

Transcript Prepared by Clerk of the Legislature Transcribers Office
Education Committee February 9, 2021
Rough Draft

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WALZ: [RECORDER MALFUNCTION] go over the Education Committee, COVID-19 hearing procedures. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the room. We request that everyone utilize the identified entrance and exit doors in the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reaches seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter the hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability due to the HVAC project of an overflow hearing room for hearings which attracts several testifiers and observers. For hearings with a large attendance, for hearings with a large attendance, we request only testifiers enter the hearing room. We ask that you please limit or eliminate handouts. So what that, I want to welcome you to the Education Committee public hearing. My name is Lynne Walz and I represent Legislative District 15. I serve as Chair of the committee. The committee will take up the bills on the posted agenda. Our 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 or silence cell phones or other electronic devices. The order of testimony is introducer, proponents, opponents, neutral, and closing remarks. If you will be testifying, please complete the green testifier sheet and hand to the committee clerk when you come up to testify. If you have written materials that you would like distributed to the committee,

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please hand them to the page to distribute. We need 12 copies for all committee members and staff. If you need additional copies, please ask a page to make them for you now. When you begin to testify, state and spell your name for the record. If you would like your position 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 are not testifying in person and would like to submit a written position letter to be included in the official hearing record as an exhibit, the letter must be delivered to the office of the committee chair or emailed by 12:00 p.m. on the last work day prior to the public hearing. Additionally, the letter must include your name and address, state of position of for, against, or neutral on the bill or LR in question, and include a request for the letter to be included as part of the public hearing record. Please speak directly into the microphone so our transcribers are able to hear your testimony clearly. And finally, please be concise. We are going to limit testimony to three minutes. We will be using the light system. Green means that you have three minutes, remaining yellow means you have one minute remaining. And when you see red light, you need to wrap up your comments. The committee members with us today will introduce themselves beginning at my far right.

McKINNEY: Good morning. My name is Terrell McKinney. I represent District 11, which is North Omaha.

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

PANSING BROOKS: Good morning. Patty Pansing Brooks representing District 28 right here in the heart of Lincoln.

LINEHAN: Good morning. Lou Ann Linehan, District 39, western Douglas County.

SANDERS: Good morning. Rita Sanders, District 45, the Bellevue, Offutt community.

WALZ: I'd like to introduce the committee staff. To my immediate left is research analyst, Tom Arnsperger. To the right end of the table is committee clerk, Mandy Mizerski. And our pages today are Brytany and

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Ryan. Please remember that senators may come and go during our hearing as they may have bills to introduce in other committees. I'd also like to remind our committee members to speak directly into the microphones and limit side conversations and making noise on personal devices. We are an electronics equipped committee and the information is provided electronically as well as in paper form. Therefore, you may see committee members referencing information on their electronic devices. Please be assured that your presence here today and your testimony are important and it is crucial to our state government. Lastly, a reminder to please allow the pages to sanitize between testifiers. And with that, we will begin with LB673 and Senator Murman.

MURMAN: Good morning, Chairperson Walz and members of the Education Committee. For the record, my name is Dave Murman, D-a-v-e M-u-r-m-a-n. I represent District 38, which includes the counties of Clay, Nuckolls, Webster, Franklin, Kearney, Phelps, and southwest Buffalo County. I come before you today to introduce LB673 for your consideration. LB673 adopts the Education Behavioral Awareness and Support Act. It aims to ensure that every student in Nebraska has a safe school environment because every employee at their school will have basic training in how to safely manage inappropriate behavior without allowing that behavior to escalate. In Nebraska, we are fortunate enough that many of our schools already provide some form of training. This language, however, would strengthen and clarify the steps that administrators, teachers, paraprofessionals, school nurses, and counselors can take to protect students and help provide a safe learning environment. Unfortunately, there are situations when students are bullying or harming other students and teachers. The violent acts by students happen in the classroom, sometimes in front of a teacher and other-- and in other areas of the, the school, including hallways, busses-- hallways and busses and cafeterias. An important part of this bill is that every school employee has to receive basic training so they are aware of how they are-- how they can appropriately and reasonably intervene to make sure the students don't harm each other themselves or anybody else in the school. In a recent interim study in this committee, teachers expressed their concerns about being kicked, hit, bitten, spit upon, slapped, punched, or worse. One of the teachers had a traumatic brain injury due to a student who assaulted her. Students as well have been placed in danger. Overall, it's important to remember that the vast majority of

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students across Nebraska are attending class and are coming to school ready and excited to learn. It's only a small percentage of students in schools that are bullying other students and being disruptive and causing incidents. Teachers are often hesitant to intervene or take steps to react in an appropriate way and are most times pressured to do nothing when there are serious disruptions in the classroom because the schools are afraid of lawsuits. This bill would allow schools to train their employees to recognize what is and what is not a reasonable response to problem behavior and bullying using mainstream evidence-based industry standard practices. Those of you on the committee last year will recognize this bill as generally, generally a compilation of last year's LB98-- 998 and a modified version of LB147. Both bills, as revised, were merged last year in AM3243 and debated on the floor. LB673 is intended to give each school district the opportunity to provide behavioral awareness and intervention training and support for administrators, teachers, paraprofessionals, school nurses, counselors, and other school employees with monies distributed from the lottery funds designated to the Nebraska Education Improvement Fund to the Behavioral Training Cash Fund to schools based upon the number of teachers in each school. The training will be offered annually and training review once every three years. The language for the training was created by consulting experts from the training community, administrators, teachers, school boards, ESUs, and a number of other individuals. Behavioral awareness and training includes: recognizing detrimental factors impacting student behavior, positive behavioral support and proactive teaching strategies, verbal intervention and de-escalation techniques, guidelines on removal from and returning students to a classroom, behavioral interventions and supports that will take place when a student has been removed from class, and physical intervention for safety. The bill will also designate one or more school employees in a school district as a behavioral awareness and intervention point of contact for each school building. Each school district will maintain a registry of local mental health and counseling services so that the behavioral awareness and intervention point of contact can coordinate with them to ensure students have access to any support that they need. Each year, school districts will need to submit a behavioral awareness and intervention training report of their plan to the state school security director at the Department of Education. If a school district does not submit their plan, they will not receive training funding for the school

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year. Additionally, LB673 provides that teachers and other school personnel may use reasonable physical intervention to safely manage the behavior of the student to protect the student, another student, a teacher, other school personnel, or other person from physical injury, or secure property if it poses a threat of physical injury. The language is modeled after Supreme Court case law. LB673 also protects teachers and administrators from wrongful legal action or administrative discipline if the teacher utilizes reasonable physical intervention. Each school district shall have a policy describing the process for removing a student from a class and returning a student to a class with the goal of returning the student to class as soon as possible after appropriate intervention-- instructional or behavioral interventions or supports have been implemented. We have heard similar provisions incorporated into Senator Walz LB529 bill, which was heard by this committee last week. LB673 differs in that each school district selects who will conduct the behavioral training rather than relying on the ESUs. The bill deliberately left it open as to how the training would take place. It could be done with CPI, which is Crisis Prevention and Intervention training, Mandt training, Boys Town, or other certified trainers. The school districts have local control to continue the training that works well for them. More money is, is designated for the training. LB673 will address the protection of teachers, students, and school property from violent acts to aid teachers in training-- to aid teachers in maintaining order in their classrooms and encouraging a better learning environment for all students. Thanks for your consideration and I'll take some questions.

WALZ: Thank you, Senator Murman. Questions from the committee? Senator McKinney.

McKINNEY: Senator Murman, thank you for bringing this. I guess my question is reading this bill and reading through the language, if a, if a-- if a teacher or staff or anybody in a school building physically intervenes and a kid gets hurt. If a, if a kid gets hurt, how can the family of that kid hold that individual accountable?

MURMAN: Well, thanks for the question. Of course, with the additional training that this bill provides, hopefully that would never happen. But if the intervention was reasonable and the key word, it's got to be reasonable intervention, the teacher or the school employee would be protected.

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McKINNEY: OK. Thank you.

WALZ: Any other questions from the committee? I see none. Thank you, Senator Murman. Proponents? Do we have anybody who would like to speak in opposition?

MARK BONKIEWICZ: I'm a proponent.

WALZ: Oh, you are a proponent. OK, I apologize, I didn't--

MARK BONKIEWICZ: That's OK.

WALZ: Good morning.

MARK BONKIEWICZ: Good morning, Senators. My name is Mark Bonkiewicz, M-a-r-k B-o-n-k-i-e-w-i-c-z. I live at 11129 Z Street in Omaha, Nebraska. I am here to support LB673. My reasons for supporting it are: Classrooms are the societal designed locations for teaching children the tools they need to mature and become positive contributors to our community, state, and nation. Currently, there are a small percentage of disruptive students whose behavior causes an interruption in learning for other students and occasionally place other human beings in a dangerous environment. Without proper decorum and discipline in a classroom, the teaching environment is replaced with chaos akin to the inmates running the asylum. Here is my story to validate the importance of discipline in the home and in the school. I was raised on a farm 15 miles southeast of Sidney, Nebraska, by my loving parents, Joe and Geri Bonkiewicz. They worked hard to provide our family with food, clothing, shelter, and a rock-solid Christian foundation. We attended a one- room country grade school about six miles from our farm. My dad always took us on the first day to school to meet our teacher and would say, Mrs. Glassburn, I'm here to introduce you to my son Mark. Overall, he's a respectful and well-mannered young man. However, he is not perfect. So if his behavior causes you any problems, I give you my permission right now to reprimand him as you see fit. At 7:00 p.m. on the day of his misbehavior, please call me at my home and explain his misbehavior and how you handled it. I can assure you that the corrective actions you took will be mild compared to the actions he will receive from his mother and me. Have a wonderful school year. You might ask what were the results of this two-minute conversation? Mark and his two sisters

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all received comments on our report cards about our respectful behavior, attitude to learn, and we all earned excellent grades. In addition, we all had successful careers as we raised our families and contributed positively to our communities. I urge you to vote LB673 out of committee for floor debate to gain additional insights that rigorous floor debate uncovers. It is a major step in the right direction to maximize the learning environment for all students. All businesses and nonprofit organizations run the best when they have hardworking, intelligent, and knowledgeable employees. Those employees pay their taxes, raise their families, and travel on fun vacations. Without a good education, a child is destined for a miserable life, living in the poverty mindset that he or she is a victim because everyone else has more than they have. Thank you.

WALZ: Thank you so much for being here. We-- and thank you for keeping it to three minutes. I appreciate that.

MARK BONKIEWICZ: Sure.

WALZ: Senator McKinney.

McKINNEY: Thank you, Mr. Bonkiewicz. First question, are you aware of the school-to-prison pipeline?

MARK BONKIEWICZ: I'm sorry?

McKINNEY: Are you aware of the school-to-prison pipeline?

MARK BONKIEWICZ: I've heard about it. I have not studied it extensively.

McKINNEY: Are you aware of the disproportionate amount of suspensions of individuals that are African-American in Omaha Public Schools?

MARK BONKIEWICZ: I have heard that, but I haven't verified the statistics. My perspective has been the vast, vast, vast majority of teachers are really there to help the students and they need to have a respectful learning environment. And disruptive behavior does not solve-- just, just causes all kinds of chaos for everyone. So that's why I believe that this bill has the root solutions in place.

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McKINNEY: Do you have any knowledge of the environments in which some of these students come from? My district, in particular, has had the highest poverty rate in this state for the longest. Kids are growing up poor. They're dealing with traumatic situations. And it's not that they're bad, it's that their needs are not being met by the state. And a bill like this would allow a teacher to physically touch them, remove them, and there's no liability. Something like this to me is punishing the kid for something they didn't create.

MARK BONKIEWICZ: Well, Senator, I certainly appreciate the community that you represent. We have a lot of friends as part of our organization who live in your community and we've done a lot of work there. I understand that there's really unique challenges there. And when I look at how important discipline is in order to have a learning environment so that those kids no longer are on the school-to-prison pipeline, as you note.

McKINNEY: Have you--

MARK BONKIEWICZ: Education is critically important.

McKINNEY: Have you ever-- you mentioned you care about my district and the kids within my district. Have you ever went in front of the Appropriations Committee, the Business and Labor Committee, or the Revenue Committee to advocate for legislation to lift those kids out of poverty?

MARK BONKIEWICZ: I have not.

McKINNEY: Why not?

MARK BONKIEWICZ: Well, this is the-- I just retired a year ago. So prior to that, I traveled a lot in my occupation. So coming down here to testify, it always took me a half a day of vacation. So I haven't studied the root cause of the problem to the in-depth that you are stating that it is. But that's certain-- certainly something that we'd give serious consideration to.

McKINNEY: All right. Thank you.

WALZ: Thank you. Any other questions from the committee? Thanks for coming--

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MARK BONKIEWICZ: OK. Thank you much.

WALZ: --today. Other proponents? Opponents that would like to speak?

EDISON McDONALD: Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I'm the executive director for the Arc of Nebraska. We advocate for people with intellectual and developmental disabilities. We stand in opposition to LB673 as it undoubtedly leads to harm for students with disabilities. This bill is contrary to a wide body of research, the experiences of people with disabilities, and basic ethical considerations. While we appreciate the increased focus on a Behavioral Cash Training Fund, the immunity language from last year's LB147 is a bad path to go on to begin investigating this. We'd far prefer looking at LB529 that does properly structure the Behavioral Cash Training Fund in a sensible fashion. And should this bill move forward, I do have draft language with me to work on an amendment that would actually start to take into consideration a number of the issues that we've had with LB147 in the past. This bill has worked hard to avoid the process, yet has been given more floor time than most other legislation. The legislation flies in the face of all research and of federal law. We should expect aggressive federal action, either administratively or legislatively, like from the proposed congressional act, Keeping All Students Safe Act on this type of legislation. If we want to do this right, we need to start with a proper data collection process like Senator Wayne's previous LB495 would have done, provide the academic research and consult with a wider array of stakeholders, including disability advocates. In my handout today, I have attached a graph that clearly shows these policies are primarily used on people with disabilities. Some of the key numbers to look at, according to the chart, for those unable to see, is that 40 percent of the time that restraint is used, it's on students with autism, 2.3 percent with a learning disability, 2 percent on a student with a speech language impairment, 1.8 on a-- percent on a student with another intellectual disabil-- disability. Overall, this is a bad bill. We've been through these discussions pretty extensively. And with that and in consideration of time, I'll open up for any questions.

WALZ: Thank you, Edison. Questions from the committee? Senator Linehan.

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LINEHAN: Thank you, Chairwoman Walz. And thank you, Mr. McDonald, for being here today. You said that you do like LB529?

EDISON McDONALD: Yeah.

LINEHAN: OK, what, what is in there-- explain to me what exactly--

EDISON McDONALD: Yeah, so number one, I think that it doesn't have the immunity language provided in-- I've got to keep my numbers straight, LB673. That's really our largest concern about this bill. The other thing that LB529 does is that it better structures it within the ESU system in terms of providing the-- that training and support system. And already that's really well-structured to do that. And when we deal with especially rural school districts, it seems like LB529 is really-- directs where our system is already set up. And financially, it just makes more sense than saying let's bring in a lot of independent contractors.

LINEHAN: You're sure-- you are, I know, so that just for the committee aware of what goes on in schools today.

EDISON McDONALD: Yeah.

LINEHAN: So they use quiet rooms, right?

EDISON McDONALD: I mean, restraint, restraint happens. We know that. You know, there are cases about it constantly and we work to go and make sure that we're focused, again, on as much de-escalation as possible, making sure that we're avoiding scenarios whenever possible. And, you know, making sure that there's-- training is, you know, really important. I think, you know, making sure that we're focused as much as possible on that de-escalation training as we've talked about before on this committee is so important.

LINEHAN: So you think it's very important that we have de-escalation training?

EDISON McDONALD: Yes.

LINEHAN: That's not happening now everywhere, is it?

EDISON McDONALD: No.

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LINEHAN: OK. All right. Thank you very much for being here. Appreciate it.

WALZ: Other questions from the committee? I see none. Thanks so much. Next opponent? Just a reminder-- thank you, Edison, to keep your testimony to three minutes. Good morning.

BRAD MEURRENS: Good morning, Senator Walz, members of the committee. For the record, my name is Brad, B-r-a-d, Meurrens, M-e-u-r-r-e-n-s, and I am the public policy director with Disability Rights Nebraska, the designated protection and advocacy organization for persons with disabilities here in Nebraska. And I am here in opposition to LB673. The safety and security of teachers, administrators, and students is of paramount concern. While we appreciate the attention paid to behavioral health training in this bill, we cannot support the provisions outlined in the use of force on students in Sections 4 through 6. Students with disabilities comprise approximately 13 percent of the national student population, but 80 percent of the use of restraints. Children with disabilities suffer serious bodily harm and even death when being restrained. Again, as in all previous iterations of this bill, there are technical issues with the language. We are wary of reasonable as the standard for application and immunity. This standard is too lax and subjective. While some might see the teacher dragging a third grader 90 feet for insubordination incident in North Platte as reasonable, many do not, including the teacher himself. The teacher admits that he was not in a fit of rage or frustrated when he dragged the student, quote, I was in no way trying to cause him harm or punish him. He needed to be supervised. Compare that with the language in LB673 prohibiting inflicting bodily pain for disapproved behavior. It doesn't have to meet that level. This only underscores the need for precision and clarity. There is no definition of physical intervention. As we have commented in the past, there needs to be qualifying language such as imminent threat or serious bodily injury. Who is an affected parent for notification? We don't know. And the bill in this area is way too vague. We would strongly recommend comparing the language of LB673 regarding physical intervention with the existing school and district policies that I've handed out with, with my testimony and the Nebraska Department of Education guidance document to highlight the myriad issues of language deficiencies. We are not convinced that the discipline portion of LB673 is necessary. Under Rule 10, schools are already required to

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have a policy on the use of restraint and seclusion to control disruptive or potentially injurious behavior. This body should not work to undo schools' existing and more rigorous regulations. Rather, this body should work to ensure that the school district policies are uniform with more robust and prescriptive content requirements, such as is suggested in Section 5 for student removal. Since regulatory framework already established, why are we reinventing the wheel here? The action should be to require the Department of Education to work with families and individuals who have that lived experience, schools, advocates, and other stakeholders to develop uniform district and school policies on restraint with improved substantive content. The U.S. Department of Education's principals, as well as the Nebraska Department of Education's guidance document, should be used to guide this work. The Department of Education collaboration on this may be the best proper forum. Isn't this Section 6 anyway? Disability Rights Nebraska, thus, recommends that this bill not be advanced.

WALZ: Just in time. Thank you. Questions from the committee? Senator Pansing Brooks.

PANSING BROOKS: Thank you for coming, Mr. Meurrens. Did you just-- you've, you've passed out a lot of information from different school districts and so do you have a summary point--

BRAD MEURRENS: Yeah.

PANSING BROOKS: --on, on these--

BRAD MEURRENS: Sure.

PANSING BROOKS: --that you'd like to make?

BRAD MEURRENS: Yeah, I think looking at the second page of my testimony, the bullet points, I think, is where I want to draw your attention. The Omaha Public School policy says: Physical restraint may be used in situations in which the student's behavior poses an imminent danger of physical harm to the student or others. The North Platte District policy says: Physical restraint may be used to prevent a student from completing an act that would result in injury to the student or others when there is a substantial risk that the student would commit the act. My point being is that the policies that schools

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already have in place and have had in place under the requirement of Rule 10 should rule on these issues and behaviors that have been brought up in this bill and all the previous iterations. And our argument is that we don't need to reinvent the wheel. We need to bolster and improve the existing policies that schools already have and are required to have. The problem is that the policies around restraint and seclusion for disruptive behavior like the ones they're talking about here are not uniform. They vary widely from district to district because the requirement in Rule 10 just says you have to have a policy, doesn't say what has to be in that policy. And I want to make, make the, the comparison to Section 5 in the bill where it talks about the student removal section, that has the requirements to make regulations and has a-- and, and in this bill has content requirements totally separate from the restraint and seclusion policies that are, that are required right now. And to further-- and, and my last point is there are already bullying policies in place under Rule 10, again. The-- and, and I would also note that there are policies such as I think the bullying policy, I'm not sure about that, but there are policies in Rule 10 that have things like a required annual reevaluation, not that for restraint and seclusion policies in the school districts.

WALZ: All right. Other questions from the committee?

PANSING BROOKS: I guess I just have one more.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Just one more thing that is clear, but hasn't really been said. People of color and people with disabilities are by far the most subjected to arrest at the schools and subjected to various forms of restraint or infliction of physical-- I don't know, of, of some sort of physical restraint.

BRAD MEURENS: Yeah, and I think that the, the--

PANSING BROOKS: Is that correct?

BRAD MEURENS: Yes, and you'd, you'd want to go look at the Civil Rights Data Collection from the department-- U.S. Department of Education, their 2017-2018 Civil Rights Data Collection document

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outlines and breaks out for you, breaks it down by gender, by, by race, by disability, by different types of restraint being used. So, yeah, there's a wide variety of information. I have that cited in my testimony and I have copies. I would be happy to email and send them over to you if you want if you don't want to go search them yourself.

PANSING BROOKS: OK, I'd like that. That'd be great.

BRAD MEURENS: I'll, I'll make sure.

PANSING BROOKS: Also, you know, I think that it's clear that, that we are concerned about teachers and staff safety as well. But-- and, and that's something that we have had to weigh in the balance throughout all of these discussions. The, the problem is there are also due process issues for the child and for the family. And that is an ongoing issue with all of this. And, and I-- I'm glad to see what some of the, the school districts are doing. Thank you for passing that information out to us. Thank you.

WALZ: Thank you. Senator Linehan.

LINEHAN: Thank you, Chairwoman Walz. Is part of what you said, Mr. Meurens, that there should be a, a more standardized rule across all schools? Are you trying to say that some are doing it right and others need to do better?

BRAD MEURENS: Well, no, what I'm saying is that there are school districts like OPS that have like a six-page, very thorough bulleted, quantitative, very particular prescriptive description of what should happen when, you know, under the restraint and seclusion policy. There are other school districts that have a paragraph. So the point is that-- the, the two points is that they're not-- that, that the policies that are-- that schools are required to have in place are not uniform. So you have schools in, in, in a city or a neighboring city that can vary widely in what their policies say. So, for example, you can-- you'll note that there are some change-- some language differences between the Omaha Public Schools' policy, the North Platte policy, and the Lincoln policy in the handouts that I gave you this afternoon or this morning. I guess I'm back in 2019, I guess. So that-- so they're not uniform across, across the state. That's the first thing. The second thing is--

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LINEHAN: So wait, but you're saying they should be or they shouldn't be?

BRAD MEURENS: Well, yeah, we think that they should be uniform across the state.

LINEHAN: OK.

BRAD MEURENS: And I think that that leads me then to my second point is that not only are they not uniform, but there-- but there's-- but one of the reasons why they're not uniform is because there's no content requirements under the Rule 10 regulation and, and mandate that they have these policies, unlike other policies even contained within Rule 10 and within Section 5 in this bill, has those content requirements in it. The content requirements for restraint and seclusion policies in school is zero. It just says you shall have a policy, period. That's it, doesn't tell you what should be in the policy, what should be, you know, in there, despite the fact that we've had a guidance document in-- since 2010 from-- that was paid for or commissioned by the Nebraska Department Education, which spells out two different templates that schools could use and offers a whole string of suggested portions that schools should contain within their restraint and seclusion policies that would be best practices.

LINEHAN: OK, so I think the question I asked is if you thought it should be more statewide, more-- it should be even across all school districts.

BRAD MEURENS: Yeah, yeah it, yeah, it is statewide. But, but again, it's not uniform statewide.

LINEHAN: Right.

BRAD MEURENS: Sure.

LINEHAN: You think it should be more uniform.

BRAD MEURENS: Yes, I do.

LINEHAN: OK. All right. Thank you very much, Mr. Meurrens.

WALZ: Thank you. Senator Patty Pansing Brooks.

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PANSING BROOKS: Thank you. Just one more question. So in regards to uniformity, the-- so the department has-- Department of Ed has just said you shall create these rules.

BRAD MEURENS: Yeah, the Nebraska Rule 10--

PANSING BROOKS: Yeah.

BRAD MEURENS: --says you got to-- you have to have a restraint and seclusion policy. That's it.

PANSING BROOKS: So are you thinking that it would be best to direct the Department of Ed to create that?

BRAD MEURENS: Yeah, I think that, I think that the-- my preferred approach would be to, to have the department work with families, students who have that lived experience, plus advocates and other stakeholders, right, and schools to really have a robust, transparent, participatory process so that we can develop uniform and, and content-driven policies for schools to implement to address behaviors that we're talking about in this bill, plus how schools should adequately, appropriately, and effectively, safely respond, respond to the incidents where they would have to do restraint and seclusion and to, and to work on prevention as opposed to implementation of, of restraint. We would like to prevent the restraints from occurring even in the first place.

PANSING BROOKS: So have-- do you like the policies that Lincoln, Omaha, and is it Grand Island have created?

BRAD MEURENS: I think, I think there are some good parts in all of them. I, I can't and I wouldn't want to endorse one over the other or say that carte blanche, though, this, this school's policy is just 100 percent all, you know, it's all, it's all the top points. I'm not sure I found one that hits all the top points in my estimation, but we can certainly do some investigation and look at the-- and compare and contrast those policies. And again, you know, we're looking at the University of Nebraska-Lincoln, the guide-- the NDE guidance document, plus the 2019 report that the university did around the-- around portions that are missing in each policy would be a good place to start. And using the, using the federal Department of Education's

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guidelines and their principles to guide that work would be a more good place to start.

PANSING BROOKS: Thank you.

WALZ: Thank you. Any other questions? I see none. Thanks for coming today.

BRAD MEURENS: Thank you.

WALZ: Next opponent.

SPENCER HEAD: Hey, good morning, Chairwoman Walz, members of the Education Committee. My name is Spencer Head, S-p-e-n-c-e-r H-e-a-d. I'm a member of the Omaha Public Schools Board of Education and I'm appearing before you today on behalf of the Omaha Public Schools to testify in opposition to LB673. So the Board of Education understands that behavioral awareness and interventions in relation to student discipline have been an issue that this committee has been reviewing and discussing for many, many years now. We also recognize that these types of behavioral issues are closely tied with other mental health concerns. [INAUDIBLE] and the Omaha Public Schools currently dedicate significant resources providing training to our staff, but also for helping those students with special needs. We agree with the goal of improving safety in the classroom by providing additional training to more of our teachers. Because of that, our district already employs 25 special education staff members who have been trained to deliver Mandt's training, we believe Mandt training would meet the requirements of LB673. So given all that, why are we opposed to the bill? LB673-- if LB673 were to become law, the Omaha Public Schools would be required to train approximately 6,766 staff members. In order to complete this training requirement, the district would have to conduct 338 training sessions, assuming a full complement of people per class. The training sessions are 12 hours for employees who have not previously taken the course and 6 hours for staff who simply need to update their certification. To complete these training requirements for the 6,766 staff, the 25 trainers would currently need to train 271 staff members per year each. The trainings would take up a majority of their time and the district would be required to hire new employees to perform the current functions of their jobs. To avoid disruption in the classroom, the Omaha Public Schools currently offers Mandt

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training to, to employees during off hours. Because it's still considered work, we're required to compensate these employees for their time. To meet the training demands of LB673, the district would need to consider either adding additional days to our contract, which must be collective bargained, and comes at an additional cost or offering the training during, during school hours, which means that we're going to have to retain substitute teachers to cover for the teachers who are being trained, which also comes with a cost. Overall, we anticipate that this bill would cost us roughly \$2,524,000. And we-- I'll speed up here since I see my orange light is on. We appreciate that Senator Murman has worked in a little bit of a pay for in here. Our estimate is that in our 99 buildings, we would get roughly \$290,000 to cover the training in this bill, which would leave us at still a \$2.5 million deficit. So with that, I'm happy to answer any questions you have.

WALZ: Thank you so much. Any questions from the committee? Senator Linehan.

LINEHAN: Thank you, Chairman Walz. Thank you, Mr. Head, for being here. What is OPS's total budget?

SPENCER HEAD: If you count, if you count grants and everything, you know, everything inside of it, we're roughly a billion dollars, give or take.

LINEHAN: So what percent of a billion dollars would 2.5 million be?

SPENCER HEAD: You know, I was never a math major, so I would say under, under 1 percent.

LINEHAN: I think that's right. So don't, don't you think this is one of-- I mean, what I've heard since I've been on the Education Committee for four years is this is one of the biggest issues facing educators and schools.

SPENCER HEAD: Absolutely.

LINEHAN: So doesn't that mean it's worth a certain percent of your budget?

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SPENCER HEAD: I, I think it's absolutely worth a certain percent of our budget. I mean, look at the \$2.5 million, you know, that-- that's also the equivalent of roughly a penny on our General Fund levy. So, you know, that-- that's what that would equal out to as well.

LINEHAN: But your General Fund Levy is less than half of your budget, right?

SPENCER HEAD: Yep. Yep. And, and so the Omaha Public Schools, we're already dedicated to providing this training to, you know, to most of our employees and our employees that we believe need it the most. That's why we have 25 special ed staff members who, who specifically provide this training. We also have-- let's see, I've got another sheet here. Let's see, all 146 of our school security officers are also certified in the training. We have one office specialist, and 12 of our SROs are also Mandt trained. And so we're trying to get the training to every, you know, every staff member that we think needs it. The, the problem that we have with this bill is it requires at least in our understanding that every single staff member of the district, from janitors on up to the superintendent, receive training. And we don't know if that's necessarily appropriate.

LINEHAN: OK, thank you very much for being here. Appreciate it.

SPENCER HEAD: Thank you, Senator.

WALZ: Other questions from the committee? I see none. Thanks so much for being here.

SPENCER HEAD: Thank you.

WALZ: Next opponent. Good morning.

AMY BONN: Good morning, Senators. My name is Amy Bonn, A-m-y B-o-n-n, and and I'm here to testify in opposition to LB673. I'm a parent of elementary school children with developmental disabilities in Nebraska, and I've been the spouse of an active duty Air Force member for 19 years. I have grave concerns about the potential effects of LB673 on students with disabilities and, in particular, on military-connected children with disabilities. Data shows that students with disabilities are secluded and restrained at rates far higher than their nondisabled peers. Further, U.S. military families

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experience autism diagnoses for their children at rates significantly higher than their civilian counterparts do. One study of CDC and Department of Defense data showed that the rate of autism among children in military families is a full 20 percent higher than in the U.S. overall. Research has demonstrated higher incidence of behavioral and emotional challenges among military children whose parents are deployed. One in four children with a deployed parent, experience and emotional behavioral challenge associated with deployment. Research shows an 11 percent increase in mental and behavioral health outpatient visits in children 3 to 8 years of age during parental deployment. Children with these types of behavioral and emotional challenges are particularly vulnerable to the dangers of restraint and seclusion in schools. And Nebraska is one of only five states that has no statewide laws to protect children from these dangers by placing legal limits on the use of school restraint and seclusion. My husband was recently deployed to the Middle East for 14 months, including for the entirety of the 2019-2020 school year. Lengthy, repeated deployments are challenging for any family, but they can be very difficult for young children with autism. And in fact, my husband's 14-month deployment was particularly stressful for our then 8-year-old son with autism. On October 16, 2019, my son, who was distressed but not in any way aggressive, was improperly locked in a seclusion room at school for two hours by a school staff member. The staff member did not follow the policy established by the school district, and her confusion resulted in my son's improper, hours-long removal from the classroom, an event that only caused more distress. On the afternoon of November 4, 2019, an IEP meeting was held to discuss a behavioral intervention plan for my son. My husband, a dedicated parent even while on the other side of the world, set his alarm to wake up in the middle of the night and called in to attend this meeting at 12-- 12:15 a.m. local time for him. At that time, he was the squadron commander of an operational squadron in combat. LB673 would allow for the unregulated and unlimited restraint and removal of vulnerable children. Children like my son and like the many other military-connected children with disabilities in our state. Nebraska differs from the vast majority of states in that it has no state-mandated legal guardrails in place specifically to protect vulnerable children in schools from restraint and seclusion. And because of this, LB673, though it does not contain the word seclusion, certainly has troubling implications for the problem of seclusion.

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With no safeguards for children in place, this bill's provisions for classroom removal could certainly increase the rates at which Nebraska children could then be shuttled out of the classroom and into small, locked rooms for hours on end. In all of the other states where my family has lived for military assignments, there are laws that specifically protect children from the dangers of restraint and seclusion. Some of these laws prohibit seclusion altogether or prohibit restraint that would restrict breathing. In contrast, I am not aware of any other state in the country that has a law that does what LB673 has the very real potential to do: increase the use of restraint and seclusion in schools. I respectfully urge the committee not to advance this bill, as I believe that it has the potential for a disproportionately negative impact on the Nebraska military community of which my family is a part. Thank you for your time and consideration.

WALZ: Thank you so much. We really appreciate hearing from a parent. Questions from the committee? Senator Linehan.

LINEHAN: Thank you, Chairman Walz. Thank you very much for being here. And I'm sorry. The system's broke now is what you're saying.

AMY BONN: I'm sorry?

LINEHAN: You're saying the system's broke now.

AMY BONN: Um.

LINEHAN: Or it can be broken or it's not-- there are not enough guardrails.

AMY BONN: There's, there's not any guardrails in place statewide legally to protect, you know, children from the dangers of restraint and seclusion. And there's not proactive work to think about the functions of behavior like a lot of states do to look at children who are, quote unquote, habitually disruptive or who have been restrained a number of times and then to say, OK, teams have to get together. Think about why is the children acting up this way and implement a functional behavior plan, a behavioral intervention plan. So I think there are real clear steps that could be taken to help. And it's, it's just they're not, they're not happening here. And, and this bill, I

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think just goes too far in terms of paving a way for restraint and seclusion without putting specific protections and limits in place.

LINEHAN: But you would agree, I would-- I'm guessing. I shouldn't say that. Would you-- do you believe that we need more training for teachers on de-escalation?

AMY BONN: Yes, certainly. I think de-escalation, understanding the causes of certain types of behaviors, certainly.

LINEHAN: OK. Thank you very much for being here. And I am sorry. And is your husband home now?

AMY BONN: He is, yes. Thank you.

LINEHAN: Thank him for his service.

AMY BONN: I appreciate it. Thank you. I will.

WALZ: Thank you. Any other questions from the committee? Thanks again for coming today.

AMY BONN: Thank you.

WALZ: Next opponent.

ROSE GODINEZ: Good morning.

WALZ: Good Morning.

ROSE GODINEZ: 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. Every single stakeholder, whether that be parents, students, teachers, school administrators, policymakers like yourselves, can all agree that we want safe schools. That being said, we also understand there's always room for improvement. And there are serious challenges that are being faced by our staff, school staff, and our students, and parents every day in our society. We fully support efforts, to be clear, for training awareness and educational support for our staff and students. However, beyond the awareness and staff training components of this bill, there's an unfortunate rehash of a very controversial and unsuccessful bill, LB147, brought by Senator Groene last year, that

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would authorize the use of force against vulnerable students in our schools, provide broad grants of immunity that we don't even grant parents which-- and has many undefined terms and provisions that do not align with existing law. Also, we can't forget that we already have this in existing law. Nebraska teachers can act reasonably when coming into physical contact with students. I would turn your attention to statute 79-295, which is our corporal punishment ban. Statute 79-258, which provides specifically that: staff may take actions regarding student behavior, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. This specific statute was interpreted by the Daly case that, quotes, to provide-- which provides, quote, It provides authority for school teachers and administrators to use physical contact short of corporal punishment to the degree necessary to preserve order and control in the school environment. Moreover, the statute authorizes an acceptable level of incidental physical contact, as is necessary for teachers to promote personal interaction with the students. A certain amount of incidental physical contact is virtually unavoidable for people working together in this type of environment. And then lastly, as has already been mentioned by Senator Pansing Brooks and Senator McKinney, we cannot sugarcoat reality. We know through the current Department of Education's Office for Civil Rights that the current use of school discipline and use of force hurts students of color and hurts students with disabilities the most. With eight in every ten students with disabilities being physical restrained, and students of color being overrepresented similarly. For those reasons and in support of racial justice, disability rights, family rights, students' rights, we urge you to indefinitely postpone this bill.

WALZ: Thank you so much for coming today. Questions from the committee? I see none. Thanks again for coming.

ROSE GODINEZ: Yeah. Thank you.

WALZ: Oh, sorry, I'm, I'm sorry.

ROSE GODINEZ: Oh.

WALZ: Senator McKinney.

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McKINNEY: Oh, you're OK. Thank you. I, I guess my question is with the concerns of this bill. How can we, as a committee and as a state, find ways to better protect the students, especially the ones with disabilities, and also make sure that the teachers aren't harmed as well? What do you think are some best practices that you've seen in other states that might be helpful?

ROSE GODINEZ: That's a great question. And we actually have several great proposals right now. There's Senator Wayne's collection of data bill, that would ensure that we have-- we're very transparent about what's going on in schools in regards to discipline, suspensions, expulsions to understand how we can mitigate those effects on the school-to-prison pipeline. We can also work on eliminating-- on the Student Discipline Act and ensuring due process rights, which I know Senator Pansing Brooks has worked on. You have, you have introduced some bills that ensures that all students have due process rights and that they are being heard before they're being disciplined. And there's many other strategies that we've worked on at the ACLU and nationwide that we'd be happy to work on with the committee.

McKINNEY: Thank you.

WALZ: Thank you, Senator McKinney. Any other questions? I see none. Thank you so much.

ROSE GODINEZ: Thank you.

WALZ: Next opponent. Good morning.

KRISTEN LARSEN: Good morning, Senators. My name is Kristen Larsen, K-r-i-s-t-e-n L-a-r-s-e-n, and I am here on behalf of the Nebraska Council on Developmental Disabilities to testify in strong opposition to LB673. Although the Council is supported by the Governor and administrated by DHHS, the Council operates independently and our comments do not necessarily reflect the views of the Governor's administration or the department. We are a federally-mandated, independent council comprised of individuals and families of persons with developmental disabilities, community providers, and agency representatives who advocate for systems change and quality services. The Council serves as a source of information and advice for state policymakers and senators. And when necessary, the Council takes a

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nonpartisan approach to provide education and information that will impact individuals with DD. LB673 is very similar to LB595 and LB147, introduced by Senator Groene in the 2017 and 2019 sessions. Despite the 2021 new language requiring each school district to provide behavioral awareness training to administrators and school personnel, LB673 still includes language that would allow the use of physical intervention to manage the behavior of a student. At first glance, LB673 addresses the behavioral training needs of school personnel and the use of positive behavioral supports. But then it digresses into alarming language related to the authorized use of physical contact or removal of a student from a classroom. It echoes previous attempts to not hold school personnel to professional or administrative discipline and would allow a provision where school personnel and/or school districts would not be held criminally or civilly liable for the use of physical intervention. While we understand the need for teachers and administrators to maintain control on school property and to keep all students and faculty safe, we cannot condone the use of physical intervention to manage student behavior. LB673 reframes previous bill language from physical force to physical intervention, yet fails to recognize that national reports and research consistently describe dangerous consequences, including death and serious injuries resulting from the use of physical intervention. Although some Nebraska senators will argue that this bill is not related to the practice of seclusion or restraint, disability advocates strongly differ. Research reflects that students with I/DD and students of color experience a much higher rate of physical intervention discipline, removal from a classroom, and/or expulsion. The most current data from the Civil Rights Data Collection that I have from 2017 and '18 reflects that 78 percent of the students with disabilities who were disproportionately students were identified to be black or African-American males. There are additional concerns about LB673 where I have bullet points, but for the sake of time, I'll just go down to the last bullet. Any removal of a student with a disability by a staff member would be considered a change of special education placement, which has legal and parental rights attached, as well as due process concerns that are not clearly addressed in LB673. As Nebraska lawmakers, it's also important for you to be aware that the issue of managing student behavior with physical intervention, seclusion, and a removal from the classroom is also being evaluated at the federal level. Congressional efforts since April 2011 have been in

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place to try to pass the Keeping All Students Safe Act. It was reintroduced in November. We expect it to be introduced again. So if our national leaders, including those within the U.S. Department of Education, are looking at this issue, then I urge you to also pause and explore all the ramifications of the bill. We just really consider it that it would be dangerous, especially for students with color and those with disabilities. And we do not support marrying this bill for the, the good parts of behavioral intervention training with the physical intervention and other components.

WALZ: Thank you. Questions from the committee? Senator McKinney.

McKINNEY: Thank you for your testimony. My question, what percentage of Nebraska educators are African-American?

KRISTEN LARSEN: I don't know that Senator McKinney. I would, I would guess it's probably not very many if we look at our population rates and if 9 percent of Nebraskans tend to be or are shown to be African-American, I wouldn't think we'd have more than 9 percent of those as teachers. And I, I would guess it's even less than that. But I'm sorry, I don't have the knowledge base,--

McKINNEY: That's OK.

KRISTEN LARSEN: --but I recognize where you're coming from.

McKINNEY: Do you know the percentage of students that are restrained in, in the state on a yearly basis?

KRISTEN LARSEN: That's a very good question and the answer would be no. Mr. Meurrens from Disability Rights Nebraska referenced the Office of Civil Rights and how you can get that data on specific schools across the nation. Nebraska, currently, you cannot find concrete data. That's why we're definitely going to-- you'll, you'll see again in-- for Senator Wayne's bill, LB154, because we definitely need a process in place to capture that data so that we-- so I could provide that answer to you.

McKINNEY: Do you think it-- it's fair to say that with the disproportionate rate of suspensions, for example in OPS, that a good number of the individuals that will be restrained will probably be

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African-American boys or, or males, and the individuals doing the restraining will probably be white?

KRISTEN LARSEN: Oh, I absolutely would agree with that, Senator McKinney. And I can tell you that, that Nebraska DD Council and our current state plan, our targeted disparity is reflected on those black American males who are expelled at a higher disproportionate rate. And we had a juvenile justice task force look at this actual issue the past couple of years and definitely reflect that there needs to be a lot of work, that the system is broken, there needs to be additional behavioral training. There needs to be training for parents. And, and just understanding that, like you were saying, the lived experience of the students who are experience-- experiencing restraint and seclusion at a disproportionate rate and to stop the prison-to-school [SIC] pipeline.

McKINNEY: Thank you. Because I asked that question because I just want to point out that, you know, a lot of the students that are being suspended are told that they're bad or they're a problem child comes-- come from communities that are impoverished and have been impoverished for years. And instead of doing something to address poverty, it's always been to restrain or lock them up or be tough on crime. And I just wanted to point out that if this bill was to go through, a, a huge percentage of the individuals that will be restrained will probably come from my community or similar communities across the state. And the individuals doing the restraining won't look like them. And that's a conversation for--

KRISTEN LARSEN: Right.

McKINNEY: --later in the day. But I, I just wanted to point that out.

KRISTEN LARSEN: Yeah, I'm glad, I'm glad you are pointing that out and bringing that voice to the table, because the-- and the research completely backs you up on that.

McKINNEY: Thank you.

WALZ: Thank you, Senator McKinney. Any other questions? Thanks for coming today.

KRISTEN LARSEN: Thank you.

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WALZ: Next opponent. Do we have anybody that would like to speak in the neutral position? Senator Murman, if you'd like to close. We did have two written testimony in lieu of in-person testimony, both opponents: Julie Erickson, Voices for Children; and Elizabeth Eynon, Education Rights Counsel. And then we had position letters, proponents: Nebraska Counseling Association Exec Board, Nora Sandine, Bonnie Campbell, John Ross, Ron and Lynette Nash, Marlys Meyer, Kathy Wilmot, and Ken Buttermore. And opponents position letters: Peggy Reisher, Leah Janke, Mary Bahney, Terry Werner, Dr. and Mrs. Paul Vana, Angela Gleason, Cheri Albin, and Kieran Kissler.

MURMAN: Thank you, Chairman Walz and fellow members of the Education Committee. For the reasons I previously stated, I believe LB673 will help ensure that every student in Nebraska, and I emphasize every student, no matter their color or disability, has a safe school environment while helping to protect teachers, protect students, and school property from disruptive acts in order to encourage a better learning environment. I can see there's lots of confusion about what this bill really does. It does consider the environment, the possible family trauma that could be happening, and it emphasizes that the response must be reasonable or there is liability if it is not reasonable, reasonable. Proper discipline or correction considering liabilities and possible trauma is a good thing. And that's why the training is a key element of this bill. And the bill does specify that it cannot, that an employee cannot-- a school employee cannot inflict pain. And that's on page 5, lines, 8 through 11. And it says: Any physical intervention by a teacher or other school personnel pursuant to this section shall not be used for the purpose of inflicting bodily pain as a penalty for disapproved behavior. And I wasn't going to bring this up, but I do have a profoundly disabled child. And similar to Mr. Bonkiewicz, not only with her, but with our other two children, we told the teachers when we brought them to school that we'd back them up, back the teachers up in whatever situation might arise at school. With our disabled child, she does have Rett Syndrome, which is on the autism spectrum. And we did, of course, encourage the school system to include her in all classes and activities as much as possible. But we did also encourage them to remove her from class if she is-- was disruptive or became a problem in the class. And the group-- some of the groups that testified, such as Arc and Disability Nebraska, I think should appreciate the training that is provided in

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the bill and I'll continue to work with them if we can improve anything in the bill. And, and the reason, I guess, that the bill encourages the, the schools to use-- or gives the schools funding to make the local decision as to what kind of training they will use, the education or academia committee-- or community has the opportunity to provide that training either in college courses that teach schools or in, in the school system itself. And the bill, I'd also like to read one more part of the bill, it does have specific, specific rules to encourage the return of a student to the classroom. And that's on page 6, lines 9 through 14. And I'll read that quickly, "When a student is removed from a class, the goal must be to return the student to the class as soon as possible after appropriate instructional or behavioral interventions or supports have been implemented to increase the likelihood the student will be successful. For a student with a pattern of disruptive behavior, the school shall provide additional interventions or supports." And I think OPS and, and possibly some others testified that, that school employees don't always get the training they need, all school employees don't get the training they need. And this bill does provide for some training for all employees because quite often incidents happen on busses or places on that where there isn't a teacher in, in supervising. So with that, I'll take any other questions you might have.

WALZ: Thank you, Senator Murman. Questions from the committee? Senator McKinney.

MURMAN: Yes.

McKINNEY: Thank you, Senator Murman. My first question. How do-- in this bill, how do we determine what is painful and what is not painful? Because you could push me and I'll, I'll tell you, it's not painful. But you could push Senator Pansing Brooks and she could say it's painful. So how do we determine what is and what is not painful?

MURMAN: Well, I think that's always a, a-- something that sometimes courts have to determine. I mean, for instance, my son used to live in California and he said every time there's a fender bender in California, the person would sometimes the next day say, oh, I had-- I have whiplash. You know, even when it was very minor accident. So, so the courts would have to determine that. But this bill, of course,

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specifically says, as, as I read, that the intent is not to cause pain. It's, it's to properly manage the classroom.

McKINNEY: I under-- I understand that. I just when it says that a teacher should not do something that's painful, but what's painful to me is different for somebody else. So I, I think that. Also what-- can you define reasonable in, in, in this bill, what is reasonable and what is not reasonable?

MURMAN: Well, I'm, I'm not sure reasonable is defined in the bill, but it is emphasized that intervention is only-- should only be used when it is reasonable and only to the extent that is reasonable.

McKINNEY: OK. I guess my last question, when before introducing this and taking in everything that's happened over the years, did you speak to any parents from, you know, minority communities that have an issue with this bill because of the, the, the racial breakdown of our teachers and our administrators and our staff in our schools is, is problematic. And I know last year I think I came down and spoke-- came down for the bill and I spoke to parents. And one of the big issues is that we have buildings and school buildings filled with staff and administrators that don't look like the kids, and they're going to, if, if this was to pass, they're going to be restraining those kids. And a lot of those individuals don't come from communities like District 11 and they really don't understand the kids. Did you factor that into this bill?

MURMAN: Well, some of those issues that you mentioned about the staff not being possibly the same race as the students and so forth is not specifically addressed in this bill. I do agree with you that that is a good thing when teachers and staff have a similar background as the students because they can more closely identify with the problems or the trauma that those students could have had in their life or do have in their life. I did specifically speak to minority groups. We had, as I mentioned, we had an interim study and some school employees from minority schools did testify. And, and we did ask them specific questions about the effects on their schools with lack of training and so forth.

McKINNEY: Thank you.

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MURMAN: Thank you.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for bringing this, Senator Murman. So am I correct that you really haven't addressed restraint and seclusion in, in the bill?

MURMAN: Yes, I read-- if I can find it again about when a student is removed from class, the goal is to return the student as soon as possible to the class.

PANSING BROOKS: So but you haven't, you haven't dealt with restraint or seclusion per se?

MURMAN: Well, I assume that's seclusion, because removed from the class. I guess it wouldn't have to be.

PANSING BROOKS: Well, I think that what's-- what people are worried about, is seclusion in a room by themselves. That's what we continue to hear issues about, especially people who are-- who have-- or are autistic or otherwise have mental health issues that seclusion can be severely damaging. So--

MURMAN: Well, it, it does say that, you know, everything has to be reasonable as far as removing with the restraint, you know, I, I assume it's holding your hand on the shoulder or possibly the arm. You know, it has to be reasonable.

PANSING BROOKS: So, so you--

MURMAN: And, and what was the other question you asked?

PANSING BROOKS: Restraint--

MURMAN: Sorry.

PANSING BROOKS: --restraint and seclusion.

MURMAN: Um-hum.

PANSING BROOKS: Those are the two issues that really get people quite concerned.

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MURMAN: With the increase in training, that should be addressed. Restraint and seclusion would be addressed with the training.

PANSING BROOKS: See, I, I just-- I, I think that, you know, we have had instances of, of actually using ties, tying a child to a chair, that kind of restraint.

MURMAN: Yeah, that, that is specifically not allowed in this bill.

PANSING BROOKS: But I don't, I don't see anywhere where it's specifically not allowed. If some teacher decides it's reasonable then, that's why I'm asking where restraint and seclusion are in this bill.

MURMAN: Yeah, I'll have to get back to you on specific, but it--

PANSING BROOKS: And you know, there-- also just--

MURMAN: That's--

PANSING BROOKS: --on, on seclusion, there are all sorts of things about whether they're secluded in a large room, if they're secluded in, in a very small cubicle, the length of, of seclusion. Those are some of the issues that I think are most worrisome to people.

MURMAN: Sure. And, you know, that's what the, the training, you know, should address those issues, that that isn't the proper way to, to-- you know, we, we just talk about removing the-- this bill just talks about removing from class and returning to class. As far as specifically how the situation is handled, that would be with the training.

PANSING BROOKS: Hopefully. OK. Thank you.

WALZ: Thank you. Any other questions from the committee? I see none. Thank you, Senator Murman.

MURMAN: Thank you.

WALZ: This closes our hearing on-- Oh, I'm sorry.

LEO LOUIS: I'm an opponent. [INAUDIBLE]

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WALZ: All right.

LEO LOUIS: Thank you.

WALZ: Thank you. Are you opponent or proponent?

LEO LOUIS: Opponent.

WALZ: Opponent. All right. You can go ahead.

LEO LOUIS: OK. My name is Leo Lewis, L-e-o, last name L-o-u-i-s. I am a human and I also serve as the board president of the Malcolm X Memorial Foundation in Omaha, Nebraska. The organization has an initiative called the Justice for Kids Initiative, in which we opposed LB147 when it was proposed down here at the Nebraska State Legislature. Doing our research, we realized that there was LB595 that preceded LB147, and our continued research showed us that LB673 was going down the same path of the two previous bills. We understand that there is systems, there are systems, the Nebraska State legislature, the Douglas County courts, the other county courts in the state of Nebraska, the Education-- Department of Education, the nonprofit industrial complex, if you will. All of these things are considered systems. One of the definitions of racism is a system of advantage based on race. So for the record, I am here to say that this bill is effectively racist. The individuals who are most affected by a bill like LB673 are potentially African-Americans. African-Americans are disproportionately represented in special ed programming. African-Americans are disproportionately represented in the suspensions and expulsions. And the data does support that. African-American teachers are underrepresented in the classrooms. And based on those facts alone, that means that the punitive factors associated with this particular bill are of individuals who are not of African-American descent, yet they will be the ones who will implement and carry out the restraints that are mentioned in this bill. So for the record, since no one ever wants to call it out, I'm going to call it out. This is a racist bill. I am not calling an individual in this room racist because as an individual, you can't be racist. In order to be racist, you have to have a system, and that system, has to stack against a race of people. But you can be bigoted and bigoted people help assist systems to create racist legislation. That's my testimony.

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I am an opponent of LB673. And I'm Leo with the Malcolm X Memorial Foundation. Thank you.

WALZ: Thank you so much for coming today. Let's see if we have any questions.

LEO LOUIS: Sure.

WALZ: Questions from the committee? Thanks again. Senator Murman, do want to respond to that. OK.

MURMAN: Thank you. I don't think I'm racist or bigoted and I don't think our education system is inherent-- inherently racist or bigoted. There are unfortunate things that happen with our-- with individuals and with the educational system. But the training in this bill provides for corrections when those kinds of things do occur. So thank you. I'll take any-- more questions if anybody has any.

WALZ: Thank you, Senator Murman. Any other questions? Thank you. And that closes our hearing on LB673. And it will open up our hearing on LB322, Senator Williams, adopt the School Safety and Security Reporting System Act. Do you have testifiers, Senator Williams? OK. Before we begin, I just want to remind testifiers that we are limiting our testimony to three minutes, so just please be cognizant. Thank you. Senator Williams.

WILLIAMS: Thank you, Chairwoman Walz and members of the Education Committee. My name is Matt Williams, M-a-t-t W-i-l-l-i-a-m-s. I represent Legislative District 36 and I'm here today to enthusiastically introduce LB322. LB322 creates and funds the Nebraska Safety and Security Reporting System. Under this legislation, the Department of Education will establish an anonymous reporting system that enables students, parents, school personnel, and community members to report threats or concerns of possible harm utilizing a report line that is accessible through telephone, mobile app, website, text, or email. The reporting system will support public and nonpublic K-12 school systems with threat assessment teams that are currently being trained by the Nebraska Department of Education School Safety Program. These threat assessment teams include a school administrator, mental health practitioner, a law enforcement officer, and two other school officials. The intent, obviously, is to reduce the risk or

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thwart incidents of targeted violence, including harm to self, harm to others, or harm to school property. LB322 is modeled after a pilot program, a very successful pilot program conducted in schools in Douglas County, Nebraska, called the Safe2Help Nebraska Program, which was funded through a federal grant. Under the pilot program, local threat assessment teams were established in each of the Douglas County schools and were trained by the Nebraska Department of Education. In addition, a report line was instituted at Boys Town and staffed 24 hours a day, 7 days a week, 365 days a year by professionals trained to receive concerns, use de-escalation techniques, and minimize law enforcement involvement and alert the appropriate threat assessment team for review, assessment, and action to protect people and property. The system was equipped to disseminate information received to the threat assessment team in the school that could be impacted by the information provided. The pilot program began shortly after the pandemic last year, but it did have a total of 470 reports logged. Information received ranged from suicide threats, drug use or misuse, bullying or cyberbullying, depression and other mental health related issues or concerns and threats against property. The Nebraska Safety and Security Reporting System proposed in LB322 is similar to programs created in several states, the prototype, which has been the Safe2Tell initiative in, in Colorado that was created following the Columbine shooting event. However, there is an important difference between LB322, and programs in other states in that information provided through the report line goes to those trained in crisis management rather than directly to law enforcement. Nebraska's pilot program is being recognized as the preferred national model because it works to de-escalate crises and utilize least restrictive methods to ensure safety while minimizing law enforcement interaction. In fact, the pilot program diverted 81 percent of the contacts made as a result of reports received away from any type of law enforcement interaction. I think we all know that mental health issues have been on the rise across our country. Suicides among young students aged 10 to 24 rose 57 percent in the past 10 years and has continued to increase during the pandemic. An anonymous reporting system has proved to reduce the risk of incidents of suicide and threats. When it comes to keeping kids safe, there's no such thing as having too many helpful resources. And the pilot program has been a life-saving partnership. Permanently adopting the pilot program and extending it statewide to public and private schools will provide a valuable resource via local threat

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assessment teams that will help to ensure the safety of students, schools, and communities. I want to take just a minute to address the fiscal note, because if you, if you haven't looked there's a fiscal note on this. We can't provide this kind of security and safety in the schools with no cost. The fiscal note amounts to almost \$900,000, about \$160,000 of that is for the, the software program that tracks and investigates and makes people aware of the thing. The balance of the fiscal note is people, and that's why this program has proven successful. These people are highly-trained professionals. It is 6.5 FTEs that are equipped to do this, and they do operate 24/7. And that's critical to the success of this. We have 360,000 K-12 students in our state that can be affected by this. So when we're talking, we're really talking \$2.50 a student. And I would challenge all of us to think about it that way. Following me today, you're going to hear testimony from the Department of Education talking about how the threat assessment teams work, how they've done that training, and how supportive they are of these efforts. You're going to hear from the broad based of school administrators from large schools, medium-size schools, and small schools and their support. You're going to hear from the Catholic Conference concerning their interest in seeing that this is, is put out there to help all the schools, including theirs. You're going to hear from boots on the ground people at Boys Town that have done the, the pilot project and how that worked and the success stories. And you're going to hear from a couple of school administrators that will emphasize the, the need for this. There's three themes that I, that I want you to think about as we move forward with this. One of all-- one-- the first one is the demonstrated need that I think we all recognize that the safety of our kids and schools is one of the reasons our public school system and our private school system is as successful as it is in our state. The second theme is we have in front of us a proven solution. The pilot project run through Boys Town and Douglas County schools, very successful and has now become the national model. And the last thing is the cost. And I would just suggest, and I'll have more to talk in closing is that I don't think we can afford not to do this. So thank you for allowing me to introduce this legislation. I'd be happy to try to answer any questions, but there are trained professionals behind me.

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

PANSING BROOKS: I guess I have questions.

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WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you for bringing this bill, Senator Williams. So is the, is the threat-- can you explain the threat again, as I'm looking at this? Is it mostly on mental health issues or is it also on violence and--

WILLIAMS: The, the threats covered under LB322 cover a broad range. This can be everything from a, a potential suicide issue, a bullying type issue, threats against people or property. So it's all kinds of threats. And one of the keys is the people answering the phone or getting the text have specific training to handle de-escalation of those kind of events.

PANSING BROOKS: So where is this group going to be located that's-- that is going to receive these texts?

WILLIAMS: It's, it's using the model created at Boys Town. So it is the Boys Town model that is currently doing the pilot program that are, are-- will be doing that. And then through the Department of Education--

PANSING BROOKS: So they'll, they'll be in Omaha? Is that what you're saying?

WILLIAMS: Yes. Yeah. That's where the calls come into.

PANSING BROOKS: OK.

WILLIAMS: Each school that participates, there's no cost, by the way, to the school system. The requirement of the school system is that they follow the education through the Department of Education to set up their own threat assessment team, and that includes five members from the school system. And so the threat assessment, if, if a report comes in, depending on what the threat is, that will go directly to the threat assessment team to be addressed at the local level.

PANSING BROOKS: And, and they'll call, call back to the school or they'll call to the student-- the school resource officer, who will they call back to?

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WILLIAMS: That's established through the threat assessment team that is established at each school and that's spelled out in, in the, the, the Department of Education's policies that they currently have. And I think the, the person that will be testifying, Senator Pansing Brooks, from the Department of Education has extensive knowledge of how that specifically would work.

PANSING BROOKS: OK. As you know, I'm concerned about, you know, increasing that school-to-prison pipeline, and so--

WILLIAMS: Absolutely.

PANSING BROOKS: --I'm, I'm very concerned about whether this provides people outside.

WILLIAMS: I think that is the, the major difference between this and every other reporting line that I have investigated, that 81 percent of the calls in the pilot program were diverted away from law enforcement, not to law enforcement. There are certainly certain kinds of threats that law enforcement would need to be involved with. But the majority of the threats, simply we need to stay away from that. Most reporting systems or tip lines or hotlines are a direct line, and I would agree with you, Senator Pansing Brooks, they're a direct line to law enforcement. Here, we have highly-trained individuals through the Boys Town group that are trained in de-escalating threats. If, if someone's calling in and they say, you know, my friend Johnny talked about the fact that he wasn't going to come back to school next week because he's not going to be alive.

PANSING BROOKS: Yeah.

WILLIAMS: You know, those are the kind of things we-- there are more of those than the real threats against property.

PANSING BROOKS: OK, well, I appreciate this. Just for the record, I have a study coming up on 988, which is the number that has just been designated by Congress to supplement 911. And that number is going to be used for mental health calls across the state, across the nation. And so I think there's some way that this might all, all be worked together, 988 will be paid for by a fee on our cellular phone bills just like 911 is. So I think that there will obviously be submersion

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of, of activities there. And I'll be glad to talk to you after this more--

WILLIAMS: Yep.

PANSING BROOKS: --about how we can think this through about having both available and have them work together.

WILLIAMS: The thing that I'm most impressed with, with this system is the training of the people and how that works.

PANSING BROOKS: Yes.

WILLIAMS: Because I think if we can catch situations that are, are threats early, that intervention makes a difference.

PANSING BROOKS: I, I wish it were a word other than threat. I wish it were a word more like a concern or a, a, a child in crisis rather than threat. Threat to me means something that, oh, the child's doing something wrong. He's a threat to others. So that's my only thought right now, today. But thank you, I'll look forward--

WILLIAMS: I'll change my language.

PANSING BROOKS: --I'll look forward to hearing about all this. Thank you.

WALZ: Thank you. Other questions from the committee? I see none. Thank you, Senator Williams. Proponents? Good morning.

JOLENE PALMER: Good morning. Jolene Palmer, J-o-l-e-n-e P-a-l-m-e-r, state school security director, Nebraska Department of Education. What is the worth of your children and grandchildren? As parents and grandparents, you send your school-- your, your children and grandchildren to us, to our Nebraska schools every day, and you expect us to keep them safe and secure so that at the end of the day they can come home to your family. Research shows and research tells us that threat assessment is one of the most effective, evidence-based practices in preventing targeted violence against people, against self, others, and property. In over 80 percent of the targeted violence incidents, there was, there was some kind of information leaked. That means four out of five times, four out of five times

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somebody knew about what was about to happen. LB322 would create the system where information could be anonymously reported so that an intervention could be possible to prevent the unthinkable thing. LB322 would create a multimodal state reporting system to, to support both public and nonpublic students in schools where students, staff, and parents would have a safe place to report any information that would be somewhat considered possible targeted violence. Safe2Help Nebraska is built off of the Colorado model, but it is much different than the Colorado model. And what I mean by that, and, and it's different than all 17 states that have already implemented this kind of a system. What I mean and what you heard Senator Williams say is the report goes to train crisis counselors and not to law enforcement. The idea is to use the, the system to help students and help divert away from the law enforcement practice. Reports are taken 24/7, 365. And the one thing I would just identify is that this is about targeted violence. The numbers, the daily numbers indicate that there is a positive, unintentional outcome, and that is that the report of suicide is number one. But I would tell you, the, the report is suicide, but we have to be careful of that one report that could be against a planned school violence attack, because that one, that one call could actually pale the numbers of the lives saved, it was suicide. And so we need to be cognizant that that, that suicide, but that school attack could actually be a large number as well. So as, as Senator Williams said, we have about 400,000 people that this would cover. That would be also school staff as well, and it would be roughly \$2, \$2 per person per cost. And that's including the extra staff.

WALZ: All right. Thank you. Can we just take a couple of questions?

JOLENE PALMER: Absolutely.

WALZ: Thank you. Senator Morfeld.

MORFELD: Yeah. Thank you for coming. You're, you're with the Department of Education then?

JOLENE PALMER: Yes.

MORFELD: OK. And what's your title? I'm sorry.

JOLENE PALMER: I'm the state school security director.

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MORFELD: OK, great.

JOLENE PALMER: And I'm representing the Department of Education, of which the State Board of Education has determined that this is a bill that they, too, are supporting.

MORFELD: Great. Thank you. So just one or two questions. So does this apply to all-- is this mandatory for all school districts then?

JOLENE PALMER: It's for any school that wants it. We have--

MORFELD: OK.

JOLENE PALMER: --some schools that already have a reporting system. That's great. This would fill the gap for the other schools that would like to have a reporting system.

MORFELD: OK.

JOLENE PALMER: Our hope is over the time that we will actually gain more schools and more schools so that it's a system-wide approach throughout the, the entire state.

MORFELD: Great. So right now, as legislation's crafted, it's an opt-in type of system.

JOLENE PALMER: Right.

MORFELD: OK, great. But obviously we hope everybody will have some kind of system.

JOLENE PALMER: Yes.

MORFELD: And then Senator Williams talked about this a little bit. And if we've got to talk to somebody else, it's no big deal. But the fiscal note, is this going to be a part of the NDE's budget that they're bringing to the appropriations, or is this a separate?

JOLENE PALMER: This would be a separate.

MORFELD: This is separate. OK, and maybe I missed that when Senator Williams. OK. Great, thank you.

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WALZ: Thank you, Senator Morfeld. Senator Linehan.

LINEHAN: Thank you, Chairwoman Walz. Is-- are the people-- will Boys Town still be a part of this or are you redoing doing it at Department of Ed?

JOLENE PALMER: We-- the Department of Ed will oversee it and a vendor will be the--

LINEHAN: A vendor.

JOLENE PALMER: --call center. Right now, the only call center in Nebraska that would qualify with the trained certified counselors would be Boys Town. They also have a great amount of experience. It would seem likely that they should be the, the call center.

LINEHAN: OK, so the FTEs, though, are for the Department of Ed?

JOLENE PALMER: For the-- it would be for the call center.

LINEHAN: OK, that's helpful.

JOLENE PALMER: Yes.

LINEHAN: OK. OK, thank you very much.

JOLENE PALMER: Um-hum.

WALZ: Other questions? Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. How do you verify information that comes in-- into the hotline?

JOLENE PALMER: So this is a report line where people who have concerns can call in, they call to the call center and that is automatically, directly sent back to the local threat assessment team in the school. They are the team that determines what happens from there. They, they assess what the information is. They validate the information to see if it's actually true. And they do a threat assessment process on that. Dr. Scalora, will be talking a little bit more about threat assessment and how that works. But it's-- it goes back to the local community to, to actually assess that threat and to determine. So

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oftentimes I get the question, well, what happens if somebody pranks it? Well, that's where the threat assessment team comes in, because they know their community, they know what's going on, and they can actually determine what happens at that point as far as whether it's a threat that they need to be concerned about.

McKINNEY: Is there a penalty or some type of action for falsely reporting or pranking?

JOLENE PALMER: Some states do have that. And I think what we are looking at is we want to see how it goes. And if we need that, then we would come back to a committee to, to include that or, or to amend. At this time, we're going to hope that the Nebraska folks will follow the protocols to be honest about what's, what's being reported. And again, it goes back to the threat assessment team to determine whether or not that is something to be concerned about.

McKINNEY: All right. Thank you.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming today. I guess I'm, I'm still concerned about, I'm hearing suicide, but I'm also hearing targeted violence and targeted attack and the, the concern that, that somebody's going to do damage to a lot of people and threaten a lot of people. If, if that is truly the concern, isn't that where the police come in? I don't really see-- I'm trying to figure that all out, because if, if you really have a concern that somebody is going to-- I can see how it's necessary to provide mental health support to children who are going through a lot. But the number of kids that are truly planning attacks on a school has to be pretty small. So is it because you have the ability to wander through the abyss about whether or not they are truly considering an attack on a school? But if we really think that, shouldn't the police be called?

JOLENE PALMER: Well, that's part of that process that we're talking about. When, when there is a planned attack, four out of five times, they do tell somebody. And if we know that information, we can do something with that information. But if we don't know it, there's nothing we can do about it. So that, yes, law enforcement at that point would be involved because there may be an immediacy. A lot of

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times we also have an idea based on the information that's given as to when that, that attack is supposedly being planned for. So it gives us some opportunity to work that whole process through to determine what steps need to happen. So it is a wide range of threats that we address with this. That's the beauty of it. And I go back and I say it could be that one attack that could pale the numbers of all suicides of the lives we've saved was suicide if, if somebody has planned an attack and we haven't done anything about it. So if we have the information, that information will get taken care of so it can be thwarted. We have thwarted in Nebraska, attacks--

PANSING BROOKS: OK.

JOLENE PALMER: --that would have been numerous numbers.

PANSING BROOKS: All right. Thank you. Again, I, I wish the discussion were crises and not attack and threat, and-- because that immediately places somebody into-- it places a child into, into a criminal rather than somebody who needs help.

JOLENE PALMER: That's, that's the beauty of this system.

PANSING BROOKS: But, but those words are not-- those are not words that show a child needs help. That is, it's time to arrest that child. It's time to protect the community. And that's where the police come in. And we already have enough issues with the police coming in and taking these kids. So I, I don't know, and, and maybe I'm just stuck on the verbiage. But that does concern me that it's threat. All I'm hearing is threat, attack. We're already placing that kid into a criminal position. So I don't know. That's my concern. Are other states using those same virulent words?

JOLENE PALMER: Yes.

PANSING BROOKS: Thank you.

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

JOLENE PALMER: Thanks.

WALZ: --today. Next proponent. Good morning.

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MIKE DULANEY: Madam Chair, members of the committee, my name is Mike Dulaney, M-i-k-e D-u-l-a-n-e-y. It's my privilege to serve as executive director for the Nebraska Council of School Administrators. I'm also honored today, this morning to represent other education groups in favor of this bill, which includes the NSEA, the NASB, NRCSA, ESUCC, and STANCE. We are all on board with this bill. I, I have to tell you, I remember when I called Senator Williams to ask if he would take this bill on our behalf. I had been contacted by Dr. Palmer, who just appeared before you. And Senator Williams didn't hesitate for a minute. He knew that this was a, a powerful tool that we could use to prevent violence in our schools and to perhaps save lives. And we have testifiers that will come up after me and tell you some stories that really happened and are, are very powerful to listen to. This was a collaborative effort and I'd have to say a labor of love, because we had on board with this not only all of the education associations, but we also had public and private organizations, the Department of Education, the university, Boys Town, the Catholic Conference, and law enforcement community. So it really was a universal effort to put this bill together. We've been meeting now for, I think, over three months. And, and thank you to Senator Williams for taking the bill for us. We'd just like to express to you that this is one of those times and we're all coming together and, and feel that this is an important piece and we hope that we can get it advanced as soon as possible. Thank you.

WALZ: Thank you. Questions from the committee? Senator McKinney.

McKINNEY: I guess my question, has there been a universal effort from all that you just mentioned to devote resources towards mental health and addressing poverty. Like, you guys all came together for this bill, but I'm just curious of that has there been a universal effort for all those individuals and entities involved with this bill to come together to fight for legislation to address poverty and mental health and trauma in, in our communities across the state?

MIKE DULANEY: Senator McKinney, I'm going to say not enough effort and that we should, we should do more as a collaborative community, private and public schools coming together to work on those very important issues. With-- when it comes to TEEOSA and the poverty factor, obviously, we have a long history of being involved with that, and we believe that that is a very important component of the formula.

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But I think this is a good effort that we're demonstrating to you today on this issue, and I think we can work harder together in the future.

McKINNEY: All right. Thank you.

MIKE DULANEY: Thank you.

WALZ: Other questions from the committee? Senator Linehan.

LINEHAN: I don't know if you know this, and I wouldn't-- it's-- I just have a couple of questions for-- if you don't, maybe somebody behind you. The cost of the pilot program, the grant that you used, how much it was? And who was-- this all sounds very good, I'm just-- who was the driving force behind this? I know it was Douglas County. So was it OPS or Millard or who was the driving force?

MIKE DULANEY: Thank you, Senator, for that opportunity. Dr. Jolene Palmer, in my opinion, is a premier expert in the state of Nebraska, if not the nation. And she just spoke to you. She is an authority. So much so that every year I have her a part of our conferences and professional development because she, she knows, she attends these meetings on a national basis and, and knows what the trends are and what we need to be watching out for. So I think Dr. Palmer, Dr. Palmer deserves a lot of the credit. She brought it to me and then I took it to Senator Williams, and, and so. And then as far as the, the fiscal, I think the, the folks that follow me are going to have a better handle on exactly where that money would be devoted. I will tell you, though, it's a lot of human resource. It's about having the people on hand to provide a 24/7, 365 effort.

LINEHAN: Thank you very much. Appreciate it.

MIKE DULANEY: Absolutely.

PANSING BROOKS: Thank you. Any other questions for Mr. Dulaney? Thank you.

MIKE DULANEY: Thank you.

PANSING BROOKS: Next proponent. Welcome.

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GINNY GOHR: Thank you. Good morning, Senator Walz, and Education Committee members. My name is Ginny Gohr and G-i-n-n-y G-o-h-r. I'm the director of the Boys Town National Hotline, and I am here, of course, to support LB322. The Boys Town National Hotline has had the privilege this past year of operating the current Safe2Help Nebraska pilot in collaboration with the participating schools in Douglas County and the Omaha Police Department. We've been doing this since January 2020. This legislation is coming at a critical time for Nebraska students and their families. Right now, the pilot involves more than 80 schools and allow students, their families, and school faculty to anonymously report threats, any concern involving the safety or well-being of others by calling, using a mobile app, or going online to safe2helpne.org. Students contact the center-- that can contact us 24/7. They'll reach trained crisis counselors to share their concerns. And again, we get concerns about suicidal individuals. We get people with bullying. We'll get students reporting inappropriate behavior of teachers. And it was mentioned about the upcoming 988. We are our lifeline center for Nebraska. So we are very much in the planning of that. This, I see, is very different. Yes, mental health is, what 988 is going to cover. So that's your depression, anxiety, and suicidal thoughts. But kids still need a place to report these threats that we talked about, their concerns about teachers' behavior, their concerns about drug use in school. I mean, drugs is also the, the second leading thing to suicidal concerns that they're, they're contacting us about. They won't reach out to 988 for that. So there is definitely a separate need for the Safe2Help Nebraska pilot or, or to go statewide. Since January of last year, we've taken approximately 500 reports. These-- the report line's been instrumental in preventing some potential tragedies. So far, at least four reports have involved a violent threat against a school. The information provided by the report line is given to the school threat assessment team to investigate the threats and take appropriate action. We all hope and pray that students continue to speak up in situations involving safety, but they need a safe and anonymous reporting system or mannerism to do this. In the pilot, the number one concern that we received was involving individuals that were, that were suicidal. We received 87 reports from students concerned about their peers and two reports from faculty that were concerned about other faculty members. These individuals of concern had expressed suicidal statements. Maybe they saw something in social media they

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posted on Facebook. They received a text for them-- from them or other forms of writing. But people knew there was something wrong and decided to, to report this. Student and family members, student and family members and faculty use the system because it's anonymous. They know they want to help, but they're too afraid to get too far involved. So being anonymous has made a big difference with, with these, these tips reports that we get. It is so hard to hear that there's so many reports involving suicidal concerns, but we are so thankful that young people are taking it more seriously than they ever have before and are doing something about it. Nebraska's approach is designed to de-escalate crises by utilizing the least restrictive and disruptive methods to ensure safety and at the same time minimizing the law enforcement interactions. This model also increases collaboration between schools and law enforcement. Make it easier to interrupt targeted violence when it is still in the planning stage and prevent further harm or damage. All students, families, faculty, and communities in Nebraska need a safe way to report concerns, threats, any type of information that pose a risk to the safety of people and/or property. A statewide anonymous reporting system, as outlined in LB322 is essential for identifying individuals who are in immediate danger, stopping threats before they turn into, into action and, more importantly, saving lives. For all of these reasons, I urge you to support LB322, and thank you for your time and consideration and ready for questions.

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

GINNY GOHR: Yes, Senator.

McKINNEY: Do you track which areas of the state or communities that these calls or these tips come from?

GINNY GOHR: Yes, we can. So if it is through the phone, you know, obviously we'll get that phone number. So we're tracking that and the mobile app, which is also phone related, so we have that. When they're going online, you know, that's an IP address, so you can't necessarily track that. But with phone calls and mobile app, we can.

McKINNEY: OK, thank you.

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WALZ: Thank you.

GINNY GOHR: And we do look at those geographic areas and see.

WALZ: Any other questions? Senator Pansing Brooks.

GINNY GOHR: Yes.

PANSING BROOKS: Thank you. So you're saying-- thank you for coming today, Ms. Gohr.

GINNY GOHR: Thank you.

PANSING BROOKS: Is it Dr. or Ms.?

GINNY GOHR: No.

PANSING BROOKS: Oh, OK.

GINNY GOHR: Just, just Ms. Gohr.

PANSING BROOKS: OK. So I was wondering-- so you said that there have been 87 reports-- well, 80-- actually, 89 if you count the peers and the--

GINNY GOHR: Yeah, count the teachers. Yes.

PANSING BROOKS: --and the teachers together. And then four were violent threats against a school.

GINNY GOHR: Right.

PANSING BROOKS: What's generally been the result of those calls?

GINNY GOHR: Well, of the suicidal concerns, it's been us having the ability to contact the school directly or the parents. So if we've got enough identified information, we'll reach out to that family and see if they're aware of what's going on. A lot of times we don't have identifying information. So then that's where we've got 24/7 on-call list at the schools to speak to a administrator there and get the contact information for the parent. So then the school approves us or allows us to reach out to that family.

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PANSING BROOKS: OK. And so four have been actual threats and 89 have been concerns of crisis for the child.

GINNY GOHR: Right.

PANSING BROOKS: Do you understand my concerns about threats and attacks and that verbiage? Because really the bulk of what you're doing is, is protecting and, and trying to help kids in crisis.

GINNY GOHR: Right. So, yes, threats is, is a smaller piece. And it is-- it's all-- and again, even suicidal concerns are only 25 percent of the total.

PANSING BROOKS: But it is--

GINNY GOHR: So the rest is a lot of reports of different things that kids are concerned about.

PANSING BROOKS: But it's become-- by using that language, it becomes the central piece, in my opinion, so. OK, thank you.

GINNY GOHR: Thank you for this opportunity.

WALZ: Any other questions? I see none. Thanks so much. Just a reminder to limit your testimony to three minutes. Good morning.

MARIO SCALORA: Good morning. Good morning, Senator Walz and members of the committee. I am Mario Scalora. I'm a professor of psychology and director of the University of Nebraska Public Policy Center. I've devoted about 30 years of my life dealing with the prevention of violence and how do we reach out to stakeholders to prevent violence. I'm here on a personal capacity.

WALZ: Could you spell your name, please? I'm sorry.

MARIO SCALORA: I'm sorry, Senator.

WALZ: It's OK.

MARIO SCALORA: I haven't done this in a while. M-a-r-i-o S-c-a-l-o-r-a. I come here in a personal capacity to support LB322 on, on, on two grounds. First of all, this is a multimodal reporting

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system that serves as a backstop to support youth and individuals in crisis to allow for especially anonymous reporting. Having a multimodal response system allows people who are fearful or feel disenfranchised the opportunity to come forward when they can't go to someone they trust. Obviously, we want people to go to people they trust first, but that doesn't always happen to be the case. I, I spend a lot of my work doing work in threat assessment and that term does put people off. But we're dealing with people in crisis and we're dealing with people in crisis for suicide and for targeted violence and, and a range of other things. Not all the violence we deal with are the most horrendous notions of school shooting that we hear about. And, and I recognize that. Why, why do we talk about these things together? And I, I want to just address that within like three minutes very quickly. We find when we look at these incidents, the common theme is crisis. Very often there is a suicide theme. Sometimes related to the suicide, there is a threat of violence or some grievance toward other people. When we do our training, our training highlights that we do not treat people as if they're going to be the school shooter. We're treating individuals as if they're in crisis. And we look at the level of threat or escalation to determine how aggressively that behavior will need to be addressed in the immediate term. Looking at arrest or things of that nature. Our goal is to minimize arrest or the most intrusive activity. And we've been successful in doing that. I see the yellow light. I'm, I'm happy to answer any questions in response to this. Thank you.

WALZ: Thank you so much. Questions from the committee? I don't see any. Thank you.

MARIO SCALORA: Thank you.

JEREMY EKELER: Good morning. My name is Jeremy Ekeler, J-e-r-e-m-y, and Ekeler is spelled E-k-e-l-e-r. I'd like to give you the perspective of why the Catholic Conference felt it was important to support LB322. If I have a chance at the end, maybe address a couple of the questions that came up. The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances gospel of life through engaging, educating, and empowering public officials, Catholic laity, and the general public. The Catholic Conference and our three diocesan superintendents appreciate LB322 for three reasons. The first one is the collaborative piece. I love the

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fact that this, that this involves all stakeholders. The second piece we love is the early intervention piece. We really appreciate that we're trying to get into at the ground level of these issues and fix the issues rather than respond after the fact. And the third one is the inclusion of all schools. So regardless of the type the school, the size of school, we know that students in need deserve the help of the community. So LB322 especially, we'll start with collaboration. It asks our community to unite to keep kids safe. It doesn't say-- or it says, this is not my student, your student, your student, it says it's our student, our, our community's child. And I, I provided a map to you with our schools. And I think it's important to realize how sprinkled out those are and how some of those, those places don't have a lot of support, they're sort of on their own. I'll kind of get back to that as well. But just as precious as the, as the lives and the people and the mental health of the folks in our schools is, is that of the people in, in public schools, the other nonpublic schools. And from my experience in schools, that feeling's mutual. We all want to help each other's kids. So this bill covers us in a cooperative manner that puts kids first regardless of school, parish, LEA, or ESU boundary. On the topic of early intervention and restorative practices, an early lesson I had was working with a student whose grades were, were failing and I asked him why he was doing so poorly and he said, how do you expect me to do so-- to learn when I don't even know if I'm safe. What a question. What a sad reality. One answer to that question is we intervene as early as, as possible for kids in need. And when you look at the nuts and bolts of LB322, you'll find a bill completely focused on early intervention, getting the resources to the student as soon as possible. It's about purpose, not punishment. Finally, LB322 provides enormous peace of mind to overworked administrators. I see my lights almost up. I work through the ESSER process with public schools as a nonpublic rep for 80 percent of the, of the state. When you get LEAs and public schools working together with nonpublic schools, really special stuff happens. When you have money coming from D.C. and it can get all the way to a student, that's amazing. I think we can do something similar here with school-- with safety of children. We can work together for this. So thank you, Senator Williams, for carrying the bill. Appreciate the cooperation for all the entities involved. And we're proud that one of our nonpublic schools has been a leader in this ventures-- venture. So

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thank you to Boys Town. I'm going to wrap it there and just open it up to any questions.

WALZ: Thank you.

JEREMY EKELER: Yeah.

WALZ: Questions from the committee? I just have a, a quick question, is there a key? I know that-- I see that these are different colors, is there--

JEREMY EKELER: Oh, sure. I can get you a key. I don't have one with me to help you.

WALZ: Oh, I was just curious. All right.

JEREMY EKELER: But I do share the same-- I, I-- well, the first time I read the bill-- OK, so my background is a principal. I'm going to take this opportunity to answer the verbiage piece. When we talk about bullying and student safety in schools, I often thought about let's not talk about what we're trying to-- let's talk about what we're trying to create, which is safety. So for me, I understand, Senator Pansing Brooks, where you're coming from on the name as well and I think there's probably work to do there. We're focusing on school safety. That's what we-- that's where the focus should be. Senator McKinney, you had a great question about addressing poverty and mental health issues in every community. One of the reasons I joined this group is because I felt like this is a bill that works in a really interesting place where when a kid is in need, you can get there and you can get them to plug into the resources right away. So we can invest more in there, but I do think this is a good step as well. Any other questions?

WALZ: Any other questions? I see none. Thanks so much--

JEREMY EKELER: Sorry,--

WALZ: --for coming in today.

JEREMY EKELER: --that was a weird answer to do you have a key, but thank you.

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WALZ: Next proponent.

BILL JELKIN: Good morning, Chairman Walz and members of the Education Committee. My name is Bill Jelkin, B-i-l-l J-e-l-k-i-n. I am the director of Student Services for Millard Public Schools. I come before you today in support of LB322, the Nebraska School Safety and Security Reporting Act. I've been in my position since 2010, just after our school shooting at Millard South, and unfortunately I've been involved in hundreds of family crisis and threat situations over those years. I cannot go into detail about those situations, but what I can tell you is the Safe2Help hotline works and it provides a fantastic resource for our community. Since its inception, Safe2Help has provided Douglas County a 24/7, 365-day reporting line where students and families have immediate access to trained crisis counselors. The Safe2Help counselors do a phenomenal job of triaging and intervening with crisis and threat reports they receive. The report line provides an opportunity for schools and other agencies to then collaborate, problem solve, and address the issues at the lowest levels before local law enforcement has to be involved. LB332 [SIC] would bring the same level of access to and collaboration to all the students and families across the state of Nebraska. The legislation could not come at a more critical time for Nebraska students and families. As school administrators, we have seen a steady rise in crisis response and the need for more intervention. We believe Safe2Help will provide a path for, for many students and families across the state who find themselves in need. Millard's collaboration with Boys Town and the report line has been a positive and productive experience and has even saved some students' lives. We are, we are hopeful that all schools and communities in Nebraska will have the same opportunity. Thank you for your time and consideration, and I'm available for any of your questions.

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

DAY: Thank you, Senator Walz. And thank you, Mr. Jelkin, for being here this morning. So I think what I'm hearing from you and from others is that this line is an attempt to provide a step in between or prior to getting involved with law enforcement. So you're trying to connect students with resources as opposed to someone having to call law enforcement on a situation or what-- if you could explain what--

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BILL JELKIN: Sure.

DAY: --the process is, exactly what happens when a student makes a call?

BILL JELKIN: Sure. I'll just give you a scenario without mentioning names and those types of things. So, for instance, let's say it's a, a Saturday night and a student is Snapchatting with their friend and their friend is, is talking about harming themselves because they're upset at their parents and, and they're just tired of it. And so their friend then can call the hotline. The counselor then will make an attempt to gain contact information for the student who's threatening to harm themselves and having suicidal ideation. Let's say the caller doesn't know their contact information. The Boys Town counselor will then call me, typically, and will tell me the student's name and say, we've got this issue. We'd like to reach out to the student. So I will look through our student database and find the information, the contact information for not only the student, but the parents. The Boys Town counselor will then-- excuse me, try to reach out to that student directly first as a crisis intervention counselor. If they can't reach the student, they will obviously then call the parents. If they can reach the parents, the parents are usually very, very appreciative of the call and the intervention. If they can't reach the student, they can't reach the parents, ultimately, they will call the police for a, for a well-child check and the police will, will go to the house and check on the child no matter what time of day it is or, or morning it is. So that's one example. Let's say they do make contact with the student who is having suicidal ideation and they talk to the student and, and they realize that the student's just upset and, and they will again contact the parents, obviously, but they will also-- the call report comes in to my office. And there's multiple people copied on that call report. The administrators are copied on that call report for that student. So the student's administrator knows and the coun-- the student's counselor receives that call report from the administration and then they'll, they'll contact that student at school the next day and just check in on them and see how they're doing. And out of that relationship, there are oftentimes that we refer then students and families to outside counseling services if they need that. There's just a host of collaboration that occurs to find out what service is best for that student. In Millard, we have some in-house processes with Connections program through Project

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Harmony that we'll connect families to or at the high school level and the middle school level, we actually have some school-based therapists that we'll then refer the family and the student to.

DAY: OK. Wonderful.

BILL JELKIN: That's kind of how it works.

DAY: Thank you. Appreciate that.

WALZ: Thank you, Senator Day. Any other questions? I see none. Thanks for coming today.

BILL JELKIN: Thank you.

WALZ: Next proponent.

MARK ADLER: Good morning, Chairwoman Walz. My name is Mark Adler, M-a-r-k A-d-l-e-r, and it's my honor to serve as superintendent of Ralston Public Schools. I appreciate the opportunity to appear before you today to speak on behalf of my wife, Joni, and our daughters, Jade and Kamille, and the students and staff of Ralston Public Schools. I also want to speak on behalf of my son Reid, who's eternally 15 and resides in heaven. I appear before you, before you today in full support of LB322. January 7, 2016, is the day I refer to as our family's 9/11. It's the day that my wife Joni found our son Reid dead in our basement. Reid had taken his life sometime throughout the night. Some refer to our family as suicide survivors. You may ask, why is this? And I do too. We did not survive anything. Our family will never be the same. The ripple effect of grief is tremendous. And even five years after Reid's passing, continues. The day Reid left, a part of us all went with him and will never be replaced. When Reid took his own life, he was a vibrant, full of life, popular and talented ninth-grade student at Ralston High School. He loved going to school. He loved seeing his teachers, and he absolutely loved connecting with friends. Although Reid was a great kid, Reid was not perfect. In eighth grade, Reid made a mistake and he took a picture of his, of his midsec-- of his naked midsection. And he then sent that to a girl. For almost a year from the time Reid sent that picture to the night he took his last breath, that girl blackmailed, intimidated, and manipulated my son Reid. If you don't do what I tell you to do, the

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girl would say, she would always threaten to embarrass Reid by putting that picture on social media. She knew if this picture would come out, it would be devastating to Reid, his family, our school, and our community. Reid was a victim of continuous cyber bullying to the, to the degree that he could not take it any longer. The successful passage of LB322 would make a big impact on all public and private schools in Nebraska. Currently, the Safe2Help reporting system is in its second year of operation in all Douglas County schools. The night Reid took his life, Reid shared his intentions with at least six Ralston High School students. All those kids believed they had talked Reid into a better place and they did not contact an adult or an emergency service. Unfortunately, the guilt of Reid's decision was so overwhelming that Reid made a permanent decision for a temporary problem. If just one of those students would have alerted another adult, or took advantage of a service like Safe2Help, I'm certain we would still have Reid today. Our family's story of losing Reid is just one of many. Every day we wonder, we wonder what Reid would be like today. Would he go to college? What would be, what would be his profession? Would he positively impact those around him? Reid was a beacon of kindness to others. My wife, Joni, and I have talked with over 50,000 people, primarily Nebraska students, about bullying, appropriate use of phones, social media, and most of all, how important it is to "Be Kind." Be happy to try to answer any questions. I did provide everybody with a "Be Kind" sticker. We have a lot of them. Every once in a while we're driving around Omaha and we'll see them on a car. They're great on your car. They're great on your computer. I'd love to see them in the Legislature. I'll try to answer any questions that I can. Thank you so much.

WALZ: Thank you so much for your story. And we would love to share those stickers. Questions?

SANDERS: Dr. Adler, Rita Sanders. I was the mayor for the city of Bellevue when this, when this occurred.

MARK ADLER: Yes, ma'am.

SANDERS: And I want to thank you. I was able to be at the "Be Kind" kickoff for taking the situation, unfortunately. But fortunately for us, we have you to carry that message. And I want to thank you for

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that. I know it's not easy, but if we can just save another life, it's worth it.

MARK ADLER: Yep. Thank you.

SANDERS: Thank you.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for your powerful testimony today and we will get these around. That's-- I, I really appreciate that. And I'm really sorry about the loss of your son, Reid. And you're doing great honor in this regard. I-- I'm just hoping my comments don't in any way come across as anything but supportive of the work of caring for kids who are suicidal. And my concern is clearly about those that already have so many avenues to get into trouble with the law. And I just-- that's what I'm worried about, is the school-to-prison pipeline. But-- and that's why I keep saying if we could talk about crisis rather than threat, I would feel so much better about this, so.

MARK ADLER: Absolutely, Senator. And I get it. I really do. We serve a population in our school that's very diverse, high in poverty. And so I'm, I'm walking with you on that all the way. And I think sometimes we maybe make more of what, you know, when we hear threat assessment team. And course, I'm the practitioner that's also working every day with this. But these calls come to our school and they're caring people that are going to then be able to say, yes, I, I have heard this student struggling with X, Y, and Z, and we probably better act and see what's happening behind the scenes. But I will tell you, one night a call came in and it was a-- it was an online threat to our school that there's going to be an active shooter the next day. We spent all night working through how are we going to handle this? How are we going to make sure our kids are safe when they show up on campus? And so those are the kind of things that they don't happen. Although, they don't happen often. So I don't know if the wording's right, but I think what happens behind that wording is really important. So I hope we can try to do something good here, so.

PANSING BROOKS: Well, thank you for your, for your very helpful testimony in both regards. Thank you.

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WALZ: Other questions? Thank you so much for coming in--

MARK ADLER: Thank you so much.

WALZ: --today. Next proponent.

STEVE CERVENY: Chairwoman Walz, Senators of the Education Committee, my name is Steve Cervený, S-t-e-v-e C-e-r-v-e-n-y. I'm a captain with the Omaha Police Department. And I'd like to thank you for the opportunity to speak with you today. And I'd like to thank the other proponents that testified, especially Dr. Adler and his compelling testimony. The Omaha Police Department supports the School Safety and Security Reporting System Act. We have recognized the need to identify children in crisis and work with the schools they attend to help provide valuable resources for each child's unique situation. Oftentimes, students experiencing a crisis went unreported and unaddressed. If a concerned individual wanted to help, they usually called police for assistance. Understanding that these situations included a wide range of crises, many of which were not always best suited to be handled by officers, the Omaha Police Department engaged in a collaborative effort with numerous partners such as health professionals, counselors, behavioral health specialists, educators, philanthropic donors, and more to work toward a program that would utilize valuable resources in an effort to assist students in crisis. These professionals formed a threat assessment team to identify and evaluate students at risk and soon determined the need for a reporting system that allowed critical information about students who needed help or may be involved in dangerous situations to be shared in a private manner and obtain assistance for these children. Generous donors partnered with Boys Town call center to establish an anonymous reporting line. The critical importance of this anonymous reporting line utilized throughout Douglas County was realized as a collaborative approach to provide appropriate resources for students experiencing a multitude of different crises began to effectively help each individual child in their unique set of circumstances. The trained crisis counselors at the Safe2Help Nebraska report line allow for measures to be put in place that help provide prevention and overall safety for anyone at risk. The counselors can provide resources and initiate the coordination process to assist with current or future emergency situations. Resources such as Your Life, Your Choice, Nebraska Family Helpline, Child Protective Services, Mobile

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Crisis Response, and victim-oriented specialty services have been utilized. Children, their families, the schools they attend, and the entire community benefit from the Safe2Help Nebraska report line by having available resources at all hours of the day and night, and also provide a school with awareness that they may have a student who is struggling or is at risk. The anonymous reporting line alleviates the fear of retaliation for someone who wants to help a child in crisis and usually eliminates the need to initiate a law enforcement response, instead implementing a more appropriate response involving professionals who can address the situation in a much more effective manner depending on each unique situation. Law enforcement will always be there to help in an emergency. But these trained counselors and professionals can effectively help a child in crisis with the information they receive through the anonymous report line. Thank you.

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

STEVE CERVENY: Thank you.

WALZ: Thanks for coming in today. Next proponent. Are there any opponents? Anybody that would like to speak on the neutral? Senator Williams, you're welcome to close. While he's coming up, we did have a written testimony in lieu of in-person testimony: Cora Schrader from the Children's Hospital & Med Center. And a position letter, a, a proponent: Dr. and Mrs. Paul Vana; and Kevin Spencer, Police Chiefs Association.

WILLIAMS: Thank you, Chairman Walz. And first of all, I would like to thank this group of passionate people that came today recognizing what we're trying to do in creating school safety. And I'd like to thank you for your attention. And whether we call it a threat or a crisis, the risk is the same. And that's why I'm here today. And the risk covered in this bill includes suicide, bullying, stalking behavior, cyber or electronic harassment, bomb threat, family violence, physical or sexual abuse, threat to property, behavior indicative of extremism or terrorism, assault or attack, inappropriate weapons use, concerns about mental health or substance use, sexual exploitation, or any direct or indirect threatening statement. That's a scary bunch of risks that our kids are faced with, that our administrators are faced with every day. In closing, I would just remind you that this report line is designed to be staffed by highly-trained professionals that

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are trained in not only assessing risk but de-escalating situations and moving things that direction. It avoids the pipeline to prison. That's the intent of this that we all have talked about and think about. There's no cost to the school systems. The only thing a school system has to do is establish the threat assessment team, which is a team based in the school, which includes the principal or a principal's designee, a mental health professional, and a member of the school staff. This involves all of our schools. All means all. Public schools and private schools, if they choose to participate. And we finally get down to what I talked about earlier, the, the themes that you will hear about. Clearly, there is a need. We have watched that. We have seen that. And secondly, we now have a proven system that is the standard of the industry now that was developed in our state that we should be proud of. And then we've got the cost, \$2 a student, less than a gallon of milk, less than a gallon of gas, less than one meal at the school. I thank you for your attention and I would urge you to advance this to the floor. Thank you, Chairwoman Walz.

WALZ: Thank you, Senator Williams. Questions from the committee? Thanks for coming in today. Thank you for bringing the bill. That closes our hearing on LB322. And we will open on LB154, Senator Wayne, require tracking of student discipline as prescribed.

WAYNE: I think I paid \$2.53 for gas today, just for the record. Good afternoon, Chairwoman Walz and members of the Education Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Today, I'm here to introduce LB154, which will implement the tracking of data surrounding student discipline in Nebraska. This process will utilize the existing student identifier system operated by the State Department of Education. This system is currently being used to track academic achievement. Data tracked to include suspension, expulsions, and incident involving violence or requiring restraints, and when law enforcements are required to be involved. In addition to the accident reports, data collected will include, but not limited to, demographic information such as race, poverty, attendance, disabilities, and English proficiencies. There are myriad of reasons of why I brought this bill and rather just continue to highlight the issues that I had when I was on the school board with the number of suspensions and how we pulled data tracked by race and how Omaha

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Public Schools was fined by the state for over suspending African-American males with disabilities \$1.9 million. To me, this bill is very simple. It looks at data. Right now, we can look at data at a federal level of how disparities existed in Nebraska, but that data is often two to three years behind. What we do know from that data is if you're a black and brown student in Nebraska, you are four to five times more likely to receive out-of-school suspension. And we need to need-- we need to see that data sooner and we need to do something about that data. So this would set up a, a statewide data system. Again, we know that there are biases and implicit biases. And I do not like those word implicit bias because I think it's just a-- something we use to make us feel good. But actual work requires us to do something about it. And currently, we don't have the data to support it. So there's no fiscal impact on this, on this bill. This is a pretty simple bill. And with that, I'll ask for your support, and I'll answer any questions.

WALZ: Thank you, Senator Wayne. Questions from the committee? I do have one question. Is this all schools, public and private?

WAYNE: Yes.

WALZ: OK. Any other questions? Thank you.

WAYNE: Thank you.

WALZ: Proponents. Hello.

ELIZABETH EYNON-KOKRDA: Hello, members of the Education Committee. My name is Elizabeth Eynon-Kokrda, spelled E-l-i-z-a-b-e-t-h E-y-n-o-n hyphen K-o-k-r-d-a, and I'm here representing Education Rights Counsel in support of LB154. I wanted to tell you a little bit more about Education Rights Counsel to explain why this bill is actually really important to us. Education Rights Counsel came into existence in about 2017 solely to deal with student discipline issues and special education issues and to ensure that families had advocacy and support and training and that we could also train basically judges, advocates, stakeholders, anybody that really needed to understand the system, because both the special education system and our student discipline system are actually quite complex. And for kids with student discipline issues, not understanding what's happening right away can

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put you in a very-- if you don't appeal what happened within five days. I mean, our Student Discipline Act is hard for families to understand. So one of the challenges we have, as you've heard over and over today, is that we do not have a robust system for tracking what's happening in Nebraska with regard to discipline. One of the problems we really have is we've heard talk all day today about CDC and the data that they have. Not only are they behind, they're wildly inconsistent in terms of what people report. And I'm, I'm, I'm going to bring up-- I just was poking around on this, so I'm going to mention a school district, the Omaha Public Schools, just because I happen to look at them, they have 54,000 students. They report in the students-- the student system, zero restraints, zero. Now, we've heard testimony all day today about how we know this is happening. Students are being restrained. So the CDC's definitions, I don't think anybody is necessarily intentionally misleading, but the definitions don't line up across the state, etcetera. So what we have here is a lack of understanding of truly what's happening. We do know anecdotally, and we do know from investigations like Senator Wayne talked about that we have problems. We see it and Education Rights Counsel sees it because families come to us saying, what are my rights? What are my responsibilities? Can you help me understand what the system is doing or, or won't do? And in part, there's no ability to effectuate any change if we have nothing to rely on. So I think that this bill is really important because it will give you, the policymakers, the decisional data that you need to determine is our Student Discipline Act good? Do we need to know more? Do we need to-- we talked a lot about restraint and seclusion here today. Do we need to do something with that? Because we're going to understand what's actually happening. And all it does is build as to Senator Wayne says [INAUDIBLE] student achievement. I've heard Senator McKinney talk about the school-to-prison pipeline. The school-to-prison pipeline is real. It's like-- the ABA has set that up as one of the biggest challenges for children in our entire state. Oh, in our entire nation. This will give us the tools and equipment to ensure that if we have a school-to-prison pipeline problem, we can understand it. I would just urge you to move LB154 out of committee and support it on the floor.

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

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LINEHAN: Thank you, Chairwoman Walz. I just want to make sure I understood you right. Did you say that with OPS has 54,000 students, so it has to be OPS, it's the only one that big, reported zero restraints?

ELIZABETH EYNON-KOKRDA: Yes. If you go on the CDC, which is the federal website that, that reports all of this data that we've been talking about, not only is it several years behind, but, yeah, they have a zero as the number of restraints.

LINEHAN: Do they also have to report seclusion like the [INAUDIBLE]?

ELIZABETH EYNON-KOKRDA: It's not clear to me what the definition of seclusion is. So I think that's one of the challenges. I-- as a-- it makes me nearly weep what I see in schools when I am dealing with families with disabilities who are putting kids in little padded classrooms. It happens all the time. But people define seclusion multiple different ways. Clearly, that's seclusion. But, you know.

LINEHAN: Thank you very much.

WALZ: Other questions? I see none. Thank you.

ELIZABETH EYNON-KOKRDA: Thank you.

WALZ: Next proponent.

ROSE GODINEZ: Good morning. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z. Is it OK if I start? Oh, OK. And I am testifying on behalf of the ACLU of Nebraska in favor of LB154. We thank Senator Wayne for introducing this legislation. The ACLU supports LB154 state-based data collection requirement for school districts because this newly required data provides the state further clarity on the overall funneling of students into a school-to-prison pipeline. Without this data, educators and policymakers are overlooking the harmful and disparate educational impact of harsh discipline, particularly on students of color and students with disabilities, and make counterproductive decisions on how to spend scarce educational dollars. And that will only exacerbate the inequity in education. Several studies and reports, including our own, on this issue rely on the Department of Education's Office of Civil Rights Data, which reports student discipline and law enforcement referrals. And like

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Elizabeth, I, I looked at this data probably like a week ago on law enforcement referrals and Omaha Public Schools' law enforcement referrals and arrests report according to the Department of Education in the single digits. When we know that's definitely not accurate and that due to our open records request in the past where law enforcement referrals have clearly shown in the hundreds to it going into the single digits, it's nearly impossible. This means that there's likely a good deal of noncompliance across the state with a federal requirement, making it especially challenging to our collective understanding of what is really happening to our most vulnerable students. The problem with underreporting and noncompliance of data can be easily cured with this bill and at no cost to the state. So for those reasons, we urge you to advance this bill to General File.

WALZ: Thank you so much.

ROSE GODINEZ: Yeah.

WALZ: Questions from the committee? I don't see any. Thanks for coming in today.

ROSE GODINEZ: Thank you.

WALZ: Next proponent.

KRISTEN LARSEN: Hi again. So good afternoon, Senators. My name is Kristen Larsen, K-r-i-s-t-e-n L-a-r-s-e-n, and I'm here on behalf of the Nebraska Council on Developmental Disabilities to testify in strong support of LB154. Although the Council is appointed by the Governor and administrated by DHHS, the Council operates independently and our comments do not necessarily reflect the views of the Governor's administration or the department. We are a federally mandated independent council comprised of individuals and families with lived experience who have developmental disabilities, community providers, and agency representatives who advocate for system change and quality services. We serve as a source of information and advice to state policymakers and senators. And when necessary, we-- I need to stress that we take that nonpartisan approach to provide education and information on legislation that will impact individuals with developmental disabilities. We support LB154 that requires implementation of a statewide system for tracking individual student

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discipline. Data tracked will include suspensions, expulsions, and incidents involving violence and requiring restraint, and when law enforcement are required to be involved. And then, you know, the data will include, but not be limited to, the demographic information, race, poverty, attendance, disabilities, which is very important to us, and English proficiency. LB154 correlates strongly to the Council's concerns that will be noted-- or I, I noted earlier in the testimony on LB673. I'm glad-- we are glad that both of these bills have hearings today, as I think it will be helpful for members of, of the committee to explore the intersectionality relevant in student discipline. The Nebraska Quality Education Accountability Act, currently in place, provides a structure for the tracking of important and meaningful measures of student learning, achievement, and progress. The Council likes that this Act provides the state student identifier system to track student achievement by demographic characteristics. LB154 would expand this database to capture student disciplinary actions. This will provide a critical tool to enable the State Board to enact statewide policies to effectively address student discipline based on the needs of each district. Having access to consistent and accurate statewide student discipline data will help the Board grasp a true picture of disciplinary actions being taken with students in Nebraska. Currently, there's not a mechanism to track this important data, which is very concerning to the Council. We are aware that nationally students who have disabilities as well as minority students have been found to be restrained, expelled, and suspended at far greater rates than the rest of the student population. Data from the U.S. Department of Education Office for Civil Rights shows that children with disabilities who receive special education are suspended from school at more than twice the rate of their nondisabled peers. Additional data also shows that what's even more troubling for those students of color, including students with disabilities, are disciplined more harshly than their white peers for the same school conduct violations. Students with diagnosed disabilities who exhibit behavioral challenges due to their disabilities are routinely punished for not having the ability to behave or the tools they need to learn how to follow school conduct rules. LB154's provision for tracking individual student discipline is a crucial step in tackling this problem. This data collection will allow school districts to analyze and detect patterns for school administrators to investigate and determine how to prioritize

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resources and whether current discipline strategies and behavioral support rules are working. I reference a little bit more in my testimony the school-to-prison pipeline. I also referenced that in my previous testimony. I would just like to end with saying that without the critical data to understand the depth of student disciplinary issues, corrective actions cannot be taken. And this is definitely needed.

WALZ: Thank you. Questions from the committee? I see none. Thank you for coming in today.

KRISTEN LARSEN: Thank you.

PANSING BROOKS: Do you have one?

KRISTEN LARSEN: I hope you guys get a lunch break before 1:30.

PANSING BROOKS: Oh, Senator Murman had one.

KRISTEN LARSEN: Oh, Senator Murman did you have a question?

MURMAN: Yeah, I was just going to ask one question, is seclusion always bad?

KRISTEN LARSEN: Is seclusion always bad? I don't think if there's-- you need to have specialized training on how to do it effectively.

MURMAN: Sure.

KRISTEN LARSEN: So I, I don't think-- my answer would be if it's done with specialized training. There probably are times that that's appropriate. Unfortunately, not all school personnel are trained effectively on how to do that. And what concerns me is the disproportionality rate of those students, especially students with autism or behavioral challenges, how often they are, you know, how seclusion is used as a tool rather than some really effective behavioral strategies. And I believe, Jean Anderson from one of the ESUs testified on the other training bill. And she did a really good job, you know, talking about how it's, it's de-escalation techniques and talking a student down and not getting into their space to avoid the seclusion in the first place.

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MURMAN: Yeah, and that's-- LB673 was designed to address that. But the reason I ask is I, I do realize with developmental-- certain developmental disabilities, overstimulation is not a good thing. So--

KRISTEN LARSEN: Right.

MURMAN: --being in a room by themselves is, is good. But I think if we're tracking that, I don't know if that would be, you know, distinguished in how we're tracking.

KRISTEN LARSEN: I think if we're tracking it and, and you're seeing certain districts are using that technique more than others, you could step back and administrators could step back and evaluate the training that the staff have received. And if there are other alternatives that could redirect that student so you're not having to end up in that environment. Because I agree a lot, I have a son, I have lived experience with autism, intellectual disability, and he absolutely can get overstimulated. So what are other techniques that we can use so that he's not being overstimulated and perhaps ending up in, in a seclusion environment? So again, I, I think that the data will provide just a little bit more insight of what-- where, where is that practice being used more regularly than not?

MURMAN: Yeah, and that's my concern that the data wouldn't show that. All it would show is that there was seclusion, it wouldn't, you know, say as to why. The data--

KRISTEN LARSEN: No, I think then that, that would be the responsibility, don't you think, of the administrators and the special education directors to then to take that deeper dive, if they're seeing that the data is showing that that is happening more often in this particular school, that then they would want to take a step back and look at, well, what, what factors are, you know, what kind of tools is that particular teacher using in the classroom, that sort of thing?

MURMAN: Yeah, and another concern, you know, with this data, I know the data is important, but when you're talking about school-to-prison pipeline, is, is the pipeline a result of poverty? Is it a result of racism? You know, we, we don't know the reason for it. The data just shows the data, it doesn't tell us why.

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KRISTEN LARSEN: You know, I, I, I guess I would differ on that. I think that the data does show because of the disproportionality of students, particularly students with disabilities and especially those black male youth of minorities who have disabilities that the data is pretty clear that is showing that a lot of times they are in-- because of zero tolerance policies in some districts, they're ending up-- if they're not in an educational setting, the setting of last resort then is the criminal justice and juvenile justice setting. And, and to be frank, I, as a white woman in my lived experience is not in that environment. But when you look at the data and talk to the people that do live in that, that-- that's the reality that, that, that the system's not catching them so that what, you know, they end up being suspended from school and at home and then the parents don't know their legislative rights or their appealing rights, and then those students often end up deep in the system, in the juvenile justice system. And if they're not getting the right accommodations that they should have received in the school setting, a lot of times they end up deep in the system without getting the accommodations that they need.

MURMAN: Thank you.

KRISTEN LARSEN: Thank you. Any other questions from the committee? Senator Day.

DAY: Thank you, Senator Walz. And thank you for being here today. Thank you for your testimony. So if-- just to clarify some of what you were talking about with Senator Murman. If I'm hearing you correctly, you're saying that the data is not the solution, but the data is going to pro-- would provide us with a starting point to begin to find a solution.

KRISTEN LARSEN: Exactly.

DAY: OK, so even though the data can't give us the whole picture, it at least provides us a starting point and some of the picture to begin to solve some of the issues that we have with student discipline--

KRISTEN LARSEN: Right.

DAY: --in schools.

KRISTEN LARSEN: Right.

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DAY: OK, thank you.

WALZ: Thank you, Senator Day. Any other questions? Thanks for coming in today.

KRISTEN LARSEN: Thank you, guys.

WALZ: Next proponent.

EDISON McDONALD: Hello again, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, representing the Arc of Nebraska. I'll keep my comments brief because I'm sure you all want to get to lunch. We're supportive of this bill. We believe that it's helpful in beginning to understand the issues around restraint and other school disciplinary issues. It helps to make sure that we're able to actually have the data so we know where to go, how to craft our policies. I think, as has previously been discussed, we've had significant concerns about the lack of quality of this data. Regularly, the OCR or Office of Civil Rights is in contact with us about trying to gather more information around the individual cases. But it doesn't really do the, the larger systematic problems justice. So I think this is a great first step in making sure that we're really beginning to address those issues, followed by, you know, I think we talked about the benefits of training always is great, but without removing that legal liability. So with that, I'll close and open for any questions.

WALZ: Thank you. Questions from the committee?

EDISON McDONALD: Thank you.

WALZ: Thanks for coming in today. Any other opponents-- or any other proponents? Opponents? Neutral? Senator Wayne, would you like to close? While, he's coming up, I'll let you know that we did have written testimony in lieu of in-person testimony. A proponent: Jason Hayes from NSEA. We also have--

WAYNE: I'm sorry, can you slow down a little bit? I didn't hear.

WALZ: OK, sorry. Proponent: Jason Hayes, NSEA, for person testimony-- in-person testimony. And position letters, proponents: Peggy Reisher, Brain Injury; Mia Crawford; Mary Bahney; Terry Werner from NASW; and Dr. and Mrs. Paul Vana.

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WAYNE: Was there any opposition?

WALZ: No opposition, no neutral on either.

WAYNE: Thank you. I just wasn't sure. The first time in Education Committee I haven't had opposition. I guess we'll start with any questions, then I'll jump into my rebuttal, I guess, if that's OK or-- OK, I'll start with my rebuttal. The question about race versus poverty. I guess let me give you my experience on the school board and, and what I didn't do that I usually do when I come in here is give you a whole bunch of data, particularly from my time from Omaha Public Schools. Quite honestly, I'm, I'm, I'm tired of beating up necessarily school districts. At some point we just got to do what's right. And this is a bill that's simple and to me what's right. But what we found out when I first asked for this data on the school board, and it was myself, Marian Fey, and Marque Snow, who inquired about suspension rates by race and by grade and by sex, and that data was not being collected in an aggregate sense or broken down by grade level. And in 2014, we found out that over a thousand kindergartners were suspended. That's stolen time at these kids can't make up. What was interesting is myself, Senator-- or board member Snow and Senator Vargas put together a committee to rewrite our judicial-- or not judicial code, but our code of conduct. And we made mandatory reassignments on particular instances optional because principals kept saying that it was mandatory. And what we found out the first two years that it became optional is that there was no African-American kid in Omaha Public Schools who was reassigned. I mean, no white kid, only African-American and brown, who were reassigned to every high school at every grade level, there was a black or brown kid reassigned, but not one white kid out of 54,000. Was very odd. So let me give you the interplay of how that works with our criminal justice system. At the time, and OPS has done a better job with our police in the school districts. I know Senator Pansing Brooks had a bill on that last year or the year before. Cops were cops in our school system. You can't erase being a cop. You have a duty. You are a cop. So if two sixth graders or eighth graders got in a fight, that is a violation of the law. It is a mutual fight, a third-degree offense. There were many students, over a thousand students charged with the mutual fighting in Omaha because they had to hand out tickets. They were cops. That's what they did. So now you have a criminal justice system, now they're caught in the juvenile system and they're suspended from school. And

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then if something ever else happens or they go up for a traffic ticket, the first thing the judge does is look at their school record and they notice that you've been suspended multiple times. So you're disciplined for the same ticket that somebody else would get is different because that kid was never suspended while this kid was. So it's these compounding effects that have a direct result based off of race and I think an indirect result based off of poverty. So that's how the, the interplay between our criminal justice system and our school system interacts in a real time way that I just observed over the last ten years being a part of Omaha Public Schools. You'll hear a lot of bills today about remote, remote learning and the difficulties that special ed and students have had over since the pandemic. I will tell you in Senator McKinney's and my district, we've been remote learning for a long time because we've been suspended or kicked out of school and we didn't have a computer. You were sent home with some workbooks and said, hey, figure it out. So you have kids graduating from some of our most prestigious high schools in Omaha who can't fill out a job application, who can't read and write literally because that was their remote learning experience because they were kicked out of school over and over for minor offenses where other people got to stay. So, yes, there is a poverty issue. But believe when the state in 2014 fined Omaha Public Schools, that was based off of race. African-American males were suspended at a higher rate, particularly those with special needs at a higher rate. And the federal government and the state of Nebraska said, we are going to punish you. We punish you by setting aside \$1.4 or \$1.9 million that has to go directly to remediate the situation you created. That was race. So, yes, there is a racial issue. And with that, I'll answer any questions.

WALZ: Thank you, Senator Wayne. Questions from the committee? Senator Linehan.

LINEHAN: Thank you, Senator Wayne, for bringing this bill. And thank you, Chairwoman Walz. Do you have any numbers on the students in OPS or other large district schools where they end up in alternative schools?

WAYNE: So the data shows-- I don't have exact numbers, but I will get those to you. The data shows that at Blackburn Univer-- Blackburn University-- Blackburn High School, which is Omaha Public Schools, 80 percent of those kids are black and brown. That fluctuates anywhere

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from 70 to 80 percent every year. But that's our alternative high school. And that's 80 percent, 70 to 80 percent are black and brown students.

LINEHAN: Is there also an alternative junior high?

WAYNE: There is an alternative junior high, and that is-- those numbers are very similar. The last I checked was 65, and that was from a couple of years ago. But those-- my time being on the board fluctuate from 65 to 80 percent.

LINEHAN: And I even hate to ask this, but is there a elementary alternative school?

WAYNE: No, there is not. We-- I'm going to look back and kind of smile because we tried some different things when I was on the board to eliminate the middle school and elementary school alternatives and it hasn't quite worked out. I think they went-- they did go back to the alternative middle school. Elementary school, there still isn't a real solution for that. We-- I, I would jump and say we typically just suspend.

LINEHAN: Kindergartners?

WAYNE: Kindergartners.

LINEHAN: Thank you, Senator Wayne.

WALZ: Other questions? Senator Murman.

MURMAN: Thank you, Senator Walz. And thank you for bringing the bill, Senator Wayne. Another question I would have is how closely is family involvement tracked? Because I suspect, you know, a lot of the problems in schools and in society, too, is because of the lack of two-parent families and not that one-parent families can't be successful. They can. But, you know, sometimes it's even zero parents or I'd say the parents aren't involved with the kids like they should be, whether it's a two-parent or one-parent family. But how closely is that tracked?

WAYNE: That's a completely unfair question, not because it's not tracked, it's just that there's no way to answer that. You have one

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school in my district that has almost 100 percent parent-teacher conference attendance rate and has for the last 10 to 15 years. But yet their achievement scores are not as high as we would want them. You have single-parent kids in poverty who are bused out of their neighborhoods to a different school district where their parents make some type of choice who are doing really well. So that's not-- you can't track that. You can attract parent-teacher conferences, but you can't really track that. And here's why I say that, study after study shows that the more parents who are active leave their school and choose a better option. Once you get a threshold of about 50 percent of those parents opting out of that school, that school that's left behind is, is, is devastated because they don't have active parents. The bigger issue, I guess, if you're struggling with, is how to make sure that your neighborhood school down the block is just as good as the one that's 40 minutes away. And I don't know-- I mean, that's for this committee to decide. I can tell you--

MURMAN: Yeah, I know-- I realize it's a challenge.

WAYNE: --I can tell you, I can tell you this right now from a two-parent home, we've opt-- we've-- this is the first year we've opted out of Omaha Public Schools. And my daughter refuses to go back.

MURMAN: Yeah, I realize that would be a big challenge. That's why I was asking the question. I didn't know.

WAYNE: And I, and I don't think it's necessarily based off a demographic. I don't think it's always based off of income level. It could just be based off of expectations. And my daughter has a different expectation after going to a different school.

MURMAN: Sure.

WALZ: Other questions? I have a question about the data collection. Once the data's collected, would you be able to see-- would the schools be separated so you'd be able to see the data collection from every school district or would it be a whole like general?

WAYNE: Yeah, I would assume it would be like what we can do right now with achievement that it would be based off of. And maybe we need to clarify that in a bill. Break it down by school and even by grade. I,

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I didn't think I needed to be that prescriptive, but probably do, though.

WALZ: Yeah. And I was just curious about you've brought the bill before.

WAYNE: I brought versions of this. Yes.

WALZ: OK.

WAYNE: And so has Senator Hansen.

WALZ: OK.

WAYNE: Matt Hansen. There's two Hansens. Sorry.

WALZ: OK. All right. I'll just talk to you about that later.

WAYNE: OK.

WALZ: Thanks. Any other questions? Senator Sanders.

SANDERS: Thank you, Senator Walz. Senator Wayne, who will have access to the information that's gathered?

WAYNE: I would hope everybody, school boards, public, everybody should have access to that. If you're making a choice about a school and they have a high discipline issue, you should be able to make a choice based off of that. If you're a school board, you should do what we did in Omaha Public Schools and redraft why or at least talk to the staff of why they were suspending so much. Talk to teachers about why they were referring people to the office so much and try to come up with a different median of, of how to deal with those situations. So I would hope all.

SANDERS: Thank you.

WALZ: Any other questions? Thank you, Senator Wayne.

WAYNE: Thank you. Consent calendar.

WALZ: And that concludes our hearing on LB154, and our hearings for this morning.

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WALZ: Afternoon, everybody. We'll briefly go over some COVID-19 hearing procedures. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it's necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and Transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and the chair between testifiers. Public hearings for which attendance reaches the seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon the seat-- based upon the seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability due to the HVAC project of an overflow hearing room for hearings which attract several testifiers and observers. For hearings with large attendance, we request only testifiers enter the hearing room. We ask that you please limit or eliminate handouts. And with that, we will open. Welcome to the Education Committee hearing, public hearing. My name is Lynne Walz from Legislative District 15 and I serve as Chair of the committee. The committee will take up the bills in the posted agenda. Our 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 or silent cell phones or other electronic devices. The order of testimony is introducer, proponents, opponents, neutral, and closing remarks. If you would be testifying, please complete the green testifier sheet and hand to the committee clerk when you come up to testify. If you have written materials that you would like to distribute to the committee, please hand them to the page to distribute. We need 12 copies for all

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committee members and staff. If you need additional copies, please ask a page to make you copies now. When you begin to testify, state and spell your name for the record. If you would like your position 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 are not testifying in person and would like to submit a written position letter to be included in an official hearing record as an exhibit, the letter must be delivered to the office of the committee Chair or emailed by 12:00 p.m. on the last work day prior to the public hearing. Additionally, the letter must include your name, address and stated position of for, against, or neutral on the bill or LR in question and include a request for the letter to be included as part of the public hearing record. Please speak directly into the microphone so our Transcribers are able to hear your testimony clearly. And finally, please be concise. Testimony will be limited to five minutes. We will be using the light system. Green is five minutes you have left or minutes remaining; yellow, one minute remaining; and you'll wrap up your comments when you see the red light. The committee members with us today will introduce themselves beginning at my far right.

McKINNEY: Oh, sorry. Terrell McKinney, I represent District 11, north Omaha.

MURMAN: Hello. I'm Senator Dave Murman from District 38, for the counties of Clay, Webster, Nuckolls, Franklin, Kearney, Phelps, and southwest Buffalo County.

MORFELD: Adam Morfeld, District 46, northeast Lincoln.

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

SANDERS: Good afternoon. Rita Sanders, District 45, the Bellevue-Offutt community.

WALZ: I'd like to introduce my committee staff. To my immediate right is research analyst, Nicole Barrett. To the right end of the table is committee clerk, Mandy Mizerski. And our pages today are Rebecca and Savana. Please remember that senators may come and go during our hearing as they may have bills to introduce in other committees. I'd

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also like to remind our committee members to speak directly into the microphones and limit side conversations and making noise on personal devices. We are an electronics equipped committee and information is provided electronically as well as in paper form. Therefore, you may-- you may see committee members referencing information on their electronic devices. Please be assured that your presence here today and your testimony important to us and is crucial to our state government. Lastly, as a reminder, please allow the pages to sanitize between testifiers. And with that, we are going to open with the appointment of Gene Kelly, Coordinating Commission for Postsecondary Education.

GENE KELLY: Good afternoon.

WALZ: Good afternoon, welcome.

GENE KELLY: I'm Gene Kelly, G-e-n-e K-e-l-l-y. Madam Chair, members of the committee, first I want to thank you for-- I want to thank the Governor and his staff for appointing me to the Coordinating Commission. And second, I would ask that members of this committee favorably recommend me to the Legislature and grant approval for my continuation on the commission. I'm new to the work of the commission. I've never actually met any of my colleagues except via a single Zoom meeting during this last January. I certainly look forward to getting to know them and understanding their perspective on the commission's work. And so that members of the Education Commission may understand me a little better, understand how my background, please permit me to summarize that background. I'm retired since 2019. That's a great feeling, by the way. I do some consulting work occasionally. I help regarding systems engineering, financial and organizational changes for federal government organizations. By way of formal education, I have a Bachelor of Arts in Quantitative Methods from the University of St. Thomas and a Master of Science degree in information systems from the School of Engineering at the Air Force Institute of Technology. I'm also a, formerly a certified system engineering professional through the International Committee on Systems Engineering. Prior to my retirement, I had a wide career path. I, as a boy, I worked on farm and factory. As a young man, I've done software development. I've been an Air Force officer, program manager, graduate researcher, information technology and systems engineering, financial analysis and management. And I've done home construction, both hands on and as a

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general contractor and with associated businesses. In the past, I've been a member of the Papillion La Vista Board of Education. I served 12 years on that board, all the committees you would expect: building, finance, academic, personnel, and so forth. That includes liaison to various outside organizations. I have to tell you, it was an excellent experience to know how education and public policy interact. Recently, I founded a Nebraska Public Employees Pension Reform Group. It's a nerdy group of volunteers who enjoy spreadsheets, PowerPoint slides, and spending time on topics that are both interesting and boring. As a volunteer, I also help-- enjoy helping people find jobs and new career opportunities and also helping them with their family budgeting and retirement planning. So I first moved to Nebraska in 1981 when I was a member of the Air Force and I've lived in Papillion since 1987. I think the combination of work I've done, both private and public organizations and a successful fusion of that career paths and opportunities have given me a good perspective on that I can bring to the commission. And so I say again, I ask your favorable recommendation and grant your approval for my continuation on the commission. Madam Chair, thank you.

WALZ: Thank you very much. Any questions from the committee? Senator Sanders.

SANDERS: Thank you, Madam Chair. Good afternoon. Thank you very much for being here today. Where are you from originally?

GENE KELLY: Minnesota.

SANDERS: Minnesota. Not too far from home.

GENE KELLY: No, not that far.

SANDERS: But thank you for retiring here and staying here as you're the typical candidate that we love to [INAUDIBLE]

GENE KELLY: It's the tropical climate that really [INAUDIBLE]

SANDERS: Yeah. We love those below-- below zeros, don't we? But I want to thank you for your service, first of all, to-- to your country and then also now your community and state. And thank God for Zoom. I sat on two commissions and I did not meet my co-commissioners until I sat

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in that seat. So we didn't have the Zoom before that. But thank you for your service and I appreciate it.

GENE KELLY: Thank you, Senator.

WALZ: Other questions? Senator Murman.

MURMAN: Thank you, Senator Walz. And thank you for being here, Mr. Kelly. I noticed part of the responsibility of the Nebraska Coordinating Commission for Postsecondary Education is to elimination of unnecessary duplication of programs and facilities among Nebraska institutions, but-- but yet do a good job of covering the state with all the necessary things for learning. Do you have any ideas on how you can best do that, or what would your ideas be on?

GENE KELLY: How would I approach that?

MURMAN: Yeah.

GENE KELLY: I think when you look through the statutes, at least what I've looked through and the Constitution, of course, everything seems to cycle back to the strategic state plan. That is, is there a plan for postsecondary education and then how do the various institutions work into that plan? And so I would think that the plan would be the place where you would want to start. You'd want to make sure the plan is always up to date and has wide acceptance among members of the Education Committee here and also members of the public and the institutions. I'm well aware of the difference between governing and coordinating, but that's not to say that the Coordinating Commission has no role in planning and working towards the future. So how would I deal with the particular program that I thought was duplicative? We actually had that in one meeting I've attended. There was a program that was proposed out in the Panhandle area and it was duplicative. However, you have to look at the geographic distance. All right. It's unreasonable to ask students for that particular program to move a great distance away to take that program and then somehow expect them to move back. This particular case, it was a diesel technology and mechanics, and it was appropriate that that program be approved. It was not that much of a-- of a cost and it would serve that particular area of our state. So in that case, I thought it was in line with our strategic plan and I voted to approve.

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MURMAN: Thank you.

GENE KELLY: I hope that answers your question, Senator.

MURMAN: Yeah. Well, my concern is that things aren't duplicate, but also that they-- it's available for all parts of the state.

GENE KELLY: Right, that's exactly right.

MURMAN: Thank you.

WALZ: Thank you. Other questions? The answer-- you answered the question that I had. So I only had one other question. You are a general contractor.

GENE KELLY: I've done that in the past. Yes, I'm retired now.

WALZ: Oh, so you're not out for hire?

GENE KELLY: No, I'm not.

WALZ: They're hard to find.

GENE KELLY: They are. Especially if they'll complete the job.

WALZ: Kitchen remodel. All right. Thank you so much for coming today. We appreciate your service.

GENE KELLY: Thank you. Thank you, members.

WALZ: Do we have any proponents? Opponents? Anybody who would like to speak in the neutral? With that, we'll close our appointment for Gene Kelly to the Coordinating Commission for Postsecondary Education and we will open our hearing on LB198, Senator Vargas, change provisions relating to the Student Discipline Act. You're on, Senator Vargas.

VARGAS: Which one are we starting off with?

WALZ: LB198.

VARGAS: All right, perfect. Good afternoon, Chair Walz and members of the Education Committee. For the record, my name is Tony Vargas, T-o-n-y V-a-r-g-a-s and I do have two handouts I do want to make sure

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to hand out. One is a one-pager and one is actually a committee statement of this same exact bill from two years ago. If you've previously served on this committee, LB198 will be familiar to you. It's the exact same bill that passed the Legislature last year, LB515. But that was pocket vetoed by the Governor in August. LB515 was the result of years of work with education stakeholders. I had two bills and an interim study on the same subject. The Governor's office did not engage with me, did not testify against this. We were not aware of any of the concerns before he vetoed the bill when we adjourned in August. So that's why we're back here. This bill, LB198, is identical to the bill that was passed last year and a bill that was supported out of committee 8-0, which is one of the statements that you'll see in front of you. That bill was also passed out with any opposition testimony because it had been worked out and negotiated with a lot of different partners, including school boards association, school administrators, the NSEA, Voices for Children, the Department of Education, and other stakeholders. Since there are new members of this committee, I wanted to make sure to review some of these things. But my hope here is that the committee can take swift action on this because it's something that we've worked on and is a good bill. So for new members, I want to touch briefly on the history of the Student Discipline Act. In 1976, the Student Discipline Act was created because we had press proceeded. It was deemed unconstitutional by Nebraska courts. Without any rules about suspension and dismissal, students were being treated differently, school to school, 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 and specifically their constitutional right to due process and fundamental fairness within an orderly and an effective educational process. Current law goes on to say that the sanctions are to be interpreted at all times in recognition of the right of every student to public education. Now what we've seen is that over the years, like many of our laws, there are some provisions of the law that need to be updated from time to time in order to fulfill its original intent or mission. This is why we brought this bill three years ago. There's someone testifying right behind me who practices in education law that will be able to talk more about their experience navigating the Student Discipline Act with their clients, why these updates are necessary, and what effects the law has had on students and families. I hope you'll ask her some of those questions

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to help you get a better understanding of how these issues have come about and why this bill was necessary three years ago, necessary to pass last year. Now from a cleanup perspective, I've tried to insert reasonable additions, such as making sure parents are informed about how to request a hearing and setting some time frames for certain actions to happen. These aren't new additions. These are just cleanup additions we made when we first introduced the bill. These were already included in the bill that was passed last year. We want to make sure LB198 states that prerequisites for a hearing officer and lays out a process, oh sorry. There are a couple of changes that go beyond the cleanup and those changes, one example is hearing officers. So LB198 states the prerequisites for a hearing officer and lays out a process that would allow a parent to request a new hearing officer if they do not agree with the choice of the superintendent or if they believe the chosen hearing officer may not be impartial. Another change to the act would explicitly allow homework and coursework completed during the suspension and hearing process to count towards credits earned. It makes a lot of sense. 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 LB198 by simply saying that validly earned credits, meaning from an accredited program, need to be accepted. I want to reiterate that LB198 is the exact same bill that passed the Legislature in August. LB515, which is that bill, passed because I spent-- we spent three years working with stakeholders, including the school administrators associations, including NRCSA; School Boards Association, NSBA; Department of Education; the NSEA; Voices for Children; and others. That's why it came out of committee with no opposition testimony and also 8-0. What you have before you in LB198 is the consensus the group arrived at through negotiation and represents the agreement we all made to move forward on the bill. With that, I urge you to support LB198 and quickly move it on to General File. I'd be happy to take and answer any questions. Thank you.

WALZ: Thank you. Do we have questions from the committee? I see none. Thank you, Senator Vargas.

VARGAS: Thank you very much.

WALZ: Proponents that would like to speak.

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ELIZABETH EYNON-KOKRDA: Members of the Education 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 am here on behalf of Education Rights Council in support of LB198. I want to tell you a little bit about myself. Prior to my work with Education Rights Council, I have actually been a school lawyer for over 20 years and I've worked with schools and students and families and teachers and I've been through multiple student discipline hearings with students across the state. And I served on actually both sides of the fence. And when Senator Vargas first brought this bill to our attention, I was one of those people that sat at the table, along with all those other groups that he mentioned. And everybody sort of agreed that the primary thing we need to do for equity for children was to make some things clear that weren't already clear in the law. As Senator Vargas mentioned, there's really like five things that this bill does. And I was taking some notes as I came up. And the first thing is it deals with time frames. In about eight places, what it does is add a time frame when there wasn't one. And as both a school lawyer and talking with other school lawyers, as well as talking with families, sometimes it's that lack of clarity, like how long does the superintendent have before X happens or before Y happens? It's also really important. I had one particular situation where I was in an appeal and there was no time frame after the hearing by which the superintendent and the board, this is a board hearing so there's a hearing officer hearing and then a board hearing, had to actually make their decision. They took three months to make a decision. This gives a time frame other than three months, seeing as everybody else has to do things within five days. The other thing it does is, as Senator Vargas said, it lets you do homework. I think that's a really important aspect. The third thing it does as I understand has raised some question with many people, and I heard about it on the floor, although it was supported and people talked about it, is the definition of personal injury. So one of the things in the Student Discipline Act says if you cause an injury, you can be disciplined, except if that was an injury caused by accident, those three magic words, "caused by accident." And this actually went, OPS had a case called Spencer v. OPS where there was a kid who injured another kid and said he had done it by accident. And the gist of the whole case was that OPS did not have that statutory "caused by accident" in their code of conduct. But in the course of the Supreme Court considering this exact question, they came up with a definition

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and they said, here's what this means. Here's what "caused by accident" means. That's in this bill. Why is it expressly that definition in this bill? Because I went to a hearing and it's not because I did this, but I have experienced it, went to a hearing and the hearing officer said, well, I'm not a lawyer. I don't know anything about case law. So I'm not going to say that just because you say that there's a law that says this is what the definition is, that I have to recognize it. That ended up having us to go to court for absolutely no reason just to get it clarified, because the law is clear. It's just that the hearing officer didn't know. The other thing this does, it does some clarification of language. For example, I went to another-- it was actually another school lawyer who came and said, what does this mean with regard to ten days? Is a suspension the last ten days of the school? Does that mean within the last ten days or does it mean eleven days because one of these days doesn't count based on a cycle? So this language is clarified in this bill. And then finally, what this bill does do is it gives a choice to a family of a hearing officer. If after a superintendent says, here's the hearing officer for you, in two days the family says, boy, I want another choice. And then the hearing officer gives them a list and they can pick a choice. This is really important for families. They feel that because the hearing officer is an employee of the district, generally speaking, or being paid by the district, that they're not necessarily impartial. Having the impression and the feeling of true impartiality in a hearing is really critical for families. My yellow light is on, so I'm going to wrap it up and say we've been here. We have done this for three years. As Senator Vargas said, the bill actually passed into law. I would urge you again to move this out of committee onto the floor and support it into passage of law. And I'd be happy to take any questions.

WALZ: Thank you. Questions from the committee? I don't see any. Thanks for coming. Oh, oh, thank you for coming today.

ELIZABETH EYNON-KOKRDA: Thank you very much.

WALZ: Next proponent.

ROSE GODINEZ: Good afternoon.

WALZ: Hello.

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ROSE GODINEZ: 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 in favor of LB198. We thank Senator Vargas for introducing this legislation. This bill, as has already mentioned, been mentioned, clarifies time limits for students, school employees, and board members to complete their already codified duties, thereby providing parents and students or guardians for their clarity in the student discipline hearing and appellate process. Moreover, LB198 helps ensure the disciplined students' due process rights and success in school by affording them the opportunity to keep up with their schoolwork without having to attend an alternative district program. Suspended and expelled students are often left unsupervised and without constructive activities. They can also easily fall behind on schoolwork, leading to a greater likelihood of dropouts or leading into the juvenile justice system. Several studies show that all of these factors actually increase the likelihood of ending up in the juvenile justice system, making this bill really important to prevent the further funneling of students into the school-to-prison pipeline. And for those reasons, we urge the committee to advance this bill to General File.

WALZ: Thank you. Questions from the committee? You're getting off easy.

ROSE GODINEZ: Thank you.

WALZ: Next proponent. Opponents that would like to speak?

DAVID KRAMER: Chairperson Walz, members of the Education Committee, my name is David Kramer, D-a-v-i-d K-r-a-m-e-r. I'm appearing today on behalf of the Omaha Public Schools to testify in opposition to LB198. We have a number of concerns about LB198, three of which I would like to highlight today. First, in the words of a former Omaha Public School Board member, LB198, quote, upends the centuries' old definition of assault, unquote. Assault is a general intent crime. The inclusion of the language that, quote, personal injury shall be considered caused by accident when the damage or consequences of the act that caused the injury were unintentional, unforeseen, or unexpected, end quote, has the effect of enabling almost any student to argue that they never intended to hurt anyone. For example, a student who intends to hit another student but misses and hits a teacher instead, a situation which-- which-- with which we have dealt,

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can no longer be suspended for hitting the teacher. It would, under this provision of LB198, be deemed to be an accident, despite the fact that there was nothing accidental about the student's actions. If I were a student or an advocate for a student, I would argue every time that the student didn't intend to do whatever the student was accused of doing. Second, LB198 requires a principal to recommend discipline within two days of learning of the alleged student conduct. The Omaha Public Schools trains its principals and administrators to thoroughly investigate all alleged student misconduct. That often includes student statements, student interviews, staff interviews, review of security footage, and conversations with parents. To recommend discipline within an artificial timeline of two days is unreasonable and could lead to students receiving discipline without the facts having been fully vetted. Third, LB198 creates a costly, cumbersome, overly legalistic mechanism that will complicate student discipline. Having practiced in this area for almost 30 years, I am not certain what is driving this proposal other than one incident. I personally work with internal hearing officers and have provided training on how they should conduct their hearings. Internal hearing officers are not only empowered, but I would go so far as to say encouraged to question the actions at a building level. Internal hearing officers take their responsibility to provide each student with due process very seriously. The vast majority of hearings before internal hearing officers are conversational rather than confrontational. LB198 would change that. In most districts, hearing officers are staff members. Districts incur no cost to have them serve in that role. The cost for independent hearing officers has to be borne under this law by the district. Independent hearing officers tend to be attorneys and, as we all know, attorneys are not cheap. The hourly rates for known and respected hearing officers in Nebraska currently range from \$200 to \$330 per hour. The district will be paying that rate for preparation time, hearing time, the time spent preparing the final report. That doesn't even take into effect the costs associated with school districts increasing the participation of their own legal counsel in the student discipline process. Why? Because the process, as contemplated in LB198, is similar to a court hearing. Today, legal is rarely involved in student discipline. To put that into context, out of more than 50,000 students, the Omaha Public Schools has approx--averaged approximately 50 student discipline hearings before internal hearing officers over the past decade per year. Based on those

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numbers, we estimate that it would take approximately \$350,000 per year if parents selected an outside hearing officer. One last comment about the hearing process. LB198 would require the school district to make its witnesses available to the student, parent, or guardian in advance of the hearing if requested. This may have a chilling effect on student witnesses. We already struggle to get parents to give their permission for their child to offer a statement or to participate in the current process. LB198 will make that more difficult. There is no reason to change the system that by the vast majority of all accounts has been working. For these reasons, the Omaha Public Schools opposes LB198. I would be happy to answer any questions that you may have. Thank you for your time.

WALZ: Thank you. Senator McKinney.

McKINNEY: Thank you. Mr. Kramer, you said the system has been working. When a disproportionate amount of students reflect a certain demographic and you also look at the testing scores and other indicators that indicate a lot of those students are failing, don't you think it would be good to rethink the discipline process, to make sure that students are treated fairly and to make sure those students aren't falling through the cracks?

DAVID KRAMER: Absolutely, Senator. But this bill doesn't do that. This bill has nothing to do with the factors of disproportionality. This bill instead creates a scenario wherein a student who's been in a fight, for example, and hits someone who they didn't intend to hit, doesn't get suspended, doesn't matter what their race is, doesn't matter what their test scores are. So this isn't a bill about that issue. And we would support and actually continue to work aggressively with our partners in the community, with the State Department of Education, and others to address the issue of-- of disproportionality in discipline.

McKINNEY: Why wouldn't a student be suspended? If your intent, if you're intending to assault somebody, no matter if you hit that person or not, you should be disciplined.

DAVID KRAMER: Senator, you got what my testimony is. This bill would make it so that we couldn't suspend a student unless they hit the person they intended to hit. But if they didn't hit the person they

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intended to hit, fair game because it was an accident. Assault is a general intent crime. It's like-- it's like someone who-- who drinks and drives. They get behind the wheel of a car and they get in an accident. It's deemed to be the reasonable consequence of having gotten behind the wheel of a car. If this language were in that statute, you couldn't go after them for that because they didn't get-- they didn't intend at the time they got in the car to cause the accident. Same thing here. If you don't, you have to have the element of intent. With this definition, the element of intent is brought into assault. It's brought into student discipline in a way that was never contemplated. The one last thing I would suggest, Senator, is that the case that's been referred to has been in law for 24 years, and we didn't seem to have to get it into the statute. There are a host of other student discipline cases that nobody's running in here to get into statute either. So we just have significant questions about why this is even necessary. And our conclusion is that at least under-- under current practices, it's not.

McKINNEY: So I guess what I'm struggling with as far as your example with assault, so what if two students are horseplaying and accidentally run into another student or teacher or administrator and hurts them? That's-- that's a dif-- that's an accident.

DAVID KRAMER: Yeah, absolutely.

McKINNEY: A fight is different.

DAVID KRAMER: Yeah.

McKINNEY: I think that's what-- what Senator Vargas is trying to get at. There are differences in accidents and where in your policies currently do you address that difference?

DAVID KRAMER: We take that into consideration in every single case. The facts of every case come into play. But by inserting this language into the definition the way it's been inserted completely changes that. We've been following the law for 25 years. So but this puts in-- the way this is put into the law and we suggested last year-- we suggested, hey, let's change this because it shouldn't be about assault. And they're like, oh, this isn't about assault. This is about defining accident. Yes, but accident ties back to assault. And so we

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don't believe that this language as currently drafted would permit us to punish a student in the example you gave, which is I intended to hit somebody. Senators, this is very personal for me because when I was in eighth grade, I got kicked out of school because of the fact that I got in a fight with the kid who was bullying me over and over and over again. And I told them, stop, stop, stop, stop. And you know what happened? He didn't. And in gym class, I got angry and I got into a fight and I-- I was advised not to say that I beat the crap out of him, but I beat the crap out of him. And in the course of doing so, I actually hit Mr. Vogel [PHONETIC], my gym teacher. And I went home and I told my father that I didn't intend to do it. And he said that, David, when you pulled your arm back, you intended to hit somebody and you have to accept the consequences of your action. So I look at this and I think to myself, you know, I might not have gotten in trouble, but the reality is, is we want students to accept the consequences of their action. And it shouldn't be just about the student that they were aiming at or the person that they intended to hit. In this kind of a scenario, it should be about the fact that they sought to hit anybody. And if it happens to be a teacher or another student who they didn't intend to hit or another staff member, we ought to be able to discipline them for that.

WALZ: Other questions from the committee? Senator Linehan.

LINEHAN: Thank you, Chairwoman Walz. Thank you, Mr. Kramer, for being here.

DAVID KRAMER: Senator.

LINEHAN: Been awhile. Why weren't you here? I mean, according to the committee statement, like--

DAVID KRAMER: Yep.

LINEHAN: --this is kind of a big, like, I'm shocked by this.

DAVID KRAMER: So there are two reasons we weren't here last year.

LINEHAN: OK.

DAVID KRAMER: The first is we try not to oppose publicly the bills from people who we consider to be our friends. And Senator Vargas, a

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former school board member, is somebody who has been a longstanding friend of the Omaha Public Schools. And we tried to work behind the scenes with Senator Vargas on this bill when it appeared that it had some legs. And by that point, our suggestions were-- were greeted with deaf ears. The second reason is, frankly, we didn't think that this was going to go anywhere. And in the spirit of this bill, I'm not intending to offend you, and so no, no, no offense intended there, but we didn't think it was going to go anywhere. And so we-- we worked with them behind the scenes. We tried to get it done. But now we saw it passed. We were happy that it got vetoed. And we thought so that people can't stand here and say, well, you didn't say anything, we're here to say what our opinion is.

LINEHAN: OK, thank you very much for being here.

DAVID KRAMER: You're welcome, Senator.

WALZ: Thank you. Senator McKinney.

McKINNEY: I got to-- I meant to ask this question before [INAUDIBLE]. So back to the assault example. In this it says LB198 specifies that a "personal injury shall be considered...by accident when the damage or consequences of the act that caused the injury were unintentional, unforeseen, or unexpected."

DAVID KRAMER: Yeah.

McKINNEY: What I'm saying is I don't see how anyone can make the argument if I end up in a fight with somebody and I punch somebody, that it's not foreseeable to think that if I get into a fight, I could potentially injure somebody else.

DAVID KRAMER: Well.

McKINNEY: That's foreseeable. So I don't see how this language changes that because that doesn't take away the foresee-- foreseeability of engaging in a fight has inherent harms no matter what.

DAVID KRAMER: Yeah, but by specifically bringing this language into the statute, particularly the part about unintentional, brings the question of intent into the discussion, which we then have to-- right now, we don't even have to worry about intent, Senator. We don't have

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to worry about it. And so by bringing this in, I would say because we assume like you do, hey, the minute you got in a fight it was--

McKINNEY: But there are-- but there are other elements as well. I just don't see how anyone would make that argument. But I appreciate your dialogue.

DAVID KRAMER: Well, Senator, what I will tell you is if there is a piece of law and there are two lawyers, there's a good-- a good likelihood that-- that there will be a disagreement over what those words mean.

McKINNEY: All right. Thank you.

WALZ: Thank you, Senator McKinney. Any other questions? I see none. Thanks for coming today.

DAVID KRAMER: Thank you, Senators. You have a wonderful day. Stay warm.

WALZ: Yeah. Any other opponents? Anybody who would like to testify in the neutral? Senator Vargas, would you like to close? While he's coming up, we did have two written testimony in lieu of person testimony. Proponents: Julie Erickson, Voices for Children; and Jason Hayes, NSEA. Two or three opponents: John Schwartz from STANCE; Jack Moles from NRCSA; and John Neal from LPS. We also had two proponent position letters from Mary Bahney and Dr. and Mrs. Paul Vana; an opponent position letter from Dr. Mark Adler, Ralston Public Schools. Thank you, Senator Vargas.

VARGAS: Thank you very much. Try to address what Senator McKinney said. So there's a couple of things that I want to make sure to get clear here. At the top level, this bill has been introduced twice. Both of those times Omaha Public Schools did not testify against this bill. They did not testify neutral on this bill. We had not received any feedback in writing or a call up until this last previous year, sometime in February or March when we had the pandemic started. I think that's important for my colleagues to know. For all of you that have introduced bills and have worked on bills and believe in the hearing process, it is important that the integrity of the process is taken, the most important we uphold it, but it's also upheld by those

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individuals that are on the other side of issues. So I want to make that abundantly clear. I have a lot of respect for Omaha Public Schools. There's some issues where we're on the same place where we support the same things and sometimes we don't. That's policy. Although I would say I inherently, as somebody introducing a bill, I see this as a bill that is about equity and about addressing some issues of inequities that exist within the Student Discipline Act and in processes that make it a little bit more fair for students and parents. I wouldn't be surprised that this is happening now, although I want to make it abundantly clear all those things were true. In addition, that the School Administrators Association was at the table negotiating with us with all those groups for years. I appreciate the sentiment that we are friends, but I also-- it had never been communicated to our office, formally or informally, that the reason they didn't come and testify was because we're friends. They didn't come and testify and that on point blank should be taken as fact. And what they also didn't take a position on this bill in their legislative committee for some time. And I'd been asking what the position was because I wanted to know. So as a reminder, this bill had been worked on by several different stakeholder groups on different sides and worked out and got to an 8-0, more importantly, with no opposition testimony, everybody in a neutral position saying we all believe this is the best thing: administrators, teachers, advocates, individuals that have been lawyers in the system that can attest to instances where parents or families needed to have more clarity in the Student Discipline Act to ensure that instances, doesn't matter if there was 50 hearing cases. Those 50 hearing cases are 50 parents, those are 50 kids. We need to make sure that these are right. Kind of want to come back to what Senator McKinney was asking questions of, and I think you're sort of along the same lines, at least your question, my understanding is I don't see what's the problem here. So I understand the argument of this has been around for some time. Why now? If that argument stands up, then there shouldn't be a problem with this being in statute. The Supreme Court did uphold this specific sentence, so there shouldn't be a problem with putting it into our statutes. So then what's the real reason that there is an opposition to it? That has not been elevated in this hearing. What has been elevated is there's a need for clarity. What I will say that this does is it puts the burden of proof on the school district to prove that something was intentional, puts the burden of proof on the school

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district that something was intentional, which shouldn't be-- I think that makes sense to most people. Something was indeed intentional. School district has to prove that that was the case. We're not fundamentally changing something. I think we would expect that in a court of law and we're talking about an internal hearing process. And we're still talking about kids. No matter what they've done, these are still kids and there's still due process that needs to happen. We're not trying to make it any easier for somebody to skirt the system. There's a consequence to actions. We're saying that you would need to prove that there's-- that there's intent, that it was foreseen, that it was intentional. I don't think that's a hard thing to do if it indeed happened when bear in mind, within the system, a hearing officer is made at the recommendation of the superintendent and sometimes can be a contracted lawyer or somebody that's previously worked with the school district. In that instance, I want you to imagine that you're in a some sort of a process and the judges were picking a lawyer for you. Doesn't mean that they necessarily are impartial, but there's more legs that there could be impartiality within the system. That language that they said sort of doesn't need-- I'll try to get the language right here-- that it's legalistic. The language in here for this hearing examiner says: A student or parent or guardian may request the designation of a hearing examiner other than the hearing examiner recommended by the superintendent. We first-- first introduced this bill, we were asking for five different options, negotiated it down to one. You're a parent. We're saying if that hearing officer that they recommended isn't a hearing officer, that maybe you don't agree with it. Maybe they'll agree with it. Fine. If they don't agree with it, now we're saying another hearing examiner recommended by the superintendent. Upon receiving the request from a parent or guardian, the superintendent shall provide that one alternative hearing examiner who is, and this is the bar, who is not an employee of the school district, which I think would make sense. You don't want somebody that's part of that hearing officer to be an employee of the school district, or otherwise currently under contract with the school district. Also you might not want somebody that was a subcontractor or on retainer, a lawyer. I can understand that, or otherwise currently under contract with the school district and whose impartiality may not otherwise be reasonably questioned because we want to take into account impartiality. The superintendent may also provide and this was something that was also negotiated, which I think

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is good, an additional list of hearing examiners that may include hearing examiners employed by or under contract with the school district. So they can include more individuals than just that one so that there are more options available to the parent or guardian. The superintendent shall appoint the selected hearing examiner upon receipt of notice on whoever is picked from those different options. They just have to offer one more option. Colleagues, sometimes we negotiate things. The School Administrators Association came in neutral on this after negotiating those things down. So did NRCSA at that time as well. I do take a little bit of, I will tell you, it does sometimes hit a nerve when as a former teacher and a school board member, we're only looking at this from a legalistic. This is meant to sort of provide clarity and begin to do some level setting of the playing field. And if you read through many of these things, you're like, well, I'm surprised we even had to change the number of calendar days of notification or what notification is or even having an additional hearing officer. God forbid we would have to be in the scenario where we would have one of our own children in the system, in a hearing system, and we would need this. This is intended for those few cases where it is particularly difficult, those 50 or so. This is a good bill. And I urge your advancement of this bill, because it was worked on with many different voices in the way and the intent with which we work in good faith to work on bills. Thank you and I'm happy to answer any questions.

WALZ: Thank you, Senator Vargas. Questions from the committee? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for bringing this bill again, Senator Vargas. So I have a couple questions. And I may have missed a couple because I'm sorry I had to be late to be with another meeting. But so some of the letters we're looking at from people are talking about the two days for the-- the hearing or the two days that are and I think it's not enough time to be able to be brought. You know what I'm talking about? Let's see. The decision as to the recommended discipline shall be made within two school days after learning of the alleged student misconduct and the IDEA of due process regulations may require a multidisciplinary team. Do you have a response to that? Because that's what a bunch of these letters talk about. They say that they're working with you on this. I just wanted you to comment.

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VARGAS: So that was something that was negotiated at the table a year and a half ago now. I confess that when somebody saw that this was coming back, I think there's wanting to sort of revisit that specific point. But it was something that was negotiated with the School Administrators Association in the room, along with the School Boards Association, NSEA, several others, ACLU, Voices for Children. But I'm not going to say I'm not willing to work on something in terms of the time frame. That's how we got to this point. That was likely not the original language that we-- we brought to the bill. So that is one that I was aware of that we are looking at.

PANSING BROOKS: OK. And so that two days was in the previous bill. Is that correct?

VARGAS: The version that you have in front of you is the version that was negotiated and supported by all those parties that I just mentioned.

PANSING BROOKS: And it's often like Groundhog Day in here because, you know, the discussion about the hearing examiner and allowing somebody to get another one if they know a direct bias or something with that hearing examiner that was assigned, that's totally reasonable that something like that would happen. And so I like that. The other thing is somebody wrote among these that I've been skimming that missed classwork seemed too broad to them. I understand exactly what you mean and actually had an instance with one of my own children who was naughty and at one point and had-- and was actually suspended as an example. And we were fine with that. We woke him up at 6:30 every morning and he had to do work and do everything. And he missed six-- he missed seven days of school. And with that he also missed homework, which point we had him go back with a note to each of the teachers and said, we'd like the-- the updated homework. And one of them didn't give it to him. And that-- and it was right by the third quarter and he received his first F in his life, F as in failing grade. And we could barely get him out of his-- his-- of how depressed he was about getting his first F. Of course, he was able to raise it and he had parents pushing for him. But, you know, we talked about it and thought, imagine if you were a kid that didn't-- didn't always succeed at things and didn't have parents pushing. And, you know, he-- he was so down about one F that showed up on his transcript, the third quarter, which then later turned to an A.. But, you know, I mean, I

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just think about these kids and it's one thing to take away the privilege of sports. It's another to take away the-- I think it's almost a property right to be able to be educated. That is our directive in the Legislature that we promote the education of children. And I just-- I thank you for this work. I think it's important for the kids to be able to make up their classwork. If you don't want to call it classwork, then call it homework or call it-- call it whatever you want. And people are dancing around the issue by acting as if, well, are we supposed to take them back into the classroom and give them class time? No, you're supposed to provide the work so that they have the same opportunities to succeed as the other children. And children make mistakes and we have to continue to fight, which is my goal, to fight against this inten-- this ongoing effort to criminalize, to berate, to punish our children who make mistakes. Enough said. Thank you very much for this bill and let us know what we can help with.

VARGAS: Thank you. My only response to that is that question, that section, any student who is suspended shall be given an opportunity to complete any classroom homework. The reference was to classwork because that would be the work that was done in class. But we're specifically referencing an opportunity to complete that classwork, not that that classwork would need to be completed in the class. So.

PANSING BROOKS: I knew what you meant.

VARGAS: I know, just putting it on the record.

PANSING BROOKS: Thank you.

WALZ: Thank you, Senator. Pansing Brooks. Other questions? Senator Linehan.

LINEHAN: Thank you, Chairman Walz. When you were negotiating with STANCE and Lincoln Public Schools or they were in the room, did you have the feeling you had addressed their concerns?

VARGAS: At that time, yes. Everybody had in writing told us that they were neutral on that actual bill and the language that we negotiated in the room, everybody that was in that room.

LINEHAN: OK, thank you.

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VARGAS: Thank you very much.

WALZ: Other questions? I see none. Thank you, Senator Vargas.

VARGAS: Thank you very much.

WALZ: That closes our hearing on LB198. Ah.

VARGAS: [LAUGH] My favorite committee. OK, LB136. Have a short handout. I'll let you do that, Savana. Good afternoon, Chair Walz, members of the Education Committee. My name, for the record, is Tony Vargas, T-o-n-y V-a-r-g-a-s. I represent District 7 and the communities of downtown and south Omaha, here in the Nebraska Legislature. So after LB515, we decided to reintroduce it, the bill we just talked about. I really wanted to honor the negotiation that was what we did with everybody. I introduced the same bill. I did not make a choice to make additions to the bill, even though there are some things that I probably personally would have done more. But the work that we did in that room with others, I wanted to honor that. And so this is an addition that was personally brought to me for LB198. And in order to not further muddy the waters, I decided to introduce these changes separate. They're still within the Student Discipline Act, but I'm introducing it as a separate bill, just wanted you to understand that. The bill modifies the Student Discipline Act to provide the same due process rights afforded students given long-term suspensions to students given multiple short-term suspensions that amount to nine school days or more in the same semester. Currently, the Student Discipline Act stipulates when students are excluded from school for more than 5 days and less than 19 days, that's a long-term suspension, there are specific procedures to be followed, including a written charge and certain due process rights, including a right to a hearing, much like the hearing we just talked about, that hearing for the hearing officer. These long-term suspension rights do not apply to students who are suspended for five days or less. Now, the challenge is that there is no prohibition on short-term suspensions. Repeat that piece again, it's important. The challenge is there's no prohibition on short-term suspensions being issued repeatedly or even back to back. Now, repeat suspensions not only are an indicator that a student's-- student may have unmet needs, but they can result in students being removed from schools for periods as long or longer than that of a long-term suspension. So a lot of short-term suspensions

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could essentially become longer than a long-term suspension; but because they're still short-term suspensions, they won't get the same due process as a long-term suspension. When this happens, the fundamental fairness the Legislature ensured by protecting all students' constitutional right to due process is lost. Now, LB136 would close this loophole, ensuring that students who lose significant time in school in a particular time period due to multiple short-term suspensions essentially have access to the same procedures applicable to long-term suspensions. That's it. There is an attorney that will speak to these situations directly testifying behind me who can elaborate more on how and when this usually happens. I ask you save those specific questions for her. But I wanted to give you the-- the-- the really high level and the intent, which is lots of short-term suspensions can be applied to a student. And even though they may end up being longer than what a long-term suspension is, they're not afforded the same due process rights that you would get under a formal legal definition or statutory definition of a long-term suspension. And we want to make sure every single day that education time is lost there-- there are so many things that that kid and that family are going through. There should be consequences. We're not changing anything. This has nothing to do with consequences. This has to do with the due process. Thank you. Happy to answer any questions.

WALZ: Thank you, Senator Vargas. Questions from the committee? Senator Linehan.

LINEHAN: Thank you, Chair Walz. Senator Vargas, this is going to probably sound crazy, but is there an option besides suspension? I mean, suspensions, I understand that's when I was in school, I got in trouble. You go home. You get-- your dad would make you work, like for 24 hours [INAUDIBLE] do all your homework on time. So if there's not support at home, is there-- what's an alternative to suspension? I mean, I don't-- I've never understood why we send a kindergartener home or an eighth grader home. I don't-- just don't-- there has to be-- is there any studies about what alternatives could be to suspension?

VARGAS: I'll let the person following me answer more questions about what the alternatives really look like. But I will say is you're asking the right question, which is, are there alternatives, right, which is sort of go outside of this bill? Is this also the best for

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the student and family? I've referenced this many times. You brought your third grade reading bill. Every single hour missed is an hour that kids are falling behind. We can't afford that as a state because taxpayers pay this, pay the public schools, like this is our taxpayer dollars. So we should try to ensure that whatever alternatives for a student not being physically in the classroom are provided obviously within some due process within reason. But that's what we're talking about. So she'll be able to sort of answer what some of those other alternatives look like. Yeah, and I'll look to see if there's any sort of-- sort of empirical research on what these alternatives may look like. But I just don't know off the top of my head.

LINEHAN: Thank you very much for being here.

WALZ: Thank you. Other questions? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for bringing this, Senator Vargas. Do you have a feeling and I just don't see any educators left in here, but maybe, oh, there's one. OK. Well, anyway, I just wondered what is-- what's the value of doing multiple short-term suspensions from a school district standpoint? Does that mean that they don't have to go to a hearing officer at LPSDO, Lincoln Police or Lincoln Public Schools District Offices? Or if you do shorter ones, you don't have to go in front of the hearing officer. And what are the other due process? I'm just trying to figure out why they would do that rather than-- do you have a feel for that and how that looks?

VARGAS: I'll give you my feel and then I'll have the person testifying behind me give theirs.

PANSING BROOKS: OK.

VARGAS: Again, this is the right question, which is no malintent. I'm not assuming that a school district is aiming to then use this system in the way you just described to avoid giving due process to a parent or family. That would be-- that'd be terrible. Right? But in instances that it comes up, it's why we need to have-- make sure that when they accumulate to so, so many days, they're basically a long-term suspension for all intents and purposes. We should still have the same due process afforded to those parents and families. But I'm not sure, you know, how this, how often this happens to your point with sort of

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in some level of intent or why it's even happening. But it is. And it's not in the best interest for those kids to miss-- have three or four short-term suspensions, you know, to your point, to your question. I'm sorry I can't have a more direct answer but.

PANSING BROOKS: It's OK, we'll-- somebody's coming. Thank you.

WALZ: Other questions? I see none. Thank you, Senator Vargas.

VARGAS: Thank you very much.

WALZ: Proponents.

ELIZABETH EYNON-KOKRDA: Thank you, members of the Education 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 on behalf of Education Rights Council in support of LB136, I sometimes feel like I'm the only one that has a passion for student discipline and education. And I think that what maybe would be critical in this whole conversation we've been having today is to understand why I bring examples. It's because I used to represent school districts. I even represented the Omaha Public Schools. And while I was doing that, I thought I was doing the right thing for kids. And I felt that the laws seemed fair and equitable. It was only after I started working with families and seeing what the family saw from the other side that I saw these holes, all these gaps, all these things that I hadn't perceived before. And they really caused problems. That's why I was in support and am in support of LB198. LB136 is another thing like this. I'm going to try and answer the questions that people asked that Senator Vargas, I think, was referring to me as possibly answering. I think the first question was, are there alternatives to suspension? Yes, the Student Discipline Act gives a variety of alternatives to suspension. In fact, the whole Student Discipline Act, the purpose of the act was to say, look, school districts are creatures of statute. We want kids in school as much as possible. We're not going to let you push kids out of school unless you-- they meet within these categories of things. Unfortunately, the mindset, I believe when they said five days or less, which is a short-term suspension, doesn't really need any due process is because they didn't really see that as extraordinarily harmful. I think maybe in one short term, if that's all that happened once I was suspended, maybe I would learn some sort of lesson and I

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wouldn't be too harmed in my education. But one of the things and I sort of take offense when people say, well, why are we talking about this? Is it just a one time thing? It happens all over the state. I just try to bring you examples that I personally have experienced, but I can bring you other lawyers that have also experienced these things that will expand the conversation. I have seen repeatedly that it is easier to have a child come in, do something, get suspended, they come back. Don't ask me what the next bad act is that's suspended again because there isn't really any due process. It's on minor offenses. But those minor offenses can be very discriminatory, especially when the student codes of conduct permit for minor offenses things that are very subjective. I don't like your attitude, mister. I don't think you're, you know, you're being too disruptive. You're this. You are that. And they do put sort of a label on a child and the child does feel that they are not welcome. And children that don't feel welcome and aren't getting supported aren't getting the accommodations and services they need. How do you think they feel when they come back to school, especially when the same teacher looks at them and says, yeah, see you again in five days? Bye, Mister. I'm not saying that all school districts or all schools utilize this or misabuse it. But I can say in my experience, I have seen children out multiple times in one semester, missing lots of school, and they have no due process because that's what our statutes say. Our statutes say five days or less. Basically, you get-- you don't have a right to appeal. You don't get to say it wasn't me. I didn't mean it. It wasn't fair. I didn't even do that. You just don't have that. So if we're going to do this and if we permit that, we permit that flexibility, then we need to have something that if it happens over and over again, we should take a look at it. I mean, from my perspective, most children that struggle that way in school, if they are getting repeatedly suspended, they're missing something that the school probably should have done through some other kind of analysis, doing a functional behavior analysis, determining whether there are supports that are missing that-- that should have been provided. We shouldn't just be repeat, suspend, repeat, suspend and never have a child have the opportunity to say, hey, what about me? What about my rights? So therefore, as an individual, as managing attorney for Education Rights Council, the nonprofit I told you about before, and as a practicing lawyer for 20 years who really has worked with schools and supported schools, I'm passionate about schools, I'm passionate about equity, but I'm mostly

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passionate about putting kids first. It's about the kids. That's what this whole Student Discipline Act is about, fairness and equity for kids. Put kids first and please pass LB136 into law.

WALZ: Thank you. Questions from the committee? I don't see any. Thank you for coming today.

ELIZABETH EYNON-KOKRDA: Thank you.

WALZ: Other proponents.

ROSE GODINEZ: Hello again. Hi, my name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I'm testifying on behalf of the ACLU of Nebraska in favor of LB136. We thank Senator Vargas for introducing this legislation, which ensures students subject to repeat short-term suspensions are afforded their due process rights and right to an education. Before school authorities can deny a student the right to an education, the student must be provided due process rights, including a meaningful opportunity to be heard. The Nebraska Legislature, understanding both the importance of an education and the importance of a correct determination of wrongdoing before imposing punishment, has established a Student Discipline Act, which includes some due process protections, but, as it reads, does not go far enough. LB136 promotes a balance of power between students and administrators when making a decision to suspend a student. And then lastly, I just wanted to touch on Senator Linehan's question and add to Elizabeth's testimony. There are several alternatives to suspensions, including-- and primarily based around restorative justice and restorative practices. Some schools have implemented these measures as a whole program in their schools and have seen about half their suspensions cut. And then there's also social-emotional learning that you can implement or just ensuring the students have the resources they need, like counselors, school psychologists, which unfortunately we lack in the state. But I look forward to working with the committee to look at those alternative options to help students that are being suspended. And we urge the committee to advance this bill to General File. Thank you.

WALZ: Thank you. Questions? I see none. Thanks for coming today.

ROSE GODINEZ: Thanks.

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WALZ: Other proponents. Any opponents? Anybody that would like to speak in the neutral position? Senator Vargas, you're welcome to come and close. While he's coming up, we did have one proponent written testimony in lieu of person testimony from Jason Hayes at NSEA; no opponents and no neutral. And we also had proponent position letters from Peggy Reisher, Mia Crawford, Mary Bahney, Terry Werner, and Dr. and Mrs. Paul Vana; no opponents and no neutral position letters.

VARGAS: I want to thank you. Hopefully it was made clear why this is a loophole. And we're just wanting to make sure that there is the same level of due process equity provided to parents or families, specifically students in this case, that elevate to the threshold of long-term suspension. That's basically the gist of this. So happy to answer any additional questions.

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

VARGAS: Thank you very much.

WALZ: That closes our hearing on LB136 and it will open our hearing on LB518, Senator Morfeld, change provisions relating to long-term suspension, expulsion, and mandatory reassignment under the Student Discipline Act.

MORFELD: Good afternoon, Chairwoman Walz, members of the committee. My name is Adam Morfeld, that's A-d-a-m M-o-r-f as in Frank-e-l-d, representing the "Fighting 46th Legislative District, here today to introduce LB518. Colleagues, LB518 prohibits conduct under the Student Discipline Act when a student engages in any kind of serentipis-- I can't say that word. I've said in my head a few times. I'm not even going to try. I'll have to practice it later-- electronic surveillance at a public school or during remote learning occurring on a school district-approved platform without the knowledge of the person or persons being observed. Serentipis-- I cannot say that.

LINEHAN: Serendipity.

MORFELD: Wow. OK. Senator-- Senator Linehan and I can practice it later, especially if it makes it to the floor. This has been a growing problem facing educators and students in the classroom, and even more

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so now with remote learning across Nebraska during the pandemic. A typical scenario is where a teacher is covering a topic in class, then a student without the teacher's knowledge records the lecture and later posts a recording online to embarrass or humiliate the teacher or other students. And it's important to note the other students because there's privacy concerns with other students too. Prior to posting, the recording may be edited to misconstrue or take out of context-- context the material being covered or the questions being asked. There is a former teacher here today to testify, who is a victim of such behavior, to give you a good example of what we're talking about. She will tell you how the incident impacted her and reached national media attention. The incident caused a chilling effect on her ability to teach thereafter. And it could be a-- cause a chilling effect on students' ability to be able to participate in these classes as well. Under the bill, I cannot say that term. It's driving me nuts now. Serentip--

PANSING BROOKS: Surreptitious.

MORFELD: There we go, surreptitious electronic surveillance is defined as a person intruding upon the privacy of other persons by secretly listening to, monitoring or recording, or attempting to listen to, monitor, or record by means of any mechanical, electronic, or other listening device, any conversation engaged by the other persons unless authorized to do so by all participants engaging in the conversation. In LB518, the prohibited conduct does not apply to any electronic surveillance authorized by a court order issued by a public officer based on showing probable cause that there is reason to believe that there's criminal activity occurring on the property; by any party or witness to a conversation who has a reasonable belief that there's an ongoing criminal act in the process of being committed; by a law enforcement agency pursuant to a criminal investigation; which is necessary as a part of the security to ensure the safety of the persons on the property of the school; or of a class or laboratory when authorized by the teacher of the class or laboratory. So there's exceptions. Colleagues, it's important that we address this problem because it'll only continue to grow to be a larger issue if action is not taken now. I do want to note that another state, Nevada, has adopted this legislation to prohibit these types of recordings. They actually made it a criminal offense. I do not want to go that route. I believe it's prudent to first amend by or first proceed by amending

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the Student Discipline Act in order to address the harm, because I just-- I don't want to get people caught up in the criminal justice system over something like this, even though it is serious. So with that, I'd be happy to answer any questions that you may have.

WALZ: Thank you, Senator Morfeld, and I'm glad I didn't have to say that word [INAUDIBLE]

MORFELD: It's a good thing we're probably not having Sine die this year. It would probably be a skit of some sort.

WALZ: Questions from the committee?

MORFELD: Get roasted.

WALZ: I see none. Thank you.

MORFELD: Thank you.

WALZ: Proponents that would like to speak. Good afternoon.

DIANE WIGERT: Good afternoon. My name is Diane Wigert, spelled D-i-a-n-e W-i-g-e-r-t. I'm an educator and I am the teacher that Senator Morfeld was referring to. And I just want to thank this committee for addressing the issue of the student use of surreptitious electronic surveillance. It's an important school issue since cell phones and social media go hand in hand, especially for high school students. Most students are unaware of the possible danger this combination poses when misused. However, some students are totally aware of the consequences, and they intentionally use these tools to cause another person pain, embarrassment, harassment, and even defamation of character. I have been personally and deeply affected by a student in my own classroom who secretly used a cell phone to video record a class period which I was teaching. During the recording, another student intentionally spewed misinformation about me and the video was framed and edited to misrepresent me. Later, this video was shared with multiple people and eventually it was sent viral. Once the video went viral, my life and the lives of my family members became a nightmare. My personal safety, the safety of my family members, and even the safety of some of my colleagues was imperiled. There was a clear and present danger made obvious by the death threats we received through phone calls and the Internet. My dogs barked constantly

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through the night. Beer cans and trash were often found strewn in my front yard by people who visited my yard during the middle of the night to intimidate me. This behavior went on for some time. There were many questions that I had and my colleagues had, but there were no answers. The question that kept recurring to me was this: Do teachers have any way to protect themselves in these situations? The answer seems to be no. If that's true, then what message are we sending to students? It was obvious that a video recording could happen in any classroom. So who was going to be the next victim? Following the incident, I continued to teach a few months until my retirement. Every day I came to school feeling nauseous and physically ill from the stress. However, my commitment to the students and staff who still believed in me kept me going. Thankfully, the semester ended without additional disruptions at work, but the damage had already been done. To my knowledge, no one was ever punished for the harm caused by that surreptitious recording and the resulting viral social media video. Unfortunately, there's no law or legal path established to deal with students engaged in surreptitious recordings in the classroom. From my experience, that needs to change so that what happened to me will never happen to another educator. Educators and school systems need the backing of this bill, LB518. Thank you for listening to me today.

WALZ: Thank you for coming to testify today. Questions from the committee? Senator Linehan.

LINEHAN: Yes, thank you. Chairman Walz. Why do we let kids have cell phones in school?

DIANE WIGERT: I don't have an answer for that. I have the same question.

LINEHAN: I just-- I mean, they're children; doesn't mean they can't be ornery, hurtful, or mean. But their judgment is not-- it empowers them with a lack of judgment to go with that. OK.

DIANE WIGERT: I always used to tell my students that they could keep their cell phones in their bags because if anybody really needed to talk to them, someone from the office would let us know. But we didn't have a specific rule in our building about how to handle it. And so

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LB518 would be extremely helpful in helping schools to be able to set guidelines and be universal in that, I think.

LINEHAN: OK, thank you very much.

DIANE WIGERT: Um-hum.

WALZ: Thank you. Other questions? I see none. Thanks for coming today.

DIANE WIGERT: Uh-huh. Thank you.

WALZ: Appreciate it. Next proponent. Any opponents that would like to speak?

ROSE GODINEZ: Good afternoon. My name is Rose Godinez, spelled R-o-s-e G-o-d-i-n-e-z, and I am here to testify on behalf of the ACLU of Nebraska in opposition to LB518. First, we want to thank Senator Morfeld for his past work to successfully protect students' rights. And we believe that the intent behind this bill is along the same vein. However, just like creating new crimes or enhancing sentences for existing crimes impacts the criminal justice system, the same holds true for reasons to discipline a student and funneling more students into the school-to-prison pipeline. And I do want to say we completely empathize with the previous testifier and we believe that that type of behavior would simply be covered under the current catchall provision of the Student Discipline Act. We understand remote learning amid the pandemic has brought new ideas and concerns into this discussion of student discipline and students' rights. So we commit to working with all stakeholders to ensure remote learning is safe for everyone involved, teachers and students. With that, we urge the committee to indefinitely postpone this bill.

WALZ: Thank you. Questions from the committee? Senator McKinney.

McKINNEY: Thank you. Thank you for your testimony. My question, so if this bill was to be passed, what would we do with situations where a teacher is cursing at students or physically assaults a student without seeing videos of this happening and teachers slamming students and things like that?

ROSE GODINEZ: Yeah.

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McKINNEY: And without the video, it's students against the teacher. And I don't-- I understand why the bill was created. I just think it-- I don't know. It's like a slippery slope because not for cell phone video, a lot of the issues that, you know, a lot of individuals are advocating for throughout the year, last year would not be. So I don't know.

ROSE GODINEZ: Right.

McKINNEY: Do you think it's a slippery slope?

ROSE GODINEZ: We do think there are concerns about, just as there's concerns about limiting any type of transparency, like you're saying, filming video of police officers, for example. That's why we know about Eric Garner. That's why we know about a lot of the things that are happening across the nation and similarly, some of the incidents that take place in our schools. What we simply think is that the type of behavior that's being contemplated by this bill is already addressed in state law and should already be covered by school policies. So we don't see a reason to add to that. And then additionally, we do have concerns about privacy rights and just opening that up to students being surveilled. And that's something that we want to ensure is protected.

McKINNEY: Thank you.

ROSE GODINEZ: Yeah. Thank you.

WALZ: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for being here, Ms. Godinez. Is it-- isn't the real problem that we're trying to address here, the surreptitiousness, the lack of knowledge that somebody is being taped or? I'm just, I mean, what she went through, I understand was-- was terrible. But again, I mean, there-- there's-- I have a bill on the ability to tape law enforcement. And so that's not in statute currently. So--

ROSE GODINEZ: No.

PANSING BROOKS: I'm guess-- I'm just trying to understand. I don't know, what-- how-- how it is that in a way, why wasn't she able to

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sue? I should have asked her, but why wasn't she able to sue for defamation or? I'm just-- I'm just trying to figure this out a little bit. Sorry.

ROSE GODINEZ: All right.

PANSING BROOKS: I don't think my question is very concise or clear.

ROSE GODINEZ: No, but you, I mean, there are alternatives and there are options for individuals who have been through this type of situation. And we would hope the school would have worked with her on addressing that. But again, I don't-- I don't think adding this to this bill would remedy that situation or future situations, because it's-- it's already in statute. It's already something that is illegal.

PANSING BROOKS: So you don't have a problem with somebody videotaping them if it's clear and obvious? Is it just the surreptitiousness of it?

ROSE GODINEZ: We have a problem with just adding it to the Student Discipline Act and adding another, just like adding a new crime, adding a new disciplinary measure.

PANSING BROOKS: OK. Are there situations where it is either appropriate or inappropriate to videotape? Could you-- can you speak to either of those?

ROSE GODINEZ: Not specifically. But I do have model policies that specifically talk about electronic surveilling, which I'd be happy to share with the committee and Senator Morfeld that really goes through-- several schools are going through the same exact issue and take different steps. Don't immediately suspend a student or subject them to expulsion or suspension, but take steps in educating the student to ensure that they know what they can or can't do with their cell phone. So that could be addressed at the policy level of school boards.

PANSING BROOKS: OK. Thank you.

ROSE GODINEZ: Yeah.

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PANSING BROOKS: Thank you.

WALZ: Other questions? I see none. Thank you for coming today.

ROSE GODINEZ: Thank you.

WALZ: Any other opponents? Anybody who would like to testify in the neutral? Senator Morfeld, you're welcome to close. While he's coming up, we did have one proponent written testimony in lieu of person testimony from Jason Hayes, NSEA; no opponent and no neutral written testimony. We also had a proponent position letter written by Dr. and Mrs. Paul Vana. No opponents or neutral position letters.

MORFELD: Thank you, members of the committee. I just want to address a few things. Senator McKinney, to your point, there's a specific exception. You brought up if a teacher is assaulting or something like that, I'll just point you to line 28, page 3. One of the exceptions: by a party or witness to a conversation that has a reasonable belief that there's an ongoing criminal act in the process of being committed. So if teachers are engaging in something that's criminal or reasonable belief is criminal, there's a specific exception because I think that those things should be recorded if that's in progress. That being said, I will tell you, you know, tonight I'm going to go and-- and teach constitutional law to a bunch of college students. And we have folks that are on Zoom either because they're quarantining or something's going on. Sometimes we teach the entire class on Zoom. And one of the big things that I really encourage is class participation. And there's some times where students are kind of vulnerable in the sense that they don't know the answer, they're exploring the answer or they're thinking out loud. They're-- they're talking, they're discussing. And if you have other students that are recording that and then taking that and sharing that, now, obviously this is the college setting. This is not the same thing, but it's very similar in terms of teaching right now, that can be used to really embarrass people. So it's not just a privacy concern for the teacher. I mean, that's-- that's-- that's important. But it's also a privacy concern for the-- for the fellow students and harassment that can be led-- that-- that can lead to that being recorded. So I-- I'm open to working with the committee on a solution to this. I do think it's an issue. It's not going to be an issue that goes away because online learning is only

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here to stay and grow in a different way. But with that, I'll end my closing.

WALZ: Thank you, Senator Morfeld. Senator Pansing Brooks.

PANSING BROOKS: Thank you for bringing this, Senator Morfeld. So I'm just-- I'm regoing over the surreptitious part of this bill. And basically you feel it's OK for a student to film what's going on in a class as long, I mean, if there's something where somebody, the teacher's hurting somebody. But as long as there's agreement by every-- by everybody involved. Is that what you're?

MORFELD: Well, the agreement really should be with the teacher.

PANSING BROOKS: OK.

MORFELD: Because the teacher is going to also have to record sometimes and let the class know that they're recording. And there's ways to indicate that, hey, I'm recording--

PANSING BROOKS: Yeah.

MORFELD: --on Zoom and things for other students. That happens from time to time. So if we need to clean up that language, because obviously teachers are not going to be able to go get permission from 25, you know, students, that's not going to be reasonable so.

PANSING BROOKS: Schools may have to start doing that, just getting a waiver early on.

MORFELD: Yeah, they might. It might make it so tough, though, that they can't even teach the classes though, because if you don't get a waiver from somebody and they're supposed to be a part of it, but you can't record it for the other kid that's sick to be able to give them equal access,--

PANSING BROOKS: Yeah.

MORFELD: --then you're in trouble, right?

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PANSING BROOKS: Well, I was just thinking about that. Like when our kids went to high school and stuff, they signed a waiver that they could be--

MORFELD: Yeah.

PANSING BROOKS: --photographed.

MORFELD: Yeah. The problem is, is that if one person opts out, but they can still be a part of the class,--

PANSING BROOKS: Yeah.

MORFELD: --but then they can't be recorded then the person that needs the recording to be able to have equal access doesn't have access. It's tricky.

PANSING BROOKS: So I don't know exactly what happened to the teacher.

MORFELD: Um-hum.

PANSING BROOKS: I understand it was bad. And so I'm just trying to think about if a person-- this is coming from the guy who brought the bill to allow us to show our signature on our ballots.

MORFELD: Um-hum.

PANSING BROOKS: And so I'm-- I'm trying to look at the fact that if somebody's standing up filming.

MORFELD: Well, not your signature on ballots, just for the record. It's--

PANSING BROOKS: Oh, well, I--

MORFELD: --just-- it's just your ballot.

PANSING BROOKS: Oh, I'm sorry.

MORFELD: Yeah, you don't sign your signature on them. Yeah.

PANSING BROOKS: [INAUDIBLE] voting, I'm sorry.

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MORFELD: Yeah, yeah, yeah, yeah. No ballot selfies.

PANSING BROOKS: Yeah.

MORFELD: Great bill.

PANSING BROOKS: It was a great bill. I know. So anyway, I know you're all about transparency and all.

MORFELD: Yeah.

PANSING BROOKS: That's what I'm talking about. So anyway, but I was just-- if somebody's standing up and just filming in the class, they could still get in trouble for that if everybody knew it was being filmed because what happens later to that video, the teacher has no control over. I'm just-- I'm just trying to understand. I mean, part of this was that she was filmed and then it was taken and-- and treated in a way that wasn't--

MORFELD: Um-hum.

PANSING BROOKS: --consistent with what was actually happening is what I'm hearing. Right?

MORFELD: Yeah, it was doctored or edited.

PANSING BROOKS: Yeah.

MORFELD: Yeah. I mean, I think that the idea is to create a standard, a common standard understanding to respect each other's privacy, both the students' and the teachers' privacy, and that, quite frankly, that there's consequences if you don't. Because if there isn't consequences for things and again, I do not want any criminal consequences, that's why we left that out of this. If there's not consequences, then people do those things. Now, people still do those things when there are consequences, but it's less likely.

PANSING BROOKS: OK.

MORFELD: And so I think the other thing, too, I think you brought up, Senator Pansing Brooks, defamation. I mean, yeah, I guess there's

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potential they could go and file a defamation claim, but that's if you have 20,000 or 30,000 bucks.

PANSING BROOKS: Yeah.

MORFELD: You know, a good attorney. And, you know, so it's-- it's a remedy.

PANSING BROOKS: Yeah.

MORFELD: But it's not a great one.

PANSING BROOKS: Thank you.

MORFELD: Yeah. Thank you.

WALZ: Any other questions from the committee? I see none. Thank you, Senator Morfeld.

MORFELD: Thank you.

WALZ: That closes our hearing on LB518 and it will open up our hearing on LB642, Senator Day, provide for reimbursements to school districts and educational service units for mental health expenditures. Good afternoon, Senator Day.

DAY: Good afternoon, Chairwoman Walz and members of the Education Committee. My name is Jen Day, J-e-n D-a-y, and I represent Legislative District 49, which is northwestern Sarpy County, including the areas of Gretna, Millard and western Papillion and La Vista. I'm excited to be back today in person and to introduce LB642 this afternoon. LB642 would create the School Mental Health Resources Fund to help schools address the mental health needs of students via an annual appropriation of \$12 million. This bill originated last year with Senator Walz. And as someone whose life has been touched personally by mental illness and understands the necessity of mental health care for young people, it's important to me that we have this discussion again this session. The mental health of school-age students is a significant and growing concern. According to the American Psychological Association, each year one in five students experiences a mental, emotional, or behavioral disorder, including anxiety, depression, attention deficit hyperactivity disorder, and

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disruptive behavioral disorders. According to the National Alliance on Mental Illness, 50 percent of all lifetime mental illness begins by age 14, and the average daily onset of mental illness symptoms and treatment is age 11. Even more troubling is a study published by the Journal of American Medical Association-- Association Pediatrics in 2019 showing that in Nebraska, nearly 50 percent of children with mental health disorders are going untreated. When left untreated, mental health challenges go on to reduce students' quality of life, academic achievement, physical health and negatively affect relationships with family and friends. These issues can also have long-term consequences for students as they grow into adulthood, affecting their future employment, earning potential, and overall health. Simply put, early intervention is key to the overall well-being of not just students but our communities as a whole. If these longer term measures are somewhat harder to quantify, there are starker ways to evaluate our collective failure to help our students. One in five Nebraska high school students have reported that they've contemplated committing suicide in the past year. In 2018, suicide was the second leading cause of death for youth ages 10 to 24 in Nebraska, and suicide among Nebraska youth has been steadily increasing since 2009. Unfortunately, while these alarming trends are increasing, our state faces a staggering shortage of mental health access in certain areas. And 82 percent of Nebraska students attend schools that fail to meet the nationally recommended ratios for student to counselors, psychologists, nurses, and social workers. While this would be troublesome on its own, it's exacerbated by the shortages within the communities where these schools are located as well, with 88 of 93 counties in Nebraska being designated as federal mental health professional shortage areas. Worse, 78 counties have no practicing psychiatrists at all. Clearly, there's a substantial need in our state to address the shortage of mental health access that our students are experiencing during some of the most critical developmental periods of their lives. Lastly, the need for mental health resources in schools is now greater than ever. Pediatric mental health professionals from across the country are signaling a significant mental and emotional fallout resulting from the pandemic. In short, we are already experiencing a student mental health crisis and this is going to be greatly exacerbated in the years to come. We must act now in ensuring our students get the mental healthcare they need and deserve. LB642 addresses this need by creating a process for districts to be

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reimbursed for up to 80 percent of eligible mental health expenses. To qualify for a reimbursement, school districts will have to designate a district or educational service unit employee as a community-based mental health resources liaison and provide appropriate training and submit for allowable mental health expenditures from the Nebraska Department of Education. While Nebraska has a shortage of mental health providers in many areas, we're also well positioned to meet this challenge with the investments that our state has already made in the area of professional education. Nebraska institutions like UNMC and the Behavioral Health Education Center of Nebraska are well-equipped to support an increase in supply of professionals. Essentially, if we can find a way to make it more feasible for schools to offer mental health services, we're well positioned to provide care in many of these harder to reach areas. Finally, I'd like to acknowledge that I understand that this fiscal note may seem daunting to some. However, I feel there are several important points to keep in mind when considering this bill. First, in the cases where schools already provide this programming, this would be an area where we could take some of the pressure off of local-- local property taxpayers. But in the more common case where schools are not yet providing these services, it would benefit us to start thinking about these costs like investments. Whether or not we choose to help schools meet the mental health needs of their students, we're still going to have a significant and growing number of children with the need for some kind of mental health professional. The demand will not change and if projections are correct, will only increase, leaving us further and further behind every year we don't implement a program to address these needs. LB 642 is about giving schools the tools to address students' mental health needs and setting up Nebraska's children for success moving forward. I hope that you will join me in being the first steps-- first step toward addressing this unmet and important need and support LB642. And with that, I'd be happy to answer any questions.

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

DAY: Thank you.

WALZ: Thank you. First proponent.

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KRAIG J. LOFQUIST: Good afternoon. Honorable Senable, blalalala plus tax [LAUGHTER] Honorable Senators Walz and members of the Education Committee, my name is Kraig J. Lofquist, that's spelled K-r-a-i-g J. L-o-f-q-u-i-s-t, and I am the executive director of the Educational Service Unit Coordinating Council, commonly known as the ESUCC. I work closely with each of Nebraska's 17 ESUs. It is on behalf of Nebraska's ESUs that I submit this testimony in support of LB642. Today I am also honored to be representing the Nebraska Council of School Administrators, the Nebraska Rural Community Schools Association, Schools Taking Action for Nebraska's Children's Education, the Nebraska State Education Association, and Stand For Schools. Thank you, Senator Day, for sponsoring LB642. The need is real. The Centers for Disease Control, the CDC, defines mental disorders among children as serious changes in the way children typically learn, behave or handle their emotions, causing distress and problems getting through the day. The numbers are simply staggering: 4.5 million young people have a diagnosed behavior problem; 4.4 million young people have diagnosed anxiety; 1.9 million have diagnosed depression; 6.1 million have received an ADHD diagnosis. These are just the numbers that have been reported and the aforementioned figures don't include those that have comorbid disorders, two or more at one time. Anxiety and depression usually go together. The resat-- the reality of this situation is that students cannot and will not learn until their physical and emotional needs are met. Only then can students focus on learning. I shared with this committee last week during my testimony in support of LB529 that I used to be the administrator at ESU 9 located in Hastings. As you all know, ESUs help school districts maximize resources. Each year at about this time, ESU representatives meet with their respective schools to discuss the district's needs for the upcoming school year. The subject that continues to garner the most conversation is that of mental health. For years I have watched school administrators grapple with this issue. Although the needs were clearly present, for years no action was ever taken due to the lack of resources. Finally, during one of our annual meetings in 2018 a superintendent of a Class B school said, quote, My school is in. We are so concerned about what we are up against that we will contract with the ESU for two full days. Another school agreed to contract for one full day and two Class D schools said, we'll split a day. The ESU hired its first licensed mental health practitioner and it wasn't long until she was working five days a week. The very next year, the word

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had spread that mental health intervention was having a positive, significant impact. At the request of superintendents, the ESU hired another full time person. The year after that, which is this year, 1.2 FTE, or full-time equivalency, was added, bringing the total current-- or the current total to 3.2. In order to put this in perspective, I'm only talking about seven schools in south-central Nebraska. So how are schools funding this need? The short answer is it's all cobbled together. Most schools use the few Title IV grant dollars they receive to help defray these costs. In some instances, the school can recapture some of the costs through special education reimbursement, but that is infinitesimal. The rest either comes from schools general fund or other grant money. It's an uncomfortable, untenable situation. Passing LB642 is clearly an investment. Imagine if we could be proactive rather than reactive. Maybe we wouldn't have to build prisons. So I strongly believe that this is an investment that will pay dividends, ensuring our children's needs are being met, which in turn will allow them to learn and reach their full potential. And I would try to answer questions if you have any.

WALZ: Thank you. Questions from the committee? Senator Linehan.

LINEHAN: Thank-- thanks, Chairwoman Walz. Thank you very much for being here, Mr. Lofquist. How many licensed medical practitioners are hired by the schools currently? Do you have a, like a--

KRAIG J. LOFQUIST: I couldn't tell you. I did a-- I wrote up a fiscal note from the ESU perspective and one of the things I shared in there is I couldn't answer from the larger schools. There are some that have them like ESU 9. There-- there are other ESUs that have them. ESU 5 has some. Some use school psychologists right now. But--

LINEHAN: We don't have a global look.

KRAIG J. LOFQUIST: Exact number I can't-- I can't tell you.

LINEHAN: Do you think the Department of Ed has a global look?

KRAIG J. LOFQUIST: It does have that.

LINEHAN: OK.

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KRAIG J. LOFQUIST: It's on a report that I'd be happy to get you. I looked at it today. It's on page 68 and 69 of a long report.

LINEHAN: OK, thank you very much. Thank you for being here.

WALZ: Thank you. Other questions from the committee?

KRAIG J. LOFQUIST: Thank you.

WALZ: Next proponent. Good afternoon.

LARIANNE POLK: Hi. Honorable Senator Day, and I misspelled your name in my testimony, sorry about that, Madam Chair and members of the Education Committee, my name is Dr. Larianne Polk, L-a-r-i-a-n-n-e, Polk, P-o-l-k, and I'm the chief administrator of the Educational Service Unit 7 in Columbus and the current president of the Educational Service Unit Coordinating Council. I'm speaking to you today in support of LB642. ESU 7 serves 19 public school districts and 19 private schools, accounting for about 18,000 students in a seven-county area. I don't know why I get so nervous talking in front of you. You're just people. Each year, our service planning process includes an analysis of qualitative and quantitative data, which, for our ESU 7 region helps to determine the data-driven means that our districts have. This process has been in place for ESU 7 since 2014; and each year since that time, support in mental health programming has been a priority for our school districts. ESU 7 has begun building a mental health service program as a direct result of the school's needs, but it is not enough. We currently have two licensed mental health practitioners, or LMHPs, providing services to 14 of those school districts. As you can imagine, and given the data you just heard from Dr. Lofquist, our mental health staff can't possibly meet the needs of all of the students in 14 districts. The needs are greater than we have providers. The two licensed mental health practitioners at ESU 7 must prioritize their support to students in the greatest need, those with the most significant social and mental health conditions, and those with immediate crises. Unfortunately, some of the students then go without support from the LMHPs as a result. Currently, ESU 7's LMHPs support 103 students between the two of them. These services are contracted to school districts where then the burden to pay for the service is on that local education agency. Of the 103 students we support, 80 of them are not on a special

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education individual education plan. So that means that 23 students have mental health services as a recommendation of their special education individual education planning. The other 80 students, those services and costs fall to the district's general fund. Some may concede that mental health services are not the responsibility of school systems, that's a conversation we've had in this committee before; that mental health is a medical or a clinical area to address. There are other needs that the schools address that might fall into that category. Those might be physical therapy, occupational therapy, speech therapy, music therapy. We even provide breakfast, parent classes. The list is very long. At the very foundation of Maslow's Hierarchy of care, we know that there are basic elements needing addressed before anyone, students especially, can be expected to learn. These include food, water, warmth, rest, safety, and security. When students have mental wellness needs, these basic elements, as described by Maslow, are not met, and therefore they're leading to academic gaps, discipline challenges, and in many cases, crisis involving physical harm. Mental health services provided to students in school settings allow us to give necessary support to the students in environments they spend their time, with peers whom they are most involved, and in settings where-- where they're most impacted. It just makes sense to provide these services at school. LB642 would financially help support the school districts in providing necessary mental health services regardless of special education qualifications. In summary, I support Senator Day and LB642. We must meet the needs of-- basic needs for the students first before we can ask them to learn. If providing for those basic needs falls to the schools, then supporting mental health would clearly be among them. Thank you for your attention to my testimony and I, too, will try to answer some questions.

WALZ: Thank you so much. Questions from the committee? I don't see any. Thank you.

LARIANNE POLK: Thank you.

WALZ: Next proponent.

MICHELE RAYBURN: Good afternoon.

WALZ: Good afternoon.

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MICHELE RAYBURN: Thank you for your service. I'm Michelle Rayburn, M-i-c-h-e-l-e R-a-y-b-u-r-n, and I'm here today as a speech language pathologist and student services supervisor for ESU 6, as well as a role I bring into the room, is a mom of three boys in public school, 15, 14 and 7. And so I want to speak to a few of the things I provided in my-- in my letter there. But-- and to reiterate some of the things you've already heard, I think we've established that there is an unmet need for mental health services for our students. And we have in ESU 6 had a survey of our superintendents, as well as I've been in direct conversation with educators, reiterating that point of, you know, we have unmet needs and we have students that-- that need more services. And my experience has been also on the western side of ESU 6, so mostly 21 years now, I believe, in the rural districts on the western side of ESU 6. And so in direct conversations with those teachers and so one of the points being teachers saying we have these unmet needs and we not-- do not yet have the training or the skills to meet the needs of our students. We need supports in this area. And for anyone that's been teaching longer than five minutes, you know, things are changing. And as we've also heard with the pandemic yet to be seen, the impact of those stressors on-- on our students in the future. And also from the ESU 6 perspective, as you've somewhat heard, there's-- we already have some experience in providing services to schools to meet their needs, especially in those rural schools, putting those services together for a day here and a half day there. So we have some of those infrastructures and experiences. And although in my experience, that's been primarily in special education, special education services and supports. So particularly in this-- in this bill is, you know, that it is not special education funding. And so I've worked with-- with schools that, you know, that's what it comes down to, is prioritizing because there is some financial support to students that are then at the top of our continuum. So, you know, there's a lot of work and conversation and systems to talk about our students as far as what we provide for all students, what we provide for some that need additional supports, and what we do for those that have pervasive and extensive need that are at the other end and likely under special education. And so particularly where this is addressing that, if you will, tier one and two, that all in some and the funding for those students prior to being in special education. And then also particularly that piece of-- of-- of a liaison or an appointment of someone to tie together those things. And I see that, too, as-- as we

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talk about these unmet needs and the initiatives and the programs and the products and the professionals and things that are out there. And even as Senator Day said, you know, what's poised and ready out there, but yet how do we get that coordinated and connect the dots and those strings pulled together to tie that to provide services? And I think, you know, from an ESU 6-- an ESU standpoint, we have experience doing that, being that collaborative piece. And so I think that's a great part of this bill is to-- to designate someone to have that systems look for what is already out there. And then how do we tailor that and meet the needs of our-- in our local context for our districts and and where they're at and providing tiered services to our students? So thank you for your time and I'll answer any questions. I'll try.

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

LINEHAN: Thank you, Chair Walz. So I don't mean to put you on the spot. It seems to me like a couple of years, and Chairman Walz can help me with this, that we did pass legislation, maybe we didn't pass it, where every school or somebody in the school, it never got passed. OK.

MICHELE RAYBURN: There was conversation, but no, it did not get passed. So we do not have that--

LINEHAN: Got to the floor but it died. OK, thank you.

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

MICHELE RAYBURN: Thank you. It was my first time.

WALZ: Good job. Next proponent.

KYLE HESSER: Good afternoon. I'm Kyle Hesser, K-y-l-e H-e-s-s-e-r, and I'm here today representing the Nebraska School Psychologists Association. I'm currently serving as the president. NSPA is an organization that represents over 340 school psychologists working throughout the state of Nebraska. We support LB642, which recognizes that mental health needs of students are becoming an increasing barrier to learning and that schools need additional resources to address the mental health needs of our students. Mental health

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problems continue to be a concern for students of all ages. More than 20 percent of school-age children have a mental health diagnosis yet only one third of them receive mental health services. Schools play a critical role in providing the mental health services for children. The National Association of School Psychologists reports that students are 21 times more likely to go to a school-based mental health center than they are to go to community-based mental health center. This data indicates that access to quality mental health services in the school setting is essential for Nebraska schools. When students are unable to attend or to receive mental health services, they're more likely to have lower grades, lower test scores, and are a greater risk of suspension, expulsion, dropout, and truancy. Through proactive mental health screening and early intervention, school psychologists can help prevent these adverse educational impacts and debilitating mental health issues. School psychologists are trained professionals who are situated in real time in the environment where school students spend 35 hours or more a week. School psychologists have expertise in mental health, learning, and behavior that helps students succeed academically, socially, behaviorally and emotionally. One of the biggest barriers of creating comprehensive systems of school-based mental health services is the shortage of school-based mental health professionals. School-based mental health professionals such as school psychologists, school social workers, and school counselors are able to support students within a service delivery model that includes prevention through positive behavior interventions and supports, social emotional learning, targeted interventions for students who are at risk for mental health service or mental health issues, and more intensive and individualized interventions for students who are experiencing mental health issues. Suggested school-- student ratios for a school psychologist by the National Association of School Psychologists recommends one psychologist to 500 students. That's not just special ed students. That's-- that's all students. Currently in Nebraska, our ratio is approximately one psychologist to 1,100 students. Increasing access to qualified mental health professionals in school is essential for supporting positive educational and life outcomes for all Nebraska students. LB642 would provide needed funding for schools to increase access to these professionals and the evidence-based services they provide. As an organization, NSPA supports LB642 for its potential to provide funding for the continued development and implementation of a comprehensive system of

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school-based mental health services. Reimbursement for these services enables school-based mental health professionals to reach more students at universal, targeted, and intensive levels of care. Please make our statement of support part of the public record for LB642. Thank you and I can answer any questions.

WALZ: Thank you so much for coming today. Questions from the committee? I do. I do have a question.

KYLE HESSER: Yeah.

WALZ: Thanks for coming.

KYLE HESSER: Sure.

WALZ: How are you currently coordinating services, psychol-- psychology--

KYLE HESSER: Psychological, yeah.

WALZ: --with ESUs now so that they can provide services to schools?

KYLE HESSER: So I work in Omaha Public Schools, so we're provided by the district. In-- in other ESUs, they-- they contract out the services for the individual schools.

WALZ: OK, all right. That helps. Thank you.

KYLE HESSER: OK.

WALZ: Any other questions? Senator Linehan.

LINEHAN: Thank you, Chair Walz. So how many psychologists does OPS have?

KYLE HESSER: I believe right now we're at 34.

LINEHAN: So your ratio is not very good either.

KYLE HESSER: No.

LINEHAN: And is that 34 just in OPS or does that include what you have in your ESU, because you're like one?

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KYLE HESSER: That is just in OPS.

LINEHAN: So does the ESU that's with OPS--

KYLE HESSER: We currently contract a few FTEs through Munroe-Meyer. So that's something we're able to do locally in Omaha. But I realize not everyone is able to have that.

LINEHAN: OK. That brings up an interesting question, because I thought Munroe-Meyer dealt mostly with people with-- that would have an IEP.

KYLE HESSER: Yes. And so some-- one of the-- one of the drawbacks of being so short staffed in general, not just OPS, in general across the state, is that we do have to prioritize. And a lot of times that-- those services that we're able to provide are limited to students who have IEPs. And so we're looking at students who may qualify in the near future for special education and students who are already qualified for special education. And so that's one of the-- one of the big drawbacks of being short staffed is we're not able to provide our full scope of services to all students. And so instead of being more proactive, we tend to have to be reactive because we have to maximize the services or the resources that we have.

LINEHAN: So does OPS have a system if you can't help the kid that you refer them to outside help?

KYLE HESSER: Well, instead of providing direct services, we often have to move indirectly. So we're trying to consult with administrators and teachers to-- to get those, that training and that awareness out there for gen ed students or students in the general population.

LINEHAN: OK, but you as a psychologist, do you have a list in your office that says here are all the, and I know they're limited, but here are the outside supports if we can't handle a child. Can you tell their parents where they might, like to go to Children's Hospital or?

KYLE HESSER: Sure. I do not personally. But we do have, another benefit we have in OPS is that we have access to school social workers. And so they would be the ones in our district anyway that has a tab on-- on the different services in our community that may have openings or may be able to support families.

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LINEHAN: OK, that's good to know. OK.

KYLE HESSER: Um-hum.

LINEHAN: Thank you very much for being here, appreciate it.

KYLE HESSER: So all three of our-- all three of our professions try to work together to provide mental health services for everybody. But like an earlier testifier said, you know, all three of us are short staffed. And so it'd be nice to be able to move more towards the proactive side than-- than just reactive. And in no ways does-- does that characterize just specifically limited-- limited to OPS, but that's pretty representative of districts across the state.

LINEHAN: OK, thank you.

WALZ: Thank you. Senator Murman.

MURMAN: Thank you, Senator Walz. And thank you for testifying. In recent year or so, we're hearing more about psychological services delivered virtually. What do you think the potential is for that, especially in greater Nebraska?

KYLE HESSER: Well, that brings up a lot of different issues, one being availability. And so just within the smaller communities or within the-- the bigger cities or directly assessments, that's difficult to do virtually. And so I think that's still a school-base-- that is something to explore. But I think that doesn't-- that can be used to complement school-based mental health services but wouldn't be used to replace.

MURMAN: Thank you.

WALZ: Other questions? I see none. Thank you for being here today.

KYLE HESSER: Thank you.

WALZ: Appreciate it. Next proponent. Any opponents? Anybody in the neutral? Senator Day, would you like to close? While you're coming up, I'll let you know we had three proponent written testimony in lieu of person testimony: Julie Erickson, Voices for Children; Jack Moles, NRCSA; and Ann Hunter-Pirtle for Stand For Schools. No opponents or no

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neutral written testimony. We also had proponent position letters from Julie Erickson, Dr. Mark Adler, Joan Daughton, Dr. and Mrs. Paul Vana, Terry Werner, Ronelle Jackson, Mary Bahney, Matt Blomstedt, and the Nebraska [INAUDIBLE] Association and no opponent or neutral position letters.

DAY: Thank you. I just wanted to mention today, and I think all of our testifiers today mentioned being proactive. We sat in hearings all day today for student discipline, various student discipline bills. And those are an important piece, I think, of our education system in terms of how we handle these issues after they occur. But I think that we can see that there is an issue in schools with students and behavior. And we know that a lot of those behavioral issues are like Senator McKinney had mentioned, related to poverty. But when we see the statistic of 50 percent of children in Nebraska with mental illness going untreated, we have to recognize that a lot of those behavior issues that we see in the classroom are also related to mental illness and particularly untreated mental illness. And the fact that our kids spend eight hours a day, five days a week in school, at the very least, not including extracurricular activities or anything else that they're involved in, schools are-- would be a primary resource for children to be able to access mental health services because they just by default, spend so much time in them. So, again, we are addressing the reactive piece, I think, with student discipline. But I think we need to make sure that we're also addressing the proactive piece so that in the long run we can prevent some of the issues with behavior and discipline from ever happening in the first place. So I think this is a really big start to doing that. And again, I know that the fiscal note can-- can be kind of crazy when you look at it. But I think that if we're going to be investing money in education, we should be investing money in making sure that our students are ready to learn when they come to school every day. Because otherwise, if we're investing in any kind of academic areas, it goes to waste when the students aren't actually, first of all, in school to learn and also if they're not ready to learn when they are there. So I feel like this is a really, really important investment on our part as a state to help with some of the-- the issues that students have in axing [SIC] mental health resources. And I'll answer any questions.

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WALZ: Thank you, Senator Day. Questions? I see none. Thank you so much.

DAY: Thank you.

WALZ: That ends our hearing on LB642, ends our hearing for this afternoon.