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To: Chairman Groene and Members of the Education Committee
From: Juliet Summers, Policy Coordinator for Child Welfare and Juvenile Justice
Re: LB 147 – A bill to provide for the use of physical force or physical restraint or removal from class in response to student behavior

Children need to feel welcome, safe, and supported in school to achieve educational success and all the positive life outcomes that go with it. Voices for Children in Nebraska opposes LB 147, because it is at odds with best practices for improving classroom culture and keeping students engaged in education, and is likely to lead to increases in the disproportionality of educational attainment outcomes for students with disabilities and students of color.

We believe the bill's broad language endangers children through possible use of force by teachers without adequate training or supervision. School staff are already able to use force or restraint under specific circumstances, and only with appropriate training. We are concerned that the use of force provisions, and particularly the liability clause, will increase physical discipline against students in an era when we know better.

We are also concerned teachers unchecked discretion in removing "unruly" children from the learning environment and keeping them out indefinitely, a de facto form of suspension. Children are already all too often pushed out of the school system through suspensions, expulsions, and even referrals to the court system. The "school to prison pipeline" has been shown to have a negative impact on students, schools, and academic achievement. To the individual student who is removed, research shows a direct line between suspension, further suspension and expulsion, decreased likelihood of educational attainment, and increased likelihood of court involvement.¹ As for the larger classroom, the claim that removing "problem students" improves the educational environment has been debunked. Studies show the opposite: schools with a higher reliance on school exclusion as a form of discipline actually score lower on academic achievement tests, even when controlling for socioeconomic and demographic factors.²

¹ Skiba et al. *Are Zero Tolerance Policies Effective in the Schools? A Report by the American Psychological Association Task Force 63*. 2006.

² Boccanfuso, C. and Kuhfeld. M. *Multiple Responses, Promising Results: Evidence-Based, Nonpunitive Alternatives to Zero Tolerance* (Publication #2011-09). Washington, DC: Child Trends. 2011. Available online: http://www.childtrends.org/wp-content/uploads/2011/03/Child_Trends-2011_03_01_RB_AltToZeroTolerance.pdf

By granting broad discretion for removal based on “unruly” or “disruptive” behavior, everything we know about disparate discipline suggests that LB 147 will lead to more children with disabilities and children of color removed unfairly from the learning environment without recourse. The data shows that these student populations are already disproportionately likely to be pushed out of the classroom through exclusionary policies. According to data from the federal Office of Civil Rights, students with disabilities served by IDEA were more than twice as likely to receive one or more out-of-school suspensions as students without disabilities.³ Meanwhile, in 2015-2016, though students with disabilities made up only 12% of national student enrollment, they experienced 66% of instances of seclusion and 71% of uses of restraint in schools.⁴

To be clear, the reason for these disparities is not that children of certain populations act out – or deserve punishment – more than others. Rather, research has shown that children of color are more likely than their white peers to receive punishment or be removed for discretionary perceptions of behavior. For instance, in a study of the reasons middle school students were sent to the principal’s office, white students were more often referred for vandalism, smoking, endangerment, obscene language, and drugs and alcohol: categorical and easily identifiable violations. In contrast, black students were more often sent to the office for loitering, disrespect, excessive noise, threats, and a catch-all category called “conduct interference”: all types of behavior that are defined at least in part through the eye of the beholder.⁵ By allowing removal on the basis of vague concepts like “unruly” or “disruptive” behavior, LB 147 could increase the disproportionalities we are already seeing.

For all the foregoing reasons, Voices for Children respectfully urges the Committee not to advance LB 147. Thank you for your time and consideration.

³ U.S. Department of Education, Office for Civil Rights. *2013-2014 Civil Rights Data Collection: A First Look*. Revised October 28, 2016. Available online at <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>

⁴ U.S. Department of Education, Office for Civil Rights. *2015-2016 Civil Rights Data Collection: School Climate & Safety Issue Brief*. Available at <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>

⁵ Skiba, R. J., Peterson, R. L., & Williams, T. *Office referrals and suspension: Disciplinary intervention in middle schools*. *Education and Treatment of Children*, 20(3), 295-315. 1997.