about my parenting, I guess. [LB228]

SENATOR HAAR: And the discouragement part is? [LB228]

JACKIE BEERY: Just discouraging because I see so many athletes who have been blessed with such talent and who waste it. I think they could be a lot better. And as a coach it's disconcerting. Like I said, it's hard to watch our athletes and not live up to what I think they could live up to, but that's just my personal opinion, so. [LB228]

SENATOR HAAR: Okay, thank you. [LB228]

SENATOR ADAMS: Are there other questions? Thank you. [LB228]

JACKIE BERRY: Thanks. [LB228]

SENATOR ADAMS: Next proponent. [LB228]

RICK HOLMES: (Exhibit 6) Senators, thank you for allowing me to testify today. My name is Rick Holmes, R-i-c-k H-o-l-m-e-s. [LB228]

SENATOR ADAMS: Excuse me, Rick. Could you wait just a moment? I'm going to let Becki start the clock for us so we're fair to everybody. All right, now. I apologize. [LB228]

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RICK HOLMES: I would like to comment on the fiduciary concerns I have regarding the high school athletics and the NSAA. Over the last year, I've come to learn that NSAA not only exerts extensive control over our children's lives in and out of the school, but also has a direct financial impact on the families of the state. The NSAA is essentially a monopoly over athletics, and my question to you is, how do you compromise with a monopoly? In summary, I believe the NSAA's rule-making process has become too focused on revenue growth rather than what is in the best interest of our children. I also believe that the NSAA membership, mainly our own individual school administrators, have failed to perform their fiduciary responsibilities to control the expenses of the NSAA. For example, the NSAA's expenses have grown by 26 percent in the last five years, and during that same time, their payroll expense and the compensation of its directors has grown 35 and 36 percent respectively. Those expense increases are being passed on to working families like mine in various forms of use taxes. Finally, I am very concerned by the lack of transparency and accountability for the overall costs associated with high school athletics. According to the National Federation of State High School Associations, 1 to 3 percent of district budgets are earmarked for athletics. Essentially, it's a very big business. But another report by the National Association of State Boards of Education determined that that's only the starting point. Most of the revenue actually comes from nonschool sources such as gate receipts, booster clubs, and student participation fees. Our group has attempted to assimilate the complete financial picture of a high school athletics, but we've been deterred because that information is not publicly available. The NSAA is really a monopoly. Although they claim that participation in this organization is voluntary, they have established monopolistic practices through anticompetitive membership agreements. These agreements preclude any school from engaging in competitions outside those sanctioned by the NSAA. Because of that, they can expand their control over other activities which is what they're trying to do now by taking over the junior high programs as well. I am very concerned that this will result in additional restrictions being placed on children's activities outside of school and will increase the expenses to the everyday family wanting to see their children play. During 2006, prices increased 20 percent for the average spectator at high school activities. This increase applied to all subdistrict, district, playoff, and state events. For my family of five, it costs approximately \$30 to watch one high school game. We typically go to the state soccer meet and watch the A and B classes participate, so we go to about 10 games, and that translates into a \$50 price increase for my family during that one season. Dr. Tenopir justified this price increase in an interview with the [Lincoln Journal Star](#). He said that this was necessary to fund the construction of their \$4.1 million facility which they had outgrown. He said that they needed this new facility even though they had 5,800 square feet for 13 people. Their new facility has 25,000 square feet and was built to house the High School Hall of Fame, which currently doesn't have a home, and the Nebraska High School Coaches Association of three employees. [LB228]

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SENATOR ADAMS: Rick, I am going to have to ask you to...we do have a copy of your written remarks, and if you want to take a sentence or two and sum up, I'd let you do that. [LB228]

RICK HOLMES: Okay, the closing point to me is we have exhausted all of our remedies to reach a compromise with the NSAA, and because they are a monopoly, I think you have to consider legislation that would return control of outside activities to the parents of the state. [LB228]

SENATOR ADAMS: All right, very good. Thank you, sir. Are there questions for this testifier? Senator Giese. [LB228]

SENATOR GIESE: Mr. Holmes, I do have a question. You mentioned that the direction that the NSAA is headed, can you tell me some things that they've done, I mean, other than the sports. [LB228]

RICK HOLMES: Here's, well, we've tried to get a waiver, and I wanted to answer that one question to begin with. When they do approve a waiver, it comes with strings and so for every game that my child was going to be allowed to play, it came with her sitting out an equal number of games for high school participation. When I look at what they're trying to do to control the revenues, there was a bill that was put forward by their own legislative committee that would allow cheerleaders and band members to get into these state events for free because they're required to be there. But that was turned down, because it was going to decrease the amount of revenues that they had. There was another bill that was put forward last year that said they need to go from six classes to four classes in terms of the state competition. The primary reason put forward by the NSAA in that argument was it was going to reduce revenues by \$80,000. So at every turn, it's all about protecting the revenue and their increased expenses. [LB228]

SENATOR GIESE: Thank you. [LB228]

SENATOR ADAMS: Are there other questions? Thank you, sir. [LB228]

RICK HOLMES: Yep. [LB228]

SENATOR ADAMS: Next proponent. [LB228]

MOLLIE McNEEL: (Exhibit 7) Good afternoon, Senators, and thank you for letting me speak today. My name is Mollie McNeel, M-o-l-l-i-e M-c-N-e-e-l. I was here a year ago as an eighth grader speaking about this same issue. At that time, I was hoping to find some way for me to be able to swim for both the high school that I was going to and still be able to train with my club swim team. I needed to do this because what I am best at in swimming are distances that are not events swum in high school. Dr. Tenopir has

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personally suggested to my parents and at the hearing last year that the waiver process would be a way for me to do both club and high school swimming at the same time. After a lot of discussion between the three of us, my parents and I decided to go ahead and apply for the waiver. I was very much willing to put the high school swim team first. All high school requirements...required practices would take priority. I did ask to be able to go to one or two Olympic Development meets that I had already qualified for, but the high school team would come first. My high school was very supportive of me and worked to get a hearing in front of the NSAA Board of Control. I am a 4.0 student in Diff. classes. I am on my high school's student council and was one of 40 freshmen out of over 500 applicants chosen to be part of the Youth Leadership Lincoln Class XIII. USA Swimming ranked my best 2008 performances as being in the top 99.4 percentile for all swimmers my age in the United States. My waiver was denied. Because in the eyes of the NSAA Board of Control, I was not good enough. I needed to be on an Olympic team or a national team. There are over 300,000 USA swimmers in the United States. Less than .1 percent of age group swimmers actually make a national team. According to the USA Swimming Web site, only two girls have currently qualified for the 2008-2009 national team in my best event. With the denial of the waiver, I decided to stay with my club team and not swim high school. This wasn't an easy decision. I would have loved to have had the chance to represent my school and to be part of that team. I just wanted the opportunity to be part of something in my school. For the past 15 years, my parents have made good decisions for me and now that I am older, we work together to decide what I should be involved in and how I should spend my time. I feel it is very wrong that the Nebraska School Activities Associations, a group of people who don't know anything about me, can tell my parents and me what I can do after I leave my school. The NSAA has no idea what my abilities are, nor do they care what my dreams and my goals are. My parents know and they alone should help me make decisions about my time. I am here today to ask you to support me and LB228. Thank you. [LB228]

SENATOR ADAMS: Thank you. You had that timed pretty good, didn't you, huh? (Laughter) Okay. Are there questions for Mollie? Senator Sullivan. [LB228]

SENATOR SULLIVAN: Yes. What are your aspirations? Do you intend to go on to swim at college? [LB228]

MOLLIE McNEEL: Yes, absolutely. It's one of my main goals. [LB228]

SENATOR SULLIVAN: Do you think that not being able to participate in club sports is...will be an inhibitor in terms of potentially getting scholarships? [LB228]

MOLLIE McNEEL: Yes. Because if I can't go to these meets, then a lot of colleges won't be able to see how I swim and see me perform, and so then I wouldn't have as many opportunities. [LB228]

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SENATOR SULLIVAN: You mean the colleges don't go to high school swim meets, they just go to club meets? [LB228]

MOLLIE McNEEL: No, they do not go to high school meets. There may be a few, but not nearly as many. [LB228]

SENATOR ADAMS: Are there other questions? Okay, Mollie, thank you. [LB228]

MOLLIE McNEEL: Thank you. [LB228]

SENATOR ADAMS: Next proponent. [LB228]

MEGAN AKINS: (Exhibit 8) First off, thank you, Senators, for giving me the opportunity to speak today. My name is Megan Akins, M-e-g-a-n A-k-i-n-s, and I am here to support LB228. I am a junior at Pius X High School. I am an A/B student and involved in Students Organized Against Drugs and Alcohol (SOADA) Club, Club World Aid, and the Vocal Jazz Choir. I have been swimming competitively for nine years. I have tried other sports, but swimming is what I love best. After graduating from eighth grade at St. John's Catholic School, my parents and I decided that I would go to Pius for high school even though it meant giving up a high school swim team. We did not make this decision lightly. I was very excited a year ago when I learned that Pius was going to start a high school swim team. In the beginning, I even worked with our coach to get the team off the ground. There were a few...there were only a few experienced swimmers that were going to be on the team, so my presence could have been a very positive influence. I was very disappointed to learn that because of lack of available pool time, the Pius team would be practicing less hours...or many hours less than the rest of the teams here in Lincoln and in the rest of the state. I have goals of swimming in college and know that decreasing the amount of time I spend practicing could in no way help me reach those goals. If dual participation was allowed, I could have swum with my high school team whenever they had practice, and when they didn't, I could have practiced with my club team. Doing this would have allowed me to experience all the great aspects of being on a high school team and would have given me the opportunity to continue to work towards my goals. In closing, I believe that my parents and I should be allowed to choose what I do in my free time. I ask that you support LB228 and our position. Thank you. [LB228]

SENATOR ADAMS: Thank you, Megan. Are there questions for Megan? Senator Sullivan. [LB228]

SENATOR SULLIVAN: So Megan, this club team versus your high school team, are there some of you that are on the same...on both teams? [LB228]

MEGAN AKINS: If I would have swam for Pius, I would have been the only one that

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swam on my club team, and also swim on Pius. But there were also kids swimming on Pius that swim with other club teams here in the city. [LB228]

SENATOR ADAMS: Are there other questions for Megan? Senator Giese. [LB228]

SENATOR GIESE: Thank you, Senator Adams. Megan, so if you want to go practice, you have practice with your club team, you can't practice with a club team. You're not talking about special meets, you're just talking about practicing. If you want to go swim, you can't swim with a club team? [LB228]

MEGAN AKINS: Yeah, if I would swim with my high school team, I would not be allowed to practice or go to any of those big meets also because those also apply to me as well. But practicing is the main thing, and working towards getting to those meets. And I would be reducing my practice time by about three hours a day if I swam with my high school team. [LB228]

SENATOR GIESE: Thank you. [LB228]

SENATOR ADAMS: Are there other questions for Megan? Seeing none, thank you, Megan. [LB228]

MEGAN AKINS: Thanks. [LB228]

SENATOR ADAMS: Are there any more proponents? [LB228]

MATT HOWE: (Exhibit 9) Thanks for the taking the time to listen to us proponents today. Let me introduce myself. My name is Matt Howe, and I am a proponent of LB228 and the parents for student choice on and off school time. [LB228]

SENATOR ADAMS: Matt, excuse me. Could you spell your name for the record please? [LB228]

MATT HOWE: Okay, sorry. M-a-t-t H-o-w-e. [LB228]

SENATOR ADAMS: Thank you. [LB228]

MATT HOWE: I'm also in favor that there should be no retribution or punishment to students that do participate in outside competition or events from their high school. A little bit about myself. I am the director of coaching for Nebraska State Soccer Association. Our association encompasses approximately 24,000 youth and adult players across the entire state of Nebraska. My job deals with oversight of the Olympic Development Program, the player development statewide, and also coach education. And I am also a national staff instructor for USSF, the Soccer Federation; and the

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United States Youth Soccer. My other job is I am an assistant coach for Creighton University on the women's side. So last year I was involved with the plight to try to compromise with Nebraska schools about dual participation, and I was appointed to represent soccer in the Dual Participation Committee formed by Nebraska schools to come up with ideas and proposals to present to the members for consideration. These didn't quite get through the districts, and so we're back here. I wanted to just talk briefly about my point of view and my experience as a player. I grew up in Oklahoma, and in Oklahoma, you can play club and high school at the same time. I was able to represent my school, to do all that's entailed with that and had a blast; but I was also able to stay with my club and do some events that maximized by exposure as a player to college coaches which eventually led me to a substantial soccer scholarship. Club coaches and high school worked together there. There was not a problem. So you know, from my standpoint, they can work in harmony. I got a soccer scholarship. I also had an academic scholarship. I was an Eagle Scout. I was able to do a lot of things, you know, juggling a lot of plates if you want to say, but it never really affected me, so it can work. And just to go with my experience here in Nebraska, I just feel that it's kind of hampering development of players here at all levels, and some of the players that have some opportunities in the spring can't do them because of high school, but that's the only time those opportunities present themselves because the rest of the states in our region have high school in the fall. So we miss a lot of opportunities in the spring because of having high school in the spring and you know, there is just a hard time for our players here. I'll let you read it, but I left an article on the back just to show you how soccer has grown, and we have more and more kids on a national spotlight than ever. [LB228]

SENATOR ADAMS: Thank you, Matt. Are there questions for Matt? I'm not going to let you get away that quick. [LB228]

MATT HOWE: Sorry. (Laughter) [LB228]

SENATOR ADAMS: Senator Giese. [LB228]

SENATOR GIESE: Thank you. So Matt...so then are you saying or can you say then that the shift is away from high school sports, say a soccer player, so they're better to play club sports then? [LB228]

MATT HOWE: I'm not going to go that direction with it. What I'm saying is I think there's opportunities that are missed because they are playing high school at that time, that if they were allowed to do both and had a window, they could actually have those opportunities. So I'm not saying one is better than the other because I had experienced both, and I had a great time doing both. [LB228]

SENATOR GIESE: So, and then I guess my next question is, so are my chances as

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good getting a scholarship if I play on a club team as they are on a high school team? Or is one better than the other? [LB228]

MATT HOWE: I mean, I'll speak from being a college coach myself and I recruit. I can see the same players that play in high school play with clubs and play better club teams and more of those types of players are there all at one place, and I can see several games at a time by going to these showcase tournaments than I can going to watch one game of high school one night. So I think, you know, a lot of the college coaches don't have time to do all the high school games. Yes, there are a few that go watch, but they're the local schools. When you go to these showcases, there are schools from across the nation coming in to watch, you know, sometimes over 50 teams competing at a high level to see what the talent is. So I would say yeah, you know, you would have more exposure at some of those tournaments. [LB228]

SENATOR GIESE: Thank you. [LB228]

SENATOR ADAMS: Are there other questions? Yes, Senator Sullivan. [LB228]

SENATOR SULLIVAN: Thank you, Senator Adams. Did I understand your testimony correctly that you were on the committee that worked with NSAA to talk about some of these issues? [LB228]

MATT HOWE: Correct. [LB228]

SENATOR SULLIVAN: And how do you feel that process went? [LB228]

MATT HOWE: I mean, we were heard. You know, we were there...we had two soccer...a parent from soccer and myself and swimming had the same. The ideas we came up with on the soccer side were possibly proposing moving the season to the fall to open up some of these opportunities that happen in the spring only. The other thing was giving us maybe a two weekend window during high school to where kids could actually go with their club to play some games so they wouldn't miss some of these opportunities and, you know, I mean, they were presented and sent to the districts for voting, and I don't know what happened in those meetings because I wasn't there. But nothing came out of it from our proposals, so. [LB228]

SENATOR SULLIVAN: So were you given any feedback as to why the proposals were voted down? [LB228]

MATT HOWE: Not personally, no. [LB228]

SENATOR ADAMS: Are there other questions for Matt? Seeing none, thank you, Matt. [LB228]

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MATT HOWE: Thank you. [LB228]

SENATOR ADAMS: Are there any other proponents? If there are no other proponents, then first of all, I want to thank the proponents for staying within the time limit and not being repetitive. We appreciate that organization. We'll now move to the opposition with the first testifier. [LB228]

JIM TENOPIR: (Exhibit 10) Good afternoon, Senator Adams and Education Committee. I'm Jim Tenopir and I'm the executive director of the Nebraska School Activities Association. There were a number of issues that were raised by the proponents that I certainly would be willing to try to address with you. It's not a part of my formal testimony, so obviously my response would incorporate more than three minutes, I believe, in providing that information for you. LB228 is a bill that's intended to either require a change in the rules that high schools have adopted regarding outside participation, practice, and competition, or to punitively deny schools the opportunity to join the organization that the schools themselves formed nearly 100 years ago to regulate and administer high school activities. The NSAA is an association of member high schools: public, private, and parochial schools in Nebraska that were organized to formulate and to make policies to promote ideals of citizenship, fair competition, sportsmanship, and teamwork that will complement the member schools curricular programs. The NSAA is an organization that is made up of the member schools. The member schools participate in a democratic process. It's a self-governance process to attain the purposes of the association. The contents of every constitutional provision and every bylaw has been promulgated and passed by the member schools. There tends to be a bit of a misconception regarding the governance structure. These bylaws are not devised by the NSAA, were not devised by the NSAA board. The NSAA board does not have the authority to overturn any bylaw or constitutional provision that is passed by the membership. The member schools set the standards under which they wish to be governed for activities purposes. At issue here is a bylaw which specifies that any student who participates in any athletic contest other than as a representative of his or her member high school during the season of the sport involved, becomes ineligible to represent his/her school in that sport for one or more contest or the remainder of the season. Again, that bylaw was not drafted by Jim Tenopir or by the Board of Control. That was drafted by our membership. We do have rules with regard to Olympic Development, and there is a misconception by some as far as Olympic Development is concerned. The waivers that one of the testifiers talked about was not Olympic Development. Rather they wanted their child to be able to participate in club activities during the season. Olympic Development activities are activities that are designated by either the Olympic Committee or the national governing body of that particular sport. And if that is certified to us as an Olympic Development activity, then the NSAA has regularly approved those. In fact, we went back and checked our records back to 1991. I've only been the executive director for the last eight years, but there has been not

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been an Olympic Development request that has been denied since 1991. Now there may be some disconnects at the school level. We heard some say that maybe some school athletic administrators are not permitting students to participate. If that's the case, we probably need to have some conversations with schools. But it's a little bit of a discouraging fact when the NSAA gets the rap for not approving those. [LB228]

SENATOR ADAMS: Dr. Tenopir, we're out of time, but maybe in questioning we can...you can add some additional comments. Committee, what questions do you have for Dr. Tenopir? Let me begin, first of all, then, can you explain this waiver process to us more specifically or add to what we've already heard? [LB228]

JIM TENOPIR: Okay, if it's Olympic Development, the school just has to send us a letter and indicate John Doe requests to participate in X-Y-Z Olympic Development Activity on thus and such a date, and regularly when that is applied to us, we have approved those. We return and tell them, yes, they may do that. There is no, there is no penalty assessed to the student to be able to do that. If it is an outside activity for which we do not have Olympic Development designation, in other words, just last week, I approved one for a young man who is a runner and he wanted to participate in the Nike Indoor Nationals mile run. That is not an Olympic Development activity. That activity was approved, but if it's not Olympic Development, then that student must sit out the requisite number of days that they participate, out of high school competition, that they participated in the outside competition. So if they compete in the Nike Indoor one day, they sit out one meet at the high school level. The issue with regard to hardship waivers are waivers that we get when a school wants us to consider setting aside an eligibility rule: scholastics, attendance, age, the domicile of the parent. That's the hardship waiver. There is a form that is in place. Schools regularly file that; to say that the schools don't, it's a cumbersome process, and the schools don't understand that process would be, would be incorrect. I regularly deal with those. The issue that one the parent mentioned was they wanted their child to participate during the year for club activities. Our board has set a precedent that if the student is, has been named by the national governing body to a national team, they've provided that waiver. Absent that national team designation, the board has not following through with that. [LB228]

SENATOR ADAMS: Let me follow up. So is there is a due process mechanism. So let's say for instance, what I'm hearing, what I understand, so if the coach of the soccer team, swim team, whatever it may be, says no, is there an appeal process to NSAA or is it all over right there? [LB228]

JIM TENOPIR: Well, it has been pretty well all over because we've not been aware of that. Now it was called to my attention this week, not of any that have testified to this point, that there was a young man who was denied an opportunity. My strong guess is if we were notified of that, we would interact with the school on that. But I can tell you definitively that anything that we've been made aware of, we have made approvals of. I

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know that there has been a designation that Lincoln Public Schools does not do any of that. We probably don't have the number of applications from Lincoln as we do elsewhere, but we have had students who have received, we've had applications for and have received waivers. [LB228]

SENATOR ADAMS: So it could be that... [LB228]

JIM TENOPIR: It could be that at the local school... [LB228]

SENATOR ADAMS: ...you never get them because they stop right there at the school level. [LB228]

JIM TENOPIR: And there would be no way that I would know that if we were not contacted about that. [LB228]

SENATOR ADAMS: Hence, then the oversight or governing board of high school activities, in those cases, never does get to have a say, outside of the bylaws that have been created. [LB228]

JIM TENOPIR: You're absolutely correct. And under our guidelines, I've got the authority to make the determination on those and approve them. The only time that it gets to our board is if it is a situation that I have denied, and then the school can appeal that to our board. But I would tell you that there has never been an Olympic Development activity that's ever got to the board because I have never denied an Olympic Development activity that has gotten to me. [LB228]

SENATOR ADAMS: Okay. Other questions for Dr. Tenopir? Yes, Senator Ashford. [LB228]

SENATOR ASHFORD: Jim, what is the, without going into long...let me ask you this question. What if a coach, a swim coach in a high school makes a determination that the student should be able to be involved in a swimming activity outside the team and allows that to happen, what's the penalty for that? [LB228]

JIM TENOPIR: If it's Olympic Development, nothing. If it's not Olympic... [LB228]

SENATOR ASHFORD: By Olympic Development, that must be approved by USA Swimming? [LB228]

JIM TENOPIR: Yep. If it's not, all the school has to do is notify us and request that that student participate in X-Y-Z meet. We permit that. The issue with that is if it's not Olympic Development, they sit out the same number of days of competition for high school that they would on the outside. [LB228]

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SENATOR ASHFORD: And why? [LB228]

JIM TENOPIR: Our membership has designated that as a designation. [LB228]

SENATOR ASHFORD: But what's the underlying rationale for doing this? I mean, if a...let me, what I'm hearing and I'm not, the fact that you're running the NSAA, I think that's...you do a great job in doing that. That's a hard job, I understand that, but at some point, the parent, the student, believes that this young person can move on and that they need to get from A to B and they can't get on the Olympic track until they get on the Olympic track and in order to get on the Olympic track, they have to do these other events. What hurts the state? How is the state harmed by allowing that person to, you know what I mean, how does that... [LB228]

JIM TENOPIR: I understand what you're saying, Senator Ashford and I believe and I'm putting words into the mouth of member schools, but I believe that the issue involved with that is the same for the defeat of the proposals that just came about and that is the fact that okay, we open that up and we allow the student to attend all of these other activities? Are they going to cherry pick and only be there for certain activities. Can I as a coach count on that kid for my team during an important time of my year, or are they going to be off participating in another activity. I think that there is some of that safeguard that's been built into there. I believe that's the primary approach that schools are looking at. [LB228]

SENATOR ASHFORD: And I understand that, so let's assume for a moment that that happens. And there's a conflict and the young person, the student does not appear at a game or a swim meet, and as a result of that, the team suffers. And that's not something you want to have happen, I would not think, as an...you know, as an organization in charge of these things. But if that doesn't happen, if that person is diligent, and that student does go to the meets for the high school, does, what...I'm having a very hard time understanding what the harm is to the state of Nebraska. And let me tell you why the harm to the state is, should be the standard, because we're, by statute we're given...you have certain authorities that you have, that you undertake. So at some point, the state has given you those authorities and put those into statute because they, basically the idea is that they trust, and I think generally we do trust, trust your judgment. But when something comes up like this where it's just very hard for me listening now to this for two years, how, where the harm to the state is, of Nebraska. It may be disconcerting to the organization. It may cause some, you know, maybe some of the coaches don't like it, and they get upset about it, but this is a legislative matter. And our standard is, where is the...how is the state of Nebraska and its citizens harmed by allowing a young person to...who has talent, who may not be in USA Swimming's Olympic Program yet, but who gets, who can get there. That's what I can't...that's the question I need answered. I can't...otherwise, it seems to me the state, if there is no

harm, but in fact if there's a benefit to allowing these young people to participate, I don't see how you're harmed by creating rules around that general policy. That's where I'm having the problem. That's where my issue is. Not that you shouldn't have the authority, not that you don't do a good job, but if we're asked legislatively to legislate in the area of athletics for high school and, you know, area, where is the harm to the state in allowing these young people to swim. I just...I just haven't... [LB228]

JIM TENOPIR: This is...I think this is the tip of the iceberg. What is next? Are we going to say, okay, now because of the fact that we have permitted this, do we also allow 20-year-olds now to participate? I would tell you that, and I'm not going to mention individuals here, but I had a member school that submitted on behalf of one of their students a request to be gone during soccer season--this coming soccer season--25 days, exclusive of travel. [LB228]

SENATOR ASHFORD: Then you say no to that. [LB228]

JIM TENOPIR: No, we have to say yes. We say yes. But I am conflicted with the fact that a parent would consider doing that, and where does that put the coach? Where does that put the school in that sort of a situation? I mean, quite frankly. [LB228]

SENATOR ASHFORD: You're in a dilemma, and I understand that. I just, I hear from Mollie, and I hope that's the right name, from Mollie now twice, who if she doesn't go into swimming, should go into politics, soon. (Laughter) But basically it seems to me that if we can do something so that, unless there's a real harm to the state to letting these people participate. That's... [LB228]

JIM TENOPIR: Senator, I think you'll hear more testimony here concerning some of those concerns. There are other issues that were brought up about our board makeup, about our scholastic eligibility, about parental decision making, about our payroll expense. Junior high governments, all those kinds of things. I would be more than happy to address any of those, but I do thank you. And yes. [LB228]

SENATOR ADAMS: Senator Howard. [LB228]

SENATOR HOWARD: Thank you, Mr. Chairman. I'm going to follow-up on Senator Ashford's question, because the same thing crossed my mind. If a student does choose to participate in the sport, then he is penalized, in the club sport for an event, he's penalized and expected to sit out a game or an event in the school. But how does that help the school? I mean, if they're counting on that individual to participate, if that individual is significant to that team, it seems like that's a hardship not only on the student, but also on the team itself. So I have a lot of trouble with this. It seems like there is some contradictory rules, if you will. [LB228]

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JIM TENOPIR: I would tell you that the thing we are going to get into, I think, if this is permitted, is that some of those very students who may have talent that, who otherwise choose to go elsewhere, are not going to be included in the school team. They will have a subordinate role, my strong guess, when coaching decisions are made. Then is the next issue then that we're before the Legislature dictating who that coach should be playing? I understand exactly what you're saying. If it's a talented individual, shouldn't they be playing. I think you have to take a look at the other side. Okay, we've got a student who is off competing in club activities and we've got a sub that's placed in their position while they're gone, when they come back, what happens to that sub? Does that, is that sub relegated to sit on the bench again? I think we have to take a look at all kids, not just the top-notch kids who have the capabilities of doing other things in that regard. I certainly understand where you're coming from on that, but I also fully understand where our membership has stacked up in this manner. [LB228]

SENATOR HOWARD: Well, I want to go back to something you just said. Are you telling me that a coach could hold it against a youth that participates and say, well, you've made the choice, so you're going to be on the second string or however this works. [LB228]

JIM TENOPIR: My strong guess is there are coaches who develop a team, and try to develop team chemistry. If you watched the Super Bowl this last Sunday night, the Arizona Cardinals were a rather mediocre team coming into the playoffs, and they did extremely well because they developed a great team chemistry. My strong guess is, if a team is doing well with a particular lineup, it's going to be hard-pressed for the coach to change that lineup even though as an individual, that individual may be better than individually the person who is playing in their position. Team chemistry plays a big role, and regrettably, even at the high school level, coaches are evaluated too frequently on the win-loss record rather than upon the life lessons they teach kids. [LB228]

SENATOR HOWARD: But for the individual youth, we're not talking...we're not talking athletics on the field where you're getting paid big bucks to be out there. We're talking high school sports. We're talking youth who are really looking at where they are going to go with this, with their talent, and how they're going to use it. I think that's a whole different game literally. [LB228]

SENATOR ADAMS: Are there other questions? Senator Ashford. [LB228]

SENATOR ASHFORD: Yes. I just, I guess where I, and I realize that there are blurry lines. And but fundamentally, I do have some issue with the system in a...certainly, in a case like this, telling a parent and a child or student what they cannot do, what they can and cannot do outside of school, school activities; if it's not a harm to them. I mean, participating in...that's just hard for me to get my arms around. I just, it's just very, I'm just telling you that and I don't see yet, and maybe we'll hear some testimony what the

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harm is to having a gifted young person participate in these events, and also participate in school events I just, other than the fact that there are going to be potential conflicts, and that...but it seems to me that those conflicts could be worked out on the local level between the parents and the coach and the school, without getting you involved in the middle of it. It just seems like you're unnecessarily involved. But go ahead. [LB228]

JIM TENOPIR: I, again, would go back to the issue of my involvement. I am the director of the NSAA. I serve at the will of the membership. [LB228]

SENATOR ASHFORD: I get you. [LB228]

JIM TENOPIR: The membership is the one who designates what those rules are by which we are to be governed. It's my responsibility as the executive director to make sure those are enforced. [LB228]

SENATOR ASHFORD: And I can...and that's what I'm trying to tell you. I fully respect that. I do fully respect that, and I think and I admire the work you do. That's not the issue. I'm looking to state policy here. [LB228]

JIM TENOPIR: I hope that some of the subsequent testifiers can address what their feelings are as it relates to the member schools from which these students come. [LB228]

SENATOR ASHFORD: Okay, thank you. [LB228]

SENATOR ADAMS: Senator Giese. [LB228]

SENATOR GIESE: Thank you, Senator Adams. Mr. Tenopir, can you tell me then if an individual has to sit out for a particular, if they choose to participate in another, let's say soccer game, do they have to sit out the next soccer game in the schedule, in their schedule? [LB228]

JIM TENOPIR: That is what we've typically indicated, rather than the coach being able to pick and choose where they're going to plug that. So we've typically told them, the one upon the student's return is the one where our expectation is that they sit out. [LB228]

SENATOR GIESE: So you could line up, say a club schedule versus a high school schedule and sit out these games and not play these games and play all sorts of games. [LB228]

JIM TENOPIR: There is...all sorts of games. There is a potential for that. I would guess that, you know, the coaches from their respective schools are going to have some

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conversation with their kids about that concept though. [LB228]

SENATOR GIESE: And then just one final question. So let's say that my son or daughter is...wants to have a waiver. The school denies the waiver for whatever reason, can I call you on the phone at your office? [LB228]

JIM TENOPIR: We regularly get calls from parents, yes. I thought in leaving the superintendency, I was going to lose that part of it, but I didn't. No, they can, and they do, and if there is a misinterpretation of the rules, we typically call the school and straighten that out, yes. [LB228]

SENATOR ASHFORD: Thank you. [LB228]

SENATOR ADAMS: Are there other questions? Senator Howard. [LB228]

SENATOR GIESE: Just a quick one. When someone just, and I don't want to belabor the fact, but if someone would call you, would you ordinarily refer them back to their own school to get it settled on that level before they could...before you would even discuss the matter? [LB228]

JIM TENOPIR: I typically do unless it's a misinterpretation of the rule. If it's a misinterpretation of the rule, the parent calling back to the school isn't going to do any...I mean, that's not going to be beneficial. I typically then call the school and say, hey, this is what our policy is. This is the procedure, the protocol that you need to use. [LB228]

SENATOR HOWARD: Thank you. [LB228]

JIM TENOPIR: You're welcome. [LB228]

SENATOR ADAMS: Are there other questions for Dr. Tenopir? Thank you. [LB228]

JIM TENOPIR: Thank you. I appreciate that. [LB228]

SENATOR ADAMS: Next testifier please. [LB228]

STEVE SHANAHAN: (Exhibit 11) Good afternoon, Senator Adams and members of the committee. My name is Dr. Steve Shanahan, that's S-h-a-n-a-h-a-n, and I'm superintendent of the Blair Community Schools, and I'm here this afternoon to speak in opposition to LB228. I'd like to let you know I've been involved in public education for 36 years and the past 30 years as a high school principal, assistant superintendent and superintendent of schools, and I've also served as district chairman for District 2 of the NSAA for the last eight years. I believe I understand schools, I believe I understand school activities, and I think I understand which one is more important. I think it is

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important to tell you that I'm here today with no personal agenda or not protecting any personal interests. I'll be retiring at the end of this school year. I am grateful for the job that the School Activities Association does in carrying out the mission of high school activities in our state. They're called upon to provide fairness and structure to high school activities and to administer the rules and regulations as approved by the high schools across the state, as I'm sure you just heard. It's not an easy job nor is it one that does not come without a fair amount of controversy. As I listen to the remarks about the NSAA by the proponents of LB228, I think it's important to stress the fact that the 312 member high schools across the state are really the NSAA. It's not a board or an administrative group. What you're discussing today is a matter that is being brought forward and supported by a group that does not agree with the rules that have been discussed and adopted by the member high schools. Again, they aren't rules formulated by the NSAA or by the board or by the director. And what these schools have said is, and I think you just heard it was that a school who, excuse me, a student who participates in an athletic contest other than as a representative of their high school during the season of the sport becomes ineligible to represent the school in one or more contests. And I think we just discussed that. Secondly, during the high school season of a sport, a student may take individualized instruction from a nonschool coach, but group instruction is not permitted. This precludes a student playing on a club team at the same time they're playing on a school team. As educators, we share a concern for all students: academically, physically, socially, and emotionally. Some things we consider is, and they've been brought up; does an extra two hours of practice before or after school show concern? What about students missing school practices for outside practices or competition? What about the potential imbalance when considering a lack of opportunities for disadvantaged students with those who can afford the price tag of club sports. And finally what are we really talking about? Are we talking about college scholarships or a solid academic foundation as a preparation for the next phase in life. As a high school principal and superintendent in Blair, I've seen six Division I scholarships; yet Division I academic scholarships as opposed to athletic scholarships far outnumber the athletic scholarships. As you heard, we defeated in our districts the 11 proposals that were presented for dual participation. I oppose LB228, and I encourage the Education Committee to do likewise. [LB228]

SENATOR ADAMS: Thank you Dr. Shanahan. Are there questions? Senator Ashford. [LB228]

SENATOR ASHFORD: Dr. Shanahan, and thank you for your service, and I don't question your commitment, which is significant. And let me...another part of this that bothers me a bit is if you have a young person who is an ice skater and there isn't an ice skating team at the high school in the nine through twelve and they go to...or hockey, ice hockey, for example. And they go at four or five in the morning to get ice time, and they compete and they go on and maybe hopefully become Olympians. To allow that person to do that and then to say to a young person who is a swimmer, simply because

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the school has a swimming program, that they can't do the same thing, sort of gets at, to me, gets at an equal protection argument in a way. It's the school, basically a state agency or a public body, telling a citizen of the state that they can't do this. Whereas an ice skater or a hockey player or I don't know, handball, squash, whatever it is. [LB228]

STEVE SHANAHAN: Rodeo. [LB228]

SENATOR ASHFORD: Rodeo. Okay, that's a better example actually because there are a number of participants that do that in our state. And that's, and I guess, do you have a thought on that or? [LB228]

STEVE SHANAHAN: Well, I think my answer, and we'll probably agree to disagree, but I think my answer is that it's a matter of choice. I think there's a matter of choice in a lot of things that we do and there's a matter of choice in schools. There's a matter of choice outside of schools. I could have chose to not come down here today. I could have chose to come down here today, and I think you have a choice. If you feel like the club environment is more conducive to the goals that you're going to reach, then take advantage of that club environment. I wouldn't deny anybody that. If you think taking advantage of a school environment will help you in reaching those goals, take advantage of that. I personally don't see that...I don't see that they have to be connected. One of the things... [LB228]

SENATOR ASHFORD: Why do they have to make a choice, because in fact, I mean, it's be involved in the school team, have other social...has other social benefits that one doesn't have in the club side. And that... [LB228]

STEVE SHANAHAN: I see a conflict with coaching personally. I see a conflict with competing times. I see a conflict with all of those things that I'm sure the proponents don't see a conflict, that I do see a conflict with. I see a conflict with who the athlete listens to in the high school game. Would that be the parent? Would that be the coach? Or would that be the club coach? [LB228]

SENATOR ASHFORD: How does that disrupt that? I mean, if they don't listen to the coach, they don't play. If they don't listen to the teachers, if they don't get their assignments in, they don't get to play on the team. There are normal processes that are in place to deal with a young person that underachieves. [LB228]

STEVE SHANAHAN: I would agree with you. If they don't listen to the coach, they don't play. But I'll invite you to a conference sometime when we tell a parent that they're not listening to the coach, and your child is not playing. Sometimes they don't agree with us. [LB228]

SENATOR ASHFORD: Hey, I get you. Sometimes I go to have townhall meetings, and

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they suggest that 90 percent of what I do down here is just not very conducive to their interests. So I understand what you're talking about. But okay, the last point, just so I understand the mechanics here. The 312 member schools, that's all classes? [LB228]

STEVE SHANAHAN: That is all classes, correct. [LB228]

SENATOR ASHFORD: Do you...do all classes vote on these issues? Does every school have one vote? [LB228]

STEVE SHANAHAN: Every school has one vote. All classes vote on those and every proposal that is presented from any school in the state is presented at all the schools. If that happens in November, then those that pass at least one or more of the six districts go on to the next round in January. [LB228]

SENATOR ASHFORD: Is it, could...has there been a proposal or could there be a proposal that would exempt certain sports from these rules. [LB228]

STEVE SHANAHAN: Certainly, yes. [LB228]

SENATOR ASHFORD: Has such a proposal been? [LB228]

STEVE SHANAHAN: I believe there were proposals and I don't have them sitting in front of me that dealt with changing the times and exempting certain sports, correct, both. Changing times, change of the seasons. [LB228]

SENATOR ASHFORD: And one of the issues might be that many of the smaller schools don't have pools or even swimming programs, so you may have a situation where the metro schools, but you have a more aggressive swimming program, would want to have this kind of thing happen, but they could be outvoted every time. [LB228]

STEVE SHANAHAN: Sure. And certainly could do. I'll just tell you typically what happens in our district, and I represent District 2, I'm the chairman of that district, and that's the metro Omaha schools, about 86 schools, the biggest one in the state. Typically what happens, if we have a proposal that just deals with Class A, swimming would be a great example, we'll not only ask for a vote from the whole membership, but then we'll ask for a vote from just Class A schools. [LB228]

SENATOR ASHFORD: What controls, which vote controls? [LB228]

STEVE SHANAHAN: The total vote would control. I would just say, and you don't have any other reason, but to take my word for it... [LB228]

SENATOR ASHFORD: I take your word for it. You're a heck of a, more an expert than I

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am, but. [LB228]

STEVE SHANAHAN: Well, generally speaking, if you're not involved in it, Class C or D school in swimming, they won't vote at all. And that's typically what happens. [LB228]

SENATOR ASHFORD: Okay, thanks. [LB228]

SENATOR ADAMS: Other questions? Thank you. [LB228]

STEVE SHANAHAN: Thank you very much. [LB228]

SENATOR ADAMS: Next testifier in opposition? [LB228]

TERRY KENEALY: (Exhibit 12) Good afternoon, Senators, I thank you for the opportunity to testify this afternoon in opposition to LB228. My name is Terry Kenealy, that's T-e-r-r-y K-e-n-e-a-l-y. I'm the superintendent of York Public Schools and I'm also District 1 Board of Control member. District 1 comprises Lincoln and the territory south to the Kansas border. It includes Waverly, Seward, and York; and then west to Hampton. So it's a significant geographic region that has 52 schools in it. So I represent 52. Dr. Shanahan who just spoke, who is from District 2 is from the largest district as far as student population is concerned. District 1 is the second largest. I want to visit with you this afternoon basically about governance, and then answer any questions that you might have. From a District 1 perspective, because in each district you have management committees who organize each district meeting. I serve on that management committee. We have a principal from Fairbury who has been our chairperson for the last four years. We have another member of the management committee who's vice chair who is from Lincoln Southeast. And then we have another member of the committee who is our secretary-treasurer is from Freeman. In District 1, when we consider an issue, we vote by class and normally, when we vote by class, we also have kind of an unwritten rule that if you don't have the sport or the activity that's involved, then let the schools that have it make the decision. And so when these 13 proposals came to District 1 for consideration this past November, in an effort to try to get everybody to consider, you know, openly what the impact of these proposals were attempting to get at, I spoke before the group. I sent some information out to the group ahead of time. Dr. Tenopir spoke to the group, and we had some discussion from principals and activity directors that were there representing, you know, their schools at that meeting. And then when it came time to vote, all proposals got a motion and a second. All proposals were voted on, and all proposals failed. Governance is basically a part of how we exist. The NSAA is the governing arm of high school activities in the state of Nebraska, just like the NAIA is the governing branch for small colleges and universities in this country, and the NCAA governs large schools and universities in this country. In the major leagues, in the NFL major league baseball, those kind of activities, MBA, they have their own governing organizations, too. We even have a governing

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organization in my back yard when we started sandlot baseball games and football games and my brother and I would decide on the rules and once in a while we'd have to have mom and dad interpret those rules for us, to break up the fights. I know my time is getting short, so I'll quickly summarize here. Our job is basically to monitor activities of the NSAA, and we try to do the best we can. I'd ask you to please read my presentation, and if you have any questions, I'd be more than happy to answer them, in respect for your time. [LB228]

SENATOR ADAMS: Thank you, Terry. Are there questions for Dr. Kenealy. Senator Giese. [LB228]

SENATOR GIESE: Thank you. Mr. Kenealy, so can you tell me, it's kind of like to go on with Senator Ashford's comments, what is the greatest fear of the NSAA that may happen eventually. Is there a fear that high school sports? [LB228]

TERRY KENEALY: As far as these proposals were concerned that failed? [LB228]

SENATOR GIESE: That high school sports may cease to exist. Is that the, is that the biggest fear? [LB228]

TERRY KENEALY: I think the fear of the unknown is tough for everybody to deal with, and you look around at the landscape and you see where it looks like the association itself, its existence is somewhat being challenged as to whether it should exist or not. And people are reacting to that. They're afraid that NSAA would go away and then who will govern school activities for high schools that for the last...basically 100 years...have been done by NSAA? I've been a teacher, a school administrator for 34 years, 31 of those years here in the state of Nebraska. And like Dr. Shanahan, I'm stepping down at the end of this year and moving on to a different part of life. So I have nothing to lose by being here and answering the questions honestly. I think they're afraid NSAA will go away, and the whole governing structure will change, and what might be good for swimming or soccer or some event like that eventually would be something they'd consider good for baseball and softball and football and volleyball. And they're afraid, it's kind of like the slippery slope concept, where does it stop. That's the fear, I think, of the member schools. [LB228]

SENATOR GIESE: Thank you. [LB228]

SENATOR ASHFORD: I think that, I mean, I think that is the problem. I mean I, and what I'm having, I'm just having, my difficulty is not in the intent of what you're doing. Nobody wants NSAA to go away. I don't, I don't think anybody in this committee does or in this Legislature. I think, I do, I was involved in high school athletics, and I think it's a fabulous organization. And my coaches were my, and still are my idols, you know, they didn't necessarily idolize me, but I idolize them. And...but my, there are sports that,

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where there are differences in how people matriculate through the system. Swimming is certainly one of them and a lot of that has to do with USA Swimming and the changes of that organization. I guess I don't see, in all deference to what you're saying, I respect what you're saying, how doing something for these young people who want to swim or play soccer is going to, in any way; in fact, I think it strengthens NSAA, quite frankly. But we may differ in our opinion. You have a lot more information than I do, but I'm just trying to get my arms around it. But this is nothing to do with you or your experience or NSAA at all. Thanks, Mr. Chairman. [LB228]

SENATOR ADAMS: Other questions? Thank you. [LB228]

TERRY KENEALY: Thank you for your time . [LB228]

SENATOR ADAMS: Next opponent. [LB228]

MIKE McMAHON: Good afternoon, Senators. My name is Mike McMahon, M-i-k-e M-c-M-a-h-o-n. I've been fortunate enough to be in education for 18 years in public school, and the last 10 years in a parochial school. I've been in a small school in northeast Nebraska. I spent 13 years in North Platte, and then I spent the last 10 years in Omaha at Skutt Catholic as activities director. I've been fortunate enough to kind of go through the gamut of what goes on in different parts of the state, what goes on in public education, and what goes on in parochial education. And I think that's really benefitted me in kind of taking a look at all aspects of being an administrator for activities. First of all, I want to say a couple of things about the NSAA. NSAA is an association, and I looked up the word association, and it came up with the definition that it's a group of people uniting in a relationship and having some common interest, activity, or purpose. And I think that's what the NSAA does and the NSAA, speaking of the NSAA, it is me, and it is us, and my colleagues. That is what the NSAA is, and I think the NSAA does a pretty good job of taking a look at the big picture, and not focusing in on certain individuals, but really concentrating on what is good for the entire state. A couple of people mentioned, and I want to be real brief here, but they mentioned about what would be the harm of individuals going to different activities and so forth. And I think one of the biggest things, and someone did mention it, and that was team chemistry. And just what does that do to the big picture of that particular team. And I had something that happened to me a couple of years ago while I was coaching basketball, and it was a volleyball player that wanted to go to a tournament, and it was a starter. And now since we have wild card points and those types of things, each game becomes extremely important, and coaches get very frustrated when their best players are not there and when it could cost the entire team wild card points and hurt them in qualifying for state. So I think people become extremely fearful of that. One last thing, one of you asked what is our biggest fear. And I think our biggest fear is that the good of all the kids in Nebraska would be compromised for the benefit of only a few. At least that's my fear. That some things that we do, we'd lose our focus on what is good for all

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the kids. Thank you for your time. [LB228]

SENATOR ADAMS: Thank you, Mike. Are there questions for this testifier? Senator Ashford. [LB228]

SENATOR ASHFORD: I promise only one question, Mike. And thanks again, as I say to all you guys because you do do a great job. But what would happen in a case where you had a basketball player who wanted to, had an expertise in some other sports during basketball season. Could they participate? There's no rule against them participating in another sport other than basketball during basketball or is there such a rule? [LB228]

MIKE McMAHON: There is no specific rule, but I think each coach and each school district, and probably each coach, and I know I did the same, um, does have certain guidelines for their athletes. They do want them to focus their energy and their attention on that particular sport and that team. [LB228]

SENATOR ASHFORD: And that's my point. That's where, I mean, that's my point. Why can't we allow the coaches to make those decisions with the parents? If, why does this have to be a statewide...why can't we allow each coach, especially a sport like swimming which doesn't exist throughout the entire state, why can't we let a coach have his or her own rules on how they're going to deal with that issue. Is that a, not a good idea? We give them a lot of discretion. Why don't we...wouldn't that remove a lot of this, then the parent could make the choice where, at least in the metro area where there is a lot of swimming, they could make the choice potentially what school in the learning community they wanted to attend. [LB228]

MIKE McMAHON: I know a lot of times parents don't like what the coach says. [LB228]

SENATOR ASHFORD: Oh, I gotcha. I mean, I fully agree with you. [LB228]

MIKE McMAHON: I've had that a few times. [LB228]

SENATOR ASHFORD: But I have a lot of confidence in those guys and women to make the right decision for their team and for their... [LB228]

MIKE McMAHON: And as do I. I mean, you know, you try and hire the best people, and those are the qualities that you're looking for in coaches. Sure, they need to be good, good teachers of skills, but yet how they work with people and how they, you know, how they work with the kids and how they work with the parents and, you know, what are their goals I think is equally important. [LB228]

SENATOR ASHFORD: Thank you. [LB228]

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SENATOR ADAMS: Are there other questions? Thank you. [LB228]

MIKE McMAHON: Thank you. [LB228]

SENATOR ADAMS: Next opponent. [LB228]

TOM McBRIDE: (Exhibit 13) Senator Adams, committee members, my name is Tom McBride, M-c-B-r-i-d-e, and I'm here as a school board member and the parent of three sons that have gone through high school and successfully on to college and utilized the activities available in both high school and college. As I understand it, as I interpret this LB228 would call for the elimination of NSAA as it exists. I don't think that you can have any kind of a sanctioning body that at some point is going to set parameters on participation. And to say that that has to be prohibited for, you know, over a parent objection, I think, as I see this, it's an all or nothing bill. It removes...it's got unintended consequences such as standards of participation. Without NSAA, there wouldn't be requirements for academic eligibility. District contests would be eliminated, state contests would be eliminated. You know, the goal of the Nebraska sanctioning body, NSAA, is to promote teamwork, individual and team success within a specific set of rules. There are times as far as a school district is concerned when it was brought up about how much a school district invests in varsity, junior varsity, intramural sports, and there are times when I believe that a school district is forced to try to protect its investment as well. You know, we have to celebrate the success that these young ladies have brought forth this morning, or this afternoon. I think that they're to be congratulated, and I certainly believe that there is a procedure that's in effect to address the situations that have been outlined about dual participation. However, as I stated before, the way that I interpret LB228 is that, you know, given any kind of sanctioning body, that school districts would not be able to be a part of that body. I don't think you can get 312 school districts together to decide on conditions of participation, who's going to be in what classes, what the districts, you know, the whole thing. Rules have to be in effect so everyone is clear as to what the requirements are and also to protect the athletes. What hasn't been indicated is we also have, NSAA has rules of participation in there so that youngsters don't overparticipate in, you know, perhaps soccer where a junior varsity player can only play so many quarters of junior varsity and varsity, you know, soccer, or halves, you know, per week, just so, you know, in an effort to protect them. I don't agree with all NSAA regulations. However, I do realize that as NSAA exists and is supported with the best interest of young athletes, and the spirit of competition in mind, coaches at collegiate levels have tremendous opportunity to see high school performances. Soccer is in different seasons. We have video tapes. We've got times sent in, scouting reports, whatever. And my three sons that were all active in high school activities, they all went into college activities with scholarships: one in theater for four years, one in tennis for three years, and one in soccer and track for four years in the collegiate level. They've gone on to realize their dreams as a police detective, a

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teacher, and a special agent with the FBI. The current regulations don't preclude the success of any student, but do establish parameters I think need to be followed and, you know, that any exceptions to that do have a process established by the NSAA to follow. [LB228]

SENATOR ADAMS: Thank you, Tom. Are there questions for Mr. McBride? Thank you, sir. [LB228]

TOM McBRIDE: Thank you. [LB228]

JOHN NEAL: Good afternoon, Senators. My name is John Neal. I'm the director of secondary education with Lincoln Public Schools. I hadn't originally planned on testifying today. I'm actually here with a group of our Youth Advisory Board to speak to LB64 that is following. I was able to hear some of the comments from the proponents and wanted to share that I'm aware that there might be an interim study taking place. And would like to share that Lincoln Public Schools would be supportive of that interim study and would like to take part in that if it would begin. And also here to answer any questions you might have about Lincoln Public Schools and its policies. [LB228]

SENATOR ADAMS: All right. Thank you, John. Are there questions? I guess not right now. Thank you though for volunteering your ability to answer. [LB228]

JOHN NEAL: Thank you. [LB228]

SENATOR ADAMS: Next testifier. [LB228]

TRENT NOWKA: (Exhibit 14) For the record, my name is Trent Nowka, T-r-e-n-t N-o-w-k-a, and for those of you who know me, I'm here by myself, as a parent. And for those in this room, I'm going to surprise some of them because they thought I would come in, in support of the bill or in a neutral capacity, but I'm in opposition because I think the bill is too broad in scope. I am speaking to you on a personal capacity because I have a son who is gifted at soccer, and this past summer he was selected to the U.S. Olympic Development Team. Quite an honor from the standpoint of the thousands of children across this nation who try out for the team. We were recently notified, in fact two weeks ago, that Kyle was selected to go to Argentina to play internationally, and it was a trip that was going to last eight days. He would miss school for five days. A trip that would last eight days, and he would be able to miss school for five days. Kyle immediately contacted his soccer coach at Lincoln East, and the coach was extremely supportive of Kyle going to Argentina on the Olympic team. We followed the protocol that Lincoln established, and I called Lincoln East administration. Twice they told me that our problem was with NSAA. I called NSAA and found out that they grant waivers for Olympic Development Programs. There was no problem. I called LPS back. Then I was informed that LPS has a policy that even if I got a waiver for Kyle, he would still

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have to sit out one game of high school for every game he played in Argentina. Furthermore, we were told that...the administration that I talked to, that they would oppose the waiver because Kyle should stay in school and not miss those five days of classroom. Furthermore, LPS had not granted a waiver to a soccer player for 10 years. Well, I can see now why no one applied for a waiver because the sanctions were so extreme, why would a parent do that? I want to let you know that Kyle academically has been on the honor roll throughout his elementary, middle school, and his first three semesters at Lincoln East. He has a 3.7 GPA and has taken five or six Diff. classes at East. We informed Kyle of his options, and he decided that while it would be great to represent his country and the Lincoln Public Schools in Argentina, it wasn't worth playing in Argentina for five days and having to give up half of his high school soccer team. That was the penalty. He would miss school for five days, but the penalty would be that he would have to miss half of his high school soccer team. This weekend we called the Olympic Development Program to tell them that Kyle had decided to give up his spot on the Olympic team. It wasn't worth five days in Argentina to play, to give up half of his high school soccer season. The response we received back from the Olympic Committee was amazing. They encouraged us to sue LPS. Their response was Nebraska has the most restrictive and punitive sanctions in the nation with regards to Olympic children. When I received another phone call yesterday from LPS, I was told well, why doesn't Kyle just give up his soccer season? And I'll be real quick here. Why doesn't he give up his soccer season and just play club soccer in the spring? There is no club soccer in Lincoln because all the boys are playing high school soccer. So it's a sad commentary. I'm an example that Dr. Tenopir said, you don't get any...he hasn't received any waivers from Lincoln because the sanctions are so severe. And that's my story. I'd be more than happy to...and I do have copies here of a fax from Lincoln Public Schools stating Kyle's need to sit out. I've got a copy of the rules and regulations stating such, and I also have a copy of a letter from the U.S. Olympic Committee and the U.S. soccer association encouraging principals and the dean of students to grant waivers and not punish children for participating in the Olympic Program. Thank you. [LB228]

SENATOR ADAMS: Are there questions for the testifier? Thank you, Trent. [LB228]

TRENT NOWKA: Yep. [LB228]

SENATOR ADAMS: Next person. [LB228]

MIKE DULANEY: Senator Adams, members of the committee, my name is Dr. Mike Dulaney, I'm the executive director of the Nebraska Council of School Administrators, and I am very privileged to be here before you today talking about LB228. My NCSA Legislative Committee did vote to oppose this legislation. I, too, have an enormous amount of respect for Dr. Tenopir and the NSAA generally. We believe this is a sound organization, and one that certainly does...has a tough job. And one that obviously Nebraskans hold very highly athletics. In fact, I was thinking while listening to testimony

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how if somebody from another state were to come in to this hearing room and listen to it, they would know why Nebraskans are so committed to athletics and why we're pretty good at it generally. Many of the members of the NSAA governing body are members of my organization. And so you cannot go to a meeting of the NCSA without there being discussions about this type of issue and it's very important, a very prominent discussion item. But we do believe that the NSAA has a very careful process to review these types of issues. We support the member schools that are part of it and so we want to be here to give our support to the NSAA. [LB228]

SENATOR ADAMS: Thank you, Mike. Are there questions for Mr. Dulaney? Thank you, sir. [LB228]

MIKE DULANEY: Thank you. [LB228]

SENATOR ADAMS: Next testifier. [LB228]

CYNTHIA HUFF: (Exhibit 15) Good afternoon. My name is Cynthia Huff, C-y-n-t-h-i-a H-u-f-f. I am superintendent of the Wood River Rural School Districts in Wood River, Nebraska; proud home of the Eagles. I am here to speak in favor of the NSAA as an organization that we belong to. Many times when an injustice comes up, we are so quick to change something, and this is a system that has served our needs so well for so many years. Change happens slowly in school districts, and with good reason. We as administrators do not like to see things changed quickly if we're not sure it's not the best thing for our kids. I served on the District 5 membership committee in southwest Nebraska in a previous superintendency. It was an experience that opened my eyes to the workings of the NSAA. From the process of the constitutional amendment, of bylaws, and the system that was very process oriented; in the foremost, it was student centered. In the final stages of ratification, I attended delegate assembly. Let me tell you, as a woman in a chosen career that is male dominated, there was never a time that my gender was excluded or my opinion was not valued. I would encourage you to consider solemnly any attempt that would dissuade you from the true mission of the Nebraska School Activities Association. It is a system not driven by a single-gender mindedness. Let me testify that the workings of the NSAA are sound in their legislative process, equitable in their governance, and they're built on the opportunities for every school district, every student in our school districts. As to the dual participation of our students, the NSAA, through its legislative process has spoken clearly to this issue. The members of our organization are made up of persons that have chosen to advocate for Nebraska students. They are teachers first. Our respective districts have sent a message to the NSAA Board of Control: What works best for students is to protect the system that we currently have in place. To do otherwise is to afford opportunities to a few, while excluding those students whose athletic ability is less than above average or those who cannot pay to play. Public schools offer equal opportunities for all in every school activity. They level the playing field for those that may not have highly developed

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skills. To declare dual participation, as I see it, may be the end of how we have activities in our school today. There will always be changes to public education. Sometimes the true challenge is to do nothing when nothing needs to be done. Thank you. [LB228]

SENATOR ADAMS: Thank you. Are there questions? Seeing none, thank you for being here today. [LB228]

CYNTHIA HUFF: Thank you. [LB228]

GREG BARNES: Senators, my name is Greg Barnes, G-r-e-g B-a-r-n-e-s. I am currently the superintendent of Seward Public Schools. I've been in education in Nebraska for 22 years. I started out as a teacher and a coach. I've been an activities director, a principal, and now I'm in my tenth year as a superintendent. I might also add that I'm a parent of three children. I have two kids in college right now and both participated in high school activities sponsored by the NSAA and our school. Both participated in club sports. I also have a son in junior high that participates in school activities, will next year for the high school, and he too, has participated in club sports. So I'm not here to say anything bad about club sports, I'm not here to say anything bad or speak against parental rights. But what I want to speak about is LB228, and I want...I would like the Education Committee to consider the possible impact of the bill beyond any vote that takes place during this legislative session. Let me explain what I mean. Schools have many rules that govern students. We govern student participation in activities. We set these rules with all children in mind. Some rules are developed locally. Some rules are developed through the NSAA process. The local rules are not the same in every school district, yet they're fairly similar from school to school. We know when we set these rules that we are not going to please all parents. We're not going to please all athletes. We're not going to please all parents. But we try to enforce them consistently, and we try to enforce them across the board for all students, keeping in mind what is best for all students. My concern is that if LB228 passes and dual participation is allowed, we will be faced with many more difficult decisions in future years. All schools have training rules, I know we do in Seward. If students break the rules, we require them to sit out games. I can tell you, not everybody likes that rule. We have attendance rules. If you don't come to school, you sit out activities, and I can tell you not everybody likes that rule. We have academic rules. If you're failing in class, you don't participate in the activities until your grades are up. I can tell you, not everybody likes that rule. We also have age limits. The NSAA sets the limit. Once you reach a certain age, you're not allowed to participate, and I can tell you, not everyone agrees with those rules as well. My concern is if the Education Committee and legislative body limit our school's ability to enforce our dual participation rules, what will the issue or issues be next year? Tying our hands will limit our ability to teach our children the many valuable lessons that may be learned through the activities process. And I encourage you to vote against LB228. [LB228]

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SENATOR ADAMS: Thank you, Greg. Are there questions for this testifier? Senator Giese. [LB228]

SENATOR GIESE: Thank you, Senator Adams. Mr. Barnes, can you tell me what schools; we seem to have a lot of testimony from school administrations and people supporting schools and a certain group of people that were opposed. What are the benefits of a school to be involved with the NSAA? Isn't it a...do you pay a fee or can you give me a little bit of background on that? [LB228]

GREG BARNES: Well, obviously the benefit is to be part of the programs that are run through the NSAA to participate against other member schools and have that chance to compete at the district and state level for the coveted state championship. You know, I think beyond that, there are all kinds of benefits to being a participant in the activities for the students. [LB228]

SENATOR GIESE: But do you have to pay a fee? [LB228]

GREG BARNES: Yes, but it's a very minimal fee. Don't ask me to give you the exact dollar amount. I think it's something like \$40 per activity. [LB228]

SENATOR GIESE: Thank you. [LB228]

GREG BARNES: Um-hum. [LB228]

SENATOR ADAMS: Are there other questions? Thank you, Greg. [LB228]

GREG BARNES: Thank you. [LB228]

DALLAS WATKINS: (Exhibit 16) Good afternoon, Chairman Adams, Senators. My name is Dallas Watkins, D-a-l-l-a-s W-a-t-k-i-n-s. I will prove my age with my glasses. I am superintendent of Dundy County Stratton Public Schools. Where I live, the cattle outnumber us greatly. I am from southwest Nebraska. I am a parent, a grandparent, I was a teacher and a principal, I was an athletics director, an activities director, and I'm a superintendent, and I've been in the same district for 25 years. I think they get used to you. And I have coached track for 32 years, and I continue to coach track. I am also a board member for the Nebraska School Activities Association. I would like to thank you for taking time to listen. You have heard much today about participation in high school activities and how such should be governed. I feel it is important to share some information about the NSAA and its responsibility to ensure fairness, equity, consistency, and opportunity to students in member schools. The first handout is our governance structure. As you can see, it resembles representative democracy as our whole country is founded upon. It's 100 years of an evolving constitution and bylaws which our membership has created. We as board members get a lot of questions. The

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administrator of the NSAA, Dr. Tenopir and the staff do, too. Our plight is to carry out the intent. We have over 300 private and public schools that have input. There is some question as to--in many of the organizations I belong to--when private and public interfere. And in the NSAA it does not because of the representation of each school. The second handout is participation statistics. I think they are important today because, as you can see, and this would be children and students that participate in more than one high school activity, but over 160,000 participants were involved in 21 activities. They range from such things as drama, speech, music, and athletics, which we are responsible for. The third handout is a three-year history of attendance. I don't know that that would make you take sides, but I do think it shows the enormity of the responsibility of the Activities Association for the schools of Nebraska. That is gate attendance, and it's over 300,000 in average the last three years. That does not include nongate attendance which we would not keep because there wouldn't be a record of it. But I'm sure there's significant numbers there, too. The NSAA must organize and host state and district events throughout the year. We have to train judges, officials, referees, and any other appellate process that governs competition. In this last week alone, there was probably 500 activities in basketball, swimming, wrestling, and speech. And so I mean, it's a very large responsibility. I think we must be cognizant of other issues in the NSAA such as catastrophic insurance, liability, and where it lies, upon decision making, and there would be some questions, I believe, in private and public liability. And we should be aware of attendance, academic eligibility, and other questions. In closing, I thank you for your time, and I thank you for your service to our state. Your mission is also challenging. [LB228]

SENATOR ADAMS: Thank you, Dallas. Are there questions? Thank you for coming all the way here. We appreciate it. [LB228]

DALLAS WATKINS: You're welcome. [LB228]

SENATOR ADAMS: Is there any more testimony in opposition? [LB228]

JEREMY MURPHY: (Exhibit 17) Yes. Good afternoon, Senator Adams, members of the committee. My name is Jeremy Murphy, J-e-r-e-m-y M-u-r-p-h-y. I'm the associate director for education issues for the Nebraska Catholic Conference. The Catholic diocesan school systems of the Archdiocese of Omaha and the Dioceses of Lincoln and Grand Island, pursuant to the leadership of the diocesan superintendents, support the NSAA on this matter, and therefore, oppose LB228. We view this bill as an unnecessary and inappropriate intrusion upon the independent governance of private schools in which no one is under any obligation to enroll. Prohibiting membership in an organization, such as the NSAA, composed of a large number of members including public and private schools statewide strikes us as an extreme unnecessary measure. It is also our view that the NSAA helps member schools balance their students' extracurricular activities with their academics and nonschool activities. Concessions

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from the NSAA in accommodating students in different sports and activities have been sought, and that is the proper forum to govern disputes of this nature. The independence and integrity of the NSAA's governance process should be respected and maintained. That mechanism reasonably and effectively governs extracurricular activity programs officially sponsored by public and private schools and school systems. No student is obligated to participate in such a program, and every student is free to act upon an in-season preference for other than a school program. This strikes a reasonable and justifiable balance. For these reasons, the Diocesan superintendents of the Catholic school systems oppose LB228 and urge that it not be looked upon favorably by the Legislature's Education Committee. [LB228]

SENATOR ADAMS: Thank you, Jeremy. Are there questions for this testifier? Those of you who are left? Thank you, Jeremy. [LB228]

JEREMY MURPHY: Thank you. [LB228]

SENATOR ADAMS: Is there any more opposition testimony? If not, is there any neutral testimony? In the neutral capacity? [LB228]

LAURA HOLMES: Yes. I would like to testify neutral. [LB228]

SENATOR ADAMS: In the neutral capacity? [LB228]

LAURA HOLMES: Yes. [LB228]

SENATOR ADAMS: Okay. [LB228]

LAURA HOLMES: Can I take my laptop up here or not? [LB228]

SENATOR ADAMS: I'd prefer that you'd...if you'd set it right there, that'd be okay. [LB228]

LAURA HOLMES: (Exhibit 18) Okay. Thank you. My name is Laura Holmes. A few things that I would like to tell you. [LB228]

SENATOR ADAMS: Could you spell your name for the record? [LB228]

LAURA HOLMES: Sure. It's L-a-u-r-a H-o-l-m-e-s. [LB228]

SENATOR ADAMS: Thank you. [LB228]

LAURA HOLMES: I also served on the Dual Participation Committee so I don't know if there's some questions that you may have about that. I also am the parent of a soccer

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player who has qualified for national level competition, and I have had a vastly different experience from the gentleman whose son attends LPS. So maybe you'd like to talk about that as well. I, I guess would tell you that I'm not in favor of LB228, because I really believe that there are fundamental problems in how this organization is structured and how it works with parents, with students, with anyone, club coaches, anyone who is not part of the high school club, the high school situation. I thought it was an honor to serve on the Dual Participation Committee. I took it very seriously. I made an effort, a personal effort to call many different athletic directors throughout the state. I tried to attend their district meetings and speak. I was given no venue. I was told that even though I had served on this committee, I was a parent, and it would set a bad precedent for me to speak, and to try to explain my position. And I was really looking for consensus and an effort by which we could work together. I really believe that there needs to be the creation of some type of an interim committee or a special committee because while many of the things that the NSAA and some of the opposition to this bill testify is true, we need a body that regulates high school activities. I'm certain that the Legislature doesn't want to do that, but we also have many issues in terms of parental rights, people being involved, people being able to speak, people with different viewpoints. And I guess from my perspective, I would ask you, I think it's significant to consider questions like, is the Nebraska Department of Education providing the constitutional oversight of the Nebraska School Activities Association in fulfillment of their obligation to the citizens of Nebraska? What is the relationship between the Department of Education, the Legislature, local schools boards, and the Nebraska School Activities Association? Has the Nebraska Department of Education reviewed the impact of high school athletics and activities upon instructional time and academic performance? Further, do the Nebraska Department of Education, local school boards, and Nebraska high schools promote and enforce the same academic standards currently required by the Nebraska School Activities Association? Does the Nebraska Department of Education or the Legislature have fiduciary responsibilities with respect to the collection of admission receipts for public and private high school activities and athletic events sanctioned by the Nebraska School Activities Association? I see that I am running low on time, and I won't...many of the other questions I have listed here, I think they are serious, I think that they are substantive. I have grave concerns about the implementation of the learning community. We have not even touched upon domicile waivers. Many of the issues that relate to subjectivity, intent; these kinds of things. Very difficult for a parent to explain. I certainly don't understand how someone could really evaluate it. All that I really believe is going to come into play when the learning community is implemented and children are moving, and they're encouraged to move. And I guess I would ask you, how can a parent explain, really should a parent have to explain? If you happen to be the parent of a gifted athlete, why is there automatically a suspicion that your only interest is in that child as an athlete, that you are not capable of looking at that child as a whole, human being. That would summarize my testimony.
[LB228]

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SENATOR ADAMS: All right. Thank you. Questions? Seeing none. Is there any more neutral testimony? If not, Senator Rogert to close. Okay. [LB228]

JACK JACKSON: Good afternoon, Senators. My name is Jack Jackson, J-a-c-k J-a-c-k-s-o-n. Seventeen years ago, I sat before a similar committee of the Education Committee in regards to this same matter. Last year, I sat through my hearing not saying anything and listening to the same things that I was told 17 years ago. Sitting here today, I am hearing basically the same thing. Kids are not asking that the NSAA drop things to be eliminated. Kids are asking that they and their parents have the right, on their free time, to be able to choose whether they participate in a swimming meet or a soccer game or basketball on Sunday afternoon when there are no contests being held within the state of Nebraska or any other state. The NSAA has a purpose, and they do a good job with what they do. But they should do it on school time, not on free time by athletes. And I would recommend that we have some kind of a legislative hearing so I'm not back here in 17 more years and listening for an answer to it. Thank you. [LB228]

SENATOR ADAMS: Thank you. Are there any questions for this testifier? Thank you, sir. Is there anyone else in a neutral capacity? All right. If not, Senator Rogert to close. He waives closing. That being the case, we will close the hearing on LB228. (See also Exhibit 33.) And we need to move right on to LB64. Senator Howard. [LB228]

SENATOR HOWARD: (Exhibits 19, 20, 21, 22) Thank you, Mr. Chairman and fellow members of committee. For the record, I am Senator Gwen Howard, and I represent the 9th Legislative District. Today I present LB64 for your consideration. LB64 was brought to me by the Attorney General, Jon Bruning, as a part of his ongoing work to raise awareness of domestic violence, and specifically, with LB64, teen dating violence. And we've got an amendment to this and also a letter. I would like to state from the beginning that we have a white copy amendment which is being handed out that will replace the bill, and that we'd like to offer and ask for consideration from the committee for this amendment. The amendment is the result of cooperation among my office, the Attorney General's office, and the major players in the education community. I greatly appreciate them bringing forward their concerns and advice in advance of this hearing, so that we could have a compromise to present to you today. And I would especially like to take a moment to thank Mary Campbell of Lincoln Public Schools and John Bonaiuto, executive director of the Nebraska Association of School Boards for their diligent work and assistance on this bill. The amendment still accomplishes the goals set forward by Attorney General Bruning and myself to raise awareness and provide education on the dangers of teen dating violence. Dating violence, like domestic violence, is a pattern of controlling and abusive behaviors perpetrated by one person in a relationship on to their partner. It can include verbal, emotional, physical, and sexual abuse. Dating violence, like domestic violence, knows no boundaries and crosses all lines of race and socioeconomic status. In short, it can happen to anyone. Like many bills, the Lindsay Ann Burke Act resulted from a real life tragedy. At age 23, Lindsay Burke's abusive

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relationship ended with her being murdered. Lindsay had never learned about dating violence. She was an inexperienced, trusting, and naive girl. In the words of her mother, Lindsay became the perfect victim and her boyfriend was the ultimate abuser. And I think we've distributed the letter from her parents so you can read that as well. Assistant Attorney General Leslie Donley will follow my testimony and explain more the background of Mr. Bruning's involvement with this act from a national perspective. As I told you, Lindsay was a young girl. She was from Rhode Island, but dating violence happens right here in our own backyard. The latest research on tween and teen dating is shocking. Verbal, physical, and sexual abuse is happening at a much younger age. Findings from the 2008 survey entitled Teenage Research Unlimited is startling. The report documented that--and I'm just going to make this brief--nearly half of the teen girls who have been in a relationship say they have been victims of verbal, physical, or sexual abuse by their boyfriends. And one in five 13 to 14 year olds in relationships know friends or peers their age who have been struck in anger, kicked, hit, slapped, or punched by a boyfriend or a girlfriend. And to be more specific to our state, Nebraska data shows that more 10 percent of Nebraska high school females have experienced dating violence in the past 12 months. And this is 1 percent higher than the national average. Over 12 percent of Nebraska high school females report having been forced to have sex, and this is 1.6 percent higher than the national average. Unfortunately, both of these numbers reflect an upward trend in places higher than across the nation. Many teens and tweens even don't know the warning signs of a bad relationship and won't share these concerns with their parents. That's why education is critical. It can literally save lives. In the amendment you will see, and the summary provided, the act would require four things: 1) The State Department of Education develop a model policy by March 1, 2010 for local school districts to assist in developing their own dating violence policies; 2) Each school district establish and adopt a policy by July 1, 2010 to address incidents of dating violence involving students at school; 3) Each school district provide dating violence training to staff deemed appropriate by school district administration; and 4) Each school district incorporates age-appropriate dating violence education for students into the public school program. I recognize that we ask a lot from our schools and their staff and their teachers. But I firmly believe this issue is of tremendous importance. Let me say this for the record, this is not intended to be burdensome to local schools. You will hear from those who are here to testify that this type of program can be completed in a short amount of time and in a meaningful and effective way. I appreciate your consideration, and I ask for your support with LB64. And I would say there are a number of very qualified speakers here, and I would like to give them the opportunity. If you have any questions after listening to them, I will be glad to answer those. [LB64]

SENATOR ADAMS: Thank you, Senator Howard. Are there questions for the Senator at this point? Seeing none. How many testifiers, how many proponents are we looking at? Are all the hands up now for proponent? They keep popping up a little bit at a time. Okay, given the lateness of the afternoon, I don't want to exclude anyone from

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testifying, but we're going to go right back to the lights and go three minutes per person so that we have an opportunity to hear as many people as possible. [LB64]

LESLIE DONLEY: (Exhibits 23, 24) Good afternoon. Good afternoon, Chairman Adams, members of... [LB64]

SENATOR ADAMS: Excuse me. Did you fill out the form that we need? [LB64]

LESLIE DONLEY: Yes, I did. I'm sorry. [LB64]

SENATOR ADAMS: Okay. Okay. [LB64]

LESLIE DONLEY: In my haste. [LB64]

SENATOR ADAMS: That's understandable. Thank you. [LB64]

LESLIE DONLEY: You're welcome. I'm sorry. Good afternoon, Chairman Adams, members of the Education Committee. My name is Leslie Donley, L-e-s-l-i-e D-o-n-l-e-y. I am the Assistant Attorney General appearing today on behalf of Attorney General Jon Bruning, in support of LB64. I would ask that the resolution that you have just received be placed into the hearing record. This resolution which was cosponsored by Attorney General Bruning and Rhode Island Attorney General Lynch was adopted by the National Association of Attorney Generals at its 2008 summer meeting. Attorney General Bruning is the incoming president of this association. The resolution endorses the provisions of the Lindsay Ann Burke Act enacted by the Rhode Island General Assembly in 2007 which requires schools to increase awareness of teen dating violence and abuse. LB64 is Attorney General Bruning's commitment to fulfilling that resolution in Nebraska. The Attorney General has a strong record of supporting initiatives to combat violence against women. Those initiatives include legislative efforts, funding, and education. For example, in 2004, the Legislature enacted LB613, a bill brought forward by the Attorney General which classified domestic assault as a distinct crime with tougher penalties for repeat offenders. From 2006 to the present, Attorney General Bruning's domestic violence conferences have trained over 1,000 prosecutors, victims, advocates, first responders, law enforcement officers, nurses, doctors, and 911 operators and local agencies and law enforcement. Conferences have been held in Sidney, Chadron, McCook, Peru, Valentine, Wayne, Fremont, Kearney, Broken Bow, North Platte, and York. Recent studies show that violence between intimate partners is occurring at a younger and younger age. Children are in school six to seven hours a day, nine months a year. We believe it is imperative for teachers and staff to have a basic knowledge of the dynamics of domestic violence so that they may have a greater opportunity to prevent a crime like the one suffered by the Burke family. Attorney General fully supports AM59 to LB64 which would become the bill. We would appreciate the committee's support by advancing LB64 to General File. Thank you for your time

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and consideration. [LB64]

SENATOR ADAMS: Thank you. Are there questions? Yes, Senator Sullivan. [LB64]

SENATOR SULLIVAN: Yes, thank you, Senator. Are you aware of other states, other than Rhode Island, that have something like this? [LB64]

LESLIE DONLEY: Texas has a law on the books right now. I believe California has something. [LB64]

SENATOR ADAMS: Are there other questions? In your testimony, you did say that the Attorney General is supportive of this amendment? [LB64]

LESLIE DONLEY: Yes, sir. Very much so. [LB64]

SENATOR ADAMS: Okay. And one of my concerns when this was first initiated is that though obviously the intention is good, we need to be careful, and I think this amendment begins to address that, that schools constantly are put in the place of trying to solve society's problems, and typically something has to give. And whether it be math or reading or whatever it is. We do have, by law, do we not, where school personnel are already responsible for reporting violence? [LB64]

LESLIE DONLEY: Yes. [LB64]

SENATOR ADAMS: And that doesn't matter whether, what kind of violence it is or what grade level, correct? [LB64]

LESLIE DONLEY: I'm not exactly sure. No. But there is a duty to report. [LB64]

SENATOR ADAMS: So what this would do would really say that, if I interpret the amendment correctly, that schools would be developing a policy as well as the State Board of Education. [LB64]

LESLIE DONLEY: Yes. Right. [LB64]

SENATOR ADAMS: All right. And I would interpret this to mean then also that school districts would provide some kind of training, but the schools would determine how that is to be done, rather than have it mandated by this body. [LB64]

LESLIE DONLEY: That's correct. It would be up to the local school districts to decide what kind of training to their teachers and administrators. And that would be...the training itself would be at the discretion of the administration who would be trained. So there's that discretion in the bill. [LB64]

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SENATOR ADAMS: Okay. [LB64]

LESLIE DONLEY: And the actual training, the awareness program, is discretion for school districts. [LB64]

SENATOR ADAMS: Okay, thank you. [LB64]

LESLIE DONLEY: You're welcome. [LB64]

SENATOR ADAMS: Are there other questions? Senator Giese. [LB64]

SENATOR GIESE: And any, to follow-up on that, any...the number of people that need to be trained or that? [LB64]

LESLIE DONLEY: That's at the discretion of the local school districts to determine who...who needs to take the training. It's not mandated in the bill. We're not requiring anything like that. [LB64]

SENATOR ADAMS: So the school district could determine that the guidance counselors, for instance, K-12 be the ones that receive this training and then the school district would also have the latitude to determine how that information within their school district would be dispensed. [LB64]

LESLIE DONLEY: That is correct. [LB64]

SENATOR ADAMS: Okay. Are there other questions? Thank you. [LB64]

LESLIE DONLEY: Thank you. [LB64]

SENATOR ADAMS: Next proponent. [LB64]

MIKE DULANEY: Senator Adams, members of the committee, my name is Mike Dulaney, D-u-l-a-n-e-y, and I'm the executive director for the Nebraska Council of School Administrators. We're very proud to be here today in support of the white copy amendment version of LB64. And we, in the past three or four years, we've had the opportunity to work with Senator Howard on the bullying legislation which finally passed a year ago. And we knew better than to wrangle with Senator Howard on this. She has a wonderful idea, and one that some schools are addressing and have addressed, and others maybe not. So this brings about a measure of uniformity. We believe that the green copy bill was probably a little more than we were able to support because of the very issues, Senator, that you pointed out. But through the negotiations and Senator Howard and Attorney General Jon Bruning were very amenable to our concerns and

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what we have with the amendment is something that our group can live with. These are tough times since schools are going to living and doing the same job with less than they probably would have received under the current school finance formula. We know that's coming. We know that we may have fewer personnel in some schools, so yeah, there is that concern. I was at a conference just this morning...about 370 school board members and administrators. I passed out a copy of the amendment, and they had a chance to look it over. We talked about it, and we believe that this is an acceptable compromise. So we certainly appreciate the work that Attorney General Jon Bruning and Senator Gwen Howard have done on this issue, and we believe that this is an appropriate piece of legislation as the amendment would propose. [LB64]

SENATOR ADAMS: Thank you, Mike. Are there are questions? [LB64]

MIKE DULANEY: And Senator, I want to add that the legislation that you spoke of is...was passed in 1994. It was LB1250. It was a comprehensive change to the Student Discipline Act which does require school officials to report any acts of criminal activity if they see it or if they have knowledge of it. So that law has been in place for some time. [LB64]

SENATOR ADAMS: Okay, thank you, Mike. Next proponent. [LB64]

PATRICIA NEWMAN: Hello, I'm Dr. Patricia Newman. I am, that is P-a-t-r-i-c-i-a N-e-w-m-a-n. And I appreciate your time. And I am here to support LB64 from four very short perspectives. First of all, as a child who directly experienced the impact of domestic violence growing up. I lived in a home with a grandfather who sexually abused me, and who I watched physically, verbally, and emotionally abuse my grandmother, mother, aunts, and uncles. I watched everyone leave home as soon as they could. I watched several of them struggle with major mental illness. I watched two of them marry into abusive relationships, and one of them become an abuser to his girlfriends and then his wife. Second hat, as a child psychologist, I began a private practice in 1987, and I have served children throughout the state of Nebraska. I have listened to literally thousands of youngsters who have no idea what a healthy relationship is, and what a healthy relationship might be built of. No idea that they have a right to their own personal boundaries, and no idea how to manage these challenges in a prosocial adaptive way, and in time to help themselves and their peers. Third hat, is as the founder of the R.E.S.P.E.C.T. Program. We began in 1999. We were initially founded to prevent domestic violence by preventing teen dating violence through using a combination of educational theater paired with discussion with local community resource professionals. We have presented programs to 185,000 kids since 2001. We've listened to a lot of kids. From that effort, it became necessary to address the dynamics of bullying and to start in preschools. We know Senator Howard, too. It is important to recognize that the dynamics of violent and abusive behavior start early, and they contain significant commonality. I have to tell you that in 2001, we actually had to

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collect data to prove to our community that teen dating violence did and does exist in our community, and some of you may remember that this was also the case with child abuse and domestic violence at one time. Finally, most importantly, I'm the mother of a 19-year-old son and a daughter who's 17, and since middle school, I have been having children congregate in my homes talking about dating games that include cutting, burning, risky sexual behavior, parents pushing their kids to date, and so forth. And for all of these reasons, you know, I just think that it's really important that we provide youngsters across our state with accurate information and the resources that they need in order to be fully adaptive and capable and to grow into healthy parents, spouses, friends, and workers. Thanks. [LB64]

SENATOR ADAMS: Okay, thank you. Are there questions? If not, thank you. [LB64]

PATRICIA NEWMAN: Thank you. [LB64]

TONYA FOLK: (Exhibit 25) Good afternoon, I am Tonya Folk, T-o-n-y-a F-o-l-k. For the past 13 years, I've been the executive director of the Community Domestic Violence Intervention Program in North Platte. In 1996, I, along with our coordinated response to domestic violence team, developed a 52-week Batterer Intervention Program for adult men who have been abusive in intimate relationships. In this educational group program, I have worked with over 700 men since we started this program in the weekly groups, most of them being convicted of domestic assault. One of the most frequent questions that these participants ask me when they've completed the program is, why is this class not taught in school? Why didn't I learn this then? If I only would have gotten this information when I was young. I get asked that all the time. Unfortunately, so many of these men were not taught in their home by their role models that violence is not an answer to conflict. That a relationship should be built on equality and not power and control. The proposed dating violence education through LB64 has the power to do that--to teach young people these things which is critical if they're not being taught that in their own home. In Lincoln County, we see, in increasing numbers, teenage boys that are in the Criminal Justice System for perpetrating assault, criminal mischief, violating protection orders, etcetera. Because of this, our agency has recently developed a 12-week anger management program for boys ages 14 to 16. The PACE project which is teaching Positive Anger Control Early will begin in North Platte this month. I met with a 15-year-old boy last week who has been referred to our program by probation. He became a father last year, but he is still going to high school to get his diploma. He says he has an anger management problem, and he's afraid he's going to be abusive to the young mother of his child. Our program will hopefully teach him and others how to have healthy and nonabusive relationships. However, we'll only see a handful of these boys in our program. And we'll only see them after they've used violence in this relationship. The schools see these kids every day during the school year. And we'll be able to do, through LB64, the prevention work that is so very critical. The opportunity the schools have to impact lives through LB64 is incredible--to help prevent domestic violence

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before it starts. I acknowledge it's a difficult subject for our schools to delve into. However, I believe that if the schools partner with their local domestic violence programs who are the experts in their communities, something very positive can be developed. We must ensure that the best interests of victims of dating violence are the priority, and that new policies and practices do not jeopardize their safety or discourage them from reporting dating violence to school staff. And I believe in partnership, we can do this. Thank you. [LB64]

SENATOR ADAMS: Thank you. Are there questions? Thank you for your testimony then. [LB64]

HERB SCHIMEK: Mr. Chairman, members of the committee, my name is Herb Schimek. That's H-e-r-b S-c-h-i-m-e-k. I represent 25,000 classroom teachers in the state of Nebraska. This bill...the system for developing this bill worked perfectly. The original bill was sent out to the different interest groups. We were able to comment on the bill. Our comments were taken to hand and changes were made. We agree with the bill, and we do not think it will be a burden to the school systems. So we thank you very much for your time. [LB64]

SENATOR ADAMS: Are there questions? So I think I heard loud and clear, but as reaffirmation to me, from the teachers side of this, they too understand that this is not intended to be a lot more burden, but a necessity to some degree. [LB64]

HERB SCHIMEK: Right. No. But I think it is a necessity. [LB64]

SENATOR ADAMS: Okay. Thank you, Herb. [LB64]

HERB SCHIMEK: Thank you, sir. [LB64]

SENATOR ADAMS: Next testifier. [LB64]

MARJORIE MAAS: Hello, my name is Marjorie Maas. That's M-a-r-j-o-r-i-e M-a-a-s. And I'm here as a representative of R.E.S.P.E.C.T. in follow-up to Dr. Newman. R.E.S.P.E.C.T. is an acronym that says it's for Relationship Empowerment for Students, Parents, Educators, and Community through Theater. And we've offered a teen dating violence awareness campaign for the last two years. Now, we actually kicked it off yesterday as February, this month, is Teen Dating Violence Awareness Month across the country. And what I've noticed as the campaign manager of that for the past two years is that we do not, as adult experts, come into the schools and say, this is what we want you to know about teen dating violence. We say, tell us what you've experienced, and we'll put that into a campaign to better educate your peers. And some of the questions we get when we go into schools, I just want to give you two or three of these: What if he starts to cry after he hits you? Should I forgive him? What if your friends

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won't listen when you try to help them? And what if you really love the person who treats you so badly? Kids want to hear what to do in these situations. At least to be better educated to help their friends. It's a safety issue. Mercy High School, who was third place in our contest last year--the girls that entered the contest were the epitome of a potential victim. Meek, this is how their teacher described them. And by participating in the contest and trying to educate themselves on the issue of teen dating violence, the teachers said that they were, for that moment of the school year, the star of their student body. That they were able to articulate to their fellow students what was a message of strength. And so offering and making teen dating violence a mandatory requirement in schools would allow students to feel empowered. And if you have any questions about what else we've seen in schools, I'm more than happy to offer that to you. [LB64]

SENATOR ADAMS: All right, thank you for your testimony. Are there questions for this testifier? Thank you then. [LB64]

BRIAN HALE: Senator Adams, members of the committee, my name is Brian Hale, and I represent the Nebraska Association of School Boards. We were involved in the work on the amendment, and when we saw the green copy, there were obviously issues about curriculum and the question is what curriculum did you want us to get rid of to insert this curriculum? And I think that, as drafted, this amendment allows schools to handle it at very much more at their discretion as opposed to being dictated to, in terms of what shape that should be, and trying to determine what might be age appropriate for sixth grade, sixth graders in discussing this. That's sort of a powder keg for every community to try to determine, and that was in the green copy. For the most part, that has been eliminated from the...specifically from the amendment. So I would just like to add our support to the white copy amendment as it's drafted and hope that as it sits, that it's something that schools could handle in a policy manner, and in a practical matter, in terms of initiating staff. There are already procedures in place, if you witness a child who has a black eye or is abused in some way, that reports are taken and the investigation begins with the proper authorities. Dating violence is different because it isn't always physically visible. Sometimes there's evidence and children confide with staff members about mental abuse and that sort of thing. And so that's why we believe this is important enough to include in our policy discussion. So I'll beat the yellow light and conclude there. [LB64]

SENATOR ADAMS: All right. Are there questions? Thank you, sir. [LB64]

BRIAN HALE: Thank you. [LB64]

SENATOR ADAMS: Next testifier. Seeing these two young adults turn in those forms, I want to remind everyone else that if they choose to testify, we need those forms from you. [LB64]

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ANITA TO: (Exhibit 26) Good afternoon, Senator Adams and members of the committee, my name is Anita To, T-o. [LB64]

ERIC MOORING: We are members, I am, or I should say I am Eric Mooring, E-r-i-c M-o-o-r-i-n-g. We are members of the Lincoln Public Schools Youth Advisory Board, and we speak out today in support of LB64. The Centers for Disease Control and Prevention found, based on their 2003 Youth Risk Behavior Survey data, that about 1 in 11 American high school students was hit, slapped, or otherwise physically hurt by their boyfriend or girlfriend in the 12 months prior to taking the survey. This is an issue that directly affects thousands of Nebraska teens and indirectly touches countless more Nebraskans. We contend that dating violence education should be specifically addressed by school districts and the Legislature. Adopting LB64 to require school districts to provide dating violence education is a useful step in the right direction. Because dating violence is largely an issue of control in relationships, it is, in fact, an extreme form of bullying. That said, we believe that dating violence ought to be addressed as a distinct topic in schools, since dating relationships are unlike other sorts of interpersonal relationships. As LB64 puts it, dating is quote: a relationship with another person primarily characterized by the expectation of affectionate involvement, end quote. That expectation may cloud the ability of a dating partner to logically apply what they already know about bullying and violence prevention generically to their own dating relationship. One way to address this concern is to explicitly teach students that dating violence is, in fact, violent and destructive. Furthermore, dating violence is worthy of special consideration because this is not a topic that ends with high school. Rather students can use the skills and knowledge needed to build healthy relationships well into young adulthood if not their entire lives. [LB64]

ANITA TO: Schools are an important part of efforts to reduce dating violence because no other institution in society reaches so many young people so well. Also, much dating, both violent and not, is made possible by the relationships that students craft at their school and as part of school activities. Thus, it is clear that schools are an effective vehicle to help provide students with the tools necessary to date healthfully. Information on dating violence is related to numerous different topics, so finding ways to integrate these issues into schools should be doable. For example, in LPS middle schools, information on dating and healthy relationships is included as part of both the mental health and the family and social health units of health classes. On the other hand, at the high school level in LPS, information on safe dating is included primarily in the sexuality education part of health classes. Besides health classes, dating violence education would fit neatly into character education. Proactive efforts to teach students about dating violence are valuable. Our aspiration ought to be to give students the knowledge and skills they need to avoid dating violence in the first place. According to a 2003 study published in the American Journal of Public Health, dating violence is often a precursor to other forms of domestic violence. Thus, early dating violence education may play a

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role in breaking the cyclic nature of domestic violence in our society. Finally, this is an important issue to address because both discussion and action at the state level helps to raise awareness. The awareness is needed for change. Broad recognition of dating violence not only among students and teachers, but also among parents and whole families is part of the solution. Students and school officials know that dating violence occurs. But without a culture of openness, without a society that affirms the right of all students to report their problems and to seek help, all of us are hard-pressed to make a difference. By taking action on LB64, you can play a part in bringing dating violence out of the shadows. Thank you. [LB64]

SENATOR ADAMS: All right. Thank you. Are there questions for these two people? Yes, Senator Sullivan. [LB64]

SENATOR SULLIVAN: Thank you, Senator. Could you either or both of you give your opinion as to why you think this, there has been an increase in teen dating violence? [LB64]

ERIC MOORING: I'm not actually sure that there has been an increase. In the research we did, this is a problem that's very difficult to quantify. Some of the earlier testifiers spoke of that. In the state of Nebraska, in that CDC survey, the rate of physical violence was far lower than the rates of, let's say, verbal violence, which other testifiers talked about. So it's really hard to say, one way or the other. [LB64]

SENATOR ADAMS: Are there other questions? Thank you then. [LB64]

ANITA TO: Thank you. [LB64]

ERIC MOORING: Thank you. [LB64]

SENATOR ADAMS: Next testifier. [LB64]

TATIANA HUGGINS: Hi, I'm Tatiana Huggins, T-a-t-i-a-na H-u-g-g-i-n-s, and I'm a senior at Westside High School in Omaha. And I was...I don't like to say victim, but I was a victim of teen dating violence when I was in the seventh grade. And in the seventh grade, not that I remember, we don't learn anything about teen dating violence. I didn't know what it was, I just know that he was hurting me. And I didn't learn about teen dating violence until about my junior year in high school, when I wanted to take a class that I didn't even know taught teen dating violence. And that's about it. [LB64]

SENATOR ADAMS: Go ahead. [LB64]

TATIANA HUGGINS: That's about it. Yeah. [LB64]

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SENATOR ADAMS: That's it. All right. Thanks. Are there questions for this young lady? Thank you then, nice job. [LB64]

SARAH SCHROEDER: (Exhibit 28) Hi, my name is Sarah Schroeder. I'm from Ulysses, Nebraska, and I'm a senior at UNL. I'm a member of UNL's chapter of Nebraskans for Peace, and also a former member of UNL's Chancellor's Commission on the Status of Women. I am here on behalf of the Chapter of Nebraskans for Peace at UNL to testify. [LB64]

SENATOR ADAMS: Could you spell your last name for the record, please. [LB64]

SARAH SCHROEDER: I'm sorry. Yeah, it's S-c-h-r-o-e-d-e-r. As I said, I'm here on behalf of Nebraskans for Peace at UNL to testify in favor of this bill. According to statistics published by Lincoln's Friendship Home, 60,000 to 80,000 people in Nebraska are victims of relationship violence each year. And in Lincoln alone, about three people are arrested every day for assaulting their partners, even though those statistics only represent a fraction of actual assaults that are occurring. Emotionally abusive relationships also take an enormous toll on the people whom they affect. Both physical and emotional abuse distract and depress their victims. Thus, relationship violence has negative consequences for victim's social lives, work performance, and academic performance. I think that most Nebraskans want to live in communities in which people's contributions and happiness are not limited by abuse at the hands of people with whom they are or have been involved romantically. LB64 is a good step toward making that desire a reality. The Lindsay Ann Burke Act aims to educate staff and students in Nebraska schools about what relationship violence is and how to stop it. These are concrete steps towards ending the cycle of violence and building communities that protect and nurture young people who are, after all, most vulnerable to abusive relationships. Women ages 16 to 24 experience the highest rates of dating violence, so addressing relationship violence in junior high and high school is extremely important. Thank you. [LB64]

SENATOR ADAMS: Thank you. Are there questions? Thank you then. Next testifier. [LB64]

PAUL OLSON: (Exhibit 29) I'm Paul Olson, and I say a fair amount of stuff about why I'm here. I'll try to, and what our interest is as I'm the president of Nebraskans for Peace about what our interest is in this bill as a Nebraskans for Peace organization. The bill has been... [LB64]

SENATOR ADAMS: Could you spell your name for the record? [LB64]

PAUL OLSON: O-l-s-o-n. [LB64]

SENATOR ADAMS: All right. I'm sorry to interrupt you. Go ahead. [LB64]

PAUL OLSON: That's fine, thank you. We were very active in the passage of the bullying bill. We organized a very large amount of the testimony on that bill, and we're interested in this bill as kind of an extension of what was done on the bullying bill. We believe that the bill can be of assistance. Bullying can be reduced as much as 50 percent by a good anti...comprehensive antibullying program in the schools. Some schools in Nebraska have found that they've been able to reduce it as much as 90 percent at Walnut Middle School in Grand Island. There is research by Connolly, Pepler and Craig at York University in England which shows that bullying is a precursor of dating violence. And that dating violence is a precursor to domestic violence. Bullying is a social action where you try to organize a group to destroy another individual. Domestic violence is a private act where you isolate the individual in order to destroy the person. Dating violence is somewhere in between, where you use the group against the person at the same time you try to isolate the person so that she--usually she--is relatively helpless. We would like to see these programs included in the comprehensive sort of behavior incentive programs that are being developed in a lot of Nebraska public schools, so that the domestic violence, dating violence part of the program is organic to the bullying part of the program. Senator Adams, you earlier said that we can't expect the schools to do everything, and that's correct. But we believe that we can expect the schools to provide safe environments for our students sexually and in other respects, or at least make an effort. And we can expect that the patterns that students learn in the schools will be patterns that will be carried out outside the walls of the school, or we can hope that at least. Good dating violence programs do not consist in a one-shot lecture from a teacher or bringing in an outside expert. They're an ongoing daily part of the activity of the school. So I'm a little concerned, I haven't been able to read the amendments, but I'm a little concerned that the amendments water this down too much. I should say that bluntly, but well, I haven't been able to read them. Good dating violence programs are organic to the curriculum of the schools. They use data from instruments that gather materials on youth risk. An excellent dating violence and bullying program has been developed by the Portland Public Schools called "Bullying and Dating Violence," and I would recommend that to your consideration. I should finally say that my daughter, Ingrid, was attacked by a would-be rapist when she was a young woman. She was not raped, she was able to use her skills in nonviolent relations to repel the rapist and to get away, but it affected her deeply and I dedicate this testimony to her as well as to, I'm doing it in behalf of Nebraskans for Peace. Thank you very much. [LB64]

SENATOR ADAMS: All right. Thank you, Paul. Are there questions for this testifier? All right. Thank you then. [LB64]

MARTY CONBOY: Good afternoon, Mr. Chairman, Senators. My name is Marty Conboy, C-o-n-b-o-y. I'm the city prosecutor in Omaha. I'm here on behalf of the

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Domestic Violence Coordinating Council. I'm the past chair and current legislative chair. I'm here to support this bill, for a number of reasons. I guess I also have a teaching certificate that I probably haven't seen in several decades, but I do have a degree in education, and I'm familiar with the burden that schools have and the expectations that increase on the schools to solve society's problems. But I would point out, this bill addresses something that is somewhat unique in our society. Kids come from all sorts of backgrounds, but they all become adults. Adults that engage in domestic violence started out as young people who learned the norms of accepting or engaging in violent behavior, especially in relationships. And most kids don't really have a real knowledge of what an adult relationship is like. They learn as they go. And some kids grow up believing that being abused or using force to solve problems is acceptable. And they don't come forward their whole lives and they live lives of control. And I think this bill is commendable in the fact that it addresses all the children from all backgrounds and gives them an opportunity to discuss this in a way that the schools can decide is appropriate to have the dialogues that will begin at an earlier age as to what is appropriate and what is acceptable and how to deal with things that aren't, and to realize that there are mechanisms in society to deal with those problems. So not just as an issue of young people engaging in violence, but as young people who learn that that's normal in a relationship, this bill will be an important step to address that problem as these kids grow older. And I would urge your favorable consideration of the amended form of this bill. [LB64]

SENATOR ADAMS: Thank you, Marty. Are there questions? Senator Ashford. [LB64]

SENATOR ASHFORD: Very briefly. The tie is not quite as flashy as last week, but I think you win the contest for that, Marty. But thanks for coming again, and for the work you do in that. But let me just ask you one quick question from your work in the domestic violence area which I know is important to you. I think one of the, one of the purposes of the resource centers in the learning community was to identify behavioral issues early in a student's career that could, in fact, magnify into some of the serious things that we've heard today. Would you think that that identification at an early age has an impact on future activity or behaviors, in your experience? [LB64]

MARY CONBOY: Absolutely. And I can remember, there was reference to a bill that was passed in 1994 about reporting violence in the schools, and I remember addressing the administrators and faculty at UNO or at Omaha Public Schools to try and impress them. And that has changed the dynamic now, that those things are addressed differently by the schools, and I think that's had an impact on trying to bring those things forward. So yes, this would be another step in that direction. [LB64]

SENATOR ASHFORD: And for the record, and I've known and worked with you for my whole adult life, and I'm constantly amazed at the amount of, as a city attorney, how many of these issues you get involved in as a leader. I mean, it's just amazing to me,

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and I don't really know how you have the time to do it all, but thank you. [LB64]

MARTY CONBOY: You're welcome. It's important. And among the things that I'm involved in, I can't think of anything more important. [LB64]

SENATOR ASHFORD: Thanks. [LB64]

SENATOR ADAMS: Are there other questions? Thank you then. [LB64]

MARY CAMPBELL: Chairman Adams, members of the committee, Mary Campbell, C-a-m-p-b-e-l-l, registered lobbyist for the Lincoln Public Schools. I just wanted to acknowledge the students seated in the second and third rows to my right. They are members, along with Anita and Eric, of the Student Advisory Group which is advisory to the Lincoln Public Schools Board of Education. And the students came to John Neal (phonetic), their sponsor, who is also here this afternoon and wanted an authentic way to fulfill that role with regard to the board. And so we gave them a series of bills to consider that they could be part of in some way. And I was somewhat surprised but pleased that they settled on this bill and rejected others that were equally important. And I underscore that for you because we've heard a lot of adults speak today, but I think the student voice saying this is important and please help us in this regard is a credit to them. So thank you for the time. [LB64]

SENATOR ADAMS: Thank you, Mary. Are there questions for Mary Ann, anyone? Seeing none, thank you, Mary. Is there any more proponent testimony? Any other proponent testimony? Then if not, we'll move to the opponent side. Is there any opposition testimony? Is there neutral testimony? Senator Howard to close then. How's that for timing? You're up. (Laughter) [LB64]

SENATOR HOWARD: You're trying to keep it moving along and I caused the delay, I'm so sorry. I want to thank the Attorney General's office for bringing this issue to my attention, and I also want to extend my thanks to those who came here today to testify on behalf of LB64, especially two individuals that have experienced this and had the courage to stand up. Teen dating violence can be the beginning of a lifetime of abusive behavior for both the victim and the offender. Training will better prepare the adults who work with these youth to identify the signs. Classroom education is the key to helping our young people identify the signs of abusive behavior and to understand and to know where to go for help. This policy sets clear expectations for the youth and the school system. Again, I thank you for your consideration, and I respectfully ask for your support of this piece of legislation. Thank you, Mr. Chairman and committee. [LB64]

SENATOR ADAMS: Thank you, Senator Howard. Are there any questions, finally, for the Senator? [LB64]

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SENATOR HOWARD: You see, as I promised, they were answered earlier. [LB64]

SENATOR ADAMS: They were. Thank you. That will close the hearing on LB64. (See also Exhibits 30, 31, and 32.) And we'll move on to LB163. You're not Senator Pankonin, but go right ahead. [LB64]

SHERRIE GEIER: No. Good afternoon, Chairman Adams and members of the Education Committee, my name is Sherrie, S-h-e-r-r-i-e, Geier, G-e-i-e-r. I serve as legislative aide to Senator Dave, D-a-v-e, Pankonin, P-a-n-k-o-n-i-n. Senator Pankonin represents the 2nd Legislative District. I am here this afternoon to introduce LB163. The proposal that prompted the introduction of this bill was brought to Senator Pankonin by a constituent. After hearing of this individual's wish (interruption by outside noise). Do want me to start over? The proposal that prompted the introduction of this bill was brought to Senator Pankonin by a constituent. After hearing of this individual's wish to expand his service to education and his community, Senator Pankonin decided to bring the issue to the attention of the Legislature. LB163 would change provisions relating to school board membership. The bill would amend Section 79-544 to allow a substitute teacher to be elected to and serve on the school board for the district in which he or she substitute teaches. Mr. Blum, the constituent and substitute teacher, who brought this issue to Senator Pankonin's attention, is here to describe in more detail why the change proposed by LB163 should be made. As a former school board member in a small community, Senator Pankonin believes that it would be good public policy to expand the pool of potential candidates for school board membership to include substitute teachers. Thank you. [LB163]

SENATOR ADAMS: All right. Thank you. Are there questions? Senator Haar. [LB163]

SENATOR HAAR: Thank you. Could you tell me right now, do you know, can teachers serve on the school board or what's, what are the limits right now? [LB163]

SHERRIE GEIER: Contracted teachers who have full-time contracts cannot. And now the provisions with regard to substitute teachers allow the decision to be made at the district level. So one district may allow it, and the next district may not. The district in which the constituent in question lives will not allow him to serve on his school board. [LB163]

SENATOR HAAR: I see. Okay. Thank you. [LB163]

SENATOR ADAMS: Are there other questions? If not, thank you. Are you going to stay around to close or are you getting out of the deal? [LB163]

SHERRIE GEIER: I'll stay. Yes. [LB163]

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KENT BLUM: My name is Kent Blum, K-e-n-t B-l-u-m. I am the constituent that tried to run for the school board in Nebraska City, Nebraska and was told by the school attorney there that I was a teacher, a licensed teacher and according to state law, I was not allowed to. I talked to the Nebraska High School Board, School Board Association, and he said that...he informed me that they usually leave that up to individual school districts to decide on what the eligibility is of school teachers. I feel this law is outdated considering when this law was probably written, all Nebraska required substitute teachers to carry a valid education license, which is no longer in effect in the state of Nebraska. You can have a four-year bachelor's degree in any subject or any science possible and then take a couple of humanities classes and substitute at a high school or at a high school public school setting. So with that change in the Nebraska law allowing substitutes, I feel that substitute teachers should be allowed to serve on the school board. My other observation is when I was asked to clarify, I was always told I had conflicts of interest being a substitute teacher and I would ask, what is my conflict of interest. And then they would just tell me probably substitute pay. I go, well, I can recuse myself from something like that. How can you explain allowing a spouse of a teacher, a contracted teacher to serve on the school board, because it seems to me that a spouse of a teacher would have a lot more conflicts of interests. They could be getting their health benefits from, their retirement plans from...there's a lot of issues there that would benefit a spouse in negotiations and stuff like that. But yet it was okay, I mean, there are spouses on school boards. There was even an administrator's spouse that was going to run for school board in my school district, though he took a job elsewhere and she withdrew her nomination. And I just don't see the correlation between a spouse and a substitute teacher. The one thing I would think is if a substitute teacher cannot serve--and if you feel that way--you should also change the law stating that a spouse of a teacher, of a contracted teacher shouldn't be allowed to serve because they still...they have as many conflicts of interest as, or more than I feel that I would have. In closing, if there's any questions. [LB163]

SENATOR ADAMS: All right. Are there questions? Senator Haar. [LB163]

SENATOR HAAR: Well, I have a question, but I don't know if you could answer this one, but for example, those of us here who sit at the dais, if there's some kind of bill that directly affects our pay, for example, I believe we can't vote on that. So there's certain conflicts of interests that sort of by law, we can or can't do, and I'm wondering whether those same laws apply to schools, to school boards. [LB163]

KENT BLUM: Well, I don't know, I don't know, I cannot speak to that, but I do know for a fact that our school board allowed a spouse of a teacher a few years ago to be the head negotiator for the teacher's contracts. So if he wasn't, didn't see a problem with recusing himself from something, to me, that's an important negotiation and for him, it could go either way. You know, he could really guide people into making profitable decisions for his family. And I think as far as I'm concerned, that would be something that you would

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have to step back and you couldn't do or be a part of, because there is a conflict of interest. [LB163]

SENATOR ADAMS: Other questions? Did you have another question? [LB163]

SENATOR HAAR: Senator, maybe our legal counsel can look into that because I'd be curious to know if the same laws apply at the school board level as... [LB163]

SENATOR ADAMS: I'm sure she has a response, and we'll deal with it in Exec. Yep. Senator Sullivan, did you have a question? Are you a...you're a sub at Nebraska City, correct? [LB163]

KENT BLUM: Yes, sir. [LB163]

SENATOR ADAMS: Are you a full-time sub? [LB163]

KENT BLUM: No, there is no, in Nebraska City, there is no such thing as a full-time sub. I wake up at 5:00 in the morning, 5:30 in the morning with two plans in my head. I'm a small bio...run an extremely small business out of my house. So at 6:00 if she calls me and asks me to sub, and I say yes, then that's, I go with that plan. Or if she doesn't call me by 6:30 or 6:45, I go with my other plan, so. [LB163]

SENATOR ADAMS: Okay. All right. Thank you, that makes sense. Are there other questions? Thank you then. [LB163]

KENT BLUM: Thank you. [LB163]

SENATOR ADAMS: Other testimony? [LB163]

BRIAN HALE: Brian Hale representing the Nebraska Association of School Boards. This is going to be an interesting bit of proponent testimony. We are supporting some definition. Schools boards are left individually to determine whether the language as it currently exists applies to substitute teachers or doesn't, and I think what you've heard is it's applied differently based on interpretations that people can get from their legal advice. And so we, I think I can argue both sides as to whether substitute teachers should or should not be allowed. But if there was something defined in statute, we would take the guesswork out of it and take school boards out of the gray area in terms of having membership that participate in this manner one way or the other. So we would like resolution and pass a bill either allowing substitute teachers or specifically excluding them. That would give us some guidance moving forward, so. [LB163]

SENATOR ADAMS: All right. Questions? Thank you then. Is there other testimony, proponent testimony on this? Is there any opposition testimony? Then finally, is there

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any testimony in the neutral? All right, does Senator Pankonin want to waive? Looks like it. All right. That will close the hearing then on LB163. And we'll move on then to LB281. Senator Mello. [LB163]

SENATOR MELLO: Hello there, Senator Adams and members of the Education Committee, my name is Heath Mello, and I represent the 5th Legislative District consisting of South Omaha and North Bellevue. I introduced LB281 as a means of completing the reorganization process regarding the learning community and educational service units that was started two years ago. Two years ago, the Legislature required all educational service units to have two or more members in order to maintain taxing authority. Last year, the Legislature specifically required the Department of Education to approve the movement from one ESU to another ESU within the learning community and changed ESU funding for those ESUs within the learning community. Currently, the two ESUs that represent one school district, ESU 18 of Lincoln and ESU 19 of Omaha, appoint their boards from existing elected school board members. LB281 would continue that practice when two school districts come together in the learning community to obtain services from a joint ESU. In my district, I represent portions of both the Omaha Public Schools and the Bellevue Public School District. The Bellevue Public Schools would like to join ESU 19, the Omaha ESU. These two school districts have much in common with shared borders, significant student populations, and many students from similar demographic backgrounds with similar academic needs. Both the Omaha and Bellevue School Districts have significant high poverty and ELL student populations, creating a set of unique needs for these two school districts. This bill would continue the simplification created earlier when the Legislature permitted school districts in the learning community to join one another. It permits districts to appoint their ESU members from existing elected school board members. Doing so will decrease costs, decrease layers of government, maintain local control, and will be complementary to the new learning community coordinating council which is also partially elected and partially appointed. I am told by the Secretary of State's office that the approximate cost for holding an election is \$75,000. Allowing the ESU members to be appointed from existing elected school board members will decrease the costs while staying accountable to citizens every four years through school board elections. The people who know their district needs best would be promptly able to address them and in conjunction with the school districts and the learning community coordinating council who which they already are working closely with. I'd like to thank you for your time, Senator Adams and members of the Education Committee, and will take any questions you may have. [LB281]

SENATOR ADAMS: Are there questions for Senator Mello? Well, Senator I have a bunch. (Laughter) But I understand you may not necessarily have the answers to all of those and probably you have testifiers coming behind you. The essence of this then is that Bellevue and Omaha want to form an ESU, and they want to do so expeditiously and without electing a new ESU board to this newly created ESU? [LB281]

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SENATOR MELLO: Well, they would be creating a new ESU board, but they would, it would be allowing Bellevue to appoint members to this new, to the ESU board. [LB281]

SENATOR ADAMS: Rather than electing? [LB281]

SENATOR MELLO: Well, they would be elected members. [LB281]

SENATOR ADAMS: Sort of. [LB281]

SENATOR MELLO: Well, they're duly elected through election processes, and essentially what could be done is Bellevue could merge with Omaha into ESU 19 with no representation. And this model or this bill essentially allows the current practice being done in Omaha and in Lincoln, ESU 18 and 19, to just continue their practice that they have now, which is picking or appointing members from the elected school board. [LB281]

SENATOR ADAMS: Okay, are there other questions here? Seeing none, thank you. [LB281]

SENATOR MELLO: Thank you. [LB281]

JOHN LINDSAY: Senator Adams, members of the committee, for the record my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Omaha Public Schools. The part of the problem with having a, asking an aggressive young senator to introduce a bill for you is they thoroughly research it and took a lot of what I was going to say. So I think Senator Mello has a good grasp of this legislation, so I'd like to vary a little bit and focus on a couple of issues that I think are important with respect to this particular legislation. As Senator Mello mentioned, there are two ESUs in the state. They are single-district ESUs, an issue that this committee has been dealing with now certainly since Senator Adams has been here, and I think probably before that. I shouldn't say struggling with, because they have operated very well over the years, but it is something the committee has been aware of. The problem arose or started to become apparent four, maybe three or four years ago when Bellevue did seek to leave ESU 3, to join ESU 19, an existing ESU, and was unable to do so at that time. The legislation...this Legislature addressed a lot of the issues involved and allowed that type of movement to take place. The problem that OPS and Bellevue have recognized is that we believe that the election system of ESUs within our context is overly burdensome, maybe overly expensive. Looking at it from the perspective of where this ESU is located...this ESU 19 would be located entirely within the learning community. So it is unique in that it would be the only ESU located within a learning community. From a perspective of the people within that learning community, they would have actually under current law, well, under current law if that merger took place and they elected an

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ESU board. You would then have three layers of government, all elected mostly by the same people. Those three, those three layers are supposed to be working together. But they would, we believe, would be more disjointed if you had different members elected to doing basically the same function which is to make this, to have this, this structure that--the learning community, that the Legislature created, which we are entirely in support of, completely in support of--but we think it would work better with members who are members of the school board, who are members of the ESU, thus keeping the school board functioning with the ESU, which we have now. I see my time is up, Senator. [LB281]

SENATOR ADAMS: Well, we'll continue to ask some questions here John, that maybe will get at it. Committee, first of all, do you folks have questions? [LB281]

SENATOR SULLIVAN: Yeah, but probably, partly because...excuse me, Senator. [LB281]

SENATOR ADAMS: Go ahead. [LB281]

SENATOR SULLIVAN: Partly because some of us newer senators aren't as familiar with the learning community, except okay, what you're saying with this new situation is that you're creating, you're wanting to create a new ESU? [LB281]

JOHN LINDSAY: Senator, we actually have an ESU. ESU 19 under current law. [LB281]

SENATOR SULLIVAN: Okay. [LB281]

JOHN LINDSAY: Omaha Public Schools and Lincoln Public Schools have their own ESU's and we have no other members in ESU 19 except Omaha Public Schools. Lincoln has no other members except Lincoln Public Schools. [LB281]

SENATOR SULLIVAN: Okay, let's just stay with the one in Omaha. [LB281]

JOHN LINDSAY: Okay. ESU 19 has only Omaha Public Schools. Bellevue has asked if they could join ESU 19. So it's, maybe it's splitting hairs, but a question of whether you're creating a new ESU or whether you are simply adding another member to an existing ESU. Everything we're already doing with that ESU, all the contracts, all the services that are being provided would continue to be provided. So it's not really starting up a new one because we're already in existence. [LB281]

SENATOR SULLIVAN: Okay, but the big difference is that you're asking to appoint the school board members rather than having the membership, rather than have the membership of the ESU made up by elected people. That are elected solely for the

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purpose of being on the ESU membership board. [LB281]

JOHN LINDSAY: Right. Which under current law as well, the ESU 19 board--the OPS ESU--can, the board members of that ESU by statute is the board members of Omaha Public Schools. The Omaha Public School Board sits as the ESU 19 board. So right now it is, in effect, depending on how you look at it, that the election for a ESU board is the same election as the election for the OPS board. Or you could view it as the OPS board appoints itself as the ESU board. But they are one and the same. Legally distinct, but the same members. [LB281]

SENATOR ADAMS: Senator Haar, did you have a question? Senator Ashford. [LB281]

SENATOR ASHFORD: Why don't you just...why doesn't 3 and 19 just, what's the possible benefit of having two ESUs and one learning community? [LB281]

JOHN LINDSAY: I'm not sure that, I think over the long run... [LB281]

SENATOR ASHFORD: If you want to talk to me in secret about this, we can. (Laughter) [LB281]

JOHN LINDSAY: Actually I am not sure what the policy is. I suspect it's something that this committee who seriously is going to look at over the next several years, the learning community is just getting started. [LB281]

SENATOR ASHFORD: It just seems logical to have, I mean, we really are creating another layer of government by having, you know, by having two ESUs and one learning community. [LB281]

JOHN LINDSAY: And that was a concern that Senator Raikes and the Education Committee dealt with over the last two, couple of years, I think, two years ago. At some point, when the committee was going through different proposals, one of the suggestions was one ESU which would operate as the learning community. [LB281]

SENATOR ASHFORD: Oh, I remember that. I remember that very well. [LB281]

JOHN LINDSAY : And that met with some resistance somewhere. And there were, again, maybe OPS has gotten used to having its ESU that works very well. [LB281]

SENATOR ASHFORD: I'm sure that's true and I'm sure that's the answer, but if...and there may be a community of interest between Bellevue and OPS and so forth and so on, that doesn't exist with the other ESUs. I just worry that we're prolonging what should be a combined thing. But there is not, you don't, it doesn't bother you that there might be a conflict between a board, an elected board member making contracts with

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themselves in essence? [LB281]

JOHN LINDSAY: Oh, it is currently existing. [LB281]

SENATOR ASHFORD: I know. But do you think that's conflicting? I mean, they're essentially making contracts with themselves which is, happens, but I. [LB281]

JOHN LINDSAY: Sure. It's a...it's a, yeah, I mean, you look at it and it may be a legal construct, it may be a legal device. [LB281]

SENATOR ASHFORD: Okay, but it's been going on for a long time. [LB281]

JOHN LINDSAY: Right, right. And so obviously it's a legislative policy, but it does...yeah it goes on. [LB281]

SENATOR ASHFORD: It sort of seems odd. [LB281]

JOHN LINDSAY: Yeah, yeah. And whether it's, I frankly don't know the history, Senator, of whether it is... [LB281]

SENATOR ASHFORD: And I'm sure nobody wants to hear any more of my questions, so thank you. [LB281]

JOHN LINDSAY: Nor my answers, I'm sure. [LB281]

SENATOR ADAMS: Are there other questions? Well, John, one of the concerns that I have, and I think you already sense it, and I want to give you a chance to respond to it. You know, we passed LB603 two years ago which brought school districts, we rearranged boundaries of school districts all across the state from one end to the other to put them within the ESU. We mandated that those ESUs redraw their election districts for those ESUs and in this last election cycle, there were new people come in. One man, one vote principle, and I sense you're asking us to go a different direction in this case. [LB281]

JOHN LINDSAY: Well, I, the one man, one vote principle, I think still, you get there...it is a step removed, I would grant you that. But you are still dealing with, I think what we're trying to look at is if there is an ESU operating wholly within a learning community, it's simply a different animal than an ESU operating maybe in a rural part of the state where the focus would be different. A lot of, they're just different districts. Smaller districts can't afford to do on their own some of the things that ESU might provide. Our ESU does provide teacher development, does provide a lot of core services as anticipated by the ESU, but it does take it in a different approach. [LB281]

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SENATOR ADAMS: But if we had, if we went out to the other end of the state, I'm thinking if we go out to the other end of the state, and we may have the ESU in Ainsworth and the ESU in Scottsbluff with similar demographic characteristics, and so we could argue that they have shared uniqueness, and they decided to go together, but didn't want to elect board members, instead let's appoint people to be on it. Yet they have levying authority, a basic principle. I guess I'm struggling seeing why we ought to do it in one other place, and not every place else. [LB281]

JOHN LINDSAY: Well, in that case, Ainsworth and I think you said, Ainsworth and Scottsbluff would not have an additional learning community coordinating council above it, also elected by the people...doing in some respects, some of the same things. If you recall from that legislation that some of the core services funding was transferred from the ESUs within the learning community to the learning community council itself. So I think we anticipated, I would assume, by the Legislature, that there would be some overlap or that there would be some core services that would be provided maybe both by the learning community council as well as by the ESU. [LB281]

SENATOR ASHFORD: Well, I think...oh no, sorry. [LB281]

SENATOR ADAMS: Go ahead. [LB281]

SENATOR ASHFORD: No, I was just following up on that, because I don't think that was why we did it. I mean, I think it was for another, I mean, we assumed that the learning community would be about purchasing services from the ESU anyway so that that money would simply go back to the ESUs in the form of contracts. And I think that was one of the reasons we did it, and we may have had other reasons, but I'm sorry, Mr. Chairman. [LB281]

SENATOR ADAMS: No. That's all right. Are there other questions? Senator Haar. [LB281]

SENATOR HAAR: Thank you. It sounds a little bit like trying to merge counties and cities together. And there's some...you still need all the functions, but it's unique. [LB281]

JOHN LINDSAY: It is. And I hesitate to say it's a, it's a step in any direction, but I think Senator Ashford has raised a question that I think has been raised in the past about how much, how much governance do you need in a, or how much, how many structures do you need in a learning community and I'm, we, I am certainly not authorized to have a position, but my client on that. But I think it is an issue that is out there. This is simply an effort, and Senator Adams, you raised legitimate questions about a, at least, ostensibly, a nonelected board with levy authority. As I mentioned, it's maybe splitting hairs. But the question is, do we have a nonelected board in our ESU right now. It's, that

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is a legitimate policy question, and frankly, I...you would still have elected members of a school board. You would have to be elected by the people in order to be qualified to serve on that ESU board, to be appointed by the colleagues on the school boards as a member of that ESU board. So if you're doing the same, reporting back to the people, it's still in existence. If you get voted off the school board, you cannot sit on the ESU board any more. [LB281]

SENATOR ASHFORD: So I suppose the learning community has the same thing, when they have school board members sitting on the learning community, and they have levy authority, but it's not the same kind of levy authority. They don't levy... [LB281]

JOHN LINDSAY: Right, and they do, the learning community board does have a mix of both elected and appointed, appointed school board members and elected at-large members, so it is more of a hybrid. [LB281]

SENATOR ADAMS: So, I'm trying to follow your line of thinking, so correct me if I'm wrong. Would it be similar to say that if we took all of the communities in, say, York County, and went to each village board and city council and said you've all been elected, now you're now going to be the appointed county board for your county. And you can levy county property tax. Have I just done the same thing? [LB281]

JOHN LINDSAY: I suppose that would be accepted that they have different functions. I mean, you'd be electing city council who have one area, I mean, municipal...municipalities have different approaches than counties would, different services that are provided. Whereas in education, in schools, it's more vertical on your...everything that is being done is trying to get kids educated as opposed to where a county might have a health department or health services that are provided, where a city might not. But I guess... [LB281]

SENATOR ADAMS: I see what you're saying. Other questions for John? Thank you. [LB281]

JOHN LINDSAY: Thanks. [LB281]

SENATOR ADAMS: Is there other testimony? [LB281]

JEFF RIPPE: Senator Adams and other members of the committee, thank you for your time today. My name is Jeff Rippe, J-e-f R-i-p-p-e, and I am an assistant superintendent for Bellevue Public Schools. Bellevue Public Schools does support LB281. A lot of what I was going to say has already been said, so I will try to limit my comments that do not repeat that. But for many years, we have had the intentions of joining Omaha Public Schools as an ESU because of our special needs and similarities. As Senator Mello said, we do share borders, we have same student needs, and for the

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past many years, we have worked together on issues already with Omaha Public Schools: professional developments for teachers and administrators, food service issues, special education, transportation, poverty issues, ELL, all those in partnership with the Bellevue Public Schools and Omaha Public Schools. We feel that this LB281 allows for a smooth transition by allowing the school districts to appoint ESU members from existing school board members. Again, we feel that it exists already with the learning community where you do have both elected officials and appointed officials working together on issues and this would be no different as a school board being appointed to an ESU board, working on those issues. Both school boards know the issues of their school districts, they know the interests of those school districts, and we feel those members are qualified to make the best decisions that are best for both students and staff members of those school districts. Again, I'm not going to say everything that I have on here, because a lot of it was repeated, so I thank you for your time. And I would answer any questions if you have them. [LB281]

SENATOR ADAMS: Okay. Questions? Senator Ashford. [LB281]

SENATOR ASHFORD: Very briefly. I mean, I feel a lot...maybe in the transition you can do it that way, but eventually you're going to need to have elected, in my view, you're going to have to have elected some, whether it be a hybrid or whatever, but somebody's got to be elected before you can levy a property tax. I can't even imagine that the public, I know it's for the right reasons, don't get me wrong. And I think, and I think what you're doing, the whole ESU thing and the more coordination, the better. But I, I mean, for myself, I can't, I mean, it's got to be, maybe there's a transition time, but at some point, you've got to have some elected officials on that thing in my view. But it's the right reason. Good reasons. But I just think you've got to have some elected. [LB281]

SENATOR ADAMS: Are there other questions? Thank you, sir. [LB281]

JEFF RIPPE: Thank you. [LB281]

SENATOR ADAMS: Is there other testimony? Is there opposition testimony then? [LB281]

GIL KETTELHUT: Chairman and committee members, I'm Gil Kettelhut, G-i-l K-e-t-t-e-l-h-u-t, chief administrator of ESU 3. ESU 3 comprises 18 school districts in Cass, Douglas, Sarpy, and Washington County, and I think you might even have a map in front of you. Today I am representing our eight board members. You are going to hear from one shortly. The other board member has provided written testimony to you because his wife passed away over the weekend, and he could not be here. I think really a lot of the subject matter that I was going to cover has been covered, but ESU 3 opposes this bill for one reason. It eliminates publicly elected board members to a separate and distinct political subdivision with taxing authority. Think about that for a

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second. Somebody has property tax authority, yet citizens can no longer run for that board or serve on that board. ESU 3 does not oppose any school districts moving inside the learning community. We believe school districts need to find the service unit that best fits their needs and programs. We are fine with that. If Bellevue and Omaha wished to join together, that's all right with us, but now they have become a multiple ESU and every multiple ESU school district in the state of Nebraska has publicly elected members. And LB603 went ahead and moved to that next step to make sure that happened, exactly make sure that happened. Also, there's another part of this bill we need to talk about. The language of the bill uses the word reorganize. That's the technical word. According to NDE, if this goes forward with Omaha and Bellevue, that also reorganizes ESU 3. ESU 3 then would lose its elected members from Cass, Washington, Douglas, and Sarpy County, and then they would have to be appointed from our 17 school districts. So this has ramifications way beyond just the two districts that have been mentioned earlier. In 2006, this basic proposal came in front of the State Board of Education. It was turned down on a 7 to 1 vote, and our objection at that time was the fact that there would be no representation from the citizens legally elected from the community of Bellevue under this plan. And you can see the results from the NDE Board. And lastly, because I know my time frame, quickly, I think if you proceed, you have both a constitutionality issue, and also I think you have a potential problem that this is really not how Nebraskans wants public government to work, in which you have taxing authority and no elected boards. And the last comment I want to make is that well, they say the learning community is now having appointed board members. That's true, but first the learning community elected two-thirds of their board members from the public before they then appointed one-third. So the majority of that learning community coordinating council does come from public elections and has levy authority. Thank you. [LB281]

SENATOR ADAMS: Thank you. Are there questions? Seeing none, then thank you. [LB281]

GIL KETTELHUT: Thank you. [LB281]

SENATOR ADAMS: Is there other opposition testimony? [LB281]

RON PEARSON: Good afternoon, Senator Adams and members of the Legislative Committee. I'm Ron Pearson, R-o-n P-e-a-r-s-o-n. I'm from Bellevue, Nebraska. I've lived in Bellevue the past 42 years. I taught in the Bellevue Public Schools for 33 years. I'm currently the president of ESU 3 board of education, and I've been a member of the board for 20 years. I've spent 20 years in promoting services for children. I'm also the president of the Nebraska ESU Board Association, and this group is known as NESUBA. I oppose this bill under the proposed legislation. I'm an example of a citizen of the Bellevue School District that could not run for the newly reorganized ESU Board of Education if my school district participated in this reorganization. I could not place my

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name on the ballot or vote for the citizens that would both govern and tax the reorganized ESU. Last year, as you already mentioned, the Legislature changed the original 40-year-old method for electing board members from ESUs with more than one school district. The new election format worked well for ESU 3, as we are now elected by districts according to the one person, one vote concept. To change the new method that is just one year old for a select issue in the state does not seem to be good public election policy. I urge you, on my behalf and the citizens of any school district that could no longer run or vote for a political subdivision with property tax authority, do not advance this bill. Thank you for your attention. [LB281]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? Seeing none, thank you. Is there any more opposition testimony? Is there neutral testimony then? [LB281]

BRIAN HALE: Quickly, my name is Brian Hale from the Nebraska Association of School Boards. We don't, we understand the situation between Bellevue and Omaha, and think that we need to make some accommodation to make that situation work. What we are concerned about is precedent and the creep of the notion if this then becomes true in ESU 3, there's discussion that learning communities may pop up in other parts of the state in the future. And as people look around and decide how they're going to organize their affairs at that point in time, you look at what have we done before? And they'll go back to the actions of this committee and this Legislature in regards to this bill. So I just want to make sure that you are diligent in trying to eliminate unanticipated consequences. That you make sure that this is tied down to a point that this is a specific instance that needs to be addressed, in these specific situations and that there is the notion that this concept of not electing board members is not something that creeps throughout the state and becomes more of the rule than the exception. So with that, thank you. [LB281]

SENATOR ADAMS: Thank you. Are there questions? Yes, Senator Haar. [LB281]

SENATOR HAAR: Yes. Thank you. Right off the hand, it sounds like a good idea to combine various levels of bureaucracy to get the same thing done. But could you talk on both sides of the fence for a minute? I mean, what would be, would there actually be more efficiencies or not? [LB281]

BRIAN HALE: In regards to having two ESUs in Douglas County or what? [LB281]

SENATOR HAAR: No, the proposal here now to reorganize the ESUs that they're talking about. [LB281]

BRIAN HALE: Oh. Well, certainly, as state law is currently constructed, the things are sort of prohibit that from happening because Bellevue has no opportunity to be

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represented in that ESU. And so this gives them some representation. Obviously, they're going to be sort of the junior member of that group at any rate, but they have some voice, and they have some position at the table. And you can say in some respects that they are managing just as OPS and in some respects, Lincoln does. They, as individual districts, they are managing the entire program. They're managing special ed and the sorts of things that ESUs handle and so they aren't, they're certainly well aware of the issues and the needs and the expenses that they need to incur. Fundamentally, I think it's, as has been discussed though, people...this is a separate taxing entity, and as separate, they receive core services, they receive property taxes in a separate manner and in some ways, that's the image is seen that in some respects, here's these single district ESUs that get essentially more taxing authority for that board. Now that, I think they do things that justify that the money is spent accordingly, but the perception is this same group, this same panel is, that we elected to run the school board, has control of more taxing authority than every other school board in the state. So I think there's issues that, there's a benefit, an efficiency probably in the thought process. You don't have to reeducate another panel of people to come to those issues and get them acquainted with the concerns in Bellevue and the concerns in Omaha. But then there's also the perception that this board somehow gets access to more resources and more power. [LB281]

SENATOR HAAR: Interesting. [LB281]

SENATOR ADAMS: Other questions? Thank you, sir. Is there anyone else in the neutral? Senator Mello to close. [LB281]

SENATOR MELLO: Well, I'd like to thank the committee today on hearing LB281 and to leave you with a couple of tidbits. Senator Ashford, you asked a question regarding why not look to have one ESU within the learning community. And right now, out of the 18 school districts within ESU 3 which is, is within the learning community, 8 of the 18 schools are not in the learning community, Douglas-Sarpy County area. So that probably would need to be addressed in regards to drawing new boundaries for ESU 3. And I'd like to, well, in respectfully disagreeing with Mr. Kettelhut, it was not the intention of LB281 to make ESU appoint any board members. The intention of the bill is solely to help Bellevue and Omaha Public School Districts work together in regards to trying to cut the layers of government, to put more services in the classroom to help students out, and reduce costs in the process. And that's the lone intention of the bill. I would, under the leadership of Chairman Adams and the committee, be open for compromises and ideas to how we can find a solution that we can take to the floor. An idea possibly is, and it was mentioned among committee members, of looking for a grace period to try to do some kind of appointment similar to what LB281 does and look to reevaluate it within a couple of year period. And see how that works, and then if necessary, and the committee deems, to move towards elections of board members. That's something that I have discussed with Senator Adams as well as some other members, and that's

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something that I'm open for compromise for and would love to hear some feedback on. So with that, thank you for your time. [LB281]

SENATOR ADAMS: All right. Thank you, Senator Mello. Oh, there is a question, Senator Mello. [LB281]

SENATOR HAAR: Here is the hard question I promised not to ask you. (Laughter) No, this is just an opinion, but do you see any parallel between this, you know, like combining city and county government if they're the same geographic area. Does anything like that apply here in your opinion? [LB281]

SENATOR MELLO: Well, I think, and a few of the other testifiers mentioned it. I think it goes more along the routes of the services provided. And I think school districts and ESUs are more along the lines of a vertical in the sense that they're connecting, they do similar things. City governments and county governments, while they do somewhat similar type of government services, they do have very different functions. And that would be, I mean, you can draw the parallel to some extent, Senator Haar, but I think just the general service and connection of what ESUs do which is service school districts...it's a little bit different and they have a little bit more, they fit the puzzle together pieces a little bit better than the city-county mergers. But there is the argument there of trying to condense government agencies or government, levels of government to provide similar services which is done an awful lot of times with interlocal agreements. [LB281]

SENATOR HAAR: Yeah. Okay, that's interesting. [LB281]

SENATOR ADAMS: Other questions? All right then, thank you. [LB281]

SENATOR MELLO: Thank you. [LB281]

SENATOR ADAMS: And that will close the hearing on LB281. And we have one more to go. Close the hearing on LB281 and we still have LB393. Senator Ashford, I'm going to leave you in charge. [LB281]

SENATOR ASHFORD: May I be in charge from over here? [LB393]

SENATOR ADAMS: Sure. Committee, my name is Greg Adams, representing District 24. And the bill that I bring you today, LB393 is really a very simple bill. But a little history is probably necessary. If we go back two years, one of the concerns that we had; I shouldn't say a concern, let me back up a little further than that. We have the 19 ESUs in the state. And much of what the ESUs do are focused on the schools that are within those ESUs, coordinating services. However, particularly with Internet and other related issues, over time, what we have discovered is that there are some statewide issues that

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ESUs need to coordinate on. So we had a statewide platform for those. Hence, the administrators from the various ESUs have been meeting. And one of the issues that we had some time ago, which I believe has been remedied, we had some open meetings questions. As those administrators were meeting, trying to do the business of coordinating statewide efforts of ESUs, there may have been some neglect of open meetings laws, and I believe in some legislation that we passed two years ago, we clarified that they have to comply with open meetings. What this bill does is take that one step further. When the administrators meet, of course, they have to have an agenda. The problem has been, and I don't know if this has been a problem in all the ESUs, but the problem has been that the administrators, when they meet, are still responsible to the ESU board that hired them. But quite often, the agenda is published for the meeting of these administrators, but yet the boards of the 19 ESUs haven't had a chance to review the agenda or to advise as a group, the administrator, before the administrator goes to the meeting and takes action. So what this simply would do is, in effect, say that the agenda for this coordinating council has to be published 30 days prior to their meeting, which would then give time for the ESU board members to review the agenda, go over the agenda items with their ESU administrator before that administrator participated in that coordinating council meeting. That's the essence of the bill, and I'd try to field questions. [LB393]

SENATOR ASHFORD: Any questions of Senator Adams? Yes, Senator Haar. [LB393]

SENATOR HAAR: What is the genesis, you talked about the problem it creates, but in talking to the ESUs, they also agree with this or? [LB393]

SENATOR ADAMS: Well, we'll find out. [LB393]

SENATOR HAAR: Okay. (Laughter) [LB393]

SENATOR ASHFORD: Yes. [LB393]

SENATOR GIESE: In the 30 day, the significance of the 30 day, can they do that agenda that far in advance? [LB393]

SENATOR ADAMS: That's what this would be asking for, which would then give the administrators time to sit down at their regular board meetings with their ESU board, go over that agenda, this is what we're meeting on next week, and get their feedback. [LB393]

SENATOR GIESE: And then, um, so if...can there be in the discussion of or during the meeting then, can there be a topic brought up that was not on the agenda? [LB393]

SENATOR ADAMS: I would think that would be in violation of the open meetings laws

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where they were required to publish that agenda. What this does, it just pushed the day that that agenda has got to be published out a ways. They still have to comply with open meetings laws. [LB393]

SENATOR ASHFORD: Senator Haar. [LB393]

SENATOR HAAR: Is the Educational Service Unit Coordinating Council a creature of the state? I mean is that created in state statute? [LB393]

SENATOR ADAMS: Yes. Yes. And that's the group were talking about. [LB393]

SENATOR HAAR: Okay. Sounds good. [LB393]

SENATOR ASHFORD: Okay, proponents? Opponents? [LB393]

MATT BLOMSTEDT: (Exhibit 34) Senator Ashford, members of the Education Committee, my name is Matt Blomstedt, B-l-o-m-s-t-e-d-t. I just realized I forgot to give the committee clerk this. I am the executive director of the Educational Service Unit Coordinating Council. I would call myself the "wet behind the ears" director of the Educational Service Unit Coordinating Council. Actually just hired December 15 actually. And I'll go through a little bit history. I think Senator Adams did a nice job of describing the history of...we've moved forward from being an educational service unit administrators association which came under, you know, had issues with open meetings law, how they ran these statewide programs through interlocal agreements, and essentially what happened was over a couple of iterations anyway like LB1208, we created the distance education, I think, coordinating council, is the right term in that case. And then that essentially became the ESU Coordinating Council. And now, yes, we are a statutory political subdivision, for all intents and purposes. And have to follow all sorts of, you know, all the existing open meetings laws and things along those lines. I do actually have a handout. I don't know if the page can go ahead and hand this out. I have a little bit of a time line on what's happened in the fairly recent situation. As far as by statute, the ESUCC was actually created July 1, 2008. Since that time, they've rolled the various functions of the interlocals. We have coop purchasing. There's a whole bunch of things that ESUs do on a statewide basis. All those have been rolled into a statewide contract. At some point during, since July, they decided to create an executive director position, and obviously I applied for it. So I sit here before you and was hired again December 15 or took that position December 15. Since that time, I've actually had the opportunity to go through one ESUCC meeting. We had that January 7. We have another one scheduled for tomorrow. I sit, I guess, in opposition not so much to the concept of what Senator Adams is looking at. I think I sit here, our legislative committee discussed it, and it's like maybe this isn't exactly the solution that's needed for this situation. I think it is my role as the new director to make sure our communications are very good with our members, to make sure that the administrators

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of the ESUs have the information in advance, and are able to describe and communicate that to their ESU boards. I look at basically what the ESUCC needs to do over time, I've spent some road time, I guess, even in bad weather, so far. And I've been to several different ESUs looking at the types of projects that we do, the types of projects that are both, you know, unique to individual ESUs as well as our statewide projects. I have some more of that traveling to do, to go ahead and I guess I want to kind of have my feet in each ESU by the end of February. But anyway, I believe, it's largely my role now to go ahead and work with ESU administrators and to alleviate the problem that's raised here. I would, however, say there may be other problems that we could come across as we go through this. And I certainly would want to work with Senator Adams and you as a committee to address those. And if, I mean, quite frankly, if this continues to be an issue where we're not getting enough information to ESU administrators for their boards to consider, I mean, I certainly will work with you on whatever we may need to do on that front. One thing, obviously just on the 30 day notice thing, actually on the handout, at the back of it...it lists the meetings that they had over the last year. We sometimes meet more than every 30 days. So I think setting just kind of a time frame on that won't actually address the underlying issue that we might, that we might need to address here. And looking a little more broadly about what we're going to do, you know, you just heard a bill related to ESUs, our legislative committee did not take a position on that bill; partially because you see that there's a conflict between two ESUs potentially. I think in the long run, the ESUCC is the place that we try to work and resolve those. I come to the table and try to be an independent, impartial player as to how that works. And again, I think that's part of our role. There's certainly any number of things, there's all sorts of new terminology and ESU language all to itself that I'm learning and I'll be happy at any point in time as I develop that and understand that to talk with you. [LB393]

SENATOR ASHFORD: Matt, the red light is on. [LB393]

MATT BLOMSTEDT: Yep, sorry. I knew you were going to hit me up on that one. I'm done now. (Laughter) [LB393]

SENATOR ASHFORD: Yes, Senator Haar. [LB393]

SENATOR HAAR: Thank you. Do you make decisions at this level that spend money? [LB393]

MATT BLOMSTEDT: They can, yes. I mean, they really can. There's a couple of different ways to look at it. I mean, one is the official funding of the ESUCC itself is 1 percent of the core services funding, which essentially they decide how to use that funds. A lot of it, quite honestly, are now for the operation of my office, and I'm the only employee of the CC. However, they try to do other staff development work and things along those lines and we have these various groups that's the language I talk about,

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that they would do some of that. We also, they make the contracts to provide services to schools. Quite often those services to schools are actually paid for by the schools if they wish to participate in the contracts. The issue of purchasing maybe is the easiest one to get an idea or a concept around that. Simply if the schools are participating in that coop purchasing, they're buying materials that is somewhat pass-through money. That program essentially is run on a contract out of ESU 17. And so that's up at Ainsworth, and they've done that for, I think, 40 years. And now they, that's somewhat under the control of the ESUCC. Decisions about that program are made there. So yes, in some cases, these contracts and the arrangements for the services are decisions that are there. We always do try to get the agenda out as quickly as we can. If there's agenda items that there will be action items, it's specifically listed on the agenda. I think our meeting tomorrow has three action items on it. You know, the rest of the agenda is actually pretty much typically the same. We get a report from each of the projects that is taking place. And that's fairly consistent, so. In fact, last meeting, on January 7, there was an issue that essentially wanted, we needed action on, but we weren't going to take action on it until the next meeting, so in that case, there certainly was more than 30 days notice that that was going to be on the next agenda, so. [LB393]

SENATOR HAAR: Well, I know this statement will be used against me later, but I do feel that this would be obviously a best practice. If you're dealing with money and issues like that, that all the boards have it. On the other hand, I hate to micromanage, in this case. So I'm just wondering whether it's something you all can take care of yourselves or whether we really need to put it into statute. [LB393]

MATT BLOMSTEDT: That would be my intent. And I think basically if that turns out to be the, it turns out that that's not the case, that it doesn't seem to be addressing the concerns that might be out there, then we need to move towards official best practice. I mean, I think it's the idea that, you know, I go out and communicate what's going to happen. I make sure that I understand their concerns. I don't believe that there ought to be surprises in front of the ESUCC, so. [LB393]

SENATOR ASHFORD: Yes, Senator Giese. [LB393]

SENATOR GIESE: I appreciate the position that you're in, the newness of your position. But so, let me, are you offering then that you will see that items that are going to be discussed on the agenda will be on the agenda from now on, and I guess I'm not sure of the time frame. [LB393]

MATT BLOMSTEDT: And my understanding is they have been on the agenda. It's just, if I understand the issue from the past correctly, you know, an agenda might come together, like if we had a, I'll just use our current situation. We had our meeting January 7. Part of what we were supposed to work on was getting insurance for actually the new position that I'm in, workers' comp, things along those lines. Actually coming up with

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somebody specifically that was going to provide that insurance doesn't really become an action item until we can get the information together and that might be the week before the meeting. And so it's on the agenda, and it's on the agenda as an action item, but maybe some of the other specifics aren't there yet. You know, I mean, that's just an example of those types of things, so. I hope that's answering your question anyway. [LB393]

SENATOR GIESE: Sort of. Thank you. [LB393]

MATT BLOMSTEDT: Sort of. (Laugh) I'll work on that, I guess. [LB393]

SENATOR ASHFORD: It's too bad, Matt, you don't have any enthusiasm for this job. That's the one thing about it. [LB393]

MATT BLOMSTEDT: Yeah, I mean, it's interesting because people ask me if I'm enjoying the new role, and I think maybe I have some ideas, come up with something. [LB393]

SENATOR ASHFORD: You need to get out a little bit, have some ideas. [LB393]

MATT BLOMSTEDT: I do have like a background in community and regional planning and this is the one regional entity... [LB393]

SENATOR ASHFORD: That's okay. No, I appreciate your enthusiasm. And it would seem to me that this is a great new way of addressing some of these issues and that very quite possibly this whole--because the learning community is so new, because you have two ESUs within the learning community boundaries--that's an excellent opportunity to dig in there and see if there's a way of working that out instead of having it be legislative. That's a good, wouldn't that be within what you would work on in the past? [LB393]

MATT BLOMSTEDT: Yeah, I really see it as, you know, the ESUCC, I can take from this angle at least and try to work with them on productive ways to provide services, both the learning community and, you know, ESU 13 in Scottsbluff, so. [LB393]

SENATOR ASHFORD: Thanks, Matt. Any other proponents? Opponents? Or you're an opponent, sorry. That's not, that was a very optimistic opposition. How about neutral? Okay. Senator Adams. [LB393]

SENATOR ADAMS: I've waive closing. [LB393]

SENATOR ASHFORD: Done. [LB393]

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Disposition of Bills:

LB228 - Indefinitely postponed.

LB64 - Placed on General File with amendments.

LB163 - Placed on General File with amendments.

LB281 - Placed on General File with amendments.

LB393 - Held in committee.

Chairperson

Committee Clerk