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Education Committee  
February 13, 2018

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[LB999 LB1052 LB1110 LB1116]

The Committee on Education met at 1:30 p.m. on Tuesday, February 13, 2018, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB999, LB1110, LB1116, and LB1052. Senators present: Mike Groene, Chairperson; Steve Erdman, Vice Chairperson; Laura Ebke; Rick Kolowski; Lou Ann Linehan; Adam Morfeld; Patty Pansing Brooks; and Lynne Walz. Senators absent: None.

SENATOR GROENE: Welcome to the Education Committee public hearing. My name is Senator Mike Groene from Legislative District 42, Lincoln County, I serve as Chair of this committee. The committee will take up the bills in the posted agenda. The hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off cell phones and other electronic devices. If you're going to testify, please move to the chairs in the front of the room and those, when you do get done testifying, please move back and open the chair up for them so we can keep an orderly process as testifiers move to the chair. The order of testimony is introducer, proponents, opponents, neutral, and closing remarks by the introducer. If you will be testifying please complete the green testifier sheet and hand to the committee clerk or page when you come up to testify. If you have written materials that you would like distributed to the committee, please hand them to the page to distribute. If you're not going to publicly testify or need to leave early you can turn in written testimony with a completed green testifier sheet. We need 12 copies for all committee members and staff. If you need additional copies please ask the page to make copies for you now. When you begin to testify, please state and spell your name for the record. How many people are here today to testify on one of the three bills? We'll probably go four minutes. Three on the green, one on the yellow, and then wrap up your testimony. And if there's a lot on one side versus...I might rotate between opposition and proponents. If you would like your position to be known but do not wish to testify please sign the white form at the back of the room and it will be included in the official record. If you're not testifying in person on a bill and would like to submit a written position letter, you needed to have it in by 5:00 yesterday afternoon. Additionally, the letter must include your name and address, state a position against, neutral, or for. The committee members with us today will introduce themselves beginning at the far right with Senator Linehan.

SENATOR LINEHAN: Good afternoon. Lou Ann Linehan, District 39, which is western Douglas County.

SENATOR KOLOWSKI: Good afternoon. Rick Kolowski and also District 31, southwest Omaha. Thank you.

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SENATOR EBKE: Laura Ebke, District 32, southwest of here.

SENATOR MORFELD: Adam Morfeld, District 46, northeast Lincoln.

SENATOR ERDMAN: Steve Erdman, District 47, ten counties in the Nebraska Panhandle.

SENATOR WALZ: Lynne Walz, District 15, Dodge County.

SENATOR GROENE: I believe...Senator Pansing Brooks hasn't said otherwise so I assume she'll be arriving late. To my immediate left is legal counsel, Charles Garman, committee counsel. To my right at the end of the table is Kristina McGovern. The pages are Heather Bentley, a student at the university, and Sam Baird, student at the university. Please remember that senators may come and go during our hearing. We might be introducing bills in other committees or talking to our staff about information. We also might be working on our phone and texting...looking up information or texting someone back in our offices to look up facts so we can ask intelligent questions of the testifiers. Let's get started. LB999 by Senator Vargas. [LB999]

SENATOR VARGAS: Good afternoon. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s, and I represent District 7, communities of downtown and south Omaha. Thank you very much, Chairman Groene and members of the committee. I'm here to talk today about LB999, which amends various portions of the Student Discipline Act as a matter of assuring clear due process. I see this largely as a clean-up bill with a few sections that address matters of equity as well. In 1976, the Student Discipline Act was created because what had preceded it was deemed unconstitutional by Nebraska court decisions. Without any rules about suspension and dismissal, students were being treated differently school to school and district to district. The stated purpose of the Student Discipline Act was and continues to be to assure the protection of all elementary and secondary school students' constitutional right to due process and fundamental fairness with an orderly and effective educational process. Now we go on to say in our current law that sanctions we outlined are to be interpreted at all times in recognition of the right of every student to public education. Unfortunately, what we've seen is that we have some gaps or omissions in the act that can result in big differences in how students are disciplined, which defeats our stated purpose of fundamental fairness. There is someone testifying right behind me who practices education law that will be able to talk about her experiences navigating the Student Discipline Act and how some of these gaps and omissions have affected students and families. I hope you'll ask her these questions so that you will get a better understanding of some of the issues that we are seeing. From the cleanup perspective, I tried to insert reasonable additions, such as making sure parents are told where to request a hearing and setting reasonable time frames for certain actions to happen. There are also a couple of changes that go beyond general cleanup, one has to do with hearing officers. LB999 would allow parents to request a

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new hearing officer if they do not agree with the choice of the superintendent. Another change to the act would explicitly allow homework and coursework completed during a suspension to count towards credits earned. Currently, some school districts accept credits earned, while others do not, causing a much bigger problem for the student who, in addition to being expelled, falls a semester behind. I addressed this in LB999 by simply saying that validly earned credits-- meaning, from an accredited program--need to be accepted. Again, there will be somebody right behind me to answer these technical questions about the Student Discipline Act and who will speak to her experiences with clients. I'd ask the committee to save those questions for her. LB999 is truly needed to fulfill the general intent of the Legislature, which was to provide a specific framework for student discipline, evenly implemented and free from bias in order to assure students' constitutional right to due process and fundamental fairness. I urge you to support LB999 and move it into General File. Thank you very much. [LB999]

SENATOR GROENE: Any questions for Senator Vargas? Senator Kolowski. [LB999]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Senator, do you know the last dates when this was looked at and to the extent of number of topics you have here? [LB999]

SENATOR VARGAS: I don't know the last date that this was looked at, but this is a...there are more changes here. I don't know the last time we looked at this specific Student Discipline Act statute. [LB999]

SENATOR KOLOWSKI: Just asking. Thank you. [LB999]

SENATOR GROENE: Any other questions? Thank you, Senator Vargas. Oh, sorry. Senator Erdman. [LB999]

SENATOR ERDMAN: Thank you, Senator Groene. Senator Vargas, do you have a copy of the bill there? On page 6, line 17, engaging in unlawful knowing possession. What was the intention of adding "knowing" there? [LB999]

SENATOR VARGAS: To make sure there's due process in language afforded to a student that the...it's the burden of proof has to be on the school district to prove that the student was knowingly in possession of something, selling, dispensing, or use of a controlled substance. [LB999]

SENATOR ERDMAN: Okay. [LB999]

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SENATOR GROENE: Any other questions? Thank you, Senator Vargas. [LB999]

SENATOR VARGAS: Thank you very much. [LB999]

SENATOR GROENE: Go ahead. You're wasting time. [LB999]

ELIZABETH EYNON-KOKRDA: Sorry. I was waiting to see if you were going to invite proponents. I apologize. [LB999]

SENATOR GROENE: Oh, I thought I did. [LB999]

ELIZABETH EYNON-KOKRDA: Good afternoon, members of the committee. My name is Elizabeth Eynon-Kokrda, spelled E-l-i-z-a-b-e-t-h E-y-n-o-n-K-o-k-r-d-a, and I'm here in support of LB999. I have practiced school law for 20 years and I've represented and continue to represent school districts and families and children. And this particular bill looks like it's got a lot of little details and some of them may not make sense when you first look at it, like why do we have to do this? The primary reason that I see that this is so important is because it brings a lot of clarity. And as Senator Vargas talked about, when we don't have clarity, whether I'm representing a school district or a family, we have disparate results. So, for example, we have a situation where if I'm talking to a school district and there's nothing that says you have to do this in this particular time frame, the answer you maybe give the school district is, well, I don't know. Take what you need. Whereas, with a family you might say, you thought it meant unlawful possession. Unlawful possession, for example, if you look at all the law behind it, unlawful possession means "knowing possession" but because it's not written in statute sometimes in hearings people are disputing what it means. So bringing very specific clarity will help control costs will, I hope, diminish the need for unnecessary hearings because we've made the law more clear. In essence, LB999 does some really basic things. It talks about students who are suspended can, while at home, complete classwork and homework. It talks about reasonable additional time in excess of 24 hours. There's nothing that says, what is that. I think it makes it reasonable to say, more than double that, 48 hours is reasonable. It says that efforts to hold conferences with students should be documented, that after a decision to discipline has been made and the student is temporarily suspended, the final recommended discipline has to be made within two days. I do understand that there is some concern that two days might be too short a time, based on a process of people coming together. I have to say, I think two days sounds reasonable, but if it's four days, fine. It just needs to be specified so that we don't have a decision taking 15 or 20 days before somebody has actually determined what the actual discipline is going to be. It talks about telling students the proper place to send a request for a hearing. It talks about students who are expelled and complete nonduplicative grade appropriate credits can have the credits counted. I think that's actually very important. We have some situations where we have students going in and they've

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done something that they should be disciplined for. And, for example, I had a young girl who got involved with the wrong kids at school. They convinced her to bring...they wanted her to bring drugs to school. She brought aspirin and told them they were drugs. She was disciplined. She should have been disciplined. Then they wanted her to go to the expelled student program and her mother said, well, I would rather enroll her somewhere else, because she will be with the exact same students in that program. And the school said, if you do that we're not accepting the credits. Forget it, it's ours or nothing. So it really had a negative impact on this student's ability to get free from the negative influences. I think it's a very important part of this bill. It also talks about things like the meaning of personal injury caused by accident. It basically says the Nebraska Supreme Court has already considered this, let's put it into the statute so we don't have to have a hearing and prove up that this is what it actually means. It talks about the school district having a right to settle a school discipline matter any time before the penalty takes affect. I think that's a good thing on behalf of the school districts. It talks about superintendents recommending appointment of hearing officers, family being able to request a different hearing officer. I do know that there has been some concern about this. Right now, what happens is the school district superintendent recommends a hearing officer. Those hearing officers are often employees that report directly to the superintendent that has recommended the discipline and/or they're somehow related to the school district. This statute basically says, if a family disagrees with it, they may ask for a neutral third. And it's not somebody that they pick, it's somebody that's out of a pool of people. And there's actually a process that exists like this right now for teacher discipline if the teacher doesn't agree with the hearing officer that is assigned they can go to this pool and find somebody that they...they basically do a little lottery. There's a rule in the statutes that say, here's how you get to somebody that is viewed as clearly neutral and impartial. I think it's very important from both perspectives. I'm sorry, I see my red light is on. [LB999]

SENATOR GROENE: I wasn't paying attention. I was listening, though. Any questions? Senator Pansing Brooks. [LB999]

SENATOR PANSING BROOKS: Thank you for coming. Is it Eynon-Kokrda? [LB999]

ELIZABETH EYNON-KOKRDA: Kokrda, Eynon-Kokrda. [LB999]

SENATOR PANSING BROOKS: Thank you. Thank you for coming today. I'm interested in...I know that there's a part in the...you may have just touched on it and I missed it about allowing kids who have been suspended to be given the opportunity to complete classwork. Could you speak about that a little bit? [LB999]

ELIZABETH EYNON-KOKRDA: Certainly. I think that the challenge here is we run into different rules across the board in Nebraska. So some school districts have made policies directly

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about completing classwork. The statute talks about classwork, but it doesn't talk about homework. So it basically...you can do classwork at home, but if you don't get the homework assignments you can still fall behind. So we've had school districts say, basically, you can't...no, you can't do that, so they get a poorer grade, which is sort of a double jeopardy. And I don't think it was the intent of the Legislature to do that. And we also have some situations that I run into where the student has been told that in order to get the homework, even though they're in a suspension or they're appealing a longer discipline, maybe a long-term suspension or an expulsion, that in order to even get homework they have to start participating in the expelled student program. Well, they're still suspended. They haven't even been disciplined. They're in the process of saying, well, I don't think that was fair or I don't want to go back to the program where those kids that I got in trouble with are, so I'd like to be able to do this at home while I'm suspended. [LB999]

SENATOR PANSING BROOKS: Okay. Well, I have a reason I think that's really important because our son actually was on a school trip and it was in Kansas and it was a music trip. And on that trip he was...the young women who were with them, part of the singing group, decided that they were going to steal some alcohol from the place that they stopped, the U-Stop or if it was a U-Stop. It was just a Kwik Shop type place. And these girls were actually on video stealing it. My son heard this was possibly going to happen, so he stayed on the bus and did not go in because he didn't even want to be a part or near it. Then they came back on the bus, poured the alcohol into a pop can and then passed it around. He took a sip and thought, oh, my God, and moved away, which is exactly what I would want a child to do. But they came to him immediately because he was vice president of student council, he was vice president of the National Honor Society at Southeast, but they came to him and said, did you do this? And he said, yes, I did, because they got wind of it. He got his first Fs ever. It risked his ability to go to college because of that. So then I thought, well...and some people had said, well, don't even talk about it, don't bring it up. And I'm like, I'm going to tell everybody that this is something that could happen to you if you're on a trip and people need to know the ramifications. So the fact that he was suspended...he was given the same suspension as the girls who stole the alcohol and they all know that that was what happened. And I use him as an example, because he did exactly what I would want a child to do. Make the mistake, move away, and take some ramifications for it. But those ramifications were significant. And in that suspension, he was given Fs in every class and he got his first Fs home at the quarter grade because of it. And I think it's very important. And I think about the kids who are struggling, not my child who did fine, he's been thriving since. But that is something very significant where a kid that's really struggling and then they come home and they have to have Fs. That's quadruple the punishment, so thank you for that. [LB999]

ELIZABETH EYNON-KOKRDA: Thank you. [LB999]

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SENATOR GROENE: Are you done, Senator? [LB999]

SENATOR PANSING BROOKS: I am. [LB999]

SENATOR GROENE: Any other questions? Senator Walz. [LB999]

SENATOR WALZ: Thank you. And thank you for being here. I can tell that you have a lot of experience and that you are very knowledgeable in this area. Can you talk a little bit about the work that you do with your clients and how that has made an impact on them? [LB999]

ELIZABETH EYNON-KOKRDA: Yes, I'd be glad to. In the context of some of these events that I've encountered, which make me think that we need more clarity here, let me give you a little minor one. There's a change in here that Senator Vargas is proposing to say that after there's been a hearing and that there's been a determination by a hearing officer...so the way the Student Discipline Act works is kind of like this: Somebody is accused of doing something bad. If you give somebody a five-day suspension or less, nobody gets to fight about it. If you give somebody a long-term suspension, basically 5 days to 19 days, you have a right to a hearing to say, I had a reason for what I did or I didn't do it, and the school district needs to show that you did what you're accused of doing. If you don't like that you can then appeal it to a school board and they make a decision. And then that decision finally, if you really think it's wrong, wrong, wrong, you can take it to court. But, hopefully, we try not to get there. No side wants to get to court, expensive, it's a big process. But so without some of these time frames, I've had a situation, for example, where a hearing officer made a decision, referred it to the superintendent, the superintendent wasn't pleased with the decision and because there was no time frame we did about two months before they gave the decision as to what they were going to do. There was nothing we could do because the statute had that gap in it. So, basically, what happened is, in this instance, I don't mean to be rude, but the school district basically was able to punish the child without having to agree with the nonpunishment. In other words, we'll keep you out long enough that you learn a valuable lesson, even if we actually didn't have the authority to do so. It's just not fair. I've had...I want to go back to that situation that I've talked about, because this has happened more than once. In the expelled student programs that exist...there's a part of the statutes say, school districts, you need to offer programming to children if you're going to expel them so that they have an opportunity to make up the credits. But as you can imagine, there's a wild difference between the types of programs that might be available. Two challenges arise out of that. One, if you are going to go to a school district that has very minimal opportunity to learn, you may find your...I ask you to imagine having, say, a seventh grade son. And the seventh grade son is supposed to sit at a computer a couple of hours a day, do a computerized program all by himself that is unrelated to the classroom that's very minimal and that's all he's allowed to do in order to earn any credits. And if you're a parent you might want to say, well, I want to take the

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opportunity to take my child somewhere else to get more credits, to do a full class, to enroll that child somewhere else. We have school districts that say, no. If you don't do our program, no credit for you. That's a problem from a credit perspective. It also is a problem, as I referred to earlier, for children who are let's say not hanging around with the children you might want them to hang around with, which is how they got in trouble in the first place. Well, if they have to go to the expelled student program, that's the only way they can earn credit, they're being forced effectively to be with the same children that got everybody in trouble in the first place. It's sort of like Senator Pansing Brooks's situation. I'm guessing that she probably didn't want her son hanging out with the cheerleaders that went and got all the beer. Maybe that wouldn't be a good place to be in terms of influence. So that's a problem I've seen that I think this bill would really address. And then the final thing that I think this bill addresses that Senator Vargas brought up is the hearing officer, the ability to choose the hearing officer. Right now we have sort of a situation where sometimes school districts can choose hearing officers that are, like I said, reporting directly to the superintendent. And whether or not the individual that they choose is truly impartial or not, it really gives a serious inference of bias and lack of impartiality and families don't trust it. And in addition, there's no required training to be a...requirement to have training to be a hearing officer. So if you're asking about some of my experiences here and why I think that's a good thing, I've been in hearings where the hearing officer, they're not a lawyer, they don't understand law, but we're stuck dealing with law. We're stuck dealing with what does unlawful possession mean and bringing out law to somebody that doesn't know how to read the law. And it's not their fault. I mean, they're trying their very best, but they clearly can misinterpret it. I had a situation where...there are only a few things you can do to long-term suspend or expel a student. And if it's not on that list you have to find a different penalty. I had a student who accidentally, according to what the definition of what accidentally is, injure someone. And your statutes...the statutes right now...our statutes say, you can long-term suspend or expel someone if they hurt somebody intentionally. But if it was accidental or it was in the process of defending themselves from something, that doesn't qualify. A school district didn't have that in their own discipline book. The hearing officer said, well, it's what the discipline book says. And we actually had to go to the hearing and appeal that simply because we needed to show what the law is, because the hearing officer didn't have the ability to understand. Those are the kinds of things that I run into and that's why I think this would actually help schools and families, because what it will do is make things clear, unbiased, and there's no question on either side. We know what the rules are for a lot of these things. [LB999]

SENATOR GROENE: Thank you. [LB999]

ELIZABETH EYNON-KOKRDA: Sorry, it's a lot. I'm passionate about this. [LB999]

SENATOR WALZ: Thank you so much. [LB999]



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SENATOR GROENE: Any other questions? Senator Erdman. [LB999]

SENATOR ERDMAN: Thank you, Senator Groene. Can you...if you would, can you elaborate on a hearing officer? Evidently, from what you've said, is there no specific training to be a hearing officer? How does one become a hearing officer? [LB999]

ELIZABETH EYNON-KOKRDA: It depends on the school district. Some school districts do some training, the larger are able to do in-house training for employees that serve as hearing officers, so they train them on what the policies are and how to conduct a hearing. Sometimes it's the school district will hire outside people that say, hey, you know, I used to be a school administrator, I think I know what the rules are. Sometimes it's the superintendent hiring the superintendent's brother. Sort of it's all over the board, but there is no required training. Sometimes it works out well, but when it doesn't work out well is when we have the problem. And what this bill would say is, if the superintendent recommends "John Smith" and the family's happy with "John Smith," good. If the superintendent recommends "John Smith" and the family's not happy, then they can go into this pool and try to jointly pick somebody they can agree upon. [LB999]

SENATOR ERDMAN: So if I'm an employee of the district and the superintendent calls me and says, I want you to be a hearing officer, does my employment contract say that I have to be a hearing officer or is left up to the employee to decide whether they want to do that or not? How does that work? [LB999]

ELIZABETH EYNON-KOKRDA: Generally speaking, it becomes part of the duties. So in other words, in a larger district you might have an individual who is assigned to be doing relationships of families and students, they're part of the student disciplinary process and they have an employee or they, themselves, become the "hearing officer." So it just becomes part of their job description. It's not that somebody might be going out and just plucking somebody randomly out of a group of employees. It's usually an assigned duty in the larger districts. In the smaller district they may, like I said, hire somebody outside like a former employee. I'm well aware of certain districts that have former people that they know and they go out and they say, you used to work for us, will you come in and do it? [LB999]

SENATOR ERDMAN: Wouldn't it make sense if you're going to ask these people to be a hearing officer that they have some training? [LB999]

ELIZABETH EYNON-KOKRDA: I absolutely think they should. [LB999]

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SENATOR ERDMAN: This bill doesn't address any of that, does it? [LB999]

ELIZABETH EYNON-KOKRDA: No, it doesn't. And the reason I think it doesn't is because this same situation has already arisen for teachers. And the way they solved the situation for Lincoln Public Schools and Omaha Public Schools, so Class IVs and Class Vs, is they said if the teacher...let's translate parent...so the teacher feels that there is a badly chosen hearing officer, somebody they're not comfortable with, there's a pool of lawyers that say, I will be it. Call upon me if you need me. And the Department of Education maintains that pool. And then there's a process that's in statute that says, if you choose from that pool...I think it's something like the parties choose three and if they can agree upon one of the three, great. And if they can't, then there's a random lottery and you pull one out, so it's completely impartial. It's not somebody who's reporting to the school district or reporting to the family. [LB999]

SENATOR ERDMAN: So do all districts have a hearing officer, because I was a school board member. I never knew we had one. [LB999]

ELIZABETH EYNON-KOKRDA: Like I said, I think larger districts have them in-house and smaller districts just hire people that they can get from around...like I said, a former administrator, etcetera. [LB999]

SENATOR ERDMAN: Thank you. [LB999]

SENATOR GROENE: Any other questions? Thank you. Next proponent. [LB999]

MADDIE FENNELL: (Exhibit 1) Good afternoon. Thank you, Senator Groene and members of the Education Committee. My name is Maddie Fennell, M-a-d-d-i-e F-e-n-n-e-l-l, and I'm here representing the 28,000 members of the Nebraska State Education Association in support of LB999. I want to thank Senator Vargas for bringing this bill forward. The decision to suspend a student is often a difficult one for all involved, teacher, student, administrator, and parent. While a suspension may be necessary as a consequence for behavior or to ensure the safety of others, we need to minimize the impact a suspension has on a student's academic performance and academic success. Senator Vargas' bill seeks to minimize the effect that a suspension will have on academics by clearly stating that a student must be given the opportunity to make up missed classwork and homework. It also allows for an expelled student to continue earning credits by an accredited institution and have those credits accepted when they return to school. Further, LB999 also establishes the time lines, as we just heard, that will provide for swift decision-making and processing of suspensions and appeals. It is important that we have multiple avenues of response to student behaviors, and we must ensure that those consequences still allow a student a path towards academic success. Thank you. [LB999]

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SENATOR GROENE: Is there any questions? Thank you. [LB999]

MADDIE FENNELL: Thank you. [LB999]

SENATOR GROENE: Next. [LB999]

JULIET SUMMERS: (Exhibit 2) Good afternoon, Chairman Groene and members of the Education Committee. My name is Juliet Summers, J-u-l-i-e-t S-u-m-m-e-r-s, I'm here on behalf of Voices for Children in Nebraska to support LB999. Education is a key indicator of future opportunity for children, and we should make every effort to ensure that our system is setting up students for success. When disciplinary processes are structured in clear and fair ways, students who are at risk of drop out are better supported to succeed in their education. We support this bill because it provides procedural protections that will keep students on track to educational success, rather than pushing them out to the streets and court system. We do know that our schools struggle with inadequate resources--we are well aware of that--but we do have to find ways to address misbehavior while still allowing students to pursue their education. Even students who misbehave deserve a meaningful opportunity to continue their education, and we all benefit when they do so. Procedures and policies that rely too heavily on exclusionary tactics from school actually result in lower educational attainment, not only for the suspended or expelled students, but for the student body as a whole. Studies have shown that schools with a higher reliance on exclusion as a form of discipline actually score lower on academic achievement tests among the total student body, and that's even when you control for demographic or socioeconomic factors. Modifying our Student Discipline Act to provide some clarity, to provide heightened procedural and substantive educational protections for students who might otherwise be at risk of drop out will benefit our student populations as a whole. So, a little data. In the 2015-16 school year, there were 728 students in public and nonpublic schools who were expelled, only .2 percent of our total student population. There were 13,521 students suspended, 4 percent. And now those numbers may not seem alarming and Nebraska actually does have a really high rate of high school graduation. But we have to remember that disaffection from school is also a major driver of our juvenile justice system. Students who miss more than 20 days of school, and that can include students who were out of school for suspensions or expulsions, can be referred to county attorneys for prosecution. In fact, in fiscal year 2016-17, there were nearly twice as many youth placed on juvenile probation for what are called "status offenses" like truancy from school or excessive absenteeism than there were for felonies. And, in fact, 512 students, which was 11 percent of all the youth placed on juvenile probation in fiscal year 2016-17, were for excessive absences from school. Having in my previous life represented some of these youth in the courtroom, I can tell you that those 20 days of missed school or more are usually a conglomeration of suspensions or expulsions plus actual truant behavior, starting to skip school or skip classes, plus sometimes the family would take a vacation or the child would be sick. It would be all added together. And I should say that that

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number does not include any students who also had a higher-level charge beyond absenteeism. At an average daily cost of \$17.36 per youth on probation, with an average length of time on probation of 14.48 months for status offenses, the estimated average cost of those 512 students to our state General Fund would be \$3,989,789. Resorting to the justice system is a costly and heavy-handed approach to student discipline and adding clarifications and procedural protections at the front end of our student disciplinary process, that can keep at-risk students engaged in their education whenever possible, will have a direct impact on those numbers. With that, I'd like to thank Senator Vargas for bringing this important legislation and this committee for your time, attention, and commitment to ensuring Nebraska has an excellent education system for all our kids. I'd be happy to answer any questions. [LB999]

SENATOR GROENE: Are there any questions? Thank you. Next. [LB999]

SENATOR KOLOWSKI: Good afternoon. [LB999]

ROSE GODINEZ: (Exhibit 3) Good afternoon, Senators. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I'm here to testify on behalf of the ACLU of Nebraska. The ACLU is committed to ending the school-to-prison pipeline, a disturbing national trend where our students from our public schools are ending up in our juvenile and criminal justice systems. Many of these children have undergone either a learning disability or have a history of poverty, neglect, or abuse. And instead of providing them the educational or counseling services that they need, we are pushing them down the prison pipeline. LB999 is a necessary step to end the school-to-prison pipeline and ensure state schools are complying with our civil rights law. I'd like to point you to page 2. I pointed out some statistics that are important to note. Students of color are especially vulnerable to push-out trends and these disciplinary actions. The most recent national data from 2014 shows that African-American students are suspended at rates three times greater than their white peers. More than 50 percent of the students that are arrested at school or referred to law enforcement are African-American or Latino. I also included statistics showing the same trends with students that suffer from disabilities or students that identify as LGBT. LB999 further clarifies and sheds light onto the due process rights that students have. As you all very well know and our Supreme Court has stated, students' constitutional rights do not end at the schoolhouse gate. The Nebraska Legislature understanding that and understanding the need for an education and discipline enacted the Student Discipline Act. However, as it reads, without this bill it does not go far enough. The bill clarifies time limits for students, school employees, and board members in which they must complete already codified duties. It also helps balance the power between students and schools in order to ensure that their due process rights are being respected. We look forward to working with the Legislature on ensuring all of our students are receiving an education and an opportunity to learn and not head down the school-to-prison pipeline. Thank you. [LB999]

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SENATOR KOLOWSKI: Thank you. Any questions from the senators, please. Seeing none, thank you very much. [LB999]

ROSE GODINEZ: Thanks. [LB999]

SENATOR KOLOWSKI: Next proponent. Any additional proponents, please. We'll switch to opponents. Please come forward. [LB999]

KYLE MCGOWAN: Good afternoon, Senators. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n, and I'm here representing the Nebraska Council of School Administrators. I would like to thank Senator Vargas and his staff for previously discussing this bill with us and spending time with us. I think there certainly are some things in the bill in which we would not disagree with the intent. However, there are some major concerns with the language in the bill. I'll start off...there's three that I'll talk about. The first one has to do with the appearance that we're taking authority away from the school districts to assign students to the most appropriate placement, and that may be an alternative program. Alternative programs were designed to assist students with continuing their education while still keeping the regular classroom safe. And on page 3, lines 16 and 17, in part says, "which shall not require the student to attend the school district's alternative programs for expelled students." Then on page 8, that sentence is repeated. So, again, alternative programs certainly vary around different school districts, but I think it's important for the school to choose those in placement after their investigation is done. The second piece, really it has to do with what I just heard a proponent speaking to about choosing a hearing officer. So as this bill reads, the final say in the hearing officer doesn't end with the superintendent, it most likely ends with the parent. There is an opportunity for the parents to appeal if they don't agree with the hearing officer. They can go to the school board and appeal that decision. The school pays for the hearing officer, so now the school would be paying for the hearing officer that the parent chose. So my third one that I'll just spend a little bit of time with really has to do with a time line. On page 7, lines 22 and 23 it says, "The decision as to the recommended discipline shall be made within two school days after the alleged student misconduct." Well, truly, if you're going through a due process to determine what took place, that can take longer than two days. There would be examples of maybe school officials not even knowing about an incident after two days. It could happen on a school event, like Senator Pansing Brooks was talking about. To go and talk to witnesses and determine who's really at fault and at what level of fault, I don't think 48 hours is enough to make a reasonable decision. So with that, those three pieces would be our biggest concern. Generally speaking, I was a superintendent in Crete for 25 years. We had one hearing. I don't think hearings take place very often. I think there are schools that train staff to be hearing officers. The Nebraska Council of School Administrators has offered hearing officer training. And because of Senator Vargas, we will be more aggressive in offering more training. Thank you. [LB999]

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SENATOR KOLOWSKI: Any questions, Senators, please? Yes. [LB999]

SENATOR PANSING BROOKS: I'm confused about who the hearing officer is. Is that somebody that's over at the public school administration offices versus...it's not somebody at the school. [LB999]

KYLE MCGOWAN: Well, I think larger school districts may train some staff members to be hearing officers. Since I'm not familiar with that...the one hearing that we had we made a contact actually to the Nebraska Council of School Administrators and said, who are some hearing officers that have gone through training? And we actually contracted with a neighboring district who had...it turned out to be an administrator with some training. Other people use attorneys for hearing officers. [LB999]

SENATOR PANSING BROOKS: Okay. So I think that in the case of which I spoke, we did go to LPS DO, the Lincoln Public Schools district office, and there was somebody there that we met with that could have extended the punishment, even though he had already received the maximum, basically, that the school gave. So is that...that's a hearing officer? It's not really a...it was not a hearing. [LB999]

KYLE MCGOWAN: I don't know if you're talking about an appeal procedure or not. I wouldn't feel comfortable... [LB999]

SENATOR PANSING BROOKS: Well, it wasn't an appeal. So is it just an officer that's at district offices that...because it says it's like a hearing officer, but that's not...it's not a hearing. It's not an actual hearing, is it? [LB999]

KYLE MCGOWAN: It is a hearing. It is a hearing in which, by definition, the officer kind of controls the meeting and so listens to the defendant, if you will, and the witnesses and... [LB999]

SENATOR PANSING BROOKS: Okay. So, generally, they go and they meet with a hearing officer. That hearing officer will recommend something and then if the parents don't agree with it, then they would appeal that hearing officer's decision? [LB999]

KYLE MCGOWAN: Yes. Yeah, there is an appeal process. [LB999]

SENATOR PANSING BROOKS: So it's the hearing officer makes the decision, not really in a hearing. They just hear the case themselves? [LB999]

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KYLE McGOWAN: I don't believe it's a legal hearing by the standard of a judge. [LB999]

SENATOR PANSING BROOKS: It's confusing with that terminology. At least, as a lawyer, it's confusing to me. So, yeah, they don't really have a full hearing unless you decide to appeal that officer's decision, which is a decision past the superintendent and the school's decision, I think. [LB999]

KYLE McGOWAN: Yeah. I think we're talking a little bit about semantics, because I would call it... [LB999]

SENATOR PANSING BROOKS: Okay. I am...that's why I want to clarify for the record was semantics we are talking about. [LB999]

KYLE McGOWAN: Right. Right. So a parent or a family feels that an expulsion is not appropriate. We want to have a hearing. So it's not a hearing in front of a appointed judge within the legal system, it's a hearing process set up in statute in which a hearing officer is selected. But it's a layperson in terms of...I don't believe there's any laws which mandate a training that you have taken to be a hearing officer. Does that make sense? [LB999]

SENATOR PANSING BROOKS: Yes. [LB999]

KYLE McGOWAN: So it's somewhat of a layperson that conducts the hearing, the meeting, to make sure that this student and his family are following a due process procedure. [LB999]

SENATOR PANSING BROOKS: I'm sure that there aren't further recommendations that the hearing office would require. [LB999]

KYLE McGOWAN: What? I'm sorry, say that again. [LB999]

SENATOR PANSING BROOKS: I'm just trying to make sure the process that...I believe what happens is that then you go to the hearing officer. They may make further recommendations about suspension or expulsion or whatever it is. If the families disagree with that, then they appeal that to the...I don't know. To whom? To a... [LB999]

KYLE McGOWAN: Well, you can... [LB999]

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SENATOR PANSING BROOKS: ...school board? Is that who you would appeal that to?  
[LB999]

KYLE McGOWAN: Absolutely. A school board would be a part of the appeal process, yes.  
[LB999]

SENATOR PANSING BROOKS: All right. I also...let's see. And you were...I'm just trying to figure out as far as...I was looking at your notes about...or my notes that I took about you. So if you're in a small town and you have a hearing officer that there's some issue with, how would you propose...because I think that's what Senator Vargas is attempting to deal with by allowing the parents to come in and request another hearing officer. I could see in a small town having an issue with a certain hearing officer and wanting, as a parent, to request someone else. [LB999]

KYLE McGOWAN: Yeah. I think that's fair. Now, again, I'm only talking from my personal experience. There's 243 school districts. [LB999]

SENATOR PANSING BROOKS: But I'm talking from mine, too. [LB999]

KYLE McGOWAN: Okay. Well, in small town Crete, it would not be fair to the hearing officer or to the family to have a local person hear that testimony, if you will. So we would look for somebody outside the school district. [LB999]

SENATOR PANSING BROOKS: Okay. Or the parent could request that? [LB999]

KYLE McGOWAN: Yeah. Yeah. The reason why we only had one hearing--and I don't think there's very many hearings that take place across the state--is because we do settle things without going that distance, in which we're working with parents and working with kids and get things resolved. This is when...this is that 1 percent of time that it's not getting resolved. [LB999]

SENATOR PANSING BROOKS: Thank you. [LB999]

SENATOR KOLOWSKI: Senator Linehan, please. [LB999]

SENATOR LINEHAN: Thank you, Senator Kolowski. Just a little bit more clarification. The hearing doesn't happen unless the parents think there's an issue. [LB999]

KYLE McGOWAN: Yes. [LB999]



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SENATOR LINEHAN: If the parents agree that the child did something and... [LB999]

KYLE McGOWAN: Right. [LB999]

SENATOR LINEHAN: Who decides that discipline, who's the disciplinarian, is that the superintendent or the principal? [LB999]

KYLE McGOWAN: No. No. Usually...again, it's sort of the size of school. But even in a Class B school it would be rare for a discipline issue to get to the superintendent's level, but in the appeal process. So you're out of high school... [LB999]

SENATOR LINEHAN: Let me interrupt you. I'm sorry, but we're talking about suspensions here, right? [LB999]

KYLE McGOWAN: And we're talking about expulsions. Suspensions tend to refer to five days or less. Expulsions... [LB999]

SENATOR LINEHAN: So are you saying that somebody less than a principal can make a decision to suspend a child? [LB999]

KYLE McGOWAN: An assistant principal usually would work with the principal on consequences and often with the teacher, often with who may be involved, including the parents. [LB999]

SENATOR LINEHAN: Okay. So that varies by school district. It could be an assistant principal. [LB999]

KYLE McGOWAN: Sure, it could be. [LB999]

SENATOR LINEHAN: Okay. That's helpful. And then on...as far as kids attending an alternative program, if a child...would it be acceptable across most of Nebraska if the parents decided they didn't want them to go to the alternative program, but they had them take classes through UNL High School? Would that work? Could they accept those credits? [LB999]

KYLE McGOWAN: We would accept credit from an accredited school in Crete. [LB999]

SENATOR LINEHAN: But you don't know if that's true across the state? [LB999]

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KYLE McGOWAN: I don't know. I don't know. [LB999]

SENATOR LINEHAN: Okay. All right. Thank you very much, that's helpful. [LB999]

SENATOR KOLOWSKI: Yes, Senator. [LB999]

SENATOR PANSING BROOKS: Sorry, I just want to clarify something. Our son was suspended for five days. That decision was made by the principal and maybe the vice principal, I don't know who all made that decision. But then we were required to go to the district offices, the administration offices and meet with a hearing officer who would then determine...and we had to prepare all sorts of supplementary proof that this was a good kid, because we were warned that hearing officer could suspend...could further punish for an act where, again, he moved away and did exactly what...but we wanted him to come clean on it, so I'm talking about it. So there are multiple steps that we were required to take. And we were told, there's a chance that he could have more suspension because of his actions. [LB999]

KYLE McGOWAN: Right. So what you may be talking about is a suspension that's five days or less really doesn't have much of an opportunity for a student or a family to appeal. Those can be made quickly and by the administrative decision. Anything more than five days is considered more of a long-term suspension or expulsion and then more due process procedures are required. [LB999]

SENATOR PANSING BROOKS: Well, it was five days, but I don't know. Okay, thank you. [LB999]

KYLE McGOWAN: Okay. [LB999]

SENATOR PANSING BROOKS: It's clear as mud, clearly. [LB999]

SENATOR KOLOWSKI: Additional senator questions, please. Seeing none, thank you very much. Additional individuals opposed to this, please. Anyone else? All right. We had...just go back for a second, on the support side we had the ACLU, which was represented by a speaker. On the opposition we have no other names or groups coming forward. And from a neutral category we also have none in that capacity. Yes, sir, thank you. I'm sorry if I didn't see you there. Go right ahead. [LB999]

GREG PERRY: My name is Greg Perry, an attorney with the Perry Law Firm, been in practice doing school work for 32 years and I feel like I have fallen back in time. In 1996, one particular

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client had 77 student hearings per school year. Now, the last school year, largely as a result of the alternative ed program they had five or six, only one or two of which went to a hearing. So we're not talking about a big problem here, because of the alternative ed solving most of the parent concerns. I would say, I'm testifying in a neutral capacity, because there's aspects of this bill that are appropriate. As Senator Vargas read, the purpose of the act includes a lot of positive things, one of which is fairness. And I've never heard of a situation like Elizabeth Eynon-Kokrda ran into where the hearing officer waited two months to make a decision. That's a loophole that should be plugged. I've never seen anybody else do that. My clients wouldn't do it. But it should be plugged. The main concern I have is with the hearing officer. What we have currently in Section 6 is the school selects the hearing officer. Am I worried about the school being able to select the hearing officer? No, because another purpose of the act is due process, to protect due process. And due process includes having a fair, impartial hearing officer. If they go select the brother of the superintendent that's not a fair, impartial hearing officer. I've never seen that happen, I've never been involved in that, despite 32 years of that. There are situations where some schools will use internal administrators. In fact, my job is to train them to be trained hearing officers and do these hearings. I have seen hearings where the hearing officer says, I'm ruling for the parent and I've seen the hearing officers--even though he or she is an employee--ruling for the school. They are fair and I've trained them to be so. The solution that this bill proposes as to the fairness is horrible. The solution is to look at the way Omaha and Lincoln have their teacher hearings. Currently, every school in the state is required to give teachers a due process hearing. The hearing is, with all school districts except for Lincoln and Omaha, required to be before the school board. Lincoln and Omaha have a choice of using a hearing officer instead of their board. And so this list as referred to in the law from 79-841 has five lawyers on it. The first word I said was that that's bad here on in this is lawyers. Lawyers are the worst hearing officers. When I've seen lawyers do hearings for expulsions, what I see them doing in their mind is going back to their high school days. What did they do when we did this when I was in high school? They've lost the contact that a school administrator has with children. So you don't want school attorneys. And number two is, we're talking Lincoln and Omaha attorneys. So what that means is, you got Cambridge, you got Kearney, you got O'Neill, you got some attorney in Omaha driving five, six hours. That's at least a thousand bucks and they've got to drive back, that's a thousand bucks, and they don't know what they're doing either. So that's the bad piece about the hearing officer provisions. I also think there's an error in the bill as far as the hearing officer. It says, within five school days you hold the hearing. And the hearing officer, currently, for good cause shown--what I've seen it's typically working with schedules--can extend the hearing date beyond the five school days. This bill would add parent consent, and I don't think the parent should be able to hold up the need to delay the hearing when oftentimes the need for the delay is the parent. There was a question as to when this bill was last looked at. It was '96-97 when we got alternative ed in and that's where we have this big drop off, and then in 2010 when we added bullying. [LB999]

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SENATOR KOLOWSKI: Thank you, Mr. Perry. [LB999]

GREG PERRY: And I would like to answer your questions, if I could, as to what you ran into. [LB999]

SENATOR PANSING BROOKS: Please. [LB999]

GREG PERRY: As a parent, I ran into a similar thing. And my child said, my dad is a school attorney, he'll get me off. I went to the meeting and I said, I'm not going to say anything. The school will do what it should do. And what you ran into is, Lincoln has kind of a unique program where they are interested in consistency. You have six high schools and you have several assistant principals within each high school. We could have 20 children do the same thing and have 20 different results. And so what they do is, the administrators within the buildings are authorized to do a five-day suspension and refer to student services. There are two people in student services that make these decisions, one other if they have a conflict. So you've got two people making decisions for the entire district. And that person, then, is to act as a principal for the entire district and decide, should the student be long-term suspended, expelled, or mandatorily reassigned, or what's often done is sign a return to school contract where I agree that I will follow school rules and not do what I did before and I can go right back. You're right, that was not a hearing, what you had. [LB999]

SENATOR PANSING BROOKS: Yes. Okay. And I do remember, it was at student services, so you're right about that. So thank you for that clarification, Mr. Perry. [LB999]

GREG PERRY: Sure. [LB999]

SENATOR KOLOWSKI: Any questions for Mr. Perry, please. Yes, sir, Senator. [LB999]

SENATOR ERDMAN: Thank you, Senator Kolowski. So as I listened to your comments...by the way, I think you need to spell your name for record. [LB999]

GREG PERRY: Oh, I'm sorry. It's G-r-e-g P-e-r-r-y. [LB999]

SENATOR ERDMAN: So if we advance this bill and pass it, are you okay with that? [LB999]

GREG PERRY: Not as currently formed. It's purpose is all very good, the fairness purpose. [LB999]

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SENATOR ERDMAN: So then explain to me how your position is neutral. [LB999]

GREG PERRY: Because there's some parts that are good, that would be a positive thing if the loopholes are closed, some which would not be a positive thing. [LB999]

SENATOR ERDMAN: Well, I listened real close and I don't of any part of that...you're in support of much, but you're very much opposed so you should have been in another category in the opposition. [LB999]

GREG PERRY: I would say that all the time lines, if they're written correctly, closing all the time lines...that's I think the chief motivation of at least the initiation of the bill is the time lines. So when I say I'm in favor of those, at least so long as they're written appropriately, I think I could be neutral. [LB999]

SENATOR ERDMAN: You can think what you want. I think you're opposition. [LB999]

GREG PERRY: Okay. [LB999]

SENATOR ERDMAN: Thank you. [LB999]

SENATOR KOLOWSKI: Another question, please. [LB999]

SENATOR LINEHAN: Thank you, Senator Kolowski. Thank you, Mr. Perry, for being here. I meant to ask this question earlier. One of the time lines was going from 24 to 48 hours. I was confused by some of the testimony, because this hearing...the 24 hours, they have to let the parents know. They've already decided what the punishment is, right? They've already decided the punishment and then they're supposed to let the parents know and then have...it's within 24 hours, but then it doesn't have any stopgap. So I was confused because somebody said, well, we have to get the witnesses together. Wouldn't you already have that done before you punish the kid? [LB999]

GREG PERRY: Okay, so, the 24 hours that's referenced in the act relates to a short-term suspension period. That is, once the school decides to do a suspension of five or fewer days, the school is required to get a letter out to the parent saying the why and talking about the opportunity for make-up work, etcetera. The 48 hours that's a two-school-days provision that's proposed to be added says, the decision as to the recommended discipline--and that's for an expulsion, long-term suspension, or mandatory reassignment--shall be made within two school days after the alleged student misconduct. [LB999]

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SENATOR LINEHAN: After the alleged student what? [LB999]

GREG PERRY: Misconduct. [LB999]

SENATOR LINEHAN: Okay. [LB999]

GREG PERRY: And that's where there are issues raised about, well, if it was vandalism or on an activity trip, oftentimes we may not learn about it for a month or two and yet the law says that student never gets disciplined because we didn't act within two days after the student did the bad thing. [LB999]

SENATOR LINEHAN: Okay. All right. [LB999]

GREG PERRY: I'm sorry, and you had a question about witnesses. [LB999]

SENATOR LINEHAN: Well, yeah, because somebody before said the reason they needed that time was to pull together the facts, which seems odd to me because we've already suspended the kid. But maybe I didn't understand that correctly. [LB999]

GREG PERRY: Yeah, we haven't already suspended the kid. [LB999]

SENATOR LINEHAN: Not even short term? [LB999]

GREG PERRY: You could have in the Lincoln scenario. But, typically, they would wait until they know that it's not just going to be a short-term suspension, but also a mandatory referral to the student services. [LB999]

SENATOR LINEHAN: But isn't the typical...what we're trying to avoid here, we're trying to get so it's more structured according to the first attorney that...because there's so much squish in it, it needs to be tightened up so we're not having the typical versus what happened to my kid? [LB999]

GREG PERRY: Yes. This would be a part of the fairness aspect where she's promoting the closure of a time line. You don't want a student out there having committed a rule violation and sweating it for 10 to 20 days. This would be a provision that I don't...I'm not opposed to the intent, I'm opposed to the way it's written because it's written after the alleged student

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misconduct, when sometimes we don't learn about it or piece the puzzles together. Maybe a student was not... [LB999]

SENATOR LINEHAN: Okay. All right. Thank you very much. [LB999]

GREG PERRY: Sure. [LB999]

SENATOR KOLOWSKI: Any other questions, please. Mr. Perry, thank you. I'm sorry I didn't see you on the side over here. Any additional neutral contributors today? That will end that particular hearing and, Senator, please come forward with the finishing comments that you have, please. [LB999]

SENATOR VARGAS: Thank you very much, Vice Chairman. Members of the committee, I have a couple of things I want to try to address as best as possible. So for the first thing, we heard some concerns from the opponents of this around the school districts' alternative program and creating this change in statute that would basically empower parents to then have a choice if they don't want to choose what is given to them as the alternative program for the school district. And we heard that they can appeal. So even though they can appeal and that's true, I don't believe that parents should have to appeal on the decision on where they will send their children to get the credits for this alternative pathway or this alternative program. It's just putting additional barriers on children and families to then actually make sure that they're following through on the credits that their children need. What we're doing here is essentially saying, if they don't agree with what is the school district's alternative program, that they should have the choice to then choose another school district alternative program in another school district. That's all we're saying. I think we should be providing that choice to parents and families whenever possible in this instance. For the hearing officers, I want to address a couple of things with the hearing officers. The first is, one, we are trying to harmonize what is already...due process that's already being provided to teachers and in what they receive in their hearing process. We want to make sure that a parent...first, a superintendent makes the recommendation for the hearing officer. Okay? Then, what we're saying in this change is that parents should have the ability or the choice if they don't agree with that choice to then choose from the selected state department list of hearing officers. We're saying that they deserve the ability to then have an alternative choice if they don't agree with that recommendation. But there's still a recommendation that's made from the superintendent on the forefront. I think this is important because we're talking about due process here. We're talking about parents' ability, if they believe that there's a bias, whether or not we're saying there is a bias whatsoever, we're just saying if they believe that there is they should have the choice to then choose from an approved list from the Department of Education of hearing officers that have already said, we're willing to be hearing officers. That's what we're saying. Another question was a little bit around 79-268, page 7, lines 22 to 23, where it says, "The

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decision as to the recommended discipline shall be made within two school days after the alleged student misconduct." Now, we are willing to work on this if this is a point of contention. But if you look at the sentence before--and this is maybe where some of the conflict is coming where it says--if a principal makes a decision to discipline a student by long-term suspension, expulsion, or mandatory reassignment, the following procedures shall be followed. So where the instances are when a student is disciplined in these specific three areas, what happens then from there on in? And what we want to make sure is that the discipline that is made or the recommended discipline when it is learned when somebody is...when a principal or administrator is making a decision and learns of the misconduct, that there is a timely manner with which the family is being notified of a recommended discipline. This way, the due process...the time lines are reasonable and fair for the family and for the child. But we are willing to work on that piece if there's a little bit of a question around feasibility. But that's the original intent of this, to make sure that the notification is happening as soon as possible, especially when decisions are in process of being made. Those are the pieces that I wanted to make sure to address other than I know, Senator Erdman, you talked a little bit about training. This is not having to do with changing the training. This is more with due process, but I appreciate your interest in making sure that we had adequately trained hearing officers. But what I would be open to in this or in future is, we want to make sure through this to encourage districts to train more of their hearing officers so that they can expand the pool to then make sure they're meeting the requirements, but then also providing more options to parents and families, because if they don't have more of the options then they're not going to have the due process that they so deserve. And that's what we're talking about here. And remember again, the state department maintains this list of already approved hearing officers, people that are voluntarily saying that we're hearing officers, we can do this, and they've been approved by the state Department of Education. [LB999]

SENATOR KOLOWSKI: Any other questions, please. Senator Vargas, sounds like there's some tweaking that could be done on a number of items that you've mentioned and you will hope for that to take place. [LB999]

SENATOR VARGAS: Yes. And I would say that in specific to this, page 7, 79-268, lines 22 to 23, that, yes, we're willing to have conversations any way, shape, or form. But I think there are questions around, is it feasible? We're willing to work on the feasibility of time lines. But in instances where we are either giving the choice to parents and families to then...and in providing them with the option and have the choice to then make a decision versus for what might be the pathway they choose, let's say for the student discipline alternative program or for how they get credits or the hearing officer, I want to make sure that due process is intact. We're willing to talk about the time lines because I think that we need to make sure we're being as open minded as possible about what's reasonable. But if we don't put in time lines, what we're going to see--even though there are smaller instances of this happening as a result of great changes that happened in the '90s in regards to providing these alternative program pathways and there's been a diminished



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number of hearings--there are parents and families that are still going through this. And these parents and families deserve as swift of a time line as possible. And if part of that is lying in our responsibility to set reasonable time lines in statute so that they're happening and that there's urgency, I think it's incumbent upon us to make those changes. So thank you very much, Vice Chairman and members of the committee. Happy to answer any more questions. [LB999]

SENATOR KOLOWSKI: Any last questions, senators? Seeing none, Senator, thank you very much. That will be the end of the hearing on LB999. We'll now move to LB1110, please. Senator Vargas again. [LB999 LB1110]

SENATOR VARGAS: Can't get rid of me. All right. Let's see what I've got here. [LB1110]

SENATOR KOLOWSKI: Senator Vargas, welcome again. It's good to have you back. [LB1110]

SENATOR VARGAS: Thank you very much, Vice Chairman Kolowski. [LB1110]

SENATOR KOLOWSKI: And we will turn to you now, please. [LB1110]

SENATOR VARGAS: (Exhibit 1) Okay. All right. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s, I represent District 7, the communities of downtown and south Omaha in the Nebraska Legislature. I want to thank Chairman Groene whenever he comes back and Vice Chairman Kolowski and members of the committee. I'm here today to talk about my bill, LB1110, which I'm proud to cosponsor with Senator Adam Morfeld. LB1110 clarifies existing statute around public school and district performance to reflect its original legislative intent that performance scores are updated annually. I know you're receiving some documents. These are specified report cards for the school districts that are in your area and I'll talk a little bit about that letter that's also from former Senator Greg Adams, who was the original individual that introduced legislation for AQuESTT. So before diving into LB1110, I'm going to give you a brief background on Nebraska's public school accountability system, AQuESTT. In 2014, the Legislature enacted a new state accountability model for public schools known as Accountability for a Quality Education System Today and Tomorrow, referred to as AQuESTT. AQuESTT incorporates performance on state assessments, college and career education, teacher effectiveness, and use of data to rank public school and its performance. AQuESTT measures schools and districts based on a number of criteria, including the quality of relationships with students, teachers, and community organizations, responsiveness to high-risk student learning needs, strategies and processes that support successful transitions from elementary to middle to high school, college, career, and civic readiness, educational opportunities available to students, and the reliability and validity of assessments of students and teachers. Criteria are measured using a rubric and are self reported by the district and individual schools. Now, the information

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that is reported is then used to guide the prioritization of statewide investments in school and district improvements. The AQuESTT bill, LB438, which was introduced by Senator Greg Adams and was supported by the Nebraska Department of Education and the Nebraska State Education Association, NSEA. That brings us to LB1110. And as I said earlier, the purpose of LB1110 is to uphold the original legislative intent of the statute, which was to have school and district scores reported annually. In the first years of implementation the Department of Education has reported individual scores in 2015 and 2016 and overall evidence-based analysis, or EBA, score in 2015. However, there were no EBA evidence-based analysis scores reported in 2016 and no EBA evidence-based analysis or classification scores reported in 2017. After speaking with the introducing senator, Greg Adams--which you have a letter in front of you--I understand it is to be his intention that all scores are reported annually. You have in front of you a letter from him indicating this in case he and I also acknowledge that he anticipated that it may take a few years to report data annually. However, we are now in year four of data collection and it is my hope that LB1110 will provide some guidance and clarity to the department that all scores for districts and schools, for both individual criteria and overall EBA, should be reported annually going forward. LB1110 makes the expectation clear by adding the word "annually" to a few places in the existing AQuESTT statute. It also provides for a reporting deadline for the Department of Education of December 31 of each calendar year. Having these evaluative scores available helps the state guide and target its investment in public education, ensuring that resources are directed where they are needed the most, and providing transparency for the public regarding the effectiveness of our public school system. I urge the committee to support LB1110 and move it on to General File. And with that, I'll be more than happy to answer any questions that the committee might have. Thank you very much. [LB1110]

SENATOR KOLOWSKI: Questions for Senator Vargas, please. Yes, Senator. [LB1110]

SENATOR PANSING BROOKS: Are these sheets somehow specific to our district or why were they labeled with our name? [LB1110]

SENATOR VARGAS: Because they are specific to your district. So the report card that you have underneath you is the school district that is in your district. Yeah. [LB1110]

SENATOR PANSING BROOKS: Oh, sorry. Oh, yeah. [LB1110]

SENATOR VARGAS: No, I know. [LB1110]

SENATOR PANSING BROOKS: Thank you. [LB1110]

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SENATOR VARGAS: Thank you. [LB1110]

SENATOR KOLOWSKI: Senator Linehan, please. [LB1110]

SENATOR LINEHAN: Thank you, Senator Kolowski. I'm trying to figure out where...because I've got the law right here and I know the law in a couple of places currently says annually, but it's not...okay, so it's the last line...so these lines here...I'm sorry, page 2, 18 and 19, they're underlined, so that would assume that they're new language, but we don't strike out the old language. Usually when we get a green copy, isn't the old language struck out or am I not reading this right? [LB1110]

SENATOR VARGAS: You talking about page 2, lines 18 through 20, the new language added? [LB1110]

SENATOR LINEHAN: Right. [LB1110]

SENATOR VARGAS: Yeah, so the new language is added specifically, I would say more so to summarize that all these, the report of the performance of public schools shall be done annually and setting a specific time line. And there's other places in lines 11 through 17 where we wanted to make sure that any specific reference to a performance score of any of the classifications that we're also adding the word "annually" so that's being applied for everything that you see in front of you on that report card, because there are many different things that are on that report card. [LB1110]

SENATOR LINEHAN: Okay, I'm just...I'm not questioning what you're trying to do here,... [LB1110]

SENATOR VARGAS: Of course. [LB1110]

SENATOR LINEHAN: ...I'm just confused by looking...maybe I don't have...I think it's the current law...why there's not language here that's...I'll have to study...but, thank you. [LB1110]

SENATOR VARGAS: No, no, no. It's okay. We can come back to it at the end if need be. [LB1110]

SENATOR LINEHAN: All right. [LB1110]

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SENATOR KOLOWSKI: Senator Pansing Brooks. [LB1110]

SENATOR PANSING BROOKS: Is Speaker Adams coming to speak on this? [LB1110]

SENATOR VARGAS: He is not. The letter that was submitted is the letter for the record. There's a letter that's attached. [LB1110]

SENATOR PANSING BROOKS: I saw that. I'm just wondering if you can walk us through a little bit of this information or is it too general to...because, like, it has status 3, then it goes down to graduation 3. I don't know what that 3...is it 3 out of 4? Is it...I'm trying to figure out what these...this is not a clear graph to me, so I'm just trying to grasp what is being created by this. [LB1110]

SENATOR VARGAS: Are you asking me a question? [LB1110]

SENATOR PANSING BROOKS: Can you explain this to me? [LB1110]

SENATOR VARGAS: So for the purposes of this hearing is we're not, I would say, evaluating the information that's being provided on that sheet. It's more of an example of what is being reported as the report card data for your specific school district in your area. As to the usability or the friendliness of that report card is another hearing for another instance, another question. [LB1110]

SENATOR PANSING BROOKS: Wow. [LB1110]

SENATOR VARGAS: I can't speak to that, but I would ask those questions talking to the Department of Education, other teachers, and usability based on what you see in front of you. But that's...we wanted to just give you an example of what we mean about the information that's being provided. [LB1110]

SENATOR PANSING BROOKS: Wonderful. Thank you. [LB1110]

SENATOR KOLOWSKI: Senator, you're giving us an example. I have one elementary school of the many in Millard. On the flip side it's the Millard Public Schools general scores overall that are also being looked at. So this is one school of 30 or 40... [LB1110]

SENATOR VARGAS: Of course. It's not all your schools. [LB1110]

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SENATOR KOLOWSKI: ...that are in my district compared to where the whole district is also. And that would be another lesson another time. [LB1110]

SENATOR VARGAS: Correct. Thank you very much. [LB1110]

SENATOR KOLOWSKI: Thank you, I appreciate that. Any other questions, please. Yes, Senator. [LB1110]

SENATOR WALZ: Thank you. Thank you, Senator Vargas, for bringing this. How is this information used then? Once you receive this report, you would receive it annually, how would this be used? [LB1110]

SENATOR VARGAS: There's many ways that it could be used. I can't tell you the exact ways that the department is using it, but I can tell you based on the intent and what we currently have, the intent was to provide and create an accountability system under AQuESTT that provides transparency, both to the public, and accountability to lawmakers and to the Department of Education that we are evaluating on an annual basis where our schools are, where we need to also...and there's a whole separate part of AQuESTT that was also on identifying priority schools so that we're putting our resources effectively into a small group of schools so that we can see more improvement over the long term. But in terms of what it should be used for, I personally believe that this information is for us as lawmakers, I think it's for the public, I think it's for teachers and schools and administrators as well as the Department of Education to be able to evaluate and monitor where all of our schools are doing on a more norm set of criteria that allow us to make decisions in real time year to year on how we're supporting our schools. [LB1110]

SENATOR KOLOWSKI: Please. [LB1110]

SENATOR WALZ: Thank you. And I know we're not evaluating the evaluation, but just do you see that there's anything that takes into account free and reduced lunch or poverty levels or anything like that on this? I mean, I know we're not supposed to be talking about... [LB1110]

SENATOR VARGAS: You can ask me anything you want, Senator Walz. [LB1110]

SENATOR WALZ: I guess if this is something that we want to have annually, I think it should include all of the components that would go into.... [LB1110]

SENATOR KOLOWSKI: May I? Perhaps what she's asking is the depth of material that would be a three-ring binder that would come with Aurora Elementary School, an example or a sample

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that I would have as principal of that building sitting now with my team of teachers and public that is trying to move through that school, then we would have data and we would go over and see where we are and what deficiencies we have, what things we're very strong in, and how do we adjust. [LB1110]

SENATOR VARGAS: Yeah, making decisions based off of basically data-driven decisions at a school and district level. I think to your point...to try to answer your question, the intent of this is to make sure that this information is constantly coming to us annually, all the information, not just some pieces of it. And I believe that that's the original intent. And I think that's...when we get to that place, schools, like what you're saying your example, parents, teachers, and the public are going to be better informed on where our schools are actually...how they're doing and their performance on a set of criteria that we originally wrote into the AQuESTT bill in the first place. [LB1110]

SENATOR KOLOWSKI: Senator, you're basically saying that we're not doing this to the depth of what we should be doing in statute at the current time? [LB1110]

SENATOR VARGAS: Yes. Yes, so that in 2016 there were no EBA scores reported and those are the evidence-based analysis scores that you see on that report card. And then in 2017 the evidence-based analysis scores or the classification scores were not reported. And there's obviously some time for ramp up and I just want to reiterate that piece from the testimony. But I also, I think within three to four years we want to make sure that this is being done annually, because otherwise it's not being utilized for the intent of actually providing us with information to make meaningful changes. And that was the original intent. [LB1110]

SENATOR KOLOWSKI: Additional questions from senators. Thank you. We'll see what else we have coming up. Thank you. [LB1110]

SENATOR VARGAS: Okay. [LB1110]

SENATOR KOLOWSKI: Thank you. Could we have proponents please come forward now? Welcome. [LB1110]

BRIAN HALSTEAD: Good afternoon, Senator Kolowski. Members of the Education Committee, my name is Brian Halstead, B-r-i-a-n H-a-l-s-t-e-a-d, I'm with the Nebraska Department of Education. The state board and the department are supportive of LB1110. I would point out that the very section of statute that Senator Vargas is amending was also one we were trying to amend yesterday in LB1081 to say not less than three priority schools. So the changes

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he's proposing in this bill, if you want to put them in that bill, we're fine with that, too. And I'll try to answer any questions you might have. [LB1110]

SENATOR KOLOWSKI: Yes, Senator, please. [LB1110]

SENATOR LINEHAN: Thank you, Senator Kolowski. Thank you, Brian. The department testified in favor of Senator Adams' bill, too, didn't it? [LB1110]

BRIAN HALSTEAD: Absolutely. Actually, we helped him write the bill. We were part of the team working on it. And he had a bill in 2012 the department assisted, he had one in 2013, and finally 2014 the Legislature moved forward on having what's now in statute, absolutely. [LB1110]

SENATOR LINEHAN: So going back to 2012 and then '14, was it your understanding that the intent of the Legislature, not just Senator Adams, but the intent of the Legislature was that it would be reported annually? [LB1110]

BRIAN HALSTEAD: And we have every year reported data. And I understand there's the reporting aspect of it and there is a lot of data out there. I don't know the two-page handout he gave each one of you, that is one of multiple Web site pages you can access data for every one of the schools. There is on that very Web site ability...you can download all of the data. [LB1110]

SENATOR LINEHAN: If you can find it. [LB1110]

BRIAN HALSTEAD: Right. I understand that, so you have to have some sophistication. [LB1110]

SENATOR LINEHAN: I tried right before I came today to find the Web site...you pull up the Department of Education. [LB1110]

BRIAN HALSTEAD: Right. [LB1110]

SENATOR LINEHAN: The whole idea of this is transparency and it's very difficult to find it. You're better off if you Google it. [LB1110]

BRIAN HALSTEAD: Yeah. And I understand that there are a lot of variables in how one does that. [LB1110]

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SENATOR LINEHAN: Yes. It's very difficult to find. So I'm reading from the current law right now. [LB1110]

BRIAN HALSTEAD: Right. [LB1110]

SENATOR LINEHAN: The State Department of Education shall annually report the performance level of individual public schools and school districts as part of a statewide assessment and reporting system. [LB1110]

BRIAN HALSTEAD: Right. [LB1110]

SENATOR LINEHAN: So performance level of individual public schools. The department has done that once. [LB1110]

BRIAN HALSTEAD: We've done that every year, Senator. Every report shows the performance level of every school and every district. [LB1110]

SENATOR LINEHAN: In December of 2015. [LB1110]

BRIAN HALSTEAD: We did the first classification of the schools and the districts, based on the indicators selected by the State Board of Education, yes. [LB1110]

SENATOR LINEHAN: Okay. I've read through a lot of testimony and a lot of floor debate in the last week. And it was clear in the testimony and the floor debate that people were going to be able to see what school x was doing versus school y. And more importantly, far more importantly, where school x was last year, where x school is this year, so we could show growth. To Senator Walz's question, this isn't about comparing schools so much as it is about seeing if we're moving in the right direction. So wouldn't it be helpful--and you've recently selected another priority school. [LB1110]

BRIAN HALSTEAD: Correct. The State Board did that at the February meeting, correct. [LB1110]

SENATOR LINEHAN: But it's not transparent to me, at least, who tries to pay quite a bit of attention of how you picked a new priority school. You must have some ranking you decided that school or did you go back to '14-15 information to pick that school? [LB1110]



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BRIAN HALSTEAD: So, Senator, I hear what you're asking and I will tell you there was a presentation made to the State Board at their public meeting with all of the information as to why the school you're talking about was presented. We didn't run that on the front page of the Omaha World-Herald, but it was in the public meeting and if you'd like to have all of that presentation material, we'll get that for you. I mean, obviously... [LB1110]

SENATOR LINEHAN: There was a story in the World-Herald about it. [LB1110]

BRIAN HALSTEAD: Right, but they didn't take the whole--I don't remember how many pages of the report that... [LB1110]

SENATOR LINEHAN: So for the public to understand, instead of it being public information available on the Web site, which was the intent of the Legislature, we're all supposed to go to a meeting? [LB1110]

BRIAN HALSTEAD: For the State Board selection of a priority school that happens when the board meets. That's how we have to comply with the laws. [LB1110]

SENATOR LINEHAN: Okay, so if we pass this that you're supporting? [LB1110]

BRIAN HALSTEAD: Yes, absolutely. We would hope you would support it. [LB1110]

SENATOR LINEHAN: What does that mean? What happens next? Are we going to have more of this? [LB1110]

BRIAN HALSTEAD: Well, so, Senator, let's back up a second. We have over 1,100 schools we classify in 244 districts, based on a whole number of data elements. So I understand the desire to have a simple report with a whole number of potential variables. So I understand that for some the Web page may not be user friendly. I get that. So if there is a consensus as to how all of that information should be displayed, we're willing to listen to any of you. We have clearly heard from lots of people about how they think it's best displayed and it's an ongoing conversation. [LB1110]

SENATOR LINEHAN: I think you're saying, no. [LB1110]

BRIAN HALSTEAD: No. I think we're trying to display information that... [LB1110]

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SENATOR LINEHAN: You did that once in 2015, in December of 2015 you classified the school, which was an annual classification level of individual public schools as part of a statewide assessment and reporting system. So if we pass this legislation, will that happen...what happened in December of 2015 happen every year if we pass this legislation? [LB1110]

BRIAN HALSTEAD: Yes, as I told yesterday, this fall you will see now classifications for all 1,100 schools and districts, yes. [LB1110]

SENATOR LINEHAN: And it will happen annually thereafter... [LB1110]

BRIAN HALSTEAD: Yes. [LB1110]

SENATOR LINEHAN: ...if we pass this legislation. [LB1110]

BRIAN HALSTEAD: If you don't pass this legislation it's going to happen annually. [LB1110]

SENATOR LINEHAN: Okay. Thank you very much. [LB1110]

BRIAN HALSTEAD: Sure. [LB1110]

SENATOR KOLOWSKI: Brian, did you do that in '15 and '16 and '17? Was it available at all? [LB1110]

BRIAN HALSTEAD: We published all of the information. Now, I believe Senator Vargas pointed out the evidence-based analysis. That was a new tool that had never existed before. We put that out to school districts after the 2014-15 school year ended to get responses to them and we got that back in late in 2015. I think it was November before we published the classifications. The problem with the timing is, that was asking them about their prior school year too late. So to get that indicator in the correct school year there was not an EBA done in the 2015-16 school year, because we couldn't get it back out before that school year ended. So there was a year when there was no evidence-based analysis done. We had to try to get that in the proper setting. Now schools complete that as the school year is closing and that is available after the school year ends to be utilized for the classifications. But we didn't have it synched right the first time around, so we had to wait to get it into the correct sequencing of it. And I think, probably, I don't know of Senator Adams' letter...I think Senator Vargas mentioned something in there about getting everything aligned or getting the...there is an example of trying to build something and we didn't have it in the right time sequence. So to get it into the school year sequence, we had to wait and get it in the correct sequence so it could be utilized in a better format. But that's part of building

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out the entire accountability system. The changes to federal law, the repeal of No Child Left Behind and now the Every Student Succeeds Act, as we said yesterday, Senator, are new features of ESSA that didn't exist before that. We had to make some changes and adjustments so that our accountability system for the state of Nebraska will accomplish both state accountability purposes and federal accountability purposes. And that has not necessarily been just simple, but we have I believe the entire accountability system now going forward that will work together for both state and federal purposes, so. And as I said yesterday, Senator, we will be classifying schools and districts this fall, based on... [LB1110]

SENATOR LINEHAN: And every year they're extended. [LB1110]

BRIAN HALSTEAD: And every year thereafter, yes. [LB1110]

SENATOR KOLOWSKI: I think Senator Linehan had questions about continuity of information and if I have difficulty trying to find something, that's why I have staff. They help me get those things done correctly and that's half the battle sometimes with technology. [LB1110]

BRIAN HALSTEAD: And I recognize that, Senator. I'm from the generation that never had computers, so I'm learning really quick on all of the availabilities of that. I know it's a challenge. [LB1110]

SENATOR KOLOWSKI: Senators, any additional questions, please. All right, thank you very much. Other proponents, please. [LB1110]

JAY SEARS: (Exhibit 2-10) Good afternoon, Senator Kolowski and members of the Education Committee. For the record, I'm Jay Sears, J-a-y S-e-a-r-s, I represent the 28,000 educator members of the Nebraska State Education Association and I'm here to express NSEA support for LB1110. I have to take a short journey on this piece because I think I've written this testimony three times and I keep interchanging 11s and 10s, so maybe the last bill that comes up will help me out. Thank you, Senator Pansing Brooks. Anyway, LB1110 would require...you already know what it requires in classified schools every year. This aligns with the Every Student Succeeds Act under the federal law. The Nebraska Department of Education has been reporting this data. We appreciate the work of the staff at NDE and hope the Legislature will continue to support the department with the resources they need to collect and disseminate these data. As an aside...that's the end of my testimony, but a little of an aside. I've served on the...it's the AAA group, Accountability, Assessment, and some other A in the process with the Department of Education as they've kind of implemented the process of accountability and assessments in putting the whole package together. And it was very frustrating a few years ago when NCLB required one type of data reporting and the state of Nebraska asked for a different type of

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accountability system. And so we had two reporting programs going on in the state of Nebraska and it was really confusing. I'm very pleased with what's being developed and I think for you, as senators, you'll be able to get the data and it will make some sense and you'll be able to track individual schools and individual groups by their performance and then by using the accountability system as the department calls AQuESTT. So it's making progress. I'm familiar with the Web site and I go in and I check schools, because I want to see how well my son is doing in Elkhorn. We keep on track of that and his school is doing very well because...it must be him, right? I don't know what it is. So, anyway, I'll end my testimony and be glad to answer any questions. And that's why I'm always smiling back here as you're trying to go through the process of figuring out what it is Nebraska does for accountability and assessment. So thank you very much for your time. [LB1110]

SENATOR GROENE: Any questions? [LB1110]

JAY SEARS: Thank you, Senator. [LB1110]

SENATOR GROENE: Any other proponents? We have no letters, proponent letters. In fact, we have no letters at all. So, opposition. No opposition. Neutral. No neutral. Do you want to close, Senator Vargas? [LB1110]

SENATOR VARGAS: Thank you very much, Chairman Groene. Members of the committee, I just want to thank you for this...for having the time to talk through this bill. I want to also thank Brian and the Department of Education and the Board of Education for their support and their efforts to strengthen our education system in Nebraska. We are happy to look into amending this into the other bill that was referenced that would provide this new language of no less than three priority schools, given that it's with the same area of concern for the AQuESTT system, the statute for AQuESTT. And with that, I just want to thank you. I know that this is not everybody that was here...I think, Senator Kolowski, you're the only individual that was here when we did the AQuESTT system other than Speaker Scheer. The intention with this is to provide more transparency, accountability, and provide information that helps us pivot and make changes to our system and recognize both growth and also recognize areas of improvement. And I think this is going to enable us to do just that, making sure that we're annually updating this information, making sure that it's coming up and is accessible for all, is what this bill is about. So thank you very much. And I'm happy to answer any additional questions you may have. [LB1110]

SENATOR GROENE: Thank you. Senator Linehan. [LB1110]

SENATOR LINEHAN: Thank you, Chairman Groene. This is just...I just want to put this on the record because I'm so confused. I'm sure there's a simple answer, but I'm looking at the

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legislation I'm going to talk about next and your legislation side by side. And your Section 79-760.06, Part 2 or Section 2, however you say that, is considerably shorter than mine and it's supposed to be the same law. So maybe it's just a drafting error, but it concerns me. So if you'd just check that out or maybe I'm...you're a lawyer. Am I reading this right? Okay, okay, so it's...well, it would be helpful when we're doing the same thing. Okay. He seems to have the answer. [LB1110]

SENATOR VARGAS: No, you're right. It would be helpful when we're doing the same thing. We'll follow up and make sure to connect to make sure we're referencing the exact same piece and there wasn't any issue with the drafting. But we'll follow up with that. [LB1110]

SENATOR LINEHAN: Thank you. [LB1110]

SENATOR VARGAS: Okay. [LB1110]

SENATOR GROENE: Any other questions? Senator Vargas. [LB1110]

SENATOR VARGAS: That's it? Thank you very much, everyone. [LB1110]

SENATOR GROENE: That closes the hearing on LB1110. We will now go to LB1116 by Senator Linehan. [LB1110 LB1116]

SENATOR LINEHAN: (Exhibit 1, 2) Good afternoon, Chairman Groene and Education Committee. My name is Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n, and I am here to introduce LB1116, which has to do with the exact issue that we were just dealing with Senator Vargas' bill. I have watched this discussion unfold for the last ten years. When I worked for Senator Hagel, the Department of Ed in Nebraska convinced Senator Hagel to get a waiver from No Child Left Behind, so I have watched this closely over the last ten years. At Christmastime and since I came to the Legislature a year ago I have been asking the Department of Ed when the next rankings would come out on the schools. And at first there was like vague answers and then no answers and then yesterday, it will come next fall. So at Christmastime--who do I give this to--I was going through old newspapers. And I'm only handing this out just to give you a...because of term limits sometimes I think the people who are in charge of overseeing have an advantage since they've been here a number of years longer than we have. But you will see by this article that's from January 29, 2008, when Chairman Raikes was Chairman of the Education Committee, he had the same concerns that we're talking about today. It wasn't this legislation, it's evolved over the last ten years, but it was the same discussion. And I would like...because I feel I'll be in exactly the same place today. If you look at the bottom of this article, third column over,

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the bottom paragraph, "Raikes was the only person to testify in favor of LB987. Several school districts and statewide education groups testified against the bill as an unnecessary new layer of government." Raikes won that argument and we decided to do statewide testing. But then the arguments of how to report the statewide testing started. So in 2012, which Senator Vargas talked about, Senator Adams introduced and brought to the floor...it got to the floor and out of committee, LB870. So lest we have any doubt about the intent, this is Senator Adams on the floor on March 13, 2012, which would be almost six years ago: What we do in the committee amendment though is add language that says that when the State of Schools report comes out anybody in the state should be able to access that report and be able to find by demographic groups how well those groups did on various performance indicators. So you could click on Millard Schools and you could see, well, 60 percent of the students were at or above proficiency in writing in 11th grade. Now if you're really good with computers, and I don't think I'm that bad, maybe you can do that. But as you saw by the sheets that were handed today, it's pretty hard to figure out what it says. Further, the fiscal note, again in 2012 on LB870 says: The board is to establish levels of performance for the indicators and to classify and report on the performance of individual school districts on an annual basis. So that was in 2012. So in 2014, and Senator Kolowski was here for this debate--Senator Adams introduced LB438. So if you go back through all the history--I'll let Senator Kolowski speak to that because he's well aware, he was here--again, the fiscal note on LB438, and it says it in the language and it says it in the floor debate, but since it's late and we want to get to other bills: The annual report is required by the Nebraska Department of Ed identifying priority schools and the progress made. So we've been working on this for ten years and now today we're getting told, oh, yeah, at the end of this year and then forevermore we will get these annual reports. Color me skeptical. Why is this important? I've got one more handout, then I'll be done. I know No Child Left Behind is not popular. Chuck Hagel voted against No Child Left Behind because there is no funding. However, it wasn't that the ideas were not good. We have to remember, this legislation was to make sure...not my kids and my husband, we could pick our schools, we could judge, we knew what was going on, we were not intimidated by school boards or school districts. This is to help the kids who are vulnerable, who maybe only have a single parent, who aren't educated and have a college degree. This is to help them find the best schools and be informed about what's going on. The chart I just handed out compares fourth grade reading in Florida and Nebraska. In 2003, when people started across the country looking at scores and having accountability and requiring more of schools, Nebraska was at the top of the game. We were well ahead of most of the nation. Since 2003, we can just go across this chart: fourth grade reading in Nebraska--this is the NAEP test, which is a national test, it's the only way we can compare states--fourth grade reading in Nebraska in 2003, we were at 207; Florida had a score of 205. We were ahead of Florida. Today, we're at 213; Florida is at 220. In fourth grade math in 2003 we were tied with Florida, both of us at 222. Today, we're at 231; Florida is at 235. Eighth grade reading, in 2003 Nebraska was at 253; Florida was a 245. Today we're at 256 and Florida is 257. In eighth grade math, in 2003 we were at 265, today we're at 270. Florida was at 256, today they're, again, outpacing us. So we need to get on this. We need

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to know what's going on in these schools, not just our school, but all the schools. And it's not...this is a...this started and continues to be, frankly, a civil rights issue. We have to make sure that the schools are making sure that these kids get every opportunity for a good education. So with that, I'll take questions. [LB1116]

SENATOR GROENE: Senator Pansing Brooks. [LB1116]

SENATOR PANSING BROOKS: Thank you, Senator Linehan. So I'm...were you reading things off of this? [LB1116]

SENATOR LINEHAN: Well, I had my own notes, but it's just...and I can get you much more detail. But the point is, Nebraska for years and years was at the very top, and we still have great, excellent schools all over the state, but we have some we know that are struggling. I think when they did prioritize, there were 87; I could be off one or two. And so far, of those 87 schools we've done something in three of them and now we have another one. And if you count the students in the number of schools, we're only touching a handful of kids. [LB1116]

SENATOR PANSING BROOKS: So what is your...how does your bill help what you're telling us on this? [LB1116]

SENATOR LINEHAN: Because of my skepticism of whether the Department of Ed is ever going to be doing this in a very open, transparent way, I want to move it to another agency outside the Department of Ed. I understand the Department of Ed has many, many...they've got to put up with us and they have their own elected board and then they have the teachers and the superintendents and they have all kinds of pressures from everywhere. So maybe it's not even fair to ask the Department of Ed to do this. They like judging their own. It's not judging, it's just transparency. But there's clearly some pushback to it. So maybe it would be better off if we moved--which is what my bill does...I'm sorry, thank you for that clarifying question, Patty, Senator--would move it away from Department of Ed to a separate agency where that would be their only job is to take the information the Department of Ed already collects and just make it apparent and transparent for the public to see and for us to see. [LB1116]

SENATOR PANSING BROOKS: Okay. thank you, Senator Linehan. And this board shall be appointed by the Governor. Is that correct? [LB1116]

SENATOR LINEHAN: It should and it would...I hope it says that we would have to confirm...the Legislature would have to confirm. If it doesn't, it should, and I would fix that. [LB1116]

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SENATOR PANSING BROOKS: And...okay. Thank you, Senator Linehan. [LB1116]

SENATOR LINEHAN: Thank you. [LB1116]

SENATOR GROENE: Senator Walz. [LB1116]

SENATOR WALZ: Thank you, Senator Groene. Thank you, Senator Linehan. I just have a quick question. Something that you said that just kind of hit me, something about it being a civil rights issue. What do you think happened starting in 2003 that led you to believe that this decline or... [LB1116]

SENATOR LINEHAN: No, nobody has declined on there. [LB1116]

SENATOR WALZ: Okay. This... [LB1116]

SENATOR LINEHAN: This is...and I should have said this, too. This is low-income students, so this is not across-the-board students. This is specifically low-income students, because when the NAEP does the national test, they break them out by demographic groups. So there's low-income, there's Caucasian, there's people of color, it's all kinds of different groups you can break it down. So this is low-income student improvement. [LB1116]

SENATOR WALZ: Okay. [LB1116]

SENATOR LINEHAN: Does that help? [LB1116]

SENATOR WALZ: Kind of. So from 2003, can you just explain to me why you think this became a civil rights issue, why you think the changes were due to civil rights? [LB1116]

SENATOR LINEHAN: Because...okay, in 2003, I worked in D.C. so I was very...I was there when they tried to push and did succeed in getting No Child Left Behind passed. So the conversations were, we're leaving kids behind. We were not leaving...we were leaving people of color and low-income kids behind and we should not be doing that. That's what I mean by being a civil rights issue. [LB1116]

SENATOR WALZ: Okay. Thank you. [LB1116]

SENATOR LINEHAN: You're welcome. [LB1116]



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SENATOR GROENE: Any other questions? Senator Linehan, do you have any idea why there seems to be this pushback from education establishment that they don't want any comparison to a government entity to government schools owned by the people and they don't want to report or compare themselves statewide? [LB1116]

SENATOR LINEHAN: I actually think maybe it's almost become like everybody is in their corner for so long that they can't get out of the corner. I don't mean to be flippant, but if you go back the history of this is very tough. I mean, people quit their jobs. It was very tough...there were editorials...the 2008-09 when Senator Raikes was here, well, the headline in the paper. I mean, that's not a normal headline, senator irked says he's going...so it was...and I think maybe a lot of people who were involved in education at that time are still kind of holding on and not...because I don't understand why it's such a big deal. I do not understand. [LB1116]

SENATOR GROENE: So do you know the history of why they wanted to compare themselves to themselves when Christensen was the... [LB1116]

SENATOR LINEHAN: I do know that history. So... [LB1116]

SENATOR GROENE: That seems to hit the dates when we declined. [LB1116]

SENATOR LINEHAN: There was a...I don't remember the arguments well, but it was...there were stars, which all the schools did their own. And then there was the Legislature, especially Chairman Raikes...I remember...and I couldn't find it today or last week, but I remember reading a quote once where he's like, it's fine with me if we don't tell D.C. what we're doing, but it's not okay if I don't know what's going on. And that was kind of Raikes's point is, I don't care what D.C. wants, I want to know and we need to know what's going on in our schools. So that was Raikes's point. And another thing, he kept saying...and we don't do this yet today and I don't even know if everybody would...we don't compare...even if we finally could get to comparing...not...contrasting schools--and, again, this to help schools, not to punish schools--contrasting schools to see where we need to be more focused. We're not anywhere near in a ballpark...well, some schools, Millard does this, compares them to schools nationally. And in Raikes's mind--and I didn't know Chairman Raikes, but from what I've read--he wanted us not only to know how Nebraska...Millard was doing versus Elkhorn versus Lincoln versus Grand Island, he wanted to know how Lincoln was doing versus Kansas City. [LB1116]

SENATOR GROENE: What...this comparison with Florida, what...it has to be the same test. What test were you comparing here? [LB1116]

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SENATOR LINEHAN: This is the NAEP test, the National Assessment for Educational Progress, which is the U.S. Department of Ed test, which they do every year. [LB1116]

SENATOR GROENE: We do it...every state does it? [LB1116]

SENATOR LINEHAN: It's every two years, I think, and they do a sample from each state and it's the only real comparison that the Department of Ed does across states. And it's all very readily available and easy to access on the U.S. Department of Education's Web site. [LB1116]

SENATOR GROENE: So you're saying the U.S. government has a better, clearer Web site than we do? [LB1116]

SENATOR LINEHAN: Well, comparing states, yes. It's pretty easy to access and understand. [LB1116]

SENATOR GROENE: Versus we're just comparing 245 school districts... [LB1116]

SENATOR LINEHAN: Yes. [LB1116]

SENATOR GROENE: ...with pretty much the same culture statewide. [LB1116]

SENATOR LINEHAN: Right. And there's been...not to...and I know this isn't...we haven't gotten into fiscal notes and I don't want to take extra time here. The Department of Ed gets a considerable sum of money to do this, between General Fund money and federal money. I can't remember the number right, but I think it's about \$10 million. Between the assessments and the reporting, they have a budget of about \$10 million to do this. I could be off half a million here or there. [LB1116]

SENATOR GROENE: Is...I haven't read the statutes, you have. Is there a date certain? And do they report to us at the Legislature a lot of instances in statute they need to report back to the Education Committee and the Legislature. Is there any date certain that they're supposed to do that in statute? [LB1116]

SENATOR LINEHAN: No. And I think that was what Senator Vargas did address in his bill, which is by whatever date it was, by the end of the year, December 31. That's one of the holes I think that got left open. There was no date certain it had to be done. So when you say annually, it just kind of rolls over into the next annually. [LB1116]

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SENATOR GROENE: Thank you. Senator Walz. [LB1116]

SENATOR WALZ: Thank you, Senator Groene. I have one more question. [LB1116]

SENATOR LINEHAN: Okay. [LB1116]

SENATOR WALZ: So the results of the...are just for low-income student improvement. Are you wanting this commission then to just be over income student population? [LB1116]

SENATOR LINEHAN: No, but I would want...to be helpful to us, I would want the commission to be able to break out, just as you asked Senator Vargas, demographic groups. So in that...because you need to see...one of the problems we have and we're way behind in this in Nebraska, is our achievement gap is much larger than it should be. So one of our biggest, I think, challenges and something we should all be focused on is closing that achievement gap. So whatever reports we finally have should show us, is that achievement gap going up, is it going down, and how was it compared to the rest of the states around the country? [LB1116]

SENATOR WALZ: Do you have reports for all of the different...not just...? [LB1116]

SENATOR LINEHAN: I can get them. They're on the...I can get them from the Department of Ed. I mean, they're available for everybody. Not this...I'm sorry. I'm sure they could, too. But I'm talking about the U.S. Department of Ed, on their Web site. [LB1116]

SENATOR WALZ: Okay. [LB1116]

SENATOR GROENE: Senator Morfeld. [LB1116]

SENATOR MORFELD: Senator Linehan, maybe you already discussed this graph, the one you...you handed this one out, right? [LB1116]

SENATOR LINEHAN: I did. [LB1116]

SENATOR MORFELD: We've got a lot of handouts so I didn't know. And so I guess my question is, is just some of the context behind this. I mean, my understanding is that things were pretty bad in Florida so they really had nowhere to go but up in comparison to Nebraska. I mean, is there more context behind this? [LB1116]

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SENATOR LINEHAN: Right. And I did...I'm sorry, maybe I wasn't clear. You're right. In 2003, Florida was behind us in each one of these categories. They were. [LB1116]

SENATOR MORFELD: Okay. I guess I'd be more interested in getting more data from you. [LB1116]

SENATOR LINEHAN: Okay. I will get you all of that. [LB1116]

SENATOR MORFELD: Okay. And I appreciate you don't hand out everything, because we literally have... [LB1116]

SENATOR LINEHAN: The point is, they were in trouble and they started doing lots of things. And I'm not saying everything they did was great, I'm just saying that they... [LB1116]

SENATOR MORFELD: There was significant improvement. [LB1116]

SENATOR LINEHAN: Right. [LB1116]

SENATOR MORFELD: Okay. [LB1116]

SENATOR LINEHAN: Amongst the very groups that we need to be focused on. [LB1116]

SENATOR MORFELD: Okay. Thank you. [LB1116]

SENATOR LINEHAN: You're welcome. Thank you. [LB1116]

SENATOR GROENE: In that light, I've never heard of scores that are 204 and 206, it's usually 100 percent skill. So what does that scores you gave correspond to? [LB1116]

SENATOR LINEHAN: It's the NAEP thing and I'm not an expert on that, but I will get you...it's a NAEP score. It might go up to even 500, I'm not sure. I'm sorry. [LB1116]

SENATOR GROENE: So is there factors that feed into, as Senator Morfeld said, or is it just a score? It takes a test and that's the score. [LB1116]

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SENATOR LINEHAN: I think this is a composite score of the state, but yes, it's a test and they get a score. [LB1116]

SENATOR GROENE: But they don't get extra brownie points because they made this much improvement over last year, it's score to score? [LB1116]

SENATOR LINEHAN: No, not on this. No, but it's there for you to look at so you can see how much they've improved. I mean, on the Department of Ed's Web site it makes it clear. [LB1116]

SENATOR GROENE: Is this a measurement of how much they improved or it's a actual test score? [LB1116]

SENATOR LINEHAN: These are actual test scores. [LB1116]

SENATOR GROENE: All right. Thank you. [LB1116]

SENATOR LINEHAN: The graph just shows the improvement. I'm sorry. [LB1116]

SENATOR GROENE: Any other questions? Thank you. [LB1116]

SENATOR LINEHAN: Thank you very much. [LB1116]

SENATOR GROENE: Proponents. We didn't receive any letters of support. Opposition testimony. [LB1116]

BRIAN HALSTEAD: Good afternoon, Senator Groene, members of the Education Committee. For the record, my name is Brian Halstead, B-r-i-a-n H-a-l-s-t-e-a-d. I want to first tell you that the Commissioner of Education actually wanted to be in this chair testifying on this bill. As Senator Linehan pointed out, there was a bill, LB987, in 2008 that Senator Raikes introduced to require state summative tests in Nebraska. The current Commissioner of Education worked for Senator Raikes and largely wrote LB987 for Senator Raikes. And she's absolutely correct, the State Board opposed that bill, as did every other education group. In 2008, there was also a second bill introduced by Senator Raikes, LB1157. And if you look at your statute books, you'll find that's the bill...the State Board supported that now actually has all the language in statute for all the summative tests the state of Nebraska does. The State Board carried out LB1157. We built all of the state tests. We have been administering all of those state tests. So the board is opposed to this bill because we think we've been working with this committee and we're going to

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continue to work with Senator Linehan and all of you on what you see as being needed for both the assessment and accountability and reporting features. I believe on our Web site, although I'm going to tell you it's not easy...you can find all of the NAEP scores for the state of Nebraska. That is mandated by federal law. NAEP is a sampling test, so they sample students in every state to match demographically students. So in Nebraska, not every student takes the NAEP. They are selected and schools have students take that. It is the only national test that's available to do comparisons from state to state. So as I said, we are opposed to the bill. We don't believe you need to create a separate agency, a separate body to do that and we're here to work with you on moving forward as we all work together to improve education. Senator Linehan is absolutely correct, there's a moral obligation by all of us to ensure every child has an opportunity to get a great education and be a contributing member of our society. Thank you. [LB1116]

SENATOR GROENE: Questions? Senator Erdman. [LB1116]

SENATOR ERDMAN: Thank you, Senator Groene. Thank you, Brian, for coming. So it's no secret that you don't think your Web site is very friendly? [LB1116]

BRIAN HALSTEAD: I'll leave that to everybody who utilizes it in that regard. [LB1116]

SENATOR ERDMAN: If you've heard that before, and you may have, right? Why don't you do something about it? [LB1116]

BRIAN HALSTEAD: Well, Senator, we'd love to and we actually just rolled out a new Web site. One of the things, though, I think you're well aware, last session this Legislature had to cut \$900 million out of the state budget and we understood that. You took some of our funding from us. And that's fine, we understand that. We are looking this session again, at a 2 percent cut in this year's funding and 4 percent. And that may be where we come up. So I guess the question I have to ask is, if you're going to continue to cut our resources but demanding more from us, tell me how I balance that with all of the expectations. And I understand, Senator. I'm not here arguing. The state budget is what it is and you have a difficult decision in balancing that budget and I respect the work that all of you are going to do on that. But Senator Linehan is absolutely right. We currently are spending close to \$7 million to \$8 million on state testing, largely because of LB1157 and the ongoing bills and everything else, the expectations. So it costs a lot of money and we're not here to quibble about how that is and everything else. So if you have ideas of how we can do more for schools while you're also having to balance the state budget, we're certainly willing to listen to you, Senator. [LB1116]

SENATOR ERDMAN: We didn't make a whole lot of cuts last year. We did about \$137 million and the rest that we took from the rainy day fund and lowering the reserve, sweeping cash

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accounts. That's why we're still in the problem we're in, because we didn't make any cuts. [LB1116]

BRIAN HALSTEAD: Senator, with the budget that's currently before you the Department of Education's operations will be cut \$1.1 million. So we recognize that we're going to get cut. We're not here to fight with that, but we recognize you have to make cuts. [LB1116]

SENATOR GROENE: Any other questions? So step me through it. Does every...since the Raikes bill passed, every third grader takes the same test across the state, testing yourself? [LB1116]

BRIAN HALSTEAD: That's absolutely correct. There is the summative test at third, fourth, fifth... [LB1116]

SENATOR GROENE: What year did that start? [LB1116]

BRIAN HALSTEAD: The reading started in the 2009-10 school year. Mathematics I believe was 2010-11. And science was 2011-12. I might be off a year or so. [LB1116]

SENATOR GROENE: So all of them have had at least four years of test scores. [LB1116]

BRIAN HALSTEAD: On the summative tests, yes. We've been doing those tests every year since. [LB1116]

SENATOR GROENE: So I want to...I'm moving to North Platte, Nebraska. And I go on your Web site and I want to check a couple of facts, test score, how they compare statewide. Can I do that? Can I look since 2007 or whatever and see if the scores have gone up, trending up or trending down? As a parent, I've moved five times with my kids. I did check into schools. Could I do that on your Web site? [LB1116]

BRIAN HALSTEAD: I don't know how far you can go back through all of those years, Senator, but that information is... [LB1116]

SENATOR GROENE: It's called four columns on a Web site. [LB1116]

BRIAN HALSTEAD: Right. I understand that, but there's...okay, so every grade level, three through eight and one grade of high school for the reading tests. Yes, there would be results on our Web page you could access. [LB1116]

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SENATOR GROENE: I tried to look up your ACT scores or SAT scores and that was a mess. I had to look...every school had a different page and I had to look up the composite on one page and I had look up the three different test scores on another page. I mean, there are people who know programming out there you could hire. [LB1116]

BRIAN HALSTEAD: Senator, we have tried to design as best we can, but if you've got a better way that this should be summarized for 244 school districts and the 1,100 schools, tell us, because we're not... [LB1116]

SENATOR GROENE: I might talk to the Department of Revenue. I can go on there and look up...I can find a report, I can look at four or five reports at the same time, I can look at trends. It's really...you might find out and hire that person away. I'm just saying, the Web site shouldn't be that hard and we should have access. [LB1116]

BRIAN HALSTEAD: So help me out, because I'm not a Web site designer and I don't do this kind of work, Senator. So if you can...we're willing to listen to whoever has a better idea of how to display... [LB1116]

SENATOR GROENE: Do you report...who do you report that to? Just to yourself and put it on the Web site? Is that the statute or is there is a date certain you're supposed to report to us? [LB1116]

BRIAN HALSTEAD: We publish all of that that's out there for the whole world to see. [LB1116]

SENATOR GROENE: On a certain date? [LB1116]

BRIAN HALSTEAD: There is no date specific as to when that all has to be available, so the bill Senator Vargas just had would have us have it all out there by December 31, which is what we've had in the past. We've had it all out there by then. [LB1116]

SENATOR GROENE: All right. Thank you. [LB1116]

BRIAN HALSTEAD: Sure. [LB1116]

SENATOR GROENE: Any other questions? Thank you. [LB1116]



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BRIAN HALSTEAD: Sure. [LB1116]

SENATOR GROENE: Any other opponents? [LB1116]

JAY SEARS: (Exhibit 3) Good afternoon, Senator Groene and members of the Education Committee. For the record, I'm Jay Sears, J-a-y S-e-a-r-s, and I represent the 28,000 educator members of the Nebraska State Education Association. I am here to express NSEA's opposition to LB1116, which would create an additional state office and public body for accountability and reporting of public schools, school districts, and learning communities. The Nebraska Department of Education already provides this service as directed by the Quality Education Accountability Act and under federal law under the Every Student Succeeds Act. Members of the State Board of Education, as constitutional officers of the State of Nebraska, have jurisdiction and oversight of the accountability and reporting requirements under the Quality Education Act. Nebraskans do not want, nor do they need, an unelected bureaucratic commission duplicating the work already being done by their elected Board of Education. The State Board of Education and the Nebraska Department of Education has the staff and expertise to provide all the accountability and reporting requirements under current state and federal laws. LB1116 is simply another ideologically rooted grab for power by the executive branch, seeking to diminish the constitutionally granted will of the people as embodied by the Nebraska State Board of Education. NSEA requests that this committee indefinitely postpone LB1116. Thank you. [LB1116]

SENATOR GROENE: Any questions? Senator Erdman. [LB1116]

SENATOR ERDMAN: Thank you, Senator Groene. On your fourth paragraph there, you say: Nebraskans do not want, nor do they need, an unelected bureaucratic commission duplicating the work...which Nebraskans did you check with? [LB1116]

JAY SEARS: I think if you would just remember some of the things the Governor said about cutting out the bureaucracy, that would be my first statement to you. [LB1116]

SENATOR ERDMAN: Wouldn't that be better stated: The NSEA doesn't want? [LB1116]

JAY SEARS: You can put whatever you'd like into my testimony, Senator. It's in black and white and it's there for you. [LB1116]

SENATOR GROENE: Any other questions? But then do you have an opinion or a pro or con on the actual reporting and clarity on the Web site? [LB1116]

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JAY SEARS: I'm not real technologically inclined, but I can pull out all the information I need. One of the things I tell my daughter when she moves from one state together with her husband and children is, you can check all the test scores you want but my best expert opinion for you and what you need to do is go to the individual school and see how you like it and how you think your students will fit in. I'm personally opposed to all the testing that we're doing. I think we could \$7 million or \$8 million differently, but that's not the position of the NSEA. And I understand people want accountability. And you've talked about the NAEP scores and it would be interesting to find out in the very last few years how many of the special education students in Florida actually took the NAEP test. I think you'll find out that they exclude quite a few of them until the federal government makes them do that. So we're not even comparing apples to apples in the NAEP test. [LB1116]

SENATOR GROENE: Maybe you can answer...you can answer the question I was going to ask Senator Linehan for Department of Ed. They said it's a random test. Who picks the subjects? [LB1116]

JAY SEARS: The federal government through their testing group developed NAEP and it's not even a measure of content standards. And that's what we have in every state is a measure of the standards that students learn in content. [LB1116]

SENATOR GROENE: They said it's a sample. So who picks the sample? [LB1116]

JAY SEARS: Right. So, for example, in Nebraska, because Omaha and Lincoln have the most minority populations, that's where they draw the biggest sample of minority students. They also have the biggest population of special ed students. And so you may get a letter from the feds and from the Department of Ed that we need 30 students from grade x and 4 from this one or whatever. And so that's the random sample of students that take the test. And then not every student takes every question in each of the tests, so that's what they mean by it's a random sample of... [LB1116]

SENATOR GROENE: It's not every student takes the test and then they randomly choose...pull out of a hat. [LB1116]

JAY SEARS: No. No, it's a random sample of students also. [LB1116]

SENATOR GROENE: Then who chooses those students? [LB1116]

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JAY SEARS: Ah, the...I'm not sure how that goes, but it's again a random. Some kids win the lottery and some don't, so. [LB1116]

SENATOR GROENE: Thank you. [LB1116]

JAY SEARS: And at least in Nebraska, every student takes the test that we do for our standards in Nebraska. [LB1116]

SENATOR GROENE: Thank you. Any other questions? [LB1116]

JAY SEARS: Thank you very much. [LB1116]

SENATOR GROENE: Any more opposition? We had two letters in opposition: Norfolk Public Schools and NASB. Any neutral testimony? We had no letters neutral. Senator Linehan, would you like to close? [LB1116]

SENATOR LINEHAN: Thank you. I'm only going to take a minute. I'm happy to get anybody information on NAEP or anything else that I can help provide. I'm hopeful that we can move Senator Vargas' bill and hopeful that maybe after ten years we're finally where we need to be and my...this legislation won't be necessary. But I do think we've waited long enough and patience should be up now and we should be getting annual reports. [LB1116]

SENATOR GROENE: So Senator Vargas' will have them report to this body? The Coordinating Commission yearly gives us a report. [LB1116]

SENATOR LINEHAN: Right. [LB1116]

SENATOR GROENE: The Department of Ed... [LB1116]

SENATOR LINEHAN: And putting the date certain in may clear it all up, because it was...there was that hole in the legislation. I mean, I've read the bill for 18 months and it says annually and I've talked to the Department of Ed about it multiple times. No one ever argued that it didn't say annually. I think the point is...and maybe we should work...the committee should work with the Department of Ed and try to come up with what is simple and easy for people to understand, because obviously if you're an engineer it's easier for you to understand something than if you're a layperson. So maybe it's just a communication issue. [LB1116]

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SENATOR GROENE: Yes. And I found that they are willing to work with us like they did on the civics standards and we'll see where that gets us. Thank you. [LB1116]

SENATOR LINEHAN: Okay, thank you. [LB1116]

SENATOR GROENE: We will go to LB1052. Senator Pansing Brooks. We're going to take a five-minute break. [LB1052]

BREAK

SENATOR GROENE: Senator Pansing Brooks, are you ready? [LB1052]

SENATOR PANSING BROOKS: (Exhibits 1, 2, and 3) Yes, I am; thank you. Okay. Thank you, Chair Groene and fellow members of the Education Committee. For the record, I am Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, representing District 28, right here in the heart of Lincoln. I am here today to introduce LB1052, which includes a number of provisions to help ensure that children with dyslexia receive the evidence-based interventions that they need. I want to first give a little background, for the record, on how I became interested in this issue, which some of you already know. My brother Tom has dyslexia and was told he would not graduate from high school--my older brother. My older cousin, Virginia Johnson, was similarly treated by the Lincoln Public Schools. Thanks to the significant efforts of my mom and my aunt--and this was during the '60s--my brother and cousin were able to overcome most of the debilitating aspects of dyslexia and ultimately thrive professionally, both of them. This disability definitely requires intervention from others. Next I remember driving with my mother to Rochester, Minnesota, so that she could go to the Mayo Clinic to study the Orton-Gillingham method for remediating children with dyslexia. When she came back, she tutored teachers on this method, one teacher at a time. In that vein, she decided that she needed to make a broader change and a larger impact on a greater number of students. She then decided to run for the Lincoln Public Schools Board of Education, and won. This was in the early '70s. My mother shared her knowledge and expertise with teachers, volunteers, and parents. She helped form the Nebraska chapter of the Orton-Gillingham society and lobbied to incorporate this method of teaching dyslexic children into the Lincoln Public Schools curriculum. While my mother is no longer with us, I'm proud that I have had now the opportunity, as a state senator, to follow in her footsteps and continue to tackle this important issue. I started this process last year by introducing a bill before you to add a definition of dyslexia to state statutes. The Nebraska Legislature, and this committee in particular, passed this bill, defining dyslexia as follows, quote (sic)--dyslexia as "a specific learning disability that is neurobiological in origin, is characterized by difficulties with accurate or fluent word recognition and by poor spelling and decoding abilities, typically results from a deficit in the phonological component of language that is often

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unexpected in relation to other cognitive abilities and effective classroom instruction, and has secondary consequences that may include problems in reading comprehension and reduced reading experience that may impede growth of vocabulary and background knowledge." After adding this definition to statutes, we followed up by passing LR222, an interim study to examine reading literacy and dyslexia. As part of this study, Senator Linehan and I visited 15 schools in communities including: Lexington, Gothenburg, Columbus, Doniphan, Grand Island, Hastings, Lincoln, Omaha, and York. And I want to thank Senator Linehan for her work in going across the state with me and working on these issues about reading disabilities, and dyslexia in particular, for me. We saw amazing things happening in our public schools. Many teachers deploy a variety of auditory, visual, and tactile teaching methods to help children who fall behind in reading. Teachers and reading specialists have regular meetings to talk about the progress of each individual child, yet teachers consistently reported to us that they are not properly trained in how to recognize, understand, and provide evidence-based interventions for dyslexia. Further, we saw whole language being taught by a few teachers, rather than the phonics-based instruction that can help all students and, particularly, those with dyslexia. This is particularly concerning to me since the Nebraska Department of Education statistics show that more than 15,000 children, ages 6-21, have specific learning...had specific learning disabilities in 2015/2016. And according to multiple sources, including the Yale Center for Dyslexia and Creativity, somewhere between 80-90 percent of children with learning disabilities have dyslexia. If this is true, that means that around 12,000 students in Nebraska would have some form of dyslexia. National figures show high school dropout rates are 2.5 times higher for those with learning disabilities, and students with learning disabilities are twice as likely to be unemployed. I'm providing you with two information sheets that show some of this data. As Senator Linehan and I made our way around the state visiting schools, one message rang out over and over, loud and clear: teachers do not believe that they have proper training on dyslexia. Much of this is because the 16 teachers' colleges in Nebraska train in different ways when it comes to dyslexia, and some don't train on dyslexia at all. During our tour, we realized that the Department of Education had already put together a Technical Assistance Document for Dyslexia in 2016, but most of the teachers and administrators with whom we met were not even aware of the document's existence, much less were using it. And I have given you the executive summary of that technical assistance document. Informed by what Senator Linehan and I learned on this tour, I bring LB1052 to you today to correct some of the gaps and ensure teachers are receiving what they need to recognize dyslexia and provide the appropriate interventions. LB1052 does several specific things. First, it provides that the state Department of Education shall develop and distribute the technical assistance document to provide guidance for school districts and teachers on how to understand and provide evidence-based interventions for dyslexia and...oh, I did provide the executive summary to you. Second, the bill provides that students exhibiting characteristics of dyslexia shall receive evidence-based structured literacy instruction, using a multisensory approach, as provided in the Technical Assistance Document for Dyslexia. Third, LB1052 prevents school districts from requiring that students exhibiting characteristics of dyslexia obtain a medical

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diagnosis in order to receive interventions for dyslexia. There were a few teachers who still thought dyslexia required a medical diagnosis; it does not. So this part of the statute will clear up that misconception. Finally, LB1052 provides that each teacher education program approved by the state Department of Education shall include instruction in dyslexia, as part of its initial course requirements. Nebraska has been far behind other states when it comes to statutes on dyslexia. In fact, before we added a definition of dyslexia, we were one of just ten states with no laws on dyslexia at all. LB1052 helps Nebraska catch up with other states and helps ensure students exhibiting the characteristics of dyslexia receive the interventions that they need. When I started looking into legislation on dyslexia, it felt as if I were wandering into forbidden territory. I sensed a lot of hesitation among some to even talk about the issue, or even proclaim the word "dyslexia." There were a lot of misconceptions about dyslexia, including whether or not it needed a medical diagnosis. Let me be clear there's no medical course in med school teaching how to diagnose dyslexia. We learned, on the tour, that there were even some teachers told not to even mention the word "dyslexia." I feel gratified that we have helped develop a bill in LB1052 that has broad support of dyslexia advocates, teachers, special educators, school administrators, and others. I want to specifically thank Maddie Fennell from the NSEA and Mike Dulaney from NCSA for bringing together everyone and helping on this bill's language, so it is stronger and clearer, pursuant to the common ground we have forged together. In the end, LB1052 means we are providing more interventions and opportunities for kids to learn and thrive. And in closing, I would ask that you advance LB1052 and, with that, I'd be happy to answer any questions you might have. [LB1052]

SENATOR GROENE: Questions? Thank you. Proponents? I would ask...I see these young folks been sitting here a long time, that they get a chance to get up. [LB1052]

SENATOR PANSING BROOKS: I'm...one second, I'm so sorry. There have been some kids that have been here quite a long time. So I was hoping--and I was going to say this before--if we can... [LB1052]

SENATOR GROENE: I just said that. [LB1052]

SENATOR PANSING BROOKS: Oh, okay. If we can get them to... [LB1052]

SENATOR GROENE: Yep, yep. [LB1052]

SENATOR PANSING BROOKS: I missed that; I'm sorry. [LB1052]

SENATOR EBKE: That's what he just said. [LB1052]

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SENATOR GROENE: We agree on this one (laughter). [LB1052]

SENATOR PANSING BROOKS: Good idea, Senator Groene. [LB1052]

EMILY HOLTZCLAW: (Exhibit 4) Hello. My name is Emily Holtzclaw, E-m-i-l-y H-o-l-t-z-c-l-a-w. I want to thank you for the opportunity to speak today, and thank you for your work last year, listing dyslexia as a specific learning disability so that we can have this conversation today. My husband--I'm going to do this--my husband David and I are parents to three children who currently attend Omaha Public Schools in eighth, sixth, and third grade. I'm here on behalf of my eight-year-old son, Christopher, who is dyslexic. I'm also here to support all dyslexic children in Nebraska. I support LB1052 and ask your support of this bill, as well. I will not repeat the statistics and scientific literature that I'm sure you are very well aware of. You, no doubt, are also aware of abysmal ACT and other reading scores that we see statewide in schools. Instead I'm here to convey Christopher's story. Chris is a kid with a bold personality, a big heart, and a quick mind. He can easily chat you up about the gravitational forces of various planets, and he can make jokes about what Isaac Newton was doing hanging out under that apple tree. He wakes up in the morning from dreams of multiplying fractions. However, he struggles mightily with reading, writing, and spelling. For the last three years, David and I knew something was not right with the way Christopher vehemently resisted reading, as if it were painful to him. David knew this as a dyslexic himself. Chris knew something was not right when he saw how easy reading was for his peers and yet how difficult it was for him. He was embarrassed someone would find out that he was dumb. This bright kid came home from school in an anxious state, pounding his forehead with his fist and crying that he was stupid. "I'm an idiot!", he would scream. His eighth-grade sister knew something was wrong when her kid brother understood her geometry homework yet struggled so much with reading children's books. Which one of your children or family members, I ask you, does this sound like? Despite three years of our direct questions, asking Christopher's teacher, "Is he dyslexic? His father is dyslexic," the teachers did not know what to look for. Even with his genetic risk, experienced teachers with master's degrees, that loved Chris and earnestly looked for the issue, said that dyslexia is, and I quote: not something they can test for at school. And they were, quote: pleased with his academic progress. Yet we knew something was not right when he broke down at school in frustration with his struggles and failures. It was not until we pushed the matter this year, with the support of a private consultant, that Chris was given the proper tests to identify his specific issues with reading, writing, and spelling. We soon realized that we were joining many parents on a similar versions of the same path of anxiety, frustration, as we tried to determine what the problem was and how to navigate the special education system. For some that leads to quitting their jobs to homeschool their own kids and getting trained themselves on how to help their kids. While the staff and the school have been very kind and very helpful, now that we have an external dyslexia diagnosis, it is clear that they receive resistance from above at the administrative level, limiting what they can provide for support. Initially the school system shied away from using the term "dyslexia," although the

evidence and the test results clearly indicate this diagnosis for Chris. Chris is special to us, of course, but he is not exceptional because he is dyslexic. In fact, he is quite representative of tens of thousands of dyslexic kids who are underserved in Nebraska schools. With your support of LB1052, you will help the hardworking teaching staff in classrooms get the technical assistance and training they need to help identify and help dyslexic kids. You can help take the stigma away from naming dyslexia in schools. Some day Christopher will discover something new. He's going to invent something that no one ever thought of before, and he's going to make the world a better place. So will many of his peers if you give them the chance, if you do something this legislative session to help the one-in-five kids who struggle with dyslexia and similar reading disabilities. This was the year that Christopher was going to fail. The learning-to-read period of kindergarten through third grade was ending. His abilities to compensate and fake it were hitting a wall, the cliff, from which his self-esteem and his self-confidence would fall, was fast approaching, and poor behavior issues were soon to follow. Your work can help keep thousands of kids, like Chris, from reaching this precipice. We took Chris with us as we toured high school open houses for his older sister last year and, as we toured North High School, the STEM magnet, Chris tugged on my sleeve and leaned in to me and asked, in earnest, "Mom, please tell me you can afford to send me here." He has great, great plans for his future. And today I say to you, in earnest: Please, please tell me you can afford to support LB1052, to help tens of thousands of dyslexic kids learn and thrive to their potential. We, as parents and advocates, and you, as leaders on this Education Committee, are responsible for these children's education. We are responsible for teaching them how to be productive adults, and a critical piece of this is knowing how to read fluently. We can scarcely afford not to do something now. It will cost our society far more in the future. We need to bring Nebraska closer to being on par with states like Mississippi...Mississippi, who's ranked 45th in the country for public education, and Texas, ranked 41st, who currently better address the needs of dyslexic students. So I thank you for your time and for support of LB1052. Thank you. [LB1052]

SENATOR GROENE: Thank you. Any questions? [LB1052]

EMILY HOLTZCLAW: Thank you. [LB1052]

SENATOR GROENE: That was a good testimony. [LB1052]

VIRGINIA HOLTZCLAW: (Exhibit 5) My name is Virginia Holtzclaw, V-i-r-g-i-n-i-a H-o-l-t-z-c-l-a-w. I am 14 years old and in eighth grade. My little brother Christopher is an eight-year-old third grader. He has dyslexia. Chris is an average third grader. He is energetic, loud, and loves learning. Math and science are his favorites. My brother is also an incredibly smart kid. Whenever I bring home my math homework, he tries to help me do it, even though I'm the one in honors geometry. My family was the first to really notice that there was something wrong with



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how Chris read. He'd flat out refuse to do it and, when my parents persisted, temper tantrums would follow. It was so unlike my eager little brother, who devoured math and science facts, who was always ready to learn more. After a while I realized it was more than just not liking reading. My brother was trying to avoid it like it was painful for him. Soon after that, my mom told me she suspected that Christopher had dyslexia. It made sense. My dad has dyslexia and there had been a 40 percent chance that I would have it. It also explained his refusal to read. But what shocked me was that she had come to that conclusion on her own. No teacher had reached out with concerns; no one had considered the possibility. It wasn't because they were horrible people or they just didn't care; it was because they didn't know how to handle the situation. Chris isn't the only person this has happened to. One of my closest friends is dyslexic, and I know what a struggle she has in school. One in five children are dyslexic. These kids go to the same schools that we do, take the same classes we do, and struggle far more than we do. Reading is a core part of school and life and I, for one, can't imagine what my brother, and hundreds of thousands of kids across the United States and the world, are going through. This legislative bill will give these kids a huge helping hand. Students with dyslexia are much more likely to drop out of school. For many of them, the struggle is just too hard. The school system doesn't know how to, or can't, help them. Other times, students aren't officially diagnosed so, even if they are offered accommodations, they can't accept them. Not all parents have the resources that mine do. Not all kids like Chris will be able to get extra help outside of school. With this bill, they won't have to even look outside of school. I know I don't fully understand how the government system works. I know that there are many steps and obstacles to making bills like this one a reality. But in all honesty, I don't see why this bill hasn't already been passed. I don't see why there are people against it. This is an opportunity you have to, literally, change lives. If you pass this bill, you could be practically handing a diploma to some students. You could be giving them a college degree, a second chance for someone who everyone has already given up on because they struggle. I believe that my brother will grow up and change the world. He may invent something extraordinary, do something completely unheard of, or even become the next president. To do any of that, he will need to be able to read. So will the thousands of kids with dyslexia who all have infinite possibilities in front of them. Frederick Douglass once said: Once you learn to read, you will be forever free. This bill will help kids learn to read and, after all, America was founded on the idea of freedom. Thank you. [LB1052]

SENATOR GROENE: Thank you. Any questions? [LB1052]

SENATOR KOLOWSKI: Good job. [LB1052]

SENATOR GROENE: Good job. [LB1052]

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DAVID HOLTZCLAW: (Exhibit 6) Good afternoon. My name is David Holtzclaw, D-a-v-i-d, last name Holtzclaw, H-o-l-t-z-c-l-a-w. Thank you for allowing me to speak today. I received my diagnosis of dyslexia in 1990 during my freshman year at Purdue University, after being referred to by two of my university instructors and my academic advisor at the time. At that time, my clinician commented that I displayed every classical sign of dyslexia, and they were shocked that no one had recognized this before. So not one, not a single one of my K-12 instructors have ever suggested to me or my parents that I have a learning disability, although it was extremely obvious by a trained clinician. Why has this happened? Why did every single teacher miss this? Simply because our teachers are not trained to recognize the symptoms or to address it. While that may not be surprising to this committee that my K-12 teachers, back in the 1980s, didn't recognize dyslexia, the sad part is the same is true today. Going through the same experience with my son, the experience is identical. Thirty years later, literally, nothing has changed. He displays all the classical symptoms of dyslexia. His parents are asking the same question my parents asked during parent-teacher conferences. Teachers have no answers; they don't even know where to begin. If it was not for the testing that we actually demanded having, Chris would not be diagnosed today. During one of our initial meetings with their teachers--it's called a student assessment team meeting--one of Chris's first teachers literally brought an article from Better Homes and Gardens on how to deal with learning disabilities. I'm not making this up; the reference was an article out of Better Homes and Gardens. That is where they're at. I...there is a on-line dyslexia journal, peer reviewed, published by Wiley, freely available. None of the resource teachers at his school are aware of this. Teachers coming through the University of Nebraska system are not required to have any formal training in special educations, let alone recognizing specific learning disabilities such as dyslexia. And this affects approximately one in five students. This is why we're here supporting LB1052, which recognizes not only do we need to train our teachers better and to provide better...provide our teachers the skills to better recognize these learning disabilities, not just dyslexia, but other ones, and also provide a support system to better provide that student body, so that our entire test schools and our employee base becomes better serving and better, productive members of society. Thank you. [LB1052]

SENATOR GROENE: Thank you. Any questions? Thank you, sir. Thank you for bringing your family down (inaudible). Next proponent? [LB1052]

JENNIFER CALAHAN: Hi. My name is Jennifer Calahan, J-e-n-n-i-f-e-r, and my last name Calahan, C-a-l-a-h-a-n. Cohen was going to speak today, but has changed his mind because of the microphone and the chair. So mine isn't written because I was counting on him. So I'm obviously just a parent, and I've told Cohen's story. I sent it to everyone last year during the dyslexia legislation last year, as well as again yesterday. Our story mirrors every other parent's story that I've talked to in the state of Nebraska, about what it's like to enter into the school system with the anticipation that your child is going to walk out of school being able to read and write, and then that's not what happens. I was...I have a strong understanding of special

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education from my work experience. So when I had a child that was struggling at school, I felt very well prepared to be able to work alongside the school district to do what's best for my child. And that...even my strong understanding of the special education system did nothing to help us, because the problem was the teachers didn't know. We didn't even get formal testing until fourth grade. We were already outside the K-3 window for reading by the time they referred us for formal testing. We missed the boat. And then, when we got support, it was more of the same, and I kept saying to the school district: if it hasn't worked to teach him to read to this point, what...how is more of the same going to help him? Like he needs something different. If more of the same was going to work, it would have worked by now; and it hasn't. And so we ended up seeking out outside tutoring, which is the same story that we hear from other teachers. But I work full-time, my husband works full-time. Cohen would like to have a life outside of school. So he would go to school all day and then do homework for two hours and, on top of tutoring, at some point a young child is done. Like you can only learn so much in one day. So the possibility that some multisensory, evidence-based programs for dyslexia...being able to use that in a school system...so he's...what he had said on our way here was: If I could have done that during school, I could have like played and built things and invent things. He's a maker and a doer. Instead we spent our time after school doing homework and tutoring because we were missing what we needed in school. When I brought up Orton-Gillingham in school, our resource teacher had never even heard of it. So as the other parents referenced, it's not a problem that his...it's the same story as it was, you know, years ago. So we just had...we're going to have his three-year re-eval this year, and I'm the one that brought the dyslexia technical assistance guide to the school district. Our school didn't have it. Our school psych didn't know about it. I said: Well, can you look at it before we have our meeting next week? The information isn't out there and, as a parent, even a parent that understands special education, I probably have never felt more alone in my whole life, because there's only so much I can do, as a parent. So I guess I'll just end on the fact that he has so much to give the world. He has a beautiful mind. The kid can create things like there is no tomorrow. But when you sit in a school world where everything is focused on reading and writing, and you're not getting the interventions you need, he's not going to walk out of school confident enough to give the world what the world would get from him if he had a different experience in school. So we also have a youngest child that will be starting kindergarten this year and, without...we don't know where that's going. So am I headed down this road again, come fall? I don't know. And so I have to come today. And we have to have a voice, because not just for the other families, but for my own family, I might be doing this again next year. And I can't do it again; it was exhausting. So we need...we need your support from a legislative standpoint of parents. So that's it. [LB1052]

SENATOR GROENE: Thank you. Do you have any questions? Thank you. [LB1052]

MADDIE FENNELL: (Exhibit 7) Good afternoon. Thank you, Senator Groene and members of the Education Committee. My name is Maddie Fennell, M-a-d-d-i-e F-e-n-n-e-l-l, and I'm here

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representing the 20,000 members of the Nebraska State Education Association, in support of LB1052. I want to thank Senator Pansing Brooks for bringing this bill forward and for listening to teachers with suggestions to make this bill better for students. I also want to thank the parents who are here today. I also have a special-needs student, and I get your pain and frustration; I really do. Dyslexia has become a common term used to describe flipping letters, but its true meaning is much broader. The National Institute (sic: Institutes) of Health, the International Dyslexia Association, the Nebraska Dyslexia Association, and others have adopted and supported the definition, which Senator Pansing Brooks has already read to you. That definition is outlined in the Nebraska Department of Education Office of Special Education Technical Assistance Document (sic: Technical Assistance Document for Dyslexia). Maybe the title is too long, I don't know. But that was published in January of 2016. Until Senator Pansing Brooks brought this document to my attention as part of her research, I had no idea it existed. And in checking with my colleagues, I found that none of them knew of its existence. LB1052 highlights this document and puts it to good use. We believe that this could be an important resource for teachers, but they first need to know about it. The bill calls for the technical assistance document to be more widely distributed in teacher education programs, ESUs, and school districts. Additionally, NSEA is building training on dyslexia into our statewide professional development for teachers, and we will highlight the document. Dyslexia is a learning disability and, like other learning disabilities, it can be identified in testing when done correctly by a school psychologist. LB1052 clearly states that a school district shall not require a student who exhibits characteristics of dyslexia to obtain a medical diagnosis to receive intervention. The NSEA believes that requiring a medical diagnosis of dyslexia is an unneeded barrier to accessing intervention services. Finally, NSEA is supportive of mandating dyslexia training in teacher education because every teacher will likely have a student with dyslexia in their career, and teachers need to know how to help these students. I won't quote more statistics to you, but it's been proven. Every teacher is going to have a student in front of them, at some point in their career, who's going to need the additional assistance. LB1052 recognizes the complexity of this disability and offers families and educators tools to assist students with the skills they will need to be academically successful. We encourage you to support this legislation and send it to the full Legislature for action. Thank you. [LB1052]

SENATOR GROENE: Thank you. Any questions? You're talking about this document that you didn't know existed? [LB1052]

MADDIE FENNELL: Yeah, that's the brief of it. The big one is over 100 pages, I believe. Yeah. [LB1052]

SENATOR GROENE: All right, thank you. Any questions? Thank you. [LB1052]

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LISA FRICKE: (Exhibit 8) I have to admit I'm a little nervous, but good afternoon, Senator Groene and members of the Education Committee. My name is Lisa Fricke, L-i-s-a F-r-i-c-k-e. I'm a member of the State Board of Education, representing District 2. And today I'm honored to be appearing before you on behalf of the State Board of Education. The Nebraska State Board of Education recognizes the improving educational opportunities for students with reading, writing, and spelling difficulties. In fact in 2016, in accordance with our ten-year strategic plan, we created the following goal: By 2020, all Nebraska elementary schools will provide evidence-based interventions for any students not on grade level in reading or math. Understanding the specific needs of students is paramount to providing appropriate instruction to become proficient readers. It is important to mention that there is no single instructional program or method that has been proven to teach all children to read. Rather, successful efforts implement evidence-based practices that promote literacy and are used by teachers who are professionally prepared to teach children with diverse learning needs. This is especially critical for students who exhibit characteristics of and are subsequently identified as having dyslexia. And I am so proud of the families and the kids that were here today. As an adult, it's hard to come before you, and I can't imagine being a parent going through this. So I thank them for being here. Providing appropriate support for students with dyslexia includes providing resources and training for all Nebraska educators, and I emphasize all. In January 2016 the Nebraska Department of Education released that Technical Assistance Document for Dyslexia that has been referred to, in order to provide information, resources, and guidance to support schools and families and caregivers in understanding exactly what dyslexia is. This technical assistant document is a starting point and includes additional resources for educators to access when they suspect a student may have dyslexia. The State Board understands the need to broadly disseminate resources to all school districts, all teacher education programs, and all educational service units in order to create a statewide awareness among educators. Additionally, the State Board seeks to make certain the adequate training is provided within the teacher preparation programs. The very individuals who will be out there teaching our children need to be trained in how to address all kids. For example, earlier this month the State Board of Education approved revisions to Rule 24, Regulations for Certificate Endorsements, which requires those seeking early childhood and elementary education endorsements to have training on identification of deficiencies and knowledge of early interventions and instructional strategies to support mathematics and reading. The State Board of Education is prepared to work with teacher preparation programs as they seek to include course requirements for dyslexia and literacy interventions. In closing, the State Board appreciates Senator Pansing Brooks' continuing conversation about dyslexia. LB1052 assists us in accomplishing our goals of providing evidence-based interventions for students not on grade level in reading. And we look forward to promulgating rules that will help ensure students with dyslexia have access to the interventions needed for their future success. And I thank you for you time. [LB1052]

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SENATOR GROENE: Any questions? Are you the only one speaking from the State Board?  
[LB1052]

LISA FRICKE: Yes, sir. [LB1052]

SENATOR GROENE: I'm wondering why we need this legislation. In 79-1137, legislation findings and intent on special education--it's dated 1986: The Legislature finds and declares that there is a need to establish a process and criteria to access, identify, and verify children who may require special education. Research-based criteria and a rational process for the assessment of children who may require special education will lead to greater equity, consistency, and efficiency. It is the intent of the Legislature that all children who require special education services shall be identified and verified pursuant to such criteria and process. LB...79-118 (sic: 79-1138) says--this was 1986 also--disabilities assessment, identification, and verification of need for services; State Board of Education; duties: The state Board of Education shall adopt and promulgate rules and regulations establishing criteria for the assessment, identification, and verification of all disabilities defined in Section 79-1118.01, which dyslexia is under, to the extent that such disabilities are consistent with federal law. The State Board of Education shall develop guidelines to assist school districts, educational service units, and approved cooperatives with the assessment, identification, and verification of the need for related services defined in this section. Do you know why the State Board of Education has not done that? [LB1052]

LISA FRICKE: Well, can you tell me the title of that section, Senator Groene? [LB1052]

SENATOR GROENE: One of them. I'm not accusing you. You've... [LB1052]

LISA FRICKE: No, I'm...I'm just trying to relax here and I... [LB1052]

SENATOR GROENE: You just might be the one. [LB1052]

LISA FRICKE: That's okay. And I can defer to someone to answer. [LB1052]

SENATOR GROENE: 79-1137 and 79-1138. [LB1052]

LISA FRICKE: It doesn't have a title? Like is it special... [LB1052]

SENATOR GROENE: Legislative findings and intent on special education. It's in Chapter 79.  
[LB1052]

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LISA FRICKE: Yeah, that's exactly your key. [LB1052]

SENATOR GROENE: Yeah. [LB1052]

LISA FRICKE: It's not special education. This is me speaking as an individual. [LB1052]

SENATOR GROENE: Yeah. [LB1052]

LISA FRICKE: I don't look at this as a special education issue. I look at it as a learning disability, as it is listed at...according to last year. And I believe that we need to address...last year--thank you for asking the question and I'm trying to answer it to the best of my ability... [LB1052]

SENATOR GROENE: Yeah. [LB1052]

LISA FRICKE: Last year there was a bill brought before the Legislature to fail third-graders who can't read. And I believe this bill is a better way to address...one out of five students have dyslexia. When you have early interventions, every educator is educated how to address this issue, I think. And Senator Linehan and Senator Pansing Brooks...I have such admiration for them traveling the state and getting inside the classrooms in this great state, to see what hardworking teachers are doing for kids. They are hardworking. [LB1052]

SENATOR GROENE: Excuse me. [LB1052]

LISA FRICKE: They just need to be trained to help these kids who are having reading disabilities. [LB1052]

SENATOR GROENE: I believe... [LB1052]

LISA FRICKE: So I think that's why it's so important, sir. [LB1052]

SENATOR GROENE: But I was in this seat last year when Senator Pansing Brooks brought that, and we passed that. But dyslexia was always in 78-1118.01 (sic: 79-1118.01), always was there. And what I read you refers to 79-1118. [LB1052]

LISA FRICKE: Okay. [LB1052]

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SENATOR GROENE: It's not...it's a disability according to... [LB1052]

LISA FRICKE: Well, it is a learning disability, and I just was listening to the special ed. But again, this last part, me answering this as an individual... [LB1052]

SENATOR GROENE: Yeah. Individual, I understand that. [LB1052]

LISA FRICKE: I believe all teachers and teacher preparation programs need teachers who understand this. So that would be my answer. [LB1052]

SENATOR GROENE: Another question. [LB1052]

LISA FRICKE: Oh, okay. [LB1052]

SENATOR GROENE: I understand in the statute it says you shall promulgate rules about they have to be trained. [LB1052]

LISA FRICKE: Um-hum. [LB1052]

SENATOR GROENE: But you have no authority over the University of Nebraska. Neither do we about... [LB1052]

LISA FRICKE: No. [LB1052]

SENATOR GROENE: ...what they put into their criteria to receive a teacher's degree. Is that not correct? You can't tell them what to do. [LB1052]

LISA FRICKE: We have to approve--this again is me speaking as an individual--we have to...they have to go through the certification process in order to be able to teach. So it...that would be a State Board, just like Rule 24, deciding who gets the certified endorsements. So we do have rules and regulations on who becomes certified. [LB1052]

SENATOR GROENE: Specific. [LB1052]

LISA FRICKE: This is just recommending that teachers be prepared to deal with this. Can I defer this question to someone who might be able to... [LB1052]



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SENATOR GROENE: That's fine. I'm not picking on you; I'm just saying... [LB1052]

LISA FRICKE: Oh, no. I'm not... [LB1052]

SENATOR GROENE: I'm trying to defend you. [LB1052]

LISA FRICKE: ...taking that way. [LB1052]

SENATOR GROENE: I don't think you can dictate to the university. [LB1052]

LISA FRICKE: I just...I get passionate about education, and I have an expert over here that I can defer this question to, if you don't mind. [LB1052]

SENATOR GROENE: Yeah. Well, maybe somebody from the University of Nebraska's teacher's college will be here to testify. That would be really who we need to talk to. Thank you. [LB1052]

LISA FRICKE: Okay. So you don't want the expert? [LB1052]

SENATOR GROENE: No, that's fine. [LB1052]

LISA FRICKE: Okay. [LB1052]

SENATOR GROENE: Any other questions? Wait a minute. We have Senator Linehan. [LB1052]

LISA FRICKE: Oh, hi. [LB1052]

SENATOR LINEHAN: Hi. Thank you, Chairman Groene. Just one quick question. On the second paragraph here, your State Board strategic plan, in quotes: By 2020 all Nebraska elementary schools will provide evidence-based interventions for any students not on grade level in reading or math. Okay, so this four years...why would it take four years, because from what I've heard all summer and into the fall, that we're already...everybody is already doing it, providing evidence-based interventions? [LB1052]

LISA FRICKE: Not on grade level--again, this is me as an individual--not on grade level in reading or math. You know, we're just... [LB1052]

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SENATOR LINEHAN: So that's a goal of the department... [LB1052]

LISA FRICKE: Right. [LB1052]

SENATOR LINEHAN: ...that by 2020 all Nebraska elementary schools will provide evidence-based interventions for any students not on grade level in reading and math. So, okay. So that's the goal, all right. [LB1052]

LISA FRICKE: Because we want all kids to have the ammunition, so to speak, to be successful, and reading is...you know, they say that you're learning to read up to about third grade and then, after that, it's the reverse. [LB1052]

SENATOR LINEHAN: Read to learn, yes. [LB1052]

LISA FRICKE: And so...yeah. So I thank you for your time. Thank you for the questions. I just answered the last, you know, the questions from my heart and from what I know as an individual. [LB1052]

SENATOR GROENE: And thank you as an elected official, coming before us. [LB1052]

LISA FRICKE: Yes. And so this is what's from the board. [LB1052]

SENATOR GROENE: We appreciate that. [LB1052]

LISA FRICKE: Thank you. [LB1052]

ELLEN STROKEBRAND: (Exhibit 9) Good afternoon. Senator Groene and the Education Committee, my name is Ellen Stokebrand, E-l-l-e-n S-t-o-k-e-b-r-a-n-d, and I am here as the director of special education from ESU4, which is located in Auburn, Nebraska. And so, on behalf of the students, families, and districts of ESU4, as well as I'm also a member of the NCSA legislative committee, I would like to be here in support of LB1052. I am here today to testify and support Senator Pansing Brooks's efforts to provide that technical assistance, as well as professional development for teachers, paraeducators, and administrators who are working with our students in our areas. I'm also supportive of the efforts to include this in the preservice development of future teachers. I happen to be an adjunct faculty for Peru State College. I talk about dyslexia. And, as exciting as those lectures might be, I don't know how much they remember when we're done. But anyway, so we're working on getting that information out there;

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it's out there. Just because I'm talking about it in one class doesn't mean we're doing everything justice, as far as that goes. The focus of this legislation, that was submitted by Senator, allows us to prioritize and develop skills for teachers and professionals who are involved in reading instruction. As an ESU, our premise is that all teachers are teachers of reading. And so we want to make sure that we are able to ramp up the professional development in the areas of instructional strategies, as well as interventions for reading disabilities, including dyslexia. Reading training focusing on instruction and strategy will be expanded to include all professionals and paraeducators in our districts. We offer those opportunities. With this legislation we feel like it will allow us to increase the impetus for the teachers to actually come and participate in our training and be part of that process, as well as to be participating in coaching at the classroom level. This focus of the development of skills of teachers, as well as those preservice teachers who are coming in to our profession, is something that we're very excited about supporting across the state. With that I will end my testimony. Thank you for your time and I urge you to support LB1052. [LB1052]

SENATOR GROENE: Thank you. Any questions? Senator Linehan. [LB1052]

SENATOR LINEHAN: Thank you, Chairman Groene. So you're from Auburn? [LB1052]

ELLEN STROKEBRAND: Yes, I am. [LB1052]

SENATOR LINEHAN: So I've noticed, when I've looked at schools, Auburn does really, really well. [LB1052]

ELLEN STROKEBRAND: Yes, they do. [LB1052]

SENATOR LINEHAN: Is there...do they do...have they been...did they do anything different than you see, statewide? [LB1052]

ELLEN STROKEBRAND: Well, so what we're working with, and it's definitely a work in progress, but there's a process called multitiered system of support. And so Auburn has been one of our initial districts--Auburn Public Schools--in our entire ESU...Auburn has taken that process and really integrated it within their entire reading curriculum and instruction. Our districts are at all different levels, based on expertise, based on the number of staff they have. But because that's their school improvement goal, they've made a really specific effort and, based on their data, we really know that it works. And so that's a model that they're talking with the rest of our schools. We bring our schools in together, and they share what they're doing. And they share the

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interventions they're using. And so it's a...it's a...we've always relied on the experts to tell everybody else how well...how they get the results they're getting. [LB1052]

SENATOR LINEHAN: Okay, thank you very much. Appreciate that. [LB1052]

ELLEN STROKEBRAND: You're welcome. [LB1052]

SENATOR GROENE: Thank you. Any other questions? Thank you. [LB1052]

ELLEN STROKEBRAND: Thank you. [LB1052]

SENATOR GROENE: Next proponent. [LB1052]

JASON HARRIS: (Exhibit 10) Good afternoon. Thank you, Senator Groene, and thank you, Education Committee. My name is Jason Harris, J-a-s-o-n H-a-r-r-i-s. I am the student services director for Columbus Public Schools. I am here today to support LB1052. Not only does LB1052 bring the technical assistance document to light that NDE has provided to the school districts. It also helps higher education institutes develop future teachers to support students with dyslexia. Senator Pansing Brooks was able to meet with special education directors across the state a few weeks ago, to discuss her story behind LB1052. At this time I would also like to thank the families for sharing their story. The Nebraska Association for (sic: of) Special Education Supervisors and the Nebraska Council of School Administrators support LB1052. Thank you for your opportunity for me to testify in support of LB1052. [LB1052]

SENATOR GROENE: Thank you. Any questions? Thank you, sir. [LB1052]

CONNIE DUNCAN: Hello, Senator Groene and members of the Education Committee. My name is Connie Duncan, C-o-n-n-i-e D-u-n-c-a-n. I'm a member of the Lincoln Public Schools Board of Education. I'd like to share our support for LB1052. As you have heard, the people in front of me, there are many individuals that are supportive of the technical manual referenced in this bill. I would like to highlight our appreciation for the process that was taken to reach the solutions outlined in the bill. This summer Senator Pansing Brooks reached out to a number of public schools to learn more about the ways they taught reading and the way they supported students that struggled. This fall she and Senator Linehan visited schools in Gothenburg, Lexington, Hastings, Grand Island, Doniphan, Trumbull, Columbus, York, Omaha, and Lincoln. They were able to see the very good in what we do and, also, the not so good and where we need to improve. We very much appreciate this and applaud the senators for their deep dive into public education. We think that the thoughtful approach they employed has resulted in a very strong

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bill. As a previous special education teacher, I can reenforce the value and power of effective guidance, such as a technical manual, and the impact of the professional development that come from it, to improve practice and student achievement. Lincoln Public Schools is committed to following through with the use of the information in the technical manual and to provide the best support for students. Once again, a very large thank you to Senator Pansing Brooks and Senator Linehan for taking the time to visit our public schools and for following a process to learn as much as you could in order to make meaningful change. That's all I have, and I'm open for questions. [LB1052]

SENATOR GROENE: Thank you. Any questions? Thank you. [LB1052]

CONNIE DUNCAN: You're welcome. [LB1052]

DAVE McBRIDE: Good afternoon, Senator Groene, members of the committee. My name is Dave McBride, D-a-v-e M-c-B-r-i-d-e, the executive director of Nebraska Optometric Association and appearing in support of the bill on behalf of our 280 members of doctors of optometry across the state. Our interest in the bill is, and particularly in relation to the percentage of these students who have visual processing disorders, which a number of our members across the state are involved in helping to diagnose and treat. And specifically with regard to the technical assistance document that's referenced in the bill, we are here to offer our support to Senator Pansing Brooks and the committee and the educational community in developing that document to provide whatever is appropriate, in terms of information relative to the benefits and the steps, the processes, the resources available for visual processing assessment and then treatment, relative to dyslexia. So we would encourage your support, and I would...I know we had one of our members, in particular, who does a lot of work in this area who had a chance to visit with Senator Pansing Brooks last week in a meeting. She would've been here to testify instead of me, but she is in Florida with her family, on vacation. So I will do the best I can to answer any questions, if there are any. [LB1052]

SENATOR GROENE: So an optometrist can spot this? [LB1052]

DAVE McBRIDE: To the extent that there is visual processing problems, the optometrists often get patients referred to them when there are suspected issues having to do with just vision disorders. And then my understanding is that there are percentage of these people--the number I got from our member who I just referenced, who spends a lot of time in this arena--is 15-18 percent of these patients may have just a visual processing problem as the only symptom, really, of dyslexia. And some of those can be remediated, or at least partially remediated, by an optometrist through vision therapy, for example. [LB1052]

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SENATOR GROENE: Thank you. Any other questions? Next. How many more are here to testify? [LB1052]

KORBY GILBERTSON: Good afternoon, Chairman Groene, members of the committee. For the record, my name is Korby Gilbertson; that's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing in front of you today not as a registered lobbyist, but on behalf of myself and my son Hunter, who wanted to be here today but, unfortunately, they were doing MAPs testing at school, so I couldn't pull him out. Hunter got to testify last year and talked to you a little bit about the struggles that he has faced since he was diagnosed with dyslexia. He has, as other parents have testified, has been called an idiot, stupid, retarded...told by a child in this fifth grade class that he should be in kindergarten. That child just happened to be the teacher's son. We had pushback from teachers. I will...mind you, this was not LPS, it was in a private school here in Lincoln. But the teacher just told him he needed to work harder and spend more time. We would spend three hours a night on his homework, trying to memorize spelling words that he would forget the minute he finished that spelling test, even though he got 100 percent on it. And it was, finally when I went to a dyslexia seminar, that the old light went on. And first of all, I felt like a horrible parent because I thought back to times when we laughed when he would use words like "isgusting" instead of disgusting, he'd call spaghetti "pasghetti." We had a friend that was a sheriff's deputy, and he'd always call him "Sherf" and he couldn't understand why that we'd say he was saying it wrong. He was a very strong-willed child and that, I think, is what has gotten him through it. One thing I wanted to talk about with you today is the fact that children with dyslexia are not stupid. They aren't idiots. In fact, they are very smart. Hunter had his testing--his retesting just two weeks ago, and I met with the teachers and the school psychologist last week. When they test his overall cognitive functioning--and this, mind you, is done without any accommodations--his verbal skills tested out at 96...at the 96th percentile. His overall full-scale IQ was in the 90th percentile, and this is without any accommodations. But then you look at his decoding fluency, which means how fast can he read with no assistance. He falls into the 7th percentile, his reading level--the 3rd percentile, writing--the 5th percentile. So you look at a child that can score in the 90th percentile overall, but has grades that scores this low on other things. There clearly is an issue. And my biggest fear as a parent is always that he'll test out and, all of a sudden, they'll say: Well, I'm sorry, he can't have any accommodations any more, because he's doing too well. Clearly he's not, but that's been my fear for years because, without the accommodations he gets right now, he would be failing. But instead he has one "B" out of all of his grades for the last two years, and it was a 93 out of 100 because in Waverly they...you have to have a 94 to get an "A". He got...recently received third place out of 87 teams on a science fair, and he'll be going to regionals. So children can do whatever they want, but they need to have support. And we have been very lucky to get the support we have, both from Lincoln Public Schools and Waverly. But we've lucked out because we've had people that are working with my son that are...that have...are familiar with dyslexia, and I've also been kind of a bear (laughter). For those of you who know me, that's kind of hard to believe, I know. But I think this is one step in the right direction, and I

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cannot thank Senator Linehan and Senator Pansing Brooks for their dedication to this, because there is nothing harder than having your child suffer and not being able to do anything to help them. [LB1052]

SENATOR GROENE: Thank you. Any questions? Thank you. [LB1052]

KORBY GILBERTSON: Thank you. [LB1052]

SENATOR GROENE: Next. [LB1052]

REBECCA MILLER: (Exhibits 11 and 12) Good afternoon, Chairman Groene and the members of the Education Committee. My name is Rebecca Miller, R-e-b-e-c-c-a M-i-l-l-e-r, and I am the owner and managing director of FixLexia, a clinic whose mission is to serve individuals with dyslexia and other reading-related difficulties. Additionally I am a board-certified educational advocate with training in special education and training in special education law. I'm here today to express my support for LB1052. What I'm looking at the four components that are outlined in this bill, the first is: NDE shall develop and distribute a TA document for school districts and teachers. For the past 17 years or so, I've interacted with teachers in various capacities to include hiring, supervising, and training. With absolute certainty, I can tell you good teachers really want to know how to serve kids with dyslexia. Literally, not a week goes by without a call from a teacher, a speech-language pathologist, or a school psychologist, asking me for additional information so they can help their students. During these conversations I have heard, countless times: I think dyslexia may be the problem, but I don't know what to do about it because I don't have access to any training. Members of my own clinical staff have met with teachers, school psychologists, speech-language pathologists, and a few special education directors to talk about how to identify profiles consistent with dyslexia and how best to intervene. The common themes I've heard when consulting with various school professionals include: Where can I get additional training related to dyslexia, and how can I get my school district to discuss how best to serve children with dyslexia? Literally just last week, I got a call from a teacher of a student that we are working with, and she said: I don't understand, why can I openly discuss ADHD or autism at school but I cannot...but when I bring up dyslexia, nobody wants to talk about it? Requiring an updated...the technical assistance document would provide a roadmap for screening, evaluation, and intervention. It is an important first step because it will open the door and allow for a candid and much needed conversation that will help students affected by dyslexia...and understanding there has been a technical assistance document, and I would attest to what others have said when I've talked to teachers, education...other educational professionals, they're not even aware that it's on the site. If we don't agree to provide evidence-based instruction, we simply are agreeing to the status quo. Many of the school-age children we see in our clinic have, for years, received interventions that yielded little--I'm sorry--or no improvement in reading. Yet after implementing

evidence-based interventions, okay, based on the assessed needs of the child in our clinic, we see children make substantial improvement in their phonological awareness skills and other skills, but phonological awareness skills are the foundation to reading and spelling. In fact, I can say unequivocally that every single student that we have had, pre- and post-phonological assessment in our clinic, has demonstrated significant improvement in their skills, as measured by percentile rank. It is not at all uncommon to see percentile rank improvements of 15-25 points and, if you talk to any educator, they would concur that those are very good results. Compare this with a typical intervention of 0- to 5-point improvement in school-based reading interventions for the same kids with dyslexia. I'm not sharing this because I want to brag, or I think I have the market cornered on effective interventions; I don't. I'm sharing the information because, while it is not easy, we simply implemented evidence-based interventions specific to the needs of students with dyslexia. These same interventions will work for schools, too. It's not magic, but it will require training that aligns with current research. Other well-known research... [LB1052]

SENATOR GROENE: At that point, could you... [LB1052]

REBECCA MILLER: ...another...one well-known reading researcher and author that I've had the privilege of meeting and talking to, Dr. David Kilpatrick, told me: Intervention researchers estimate that if the best prevention... [LB1052]

SENATOR GROENE: Could you wrap it up, Miss? [LB1052]

REBECCA MILLER: I'm sorry? [LB1052]

SENATOR GROENE: Could you wrap it up? [LB1052]

REBECCA MILLER: Yes. The other piece would be, I guess, that not requiring the medical diagnosis...I think it's important. I think it would be better to arm teachers with that information in private evals. [LB1052]

SENATOR GROENE: Any questions? So you consider yourself a well-trained professional in the area of dyslexia? [LB1052]

REBECCA MILLER: Yeah. [LB1052]

SENATOR GROENE: How...what training have you had? [LB1052]



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REBECCA MILLER: So the training...we're looking at...are you looking like in teacher college? [LB1052]

SENATOR GROENE: I'm not. I'm just trying to figure out if somebody...is there such a course? [LB1052]

REBECCA MILLER: That's actually, that's actually... [LB1052]

SENATOR GROENE: Is there such a course in teacher's college to identify... [LB1052]

REBECCA MILLER: No. [LB1052]

SENATOR GROENE: ...disabilities, autism, anything...how to... [LB1052]

REBECCA MILLER: So...autism I would not speak to. [LB1052]

SENATOR GROENE: But I'm just saying... [LB1052]

REBECCA MILLER: What I would say is... [LB1052]

SENATOR GROENE: Teachers have to confront all of those, not just dyslexia. [LB1052]

REBECCA MILLER: The training, honestly, that I've had is...before I opened our clinic, I spent probably two years meeting and talking to different researchers and people around the country, research journals, and doing all those things, going to people that are providing those interventions, and then hiring people for my clinic who have that background. For example, one of our evaluators--Ph.D., learning disabilities--ended up having a long-term project with Dr. Elaine Cheesman, who is a well-known researcher in the area of dyslexia. So there is no formal training, but there are standards out there. For example, the International Dyslexia Association has a knowledge-and-practice content standards that they have rolled out that, on every level, will say specifically what should be included in the training. And then we... [LB1052]

SENATOR GROENE: Does anybody in the state of Nebraska offer the training? [LB1052]

REBECCA MILLER: I'm sorry? [LB1052]

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SENATOR GROENE: Does anybody offer the training at the teacher's college? [LB1052]

REBECCA MILLER: To teachers or informal trainings? [LB1052]

SENATOR GROENE: Just (inaudible). [LB1052]

REBECCA MILLER: We have offered...our clinic offers either, sometimes to parents...informally we have teachers come in if they... [LB1052]

SENATOR GROENE: So it's informal training, no certificate to go out in the world and (inaudible). [LB1052]

REBECCA MILLER: You...there's associations, like the Academy of Orton-Gillingham Practitioners and Educators. There is...there are several bodies that can. There's not a uniform practice. That's actually what the International Dyslexia Association is working on right now, to do a uniform...just like if you are OT or PT or speech, they have credentialing bodies. So... [LB1052]

SENATOR GROENE: Thank you, thank you. [LB1052]

REBECCA MILLER: Yes. [LB1052]

SENATOR GROENE: Any other questions? Thank you. Next. [LB1052]

SHERI BAUMGARTNER: (Exhibit 13) Thank you for taking the time, Chairman and senators. Speaking on behalf of Cathedral of the Risen Christ, my name is Sheri Baumgartner, S-h-e-r-i B-a-u-m-g-a-r-t-n-e-r. I cannot adequately express how excited I am about the creation of this bill and how very much I hope it passes. I received my teaching degree in 2007 from a university here in the Midwest. I graduated from a dual-major program, receiving diplomas in elementary education and early childhood education. For a while I pursued my degrees...I used my degrees to teach preschool and pre-K, and they served me well. When I moved into a position helping my school's most struggling students, I realized just how ill-prepared I really was. Like most classroom teachers, I was qualified to teach in a way that reaches 80 percent of students. I was not aware there would be 20 percent of students for whom learning did not come easy. And I wasn't given instruction on how to reach them. All of this surprised me because I also hold an early childhood special ed endorsement. In my teacher training, there was discussion of numerous, well-known diagnoses, including ADHD, oppositional defiant disorder, autism, Aspergers, and more. Never was there any mention of dyslexia, dyscalculia, or dysgraphia. Two

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and a half years ago, I made the decision to learn an alternative reading curriculum that would help our struggling readers at Cathedral. During this training I was educated in dyslexia and related conditions. I began to see that this is not an isolated issue within my school or my world. I knew that Cathedral needed more tools than what I had. A friend and colleague recommended to me Susan Barton's course to become qualified to screen for dyslexia. Our resource team thought this was a fantastic idea and, when I requested financial assistance to attend this, our School Family Association agreed this knowledge would be an asset to our school and agreed to help. Last year my school began screening students for dyslexia and implemented an early-intervention screening program. Every first-grader is screened in the fall, using the CTOPP. Any student who scores below average or lower in at least two subtests qualifies for participation in this elective program. We have an ever-developing tutor program. If a child is screened and exhibits characteristics consistent with dyslexia--because I'm not qualified to diagnose--or meets the criteria in the early-intervention screening, he or she is paired with a tutor. These tutors are typically members of our church community who come into the school and tutor a student, but they're matched with twice a week, using the Barton Reading and Spelling System for free; whereas, if they had to do it outside of school, that's \$40-\$60 an hour. In the three semesters that our program has been in place, I have personally screened 17 of our students for dyslexia and looked for the hallmarks of dyscalculia and dysgraphia. We currently have 25 children in our program, ranging from first to seventh grade. We also have eight students somewhere in the screening process. Last year's early intervention screening identified five children in need of additional support in the area of phonological processing. Two of these children blossomed into great readers after participating in six months' worth of tutoring. I have one student who has gone from reading two grade levels behind to reading on grade level after just this semester, as well as continued supports and accommodations at home and in the classroom. This child had hit the wall by fourth grade, and he was convinced he was stupid and incapable. We put tutoring and accommodations in place in fifth grade and he, as a current sixth-grader, participates in no resource classes and made the honor roll for the second quarter. Another student who participates in the program has gone from being a sixth-grader reading at a second-grade level to reading at a fourth-grade level. So while she's not there yet, she's getting better. We see successes, big and small, with this program. And while it's time intensive, it's not unachievably expensive and it's not difficult. I not only have a professional connection to dyslexia, but also a personal one. My fifth child struggled through elementary. I was always reassured by teachers she was behind, but it was okay because she'd catch up. As a young mother, I was not aware that catching up doesn't happen very often and not without rigorous interventions. She was preparing to begin her senior year of high school as I received my training for dyslexia screening. And so many of her habits, her writing techniques, and her struggles seem to stand out for me. And I asked a colleague to take a look. She was found to display characteristics consistent with dyslexia, dysgraphia, and dyscalculia on her 17th birthday, just six weeks... [LB1052]

SENATOR GROENE: Miss, could you wrap it up? [LB1052]

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SHERI BAUMGARTNER: Sure. I just also want to say that the hat of a mother isn't one I remove; it's on whether I'm at home, whether I'm at school. And those kids in the school--they are my students, and I think they deserve every opportunity. It isn't their fault they're in the 20-percent minority that access information differently. And I don't know that...if it's public or private, they have a right to all basic information. [LB1052]

SENATOR GROENE: Thank you. Any questions? So you work at a private parochial school. [LB1052]

SHERI BAUMGARTNER: Um-hum. [LB1052]

SENATOR GROENE: Does your school get any special education funds? [LB1052]

SHERI BAUMGARTNER: I know we have an LPS representative who comes in and works with children on an IEP. I don't know that we receive special funds. [LB1052]

SENATOR GROENE: But not for dyslexia or any of the other. [LB1052]

SHERI BAUMGARTNER: No. [LB1052]

SENATOR GROENE: Did you know that the public special education association told us last year, in the public schools, that they could not diagnose dyslexia because they were not allowed to do it through special education regulations? But since you're a private school, you can do it. [LB1052]

SHERI BAUMGARTNER: I cannot diagnose. I do know there were people who took the same course I did, but they were SLPs or OTs. [LB1052]

SENATOR GROENE: So how do you address the parents if you suspicion that the child has dyslexia? [LB1052]

SHERI BAUMGARTNER: I can tell them that the signs are consistent with dyslexia, and I can say that if... [LB1052]

SENATOR GROENE: You can... [LB1052]

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SHERI BAUMGARTNER: I mean, the...what work we do works in my school. But if they're not comfortable, they can always make an appointment with a neuropsychologist. [LB1052]

SENATOR GROENE: But you can use the word "dyslexia" when you meet with the parents. [LB1052]

SHERI BAUMGARTNER: Absolutely. [LB1052]

SENATOR GROENE: We were told you couldn't even do that in the public schools. [LB1052]

SHERI BAUMGARTNER: I have a fantastic principal. [LB1052]

SENATOR GROENE: But you don't take government money. Thank you. Next. [LB1052]

DARLENE MERZ: I would like to address some of the questions that you asked. [LB1052]

SENATOR GROENE: Thank you. Looking for knowledge. Always. [LB1052]

DARLENE MERZ: My presentation will be a little different than the others. I would like you to have your handouts before I start, because I've actually got graphs that show the actual results of the last two speakers, using the same program that I'm using. They used--or did not use--the name Susan Barton. I've been using Susan Barton... [LB1052]

SENATOR GROENE: Would you spell your name, and spell it? [LB1052]

DARLENE MERZ: Yes, yes. And I'm not ready to actually start yet. [LB1052]

SENATOR GROENE: Well, you need to because we're running out of time. [LB1052]

DARLENE MERZ: Okay, all right. [LB1052]

SENATOR GROENE: You get that out of the way first. [LB1052]

DARLENE MERZ: I'll go ahead. You'll have to catch up on the handout then. [LB1052]

SENATOR GROENE: Well, just...spend this time giving your name and spelling it. [LB1052]

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DARLENE MERZ: (Exhibits 14, 15, and 16) Okay. My name is Darlene Merz, D-a-r-l-e-n-e M-e-r-z. I'm an advocate for LB1052. And many of the things that you've addressed, I've met with other years that we've been here. And I'm very excited to see all of you sitting around the table instead of five of us old ladies that were trying to pass a dyslexia bill. It wasn't working. Things I'll address are: evidence-based instruction; Orton-Gillingham, which is what Mrs. Pansing--or Senator Pansing Brooks--mentioned; characteristics of dyslexia and synonymously termed struggling reader, by the National Institute (sic: Institutes) of Health; and teacher education. First of all, evidence-based instruction. I would advocate, at this point...on my first handout--the white sheet--I'm talking about an Orton-Gillingham program, not just evidence-based instruction. I'm here to share samples of evidence-based data, verified by DIBELS, MAPs, and STARS assessments, that I have with me and you will see, after using a direct, explicit, systematic, multisensory instructional program for nine years, and comparing those scores to students who had no Orton-Gillingham program, which is under an evidence-based title. As a special education teacher and certified dyslexia specialist, I have used a multisensory program with over 100 students. I'm using an Orton-Gillingham program in a parochial school currently, with 12 students--independently with 6, and I used it for five years in the Nebraska public schools. The first thing that I want you to look at would be on the green handout--looks like this. And toward the middle of the page you will see the scores from a DIBELS testing, which almost all schools across the state of Nebraska currently use. 30-50 points, and that's exactly what the previous speaker told you, 30-50 points of improvement in one semester, using an Orton-Gillingham program. And corrective reading that was required by the school where I was teaching, they had 3-5 points of improvement. That's what you see. DIBELS is defined down there; it's a dynamic indicators of basic learning skills, and it's just an assessment the Nebraska schools use, and across the nation. Please read the remainder of that article. I submitted this to one of the people that works at the dyslexia association in Nebraska, and they had it in the Insights quarterly (sic: monthly) in October, as one of the pages of information. Okay, I would like you to next refer to page 6 in the multicolored handout. It looks like this; there's a graph on it. As you noticed, that student...this is an actual report from a little boy. His mother is a teacher at the school where I teach. And the first little boy that I was tutoring comes in one day and he says: I would like my friend to come with me. Can he come with me? And of course, he couldn't, but his mother was a teacher at school and he started in this program. He took the MAPs test in the fall of 2016, rated 156. I started tutoring him and in two months, after he took his spring assessment, he was up to 176 on that graph. And this is actual MAPs scoring affidavit of how much they improved. So he improved over 30 points in just a couple months, or a much shorter time than you would with corrective reading or something that's mandated by the schools to be using now. I would like you to visit that information further, at your convenience. The next one I have is STAR reading. And that one is on...either on the flip side or else behind. And I would like you to refer to that little highlighted area. I got this yesterday from the principal, who is elated because I've started tutoring at this parochial school. He doubled his score in the time that I've been seeing him. And we see him once a week, with an Orton-Gillingham program that Susan Barton created, that the

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other ladies before me are also using. Characteristics of dyslexia was something else that I wanted to touch on today, and I would like you to refer to the orange handout--I think it's page 3. That gives you the characteristics of dyslexia, the same ones that would be recognized by the International Dyslexia Association. And Sally Shaywitz, who was the doctor with the renowned book Overcoming Dyslexia, that you should all access yourself to. I actually talked to Senator Brook (sic)--or Senator Adams (sic)--when he was in here, and he said: Go for it, lady. And this is where we are; we are making progress. [LB1052]

SENATOR GROENE: Thank you. Can you wrap it up? [LB1052]

DARLENE MERZ: Yes, I will. The last thing is teacher education. I agree; teachers do not know about dyslexia. You can read about what I say that teachers say to us when we go into schools, but I would love to share the ability about knowing about dyslexia. And how to use this program is very simple. I have 18 other ladies that I've helped get started using this program. [LB1052]

SENATOR GROENE: Thank you. Any questions? Senator Linehan. [LB1052]

SENATOR LINEHAN: Thank you, Chairman Groene. Back to the chart, I just...if I want to make sure I understand the one with the graph. [LB1052]

DARLENE MERZ: Um-hum. [LB1052]

SENATOR LINEHAN: So if you improve 30 points, it's a year of learning? [LB1052]

DARLENE MERZ: Actually his score would be...they might only go up three to five points if they were in a program that was not tactile. For instance, if we use tactile activities, we swoop in the air and we take words apart. You have to back to the very atom of building a word, like taking an atom apart, or a molecule. And so his improvement there was outstanding. And it's not necessarily just a year, but it's just a lot of improvement in one semester of...from like 156 was actually from '16-'17. [LB1052]

SENATOR LINEHAN: I'm on your side here. [LB1052]

DARLENE MERZ: Yeah, yeah. [LB1052]

SENATOR LINEHAN: I'm trying to show. So I think we're saying the same thing. This child, with your methods, with the Orton-Gillingham... [LB1052]

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DARLENE MERZ: Yes. [LB1052]

SENATOR LINEHAN: ...made tremendous progress in a very short amount of time. [LB1052]

DARLENE MERZ: Right. And it's actually defined right up here in the top paragraph, if you read it at your own convenience... [LB1052]

SENATOR LINEHAN: Right. [LB1052]

DARLENE MERZ: ...it will make more sense. But 20-30 points...and I had only met with him two times a week for two months, and that's how much his score changed. [LB1052]

SENATOR GROENE: Thank you. [LB1052]

SENATOR LINEHAN: Thank you very much, appreciate it. [LB1052]

DARLENE MERZ: All right. Yes. [LB1052]

SENATOR GROENE: Senator Erdman. [LB1052]

SENATOR ERDMAN: Thank you, Senator Groene. Thank you for coming today. So when you...when these children come to you, do you test them for dyslexia? [LB1052]

DARLENE MERZ: I do test them. Mrs. Barton created a mini-screening that probably the other ladies are also using, that have taken her course. I became a certified dyslexia specialist by attending six credit--college credit hours under Mrs. Barton, and used that as criteria to begin with these students. And that's where my name is on her Web site...she's from California. And I have calls from Colorado, I have doctors ...like affidavits of this child needs a Barton program. There's one up at Cross County where I formerly taught, and I terminated my position to use this program independently, because I saw the huge difference that it made, and I was not dependent on my teacher's salary to live. So this is why I'm doing what I'm doing. [LB1052]

SENATOR ERDMAN: So would you think that training that you've had would be something we could do in the teacher colleges? [LB1052]

DARLENE MERZ: It's huge, yes. I think that Mrs. Barton goes out. She actually does personal visits to schools. And...but it is...I mean she's going to charge probably, maybe \$5,000 for a



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whole school district. But she has people that will do it for her now. There are multiple...these are all across the nation. There are tutors that are doing this very thing. If you look on her Web site, you will be amazed at the information that's there. Just visit that Web site on the orange page. [LB1052]

SENATOR ERDMAN: Okay. Where are you located? [LB1052]

DARLENE MERZ: I'm located at Stromsburg. [LB1052]

SENATOR ERDMAN: Stromsburg? Okay. Thank you. [LB1052]

DARLENE MERZ: I teach at...in the York parochial school. [LB1052]

SENATOR ERDMAN: Thank you. [LB1052]

SENATOR GROENE: Thank you. Next. [LB1052]

EDWARD TRUEMPER: (Exhibit 17) Thank you. My name is Dr. Edward Truemper; that is spelled E-d-w-a-r-d T-r-u-e-m-p-e-r. I am testifying as a representative for the Nebraska Medical Association, who is in full support of Senator Pansing Brooks' measure at LB1052. My background is I'm a pediatrician. I've been in active practice for 35 years. I'm also a pediatric critical care subspecialist. I teach at UNL, UNMC, Creighton University. I have more than 100 publications, most involving brain biology in children. I also develop medical devices at UNL. I explain my background because I think it's going to be self-evident at the end of my presentation. You've already heard about the statistics of dyslexia, what it's about. What I will say, the document that I've distributed to you is one of eight position statements. This one happens to be from the American Academy of Pediatrics and three other academies. And there's two unifying things. The first one is that physicians should not be making the diagnosis; it should be the school systems, people who are qualified to make that. The second it that there is a triad of people who should be involved: the teachers, the parents, and the physicians. They each have specific roles; they're outlined in the document. Many industrialized nations have had programs that have been going on for decades, screening for dyslexia and also intervening. And in this country, it's relegated to the states, and there's more than 35 states who have active programs. There's more than 50 institutes that provide education, some that I've talked to. All have said that they would be willing to help Nebraska in their efforts. I would like to go into one specific case, which I think illustrates some of what has already been discussed. And the highlights of a young man who was six years old, who had two loving parents--one who was a chemist and one who was a nurse. Oldest of four kids, healthy, seemed to do fine in kindergarten.

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But once he hit first grade, what ended up happening quickly determined that he couldn't master language. Teachers continued to work with him. Eventually the parents were told he was not succeeding at school. They took him to the pediatrician, found he had hearing and visual problems. Those were remediated, still did not improve. By the time he got through the fall semester, he was flunking all of his coursework. The parents pleaded with the school to help assess what the problem was. They gave him a written IQ test. It was lost upon them that, if a child can't read, why are you giving him a written IQ test? He scored so low that he was labeled mildly retarded. They said that normal school would not help him; he would need remedial training. The parents were devastated, went back to the pediatrician. The pediatrician at that point said: I think your child has dyslexia. Went back to the school, school says: No, we've made our pronouncement. The pediatrician and parents then went to the state school board and state school superintendent and eventually harangued the school system into providing the appropriate education. That young man, after eight weeks, was reading at school level...eventually, by the time he reached eighth grade, was reading at college level. He eventually went on to get two advanced degrees and is a recognized expert in his course of study. I would love to say that I was the pediatrician who made that diagnosis; it wasn't. It was my family pediatrician. I was that six-year-old boy. And I came out on the other side of impossible, to have an active, engaged career and considered an expert in my field in this country. And I have just retired from clinical medicine. So you can be successful if you have appropriate intervention. And I urge you to pass this bill. Thank you very much for your time. I'm open to questions. [LB1052]

SENATOR GROENE: Have you read the bill? [LB1052]

EDWARD TRUEMPER: Yes. [LB1052]

SENATOR GROENE: I mean, do you think it's... [LB1052]

EDWARD TRUEMPER: Yes, I have looked at the bill, including eight policy statements. And the thing that, as I told Senator Pansing Brooks, is you covered all the important elements in the bill. It's like she read all eight of them--maybe she did--and drafted a robust bill to cover the issues. It's simple, declarative language and doesn't read like politics. [LB1052]

SENATOR GROENE: I just wanted to...just your opinion, it wasn't. [LB1052]

EDWARD TRUEMPER: It is...I think it is the... [LB1052]

SENATOR GROENE: What we don't need is more symbolic legislation. But you think this has some teeth to it. [LB1052]

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EDWARD TRUEMPER: I think there is appropriate teeth in this measure, and I think it will make a huge difference in the state of Nebraska. It looks a lot like the one that they have in Georgia, which they drafted 18-20 years ago. [LB1052]

SENATOR GROENE: Do you understand you were here when I read the statutes that are in the books? [LB1052]

EDWARD TRUEMPER: No, I absolutely understand. And it's mortifying that it's been in the books since the mid-'80s. And this is where we're at today. Unfortunately, it's someone like Senator Pansing Brooks, who has to dig for that and, as you have dug into the previous statutes to find the something that we should have already been doing. [LB1052]

SENATOR GROENE: Thank you, sir. [LB1052]

EDWARD TRUEMPER: Thank you. [LB1052]

SENATOR GROENE: Any other questions? [LB1052]

ANN HUNTER-PIRTLE: (Exhibit 18) Good afternoon, Senator Groene, members of the committee. I'm Ann Hunter-Pirtle, A-n-n H-u-n-t-e-r-P-i-r-t-l-e. I'm the executive director of Stand for Schools. I want to thank Senator Pansing Brooks for introducing this bill. Stand for Schools supports LB1052 because we believe all Nebraska students deserve equal opportunities for success. Methods and levels of support for students with dyslexia vary from district to district and even school to school. By providing greater protections for students with dyslexia, and more resources to teachers, schools can provide improved, consistent support to students in need of services. LB1052 makes sure our teachers are adequately prepared to identify and treat students who need additional support in this area. With this bill, this committee has an opportunity to improve educational opportunities for students across the state. For these reasons, Stand for Schools supports the bill and urges you to advance it to General File. Thank you. [LB1052]

SENATOR GROENE: Thank you. Any questions? Next. [LB1052]

ANN HUNTER-PIRTLE: Thanks. [LB1052]

SENATOR GROENE: How many more testifiers are there? One? [LB1052]

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SHELLI COOK: (Exhibit 19) Hello. My name is Shelli, S-h-e-l-l-i; Cook is C-o-o-k. Senator Groene and the fellow members of the Nebraska Legislature Education Committee, my name is Shelli Cook and I'm here to present, on behalf of the members of the Nebraska Speech-Language-Hearing Association, who is in support of this bill. For nearly 18 years I have worked as a private speech-language pathologist and have also worked for the public and private school systems with the focus on dyslexia training, screening, intervention, and assessment. Phonemic language and teaching others how to read has always been a special love of mine, and I enjoy reading, myself. Of course, as we've heard, it's not always easy for everybody. Last year I had one of my personal, private students, Finn McInerney here, to present on his journey with dyslexia. In first grade, he reported: my teachers would just tell me keep trying, keep trying. But I just couldn't read the words. And it would make him angry. When we went to second grade, he would tell his...that was one of his hardest years. His friends could read and he couldn't; and it made him feel jealous. And in third grade, that was his easiest year because he was able to get some help. Finn was fortunate. His mother, a public school elementary teacher--and he was actually in her school, she knew he was a bright child. And yet he hadn't learned to read beyond a few short words. This was because the traditional reading instruction did not work for him. As a speech-language pathologist with additional training in systematic, multisensory, Orton-Gillingham language instruction, often now called structured literacy, I was able to assess his abilities and provide needed intervention in my private practice. Unfortunately, some children don't get the opportunity to receive these specialized services. I think back to the many students and patients of mine, over the years, who did not receive the needed, appropriate interventions, although I was right there in the MDT meetings with them, in order to learn how to read. Many professionals who work with these children with dyslexia, have not had the specialized phonemic-structured and systematic intervention needed. Some don't know what they don't know. Many don't know that a little more intervention with this--a little bit of curriculum at just a small-group level--is not designed to help students with dyslexia. Educators...what we need to have is educators who have training in evidence-based, systematic literacy assessment, intervention, and help, as detailed by the International Dyslexia Association and the Nebraska technical assistance manual. We don't need medical diagnosis; we need our teachers to be educated. It's what's needed, and the results can be very exciting. The Nebraska Speech-Language-Hearing Association members respectfully ask for your support in voting for this legislation. Thank you for your consideration. [LB1052]

SENATOR GROENE: Thank you. Any questions? Next. [LB1052]

GLEN FLINT: (Exhibit 20) Hi. My name is Glen Flint, G-l-e-n F-l-i-n-t. Senator Groene and members of the Education Committee, thank you for this opportunity to testify. I am in support of LB1052. The ten-year Strategic Plan, undertaken during the three years I served on the Nebraska State Board of Education, sets aggressive goals for improving the quality of education available to Nebraska's children. Goal 5.2: By 2020, all Nebraska elementary schools will

provide evidence-based interventions for any student not on grade level in reading and/or math. Goal 6.3: By 2026, the percent of Nebraska students in grades 3 through 8 and 11, proficient in reading will increase from 79 percent to 89 percent. In order to reach these goals, Nebraska must meet the challenge of better serving the estimated 20 percent of the student population with dyslexia. Studies have shown that students who fail to read proficiently by the end of third grade are four times more likely to drop out of school without a high school diploma. In The Schools We Need: and Why We Don't Have Them, E.D. Hirsch, Jr., writes, "--every child reading at grade level by the end of first or second grade--would do more than any other single reform to improve the quality and equity of American schooling." LB1052 prescribes a three-pronged approach to address the challenge of dyslexia in Nebraska's public schools. First, students exhibiting the characteristics of dyslexia shall receive structured literacy instruction, as prescribed by the technical assistance document promulgated by the Nebraska Department of Education. As a volunteer tutor at the Voice Advocacy Center in Omaha, I have experienced the successful application of the Orton-Gillingham approach to structured literacy instruction, and that is...we're using the Susan Barton method that as you've heard about. Second, students who exhibit characteristics of dyslexia shall not be required to obtain a medical diagnosis to receive this instruction. Further, current research, much of it supported by the National Institute of Child Health and Human Development, has demonstrated the value of explicit, structured language teaching for all students, especially those with dyslexia. And let me add here that I learned to read with Dick and Jane a long time ago--I don't know if that's whole language or look say--but I'm learning so much by becoming a tutor and learning how the English language is supposed to work. Third, the Nebraska Department of Education will actively promote their Technical Assistance Document for Dyslexia to all teacher education programs, educational service units, and school districts. During my time on the board of the Nebraska Dyslexia Association, I've been surprised by the number of parents who have been frustrated in their attempt to obtain help from their child's school due to a lack of awareness by educators that dyslexia exists and that it can be successfully overcome, using a structured literacy approach. LB1052 will benefit students, parents, teachers, and taxpayers. It establishes a course of action that will provide immediate benefits to parents and students struggling, not only with dyslexia, but with the institutional lack of knowledge about dyslexia and the methods available to help their students succeed. Teachers will benefit from understanding the characteristics of dyslexia and the structured literacy interventions necessary to help their students learn to read. Given that 80-90 percent of students with learning disabilities have dyslexia, taxpayers will benefit from this concerted effort to help students with difficulty reading overcome dyslexia, reducing the number of students in costly special education programs. I urge you to vote in favor of LB1052 and help Nebraska's dyslexic students reach their full potential. Thank you. Questions? [LB1052]

SENATOR GROENE: Questions? Did you say you were on the State Board of Education?  
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GLEN FLINT: Yes, I was. [LB1052]

SENATOR GROENE: Did you...were you here when I read those two statutes about assessments? [LB1052]

GLEN FLINT: Yes, I was. And I can't answer that question. I don't know. I...we did have many of the same witnesses come forward when I was on the State Board of Education, talking about the problems with dyslexia. [LB1052]

SENATOR GROENE: Do you know...is the federal special education...if we don't have a medical diagnosis, does that student then not qualify for special education? [LB1052]

GLEN FLINT: I don't know that, sir. I don't know the answer to that. [LB1052]

SENATOR GROENE: I mean that seems to be a tie of why special education teachers can't mention the word "dyslexia" because they can't diagnose. [LB1052]

GLEN FLINT: I don't know. [LB1052]

SENATOR GROENE: That's what we were...heard last year from the public school boards...the public school, I'm talking about public schools. It...what we were testified in front of us last year, if you remember right. Also, constitutionally...you know, we've got trouble with the university. The "Department of Education shall have general supervision and administration of the school system;" this is Section 2 of Article 7, and of such "activities as the Legislature may direct." That means..so will we get in trouble telling...we hear about local control. But they don't want us--you--telling them what to do; they don't want us telling them what to do. And apparently they're not doing their job, but this local school system says that they want to be independent. So... [LB1052]

GLEN FLINT: I think there is... [LB1052]

SENATOR GROENE: Where do we go with this? [LB1052]

GLEN FLINT: There is some way that we have input into teacher accreditation programs. I think we can require that they offer courses in dyslexia tutoring. [LB1052]

SENATOR GROENE: You can...you can do that (inaudible)... [LB1052]

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GLEN FLINT: I believe that's the case. I know what we reviewed... [LB1052]

SENATOR GROENE: All right. That would be a good first step. [LB1052]

GLEN FLINT: ...postsecondary teacher education programs and were approving them more. I don't know that we ever denied any, but... [LB1052]

SENATOR GROENE: You approve the degree program as...out of the colleges. [LB1052]

GLEN FLINT: The teachers, yes. Yes, this teacher certificate is good in the state of Nebraska basically. [LB1052]

SENATOR GROENE: So this part of the statute would give direction to the University of Nebraska and all those colleges, private colleges, too. [LB1052]

GLEN FLINT: I believe so, yes. I believe so. [LB1052]

SENATOR GROENE: All right, thank you. [LB1052]

GLEN FLINT: Unless I'm going to be overruled. [LB1052]

SENATOR GROENE: But that would be good. Thank you. [LB1052]

GLEN FLINT: Okay, okay. Thank you. [LB1052]

SENATOR GROENE: Any other...well, we're done. Did you want to close? [LB1052]

SENATOR LINEHAN: We have one more. [LB1052]

SENATOR GROENE: Oh, you have one more? [LB1052]

EILEEN VAUTRAVERS: That was...I did not plan to testify, but you have a question--I'm a physician...that it's not necessary to have a physician or medical diagnosis for dyslexia for a specific (inaudible)... [LB1052]

SENATOR GROENE: If you want to sit down and testify as neutral... [LB1052]

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SENATOR PANSING BROOKS: No, you're not neutral. [LB1052]

EILEEN VAUTRAVERS: No, I'm for this. [LB1052]

SENATOR GROENE: Oh, we're...all right. We're still proponents, I'm sorry. [LB1052]

EILEEN VAUTRAVERS: Yes, we have one more to testify. [LB1052]

SENATOR GROENE: All right, come. I'm sorry. I asked people to raise their hand earlier and I only seen one. [LB1052]

EILEEN VAUTRAVERS: Yes. She raised her hand. [LB1052]

SENATOR GROENE: All right, thank you. I assumed, and I shouldn't have. [LB1052]

CAROLYN BRANDLE: (Exhibit 21) I will be brief. I'm Carolyn Brandle, C-a-r-o-l-y-n B-r-a-n-d-l-e, and I'm president of the Nebraska Dyslexia Association. I have been in special education for 51 years. I received my undergraduate degree in '67 from the University of Missouri, and a master's several years later. This was still before the federal law 94-142 was passed, making it mandatory to provide all children with free public education. However, I taught both in St. Louis and Columbia, Missouri, for six years with exceptional children. After moving to Lincoln and raising a family, I decided to return to teaching. Before doing this I spent two years at UNL to get an endorsement in learning disabilities, a 36-hour program equivalent to a master's, because I knew that much had changed in the field of special education. My first year of teaching for LPS I had a sixth grade student who was reading at a beginning first grade level. We did a lot of things that year, but I didn't help her improve her reading. A colleague recommended that I take a summer class at UNL in code-based reading instruction. She had said it changed the way she taught reading. I took that class and learned more in those two weeks--all-day sessions--on how to teach reading than I had in all my previous educational pursuits. I also learned a lot about the structure of the English language, which is what Glen just mentioned, as well, something that I had never been taught. That UNL class continued for several more years but then was dropped. The method taught in the class used evidence-based, multisensory, structured literacy intervention, based on the work of Dr. Samuel T. Orton, Anna Gillingham, and Bessie Stillman. This is the basis for almost all of the programs that have been developed for special education, in working with children with learning disabilities, and it has proven to be a successful means of improving reading, writing, and spelling for students who struggle in those areas and display characteristics of dyslexia. I taught at McPhee Elementary for 15 years and we collected data on student improvement, unfortunately just for the year from 2006/'07 to 2007 and 2008. The



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greatest impact was on special education students. When they received extra interventions with structured literacy, they were able to make considerable improvement during a year's period. Even though these statistics are ten years old, they show what using the appropriate instructional materials can achieve with students who show signs of dyslexia. All teachers should have the opportunity to become aware of the characteristics of dyslexia and the best method for teaching students who exhibit these characteristics. I would ask you to consider passing LB1052. It is much needed. Thank you. [LB1052]

SENATOR GROENE: Any questions? [LB1052]

SENATOR LINEHAN: Just real quick. [LB1052]

SENATOR GROENE: Yeah. [LB1052]

SENATOR LINEHAN: A couple things. Thank you, Chairman. I just want to get a couple of things on the record, since you've...this is wonderful, your experience. So my experience has been that some kids with dyslexia get put in special ed and it actually ends up harming them because people assume there's a cognitive problem, when it's not a cognitive problem. Would your experience say that that's a possibility? [LB1052]

CAROLYN BRANDLE: If they're getting the proper kind of instruction, no...no. [LB1052]

SENATOR LINEHAN: But, but... [LB1052]

CAROLYN BRANDLE: But that...but you're right. That's not always the case, which is what...is why we need that teacher training now. [LB1052]

SENATOR LINEHAN: Right, because they're not going to get trained...they're not going to get help for dyslexia if they're not recognized as having dyslexia. [LB1052]

CAROLYN BRANDLE: That's right. And to answer a question you had earlier, the United States Department of Education came out with a letter in October of 2015 and said: You can use the word "dyslexia;" you can use dysgraphia and dyscalculia. And so there's no reason for the state of Nebraska not to be able to do that, if the United States government says we can do that. [LB1052]

SENATOR LINEHAN: Thank you very much. Thanks. [LB1052]

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SENATOR GROENE: So apparently, there's association of special education. And their representative, when Senator Pansing Brooks had her bill in 2016--or was it '17?--didn't know that letter existed. Maybe would you share it with her? [LB1052]

CAROLYN BRANDLE: Yes. Would you like me to send copies to you? [LB1052]

SENATOR GROENE: Yes, I'd like to see the letter. [LB1052]

CAROLYN BRANDLE: Okay. Do you have a copy with you? Oh, super. [LB1052]

SENATOR GROENE: Oh, if you could e-mail it, then with some electronic form, also. [LB1052]

CAROLYN BRANDLE: (Exhibit 22) Okay. I think you're going to get copies made shortly. [LB1052]

SENATOR GROENE: One more question. [LB1052]

CAROLYN BRANDLE: Yes. [LB1052]

SENATOR GROENE: So you took three years of special education training at the University of Nebraska, in the teacher's college. [LB1052]

CAROLYN BRANDLE: I took...I took two years of special education, learning disabilities. I got my undergraduate degree and my master's at the University of Missouri, in Columbia, and taught for a while, came...moved here with my husband who was at the university, had kids, volunteered a lot of time, went back to teaching. I still never had the kind of information I needed, and dyslexia was never talked about. [LB1052]

SENATOR GROENE: I don't want to date you, but (laughter) what year did you go to the... [LB1052]

CAROLYN BRANDLE: Well, yeah, I'm old (laughter). I mean, what can we say? [LB1052]

SENATOR GROENE: So am I, so am I...what some people don't want to admit; I do. What years were you in the special education program at the University of Nebraska? [LB1052]

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CAROLYN BRANDLE: '92-94. [LB1052]

SENATOR GROENE: So have you kept up with...I mean, when you were there, they never taught how to identify and how to, how to... [LB1052]

CAROLYN BRANDLE: No. [LB1052]

SENATOR GROENE: ...programs for autism or dyslexia? [LB1052]

CAROLYN BRANDLE: No, they...they were doing some things. Autism was just coming along, ADHD was somewhat talked about at that point in time. And you know, this was what, 20-some years ago now. [LB1052]

SENATOR GROENE: I was just going to ask. [LB1052]

CAROLYN BRANDLE: So things have changed. However, we met with Dr. Eileen Vautravers, the pediatrician who just stood up to talk. Met with Dr. Hebert, who is at the Barkley Center, and they are considering doing another class in Orton-Gillingham-based... [LB1052]

SENATOR GROENE: At the university? [LB1052]

CAROLYN BRANDLE: At the university this summer. And so that is a very exciting thing. We hope that it's going to go. I haven't spoken to him recently to find out if that's still in the plan, but he has a graduate student getting her... [LB1052]

SENATOR GROENE: Would that be continuous as a course in the special education... [LB1052]

CAROLYN BRANDLE: It will be... [LB1052]

SENATOR GROENE: ...curriculum or just the one-time? [LB1052]

CAROLYN BRANDLE: ...listed...it will be this summer. They have a doctoral student who not only has been trained in the Scottish Rite program, which is an excellent program. And all of them, as I said, were basically based on Orton-Gillingham originally. But she is a certified trainer, and so she would be doing the training under Dr. Hebert. [LB1052]

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SENATOR GROENE: Thank you. [LB1052]

CAROLYN BRANDLE: So that is in the plan right now, for that to be offered for this summer. But it would be... [LB1052]

SENATOR GROENE: A one-time shot. [LB1052]

CAROLYN BRANDLE: It...yes. Whether it will be continued if it's successful? That would be a good thing. [LB1052]

SENATOR GROENE: You know there's 28,000 teachers out there and if 30 of them take the class this summer, that really isn't a kind of a dent. [LB1052]

CAROLYN BRANDLE: But we have to start someplace. [LB1052]

SENATOR GROENE: Thank you. [LB1052]

CAROLYN BRANDLE: Thank you. [LB1052]

SENATOR GROENE: Thank you. Your testimony was very good. Did you want to finish up, Miss, with what you said? [LB1052]

EILEEN VAUTRAVERS: I was just speaking to the issue... [LB1052]

SENATOR GROENE: Well, come on up. I mean... [LB1052]

EILEEN VAUTRAVERS: ...of... [LB1052]

SENATOR GROENE: You've waited a long time (laughter). We're going to... [LB1052]

EILEEN VAUTRAVERS: I'll wait until the very end. [LB1052]

SENATOR GROENE: ...cancel our Exec Session anyway. [LB1052]

EILEEN VAUTRAVERS: I have nothing written; I didn't plan to testify. [LB1052]

SENATOR GROENE: All right. [LB1052]

EILEEN VAUTRAVERS: I'm Eileen, E-i-l-e-e-n Vautravers, V-a-u-t-r-a-v-e-r-s. I'm a retired pediatrician, been involved with the Nebraska Dyslexia Association the past ten years, continuing my concern about children intellectually, besides their physical and emotional health. But I understand the question was whether a medical diagnosis was necessary to identify a child as having a... [LB1052]

SENATOR GROENE: A disability. [LB1052]

EILEEN VAUTRAVERS: ...as being in...okay. Specific learning disability, no. You do not have to have a medical diagnosis. It is really an educational assessment that defines... [LB1052]

SENATOR GROENE: Dyslexia? [LB1052]

EILEEN VAUTRAVERS: ...a specific learning disability. Now if you're looking at the large group of entities that are included in special education, then you look at those that have cognitive impairment which, again, usually the testing by the school determines that. But then you may have other health impaired, which requires a medical diagnosis usually, to qualify for special education. You have hearing impairment, you have visual impairment--all of these other entities that are included in special education programs. And a lot of those--autism and such--do require a medical diagnosis, as I understand. I don't know if that helps clarify, but specific learning disability is just one category under special education. [LB1052]

SENATOR GROENE: But is dyslexia a medical condition, like autism, or is it a learning disability? Has anybody defined it? [LB1052]

EILEEN VAUTRAVERS: Yes. The functional MRIs... [LB1052]

SENATOR GROENE: Yes. You've answered to both. [LB1052]

EILEEN VAUTRAVERS: Yes. The functional MRIs of the early 2000s were able to identify that there is primarily a neurobiological abnormality, the lack of the wiring for reading to certain parts of the brain. Additional research has identified multiple other neurological, neurobiological abnormalities. So just as with every learning disability... [LB1052]

SENATOR GROENE: So... [LB1052]

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EILEEN VAUTRAVERS: ...and other entities, it's a... [LB1052]

SENATOR GROENE: I guess my question is... [LB1052]

EILEEN VAUTRAVERS: ...it is a medical thing, but it doesn't require a medical diagnosis. It affects learning, and so the educational...and the American Academy of Pediatrics, as Dr. Truemper indicated, says that it is an educational diagnosis; it is not a medical diagnosis. [LB1052]

SENATOR GROENE: Thank you. Any other questions? [LB1052]

EILEEN VAUTRAVERS: Okay. [LB1052]

SENATOR GROENE: (Exhibits 23, 24, 25, 26, 27, 28, 29, and 30) There are no more proponents? We received correspondence and support from Kami Jepson (sic: Jessop), from Westside Community Schools; John Squier, Malcolm Public Schools; Terry Houlton, from Millard Public Schools; Brenda Ferris, from Omaha; Kori-Reed Becker, from Elkhorn; Mike Becker, from Elkhorn; Anna and Michael Brummer, from Omaha; Kathy Johnson, from Elkhorn. There was no opposition and no neutral. Is there anybody in opposition present today? Anybody neutral? Do you want to close? [LB1052]

SENATOR PANSING BROOKS: Yeah, just quickly. [LB1052]

SENATOR GROENE: Quickly? [LB1052]

SENATOR PANSING BROOKS: I promise. Okay, thank you all for your kind attention, and it's been a long...we didn't set these all up, so they all heard about the bill and came forward. So that speaks a little bit about the passion regarding the subject. Just as a couple extra things, I want to thank the kids who were brave enough and kind enough to come forward, and it's...both Chris and Cohen were wonderful representatives of...and trying to make a difference for their colleagues and their other friends. We have met with university officials and talked to the university about training and courses and continuing education courses for teachers. They're willing and interested, and I presume other...we just haven't had a chance to talk to the other teacher's colleges, 16 of them. That's another step. But definitely President Bounds is very much on board with this and has been very supportive and helped us get those meetings set up the whole way along. The reason that we have focused on this medical diagnosis is that we heard, from numerous teachers across the state, that we do need a medical diagnosis. So there was total confusion. And so that's why we just finally decided we're putting it in statute that that is no

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longer...that's not required. It's a...we also heard, across the state, that dyslexia is a myth. So again, we...Senator Linehan and I found the...at the last part of the tour found that the technical document does exist. We decided we needed to put that into statute to make it have some teeth and have them start fixing it and working on it and, as things change, address that. So that was one of the things that was important to add to the statute, we thought. Also--let's see...oh--learning...dyslexia was mentioned prior to last year, under the learning disabilities section of statutes. All it did was just say dyslexia. It was never defined in statute. So last year we were able to add the definition of the International Dyslexia Association into statutes. Again, these are under learning disability portions, as you pointed out, Senator Groene, and not under special ed. And that's why the medical diagnosis becomes even less of a concern. So I just want to end with one sentence that was in the quote by Rebecca...a quote by Rebecca Miller that she had heard: Why can I openly discuss ADHD and autism at school, but when I bring up dyslexia, no one wants to talk about it? And all across the state, people said: We can't...we don't want to label kids; we can't use that. But meanwhile, the parents are saying to us: Well, we know our kid is really bright and no one in the schools will tell us what's wrong, because they don't want to say the word "dyslexia." So meanwhile, the kids are really bright, as you've heard, and they know they can't read, and they know that the other kids...that they're doing worse than the kids next to them. So to act as if oh, well we shouldn't label them, when the kids don't even get what is wrong but they know something is wrong, we're doing a disservice across the state. So I really appreciate everybody's support--the advocates, the educators, the specialists--we really are grateful for this effort by everybody. And thank you for staying so long. [LB1052]

SENATOR GROENE: Thank you. Any questions? [LB1052]

SENATOR KOLOWSKI: Just a comment, if I may. I just wanted to say thank you to both of you--the good senator here--for the traveling and the work that you did across the state to get the information. It's really good; thank you. [LB1052]

SENATOR PANSING BROOKS: Thank you; thank you. [LB1052]

SENATOR GROENE: And thank you for the testifiers; the experts really helped... [LB1052]

SENATOR PANSING BROOKS: Yeah. [LB1052]

SENATOR GROENE: ...in the field. So that closes LB1052, and we're going into a short Exec, so if everybody would clear the room. [LB1052]