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Education Committee
March 10, 2015

[LB29 LB511 LB572]

The Committee on Education met at 1:30 p.m. on Tuesday, March 10, 2015, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB572, LB29, and LB511. Senators present: Kate Sullivan, Chairperson; Rick Kolowski, Vice Chairperson; Roy Baker; Tanya Cook; Mike Groene; Adam Morfeld; Patty Pansing Brooks; and David Schnoor. Senators absent: None.

SENATOR SULLIVAN: Good afternoon, everyone. Welcome to the public hearing for the Education Committee. I'm Kate Sullivan, Chair of the committee, and I represent District 41 in rural Nebraska. I'm from Cedar Rapids. Would like you also to meet members of the committee and I will start with the Vice Chair.

SENATOR KOLOWSKI: I'm Rick Kolowski and I'm from District 31 in southwest Omaha. Thank you.

SENATOR SCHNOOR: I'm David Schnoor, District 15 which is Dodge County.

SENATOR GROENE: Senator Mike Groene, Lincoln County.

SENATOR COOK: I'm Tanya Cook, District 13 which is northeast Douglas County and Omaha.

SENATOR BAKER: Senator Roy Baker, District 30, Gage County, part of southern Lancaster County.

SENATOR SULLIVAN: We have several staff who are helping us today. To my immediate left is LaMont Rainey who is a legal counsel for the Education Committee. To my far right is Mandy Mizerski who is the committee clerk. We also have one page helping us, Seth Thompson from Ogallala. Regarding today's work, we are hearing three bills, LB572, LB29, and LB511. If you are planning to testify on any of those bills, we ask that you pick up a green sheet that is on the table at either entrance to the room. And if you are wanting to record your presence and support of the bill but don't--or either way--but don't want to testify, there is a sheet for you to fill out as well. Regarding the green sheet, we ask that you fill it out before you come up to testify and complete it in its entirety. When you come up to testify, please give that completed green sheet to the committee clerk. If you have handouts, please make sure that you have 12 copies to give to the pages so they can give those to us. And when you do testify, please speak clearly into the microphone, tell us your name first of all, and spell both your first and last name. And to that point, I would ask that you also please turn off all cell phones and pagers, anything that makes

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noise, so as not to be distracting. We...the introducer of the bill will make the introduction and the initial statements followed by proponents, opponents, and neutral testimony. And closing remarks are reserved for the introducing senator only. We will be using the light system today. And testimonies are limited to three minutes. When you have one minute left, the yellow light will come on. When the light is red, we ask that you conclude your testimony. I think that takes care of everything. Our first bill is LB572. And I would like to know, how many are planning to testify on this bill? Very good. Okay, with that, Senator Davis. Welcome. [LB572]

SENATOR DAVIS: Thank you. I know you're all going, he's back again. One more time...the last time. Good afternoon. Chairman Sullivan, members of the Education Committee, I am Senator Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. I am here today to introduce LB572. The state school security director is tasked with oversight of several areas related to school security and safety, and LB572 would add a related duty, the recommendation of a cyberbullying and digital citizenship curriculum. This is a measured step in addressing the prevalence of bullying, an issue that plagues our schools and has gained an even more sinister side with the rapid advances in technology. Many young people now have ready access to the Internet on their smart phones, so they always have a forum available on social media for anything they choose to share, positive or negative. Unfortunately, the cyberbullying culture is alive and well in our public schools. We probably hear about only a fraction of the incidents because they are perpetuated online in a world where bullies can easily create alternate Facebook pages and social media identities and harass others from the safety of online anonymity. They may be viewed and shared at school, but the nature of cyberbullying makes it very hard to identify the source of the bullying and address the problem. The fact is, this is not an issue that can be easily fixed by legislation or more stringent regulations. We need to identify this as a safety priority and encourage a school citizenship...a culture of education about the importance of good digital citizenship. I would like to commend those school administrators who are actively supporting the education of their staff, faculty, and students about the importance of digital citizenship and the detrimental effect that bullying has on both the victim and the perpetrator. This needs to happen more consistently across the state. And I believe the state school security director recommended a curriculum would be one step in raising the issue to the level of significance it should have. This issue came onto my radar during the interim when I was made aware of an incident that happened here in Lincoln off school grounds where a young lady was physically assaulted by her schoolmates who also took video on their phones and shared it at school. My understanding is that there were consequences for the girl that made the physical assault, but I am still concerned about the existence of a school culture where kids can easily continue victimizing one another by sharing videos and pictures of these incidents. Technology is not moving backwards and this issue is not going to go away. We need to make sure it's one of the priorities for safety and security for all of our public school students. Thank you and I'd be happy to answer any questions. [LB572]

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SENATOR SULLIVAN: Thank you, Senator Davis. There may be somebody from the department that will elaborate a little bit more, but could you tell us now, what typically are the duties for a state...for a school security director? [LB572]

SENATOR DAVIS: Well, that was put in last year, I believe. So a lot of what their objectives are and their duties are is to make sure the building is secure. It's more focused on the structure and protecting students within the walls. [LB572]

SENATOR SULLIVAN: And then to the...to your bill, recommending curricular and extracurricular materials...can you elaborate on kind of what your expectations are there? [LB572]

SENATOR DAVIS: So, when I was first approached about this issue, we were considering whether there would...should be some penalty phase with regard to the police, bringing the police in, trying to figure out how to regulate these kind of incidences. But you can't...it would be impossible for the police to really be at every school every times this happens. When it happens off school grounds, the school is not responsible. Children are on their way to and from school so it's kind of interconnected, but there's no real resource for the police to do anything with it. So we met with several people, including some people from Lincoln Public Schools, to talk about what could be done and couldn't be done. And there are some curricular things in place in some schools but not all which try to deal with correcting these behaviors in these students. So this is what I think the school security administration will do is develop this curriculum across the state and try to get it in place in our schools. [LB572]

SENATOR SULLIVAN: So it would be more a matter of kind of assessing what is and holding up best practices and then making sure that this information gets out? [LB572]

SENATOR DAVIS: That's correct, yeah. [LB572]

SENATOR SULLIVAN: Okay. [LB572]

SENATOR DAVIS: And there are plans already in...available. You know, there are...some other states have done some things with procedures and processes to talk to students about doing...about what...how these things play out. [LB572]

SENATOR SULLIVAN: Okay. Very good. Any...Senator Baker. [LB572]

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SENATOR BAKER: Thank you, Senator Sullivan. Senator Davis, I'm pretty clear what you mean within certain language about recommending curricular materials. Help me understand what you mean by extracurricular materials. [LB572]

SENATOR DAVIS: I don't think I said extracurricular materials, did I? [LB572]

SENATOR BAKER: It says, "Recommending curricular and extracurricular materials to assist school districts in preventing and responding to cyberbullying and digital citizenship issues," page 3, line... [LB572]

SENATOR DAVIS: So the curriculum things that we're talking about will be things that take place within the school. If you've got students who are bullying, they'll be required to take some...I would assume that the security person would require them to take some training. [LB572]

SENATOR BAKER: My specific question is, what does extracurricular materials mean? [LB572]

SENATOR DAVIS: I'm going to have to research that, Senator Baker. [LB572]

SENATOR BAKER: Okay. Thank you. [LB572]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB572]

SENATOR PANSING BROOKS: Thank you, Madam Chair. I would just think that, as I'm reading that, certainly for high schools there are extracurricular activities that are still part of the school such as after-school activities like sports or different things like that. Those are extracurricular, at least at the high schools that my kids have gone to. So I presume that while they're happening at the school, they're still extracurricular or such...there are issues where the school may take a group of singers on a bus and they may go to Kansas to perform in a competition. And to me, that would be an extracurricular activity. [LB572]

SENATOR DAVIS: And that's...that is an extracurricular activity. [LB572]

SENATOR PANSING BROOKS: It's still school-sponsored but... [LB572]

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SENATOR DAVIS: I think Senator Baker is asking about the materials that would be available. [LB572]

SENATOR PANSING BROOKS: Well, wouldn't it be discussing extracurricular...that would be things that are happening outside? It's a little bit nebulous because it's not right during the school day so there aren't security people so they would have to be able to have materials, it seems to me, to deal with off site, off campus, or even on campus and outside of the school day activities. [LB572]

SENATOR DAVIS: I don't think that's exactly what's meant here. [LB572]

SENATOR PANSING BROOKS: That's not what they're talking about? Okay. [LB572]

SENATOR DAVIS: But I'm going to find the answer to that and get back to you. [LB572]

SENATOR PANSING BROOKS: All right. [LB572]

SENATOR SULLIVAN: Any other questions? Senator Groene. [LB572]

SENATOR GROENE: I...this security person is with the Department of Education, right? And each school district has to report to the school security director? "School districts shall provide the state school security director with the safety and security plans of the school district." So are you saying there's a director in every school right now? [LB572]

SENATOR DAVIS: There's a...last year, the state appointed somebody to be the state security director. And they're...every school has a security plan in place that's conducted by the administration. So we're not putting a person in every school. But the state security director will develop a plan for how to deal with addressing issues of bullying and will percolate that down to the districts. [LB572]

SENATOR GROENE: But this is on the Internet, right, bullying, cyberbullying? [LB572]

SENATOR DAVIS: It's...yes. So the incident that I referred to--and you'll hear from the people who were victims of it... [LB572]

SENATOR GROENE: Yeah. [LB572]

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SENATOR DAVIS: It took place off school grounds but the cameras were used and then it was circulated within the school. [LB572]

SENATOR GROENE: So it was used on...during school time and then they were bullied during the summer or after hours? [LB572]

SENATOR DAVIS: It took place outside of school time but the sharing of the videos and the ridiculing of the student took place within the school. [LB572]

SENATOR GROENE: So you're recommending some kind of punishment or something for kids who do that, film on... [LB572]

SENATOR DAVIS: We're not recommending anything but we're recommending that a curriculum be developed by the state security director for districts to be used in districts where this is a problem. [LB572]

SENATOR GROENE: And then it's...inject that curriculum into the English class? The math class? The P.E. Class? [LB572]

SENATOR DAVIS: It'll be primarily...it will primarily be used with people who have been abusers of it. So, you know, if...we'll say detention, okay? People have to go to detention because they did something. So if this happens within the school... [LB572]

SENATOR GROENE: That's when your bill, where is says you... [LB572]

SENATOR DAVIS: ...they will be required to take this sort of mediation class. [LB572]

SENATOR GROENE: That's where you say responding, how to respond to somebody who cyberbullied while in school. [LB572]

SENATOR DAVIS: Well, this took place...it doesn't matter whether it's...yes, I guess so, Senator Groene, yes. [LB572]

SENATOR GROENE: All right. Thank you. [LB572]

SENATOR SULLIVAN: Any other questions? Senator Kolowski. [LB572]

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SENATOR KOLOWSKI: Thank you, Madam Chair. Senator Davis, thank you for bringing this forward. You're absolutely right. It is a major issue in our schools in all locations, rural and urban. And you're right on target in the difficulties that have come up with the advent of additional power and cell phones and all the other tools that students might be using in school or in their personal life. It's very hard to regulate, extremely hard to regulate. As far as the bans on cell phones, when I was a principal, we had that from 8:00 in the morning until 3:15 in the afternoon they could not be on. That's been changed since I left. They had so much difficulty with that. But we tried to stick to that as much as possible. But it's very, very hard to do and we've confiscated phones when they're being used during the day. You have to understand and others need to understand, some students are addicted to their cell phone. It's a hard concept to understand but they are truly addicted to their cell phones and they can't keep their hands off of them. And it really makes a difficult situation for our schools and I hope you'll get some direction that would be useful from the school...the state director. And there are a number of...there's quite a number of programs that are out there that we've used in different districts that have proved successful, but you're right on target. It's something that we need to look at the big picture of the culture and the climate in the building of, why are kids doing this to one another? And all...it's bigger, much bigger than just the bullying itself. So thank you. [LB572]

SENATOR DAVIS: The programs are out there and available but there's no requirement that they be used. [LB572]

SENATOR KOLOWSKI: That's right. [LB572]

SENATOR SULLIVAN: Any other questions for the senator? Will you be here for closing? [LB572]

SENATOR DAVIS: I will. [LB572]

SENATOR SULLIVAN: Thank you. [LB572]

SENATOR DAVIS: Thank you. [LB572]

SENATOR SULLIVAN: We will now hear proponent testimony on LB572. Welcome. [LB572]

CARISSA GREGORY: Hi. I'm Carissa, C-a-r-i-s-s-a, Gregory, G-r-e-g-o-r-y. And I'd like to start off by just saying a story that happened, like, last week. One of my best friends was cyberbullied over this app--I can't remember what it was called--but she had quite a few suicide thoughts because the bullying was so bad. But the thing that hurt worse was, it was her ex-best friends.

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And so...yeah, and so I believe, because of that experience, schools need to adjust the situation a little more, because my school, it's addressed it a couple times here and there in computer class, but that's all we ever hear about it. And so I think the school just needs to have a little more focus on what cyberbullying is and what it does to kids all around the USA, all around the world. And then, like, and I also believe that cyberbullying affects the generation, like, in middle schools, high schools, maybe the higher grades and elementary more because we have the technology that other people didn't and the world is moving farther on which makes us an easier target for cyberbullying because of all the apps and all the technology we have. And then I'd also like to mention that Girl Scouts has a program called "Be a Friend First" that teaches girls about bullying prevention including cyberbullying. Girl Scouts would be happy to be part of this discussion. We are already doing this program during and after school all over the state. Thank you. [LB572]

SENATOR SULLIVAN: Thank you, Ms. Gregory. Nice job. You said the Girl Scouts are already doing this in school? What kinds of ways are they doing it in school? [LB572]

CARISSA GREGORY: I think they...in some schools all over the state, they have, like, these clubs, I think or, like, the Girl Scouts are just teaching people to, like, what girls...what cyberbullying is and trying to help them prevent it. [LB572]

SENATOR SULLIVAN: And you said that the only conversation you've had in your school about cyberbullying has been in computer class? [LB572]

CARISSA GREGORY: Yeah, basically. [LB572]

SENATOR SULLIVAN: Okay. Does your school have a policy on the use of cell phones in school? [LB572]

CARISSA GREGORY: First semester cell phones were allowed to be listened to music, but after Christmas break, winter break, we were no longer to have phones out. We got a...we didn't even get a warning. If the students had their phones out, most teachers would take them away and take them to the office and my LaCA teacher, he said the teachers...him and the other teachers have a competition to see who can get the most phones to the office. (Laughter) [LB572]

SENATOR SULLIVAN: Do you see cell phones being used by students in elementary grades? [LB572]

CARISSA GREGORY: I think I see a little more than when I was in elementary. [LB572]

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SENATOR SULLIVAN: What grade are you in? [LB572]

CARISSA GREGORY: I'm in 7th. [LB572]

SENATOR SULLIVAN: Thank you. [LB572]

CARISSA GREGORY: Thank you. [LB572]

SENATOR SULLIVAN: Any other questions for Ms. Gregory? You did a great job. Thank you so much. [LB572]

CARISSA GREGORY: Thank you. [LB572]

SENATOR SULLIVAN: Welcome. [LB572]

JERRY ALBRIGHT: (Exhibit 1) Thank you. I am the Reverend Jerry Albright. I...A-l-b-r-i-g-h-t, and I am the executive director of Interchurch Ministries of Nebraska. I rise to speak in favor of LB572. Bullying has become a serious problem that knows no boundaries. There are no differences in rates of bullying for urban, suburban, and rural communities. Boys and girls are just as likely to be involved in bullying. It can happen everywhere including our communities. The National Association of School Psychologists estimate that the fear of bullying keeps as many as 160,000 students out of school on any given day. Bullying can be associated with depression, social anxiety, decreased self-esteem, anger, sadness, stress-related health problems, and suicide. Every young person has the right to feel safe at home, at school, in their faith communities, and in the wider community. Bullying is not a normal part of growing up. And with the widespread use of technology, bullying has become even more pervasive. It is estimated that 5 million students miss school at least once a month because of the threat of cyberbullying...excuse me, 3 million. Because bullying is a widespread problem with 90 percent of elementary students reporting that they have been bullied by their peers, Interchurch Ministries of Nebraska has developed a resource to educate parents, teachers, and community members about the problem. According to the National Crime Prevention Center, 42 percent of children have been bullied while online but only 58 percent...58 percent did not report to their parents that they had been abused in this way. If LB572 is passed, we believe that the...more communities will be encouraged to make use of the curriculum such as the one we have developed to prevent and respond to cyberbullying and promote general good citizenship. Unlike traditional bullying, cyberbullying can remain virtually anonymous. This is a serious social problem that must be addressed. We must make it clear that bullying behavior is never acceptable. Interchurch Ministries of Nebraska is happy to offer our expertise and resources to

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the Nebraska communities in order to protect the health and the well-being of our state's young people and children. Thank you. [LB572]

SENATOR SULLIVAN: Thank you, Mr. Albright. Do you suspect that this is a topic in church youth groups? [LB572]

JERRY ALBRIGHT: Yes. [LB572]

SENATOR SULLIVAN: In what way? [LB572]

JERRY ALBRIGHT: I think that youth groups can use this curriculum that we have developed to help educate children about good relationships and good respect and dignity on the Internet, I think also to promote dignity and respect for dignity of their fellow students. [LB572]

SENATOR SULLIVAN: Okay. Are there questions? Yes. [LB572]

SENATOR PANSING BROOKS: I'm just wondering...thank you for your testimony, Mr. Albright. [LB572]

JERRY ALBRIGHT: Yes. [LB572]

SENATOR PANSING BROOKS: I guess I was wondering, you were offering your help and expertise so...in order...so do you have something specific that the Interfaith Ministries has created? [LB572]

JERRY ALBRIGHT: Yes, we do. There's a participant packet and a leadership packet. And it comes with a slide program and written materials to help evaluate bullying in churches or anywhere in the community. [LB572]

SENATOR PANSING BROOKS: And are the other churches in the community...are you a statewide group? [LB572]

JERRY ALBRIGHT: Yes, yes. [LB572]

SENATOR PANSING BROOKS: So do most...all right, do you let the other churches across the state know that you have this ability and these programs available? [LB572]

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JERRY ALBRIGHT: Absolutely, yes, yes. [LB572]

SENATOR PANSING BROOKS: Thank you. [LB572]

JERRY ALBRIGHT: Thank you. [LB572]

SENATOR PANSING BROOKS: That's wonderful. [LB572]

SENATOR SULLIVAN: Any other questions for Mr. Albright? Thank you, sir. [LB572]

JERRY ALBRIGHT: Thank you. [LB572]

SENATOR SULLIVAN: Welcome. [LB572]

DOLORES DE LA TORRE: Thank you. [LB572]

SENATOR SULLIVAN: You can go ahead. [LB572]

DOLORES DE LA TORRE: (Exhibit 2) Hi. My name is Dolores de la Torre, D-o-l-o-r-e-s d-e l-a T-o-r-r-e. I'm a single mother of four children. Frida, my youngest daughter, was assaulted and bullied last year when she was walking home from Irving Middle School. January 15, 2014, I was working when I had a call from my son: You have to come home now. When I come home, I saw blood on the floor. And it is...was very shocking for me. Then I saw Frida. She got bumps, scratches, and blood on her face. Immediately I asked her, what happened? And with tears in her eyes, she told me that a group of six kids from school follow her from home and throw rocks at her. Then one of the girls pulled Frida's hair, threw her to the ground, and punched her merciless in the face. And the other five kids were taking video with their cell phones. It was very painful for me to see my little girl like that. Next day, I went to the school and they told me they couldn't do anything because the attack was out of the school grounds. And besides, the attacker is minor and there were no laws in Nebraska against bullying. When I watched the video, I had many feelings and I felt completely helpless, so I decided to look for assistance and help and found attorney Thomas Inkelaar and asked for his assistance. And he agreed to help me for free. Since there are no clear laws combating bullying in Nebraska, my attorney decided to draft a bill and look for support in the senate. Mr. Inkelaar found Senator Al Davis and after months of meetings with bullying experts and people involved in this terrible social problem, Senator Davis drafted LB572. I have read the bill and I think that passing it will be able to prevent more kids who suffer...that Frida and my family went through. After the attack, Frida was traumatized and afraid to go by herself. She lost her self-confidence and the little independence she had as a 14-year-old

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girl. I changed my work schedule to be able to take Frida to school and pick her up after school. My oldest son moved back home to protect Frida and give her rides too. That happening to Frida really affect us as a family. Little by little, Frida regained her self-confidence but it was very slow process. Today, one of her deepest desires is that no other child in Nebraska suffer the same kind of abuse she went through. I think the Nebraska youth needs to hear loud and clear message: Bullying and cyberbullying is wrong and we will not tolerate. Bullying is a serious problem in our schools and online and can be harmful and have devastating consequence. It can cause a young child to drop out of school, lose hope, or even commit suicide. State bullying laws are incomplete and there is no current legislation that deals explicitly with school bullying or cyberbullying. If you approve the bill, LB572 could help teenagers to understand how harmful and destructive bullying can be. Another objective of the bill is to educate teachers and other school staff about bullying. If these things happen, this is going to be a great idea. Society in general needs to understand that bullying is not a child's play. People need to understand that bullying is something very serious and can be so painful that a traumatized teenager can be pushed into abyss of suicide. Bullying can be only prevented if everyone--student, teacher, parents, and community--come together to recognize bullying as a serious community issue...impact education, emotional and physical health, and safety and well-being of the students. Please, please, approve this bill. Thank you. [LB572]

SENATOR SULLIVAN: Thank you, Ms. de la Torre. I hope your daughter is doing well. [LB572]

DOLORES DE LA TORRE: It's a...was a really slow process, but she's doing well. She's doing well. [LB572]

SENATOR SULLIVAN: Have you had any further conversation with the school to know if the school is doing anything to educate students about this? [LB572]

DOLORES DE LA TORRE: No. When I ask for help, I told you, they just say they couldn't do anything because was out of school grounds. And the videos and everything the kids was sharing in school. One of the school workers say to them, delete it if they don't want to be in trouble. That's it, is the only thing I know. [LB572]

SENATOR SULLIVAN: Thank you. Senator Kolowski. [LB572]

SENATOR KOLOWSKI: Thank you, ma'am. Thank you for your testimony today, ma'am. Did you happen to...did you secure any police help at the time of the fight that took place or the attack on your daughter? Did you call the police and did you have any response from them? [LB572]

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DOLORES DE LA TORRE: Yes, sir. Yes. [LB572]

SENATOR KOLOWSKI: What did they say at the time? [LB572]

DOLORES DE LA TORRE: They say they couldn't do...giving a ticket to her because she is a minor and it's...again, we don't have a law for bullying. [LB572]

SENATOR KOLOWSKI: She knows who the attackers were? They were identified? [LB572]

DOLORES DE LA TORRE: Frida? Yes. [LB572]

SENATOR KOLOWSKI: Your daughter knows who the attackers were? [LB572]

DOLORES DE LA TORRE: Yes. [LB572]

SENATOR KOLOWSKI: They were identified? [LB572]

DOLORES DE LA TORRE: Yes. [LB572]

SENATOR KOLOWSKI: And... [LB572]

DOLORES DE LA TORRE: At the school they just suspended for a week. But in my opinion, suspend these kids for a week at the school is like giving a gift, because these kids obviously they don't like to be at school, you know? [LB572]

SENATOR KOLOWSKI: So if it happened on school grounds, they would have been suspended for a week? [LB572]

DOLORES DE LA TORRE: No, well, I don't know if it happened in the school because I was asking to give it to this girl because then I understand she need more help than my girl. And if we help this girl with therapies or I don't know another thing, this girl can be a good girl and be a good citizen, you know? But she just got suspended one week. And after that, my daughter was so scared to go back to school and see her. [LB572]

SENATOR KOLOWSKI: So the girl that attacked your daughter was suspended for a week? [LB572]

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DOLORES DE LA TORRE: That's it. [LB572]

SENATOR KOLOWSKI: After the school said they couldn't do anything about it because it was off school grounds? [LB572]

DOLORES DE LA TORRE: Yes. Yes, yes, sir. [LB572]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB572]

SENATOR PANSING BROOKS: Thank you for your testimony and...compelling testimony, Mrs. de la Torre. I'll just say, I know of you and your family. I admire you and your advocacy on this issue. I admire you as a single mother taking this on and fighting for your daughter and for other children in our community. [LB572]

DOLORES DE LA TORRE: Other...yeah. [LB572]

SENATOR PANSING BROOKS: I just wanted you to speak a little bit more to what happened at the school, because what happened is, somebody took a video of the girl punching and hitting your daughter in the face. While others were cheering on, this was happening. And somebody took a video and then they sent it out to tons of friends. Is that correct? Could you explain that a little bit and what happened more at school? [LB572]

DOLORES DE LA TORRE: Well, when Frida was attacked, then I had a couple of friends, a coworker, and she say to me, how's Frida? And I say, she's okay. Why are you asking me? I saw the video. I say, what? Yeah, I saw...Marie (phonetically) showed me a video that Frida got beat up. And then I say, you know, I say, okay, I will talk with you later. I called the school. It was the nighttime, I leave a message, I need to talk with the principal. Next day, I did. I go into the principal's office and I say, I know these kids took a video because it's already...they are sharing with somebody else. They say, the police is coming at 4:00 and we will talk about it and see what we can do. I have a video of one of the child. There was five kids taking video with the cell phones. I don't know who were the other four. It's so painful as a parent to see these things, how you can't protect your kids because you are working, you know? It's hard for us as a society to understand how one kid can hurt to other kids. And my question is this: Who protect one child from other child? If we don't...you know, this girl, we take her to the court. She has a third-degree assault. But in my opinion, I don't think that she learned anything about it, because the second attack where they had at the Lincoln Public School and it was in Lincoln High is connected to the same group of kids, the one Frida...attacked. [LB572]

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SENATOR PANSING BROOKS: You're saying there was...there's another attack that we'll hear about that was connected to Frida's attack as well, some of the same people. Is that what you're saying? [LB572]

DOLORES DE LA TORRE: Yes, I know the same people, the boyfriend of the girl, the one attacked Frida, was the one made the other video and share it, too, with the other friends. [LB572]

SENATOR PANSING BROOKS: Okay. So could you just speak a little bit more of the video, the video that was passed around at school, is that correct? And what were the reactions? [LB572]

DOLORES DE LA TORRE: The video is close to my house in a busy street. You can see. You can watch in the video how the car was so close to Frida's head. And I totally understand why Frida, when I come home from work, she just run to me and say, the car didn't stop. When I watched the video I totally know what she was talking about. I say, these kids even, they are scared to death for one of that attack, at least my daughter was. She was so scared to die. I guess we have to teach our kids the consequence for this social problem. [LB572]

SENATOR PANSING BROOKS: What I'm really trying to get to is what happened at school, because the police dealt with the assault and what's happening in that regard. I'm interested in what happened at the school. What kind of repercussions by other children because of the bullying? What kind of issues happened there? [LB572]

DOLORES DE LA TORRE: Okay. [LB572]

SENATOR PANSING BROOKS: That's not what...that's what we really would be dealing with. [LB572]

DOLORES DE LA TORRE: Okay. [LB572]

SENATOR PANSING BROOKS: The cyberbullying, what happened from the electronic dispersion of the video? [LB572]

DOLORES DE LA TORRE: The other kids, the other five kids, the ones took a video, they didn't face any consequence. They wasn't suspended at school or nothing, nothing like that. So it's like it...they don't do anything. [LB572]

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SENATOR PANSING BROOKS: So they sent it out to lots of kids, though? [LB572]

DOLORES DE LA TORRE: Yes. Yes, they was sharing it at school. [LB572]

SENATOR PANSING BROOKS: And was she teased about it? Did people say, oh, we saw the video? What happened with Frida in that? [LB572]

DOLORES DE LA TORRE: Frida, she was so embarrassed. She was embarrassed even to go back to school. She don't want to go back to school. We was even thinking to transfer Frida to another school. But at the end, we decide to teach our kid, to teach my daughter to face these problems. And I say, you know, why not the other ones has to teach their kids to don't do these things too? [LB572]

SENATOR PANSING BROOKS: Thank you. [LB572]

SENATOR SULLIVAN: Any other questions for Ms. de la Torre? Thank you so much for your testimony. [LB572]

DOLORES DE LA TORRE: Thank you. [LB572]

SENATOR SULLIVAN: Welcome. [LB572]

THOMAS INKELAAR: (Exhibit 3) Thank you, Madam Chairwoman. Thank you. My name is Thomas Inkelaar, I-n-k-e-l-a-a-r. I am an attorney here in Lincoln, Nebraska. I also have an office in Omaha. And I represent several bullying victims like Frida Aguilera and Jared Williams (sic.) I've heard many of the devastating stories of teenagers and children who have been brutally assaulted and then mocked in their schools by other children in social media. I've seen the suffering that they and their families have gone through and it's my opinion that they also deserve justice. And as a father of three children, it breaks my heart to hear of more and more bullying cases that are happening here in Nebraska and learn that kids are becoming crueler and crueler to each other. Understandably, many children and teenagers are using social media in the wrong way. They make mean jokes. They post videos. They make fake Web sites. They create nasty comments on Facebook, Twitter, and other social media. Our youth need to understand that cyberbullying is wrong and it will not be tolerated. Last year, I decided to reach out to Senator Davis and Senators...or Senators Davis and Scheer asking for their support of an antibullying bill. The bill that I proposed to them was a bit different than LB572, but the goal of both bills is to have the same result which is to stop bullying in Nebraska. A great way to prevent this from happening to other kids is to pass LB572. We would like for the school staff to educate students

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about cyberbullying so they realize how harmful it is in society. Just kind of a side note: We had received a letter from Cathy Beecham who is the cofounder of Every Student Counts here in Lincoln. And one specific statistic that's important that I thought would...should be at least looked at is, according to Lincoln schools, last year in Lincoln 59 children between the ages of 13 and 19 tried to kill themselves. This is almost equivalent to two classrooms. I find this very interesting and important to look at. And we feel that it is important that awareness be brought to the forefront to help prevent suicide and other actions to children. As you know, there are more and more bullying victims who have tried to take their lives and every year the suffering gets worse and worse. Please help us stop this now and pass LB572. Thank you for your time and consideration. [LB572]

SENATOR SULLIVAN: Thank you, Mr. Inkelaar. You mentioned in your testimony that you believe children or students are getting crueler. So my question is, do we address the problem by focusing on cyberbullying? But is the...is it more extensive? We're looking at this medium, but is it...what are you seeing? [LB572]

THOMAS INKELAAR: Well, it...honestly, when I say crueler and crueler, we are seeing students that are being attacked and students that are involved in this are basically egging it on, if you want to. And they're also videotaping the events and then they are sharing those with each other. The case of Jared Williams is an example here in Lincoln...Williamson, I'm sorry. It was shared on Facebook. It was posted and the students at the school were making horribly mean comments. They were attempting to basically degrade Jared in any way that they could, likewise what they did with Frida. And the problem that we have with cyberbullying is not necessarily the idea of taking the video of the event. But the argument goes to the next step when the children go to school and they share it on school grounds with other students. They are ridiculing each other. They are shaming the students. Frida was so afraid to even go to school that when she did go to school, there were several students that would make comments to her and she basically would get in the front door and just make a beeline for her classroom because she was so afraid of what the students were going to be saying to her. Jared's case, another type of situation, he quit Lincoln High School and changed where he was going just because of the embarrassment. So cyberbullying is becoming something that doesn't go away. The Internet is something that you can't just erase. Once it's posted and it goes viral, I mean, it's all over the place and it's there for, you know, years, and the kids know this. And just what is being said to these students is just unbelievably cruel. [LB572]

SENATOR SULLIVAN: Thank you, Mr. Inkelaar. Senator Morfeld. [LB572]

SENATOR MORFELD: Mr. Inkelaar, and maybe this is a little bit of a leading question, but I'll make the statement of my belief and then...even if you don't go there or you don't think that. But,

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you know, the issue that I have with cyberbullying is, don't you agree that cyberbullying makes it easier to be more mean and at one...in some cases anonymously and in some cases not so anonymously. But when you're not being mean to their face and you're able just to post something quick on Facebook that could be very hurtful or whatever other social media, I mean, do you think that because of that anonymity or that disconnect from the actual in-person interaction that it...do you get where I'm going or do you not think that that's the case? [LB572]

THOMAS INKELAAR: You know, I... [LB572]

SENATOR MORFELD: I guess I think that's the case, but I don't know. [LB572]

THOMAS INKELAAR: ...well, and I agree with you in one aspect. But when you have five students that are standing there with their phones and they're egging on an attack, you know, punch her, punch her, punch her, and knocking her down to the road... [LB572]

SENATOR MORFELD: Yeah, yeah. [LB572]

THOMAS INKELAAR: ...and a car is driving by and virtually hitting her head and the students are taking this video and almost congratulating each other that they got the best video and then they go to school and they're sharing it with each other, I mean, I agree, there are some students that are very anonymous about this and post it. But I think the students that you have that are there that are taking the pictures that are not afraid to show who they are and still post it... [LB572]

SENATOR MORFELD: Yeah. [LB572]

THOMAS INKELAAR: ...and then put, you know, Facebook posts...Jared's case, there were students that did not hide who they were. [LB572]

SENATOR MORFELD: Yeah. [LB572]

THOMAS INKELAAR: They were making posts, you know, trying to degrade him. So I don't know. I just...I think it's two-sided. I think there is an anonymity and some students, you know, maybe are a little more brazen because they can anonymously post it. But I think... [LB572]

SENATOR MORFELD: Or not even anonymously. I think it's just easier to post and insult somebody when you're doing it behind a computer screen than it is to their face. In some cases

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like that case, which is pretty extreme, I think that...yeah, and it's there. It's there for a long time. It doesn't go away either, so. [LB572]

THOMAS INKELAAR: Yeah. And I agree with you. And that's one of the reasons why I think...our goal is, is to have education, have a similar type scenario, maybe, like we do in DUI cases. I do criminal defense work also. Under a drunk driving case, you have victims awareness panels where victims of drinking and driving actually have to face the accused. Why not create something similar where you would have victims of bullying who would actually have to face the people who are perpetrators and vice versa so we can have some sort of education. The goal is, is obviously to rehabilitate these students and children, if we want to call them, to become better citizens ultimately, because they will be adults at some point. So if there's a way to educate and try to stop this early on...and I think the LB572 at least is approaching that in the sense of education. And so that's part of the reason why I believe that, you know, I would really strongly encourage passing of, you know, LB572. [LB572]

SENATOR SULLIVAN: Okay. Senator Groene. [LB572]

SENATOR GROENE: Thank you, Chairman. I guess what I'm getting frustrated here is, there's no good kids? There's no good kids they got around these other kids that walked down the hallway with them and said, we're not going to put up with this? There's no good peer pressure in our schools? That scares me more than anything. Where's the city...student council coming out with a program that they have a group of kids, when a kid gets bullied, they gang around them and walk down the hallway with them? That doesn't happen anymore? It happened in my day. [LB572]

THOMAS INKELAAR: Yeah, and I can tell you with Frida that that did not happen. She did have friends that would support her but to say we have a group of, you know, student council members that put together an antibullying campaign and say, let's help Frida, let's help Jared, nobody stepped forward. [LB572]

SENATOR GROENE: Thank you. [LB572]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB572]

SENATOR PANSING BROOKS: Thank you for coming, Mr. Inkelaar. We've had many discussions and I do think we have to do something. This bill obviously just deals with recommending materials to...so the schools can have something to use to teach each other, to work with, to understand how to go forward. Just to Senator Groene's discussion, there are

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antibullying groups. Right now my daughter is head of one of them at Southeast High School. So I know that there are groups that are doing all sorts of things to try to go forward. These groups, at least officially at Lincoln Southeast, which is one of the bigger schools here, it was started four years ago. So these groups are just getting going on some of this. And then we have the issue about the cyber issue where the schools sort of say, well, we're sort of hands-off on that, I think. I think that the schools are anxious about how to go forward on that, because maybe it was posted at night at home and then...but meanwhile people are seeing it during the school day. I just think there are so many issues wrapped around this. And if we can keep focused on the fact that it's important for the schools to have good materials to be able to deal with this issue, I think that's valuable. My intent is to go forward and try to have some sort of group that will get together with lawyers and educators and bullying experts and psychologists and all sorts of people to figure out the best method to go forward with this as a community and/or as a state. So anyway, I appreciate your response, and I know that we have major issues and we have to help the schools understand...you know, they can't police every single thing. I know that...I'm thinking of my educator friends right here. And there's a concern about always expecting them to play every single role without direction in whether or not they're infringing on rights of some of the students. So we've got to, as a state, as a community, get together and figure out how to best do this. And there are lots of groups nationally that are doing this. So I'm pledging to work and go forward on this and work on the bigger picture. But this, giving materials to the schools across the state, is important. [LB572]

THOMAS INKELAAR: And, Senator, if I could just...my biggest goal, I guess, would be if we could create some sort of positive peer pressure, as Senator Groene is talking about, that would make it more cool, if you want to call it, to be standing up for the bullied rather than standing up for the consequences of what has happened. Absolutely education is, you know, primary. I mean, it has to be. [LB572]

SENATOR PANSING BROOKS: Right. [LB572]

THOMAS INKELAAR: So that's really what we're looking for is to some sort of creation of something that will help us move forward. [LB572]

SENATOR PANSING BROOKS: Thank you. [LB572]

SENATOR SULLIVAN: Any other questions for Mr. Inkelaar? Thank you for your testimony. [LB572]

THOMAS INKELAAR: Thank you very much. [LB572]

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SENATOR SULLIVAN: Any further proponent testimony? Welcome. [LB572]

CALLIE HUFFMAN: Hi. I'm Callie Huffman. I'm here on behalf of Kami Krogh, Jared Williamson's mom. She's ill and asked me if I would read her testimony for her. [LB572]

SENATOR SULLIVAN: Okay. Can you spell your name for us? [LB572]

CALLIE HUFFMAN: (Exhibit 4) C-a-l-l-i-e H-u-f-f-m-a-n. My name is Kami Krogh. I am a mother of six children. Jared, my 14-year-old son, was assaulted and cyberbullied last December near Lincoln High. The attacker punched him and then choked him. When Jared was lying on the floor, he kicked him in the head. He had a concussion and two of his friends brought him home because he couldn't remember where he lived. When I saw him, he told me he had been in a fight but his friends gave me all the details. Then I saw that someone posted a video of the attack on Facebook and some kids made awful comments mocking my son. At first, my mama bear instinct came out and I felt very angry. But then I realized that wouldn't really help solve this situation. I went to Lincoln High the next morning, and they told me they had no responsibility because the attack was off school grounds. But some weeks later they sent me a letter saying Jared was suspended because of the fight. They contradicted themselves because, according to them, the attack didn't happen on school grounds. So why would they punish Jared? Besides, he was provoked. He didn't start the fight and could barely defend himself. So I decided to look for a better school for Jared and now he is in Southeast High. However, right now he's homeschooled because he's still very affected because of what happened to him. Jared is still traumatized and has been diagnosed with PTSD. He's having headaches whenever he watches TV or plays video games, so you can imagine how difficult it is for him to have a normal life. He's also very irritable and is having sudden mood changes. The other day, he felt very nervous when he went to the mall with his brothers and they had to come home immediately. He's afraid to go out but in the past, he always loved to be outside. Now he prefers to stay at home. Jared is a big boy, but he became an assault and bullying victim. If it happened to him, it can happen to anybody. We don't want any other kid to go through what Jared has been through. I know about Frida's attack because she and Jared went to Irving together. I learned she looked for help with attorney Thomas Inkelaar so I also hired him. And he told me his office was drafting an antibullying bill. I know that LB572 is slightly different than the bill Mr. Inkelaar proposed. But, however, both bills share the same goal: to stop bullying in Nebraska. I like the fact that LB572's objective is to educate teens, teachers, and school staff. I think we all need to learn more about bullying and understand it's not acceptable or fun. It's a menace to peace and can really harm families. Jared, my family, and I don't want any other kid to become a bullying victim. I have heard of cases in which children are so affected they commit suicide. We need to stop it. Please approve LB572. [LB572]

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SENATOR SULLIVAN: Thank you, Ms. Huffman, for bringing forward that testimony. Because of that, you probably don't want to answer any questions or do you? [LB572]

CALLIE HUFFMAN: I don't. (Laugh) [LB572]

SENATOR SULLIVAN: Okay. Does anybody have any questions for Ms. Huffman? All right. Thank you very much for your testimony. Welcome. [LB572]

KAREN HAASE: Thank you, Senator Sullivan. My name is Karen Haase, first name K-a-r-e-n, last name H-a-a-s-e. Chairman Sullivan and members of the Education Committee, I appreciate the opportunity to speak with you about LB572. I'm an attorney in private practice. I'm a principal in the law firm of KSB School Law. I feel so passionately about the importance of digital citizenship education that I'm testifying here today, uncompensated, on my own. And it's pretty rare that you get an attorney that's willing to come and do things for no charge. (Laughter) I also had the great pleasure of working with Senator Davis when he was on the Hyannis School Board. Our law firm represents around 100 different school districts in the state of Nebraska and I spend two to three days of the week during the school year going out into schools and speaking to students, staff, and parents about digital citizenship issues. I don't know if the field of digital citizenship is old enough to have expertise developed yet, but I feel like I have a good sense of the digital citizenship education that's happening in the state. One of the most important things I would really like this committee to understand is that schools care a lot about these issues. Schools work really, really hard to educate students in positive digital citizenship. They work hard to educate students in appropriate social and emotional learning. I think what happened to Ms. Torre's daughter is horrific. But it's assault and I'm really pleased that they contacted law enforcement. We don't represent Lincoln Public Schools but in my professional opinion, what I know about that case, LPS reacted appropriately. The Nebraska Student Discipline Act would not allow a school district to punish a child for greater than five days suspension unless the misconduct occurred on school grounds, in a school vehicle, or at a school activity. I think that explains why the suspension that LPS handed down was for five days because that would be the maximum under the Student Discipline Act that a school district could impose for off-campus misconduct. Reverend Albright quoted you all the statistics that I was going to tell you about, the number of students who get bullied and cyberbullied every year. The problem is tremendous. But as Senator Kolowski noted, education is the key to solving these problems. Bans don't work. Prohibiting students from being online doesn't work. What we really need to do is educate our students on how to use these technologies appropriately. Senator Sullivan, you asked Senator Davis about the school safety director. That is Jolene Palmer. She has done a fantastic job in putting together the suicide prevention curriculum that the Nebraska Department of Education is going to be rolling out. There are so many curricula for digital citizenship that I believe it would be very helpful to school districts in the state to have the Department of Education reviewing curricular options and maybe having a set of approved materials whether it be the Girl Scout

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curricula that Ms. Gregory talked about or Reverend Albright's. Stopbullying.gov also has curricula. Common Sense Education has curricula. It would be helpful to have the department go through and recommend to schools what would be appropriate. Senator Baker, you were asking about curricular and extracurricular. We've had a whole series of problems in our office dealing with teams and activities just like Senator Pansing Brooks was pointing out. And there are curricula designed for team, athletic team, and music activities, and that sort of thing. So that would be separate from the curricular issue. I'm so sorry, one thing and then I'll stop. [LB572]

SENATOR SULLIVAN: I'll ask you a question and then you can continue it... [LB572]

KAREN HAASE: Okay. [LB572]

SENATOR SULLIVAN: ...because my point...my question is, you indicated that you go out on a regular basis to work with schools on this topic and I'd like to know more about how that interaction takes place and with whom. [LB572]

KAREN HAASE: I talk to...usually when I go into a school, I'll do a middle school session for grades 5 through 8, a high school session for 9 through 12, a staff session after school, and a parent session in the evening. In fact, one of my partners, Bobby Truhe, will be at Pius doing a parent session tomorrow night if you want see the kind of education that we think parents need. The missing ingredient to that is getting parents to attend. It's really hard as a parent. You get home, you take off your shoes, it's hard to go back to the school and listen to somebody talk about digital citizenship. But that is a crucial element. [LB572]

SENATOR SULLIVAN: Was that the final point that you wanted to include in your remarks? [LB572]

KAREN HAASE: The only other thing I wanted to say, and I'm so sorry, the discussion about where digital citizenship education is happening now, usually it is happening in a business or a computer class. Those are the teachers that are kind of picking up the torch and doing that digital citizenship education. And some schools are doing a fabulous job with that. The "Stop It" curriculum is sort of a restorative justice approach where, if somebody is bullied or cyberbullied, they have to come to, like, Saturday school and do the sort of things that...I can't remember if it was Senator Morfeld or whoever was talking about having them talk to the victims. And so there are curricula designed to have a restorative justice approach. [LB572]

SENATOR SULLIVAN: Okay. Very good. Thank you, Ms. Haase. Senator Baker. [LB572]

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SENATOR BAKER: Thank you, Senator Sullivan. I'm sorry, I missed your name. [LB572]

KAREN HAASE: Karen Haase. [LB572]

SENATOR BAKER: I had just a while ago, I looked up the bill and statutes to sort of amplify what you just previously said. But the educational statutes talk about school's authority being when it happens on school grounds or the school grounds extended as on a school bus or an extracurricular activity. So it was two statutes that say that. Would you agree that's kind of what the school law says? I know what happens then. Sometimes...okay, something may have happened off grounds but if it's brought back into the school some way then you deal with it. And Dr. Skretta is back there. And I know, you know, for a time when he was a high school principal when I was superintendent that we did that on some occasions. I've also...for what it's worth, I've observed very good things happening at the elementary level where they stress not only not bullying but not being a bystander, let alone being involved bystander to say, you're part of the problem, too, if you're standing by watching something and doing nothing. So does that mean every kid that got the education is going to grow up and do the right thing? No. So it's still going to happen. [LB572]

KAREN HAASE: Right. There's a study by Drury University that finds that about 90 percent of kids report they've witnessed bullying and cyberbullying but only 11 percent of kids knew what to do when they were bystanders. So that bystander training is part of what the curricula I believe the Department of Ed would ultimately have put together and recommended. [LB572]

SENATOR BAKER: Thank you. [LB572]

SENATOR SULLIVAN: Any other questions for Ms. Haase? Thank you for your testimony. [LB572]

KAREN HAASE: Thank you. [LB572]

SENATOR SULLIVAN: (Exhibit 5) Any other testimony in support of LB572? Anyone wishing to speak in opposition? Oh, excuse me. We do have one letter of support from Jenna Sutton, Voices for Children of Nebraska. Anyone speaking in opposition? Anyone wishing to speak in a neutral capacity? Senator Davis. [LB572]

SENATOR DAVIS: Thank you, Senator Sullivan, members of the Education Committee. I appreciate Karen coming and clarifying the issue of the extracurricular materials. So I think we've answered that question. And I think you've delved pretty thoroughly into what happened to

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Frida. You know, the point really is, the school could enforce something against the perpetrator but not against any of the other people who may have been involved in this plot to have her assaulted so they could take videos of this. We can't...or I don't think it makes sense to write some statute that is going to kick those kids out of school because we need them in school to get an education so that they can be better citizens later. And a lot of them, in fact, probably wouldn't care if they were out of school. So that's not the way to go. I didn't think that trying to take this down a criminal road was the way to go because I didn't think it was an enforceable offense. But an organized effort to intimidate someone, we can't let that happen. Our school resource official is in place today, deals with a lot of important school security issues, tornado planning, those kind of things. This gives one more duty for him to do to develop a plan. I think you all know that every school is required by state law to have a policy on bullying already. But this is the resource material that will be available. So we'll have this...the school security official will have this material available in case a school needs it. So I think it's a good bill and I'd ask you to move it forward if possible. I'd like to get it on the consent agenda even. [LB572]

SENATOR SULLIVAN: Thank you, Senator Davis. Any other questions? Thank you. [LB572]

SENATOR DAVIS: Thank you. [LB572]

SENATOR SULLIVAN: That closes the hearing on LB572. We'll now move on to LB29. Welcome. [LB572]

SENATOR McCOY: Thank you, Chairwoman Sullivan, and good afternoon, members of the Education Committee. I am Beau McCoy. For the record, that's B-e-a-u M-c-C-o-y, and I represent the 39th District in the Legislature. And I am here to introduce LB29 which would change provisions to the state-mandated student health inspections. State-mandated student health inspections have been conducted for almost 100 years but the duty was originally assigned to teachers to "ascertain if such child is suffering from defective sight or hearing or diseased teeth or breathes through its mouth." Healthcare in Nebraska looks very different from when Senate File No. 93 passed in 1919 which, of course, was shortly thereafter in the wake of the flu epidemic that spread throughout the United States. Today most children are seen annually by their family doctor for school and sports physicals, the dentist twice a year, and the quality of care has also changed dramatically since 1919. LB29 makes a few crucial changes to current law. On page 2, lines 6 and 7, it strikes "or other conditions as prescribed by the Department of Health and Human Services." The current mandate to record every child's height, weight, and BMI comes from a department regulation not state law. If the state of Nebraska is going to mandate every child be inspected for a specific health issue, I believe that consideration should be brought before the Legislature which, of course, sets public policy. Currently, in order for a parent to opt their child out from the state health screening, they must have a doctor sign a

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statement saying that such child has undergone such required inspection within the past six months. Yet regulation 7-003.02 states that "such child has undergone such required screening within the last six months preceding the school's scheduled health screening." Through the regulation process, the state requires a parent who has already paid for a physical by a physician before the start of the school year pay for a second physical if they don't want to submit their child to the state health inspection. LB29 also allows parents to have the authority to opt their child out of the mandated health inspection with a simple written statement. Parents, of course, are legally responsible--or legal guardians are legally responsible--for their children and they must be allowed to make their healthcare decisions. If a parent decides they prefer their family physician, who is board certified in medicine, to take care of their child's health needs and screenings instead of what's currently, quote, a competent person who may not even be a healthcare professional, I believe the state should respect and honor that decision. Finally, it is important to remember that LB29 addresses health inspections that are mandated by the state. If LB29 were to become law, schools would...will still be allowed to offer height, weight, BMI, or other health checks. It will be up to the parents to decide if their children will be allowed to participate. And with that, I would close and take any questions. [LB29]

SENATOR SULLIVAN: Thank you, Senator McCoy. Any questions for him? Senator Kolowski. [LB29]

SENATOR KOLOWSKI: Just...Senator McCoy, thank you for being here. Just to double check, parents have that opt out now, do they not? [LB29]

SENATOR McCOY: Well, they do, but in a way, as I described, the way the regulation reads, you...because of the time lapse, depending on when...when you're talking about a physical for sports or whatnot, they may have to either, if they would like to have that child opt out, it's...you're in a situation where you're going to have to have a double up physical. And I'll just tell you, as a dad of four kids under 11, obviously as all of us know, those aren't cheap. And I think we should make it as easy as possible for parents. I think...obviously as you know, Senator Kolowski, I think the vast majority of parents or legal guardians of kids are doing the very best job they can to make sure that their kids are as healthy as possible. So I should think we should make this as simple as possible for those parents. [LB29]

SENATOR KOLOWSKI: And what are the dates in your mind that you're thinking that your child would have to have those physicals done? [LB29]

SENATOR McCOY: Well, as we talked about... [LB29]

SENATOR KOLOWSKI: In a calendar year...of a school calendar year? [LB29]

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SENATOR McCOY: Right. You know, clearly, you look at the situation where May 1 is oftentimes, I think, the date that's given. So I think we want to make sure that if a...and schools, it's my understanding, and from looking at the regulations, can essentially schedule these screenings at any given time, clearly when advanced notice can be given to parents. But I think we should make this so that if parents have already gone to the effort and the expense of paying for these physicals for sports or other activities and it fits within those confines--and that's what, also, LB29 would do--that those could be used in lieu of these screenings. [LB29]

SENATOR KOLOWSKI: Okay. Thank you. [LB29]

SENATOR SULLIVAN: Any other questions for the senator? Senator Pansing Brooks. [LB29]

SENATOR PANSING BROOKS: Thank you, Senator McCoy. I was just...wanted to refer you to the fiscal note from the Department of Education where it says there's no additional cost burden to Nebraska Department of Education but the cost...the lost revenue to Nebraska schools in federal dollars would be in the millions. Can you speak to that? [LB29]

SENATOR McCOY: I cannot, Senator. I don't...you know, obviously that's their prerogative to put what they would like in a fiscal note. Clearly I think, again, as a dad of four kids, I think all of us want our kids to be as healthy as possible and make sure that children have the optimal health that they can in order to learn. I'm not sure I understand or agree with what they're talking about there. I think that this is...to me is a pretty commonsense and practical piece of legislation and I don't agree with their numbers. [LB29]

SENATOR PANSING BROOKS: Okay. Also I was wondering about...I mean, clearly, you and I hope to have our kids meet every single yearly annual physical and...but in my district, 36 percent live at or below \$25,000 household income. So the reality of people actually going yearly, certainly in...with people of poverty, is just...it's not happening. So I think...how do you address the part...I know that part of what they're...what they have been doing is testing for things like obesity and things that affect our long-term ability to care for our citizens. Of course, obese children most often grow up into obese adults. And so then we have issues socially and fiscally across the state and diabetes and all sorts of concerns that we have to then pay for. So could you speak to that a little bit, about getting rid of that information which would then... [LB29]

SENATOR McCOY: Well, it doesn't get rid of that information. Still, as I mentioned, as I concluded with my opening, Senator, it still allows schools to conduct those screenings. It just merely would allow parents the ability to opt out if they so choose or legal guardians of those

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kids, because first and foremost, it is parents who are the primary caregivers of these children, as it should be. [LB29]

SENATOR PANSING BROOKS: Right. [LB29]

SENATOR McCOY: You know, what I was surprised to find with these screenings, that it very rarely is any sort of a medical professional that's ever conducting these screenings. And oftentimes it's in a group setting where I would question always exactly the accuracy of the data that we are procuring. Hopefully it's accurate, and I don't have any reason to suspect that it's not, but I would imagine that very few of us would disagree with the fact that the best form of data that we are getting on health is from a medical professional or physician. [LB29]

SENATOR PANSING BROOKS: Right. I would agree. [LB29]

SENATOR McCOY: And I think this allows parents who have gone through the effort to have those physicals done to use that in lieu of these screenings...still allows schools to conduct these screenings. [LB29]

SENATOR PANSING BROOKS: How did this come up? I'm just interested in the history about it. Did you...were you approached by people or what...that... [LB29]

SENATOR McCOY: No, I was not. [LB29]

SENATOR PANSING BROOKS: Okay. [LB29]

SENATOR McCOY: There are situations, I believe, around the state--Millard schools happen to be one--that...I have part of the Millard School District in my legislative district, as does Senator Kolowski and I think probably several of us. I'm trying to think if there's three or four of us as legislators that have parts of Millard School District in our legislative districts. And this was a fairly publicized story last year from the Millard School District. No one approached me about this. I...my office has been working on this on our own. And, you know, again, I think it's an important issue and it's one that...I'm always just, I guess, because of who I am and because of my philosophy, going to believe, and going to be...come down on the side of parents and legal guardians should have the preeminent place in caregiving for their children. I think that's best and it's the healthiest for all while still allowing schools to do these screenings but with allowing parents to...with the ability to opt out. And I think maybe you just heard a piece of legislation from Senator Davis. And I know we dealt with this issue with Senator Gwen Howard a number of times my early years in the Legislature. I think it's very important, especially at vulnerable

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ages with children, that we're not putting them in a position where there could ever be a bullying situation. A lot of times these screenings are in large groups with their peers. And I think we need to be very sensitive to the fact that we need to allow parents the ability to say, hey, we understand. If there is a situation, we are addressing it in our family, whatever that situation is, and we really just don't want to subject our child or children to these types of situations. We understand and value health, want to make sure that we keep the security of our kids as much as we can. [LB29]

SENATOR PANSING BROOKS: Well, I would agree with you that the parents should have the primary responsibility, when possible, to the healthcare. So thank you very much. [LB29]

SENATOR McCOY: You bet. [LB29]

SENATOR SULLIVAN: Senator Kolowski...oh, Senator Baker. [LB29]

SENATOR BAKER: Senator McCoy, I'm going to ask you about your understanding, what your amendments would do. I mean, it's in there now about the schools screening people for vision, dental, and type...what...would your understanding of your amendments now preclude things that happen in PE classes like calipers and measurements or other monitoring of... [LB29]

SENATOR McCOY: I think you're talking about under our bill, not when you say amendments, you're talking about under the bill, right? Correct? [LB29]

SENATOR BAKER: Under, excuse me, your bill, correct. [LB29]

SENATOR McCOY: Okay. I just wanted to make sure I understood what you were saying. [LB29]

SENATOR BAKER: Yes. [LB29]

SENATOR McCOY: It's my understanding, as you look through the Department of Health and Human Services regulations, that's kind of handled in a different way. If a coach or...you know, clearly, that is not under, at least unless I've missed it, not under the same set of regulations that we deal with as it regulates to these health screenings. [LB29]

SENATOR BAKER: Okay. So you're not thinking your bill would impact that? [LB29]

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SENATOR McCOY: I...not to my knowledge, Senator Baker... [LB29]

SENATOR BAKER: Okay. Thank you. Thank you. [LB29]

SENATOR McCOY: ...at all in any way. And if it does, I mean, we'll...certainly I'd be... [LB29]

SENATOR BAKER: Thank you. [LB29]

SENATOR McCOY: ...perfectly willing to discuss that or deal with that, but it shouldn't affect that at all. [LB29]

SENATOR SULLIVAN: But could you clarify then a little bit more that in your bill you specify that the allowable screenings include those for sight, hearing, and dental. But then you go on to strike "other conditions as prescribed by the Department of Health and Human Services." So at this point in time, what would that include that they would not then be able to screen for? [LB29]

SENATOR McCOY: Well, they...remember, we're dealing with statute and also Department of Health and Human Services regulations. So not everything is in statute of what's being promulgated by the rules and regs of the Department of Health and Human Services. So it would still allow the schools to conduct these screenings. It just would say that...allows parents to opt out of those if they would so choose. [LB29]

SENATOR SULLIVAN: Thank you. Senator Kolowski. [LB29]

SENATOR KOLOWSKI: Thank you, Madam. Senator McCoy, on...just for the record, if you don't mind my asking, your children are homeschooled. Is that correct? [LB29]

SENATOR McCOY: They are. [LB29]

SENATOR KOLOWSKI: Are they under these rules then? [LB29]

SENATOR McCOY: No, they're not. [LB29]

SENATOR KOLOWSKI: So your kids are separate from that because of your choice and carrying out what you're doing? [LB29]

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SENATOR McCOY: Correct, as would be any child that goes to any private school, parochial school, or any other education. [LB29]

SENATOR KOLOWSKI: Correct. Is the BMI the major issue that you have with what you're trying to do with this particular bill? [LB29]

SENATOR McCOY: No, it's not, Senator. As I said, I think we have to be very cognizant of the fact that children at differing ages with differing life situations can fall into a situation--I'm sure you saw it many times especially with high school students but a lot of times, it's even younger ages--where you could have...their peers are sometimes not as kind as we would all hope them to be. Children are not adults and, therefore, as we all know, don't evaluate situations and how to treat others like adults...we would hope that adults do. You could have a situation with a child that has glasses at a young age or hearing aids. You know, one of our daughters has a very young friend that has glasses that many children ask about, not in a mean way, but in a way that would sometimes maybe be a little bothersome to a child. I don't think...I think we just have got to be very careful that we, while we're being very well-intentioned with the health and well-being of kids that we're making sure that those...that that...the actions taken being well-intentioned, if at all possible, if it's up to the parents and they would so choose, that that be done in the privacy of a medical professional's office, not amongst a group of their peers in a school setting. [LB29]

SENATOR KOLOWSKI: Okay. But I want to make sure that you're not visualizing the school situation looking like a military lineup to get inducted into the service or something like that. It's a different situation and it... [LB29]

SENATOR McCOY: But it's not conducted by a medical professional in very few cases, Senator. In many cases, it could be a volunteer. It could be a parent. [LB29]

SENATOR KOLOWSKI: I can't speak to those but I know the nurses that we use in the Millard schools are the ones that are available and they are registered. [LB29]

SENATOR McCOY: Well, across the state...statewide, Senator Kolowski, in our research, it is not mandated it be anyone related to a medical profession at all. In many cases, it is not. It's clearly up the individual school district to determine who conducts these screenings. And Millard may choose to have it be a medical professional, school nurse, whatever the case may be. But we don't mandate that and we don't require that across the state. And in many cases, in fact the vast preponderance of them, it is not a medical professional. It's a volunteer. [LB29]

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SENATOR KOLOWSKI: And the volunteer, perhaps, being not sensitive or discreet is your concern? [LB29]

SENATOR McCOY: Well, correct. It...certainly that's the case, whether it be HIPAA, whether it be any other form of training that a medical professional receives, whether they be a school nurse or any form of physician, nurse practitioner, whatever the case may be, we have medical professionals that receive a vast amount of education for a reason. And they're trained in many things besides just strictly medical arts. And clearly sensitivity to certain health conditions or situations is part of that training. And again, I want to make sure that we are...by being well-intentioned about kids, are not unintentionally creating situations that kids could be bullied by their peers, by anyone else. I think that's the last thing that any of us would want to see. [LB29]

SENATOR KOLOWSKI: Sure. I just don't see it happening in those conditions that you're describing and...even as varied as it might be across the state of Nebraska. But we may differ on that. Thank you. [LB29]

SENATOR McCOY: Well, I would submit, Senator...and I appreciate that. I would submit, though, that that ultimately should be up to the parents to determine whether or not they feel that it rises to the level of opting their child out so that that fear is not one that they have to bear. [LB29]

SENATOR KOLOWSKI: Thank you. [LB29]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB29]

SENATOR PANSING BROOKS: Thank you. Thanks. Thank you, Senator McCoy. Okay, so if the parents bring in the...if the parents have a specific...if they have a medical appointment for the child, you wouldn't have any problem with them taking that into the school. Is that correct? [LB29]

SENATOR McCOY: Of course not. That provision is allowed under this legislation, correct. What I want to make sure of is that parents...you know, many parents have sporting activities where physicals are required. [LB29]

SENATOR PANSING BROOKS: Right. [LB29]

SENATOR McCOY: Clearly sports physicals are required or they may be required for a summer camp. Who knows what the situation may be? I grew up in a family of Boy Scouts and my

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brothers and I, to attend some of the more rigorous summer scouting activities around the United States, physicals were required. Our family went through the expense, as many families do, of paying for those physicals to make sure...it served a dual purpose, one to... [LB29]

SENATOR PANSING BROOKS: Right. [LB29]

SENATOR McCOY: ...make sure the health is as good as it can be but, number two, to meet the qualifications of whatever activity you're undertaking. Those physicals should be able to be used, if a parent so chooses, in my mind, in lieu of these screenings if they would choose. But because of the way the calendar situation lines up and because schools don't necessarily have to give school districts very much advance warning to parents, oftentimes those physicals are in a...are past the time that they will apply. And that, I believe, should be changed in order that we fit that May 1 time line. So rolling forward, someone can use one of those physicals they've paid for, for this if they so choose because those physicals are going to be undertaken by a medical professional. [LB29]

SENATOR PANSING BROOKS: Okay. So I'm torn in what I'm hearing because I know the value of the information, the value to people to know BMIs and weights and what trends are and what we're going to be doing about our kids and trying to get people out and exercising and healthier living lifestyles which truly do fiscally impact us in our state for years to come. So there's that huge interest. Then there's the interest of...what I'm hearing is, kids' right to their own information not being published to whomever is standing around them. So I'm surprised that we aren't just talking more about, yes, parents have the ability to bring in a doctor's physical form, but also there might be some sort of regulation within the Department of Health and Human Services mandating or requiring--I know we don't like mandates--but requiring that the health professional or whomever is taking this information make sure that it is in a more private area. It seems like that would be an easier regulation to ask Health and Human Services to do or to require or the Nebraska Department of Education than to have a change, necessarily, in the law which...I don't know, I'm just interested in that thought. [LB29]

SENATOR McCOY: Well, I think you bring up a great point, Senator, and one that...I think another appropriate question would be, exactly where is this information stored and what is this information used for? Let me give you a great example. Trinity Chappellear, my legislative aide sitting behind me, her grandson was just recently born with a very life-threatening condition, has had multiple surgeries and, thankfully, is doing well today. His parents had to sign a whole lot of paperwork to make certain that the data that was procured by the medical professionals in his situation could be used for research and compiling for other families that may be undergoing similar...whose children may be living with the same sort of medical condition. I don't know that parents are being asked, and that's not part of this legislation, are being told what this

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information is being used for. And I think that's of another concern altogether. It's not addressed in LB29. But I would imagine, at some point down the road, there may be those who asked, when these screenings take place, what is this information being used for and to what end?
[LB29]

SENATOR PANSING BROOKS: Okay. Thank you. [LB29]

SENATOR SULLIVAN: Senator, I'm...call me a slow learner or...I'm still getting back to the part in the statute, and when I asked you the question before you said there's one thing with rules promulgated by a department what we put in statute. But in the statute then, you're indicating that a school district shall cause inspections or screenings to be done for...to include dental, hearing, and sight but then you strike "or other conditions as prescribed by the Department of Health and Human Services." So that tells me that if there are other recommendations prescribed by the Department of Health and Human Services then a school district would not have to abide by those recommendations. [LB29]

SENATOR McCOY: Well, I think you, again, would have to look to...I believe it's line 3 of Section 1 on page 2 there, Senator, where it talks about, "Every school district shall cause children." So you look at...you have to look above that to tell that that's what is mandated, obviously. What I'm saying here is that I think that we want to say, and what the intention of LB29 is to do, is to say that you would still have the ability for schools to conduct screenings for BMI or otherwise. But it would allow the parents to opt out of those screenings. They wouldn't be required. That's the difference here. You would still have dental, hearing, and vision...are still required. That goes back over 100 years. But BMI, those other types of health screenings, that wasn't envisioned in 1919 when this original legislation was put in place. That's been promulgated through rules and regulations from the Department of Health and Human Services since that time. [LB29]

SENATOR SULLIVAN: Right. But you're striking that and it's another section of your bill that talks about the fact that the parents can opt out. That's one thing, opt out whatever screenings can be done. But you're saying that those other things like the BMI won't even be included in things that a school district should offer. [LB29]

SENATOR McCOY: We're saying it...we're restricting what shall be required to vision, dental, and hearing, not...and saying schools can still conduct the other screenings but parents have the option to opt out of those screenings. [LB29]

SENATOR SULLIVAN: Thank you. Senator Baker. [LB29]

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SENATOR BAKER: One last thing. It has nothing to do with the pro or con, but do you have your introducer statement of intent in front of you? On paragraph four, I think you probably meant, on or after May 1 may be valid for the immediately ensuing school year rather than the preceding school year. [LB29]

SENATOR McCOY: That would be correct. [LB29]

SENATOR BAKER: Yes. [LB29]

SENATOR McCOY: And I appreciate you catching that, Senator Baker. [LB29]

SENATOR BAKER: I just wanted to point that out. [LB29]

SENATOR SULLIVAN: Any other...Senator Groene. [LB29]

SENATOR GROENE: Thank you, Chairman. Senator McCoy, in this so far we haven't mentioned education at all and that's what the constitution says our public schools are supposed to do, not healthcare, but that's my opinion. But HIPAA wasn't around either back when they put "conditions as prescribed by the Department of Health and Human Services" and I would think that would come into play when a school district, when people with English majors, with Ph.D.s, start deciding what healthcare we should be screening for...should come into play too, that maybe that's why we...the reason for...you can disagree with me, but the reason for this bill is to put healthcare and the concerns of our health of our children back into the hands of the professional medical people. [LB29]

SENATOR McCOY: Well, certainly, I think HIPAA regulations, Senator Groene, are a daily...are something daily that medical professionals deal with, without a doubt. That's part of medicine. It's part of the era that we're in. And it's something that I think we have to be very cognizant of, as I mentioned, to make sure that when you're talking about the privacy of medical information that we're making sure that that's being protected as much as possible. And to the degree that we can, as long as parents choose to, if parents choose to go through the effort and expense to have a medical professional, physician or otherwise, conduct screenings for...as I said for sports physicals or whatnot, I think we should recognize the value of that and the recognition that healthcare is probably best conducted in the privacy of a medical professional's office or clinic scenario. That is what I think needs to be held sacred to the degree that we can. HIPAA certainly is a part of that, without a doubt. [LB29]

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SENATOR GROENE: Could you see the situation where Johnny is overweight and the kid hears it? And we heard about bullying. And he runs down the hallways saying, Johnny is fat because the nurse just said he was. And a mom...a parent suing the school over HIPAA regulations because a medical fact was not protected? [LB29]

SENATOR McCOY: I don't know that I could speak to that particular hypothetical situation, Senator Groene, but in general I would say that, whatever the situation, and Senator Kolowski offered up, I guess, anecdotal... [LB29]

SENATOR GROENE: That's what mine was, anecdotal. [LB29]

SENATOR McCOY: ...anecdotal information that that may not be how these health screenings are conducted in the Millard School District. But I think every school district across the state does them each in a different way. And I can't speak to how each individual school district does these health screenings. I'm sure they're trying their best to make sure that as much privacy as possible is afforded to students. But we certainly don't want to get in a situation where we provide any more emphasis on a health condition, whatever it is, that a jury of their peers makes certain that kids suffer from that in any way. That's the whole...I think the whole situation sometimes with bullying is that some reason or something is found to peck on an unfortunate child or an adult, either one, and then that's seized on. And I think we want to try to take as much of that out of view as possible. [LB29]

SENATOR GROENE: Thank you. [LB29]

SENATOR SULLIVAN: Any other questions for senator? Thank you. Will you be here or closing? [LB29]

SENATOR McCOY: I'll stay as long as I can, Senator. Thank you. [LB29]

SENATOR SULLIVAN: Okay. Thank you. We'll now hear proponent testimony on LB29. Welcome. [LB29]

EDWARD TRUEMPER: (Exhibit 1) Thank you, Senator. My name is Dr. Edward Truemper. That's spelled E-d-w-a-r-d T-r-u-e-m-p-e-r. I did not bring you all my written testimony. I'm a medical educator amongst many other duties and I've found that if I provide the text, most people read and don't listen, so please accept my apology. I want to thank the committee for the opportunity to speak in favor of the alterations introduced by Senator McCoy in LB29 and I am testifying as a proponent to the measures to change the current law. First, my background: I'm an

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associate professor of pediatrics and a practicing pediatrician intensive care specialist and I've been practicing for 13 years in Omaha and 30 total years in both specialties and during this time have performed both 30 years of clinical duties but also medical research that I have led by myself, more than 30 research projects and more than 60 projects involving collaborative medical research sometimes spanning not only the United States but also globally spanning seven continents. I'm very familiar with data that I can obtain, when I cannot collect it, from whom, and the processes for collecting that data. And this all comes from a very carefully choreographed process which is intrinsically linked both to local, state, and federal law which is encased in the National Research Act that was passed by Congress in 1974. As originally specified in current law, page 2, lines 6 and 7, outlined by LB29, "other conditions as prescribed by the Department of Health and Human Services," it is well known and understood that vision, hearing, and dental examinations are very important to the welfare of children. I give all of that. However, DHH (sic) should be required by law to mandate other healthcare screenings and to allow the parents to know what those healthcare screenings are beyond the current specifications. I...and my rationale is, as a healthcare provider, I must have the permission of the parents or guardians to examine and by what methods how I will evaluate their child every time that I see their child. Ethically, I would not be able to perform any screening procedure that I deem necessary without the knowledge and approval of the parents or healthcare providers. Why is DHHS allowed to do otherwise? Also, it has come to my attention that some school districts have begun collecting body mass index on individual children without the parents' or guardians' knowledge. Such data is an example of collecting isolated data without a context. And that bears little significance to the care of the individual patient including children. It is useful, however, in studying populations. This means a research study, a research project. As a medical researcher, it would be unethical to collect data prospectively from children without the knowledge and specific written approval of parents or guardians. As a researcher, I have to show an independent board why I need the data, what the project is addressing, the number of children I need, the statistical analytic methods, and how the data is collected and stored. I could not collect data before and then come up with the idea afterwards. Paramount to this process, I would have to have the signed approval from the parents allowing me to collect the data and describe to them the process of how the data is used and stored. If I did not follow this prescribed set of procedures, I would be denied my ability to do medical research, lose grant funding, and perhaps be sanctioned or even lose my academic positions. If DHHS wants additional procedures, they should come to the Legislature and request it by statute. Also, I believe parents should be given the opportunity to opt in or, better yet, opt out to additional screening procedures. I also agree that a dentist for dental screening and optometrist for eye screening is appropriate and parents should be given that choice. Finally, I believe it is important to give easy-to-read consent forms that specify the manner and context of any health screenings that should be provided to the parent and guardian in both electronic and printed forms for easy access. These...I have provided some sample forms that I actually got last Tuesday from the Grand Island School District which were very comprehensive and actually do provide informed consent, outlining what materials

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were going to be used and, more specifically, the medical records and information that they requested. And I thank you all for your time. [LB29]

SENATOR SULLIVAN: Thank you, Doctor Truemper. Any questions for him? Senator Groene. [LB29]

SENATOR GROENE: Thank you, Doctor. And thank you, Chairman. BMI, body mass index, is there a laid out study or practice that doctors use that and can diagnose a child or a human being that they're actually obese or that there's a health problem, concern to what that figure says? [LB29]

EDWARD TRUEMPER: Medical professionals can use it because it's put in the context of the physical assessment, one that is prescribed, that is, can be performed by any licensed practitioner in the state including nurse practitioners. The problem is when the information is taken out of context. And a good example that I'll give you is that I have a body mass index of 37. Thirty-seven means that I'm obese, okay? Now, if you take another individual whose name I won't give for the moment who also has a body mass index of 37, you would also assume that that person would be obese. Now I'll give you the name. His name is Ndamukong Suh. Ndamukong Suh is a 306-pound, 6-foot, 4-inch defensive tackle and probably one of the most prominent players in the NFL. And if you've seen the last picture of him yesterday in the newspaper where he's got...went to the Miami Dolphins, you would not classify him as obese. And that's the problem where this data is taken out of context and the problem that I have that this data is collected and not part of a process as to appropriate health screenings. And I think families should be aware of that. We send our kids to schools to be educated. It is important that they have the appropriate tools, if you will, the sensory tools to be able to do that. I don't see how BMI fits into that picture. However, if people would like the school to do it, I'm in favor of it, but they should be able to opt in for it. And they should also understand how the data is going to be used. Is it going to be used for research? Is it going to be used to not only screen their child but come back to them with an avenue as to...as have...Senator Pansing Brooks said, to help ameliorate that problem? Thank you. [LB29]

SENATOR GROENE: But you were saying...now, you were saying that...because in the current bill it says the public health..."If such inspection determines that any child has such condition, the school shall notify the parent of the child in writing of such condition." Is every child that has a--what is it called?--a BMI that on the charts says that they are overweight, do...does that automatically say that they have a health condition... [LB29]

EDWARD TRUEMPER: No. [LB29]

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SENATOR GROENE: ...and that the school should contact the parents and tell them that they have a health condition because they took the BMI test? [LB29]

EDWARD TRUEMPER: No. [LB29]

SENATOR GROENE: That is my concern. [LB29]

EDWARD TRUEMPER: Thank you. [LB29]

SENATOR GROENE: We got English majors and math majors that get doctor degrees and become administrators, are now health professionals and deciding on health issues of children. That's a statement but... [LB29]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB29]

SENATOR PANSING BROOKS: Thank you, Madam Chair. Dr. Truemper, I guess I was...I thought that all the information was...I mean, if we take one piece out of context and it...or maybe it's not out of context, but I'm thinking that if you just measure everybody's weight then that's not going to do anything because, of course, you measure Ndamukong Suh's weight versus your weight versus my weight, it will tell you nothing. But if you measure the weight and the BMI and the height, that kind of data does tell something about the needs of the children and what's happening to our society. And it will affect us in the long term. [LB29]

EDWARD TRUEMPER: I would agree, Senator, but you're talking about aggregate data. You're not talking about treating the individual. And that's the problem that I have. We're not treating individuals. We're collecting aggregate data and making assumptions about individuals. And it...and that is wrong. That is what medical research is supposed to tease out. And having the schools collect this data ostensibly for "the good of everyone," yeah, the problem is, where does it stop? Right now it's just BMI. But when you have something as broad as other conditions as stipulated by DHHS, where is that going to go? And that's a problem I have. [LB29]

SENATOR PANSING BROOKS: So where are you worried that it's going to go? I mean, BMI data is, in my understanding, relatively new. When I was younger, we didn't even talk about or understand BMI data. [LB29]

EDWARD TRUEMPER: I think that's a very appropriate question. I'm glad you asked that question. I was at the Medical College of Georgia when we had someone perform medical research. And what they were doing was screening for anabolic steroids within the school system

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through a health questionnaire. And what ended up happening was that that information ended up getting into the wrong hands. And it also ended up being leaked to individuals and coaches got fired, students were dismissed. My problem is is how that data is collected by the school, how it is stored, amongst many other things. But that's my problem with this, is that people get real loosey-goosey with health information. And if you operated for one year under HIPAA, you would understand the extraordinary lengths we go to protect this health data. And we should. I will promise you, I've lived it for 20 years, and it is part of me. And it needs to be done. I do not see how schools are going to be as rigorous for that information. [LB29]

SENATOR PANSING BROOKS: Well, thank you. Of course, were we to find out that the coaches were encouraging the use of steroids, I would certainly be in favor of finding out that information but... [LB29]

EDWARD TRUEMPER: Well, now, they weren't encouraging it. The problem was, it was happening under their nose. And it was a witch hunt. [LB29]

SENATOR PANSING BROOKS: Thank you. [LB29]

SENATOR SULLIVAN: Any other questions? Thank...oh, Senator Groene. [LB29]

SENATOR GROENE: Could you see, Doctor, that this statement, "conditions as prescribed by the Department of Health and Human Services," that they could start saying we have to take...every child has to take a test for STDs or there's a mental health situation that every child has to be screened for mental health problems instead of just trying to help the ones that pop up? Could you see some people who want to do everything through education pushing that? [LB29]

EDWARD TRUEMPER: That would be the absolute extreme. And I would hope that it would never get to that point. I would think that parents would rise up and be in...up in arms if it got to that point. But I...but as you've mentioned, Senator Pansing Brooks, what have I to fear? I fear what is the unknown. Please prescribe it. Trust the parents. They're the individuals who are the ones responsible for children, their children, and I think that the vast majority of them make the best decisions for their children. Thank you. [LB29]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. [LB29]

EDWARD TRUEMPER: Thank you very much, Senator. [LB29]

SENATOR SULLIVAN: Any other testimony in support of LB29? [LB29]

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BRENDA VOSIK: Good afternoon. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

BRENDA VOSIK: (Exhibit 2) My name is Brenda Vosik. I'm the director of the Nebraska Family Forum. The NFF is a statewide organization consisting primarily of parents with school-aged children who are concerned about educational issues. And I'm representing our 800-plus members today and stating our support for LB29. State statute 79-248 currently mandates that school districts cause children to be inspected for sight, hearing, and dental, screenings that were debated and agreed upon by this Legislature. However, at some point, the statute was amended to read "or other conditions as prescribed by the Department of" DHHS. Those 13 words gave DHHS the authority to inspect our children for anything they want with or without a parent's permission and also without the permission of this committee or the Legislature. Believe me when I tell you, this is no small matter to the parents of this state. Our responsibility and right to provide appropriate medical care for our children in the privacy of our physician's office has been usurped by a few simple words, giving an unaccountable state agency carte blanche to do as they wish with our kids and use the public schools as their vehicle. We parents think DHHS has been given way too much authority and LB29 appropriately checks that authority. This issue came to light when DHHS wrote a regulation mandating that each public school begin collecting height, weight, and BMI on students and submit that information to the state. There was no opportunity for parents to opt out of that medical screening that involves very private information normally discussed between a parent, child, and doctor. As you will see in my handouts which include a picture of my own overweight son, BMI is a flawed measure of health which certainly makes the purpose for the collection of this medical data questionable. In addition, valuable instructional time is being used to perform this task which belongs in a medical setting, not an educational setting. The last time I testified before this committee, there was discussion of the Time to Teach, Time to Learn Act, Senator Cook's bill, which is an attempt to return the focus of our schools to their primary function of education. This new regulation is a perfect example of a task that schools are being forced to perform that is not within the scope of their mission. Under the current verbiage, DHHS has to write...all they have to do is write a regulation and our schools are mandated to carry it out at their own expense, sacrificing crucial learning time to do so. DHHS policymakers are not our elected officials and, therefore, under no obligation to be responsive to we, the people. It is difficult for the public to weigh in or influence any regulatory changes made by DHHS. I've read comments from some wellness experts in our state saying that BMI belongs in school health screenings because it can identify diseases such as diabetes. That's certainly debatable and, again, I hope you'll look at my handouts. But let's say for the sake of argument that it's true. How does that translate into BMI screenings belonging in schools? Pap smears help identify cervical cancer. Rectal exams help identify colon cancer. Does that mean those screenings belong in schools? These are medical issues, not educational issues, and their rightful place is between the family and their medical provider. We parents think that this is a

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really questionable course that we're on and it could easily lead to all sorts of medical mandates in our schools without parental consent, without this committee's consent, without our Legislature's consent. Where does it stop? I have one more paragraph. Our schools should be focused on educating our children and leave the practice of medicine to doctors. And it's important to note that nothing in LB29 prevents parents who want assistance with health screening or healthcare from getting that from the school. But it should be optional, not mandated by the state. Thank you. [LB29]

SENATOR SULLIVAN: Thank you for your testimony. And would you mind spelling your name? I think we overlooked... [LB29]

BRENDA VOSIK: Sorry. V-o-s-i-k. [LB29]

SENATOR SULLIVAN: Okay, thank you, Ms. Vosik. [LB29]

BRENDA VOSIK: Thank you. [LB29]

SENATOR SULLIVAN: Any questions for her? Senator Cook. [LB29]

SENATOR COOK: Thank you. And thank you for your testimony. You mentioned that, at one point in the legislative history, the language "other conditions as prescribed by the Department of Health and Human Services" was added. Did your organization do any research as to when or why? [LB29]

BRENDA VOSIK: We tried... [LB29]

SENATOR COOK: Okay. [LB29]

BRENDA VOSIK: ...to find that quite diligently and we couldn't trace the history of that back. [LB29]

SENATOR COOK: Okay. [LB29]

BRENDA VOSIK: And again, it didn't come to our attention until our kids started being lined up and weighed and the BMI calculated. And it's not all rosy the way Senator Kolowski described it. In fact, there was a whole article in the Omaha World-Herald about what happened at Millard

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South. These kids didn't have partitions. Their BMI was discussed within earshot of other kids. They interviewed a couple of teenage girls. So, no, I don't know when that was added. [LB29]

SENATOR COOK: Okay. So we don't know where that....okay. [LB29]

BRENDA VOSIK: No. [LB29]

SENATOR COOK: Thank you. [LB29]

BRENDA VOSIK: Thank you. [LB29]

SENATOR SULLIVAN: Any...Senator Groene. [LB29]

SENATOR GROENE: Thank you, Chairman. Thank you for testifying. Do you have a fear that, as more and more government and schools do these things that parents start having a false security when they drop them off at the steps of the school that everything is okay and everything is taken care of and they don't have the responsibility that...of the medical care of their children? [LB29]

BRENDA VOSIK: You know, I've never thought of it that way. I can see what you're saying, that if the school doesn't tell me anything is wrong then nothing must be wrong. Yeah. [LB29]

SENATOR GROENE: Thank you. [LB29]

BRENDA VOSIK: I can see what you're saying. [LB29]

SENATOR SULLIVAN: Senator Baker. [LB29]

SENATOR BAKER: Thank you. At present, in the screenings of...generally, is this eyesight testing, hearing testing, and some dental inspection? [LB29]

BRENDA VOSIK: Right. [LB29]

SENATOR BAKER: Are you aware of anything that the Health and Human Services has ever added in terms of "other conditions as prescribed" that school districts must... [LB29]

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BRENDA VOSIK: Not that I know of. And there may be something out there... [LB29]

SENATOR BAKER: Me either, me either. [LB29]

BRENDA VOSIK: ...that I don't know about other than the BMI issue, yeah. [LB29]

SENATOR BAKER: All right. Thank you. [LB29]

SENATOR SULLIVAN: Any other questions for Ms. Vosik? Thank you for your testimony. [LB29]

BRENDA VOSIK: Thank you. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

BETH MEYER: Hi. Thank you. I'm Beth Meyer, M-e-y-e-r. I'm here from Lincoln and I am here to support LB29 as a parent. As a parent, we're okay with, you know, their checking the hearing, the vision, because that is what's needed for school. But collecting weight and BMI has crossed a line. That is very personal medical information that should be taken care of at the doctor's office not at the school. The fact that DHS (sic) is...can medically screen our kids for anything they want is wrong. They seem to be circumventing HIPAA and collecting medical data even if the parents don't want it. A lot of points were brought up and, you know, my daughter is now graduated. And to answer to his question, Senator Kolowski, yes, they do line them up like the military. And when my daughter was in school, she played volleyball, soccer, and she did have a weight problem. And when you're there in front of your peers being weighed, it is embarrassing. So...and I thought maybe we should have brought a scale here to see, you know, how it would feel. The main thing that I was more concerned about is the HIPAA part of it. What is the information being used for? As of today, I didn't know we could opt out as a parent. That's news to me. When they did weigh my daughter and, you know, when her peers were making fun of her weight because they knew her weight, I had contacted the school to opt out of it and they said, you can't. So the opt out option, I never knew about that. But again, I'm more concerned about, where is all this information going? What is it being used for? Thank you. [LB29]

SENATOR SULLIVAN: All right. Thank you, Ms. Meyer. Do you have any questions for her? [LB29]

BETH MEYER: I assumed no. Sorry. [LB29]

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SENATOR SULLIVAN: Thank you for your testimony. Welcome. [LB29]

CATHLEEN WATERHOUSE: Thank you. This is my first time doing anything like this so... [LB29]

SENATOR SULLIVAN: You're fine. [LB29]

CATHLEEN WATERHOUSE: ...excuse any stutters. My name is Cathleen Waterhouse, spelled C-a-t-h-l-e-e-n W-a-t-e-r-h-o-u-s-e. I'm a mother of four children in the Millard School District and I'm here today in support of LB29. At the beginning of the school year, it was brought to my attention that our schools would be required by DHHS to carefully inspect and collect children's weight, height, and BMI. The school would be required to do this unless I provided information signed by a medical professional that there is no way to opt out for this DHHS mandate. There are three main issues about the current statute that concern me: cost to the districts, privacy, and parents' rights. First, the cost issue: This new mandate puts an additional strain on our districts' already tight budgets. How does DHHS in Nebraska expect school districts to financially sustain this extra care and inspection of our students? BMI testing is just an unnecessary distraction and cost our students don't need. Our schools need to focus on education. Needlessly checking every student or processing the paperwork is a waste of our school's precious time and our school's precious resources. If a teacher or staff has a concern about a student, they should bring it to the attention of the school nurse and the parent and then proceed in private. Secondly, the issue of privacy: I don't believe any government agency or...government or agency should be able to require parents to provide private medical information on their children. There should always be an option to opt out. Personally, I don't want the school staff checking my children's height, weight, or BMI. This needs to be left to a physician of my choosing, and I should be the sole person to determine the information that is shared if it is shared. Why do we have a state law that gives an unelected agency, DHHS, the authority to overrule parents' individual rights to privacy? I should be the one to be able to opt out of this with or without a doctor's note. Thirdly, the issue of parents' rights: At any time, as a parent, I should be able to opt my children out of any activity I deem unacceptable whether it be a movie, a book, a vaccine, sex ed, regular physical forms, height, weight, or BMI. Everything I just listed, there's an opt out for except for the height, weight, and BMI. I either have to give them a doctor's note or have them submit to a personnel of the school. I believe the collection of this information is not in the best interest of our children's education. As a parent, I have the right to deny handing over this private information. In conclusion, I would like to encourage you to work to change this overreaching law to respect the boundaries of parents' rights, individual privacy, and not to place additional strain on school district's budget as soon as possible. Thank you. [LB29]

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SENATOR SULLIVAN: Thank you, Ms. Waterhouse. Any questions for her? Good job. Thank you for your testimony. [LB29]

CATHLEEN WATERHOUSE: Thanks. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

CAROLE JULIAN: Good afternoon, Senators. My name is Carole Julian. It's spelled J-u-l-i-a-n. The Department of Health and Human Services has been given the authority via Nebraska statute 79-248 to screen our children for anything they want in public schools. This is alarming to me, this amount of authority given to any organization, particularly one that is known to be as troubled as the Department of Health and Human Services. This authority was recently used to begin collecting BMI data on Nebraska children which is private medical information that should be reserved for the doctor/patient relationship. Even though parents are the primary caretakers and medical decisionmakers for their children, they were given no option to decline this screening. DHHS is under no obligation to explain where this medical data is going and what it's being used for. Under current law, DHHS simply has to tell a school to begin collecting the data and the schools are obligated to do so at their own expense. Not only is this an unnecessary expense for schools, it also takes up valuable time that should be used for education. Privacy is a huge concern as competent volunteers can be used to collect this private medical information. These volunteers can include the parents of other children in the school. These individuals are not bound by HIPAA or FERPA privacy laws. What will be the next medical mandate in our schools? Under current Nebraska law, DHHS can mandate any type of medical screening at any time. Our schools are educational institutions not medical facilities. This blanket authority given to DHHS must be rescinded. If additional screenings need to be added into the school environment, these should go through the legislative process, not be mandated by an agency that is not elected by or accountable to the people of Nebraska. In conclusion, LB29 does not prevent the schools from providing healthcare assistance to children whose parents want and need that service. It just prevents DHHS from forcing healthcare on families who do not desire it. Thank you. [LB29]

SENATOR SULLIVAN: Thank you, Ms. Julian. Any questions for her? Thank you for your testimony. [LB29]

CAROLE JULIAN: Thank you. [LB29]

SENATOR SULLIVAN: Any futher...oh, excuse me, didn't see you coming. (Laugh) Welcome. [LB29]

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KATRINA BURTON: Hi. My name is Katrina Burton, K-a-t-r-i-n-a B-u-r-t-o-n, and I am here speaking as a parent with children in the schools. I'm a big-picture person, so I try to draw a big picture. The Declaration of Independence states, "We hold these truths to be self evident, that all men are created equal, that they are endowed by their creator with certain inalienable (sic) rights, that among these are life, liberty, and the pursuit of happiness." And this declaration was defended at the expense of comforts, fortunes, and lives. And liberty is an inalienable right. It is the crowning principle, the exclamation point of the preamble to the constitution which includes this condensed phrase, "We the people of the United States, in order to form...in order to secure the blessings of liberty ourselves and our posterity, do ordain and establish this Constitution for the United States of America." (Nebraska statute) 79-248 currently gives the Department of Health, through our schools, unrestricted access to our children's bodies by providing unlimited authority to mandate screenings and perform these screenings in schools. This can lead to violations of individual and parental liberties as well as place school officials who are not free from the weaknesses and vices of humanity in unnecessary and possibly inappropriate contact with our children away from the protection of parents. The sixth article (sic) of the Bill of Rights protects us from such unreasonable searches of our persons. Forced medical care when there is no probable cause seems a clear violation of this right. Furthermore, the United States has ratified the Universal Declaration of Human Rights which includes these words in Article 12, "No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence...everyone has the right to the protection of the law against such interference or attacks." Medical information is very private. Given that DHHS may create these screenings on a whim and without just cause, that these screenings target only public school children and are allowable without authorization of parents, current law violates the UDHR, which was put in place after World War II to help prevent the recurrence of atrocities perpetrated during that war. LB29 corrects the issues in current law by, first, removing the arbitrary authority of the Department of Health to violate human rights and, second, by returning appropriate liberties to the people. The constitution, as I understand it, does not ask you to defend the authority of the Department of Health, to defend the organizations which desire to collect data, nor even to defend us against bad health at the expense of our liberty. The constitution asks you to first defend the liberty of ourselves and our posterity, and I'm asking you to do the same. Please defend my liberty and allow this bill to the floor. Thank you. [LB29]

SENATOR SULLIVAN: Thank you, Ms. Burton. Any questions for her? Thank you for your testimony. [LB29]

KATRINA BURTON: Thank you. [LB29]

SENATOR SULLIVAN: (Exhibits 3, 4) Anyone else wishing to speak in support of LB29? I would like to read into the record a letter of support from Susan Gumm of Omaha, Nebraska,

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and also Rachel Pinkerton, Liberty Education Advocacy Project. Now we'll hear opposition to LB29. Welcome. [LB29]

JOHN SKRETTA: (Exhibit 5) Good afternoon. Chair Sullivan, Senators, members of the Education Committee, my name is John Skretta. That's J-o-h-n S-k-r-e-t-t-a. And I'm the superintendent of the Norris School District. And I am here in opposition to LB29 and just want to share some information with you which is being distributed right now. It's some key points. And to kind of give you some background, one of the things that I would suggest here is that it's important to understand that the background that led to the adoption of the current screening requirements went through a very lengthy, deliberative process that involved distinguished healthcare professionals and was convened by DHHS and had the instrumental involvement of the Nebraska Department of Education. I was one of the educators who was asked to serve on that committee. And the simple reassurance I want to provide you is that, prior to the adoption of these current requirements there was, in fact, a public input period and there were also the development of screener competencies that I think are very important to be aware of including that, for instance, the qualified screener competency for BMI, which is to be documented in writing by schools, is that competent screeners are under the direct supervision of a licensed healthcare professional or conducted themselves, the screens, by a licensed healthcare professional. I also want to just try and clarify that, simply put, the BMI measure is...it's just a screener. It's height and weight and the age of the individual is factored to give a number. BMI is endorsed by the CDC, the National Institutes of Health, the United States Department of Health and Human Services. It's a primary means, long established, of assessing weight and health risk. And it shouldn't be used in isolation. We don't. And the thing I would ask you to do is, please, don't throw out the instrument if the administration of it is flawed, but instead, let's work with schools to ensure they follow best practices and do so rigorously and that we approach things in that way. The analogy--it may be a stretch--but if we've got an industrial technology teacher who is not appropriately teaching how to swing a hammer, we wouldn't ban hammers from the woodworking classes. BMI measures are a valid means of gathering some useful health data for individuals and families. And there will be some Norris personnel who follow that share more about our perspective. [LB29]

SENATOR SULLIVAN: Thank you, Dr. Skretta. Any questions? Senator Cook. [LB29]

SENATOR COOK: Thank you, Madam Chair. And thank you, Dr. Skretta. Several of the testifiers have brought up the issue of privacy. Do you...can you recall having that conversation when you were part of the early discussions about adding that language to the statute if that came up? [LB29]

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JOHN SKRETTA: Well, I think that in the competencies piece, there's a...there's some specific language that addresses that, the screener competencies and how they're to be conducted. And that's a support document that's available from DHHS. The thing I would share with you is that I do think that Nurse Jamie Klein, who is our head nurse at Norris, could describe the manner in which we try to conduct those to be very discreet and to be very respectful of the privacy of individuals. [LB29]

SENATOR COOK: Thank you. [LB29]

SENATOR SULLIVAN: Any other questions? Senator Groene. [LB29]

SENATOR GROENE: Thank you, Chairman. Sir, what do you do with the results? [LB29]

JOHN SKRETTA: We keep the results in the student's health file. And we are not...and Jamie Klein can discuss this as our RN, but we're...we haven't even been asked by DHHS to submit aggregate data on that recently. Sometimes we are. And that's a clarification that I want to draw-- I think it's a really important issue in this--is that there's been...there's fear and anxiety on the part of parents, understandably so sometimes, about, hey, what's going on with my kid's health data and where is it going? We've never been asked to, nor would we, divulge individual health data to DHHS. They would be requesting aggregate data. And that would just be a simple summary of, based upon your BMI measures for an identified grade level that's assessed, what percentage of them qualify as underweight, within normal weight range, overweight, or obese. [LB29]

SENATOR GROENE: But what does your school do with the data? Why do you take it? [LB29]

JOHN SKRETTA: Our health office uses it as one means to assist in communication with parents. [LB29]

SENATOR GROENE: Well, I'm reading that statutes here (sic), that guideline, BMI, it says, these guidelines do not include general guidelines for parent notification of BMI stats. The primary use of this data will be to aggregate, used to access (sic) the food and activity environment provided at school. [LB29]

JOHN SKRETTA: Yeah, and I can... [LB29]

SENATOR GROENE: So you give it to the parents? It says here you're not supposed to. [LB29]

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JOHN SKRETTA: No, we would share it with the parent as one element if something comes up. For instance, a student comes into the office and maybe they're experiencing fainting spells and the BMI data indicates that the student is underweight. And that may be some information that is valid conversationally then with the parent. [LB29]

SENATOR GROENE: But the way I read this, it's to be used as an aggregate. [LB29]

JOHN SKRETTA: Yeah, and the aggregate data would help us just identify if...this is one of the things that schools are looking at and one thing that Norris is participating in right now is a PEP grant. And that's a physical education program grant through the federal government, Department of Education. And that aggregate data is one of the elements that we're interested in looking at to see, if you make a deliberate increase in...the two things that we're challenged with looking at for the grant evaluation are if we're able to increase fruit and vegetable consumption and promote increased minutes of physical activity in a school, can we show a reduction in the aggregate BMI data? [LB29]

SENATOR GROENE: All right. Thank you. [LB29]

JOHN SKRETTA: Thank you. [LB29]

SENATOR SULLIVAN: Any other questions for Dr. Skretta? Senator Baker. [LB29]

SENATOR BAKER: Dr. Skretta, you heard in some earlier testimony concerns about HIPAA or FERPA violations. And I just looked it up there. And there...under HIPAA, it said there are no restrictions on de-identified health information. Would that be your understanding as well? [LB29]

JOHN SKRETTA: Right, that would. [LB29]

SENATOR BAKER: So you're providing aggregate data, so that's... [LB29]

JOHN SKRETTA: Exactly. You don't attach individually identifiable health data to anything. It's aggregate data. [LB29]

SENATOR BAKER: Correct. [LB29]

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JOHN SKRETTA: And so, like, what we use with the PEP grant is aggregate data. It's exclusively aggregate, yeah. [LB29]

SENATOR BAKER: Right. And there would be a similar statement under the FERPA regulations? [LB29]

JOHN SKRETTA: Yep. [LB29]

SENATOR BAKER: Thank you. [LB29]

SENATOR SULLIVAN: Senator Morfeld. [LB29]

SENATOR MORFELD: Thank you, Chairwoman. So if the Department of Health and Human Services called you up and said, I want so and so's--a specific student's--body mass index and other data, you wouldn't give that to them? [LB29]

JOHN SKRETTA: No, that would be a FERPA violation. We would not do that. [LB29]

SENATOR MORFELD: Thank you. [LB29]

SENATOR SULLIVAN: Senator Groene. [LB29]

SENATOR GROENE: Thank you, Chairman. If a teacher or an administrator in the building noticed something with a child, very thin, very malnourished, and he walked into the nurse's office and asked, what was the BMI on that child, what would the nurse say? [LB29]

JOHN SKRETTA: Well, I know a nurse is going to follow me, so she might be the more appropriate person to ask that question of. [LB29]

SENATOR GROENE: On HIPAA rules, that's my questioning. [LB29]

JOHN SKRETTA: Yeah. Okay. [LB29]

SENATOR SULLIVAN: Any other questions for Dr. Skretta? Thank you for your testimony. [LB29]

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JOHN SKRETTA: Thank you. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

ANN SCHROEDER: (Exhibit 6) I'm not the nurse. (Laughter) Thank you. My name is Ann Schroeder, A-n-n S-c-h-r-o-e-d-e-r. And I'm speaking today in opposition to LB29 because I feel like we need to keep and continue BMI screenings in Nebraska schools. I have been doing BMI screenings for 28 years at Norris High School. I feel that the educational piece behind the BMI is so important to student health as it is one of the many assessments that I do. Along with BMIs, I incorporate percent body fats, blood pressures, pulse, strength, and flexibility. All assessments are shared individually and confidentially. I am able to educate students on healthy choices, healthy diets, healthy snacks, healthy drinks, and then it is up to the students if they want to make educated, healthy changes in their lives. I'm going to share a couple of stories with you that I've had students share with me. The first one, I had a senior boy, 6-foot, 1-inch, 190 pounds and he was a golfer. In class, we did our blood pressure screenings and his was high. And the nurse says, come in tomorrow, different times during the day, and we'll continue to assess it and if it's high, we'll contact your parents. And it was high, so they contacted the parents, and the parents said, well, we'll take him to the doctor, went to the doctor and the doctor goes, you have high blood pressure. I think something is wrong with your kidneys. We're going to send you to Children's Hospital. So they go up there and did all the tests and they decided to test his heart last. He had an enlarged heart. And it had nothing to do with his BMI. His BMI was normal. His body fat was 9.3 percent which is low. So by looking at him, we didn't know that his heart was enlarged, so I'm glad we did his blood pressure. Student number two: I had him every day in class, four years, plus one semester of my health class his sophomore year. He was 5-foot, 8-inches, 256 pounds when he came in. His BMI was 30, obese, his percent body fat, 38, obese. His grades in 9th and 10th grade were Cs, Ds, and Fs. After my health class, he started to make some healthy changes. In his senior year, he was 5-foot, 10-inches, 176 pounds. His BMI dropped to 25 which is healthy. His percent body fat, 16, normal. He lost 80 pounds in two years and all of his grades went to A's and Bs. I went, what happened to you? And he said, man, I'm feeling great about life. My self-esteem is shooting through the roof, I can't wait to go to college. So it was all about educating that student. BMI screenings, for me, are done privately. They're easy to conduct, simple to do. They're not invasive or uncomfortable. The information gathered can literally save lives because it may be the most reliable, most beneficial opportunity for a student to learn about BMI as it relates to other health issues. I have had zero issues with parents' complaints or questions about my BMI measures or students criticize the BMI measures as not having any value. In fact, I've had parents come in and thank me. But not doing these screenings could have profoundly negative consequences because the information is helpful to individual students and families. The BMI screeners can provide lifesaving information for a student to take control of their health. Thank you. [LB29]

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SENATOR SULLIVAN: Thank you, Ms. Schroeder. Can you tell us a little bit more about who conducts the screening, where it's done--you mentioned it was private--and then what you do with the information in terms of sharing it with the parent and any other useful information. [LB29]

ANN SCHROEDER: Okay, I'm not very good at remembering all the questions, so I'll do the first one. [LB29]

SENATOR SULLIVAN: Okay. [LB29]

ANN SCHROEDER: What do I do with the BMIs? [LB29]

SENATOR SULLIVAN: Yes. [LB29]

ANN SCHROEDER: Okay. Okay. [LB29]

SENATOR SULLIVAN: Well, who conducts them? [LB29]

ANN SCHROEDER: Oh, who conducts? I do. I am the health teacher at Norris. I teach health, personal fitness class. And all students have to take this class to graduate high school. [LB29]

SENATOR SULLIVAN: Okay. [LB29]

ANN SCHROEDER: And they can't take it until they're sophomores, because I think freshmen, hmm, make me a little nervous. So anyway, they...I conduct it. All the girls are in the locker room. Boys are in the gym doing some other fitness testings on their own. All the girls are standing back away and one person comes at a time over around the corner. With the scale facing so nobody can see it, I height them, I weight them, and then they go grab this handheld of information. It's kind of a body fat thing. And they plug in their height and weight and it spits out their BMI. And then they record it on their sheet and they close their sheet over so it's private. It's theirs. [LB29]

SENATOR SULLIVAN: Okay. And that information that they fold, do they take it with them? [LB29]

ANN SCHROEDER: They return it to me because we have lots of testing to do. [LB29]

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SENATOR SULLIVAN: Okay. [LB29]

ANN SCHROEDER: Once we're finished with the testing, I enter it into the computer on the Fitnessgram, the part of...thing that John was talking about. And I...it's like I talk about, I don't...I say, you know, you're going to get your BMI, you're going to get your body fat, you're going to get all these assessments. Some of you might not like what you get. Some of you will. Some of you will make changes, some of you won't. We're all different. Some have red hair, some have glasses, some have this. Let's be nice to everybody. It...you know, you talk about bullying and you lead up to, it's okay to be who we are. So I do a lot of preteaching. And so then they give me back the information and then it comes out with a sheet and it will say, you know, if somebody is underweight, it might say...or does it...you know, underweight, according to the BMI or they might weigh 95 pounds and they really are low weight, maybe you should talk to your health educator, your school nurse, or your doctor about incorporating different things into your diet. So it gives them ideas about what they should do. [LB29]

SENATOR SULLIVAN: So that information you give back to the student? [LB29]

ANN SCHROEDER: Exactly. [LB29]

SENATOR SULLIVAN: Do you also get it back to the parents? [LB29]

ANN SCHROEDER: I haven't given it to the parents. [LB29]

SENATOR SULLIVAN: Okay. Very good. [LB29]

ANN SCHROEDER: And I teach high school and it's like, high school can kind of function and make changes if they want. [LB29]

SENATOR SULLIVAN: Okay. Okay. Very good. And how often? Is the screening just conducted once, you said, as sophomores? [LB29]

ANN SCHROEDER: As sophomores but, because of this grant, we're conducting it in the...I think in the fall. I can't remember. I think we did it once and then two times in the spring. And I'm doing my second assessment now. It includes the pace of the mile run, you know, all kinds of stuff. And then some students are pulled randomly and they're the ones that I have to take their data and there's no name attached to it. And that's the data that is going to the government and that's what they're basing...if we're increasing fruits and vegetables and we're increasing exercise and does it affect the...lower the BMI. So we're doing it twice a semester. [LB29]

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SENATOR SULLIVAN: Okay. Thank you. [LB29]

ANN SCHROEDER: You're welcome. [LB29]

SENATOR SULLIVAN: Senator Pansing Brooks. [LB29]

SENATOR PANSING BROOKS: Thank you, Madam Chair. I just wanted to say, Ms. Schroeder, I think Nebraska is lucky to have you as a teacher. I can tell that you're one of the treasures in education and those kids have to be thriving under you. Thank you very much. [LB29]

ANN SCHROEDER: Thank you. I love it... (Laughter) [LB29]

SENATOR PANSING BROOKS: I can tell. [LB29]

ANN SCHROEDER ...except my career is about over. (Laughter) Okay, go ahead. [LB29]

SENATOR SULLIVAN: Senator Kolowski. [LB29]

SENATOR KOLOWSKI: Thank you, Madam Chair. Ms. Schroeder, thank you. Would you describe what's taking place also in your meals at school as well as your...if you have a school snack area that kids can buy things? What's taking place that many in here may not know about? [LB29]

ANN SCHROEDER: Okay. Everything is healthy. And it has to meet certain guidelines like 100 calories or less or, you know, we don't sell Sugar Pops anymore. We don't sell full-strength Gatorade. We made lots of changes. And I'm on a committee right now where I would like to, whenever I talk to food service personnel, have a basket of fruit because sometimes I bring oranges. Anybody want an orange? And I just...you know, and I say, you can only eat anything healthy in my class. So that's all we do here at...in my class. And I'm trying to have, like, every teacher have a bowl of fruit. And if a student wants a piece of fruit, come get it and it's only going to be a quarter. I don't want to make any money off this but I want you to eat fruit because we need to incorporate more of that to be healthy. And we know that when we're not hungry, we function better academically. So we're doing that. We have a grab and go in between breakfast and lunch where they can grab a snack, healthy, apple, yogurt, something like that, grab and go. They have breakfast every day. We have school lunch every day. Our after-school programs for football and different sports, the food personnel will actually cook meals for them before they head on the bus. So we got it going on out there. I love it. [LB29]

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SENATOR KOLOWSKI: Thank you. [LB29]

ANN SCHROEDER: Sure. [LB29]

SENATOR KOLOWSKI: One last statement: If Ndamukong Suh would come here for a personal weigh-in, I will hold his wallet. I'd be very happy to. [LB29]

ANN SCHROEDER: I would too. (Laughter) I wouldn't want to run into him. [LB29]

SENATOR SULLIVAN: Senator Morfeld. [LB29]

SENATOR MORFELD: So, if the Department of Health and Human Services called you up and said I was a...say I was a student of yours and asked for Adam Morfeld's, you know, body mass index and all that, would you give it to them? [LB29]

ANN SCHROEDER: Click. [LB29]

SENATOR MORFELD: That's a hang up, or... (Laughter) [LB29]

ANN SCHROEDER: Yeah. [LB29]

SENATOR MORFELD: Okay, great. [LB29]

ANN SCHROEDER: No, I'm not giving any information to anybody. [LB29]

SENATOR MORFELD: Just... [LB29]

ANN SCHROEDER: It's personal. It's individual. It's confidential. Absolutely not. [LB29]

SENATOR MORFELD: Just wanted that on the record. Thank you. Thank you. [LB29]

ANN SCHROEDER: You're welcome. [LB29]

SENATOR SULLIVAN: Any other questions for...Senator Groene. [LB29]

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SENATOR GROENE: Something I have to ask, but you are not the nurse? [LB29]

ANN SCHROEDER: I'm not the nurse. Sometimes I'm the nurse. [LB29]

SENATOR GROENE: So...all right. You do a good job filling in. But if the administrator or football coach came to you and asked for that number? [LB29]

ANN SCHROEDER: Absolutely not. [LB29]

SENATOR GROENE: Okay, good. [LB29]

ANN SCHROEDER: No. It's private. [LB29]

SENATOR GROENE: Because you know that? [LB29]

ANN SCHROEDER: Well, I just don't think it's information that I'm going to share with anybody. It's one-on-one with the student. If they want to talk about it, I've had students come back to me later on in their careers and say, hey, Ms. Schroeder, could you retest my body fat, could you retest my BMI? They're interested in it. It's education. That's what we do. [LB29]

SENATOR SULLIVAN: Any other questions? Thank you so much for your testimony. [LB29]

ANN SCHROEDER: Thank you. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

JAMIE KLEIN: (Exhibit 7) Thank you. My name is Jamie Klein, J-a-m-i-e K-l-e-i-n, and I am the school nurse. (Laughter) I have been a school nurse for seven years. I've been an RN for 19 years. I have four kids in public school. During my time as a school nurse, we've done BMIs every year as part of our regular health screenings that are asked...required by DHHS. There is a critical relationship that exists between health and a child's educational progress and well-being. Childhood obesity reached epidemic proportions in 2000 and there's a direct link between obesity and chronic disease. There is...there are students in every district who face poverty, who faced hunger and anemia, and in order for those students to break free from poverty, they have to succeed in school. And in order to do that, they have to be healthy. And BMI is part of that process. The National Association of School Nurses points out several good things. They show that healthy children are successful in learning. School nurses do have required health screenings

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that they have to do. And with that, we are able to provide them with the information they need to get glasses, to get their hearing checked, sometimes link a bad BMI with some sort of problem, health problem. It's not our job to diagnose. It's also not our job to, you know, cure them. But it is our job to screen them and mark those kids that, maybe, need more help from a physician. And so that is our role. It is not a diagnostic role. If BMI screenings are done with preplanning, confidentiality, training, it can be a fast, noninvasive process that, like Ms. Schroeder said, can be very educational for the student. I've seen a lot of examples with kids with health problems that are negatively impacting them in the classroom. And we use best practice to confidentially obtain those BMIs and appropriately use the information to increase students' time in the classroom, help them become successful learners, eliminate health barriers, and ultimately improve the student and school outcomes. We need to keep children with chronic illnesses to a minimum. In order to do that, we need this information. I do have a recent example of a student that did have a low BMI. There was some concern about her weight. She came in with abdominal pain. And because I had the BMI information, I was able to communicate my concerns to the parent because I had actual data not just what I was visualizing or because it was my opinion that the student was thin. I had information that that student was in the less than first percentile for body weight. During my time as a school nurse, I've learned that BMIs can be a sensitive and personal issue for a lot of families. And using best practice and training school nurses and districts on how to do this appropriately is important. Every day in the health office, we're working with students with diabetes, malabsorption issues, a lot of different chronic health diseases. And we need to have this information in order to help those kids. And we need to be able to teach kids how to become independent adults and manage their health conditions. And in order to do that, we need access to that health information. Thank you. [LB29]

SENATOR SULLIVAN: Thank you, Ms. Klein. So what screenings are you involved in doing with the students at Norris? [LB29]

JAMIE KLEIN: I do the health screenings that are required by DHHS. Ms. Schroeder does screening...does things for her classroom and for the PEP grant. I also help with the PEP grant but I do the screenings that are required by DHHS so hearing, vision, dental, and BMI. [LB29]

SENATOR SULLIVAN: Okay. Very good. Senator Morfeld. [LB29]

SENATOR MORFELD: Just for the sake of repetition, so if the Department of Health and Human Services calls you and asks for your student, Adam Morfeld's, specific information, BMI, all the other health screening, would you give it to them? [LB29]

JAMIE KLEIN: No, I would not. [LB29]

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SENATOR MORFELD: Okay, thank you. [LB29]

JAMIE KLEIN: Yes. [LB29]

SENATOR SULLIVAN: Any other questions for Ms. Klein? Senator Groene. [LB29]

SENATOR GROENE: And then my question that I was waiting for the nurse to ask. (Laughter) And you've had plenty of time to practice. If a coach came into you or a teacher came into you and say, I have concerns about this child, do you share any health information with them? [LB29]

JAMIE KLEIN: We don't unless we have a release of information from the parent. [LB29]

SENATOR GROENE: Unless the parent says you can share this with the principal or the... [LB29]

JAMIE KLEIN: Right, and it's documented, um-hum. [LB29]

SENATOR GROENE: And do you...according to, like I said, HHS dictate or statutes, you're supposed to use that information for aggregate not for individual families or individual parents but you do. You do share. And it doesn't say you can't. I don't read that into... [LB29]

JAMIE KLEIN: I do believe that it says that anything that falls outside of the normal range can be communicated with parents. I know we do that with hearing, vision, and dental. And this year at Norris, we screened a lot of children and over 60 children ended up going to their physician and getting glasses or getting hearing evaluated, going to the dentist and getting dental work done that needed to be done. And those were things that were outside of a physical exam that were not caught, necessarily, at a physical or... [LB29]

SENATOR GROENE: What I was reading from was the BMI legislation, not the height... [LB29]

JAMIE KLEIN: I believe in the screening legislation it states anything out of normal can be communicated with the parent. [LB29]

SENATOR GROENE: I'll have to look at it. [LB29]

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JAMIE KLEIN: We don't send out mass letters. We choose not to do that at Norris. And it...we did not do that at the other district I worked at. But we do use it on individual cases if we feel it is pertinent. [LB29]

SENATOR GROENE: You send the letter to the parent or you call them? [LB29]

JAMIE KLEIN: I don't send a letter. I would call because it would be because the child was symptomatic in some way or there was some health concern that I needed to speak with them over the phone about. [LB29]

SENATOR GROENE: Thank you. [LB29]

JAMIE KLEIN: So it wouldn't be in the form of a letter probably. It would be more because they were having other symptoms and their BMI was significant. And so then I would bring that piece of... [LB29]

SENATOR GROENE: With other symptoms, not just because they had a...outside recommended BMI? [LB29]

JAMIE KLEIN: Correct. Yeah, it's just a screening. It's not meant to be a diagnostic tool. And so it would just be...it's a piece of a puzzle, is what it is. And so if there's other symptoms there and there is a BMI that's abnormal then that would be appropriate to... [LB29]

SENATOR GROENE: So the legislation says you're supposed to use it for an aggregate. Do you put it together as an aggregate... [LB29]

JAMIE KLEIN: If DHH... [LB29]

SENATOR GROENE: ...and do a scale of what your average student is BMI and... [LB29]

JAMIE KLEIN: If DHHS requests it, we would do. They have asked for other information. They have not asked me for BMI aggregate data. But I do believe that, like, the PEP grant and that kind of thing is using it as aggregate data. [LB29]

SENATOR GROENE: But the way I read it, you're supposed to use it at the school for aggregate data for your food plans and your health...overall health of your student body. [LB29]

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JAMIE KLEIN: We sure can pull it as aggregate data if it was asked of us to do that, yes. [LB29]

SENATOR GROENE: Thank you. [LB29]

JAMIE KLEIN: And I know that with the PEP grant that is what our district is working through is finding ways to decrease BMI with fruits and vegetables and increased activity. [LB29]

SENATOR GROENE: Thank you. [LB29]

JAMIE KLEIN: Um-hum. [LB29]

SENATOR SULLIVAN: Any other questions? Thank you, Ms. Klein. [LB29]

JAMIE KLEIN: Thank you. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

CRISTINA FERNANDEZ: (Exhibit 8) Hi. My name is Cristina Fernandez and I am a pediatrician. And I am the medical director of the HEROES Clinic. That is a weight management program in Omaha at Children's Hospital and Medical Center. I am a, as you say, professor, and I have some background working in obesity for the last ten years. Considering the severity of childhood obesity in the nation, it's imperative that the BMI needs to be measured in different places, the physicians' offices and in the school. The only method available to determining who is obese or who is malnourished is the BMI. Unfortunately, the parents' perception of obesity and overweight are not always correct. They are not aware of the issue until BMI is done and the numbers measuring their child status are shown. The way that we measure the wellness of the nation is through BMI. There is not another technique that we can use. Like you know, obesity is the main cause of mortality in the United States. The majority of the states measure the BMI in the schools to predict the future of the state's health in the United States like the aggregated data that we are mentioning. BMI is used to predict the medical costs of the consequences of obesity: sleep apnea, hypertension, cancer, hypercholesterolemia, heart disease, and death. I am privileged to worked with our obese children as patients. Three of every ten children in Nebraska are obese or overweight. If they are Latino, African American, or Native American, the rate increased to...of six of ten children. The early diagnosis of obesity allows us to decrease morbidities. By testing in the schools and in the primary care providers, we can avoid, like for example, a ten-year-old white, non-Hispanic girl already with tracheostomy because her pulmonary hypertension and heart disease are secondary to her excessive weight, cannot walk more than a block without feeling tired or short of breath. Or watch our 16-year-old Hispanic

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boy who is awaiting approval for bariatric surgery because his liver is already...has fibrosis, almost cirrhosis, associated to diabetes Type 2 since age 9 and hypertension that needs to be treated with heavy antihypertensive medications without mentioning his constant depressed mood and poor school performance secondary to his sleep apnea. The early diagnosis of elevated BMI allows parents and providers to help families and patients to be aware of how to improve their quality of life by changing to a healthy lifestyle and healthy diet. It is so interesting to see how patients, with being...that are only overweight come to us already with elevated cholesterol, triglycerides, and borderline diabetes. They can be better with the right guidance and support from all of us. Thank you. [LB29]

SENATOR SULLIVAN: Thank you, Ms. Fernandez. So when is the first time that you see a student in this audience that you're talking about? Are they...do they come because they've had a screening at a school and they are encouraged to go to a clinic? [LB29]

CRISTINA FERNANDEZ: I do a pediatric clinic and part of my time, I do the weight management clinic in the Children's. And I had a lot of patient that comes from, like the Latino patient that comes to me. And, like, I have last week one that came and say, oh, by the way, the school say that the BMI is 92. And I say, oh, yeah, I have your growth curves and let's check because I always print it for them like, you know, obesity for chubby kids is beautiful for Latinos and love is food and food is love. It's really hard to work with them and it's a beautiful job that we're doing, trying to convince them and that's why we show them the growth curve and say, you know, this is normal, there is skinny, that's good, and it was a great opportunity for me to be able to talk with this boy that has a 92 BMI and I sent him to my clinic, the weight management program and he's going to start probably soon in the program. [LB29]

SENATOR SULLIVAN: All right. Very good. Any other questions for Ms. Fernandez? Thank you. Thank you for the work you're doing. [LB29]

CRISTINA FERNANDEZ: Okay. Thank you so much. [LB29]

SENATOR SULLIVAN: Welcome. [LB29]

KATE HEELAN: (Exhibit 9) Thank you. My name is Kate Heelan, K-a-t-e H-e-e-l-a-n, and I'm a professor at the University of Nebraska at Kearney and also an evaluator for the Kearney Public Schools. I was invited by the American or Nebraska Medical Association to speak on behalf of what Kearney has been doing regarding BMI screenings over the last ten years. My students and I have been working with Kearney Public School nurses since...about 2004 was when we got started with...they needed help with their BMI screenings. As a child obesity expert in Kearney, we started working with them and identifying...or I should say, training our students

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and the nurses on how to accurately and privately assess height and weight screenings. I've also worked with the public schools to aggregate that data in order to use that data to the benefit of the district. So since 2006, we've been using that data to demonstrate needs for grants. We obtained a Carol M. White Physical Education Program grant which they've been referring to as the PEP grant. We obtained one in 2008: \$2 million came to our district to focus on physical activity and healthy eating. The number two objective of that grant was to decrease prevalence of obesity. That data was so useful in getting to the solution within the public schools. The aggregate data was shared with teachers, administrators, and for the first time in six years, I actually got them to start to listen to me about physical activity promotion and healthy eating and get them on board. A lot of changes were made within the school district, and it was a bottom-up approach that teachers, once they saw the data and realized that, you know, there is actually a need to try to get these kids more healthy, there's academic benefits to having kids more healthy, we were able to make huge changes by doing small things. We decreased classroom parties to three per year. We removed unhealthy snack sales out of the schools. We took away food rewards and replaced them with physical activity rewards--these are at the elementary level--very easy things that made huge differences. You'll see on one of the graphs I provided that we've actually seen a huge decline in the prevalence of overweight and obesity in Kearney over the last ten years. Not only are we looking to decrease obesity but to decrease unhealthy weight gain in a year. So some of the studies I've done over time has looked at, how much weight should kids in kindergarten through 4th grade be gaining? And that's graph 1. My daughter, in 2nd grade, gained 18 pounds. She's a very smart girl. She was fed smoothies and milk shakes and continually given food rewards for everything she did. And she gained a lot of weight. So we were able to make some huge changes in order to not treat kids but screen for kids, use that data to our benefit to obtain Fuel Up to Play 60 grants, American Heart Association grants. A lot of money has come to our district because we've been able to demonstrate the need and the use for that money in physical activity and healthy eating promotions. The other thing I want to mention in my last 20 seconds is that we do survey our parents within the district. And I've done two surveys, one in 2011 and one actually last month, 2015. I had '14 on here. But eight out of ten parents tell us...or they rate that BMI screenings should be done in the schools and they think it's important. The question is asked, how important do you think height and weight screening in the schools is, and I've got eight out of ten parents saying that it's somewhat to very important. So we have the parental support within the district. I think we've been doing it correctly and we've been doing it for many years. I actually have parents who are calling their school nurses and asking for the information because they want to make sure their kids are staying on track whether if they're underweight, if they're cutting back on the scale, or if there's overweight, what programs are available in the community for their kids. [LB29]

SENATOR SULLIVAN: Thank you, Ms. Heelan. Questions for her? Senator Kolowski. [LB29]

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SENATOR KOLOWSKI: Thank you. Dr. Heelan, thank you for your presentation. I wanted to just double-check, the date you started the programs in Kearney was 2006, '05, '06? [LB29]

KATE HEELAN: We've really started tracking data since 2006. I've been working with them since 2004 on height and weight screening. We just never did anything with the data until 2006. [LB29]

SENATOR KOLOWSKI: Well done. Thank you. And my best to Dr. Dostal. Tell him I'll call him on his BMI and compare. (Laughter) [LB29]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony. Welcome. [LB29]

BOB RAUNER: (Exhibit 10) Thank you. I'm Dr. Bob Rauner, R-a-u-n-e-r, testifying on behalf of the Nebraska Medical Association and Nebraska Academy of Family Physicians. I'll just kind of summarize and not read from that. I'll refer to one area. The one thing they haven't talked as much about yet is the connection between health and academic achievement. And the evidence is getting really solid behind that. And my first graph on the back page, actually, is Lincoln Public Schools results from last year, about 12,000 kids. The kids who can pass that fitness test that Ann talked about earlier, how they do on math, reading, and science, and actually the writing score, show the same. And the one thing that's becoming very solid now is that--and we have the numbers to back it up--that education and health are tightly related and you don't want to ignore one for the other. Second is that school-based interventions like this are very effective. They're the most effective tools we have for obesity prevention. I'll say this because Kate won't say it but Kate has, probably, one of the most effective interventions in the country I'm aware of. And in Lincoln, we literally copied a lot of what she was doing and we've reproduced the same results. And that's the second graph I have there. So we started doing...collecting all the data internally in 2009; 2010 is when we added K through 8 and in the last four years, we've actually been able to essentially reproduce her results. Earlier, we talked about, well, should physicians do this screening? And the answer is, maybe in a perfect world, yes, but in reality they don't get it done. In my day job, I work with 12 clinics across the state. We actually have an effort to do child obesity screening in our clinics, but the problem is, about two-thirds of the kids don't come in for those physicals in the doctor's office. So the best way to catch them is in the schools. That's why school health interventions were started in the first place, is this was a good way to reach mass numbers of kids who don't get reached at the doctor's office especially if they have no health insurance because there's no cost to this. There were some questions about the privacy protections and HIPAA. Actually FERPA, the Federal (sic) Education (sic) Rights and Privacy Act is actually just as stringent, in some cases more stringent, than HIPAA. So if you're worried about HIPAA, FERPA is actually sometimes harder to work with, honestly. Dr. Truemper mentioned some of the privacy protections. Actually, I can discuss, if you want to know, all

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the...anything you're going to do research has layers of things and I've had to go through them and they are taken care of, by the way, in Lincoln Public Schools. And I can address those, how that's all protected. Fiscal note issues: I can address that if you want to. The one thing I'd last say is that in Millard maybe some things were done wrong. That...actually, Arkansas did this ten years ago and they experienced...Arkansas, if you don't know, has been doing this statewide for ten years. They learned how not to do it and they actually have on their Web site how to do it and actually the state regs, step one does say privacy protection. So if they didn't follow that, it's because they actually weren't following the regs. And so the answer is, if you're not...if you're doing it wrong is to do it right. One thing we've been trying for the last couple of years is actually, create an advisory group to help all schools do it right. We're actually working with Nebraska Association of School Boards right now. We have something called Nebraska Whole Child Project and that's the second page I've given you there. We actually want to actually, basically take the great examples from Norris and Lincoln and Kearney and roll those out statewide. And if you want to know who the experts are we'd turn to, you just heard them. We could do this statewide. And the fiscal issues are not just the fiscal note which is coming from Department of Ed but even long-term healthcare costs. The biggest competitor for education funding is health funding. And if we can reduce health costs, we'll have more money for education and so I think that also needs to be addressed. And with that, I'll stop and any questions you have as far as fiscal notes, science, any of that... [LB29]

SENATOR SULLIVAN: Thank you, Dr. Rauner. [LB29]

BOB RAUNER: Yeah. [LB29]

SENATOR SULLIVAN: Questions for him? I guess not. Thank you for your testimony. [LB29]

BOB RAUNER: Okay. All right. Thanks. [LB29]

SENATOR SULLIVAN: (Exhibit 11; See also Exhibit 12) Anyone else wishing to speak in opposition to LB29? I do have a letter of opposition from Vicki Duey, Friends of Public Health in Nebraska. Anyone wishing to speak in a neutral capacity? And I did receive a note that Senator McCoy had to leave so he waives closing. And that will close the hearing on LB29. We'll now move on to LB511. [LB29]

SENATOR COOK: (Exhibit 1) Good afternoon. I am Tanya, T-a-n-y-a C-o-o-k. I'm the state senator representing Legislative District 13. I'm introducing LB511. It's a very straightforward bill. The purpose of this legislation is to require schools to develop return to learn protocols for pediatric cancer survivors. Return to learn protocols are based on the idea that students recovering from pediatric cancer often need assistance reintegrating into the classroom. Schools

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can plan ahead to establish policies to make that transition as seamless as possible. Pediatric cancer takes an extreme toll on both patients and their families. Remarkably, almost 80 percent of children with the most common types of pediatric cancer will survive their disease. However, many are left with long-term health impacts. Many survivors will face chronic medical conditions for the rest of their lives. Cognitive, behavioral, physical, developmental, and social impairments are common among survivors of pediatric cancer. This is why LB511 is important. This legislation will help with the difficult transition back to the classroom. I was first made aware of this issue through the Legislature's Planning Committee which requested information on pediatric cancer for our 2014 policy briefs. The Planning Committee is an important source of nonpartisan, data-driven, future-focused analysis for us as policymakers, especially in an era of term limits. The committee does not put forth specific policy proposals but highlights where there are issues that the Legislature can address. I am specially grateful for the work of Dr. Don Coulter and Dr. Shinobu Watanabe-Galloway on this particular matter. Pediatric cancer is the number one cause of death due to disease in the United States from birth to 14 years of age. Nebraska's incidence rate is the fifth highest in the nation and the state's incidence of pediatric cancer has exceeded the national rate since 2007. Advocacy, academic, and medical communities are doing vital work to fund research, treat, cure, and better understand pediatric cancer. The Legislature, too, can play a part by working to support educational outcomes of pediatric cancer survivors who have already fought the disease and are now returning to schools. Medical professionals and parents of cancer survivors will testify today about the importance of return to learn protocols in the lives of young cancer patients. They will also expand on the specific accommodations that benefit survivors. Such accommodations might include a longer period to complete tests, greater oversight from the school nurse, forgiveness of medical absences, or more individual attention from academic staff and teachers. I think it is important to note that under current law, individual students with their families may request educational assistance with a Section 504 plan. Section 504 is part of the Rehabilitation Act of 1973 and requires schools to offer reasonable accommodation to students with a documented disability or medical issue. However, given Nebraska's high incidence of pediatric cancer and the challenges survivors face, it is prudent for schools to have preestablished protocols in place. LB511 does not mandate which types of accommodations schools must offer. It merely directs them to have a plan to assist pediatric cancer survivors. LB511 also does not interfere with the parents' ability to seek a 504 plan if they feel individually tailored accommodations are necessary to supplement plans the school has established under the return to learn protocol. The language of LB511 is modeled on return to learn protocols for students who have sustained a concussion. We can make reference to last year's LB923. That bill drew no opposition testimony in committee and was widely supported by such groups as NSEA and the Lincoln Public Schools. We as lawmakers owe pediatric cancer survivors no less support as those who seek...as they seek to return successfully to school. Recognition of the specific challenges of students and their families facing pediatric cancer will make a big difference for children who have already overcome devastating diagnoses.

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I look forward to working with the committee on this important proposal and ask for your vote to advance LB511 to General File. Thank you very much. [LB511]

SENATOR SULLIVAN: Thank you, Senator Cook. Can you walk through how you compare what you're proposing here with what we did in the return to learn protocol for concussions? Is that what you're advocating for? [LB511]

SENATOR COOK: I can't walk through it point by point now. I wish I had reviewed. [LB511]

SENATOR SULLIVAN: No, but very similar? [LB511]

SENATOR COOK: Very similar. [LB511]

SENATOR SULLIVAN: Okay. [LB511]

SENATOR COOK: It's modeled...the idea, just as I said in my testimony, emerged after we heard the testimony in the Planning Committee about students...what children go through as they go through radiation, chemotherapy, just sort of the intellect...the emotional trauma for a child to travel with a family to be part of any of the therapies to address the cancer. So as I recall the testimony of...I'm thinking Senator Lathrop and...in this committee and also in the Health Committee on which I serve, I thought that this idea might be a good one as it related to students returning to school after having survived cancer itself and the therapies to address cancer in their bodies. [LB511]

SENATOR SULLIVAN: So it's still incumbent on the individual school district to develop the protocol? Is... [LB511]

SENATOR COOK: Absolutely, districts or buildings. I don't think...I don't say districts and I'm not necessarily, although you may see in the fiscal note, the agency offering input about convening and drafting something on behalf of the state. I'm merely directing districts or buildings to have a plan in place as it relates to students returning after pediatric cancer about how they might get their schoolwork done, take tests, etcetera. [LB511]

SENATOR SULLIVAN: And have that plan in place before they are presented with a student? [LB511]

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SENATOR COOK: Ideally. My sense is that some schools already have had...my guess is that Senator Kolowski has already had students return to Millard West School after having gone through chemotherapy and radiation or other treatments for cancer and they dealt with it. I want that opportunity for students across the state. [LB511]

SENATOR SULLIVAN: Thank you. Senator Pansing Brooks. [LB511]

SENATOR PANSING BROOKS: Thank you, Madam Chair. Thank you, Senator Cook, for bringing this bill. I think it's a really good idea. I guess I am totally confused. I've never seen this thing at the bottom where...because really, they're saying it's \$4,400... [LB511]

SENATOR COOK: The bottom of the fiscal note? [LB511]

SENATOR PANSING BROOKS: Yeah, the fiscal note. But you don't really ask for a study and they're giving you the cost of the study, so... [LB511]

SENATOR COOK: I noticed that, Senator Pansing Brooks. Thank you for bringing that up. [LB511]

SENATOR PANSING BROOKS: And so, I mean, you could say that about the bullying bill, that we have to have costs for that study. And I would argue that there are people who would get together that would be happy to figure out a good protocol for the state for the Department of Education to follow and suggest for schools or something else like that. [LB511]

SENATOR COOK: I would agree that there probably exists, within the world of pediatric cancer treatment, some sort of protocol about how...what behaviors...I don't want to say what behaviors need to be modified, but what sort of intellectual challenges a child returning to school might face as a direct result of a particular kind of chemotherapy or radiation. [LB511]

SENATOR PANSING BROOKS: Right. [LB511]

SENATOR COOK: My strong guess is, that already exists. And I may have testifiers that can speak to that directly. Convening this group--as you can see, I don't say it out in my bill proposal--is an idea that the agency came up with on their own. [LB511]

SENATOR PANSING BROOKS: So I just, I mean, I think it's a great idea to develop a model policy but it would also be good to look at what's happening in the rest...in the...around the

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country, because certainly places like Sloan...the states that have major pediatric oncology centers like Sloan Kettering or Johns Hopkins or UNMC has... [LB511]

SENATOR COOK: Absolutely. Our own Nebraska Medicine has had a great track record, absolutely. [LB511]

SENATOR PANSING BROOKS: Yeah. So surely... [LB511]

SENATOR COOK: MD Anderson, or whatever it's called now...they changed their name. [LB511]

SENATOR PANSING BROOKS: So surely we don't have to reinvent the wheel, necessarily, so. [LB511]

SENATOR COOK: I certainly hope not. [LB511]

SENATOR PANSING BROOKS: Yeah, so... [LB511]

SENATOR COOK: I want...what I want to open is a dialog that...first of all, educating you as colleagues and eventually the rest of our colleagues on the incidence of pediatric cancer in our state, what that might mean for policymaking in general. And then, because I serve on the Education Committee, I saw an opportunity, after we had return to learn related to sports injury, why wouldn't we have it for a child who has survived cancer also? [LB511]

SENATOR PANSING BROOKS: Yes. So...and there are maps of significant pockets of pediatric cancer in our state, is that correct? [LB511]

SENATOR COOK: Yes. Yes, I distributed that because I understood there were questions about incident numbers as...in terms of the actual incidence. And that's what is pulled, actually, from the planning committee report. And that was distributed to the committee. It's also available online. [LB511]

SENATOR PANSING BROOKS: Okay, so I missed it. [LB511]

SENATOR COOK: And, Senator Sullivan, I don't want to put you on the spot, but many members of the committee came up with different ideas about what...why that exists in our state. What I want to do with the information gleaned from that report and from the input of Dr.

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Coulter and Dr. Shinobu Watanabe-Galloway is to put forward a proposal as it relates to the child returning to school for...to maximize student success. [LB511]

SENATOR SULLIVAN: Very good. Any other questions for Senator Cook? Senator Kolowski. [LB511]

SENATOR KOLOWSKI: Thank you, Madam. Senator Cook, thank you very much for bringing this forward. Any student going through any trauma, accidents involved, are always difficult. But coming back from a skateboard accident or an auto accident or a biking accident is a different situation than cancer survivors. And what those students have gone through is legion compared to healing a bone and all of those things are important. But it's a different situation. I think you're recognizing that in bringing this forward. It is very commendable. Thank you for doing that. [LB511]

SENATOR COOK: Yeah. Thank you. [LB511]

SENATOR SULLIVAN: Thank you. Can I ask for a show of hands who...how many will be testifying on this bill? Thank you very much. We'll now hear proponent testimony on LB511. Welcome. [LB511]

JOANN KAYLOR: (Exhibit 2) Hello. I'm JoAnn Kaylor, J-o-A-n-n K-a-y-l-o-r. This is my son, Kevon. On October 2013, my world was forever changed. My son was diagnosed with Stage 4 brain cancer. After three hospitals and a little over four months, we were back home. By August of 2014, we decided Kevon was strong enough to go back to school. This has been a struggle for both of us. From the beginning, it's been like the blind leading the blind. Initially, the school was just going to start Kevon in the same level of classes he was in prior to his cancer. I've had to request that the school evaluate Kevon to see where he stands now academically, psychologically, and physically. There was no set protocol for where he would go when he needed to use the rest room, who would assist him, where he would go for emergency drills, and how they would get him out of the building if the elevator was inaccessible. My son's school has been wonderful in trying to work with us to try to figure this all out. Unfortunately, they don't have anything in place to tell them what's needed to make the transition back into school as easy as possible for these kids. And because of that, we've been working on this for six months. I feel that having a protocol in place would make the transition back into a more normal routine much less stressful on all parties involved especially for the kids and their families who have been through so much during their fight with the cancer diagnosis. Thank you. [LB511]

SENATOR SULLIVAN: Thank you, Ms. Kaylor. So do you feel comfortable that the school now has a road map on how to handle these? [LB511]

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JOANN KAYLOR: We are kind of making our own map as it goes on. [LB511]

SENATOR SULLIVAN: Okay. Okay. [LB511]

JOANN KAYLOR: We're still coming to situations where we need to adjust here and there. But it's getting better. [LB511]

SENATOR SULLIVAN: And in the development of this road map, who all has been involved? [LB511]

JOANN KAYLOR: We have got the school nurse involved. We have got all of his teachers. They've all helped with input and we've all sat down together and tried to make a plan of how he was going to take tests and all that. But it's...you know, and we had gotten the IEP program, we'd had that done...we got that involved. But it's been a slow process and we're still working on it. [LB511]

SENATOR SULLIVAN: Okay. All right. Thank you. Any other questions for her? Senator Kolowski. [LB511]

SENATOR KOLOWSKI: May I ask Kevon a question? [LB511]

JOANN KAYLOR: Sure. [LB511]

SENATOR KOLOWSKI: Kevon, how was your coming back to school for your personal side with friends and everyone else that you've known over the years? [LB511]

KEVON KAYLOR: I really don't see them a lot. I only see, like, one friend for one period and... [LB511]

SENATOR KOLOWSKI: Okay. [LB511]

JOANN KAYLOR: Yeah, he goes for three hours a day right now. And they've kept all of his classes on one floor because he goes to Omaha Central. [LB511]

SENATOR KOLOWSKI: Sure. [LB511]

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JOANN KAYLOR: And so he's pretty much, you know, on his own there. He doesn't get to see many of his friends. We've decided next year we're going to try a full day. [LB511]

SENATOR KOLOWSKI: Sure. [LB511]

JOANN KAYLOR: But he just finished his chemo and everything in December so we were trying to... [LB511]

SENATOR KOLOWSKI: Good job and we wish you the very best. Good luck. [LB511]

JOANN KAYLOR: Thanks. He's in remission right now, so fingers crossed. [LB511]

SENATOR KOLOWSKI: Good. Good, good. Thank you. [LB511]

SENATOR SULLIVAN: Any other questions? Thank you for your testimony and good luck to both of you. [LB511]

JOANN KAYLOR: Thank you. [LB511]

SENATOR SULLIVAN: Welcome. [LB511]

MANDY ARENS: (Exhibit 3) Hello. Good afternoon, Chairwoman Sullivan and members of the Education Committee. I'm Mandy Arens, M-a-n-d-y A-r-e-n-s, and I am a pediatric nurse practitioner at Nebraska Medicine. I'm here today serving as a proponent for LB511. I'd like to take this opportunity to thank Senator Kolowski from District 31 representing where I graduated from Skutt Catholic High School as well as the rest of the members of the committee for your service to our state and consideration of the proposed bill. Each year in the state of Nebraska, approximately 100 children age birth to 19 years are diagnosed with cancer. Fortunately, with improved diagnosis and treatment, survival rates are high, as we had heard. More than 80 percent of these children are living five years past diagnosis. With successful treatment comes immense financial, geographic, and cognitive burdens especially in our state of Nebraska. Lack of attention and intervention can result in numerous impairments that may potentially lead to increased future state expenditures. Though little data exists regarding the financial burden for these families, it certainly stretches beyond just the diagnosis and treatment. One study reported that 84 percent of families who have had a child with cancer experienced work disruptions and nearly 20 percent of families reported losing more than 40 percent of their annual income. There are two major cost-related high points in the life course of a patient with cancer. First is at diagnosis but then secondly and most importantly when late effects related to the treatment

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present themselves. Resources remain very limited to help ease the financial burdens for these families. The financial hardships inherent to the families dealing with childhood cancer are magnified in our rural populations. Although the definition of rural may vary, most researchers define rural as being greater than two hours from the cancer treatment center. The facilities in the state of Nebraska that offer specialized and dedicated pediatric cancer services are only located in Omaha. For perspective, of the senators serving this committee, three out of the eight of you are representing districts where you could be traveling with your child a distance greater than two hours for treatment with the furthest traveling up to 300 miles or four hours one way to Omaha. Approximately one-third of pediatric cancer patient caregivers reported moving residences. Many state that the move was directly related to being closer to the treatment center. This creates a potential move from one school system to another. This could further complicate the risk that these children could fall through the cracks in our system. Even more pressing for survivors are the impacts of therapy on their school performance. Rural children miss more school days over the first six months after diagnosis than urban children with a mean of 90 versus 58 days respectively. One-quarter of the caregivers stated that their child was unable to keep up with their peers upon returning to school and 10 percent reported repeating a grade. Cancer-related cognitive dysfunction varies in severity and may present soon after diagnosis but deficits often emerge insidiously years later. It is most common in survivors of brain tumors or acute lymphoblastic leukemia. In the state of Nebraska between 2007 and 2011, 524 children were diagnosed with cancer. Over half of those children...those cases were due to the brain tumor or leukemia. Academic development is imperative for survivors of pediatric cancer as it provides opportunities and resources to develop intellectual and interpersonal skills they need to cope successfully with their illness and function in this world. School reentry programs have shown to be an effective way of improving communication as well as enhancing outcomes for cancer survivors. The solution is obvious but it's difficult to achieve as it requires time, money, and access to resources. Facilitating a successful team is a collaborative, multidisciplinary effort. And these children and their parents deserve the highest priority among the medical team and educational team to return to learn protocol. So I appreciate your time and look forward to answering any questions you may have. [LB511]

SENATOR SULLIVAN: Thank you, Ms. Arens, appreciate your testimony. [LB511]

MANDY ARENS: Thank you. [LB511]

SENATOR SULLIVAN: Do we have questions for her? All right. Thank you very much for your testimony. [LB511]

MANDY ARENS: Thank you. [LB511]

SENATOR SULLIVAN: Welcome. [LB511]

REBECCA SWANSON: (Exhibit 4) Thank you. My name is Rebecca Swanson, R-e-b-e-c-c-a, Swanson, S-w-a-n-s-o-n. Good afternoon, Chairwoman Sullivan and members of the Education Committee. I am Rebecca Swanson, a pediatric nurse practitioner at Nebraska Medicine. I am here today as a proponent for LB511. As the daughter of two lifelong educators, I would like to take this opportunity to thank the Education Committee for their service to the great state of Nebraska and for considering this legislative bill. Improved survival rates in children diagnosed with cancer has led to increased numbers of childhood survivors. While we celebrate our successes, we must recognize that long-term effects of treatment can be far reaching. I would like to focus our attention on the cognitive effects of cancer treatment and the strains that can be felt by children returning to our schools. Cancer-related cognitive dysfunction has been reported in up to 33 percent of childhood cancer survivors. Cognitive dysfunction manifests itself as symptoms characterized by impairments in attention, working memory, vigilance, executive function, processing speed, and visual integration. Any child who has undergone head and neck radiation therapy, repetitive neurotoxic chemotherapy, or hematopoietic stem cell transplantation is at increased risk. Cognitive dysfunction can vary in severity. And as we heard, it's most common amongst survivors of brain tumors or ALL. Patients, parents, and teachers report that affected children spend excessive time on homework yet have poor retention especially in the subjects of mathematics, reading, and spelling. Pediatric brain tumors...brain tumor survivors are more likely to receive services for learning disabilities, be enrolled in special education programs, experience academic problems requiring tutoring, or repeat a grade. Additionally, compared to controls, brain tumor survivors are less likely to marry, complete high school, maintain employment, or receive appropriate healthcare into adulthood. Recommendations and guidelines do exist for identifying, advocating for, and intervening for pediatric cancer survivors with neurocognitive deficits. Medical literature suggests evaluation through neuropsychological testing to be routinely recommended and should be completed prior to and at the completion of therapy in those at risk for neurocognitive deficits. Additional neuroimaging can identify areas of brain matter loss that are associated with adverse intellectual changes. Currently, there is no uniform process for reintegrating our patients into school during or after completion of therapy. Neuropsychological evaluation is infrequently completed due to insurance constraints and limited availability. Patients and families are often left to navigate a complex system and provider involvement is variable at best. Schools are often unaware of specific cancer-related learning issues faced by these children, making the acquisition of appropriate services challenging for even the most capable parents. After weeks, months, even years of treatment, every child longs for the return of normalcy. Children find normalcy amongst their peers in school. In Nebraska, we have before us an opportunity to establish a new approach to life after cancer through implementation of a return to learn protocol. Thank you for your time and consideration and I am happy to answer any questions you might have. [LB511]

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SENATOR SULLIVAN: Thank you very much. One thought...thank you, Ms. Swanson. As schools develop this protocol, it's going to be helpful for them to have some of this baseline information. [LB511]

REBECCA SWANSON: Yes. [LB511]

SENATOR SULLIVAN: So I'm think...I'm wondering if that, maybe, is a missing part of this that we should provide some way to make sure that schools have the information about the research that sort of guides them down the way of producing the protocol. [LB511]

REBECCA SWANSON: Well, exactly, and I think JoAnn's testimony really highlighted, when you asked who was involved in this process, there was no mention of medical personnel. And I feel like there's a lot of disconnect between the school system and the medical professionals for different reasons to no fault of anyone. But I think that's a key component that's missing in this transition and this reintegration process. And I think that there is a huge opportunity to educate the school systems because over the last decade, survivorship in both pediatric and adult cancer survivors has become a hot topic. And lots and lots of data exists to show exactly what deficits based on which drugs, how much radiation, where it was located. That information is out there but it's not getting to the people who need to know it. [LB511]

SENATOR SULLIVAN: Okay. Senator Baker. [LB511]

SENATOR BAKER: Thank you. In your testimony on page 2, you indicate that pediatric brain tumor survivors are often enrolled in special ed programs. Do you feel that that's wrong... [LB511]

REBECCA SWANSON: Do I... [LB511]

SENATOR BAKER: ...to be in... [LB511]

REBECCA SWANSON: No. [LB511]

SENATOR BAKER: Okay. [LB511]

REBECCA SWANSON: No, I think appropriately so. [LB511]

SENATOR BAKER: Okay. [LB511]

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REBECCA SWANSON: I think I...the intent of that paragraph was just to highlight the needs that they have. [LB511]

SENATOR BAKER: Okay. I've got to point out, because, you know, that's one way that schools can get money back because, you know, this is an expensive program. If you can't get...recoup back the special ed, it's tough. It's hard to come up with money in the middle of a budget year, for example. [LB511]

REBECCA SWANSON: Yes, and I think that, again, the return to learn protocol, these systems are already in place because of the federal laws that exist to help patients with physical and educational disabilities. But it's identifying them earlier and getting them plugged into the system sooner. [LB511]

SENATOR BAKER: Thank you. [LB511]

SENATOR SULLIVAN: Very good. Thank you, Ms. Swanson. Any other questions for her? Senator Groene. [LB511]

SENATOR GROENE: Thank you, Chairman. I take it you have contact with a lot of families... [LB511]

REBECCA SWANSON: Yes. [LB511]

SENATOR GROENE: ...that...and they come back to you and say they're having a hard time being accepted back into the school system or you just feel there's a need for this? [LB511]

REBECCA SWANSON: Well, I worked personally with JoAnn and Kevon through his treatment and after and I know that it's a struggle that they've had. And there are other families too. I think not only is it hard for the child but for the parents as well if you think about, at the time of diagnosis, they had a perfectly healthy child. And they've overcome this devastating illness and they're cured and they're going back to school and that's what every kid wants. That's the milestone they reach. But they get back to school and no one has thought about, well, what level will they be functioning at? Can they keep up with their peers? You know, and we see it time and again. And sometimes we recognize it right away and it's more obvious, but sometimes it takes a couple years to really manifest itself. [LB511]

SENATOR GROENE: Thank you. [LB511]

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SENATOR SULLIVAN: So what relationship or communication, if any, did you have helping those individuals with the school? [LB511]

REBECCA SWANSON: Well, when our patients and families come to clinic, we ask how school is going, what grade are you in, are you receiving special services, what can we do to help? And that's usually about the extent of it. We will...we have a school educator at our institution. And if we feel like maybe this patient needs to be evaluated, have some testing done, the parents have some concerns, we'll reach out to her and she'll have some contact with the school. But again, because of the FERPA laws and different things, the amount of communication that goes on is often limited. And it's not much more than somebody notifying the school that somebody needs to start paying attention or the parent doing that for us. [LB511]

SENATOR SULLIVAN: All right. Thank you. Any other questions for Ms. Swanson? Thank you. Anyone else wishing to speak in support of LB511? Anyone wishing to speak in opposition? Or in a neutral capacity? Senator Cook. [LB511]

SENATOR COOK: Thank you very much, Madam Chair, and to the committee, for listening to the testimony. I won't reiterate what you've heard. We have direct experience with the process of going through pediatric cancer treatment and what it takes to readjust to normalcy which is what we want for our students to the degree that we can provide that. I want to correct earlier testimony. I was looking through my bill file. LB923 was introduced by Senators McGill and Murante. I'm recalling Senator Lathrop's interest through my work on the Health and Human Services Committee as it relates to concussions in general. And I will reiterate, just part of my own kind of drum beat as I serve in the Legislature: I certainly think that if we are willing to talk about athletic injuries, as you might find in a concussion, that a child going through cancer treatment is certainly worth that consideration as he or she...at least that amount of consideration as he or she returns to life in school. It is indeed an academic institution. Thank you. [LB511]

SENATOR SULLIVAN: Any other questions for Senator Cook? Thank you. [LB511]

SENATOR COOK: Thank you. [LB511]

SENATOR SULLIVAN: And this closes the hearing on LB511 and the hearings for today. Thank you all for participating. [LB511]