

**APRIL 6, 2006**

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FLOOR DEBATE

April 6, 2006      LB 85, 85A, 366, 385, 542, 542A, 605, 605A  
690, 690A, 746, 746A, 795, 817, 817A, 872  
872A, 990, 990A, 996, 996A, 1086, 1086A, 1208  
1208A, 1222A

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK:      Good morning.      Welcome to the George W. Norris Legislative Chamber. Our acting chaplain this morning is Senator Janssen, from the 15th District. Senator Janssen, please.

SENATOR JANSSEN:      (Prayer offered.)

SENATOR CUDABACK:      Thank you, Senator Janssen, for doing that for us. We appreciate it. Would call the fifty-sixth day of the Ninety-Ninth Legislature, Second Session, to order. Senators, please record your presence. Record please, Mr. Clerk.

CLERK:      I have a quorum present, Mr. President.

SENATOR CUDABACK:      Corrections for the Journal, Mr. Clerk?

CLERK:      I have no corrections, Mr. President.

SENATOR CUDABACK:      Messages, reports, or announcements?

CLERK:      Bills read on Final Reading yesterday afternoon, Mr. President, were presented to the Governor at 6:41 p.m. (Re: LB 85, LB 85A, LB 366, LB 542, LB 542A, LB 605, LB 605A, LB 690, LB 690A, LB 746, LB 746A, LB 795, LB 817, LB 817A, LB 872, LB 872A, LB 990, LB 990A, LB 996, LB 996A, LB 1086, LB 1086A, LB 1208, LB 1208A.) I have the lobby report for this week. I have a report from the Nebraska Investment Finance Authority; that will be on file in the Clerk's Office. And an amendment to be printed by Senator Johnson to LB 385. That's all that I had, Mr. President. (Legislative Journal pages 1489-1490.)

SENATOR CUDABACK:      Thank you, Mr. Clerk. The first agenda item will be Select File, appropriation bill, LB 1222A. Mr. Clerk.

CLERK:      Senator Flood, I have no amendments to LB 1222A.

SENATOR CUDABACK:      Senator Flood, for a motion, please.

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SENATOR FLOOD: Mr. President, I move the advancement of LB 1222A to E & R for engrossing.

SENATOR CUDABACK: You've heard the motion to advance LB 1222A. All in favor say aye. Opposed, nay. LB 1222A is advanced. We now move to the next agenda item, General File, 2006 senator priority bills, the Raikes division. Mr. Clerk, LB 1249.

CLERK: LB 1249, Mr. President, a bill by Senator Landis. (Read title.) The bill was introduced in January of this year, referred to the Urban Affairs Committee, advanced to General File. It was discussed on the floor the day before yesterday when committee amendments were offered, Mr. President. The committee amendments are pending. (AM2127, Legislative Journal page 559.)

SENATOR CUDABACK: Senator Landis, if you would give us...we are on General File. If you'd give us a quick review of the bill itself, we'd appreciate it. Senator Landis. Is Senator Landis on the floor?

CLERK: Yes.

SENATOR CUDABACK: Would you give us a quick review, brief review of the contents of LB 1249? We'd appreciate it.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. We're out of committee. We've dealt with several amendments. We've had a reconsideration, and we're now on the adoption of the Urban Affairs Committee's committee amendments. There are three amendments filed after this. This is an update of our natural gas law. There are two aspects to it. What we've been calling flipping LB 78, or changing the timing of our existing process in Sarpy County, and exclusive service territories for the rest of the state.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Friend, would you like to give us a quick review of the committee amendments?

SENATOR FRIEND: Mr. President, members of the Legislature,

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thank you. The committee amendments essentially...and I don't have the...my gadget is working through this. These were technical in nature. There were seven, seven pieces of the committee amendment that essentially just brought this...corrected dates, brought things together in order to make LB 1249, if palatable by the body, in order to bring it together from a practical standpoint. So if there were any questions about that, I'd be happy to answer them when the gadget...when I get the gadget in the proper place. But with that, Mr. President, I would conclude. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. We're now discussing the Urban Affairs Committee amendments, AM2127. Those speaking: Senator Landis, followed by Senator Friend, Bourne, Redfield, and Janssen. Senator Landis.

SENATOR LANDIS: Would Senator Bourne yield for a question?

SENATOR CUDABACK: Senator Bourne, would you yield?

SENATOR BOURNE: Certainly.

SENATOR LANDIS: Patrick, inside Omaha, inside the MUD district, MUD is the exclusive provider of natural gas. Is it not?

SENATOR BOURNE: I believe that's accurate.

SENATOR LANDIS: That's right. And they get to control, inside their territory, where their boundary is.

SENATOR BOURNE: I think that's accurate as well.

SENATOR LANDIS: That's right. And who...and they...would it be fair to say they also control their MUD boundaries, those two things are true?

SENATOR BOURNE: Which I think is the extraterritoriality zoning jurisdiction of the city. Is that accurate?

SENATOR LANDIS: Actually, in the statute that I read the other day, it said, and the words were, as far as the board of

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directors sets it, and that's for MUD districts, the MUD boundaries themselves.

SENATOR BOURNE: I would...I'd concede that.

SENATOR LANDIS: Okay. Good. When you operate beyond the MUD boundaries in the Sarpy County area, where they're not part of the district but you're serving them--we're past the MUD boundaries but we're into an area that MUD serves, which is a good portion of Sarpy County, right--those folks look to who for the regulation of the natural gas customer relationship?

SENATOR BOURNE: I would say, in general, they would probably look to the Public Service Commission.

SENATOR LANDIS: All right. Thank you very much. Well, let me go back to the...I'll ask you one more question; then I'll make my point. If MUD has control of their own territory and they are an exclusive server in their district, something we've agreed to, why can't other natural gas providers have the same benefits, the same status that MUD has by law, which is they are an exclusive provider in their boundaries? Why can't others have what MUD already has?

SENATOR BOURNE: Well, that's a fair question, Senator Landis, and I would say, you know, without getting into the part of it that the public owns, Metropolitan Utilities District, that's a fair question. Let me chew on that for a little bit.

SENATOR LANDIS: Okay. Senator Cudaback, members of the Legislature, I want to make one point and I'm going to yield some time to Senator Friend, because he deserves an opportunity to be heard today. There are exclusive service territories in this state and they are the city-owned operations and MUD. They are exclusive service territories. Pat Bourne was exactly right. MUD controls their fate and nobody can sell natural gas inside Omaha because they are an exclusive service territory. The only people who don't have exclusive service territories are the other operations in this state, and the point here is that MUD is fighting other people having exactly the same rights they already have. They are an exclusive service territory and they

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don't want anybody else to be an exclusive service territory. The League of Municipalities out there defending cities who are exclusive service providers, for whom nobody can take over their operation, they are the last word and they are self-contained, but they fight others of the private sector having the same rights and abilities they have as an exclusive provider. That's not reasonable and I have yet to hear a distinction. I would yield the rest of my time to Senator Friend.

SENATOR CUDABACK: Senator Friend, about a minute, ten.

SENATOR FRIEND: Senator Landis, thank you very much. I appreciate it greatly. Mr. President, thank you. Members of the Legislature, Senator Landis makes an interesting point, but it is theoretically flawed. I gave you three options at the beginning of this whole, whole effort, and there are probably more options that I didn't lay out there, but I thought that they were three legitimate options. Pass an amendment that I threw up there earlier and then pass the bill. I think we would have brought folks on. I think that this thing moves on if Senator Landis would have kept the bill out there. Pass the bill in its current form, what I would determine to be a flawed form. Or kill it. Here's why I don't think it should advance. Here's why I think it should probably die. I don't think we need it. I've laid out those...I've laid some of those things out in previous testimony on the floor, but I'm going to give you three key reasons right now, and hopefully I'll have the time to address these. My light is pushed after this. I want to address these.

SENATOR CUDABACK: It's now your...

SENATOR FRIEND: I think they're...

SENATOR CUDABACK: It's now your time, Senator.

SENATOR FRIEND: ...thank you, Mr. President,...extremely important. One...the first two are practical in nature. The third one is fairly esoteric. Number one, in Section 6 of this bill, which I would have removed, by the way, earlier on, except as provided in Section 8 and 9, boundaries may be modified on

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the following basis: For jurisdictional utilities, the service area served on January 1, 2006--it says 2005 in the bill but it should be 2006, I believe--and any area into which extended service subsequent to such date as authorized by the commission. Those are the boundaries. Here is my answer to that, or here is my problem with it. This is far too vague. It provides for a potential loss of local control. We rap about local control all the time. We bounce it off these four walls all the time. That is a potential loss of local control. Maybe not, but it might be. The way I read it, it could possibly be. That's vague. Because it's vague, I don't want to stick language like this or go in this direction that's dictating a potential flaw in public policy. Number two, if you go to Section 8 and 9, it tells us in this bill, Section 8 tells us the exclusive service areas for each jurisdictional utility or metropolitan utilities district, as established and modified, are shown on the official map. After notice--this is key--after notice in (sic) hearing to affected jurisdictional utilities and metropolitan utilities district, the commission may modify those boundaries. That's interesting. You know what else it is? It's different than what the PSC is doing right now. This is a fundamental change. This is key. The PSC does not have guidelines, procedures, regulations and everything out...laid out, everything else laid out, if LB 1249 passes, to deal with this. This is a fundamental change in current law in this arena. Section 9: Except as provided in Section 15 of this act, a jurisdictional utility or metropolitan utilities district shall not extend service into an area not presently within a defined exclusive service territory, except upon application to the commission for a modification of its existing exclusive area, to cover that area. That's important too. We have to understand what that's saying, or what it's not saying. This language, to me, is not necessary. Here's why. The passage of LB 78 in 1999 took care of that. Current law handles this issue in Section 9. We can deny that and we can say that it's inadequate. That's a possibility, that it is inadequate. We can try to deny it. I don't believe that that's fair. I don't think we can deny it. Current law deals with that. The third thing, it's esoteric. We dealt with this all day yesterday, part of the day yesterday, more esoteric in nature. Section 5 defines...(1) defines the exclusive territories of jurisdictional utilities and

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metropolitan utilities districts as extending to all locations where they were already providing service to customers as of January 1, 2006; (2) where two or more jurisdictional utilities are providing service to the same area under a franchise, their authority is equal and coextensive with their service areas; (3) jurisdictional utilities and metropolitan utilities districts have the right to say...to serve customers in their service areas as initially defined and as modified by commission, pursuant to this act. This...

SENATOR CUDABACK: One minute.

SENATOR FRIEND: ...right here, Section 5, is creating public policy that improves the lot of a corporate minority, of a private investor-owned corporate minority. We don't like that approach, and here's why we don't. There's proof that we don't like that approach. Let's compare and contrast for a minute. There was a bill called LB 500. We know what that is. We know what it looked like last year with Cabela's attached to it and retail provisions attached to it. We know what it looks like now and it flew through without any problem yesterday when we're back there eating ice cream. That's what happened. It flew through quickly. That...you know why that happened? Because Cabela's was taken away, and nobody can deny that. That was a part of the reason that that thing went. Okay. Last year the legislative body removed the retail. There were good reasons to do that. I supported that, even with Cabela's on it. But when it was gone, it was even more palatable.

SENATOR CUDABACK: Time, Senator Friend. Thank you, Senator Friend. (Doctor of the day and visitors introduced.) On with discussion. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I had a little discussion with Senator Landis and, in true Senator Landis fashion, I'm not sure that I know what we were talking about. Dave is...Senator Landis is a master at this...at this, I don't want to say game, but at...in this forum, and he's somehow trying to make it sound like MUD is not going to be impacted in any regard by LB 1249, and I don't think that's accurate. But I'm going to leave MUD out of it for just a

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little while and discuss what I see are some real issues with the bill. The last time we debated this, I believe it was Tuesday, Senator Landis talked about the exclusive territories, put territories on utilities so there's no duplicate pipes, and we already talked about how that isn't occurring. I've got a letter from the PSC that says it's not occurring. I have current maps. The maps that we had last year were based from information in 1995, prior to the passage of LB 78, which has eliminated duplicate piping in the state. So again, if anybody wants to see the piping by the utilities, I have maps over here underneath the balcony. They are current. They are accurate after the passage of LB 78. But I want to talk about a couple things. I want to talk about the value that an exclusive territory has, which is advocated in this bill. I handed out those maps, and I know you all saved them from Tuesday, the nice map of Nebraska that showed Kinder Morgan's area, MUD's area, and Aquila's area. And my information indicates that...Senator Pahls has kept the map. Thank you, Senator Pahls. If anybody would like to see the map, if you didn't save the copy, I'm sure he'd be happy to share it with you. But my information indicates that every state who has awarded exclusive territories has extracted a value from doing that. It just makes sense that that would happen. You know, I'm going to give you an example of real life. I happen to be a fan of McDonald's, and as many of you can...looking at me, you could probably understand that. Well, McDonald's, they award franchises. Okay? That's what we're talking about here. They don't just give them away. If Senator Synowiecki wants a franchise, a McDonald's franchise, he's going to pay handsomely for that. That makes sense, doesn't it? Well, what we're doing here is we're saying, we're going to give you an exclusive franchise and out of our benevolence, the goodness of our heart, we're not going to charge you for it. Is that being a responsible steward for the citizens of Nebraska? I don't think it is. And nobody has addressed here why we should be doing this. No one has said on this floor what the problem is that would justify the passage of LB 1249. Whenever I introduce a bill, whenever Senator Aguilar introduces a bill, whenever most of us in this body introduce a bill, we justify the reason for the change in the status quo and, with all due respect, I would suggest to you that that justification for making such a significant policy change has

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not been articulated. We listen to the Chair of the Urban Affairs Committee and he seems to be a little animated this morning and he's trying to get people to listen that there has been no justification sufficiently articulated that would justify such a dramatic change in our policy, and LB 1249, colleagues, is a dramatic change in our policy. And I also want to put this out. On Tuesday, towards the end of the debate, and I think we've gone about four hours, I'm going to clarify that, Senator Landis, after Senator Chambers started speaking, implied that this is somehow about a filibuster.

SENATOR CUDABACK: One minute.

SENATOR BOURNE: This is not about a filibuster. This is about legitimate policy issues presented in LB 1249. Now I had made mention on Tuesday of a letter that I sent to the Attorney General back in February outlining significant, what I feel are constitutional issues with granting an exclusive territory, with granting a privilege to a gas entity to have an area that is exclusively theirs. And I handed that out this morning. It's a Xerox copy of my letterhead, dated February 13, and if you would just take a look at that, the question surrounding whether or not the state of Nebraska can give or award an exclusive territory. Then also attached to that, I'm going to touch on it a little bit the next time I speak, also attached to that you'll see LR 439, which I introduced, that raises these very issues about exclusive territories. And then the last page, for whatever this is worth,...

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: ...you look at the editorial by the World-Herald.

SENATOR CUDABACK: Thank you, Senator Bourne. Mr. Clerk, priority motion.

CLERK: Mr. President, Senator Friend would move to bracket LB 1249 until April 13, 2006.

SENATOR CUDABACK: Senator Friend, to open on your bracket

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motion.

SENATOR FRIEND: Mr. President, thank you. Members of the Legislature, thank you. We've been kicking around the three options. I wanted to get some floor time right now. This bracket motion is a tool right now for Senator Landis and I to speak to this. This is extremely important right now. This piece of the conversation that we're going to have in regard to this bill is extremely important. I said from the outset here that I truly believed in my heart that if we could...I don't know that Senator Landis agreed with this initially and I don't know that he feels this way now, but in my heart I believed that that amendment that I proposed gave us opportunities for both investor owned and it gave us opportunities for metropolitan utilities districts and municipally owned to work together and move in a direction that wasn't reform. I believe that we may have an opportunity now to deal with that. I don't know whether to say thank you, or to work the rest of my time into Senator Landis' direction in order that he can speak to this. But this is very important because we are flipping and enhancing and potentially correcting some inadequate language that we have on the books right now still, if we go ahead through with this. What I would ask right now, I would like to yield the time to Senator Landis so he can speak to this issue and we can move forward, hopefully, with some alacrity.

SENATOR CUDABACK: Senator Landis.

SENATOR LANDIS: Thank you, Senator Friend. A couple of moments ago I walked over, I talked to Senator Friend, and I, reading the street and knowing where we are, said I'll take the Friend amendment from yesterday. It's less than half a loaf, but it's some. I'm caught between a rock and a hard spot with a cloture vote that has to be done with some people that are gone. I don't need to keep grinding all of your time down to the nth degree when we have two or three days left. You'll remember that Senator Bourne said, I can't believe the body is turning down the Urban Affairs Chairman's amendment. Well, it took me a day to figure out that maybe that was the thing to have done. I'm slow; I'm coming around now. I'll accept the Friend amendment. What it does is this. It says we flip LB 78 for

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timing, it strikes references to exclusive service territories. I can't win that fight under these conditions because I can't get to a majority vote in time today to do it. I'll take this piece of the puzzle and you can all keep natural gas on the burner for future Legislatures with my (laugh) condolences. As Senator Friend's legal aide, the committee...Urban Affairs Committee Counsel Bill Stadtwald is drafting it, I'll cosign it. I'll offer it as soon as we can get to it. There's one provision that needs to be slightly different, and here's what we need to do. We need to accept the committee amendments, then adopt the Friend amendment which gives us the flipping of LB 78, which I believe the 22 votes that were reconsidering yesterday, including Senator Bourne's, wanted, and we can move on and go to the business of schools, that is, if MUD would let me do that. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Friend, there's six minutes left. Did you wish...where is Senator Friend? Senator Friend. Senator Friend.

SENATOR FRIEND: I would ask to remove the bracket motion, Mr. Clerk, so that we can move forward with the committee amendments, AM2127, please.

SENATOR CUDABACK: The bracket motion is withdrawn. Mr. Clerk. Back to the committee amendments, as you know. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President. Members of the body, we are having to wait for that amendment to come down from upstairs, so we do have a few moments, and I will take it now before we move the amendment that is before us. What we're witnessing here today is, as I alluded to before, a war, a war that's been going on at least eight years, since I've been here in the Legislature, a war that even after the adoption of the amendment that comes down will continue, and I regret to see that. Because, in fact, when there's a war, and the two parties are at war because they don't agree, oftentimes it means that an outside party has to come in and broker the treaty. And in that treaty agreement the most crucial part is where will the boundaries be, and that's what Senator Landis' bill was

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about--where will the boundaries be so everybody knows what they are entitled to, what the other guy is entitled to, so they don't cross the line and end up back in conflict again. I'd like to see it settled, and I had to ask myself what the goal of the opponents was in this whole discussion. I was surprised that the league was an opponent of the bill because, in fact, the league is not MUD, and MUD has jurisdiction over the entire city limits of Omaha, and I didn't understand why they were concerned about this. And I asked whether in fact the goal was for municipalities to take over the gas systems in our small cities across the state, and if that's the goal, there's nothing wrong with that goal, but let's be honest about it and let's have a discussion whether the goal here is to end up like we have public power in the state of Nebraska, to get to the point where all of the gas delivery is through public entities. Let's just be honest about where we're going. But then let's ask ourselves, what happens to those areas that don't have critical mass, who don't have enough population to justify the cost? You see, it's a little bit easier to run a wire out somewhere than it is to pipe. And if you want to build an ethanol plant out in the country and you need a gas line out there, you're talking about something that's significantly more costly, requires significantly more expertise. And so we have to ask ourselves, if we're going to have that big policy discussion, whether in fact we will develop the full potential of the state of Nebraska as quickly and as well if we go in that direction, or whether in fact we have found that the private model has indeed served us very well. I think it has. And we're going to be discussing, I hope, later this morning a school issue and it's very similar in this point. OPS builds a school and they are not in jeopardy of having that school taken away from them. They can invest their money, they can go to their voters and they can ask with confidence for them to pass a bond issue with the assurance that those people will be able to benefit from the school that is built, and no one will ever be able to take it away from them. And that's one of the issues that we're talking about in the discussion on LB 1024, whether in fact people who have passed bond issues and are paying for those bond issues are building schools that could be taken away from them and their children wouldn't even be able to attend any longer. Isn't that what we're talking about here when we're talking about...

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SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...service territories? I think it is. So I'm hoping that we can move forward here. I wish we could have solved it. I think that this is a treaty that needs to be drawn up, and service territories and boundaries that need to be declared for the peace of the state of Nebraska. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. I'm going to echo some of what Senator Redfield just said. I know we had that service area map for the state saying we were covered out in southwest Nebraska. We're not. We have several counties out there that don't have any natural gas. And here we are arguing about who's going to serve who in a metropolitan area, and we don't even have any out there. So I think we need to focus a bit back on the bill. I'm going to support the bill. I know we're going through an amendment process and so on. I'm trusting Senator Landis to get this done, and Senator Friend. But the point I wanted to make is those towns that we do have natural gas piped into and the industry. I noticed on the committee statement an ethanol...I think it's an ethanol producer testified as an opponent. I can't understand why. When we built the ethanol plant out there, we had to build a pipeline, literally build the pipeline to the ethanol plant. And there's transmission costs they're trying...they will recover over the next 20 years there. But my point is, once we get natural gas in some of these small towns--and I do have some...actually probably a majority of my towns have natural gas; not all of them, but probably a majority--then they do have some choices. And I think our provider out there, for the most part, is Kinder Morgan. They've done a good job with maintenance and so on, but once they have that pipe, then they have the ability to choice...the choice gas program. And I'm not one that has natural gas so I'm not real well-versed in what the process is, but I know that they, once, even though there's one supplier, one pipeline system, then you have your choice within that as to whether you want to buy that gas from, I think it's, Nebraska Municipal Power Pool, whatever it is, their gas

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arm, and so on, or Kinder Morgan, or several others. So I want to focus on the issue that let's try and move forward with this bill to provide some certainty out there to areas that don't have any. And that's what I'm hearing, is, without this bill we don't know whether we can pipe another town or who's going to take it over or what the jurisdiction is and so on. So I, as a rural senator, want to move this forward; give us some direction so that hopefully I can get some of my towns out there that don't have natural gas. And when you don't have natural gas, it's doggone hard to recruit a business in there that uses energy like this. As I said, the ethanol plant I worked with, I think they built a...they, they built a 14-mile pipeline to get natural gas out there because there was no natural gas in this county. There just...there was no...it was not accessible. So I want some certainty out there and some direction, and I think we're going to have to pass this bill to provide it. Because what we have now is nobody knows who's going where or who's on first or second or third or what might happen down the road. So I want, regardless, want some certainties out there. I don't see Senator Landis. I don't guess he needs the time. He's in discussion. So I would return the time, my remaining time, to the Chair. Senator Cudaback, thank you.

SENATOR CUDABACK: Thank you, Senator Baker. On with discussion. Senator Dwite Pedersen. Senator Dwite Pedersen, did you wish to speak?

SENATOR Dw. PEDERSEN: Thank you, Mr. Speaker and members of the Legislature. Again, I stand in support of LB 1249 and I'm listening. I'm listening to what's being said. Senator Bourne has said some things that I've been listening to, I'm very interested in what Senator Friend is visiting about here, but not just what they're saying. Some of my concerns of the district, my district, living mostly in the area of Aquila, I do have part of my district in MUD. I'm not anti-MUD. This whole business of competition that I've even used is really nil. I mean, it's not competition. We need not to compete. There's no...if there's ever going to be a stop to competition, I think it would be the line, by setting up...would be LB 1249. The competition is in what's carried in them lines--the gas itself and who they buy it from. They are the companies that compete.

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I know for a fact that the profit that Aquila has been acquiring has gone back into maintenance and the removal of the little bit of cast-iron pipe that they have. I'm not sure, but I've been told that there's very little movement in moving any of the cast-iron pipe that MUD has in the older part of Omaha. One of my concerns with a bill like this is the same concern I'm having with two other bills...or not two other bills, but one bill and one other issue living in Elkhorn, and that is this whole bigger needs more money. My understanding is MUD needs to have the growth and the money from that growth to take care of some of their own. Living in Elkhorn, Omaha needs the growth of annexing Elkhorn so they can have the money to take care of whatever their needs may be. It may be just greed. Now OPS needs the money from the other districts to survive, and the only one I'm sympathetic to is the school issue, and only to the issue, or part, that we need to take care of all of our children, but I do not support that we have to make it all one city, one school. But it becomes all...and this particular bill comes back to that, is MUD making money now? My understanding is they're working on a shoestring and have for years. They've had many reported gas leaks, that's going up, and not all those that are real dangerous. But that number goes up every year. The maintenance that they have does scare me. And the reason for acquiring new growth is to take care of that. Then what's going to happen to the new growth 20, 30, 40 years down the line?

SENATOR CUDABACK: One minute, Senator.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Dwite Pedersen.  
Mr. Clerk.

CLERK: Mr. President, Senator Friend would move to amend the committee amendments. (AM3144, Legislative Journal pages 1490-1491.)

SENATOR CUDABACK: Senator Friend, you're recognized to open on your amendment.

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SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. This is the amendment that Senator Landis and I look to now to try to move forward with this bill. AM3144 is virtually, virtually, not exactly, the amendment, not exactly, technically, the amendment that I had placed earlier on General File that we believed...that I believed, I should say, that corrected the inadequacies in our current law. And here's what that means, again, just to remind you. LB 78 in 1999 was adopted and it created statutes, 57-1301, I believe, through 57-1307, which dealt with enlargement or extension of areas, it dealt with enlargement or extension of an area, and rebuttable presumptions. It dealt with duplicative gas mains or services, that it was prohibited. That's what these sections do. We, with this amendment, are correcting some of those inadequacies that we see, but we're also, with the amendment, pulling out all of the exclusive territory language in LB 1249. Okay? Now, it removes all the statewide provisions of LB 1249. The parts of the bill that established service territories for jurisdictional utilities is gone. That's what this amendment will do. All the provisions creating the maps, detailing who serves what and where and to whom, those are eliminated. Now this is important because this was a key part of this bill. The element of creating the new bureaucracy that those provisions allowed for is deleted. They weren't...well, we came to the conclusion...some thought that they were necessary. We've come to the conclusion now that they aren't necessary because of the Hastings Lochland, all of the other things out in the central part of the state, western part of the state are being resolved. This retains the reversed provisions of LB 78 that I just talked about. Sections 11 through 17 of LB 1249 are the provisions of the old LB 78. They're being amended and they're transferred into the State Natural Gas Regulation Act. This is now...this flipped LB 78 is now the State Natural Gas...into...is into the State Natural Gas Regulation Act, and that was a 1990 bill...a 1999 bill, again, remember, that was a worked out effort between MUD and Aquila to govern boundary disputes in the city of Omaha metro area. And it does, this does, give the Public Service Commission jurisdiction to decide disputes over service areas upon complaints filed by MUD or Aquila. Okay? And those are...that's, like I said, that's the Gaza Strip. That's where the fights are. That's where it's happening. It's not

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happening anywhere else. The amendment responds to one key complaint, that the requirement for preapproval will delay projects and add tons of paperwork and everything else. This amendment makes it automatic. So in other words, if MUD decides it wants to go to Denny Byars'...Senator Byars' area in Beatrice, they can't just go start dropping pipe and then say, oh, Aquila is mad, let's go to the PSC now and try to figure out what to do. They can't do it. They can't do it. It's automatic. You just have to go. If they're going outside of the MUD board voting jurisdiction, they're going out to the Public Service Commission to get approval. It's automatic. It's not a slap on the hand at the end. It conclusively presumes that MUD serves any area where it used...where it has used eminent domain to acquire an existing system. Now, an example could be Elkhorn. If Omaha annexes Elkhorn, MUD gets that stuff, but that's not a change in law. That's just presuming it. I mean, we're saying that's the way things are going to remain. And finally, if no one complains about the filing, MUD or Aquila or anybody, within 15 business days of the date when the application is made public, the utility can proceed with the extension. That's important too. Okay? That means if MUD does something or Aquila does something, obviously the others need to be in tune to the business behavior. Here's where we're at. If there are any questions about this, it is simply changing Sections 57-1302 to 57-1307, and in my view bringing them into an accuracy that we need. With that, I would be happy to answer any questions, Mr. President. With that, I would ask for the adoption of AM...if there are no questions, the adoption of AM3144, the eventual adoption of the committee amendments, and the advancement of LB 1249 when these are advanced.

SENATOR CUDABACK: Thank you, Senator Friend.

SENATOR FRIEND: Thank you, Mr. President.

SENATOR CUDABACK: You've heard the opening on the Friend amendment, AM3144, to the committee amendments. There are several lights on. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the

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Legislature. You know, I've been here 14 years and this is probably one of the most understandable...or less understandable measures that I've seen. I get calls from my utilities department in a large city in my district, I get calls from smaller communities, I get calls from individuals and, you know, everyone has a different question. Just a few minutes ago I talked to the city of Fremont, the city administrator. They have a large manufacturing that's been in that city for almost forever and they are a big user of natural gas. They are not within the city limits. They are outside the city limits. They have been served by the department of utilities. The city of Fremont owns their own gas system. They serve the village of Inglewood and the town of Cedar Bluffs. This industrial tract that is under the county zoning authority, not the city's, but it's within the county industrial development authority, the way I understand the bill now, if the department of utilities in that city is providing natural gas there now, they can continue to even if another provider, an Aquila or a Kinder Morgan or whoever it may be, comes in and shoots this gas company or this manufacturing area a good deal--we can come in here and we can serve you at a lower rate. I'm not sure, if it's not in the city limits, that they couldn't negotiate with that gas company. These are questions that have to be answered. If a manufacturing wants to go outside of the city limits, which most of them do, they want to be outside the city limits, and there is no service at all there, then I believe you're at the mercy of the Public Service Commission who gets the territory there. There are too many unanswered questions here, you know, and I...most of my colleagues, you know, when someone tells me, you know, we'll take care of it, well, you know how things slide by in this place. I know we're wasting a lot of time, but, colleagues, this is a very, very important, very important bill, and if it takes two more days, I think we need to do it. I know time is running short and everyone has bills that they want to get passed, but we're making a major, a major change here and I'm not...I'm still not convinced that these cities are going to be protected in their territory. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. (Visitors introduced.) Senator Landis.

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SENATOR LANDIS: Thank you. Senator Cudaback, members of the Legislature, I agree to the Friend amendment. Senator Friend, if I could ask you a question on the mike.

SENATOR CUDABACK: Senator.

SENATOR LANDIS: I'm going to recite what I think is our understanding...

SENATOR FRIEND: Please.

SENATOR LANDIS: ...and you can tell me whether or not I'm wrong. We adopt this amendment to the committee amendments, we adopt the committee amendments, we move the bill. The bill...the amendment, the Friend amendment, has two ideas. One, it has flipped LB 78, and it has what I think you've identified as relatively innocuous language for implementation. And our understanding is this. We adopt the Friend amendment in its current form and move the bill. If the new language, which is beyond flipping LB 78, is problematical to either one of us, we'll take it off on Select File, because what we're agreeing to is flipping LB 78. Is that fair?

SENATOR FRIEND: Yes, and the important point that you just made here is that we are adding new language in different sections, so any new language. The language that I added in that previous amendment and I'm adding in this amendment...and, by the way, it's been brought to my attention Section 18, there are questions in regard to Section 18, which wasn't included in that original amendment. So any new language that could affect the straight, as you call it, the flipping of LB 78, any unintended consequences of those provisions or those languages, those pieces of language, we're going to have to deal with. Because our understanding is all we're doing is correcting current statutes, to the best of our ability, and then flipping what we would call LB 78 on its head so that Aquila and MUD and everybody else would have the automatic process of going to the PSC outside of the extraterritorial jurisdiction is in place. Correct? Or is that too...

SENATOR LANDIS: Let me try it one more time, because I think

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we're close. The principle that we're agreeing to is flipping LB 78. Beyond that, any new language would need to be mutually acceptable. And we're adopting some new language here, but if, upon examination, that's not, the area of agreement is flipping LB 78. Isn't that true?

SENATOR FRIEND: Absolutely, because we've worked really, really quickly here, okay, and it's a Chinese fire...pardon me, it's chaos. I don't mean to...we know the term. So we moved really, really rapidly here and there's a lot of people with some trepidation, not just you and I, others, so that is very acceptable.

SENATOR LANDIS: That is the understanding. Let me recite it again and then I'd suggest we vote pretty soon. The agreement is...the policy agreement is flipping LB 78 and only that; nothing on exclusive territories. That's being stricken under the Friend amendment. All language in LB 1249 on exclusive territories goes away.

SENATOR FRIEND: Correct.

SENATOR LANDIS: We flip LB 78 so that it is a prescriptive agreement, not a postscriptive agreement. To the extent that we use any other language that's new language, upon further examination on Select File it needs to be mutually acceptable if it's anything beyond flipping LB 78.

SENATOR FRIEND: Correct.

SENATOR LANDIS: Okay. I can endorse that. I endorse AM3144 with that set of understandings, and I'd ask for the adoption of AM3144.

SENATOR CUDABACK: Senator Friend, your light is next. Senator Friend waives his time. Senator Synowiecki, followed by Senators Bourne, Dwite Pedersen, Thompson, and Beutler. Senator Synowiecki. Senator Synowiecki waives his time. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I hate to

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rain on the parade, but now I received a note that, while Aquila and MUD are not happy with the amendment--and that's great because I don't think either one of them should be happy--now, as I understand it, the Municipal Power Pool and the urban league--or, excuse...urban league, I was reading the chart up there--the League of Municipalities are concerned with the amendment. So...and, frankly, it's...the version here, AM3144, is not the version that Senator Friend had put up earlier that they have had a chance to study. You know, and I think frankly this gas issue is so contentious that everybody is just a little bit nervous and jittery as to what's going on. So I guess, with that, would Senator Friend yield to a question or two?

SENATOR CUDABACK: Senator Friend, would you yield?

SENATOR FRIEND: Absolutely.

SENATOR BOURNE: Thank you, Senator Friend. And again, this amendment is slightly different than the one you presented on General File. Can you tell us...and, again, I just received this note that the league is concerned, the Municipal Power Pool is concerned. Can you tell me what in your amendment would cause them concern?

SENATOR FRIEND: It's my understanding, Senator Bourne, that if there's concern out there it's because what we're adding, and I did mention this in the opening to AM3144, what we're adding is a section called Section 18 that states explicitly that nothing in the State Natural Gas Regulation Act is to be construed as interfering with or restricting the right of a city owning and operating its own natural gas system from exercising its exclusive authority to serve natural gas customers within its corporate boundaries. The commission, in conformity with the act, is required to cooperate with such cities when they expand their city boundaries and move their gas service into areas currently served by jurisdictional utilities, metropolitan utilities districts, et cetera, requiring the utilities to conform to the changes. City service would transfer to those areas upon annexation and condemnation of the facilities. This, to me, Senator Bourne, and this is what I guess would be causing some consternation, is (A) because it wasn't in my amendment,

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but (B) because...and we've been through this over and over again, they're not really sure...there's a lot of folks who are not really sure what this does. In my estimation, the way I read this right now, what it does is it tries to take what we're doing here with our service territories and make it consistent with LB 790 from two years ago, the State Natural Gas Regulation Act. We need some consistent language; 18 provides some harmony. That's my understanding, and we're going to get further information on that. But the key point is, if this is going to cause unintended consequences, Senator Landis and I had just established that we would not do that. So on Select File we would pull it out. So I hope that helps, but the point is, we did this quickly, and the good news is, to me, is that we're not reforming the law right now. If we were doing it quickly and we were forming it at this moment, I would have some serious concerns and I would be running around like a chicken with my head cut off. I don't think we need to take that approach. I think we have time to look at this, Senator Bourne, and make sure that there are no unintended consequences in anything that we're trying to accomplish, and I think that Senator Landis and I are on the record now saying that we have an understanding of what we want to try to accomplish. So hopefully, Senator Bourne, hopefully that helps, and if you'd...I am on your time so if you'd like to follow up or anything.

SENATOR BOURNE: Yes. Thank you.

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Senator Friend. And when...if we could still continue this discussion. You say that there's plenty of time to work the details out. Are you...

SENATOR CUDABACK: One minute.

SENATOR BOURNE: ...meaning this morning, or do you mean...

SENATOR FRIEND: Well, no, no, and if I said that, it probably was a poor choice of words. There...we didn't have a whole lot of time to deal with what we were dealing with this morning. I think we were...I think that, for all intents and purposes, we

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were trying to say this is our best route here. Now what I'm saying is, if there are unintended consequences with the language, I do believe that there is sufficient time, just as there is sufficient time for...to do a few things with other bills, to make sure those unintended consequences don't come to fruition. Right?

SENATOR BOURNE: Well, I...

SENATOR FRIEND: I don't believe there are any unintended consequences here, Senator Bourne. I don't believe that.

SENATOR BOURNE: Okay.

SENATOR FRIEND: If I did, I would flat-out tell you, because I...

SENATOR BOURNE: Oh, I...

SENATOR FRIEND: ...I didn't...

SENATOR BOURNE: ...I understand that. And I guess what I'm saying is right now we have a situation where MUD, Aquila are okay, as I understand it. Neither one of them are happy. But now we have other entities coming out of the woodwork that necessarily...that weren't necessarily opposed to the concept in the beginning and now they are, and I'm struggling...

SENATOR CUDABACK: Time, Senator.

SENATOR BOURNE: ...as to what to do.

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: I mean, I'm not sure we need the bill, to be quite honest, and I don't see what the urgency is in going forward.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Thompson. Is Senator Thompson on the floor? For time being, we'll pass...Senator Thompson. She waives her time. Senator Beutler.

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Senator Beutler waives his time also. Senator Landis. Senator Landis.

SENATOR LANDIS: Thank you.

SENATOR CUDABACK: I'm sorry.

SENATOR LANDIS: Senator Friend and I have done as much as we can do today, if I understand the point here. Our ability to move forward without making anybody unhappy is how great? The fact is, yesterday Mike Friend and I were fighting; Pat Bourne was saying, gosh, shouldn't we follow the Urban Affairs Chairman? I've acceded to that. I've taken my half of a loaf or less. Michael and I have an understanding and agreement. The lobby is not happy, but in the end, fine, then the lobby is not happy. Do we not do some business among ourselves because we trust each other and rely on each other and give each other our word? I've given Michael my word; he's given me his word. It's a simple idea that he said yesterday, it's one of the two ideas I wanted to do, and our agreement is that if the language afterwards is not mutually agreeable to both of us, we'll change it on Select File. That's the way we do business around here. How about a vote? And if that standard doesn't meet what this body wants, then vote it down.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Senator Landis, your comments are well taken. Look, if the members...I'm not going to speak again on this amendment. I will tell you I'm not sure the votes are here to go forward with LB 1249. I don't understand the urgency to go forward with LB 1249. I, frankly, I don't know what's in AM3144. I think it's okay, but then when I receive a note from the League of Municipalities and the Municipal Power Pool that say it's not, I don't know what that means. And here we are, it's 10:07. I can see the Speaker getting restless and rustling around, and here's my fear, that this bill goes forward. That's one more hurdle that it has cleared, one less opportunity to make it right, and I don't know if it's right. It very well could be. I'm not about pacifying the lobby. I think if you asked the lobby

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they'd tell you that. But I will tell you what. This, to me, gas, is an essential. How many of us could live without this essential? So it seems to me that we either do it right or we don't do it at all. And I'm feeling rushed, I'm feeling pressured. I'm not voting for this amendment. It could be the exact right policy, I don't know. But I don't know, and that's why I'm not voting for it. I just...we're being pushed, we're being rushed. We've got entities that deliver these essential services to our citizens, to our constituents, to Nebraskans, and they're telling us this bill is not okay. And yet, we're going to go forward and do it? Look, if you understand what AM3144 does, vote for it; if you don't, like me, I'm not voting or I'm voting no, and I guess we'll just see what happens. But I just don't understand the urgency to go forward on this amendment right now. I...every fiber of my being I want to go along with this, but when I have a note from people who deliver this service to our constituents every day that say, hey, we're uncomfortable with this, this isn't right, and it's not about making Lynn Rex upset, the lobbyist, or I don't know who the lobbyist...the name of the lobbyist for the Municipal Power Pool escapes me at this moment, but it's not about making them mad or making them happy. It's about doing something right that our constituents depend on. If you think we absolutely got to do this today, vote for it. If you understand what AM3144 does, vote for it. If you don't, I'd suggest we pull up, we stop, we wait, we get with the Speaker, we figure out what can be done here. And again, I'm not trying to be an obstructionist. I'm simply saying I'm being asked to go forward with something that I don't quite understand in a very complex issue, one that our constituents depend on every day of their lives. This isn't about something of no consequence. This is an absolute necessity to our constituents, and we're being asked to vote on something that, just trust us, the details will...it will all work out. I'm not sure it will, and that's not to cast any dispersion on any member, but again, we are talking about a necessity. We are talking about something our constituents depend on every day and we're asked to be going forward on a wink and a promise, and I'm uncomfortable doing that.

SENATOR CUDABACK: Thank you, Senator Bourne. (Visitors introduced.) Senator Janssen.

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SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. I know we have to move on with this, but I would like to ask Senator Friend a question, please.

SENATOR CUDABACK: Senator Friend.

SENATOR FRIEND: Yes.

SENATOR JANSSEN: Senator Friend, my municipality still has a few problems. Would you work with me between...if I move to advance this to Select File, would you work with me? It's just a few items on there that need to be corrected between now and Select File.

SENATOR FRIEND: To deal with issues, I think we've established that that will be the case.

SENATOR JANSSEN: All right. I missed that, but I want it on the record. Senator Landis. Would you, between General File and Select File, work with me and my city on some questions that they had, between now and Select File?

SENATOR LANDIS: I'd be happy to get questions answered.

SENATOR JANSSEN: Okay.

SENATOR LANDIS: And Select File will come. There's one goal, to flip LB 78 timing. Senator Friend and I are agreed it will achieve that, and we're not trying to gore oxes past that.

SENATOR JANSSEN: Okay. Thank you. That's all I need. Thank you for the time.

SENATOR CUDABACK: Thank you, Senator Janssen. Senator Beutler. The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease? All in favor vote aye; opposed, nay. Voting on ceasing debate on AM3144. Have you all voted who care to on the motion to cease debate? Record please, Mr. Clerk.

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CLERK: 25 ayes, 0 nays to cease debate, Mr. President.

SENATOR CUDABACK: Motion was successful. Debate does cease. Senator Friend, you're recognized to close. Senator Friend waives closing. Question before the body is, shall AM3144 be adopted to the committee amendments? All in favor vote aye; opposed, nay. Voting on adoption of AM3144 to the committee amendments to LB 1249. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment.

SENATOR CUDABACK: AM3144 has been adopted.

CLERK: I have nothing further to the committee amendments at this time.

SENATOR CUDABACK: Back to discussion of committee amendments. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Friend yield to a question?

SENATOR CUDABACK: Senator Friend, would you yield?

SENATOR FRIEND: Yes, I will.

SENATOR CUDABACK: Thank you. Senator Friend, I listened with interest when Senator Janssen asked if you'd be willing to work with his city to make sure his city is okay, but I didn't...and you agreed to do that. But what I didn't hear you say was whether or not you would be opposed to the bill if you could not get the municipalities satisfied or in agreement with this bill.

SENATOR FRIEND: Well, that...it's an interesting question, Senator Bourne, and part of the reason that I feel like that is probably not something that I would have to adhere to is because that amendment that I brought earlier is, for all intents and purposes, no different than what we just adopted, and I didn't go out and seek the municipalities' approval, Senator Bourne, on

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what I was trying to accomplish.

SENATOR BOURNE: And nor should you have to. But can you understand my concern in that...

SENATOR FRIEND: I can.

SENATOR BOURNE: ...here we're being asked to move this forward to Select File when we really haven't been presented with a compelling case that the bill is actually necessary, and we're supposed to go ahead and say, all right. And I'm not trying to make the lobby happy. I think if you know me well enough, you know that I don't...that doesn't affect me really in any regard. But again, can you see my point where I'm talking about that this is a...gas is a necessity, and can you see my point when I say to you that we have to do this right?

SENATOR FRIEND: I see your point.

SENATOR BOURNE: Can you see my concern if that the municipalities in...and in a lot of areas of our state the municipalities are the ones that are delivering this gas? Can you see my concern why I'm nervous about moving the bill forward when some of the very entities that deliver this necessity to our constituents are uneasy with this amendment?

SENATOR FRIEND: I think you're...I think you make...you always make very cogent points, Senator Bourne, so I see your concern.

SENATOR BOURNE: And are you...

SENATOR FRIEND: But...

SENATOR BOURNE: ...are you comfortable with the fact that I'm saying it's not about appeasing a lobbyist or a particular entity, but it's about making certain that we do this right...

SENATOR FRIEND: I take...I take...

SENATOR BOURNE: ...so that our constituents get the service they need at the best price?

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SENATOR FRIEND: I take your word at that, yes.

SENATOR BOURNE: Okay. And so I'm struggling as to...I mean, part of me is saying just walk away, be collegial, be cordial, but part of me is saying, look, I'm not sure the votes are here for LB 1249. So maybe we should continue to talk about it and just...because we haven't had a compelling case for the need for its passage.

SENATOR FRIEND: Well, okay. Well, I'll tell you this. If LB 1249 doesn't pass, I know we've got a study coming up and I know that either myself or whoever is elected in my position or whoever is dealing with urban affairs is going to be dealing with it again, Senator Bourne. But my view is, and I'm being as honest with you as I can right now, and I've told you this twice so you know that it is, already off the record I told you, that it would be disingenuous of me because I really believed this was the answer and I worked...I've worked a long time on this issue, not as long as Senator Landis, but I've worked a long time on this issue and I believed that...I believe and...that this is the answer. And, Senator Bourne, I'm comfortable with dealing with those entities between now and Select File, and on Select File, whatever. I work with everybody. We've seen that on LB 925. I want to do what is right via public policy, and so the answer to your question is, I want to keep an open mind, but we...but I also understand what Senator Landis is offering here and I believe it's the right thing to do. And I believe it's good for the Omaha metropolitan area, I believe in the long term it's good for municipalities, and I believe that it can be good for jurisdictional utilities.

SENATOR BOURNE: Thank you. And, Senator Friend, the last question I'll ask you is, as Senator Landis articulated, what he and you are trying to accomplish is that you're trying to flip LB 78.

SENATOR CUDABACK: One minute.

SENATOR BOURNE: I'm not exactly sure what that means, but I am concerned that perhaps an amendment might come on Select File

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that does more than that and, frankly, I think that's the concern of the League of Municipalities and the Power Pool. And what I hear you saying is you would be absolutely opposed to an amendment that goes beyond the scope...I mean, that we might have some detail issues in your amendment that was just adopted, but you would be absolutely resisting anything that's beyond the scope of the flipping LB 78, whatever that is?

SENATOR FRIEND: Yes, because...yes. Because that was (A) the agreement and the understanding that Senator Landis and I are on the record dealing with; but (B) because that's what I believed the public policy should be from the very beginning, Senator Bourne. So...

SENATOR BOURNE: Thank you.

SENATOR FRIEND: ...the answer is yes.

SENATOR BOURNE: Thank you, Senator Friend.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Landis. You're the last one to speak, Senator Landis. There are no further lights on. Senator Bourne, you're recognized to close. I'm sorry, Senator Bourne. I got you mixed up, I guess. You look alike. Senator Friend, to close.

SENATOR FRIEND: There's no reason to insult me, Mr. President. (Laughter)

SENATOR CUDABACK: I apologize.

SENATOR FRIEND: I think we've all had a long morning. I would ask...this is a...this is the right direction to go. I would ask for the advancement. Thank you for your time and your patience. I would ask for the advancement of AM2127 and the advancement...and the eventual advancement of LB 1249. Thank you, Mr. President.

SENATOR CUDABACK: You've heard the closing by Chairman Friend of the Urban Affairs Committee on the committee amendments. All in favor of adoption of committee amendments vote aye; all those

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opposed vote nay. Voting on adoption of the Urban Affairs Committee amendments, AM2127, to LB 1249. Have you all voted who care to? Please record, Mr. Clerk.

CLERK: 34 ayes, 1 nay, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted.

CLERK: Mr. President, a series of amendments to the bill. Senator Friend, the first is yours, but I have a note you want to withdraw, Senator, AM2215.

SENATOR FRIEND: That's correct.

SENATOR CUDABACK: It is withdrawn.

CLERK: Senator Friend, the second is yours, AM2219, again with a note to withdraw.

SENATOR CUDABACK: It also is withdrawn.

CLERK: Mr. President, Senator Bourne would move to amend with AM2231.

SENATOR CUDABACK: Senator Bourne, you're recognized to open.

SENATOR BOURNE: Thank you, Mr. President. Mr. Clerk, I have four amendments on there. Would you refile all of those on Select File, please?

CLERK: Yes, sir.

SENATOR BOURNE: Thank you.

SENATOR CUDABACK: So ordered.

CLERK: Next amendment, Mr. President, Senator Synowiecki, but I had a note he wished to withdraw.

SENATOR CUDABACK: It, too, is withdrawn.

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CLERK: A second from Senator Synowiecki; again a note to withdraw.

SENATOR CUDABACK: It also is withdrawn.

CLERK: A third from Senator Synowiecki, but likewise, Mr. President, a note to withdraw.

SENATOR CUDABACK: It is withdrawn.

CLERK: A fourth from Senator Synowiecki, again a note to withdraw.

SENATOR CUDABACK: It, too, is withdrawn.

CLERK: Senator Landis, AM2624.

SENATOR CUDABACK: Senator Landis. It is withdrawn.

CLERK: Senator Cornett, but it's actually filed to one of Senator Bourne's amendments, Mr. President. So I have nothing further to the bill at this point.

SENATOR CUDABACK: Thank you, Mr. Clerk. Back to discussion of the bill itself. There are no lights on. Senator Landis, you are recognized to close on LB 1249, advancement to E & R Initial.

SENATOR LANDIS: The Grateful Dead have a famous album called "What a Long Strange Road (sic) It's Been." I would not have guessed until today that you couldn't accept an offer of taking less than half a loaf and have it not be acceptable, to accept an offer, to take an offer. It's a pretty amazing thing. Say, wait a second, yeah, okay, I will agree; well, now that I think about that, maybe we won't do that. This is as fraught, as tortuous, as fractionated an area of public policy as there is. Senator Friend and I have agreed on a simple principle. I've accepted and acceded to his wishes that were, I think, supported by Senator Bourne and Senator Friend on the first day of our discussion. There's one idea--our existing process that we're

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using in Sarpy County will not be postscriptive in its application but will be prescriptive. That's what flipping LB 78 means. At this point it's been described and over and again. Rather than post decision making in the marketplace with PSC approval, you'll do it prescriptively. You'll go to the PSC first. I would ask for the advancement of LB 1249. Senator Friend and I recited an understanding that I will honor, and I trust him to honor it as well, because we're trying to achieve one and only one goal, and that's flipping LB 78. I'd ask for the advancement of LB 1249.

SENATOR CUDABACK: You've heard the closing by Senator Landis. The question before the body is, shall LB 1249 advance to E & R Initial? All in favor of the motion vote aye; opposed, nay. Question before the body is advancement of LB 1249. Have you all voted on the question who care to? Please record, Mr. Clerk.

CLERK: 34 ayes, 2 nays, Mr. President, on the advancement of LB 1249.

SENATOR CUDABACK: LB 1249 does advance. (Visitors introduced.) Mr. Clerk, items?

CLERK: Mr. President, a communication from the Executive Board regarding appointments to LR 370 study committee, and I have a Reference report, rereference actually, of LR 410, also a study resolution. That's all that I had, Mr. President. (Legislative Journal page 1492.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to the next agenda item, LB 1024. Mr. Clerk.

CLERK: LB 1024, a bill by Senator Raikes. (Read title.) The bill was opened on and discussed the day before yesterday, Mr. President, April 4. At that time, Senator Raikes opened on his bill and committee amendments were offered. There was an amendment to the committee amendment that was adopted. Pending when we left the issue was an amendment by Senator Cornett. I have a note from Senator Cornett that she wishes to withdraw that amendment at this time, Mr. President.

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SENATOR CUDABACK: That amendment is withdrawn.

CLERK: I do have additional amendments to the committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Raikes, it's been a day or two. Would you like to give us a brief summary of the bill itself?

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I'll remind you that the committee amendment, which is the operating component of the bill now, involves the formation of a learning community in the Omaha metro area. The learning community would involve a number of concepts. It would include 11 school districts in the Sarpy/Douglas County area. There would be a common operating levy cap and a common...a two-part common operating levy. There would also be a common building fund levy and a levy to support the activities of the learning community. The concept includes the idea that there would be student mobility between these districts and that also in addition to the common financial arrangements there would be a common governance coordinating council that would deal with other issues before the committee. I would remind you that there was a handout that listed several bullet points to describe this. If you would like additional copies of that, please let me know. Or if you have any other questions, I'll try to address them. Thank you.

SENATOR CUDABACK: And your summary did include the committee amendments, correct?

SENATOR RAIKES: That's correct.

SENATOR CUDABACK: Mr. Clerk, motion, please.

CLERK: Mr. President, the first amendment to the committee amendments this morning is by Senator Heidemann. Senator, did you want to...

SENATOR HEIDEMANN: I'd like to pass over and refile back on the

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bottom if I could, please.

SENATOR CUDABACK: So ordered.

CLERK: Mr. President, the next amendment to the committee amendments, Senator Raikes, I have AM3141 in front of me. (Legislative Journal page 1492.)

SENATOR CUDABACK: Senator Raikes, you're recognized to open.

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. One of the features of the learning community proposal as it is now in the committee amendment is that there would be a total property tax levy cap of \$1.10. That would include an operating levy cap of \$1.025. The operating levy cap does not have under it the building fund, special building fund levy. That's taken out. There is a 5 cent levy cap for that special building fund and a 2.5 cent cap...up to 2.5 cents for the learning community itself. Both the special building fund levy and the learning community levies would be established by the learning community coordinating council. Several of you expressed concern about those levy caps, and particularly about the fact that within the learning community there could be a total of \$1.10 levied against...as a property tax to support the school system whereas in other parts of the state the maximum is \$1.05. This amendment would reduce the maximum levy in the learning community to \$1.05, the same as it is in other parts of the state. It does so by dropping the levy cap, the operating cap from \$1.025 down to \$1.02; the special building fund levy is dropped from 5 cents down to 2 cents; and the learning community levy is from 2.5 cents to 1 cent so that the total operating levy cap within the learning community would be \$1.05. If there are questions, I'll try to address them. I would urge your support of this amendment.

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senator Raikes. Senator Redfield, you're recognized to speak.

SENATOR REDFIELD: Thank you, Madam President, members of the

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body. I rise in support again of the amendment. I rise in support of the bill. And I wanted to take a few moments this morning to talk to my rural colleagues about why I think it's important for them to support this bill. They said, this doesn't affect us; why should I push a green light for this? Well, I'm going to tell you very simply, because if, in fact, Douglas County becomes one school district and they begin to house half the students in this state, you will find that OPS will control the state aid formula, the state Department of Education, and then you will have a battle on your hands for every nickel and dime you need for your schools. That's just reality. It's the power that comes with numbers. And if there were no other reason than that, I would suggest to you that it would be good to support a bill that would protect district choice in the city of Omaha. I think that the committee has struggled long and hard. There are a number of amendments to work through. I will support several of them. And I think that some of them we may actually even address on Select. But I hope we can move this bill through the system today on General because we switch at 1:30 to Final Reading. And we really, because of the time crunch, need to move forward with this bill. Even if there's fine-tuning that needs to be addressed next year, that's okay. What's important is that we stay out of court and that the taxpayers of this state don't spend all their hard-earned tax dollars on both sides of the battle fighting this for three or four years and stymieing the growth of the city of Omaha because we need to bring security to the economy of that area so that our residential areas can continue to grow and build and service the industries that are there, the people that they need to work in those jobs. So I would commend it to you and tell you it's timely and it's important. We need to move forward. Even if we are not at a perfect product, there is time to address perfection in the future. Let's move forward with a good idea. Thank you.

SENATOR SCHIMEK: Thank you, Senator Redfield. Senator Mines, you're next in line to speak.

SENATOR MINES: Thank you, Madam Chair. Would Senator Raikes yield, please?

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SENATOR SCHIMEK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: Yes.

SENATOR MINES: Senator Raikes, I just have one question. With the reduction in the levy limits as you explained, where does the additional revenue come from that will be needed to make this entire thing work? You're lowering your levy cap which means you're lowering your opportunity for more revenue. Where are we making up the revenue?

SENATOR RAIKES: It's a good question, Senator. And one of the reasons we had it at \$1.10 was that we wanted to allow, particularly through a transition period, school districts that extra revenue stream to deal with the needs they would face. What we're...this would require is, is just simply a drawing in, if you will, by the school districts on the things that they can do. I will tell you, and certainly part of the basis for this is to make school districts and taxpayers in the metro area on an equitable basis with those in the rest of the state. I think the question you raise is, well, that's true, but in fact there is a learning community operation which needs to deal with focus programs and that sort of thing. And with this amendment, the fact is that that comes out of monies that would otherwise be available under current mechanisms for either operating the school district or special building funds.

SENATOR MINES: Okay. So the squeeze is put on the existing levy and then the coordinating commission or coordinating group, are they funded through that same levy, through the joint levy, or are they funded through...by state funds, by state aid?

SENATOR RAIKES: No, there's no state funds to that except for the start-up period before there's any levying capacity available. They're funded with a 1 cent property tax levy. But that 1 cent comes within the \$1.05 total.

SENATOR MINES: Okay, thank you. Thank you, Madam Chair.

SENATOR SCHIMEK: Thank you, Senator Mines and Senator Raikes. Senator Wehrbein, you are recognized to speak.

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SENATOR WEHRBEIN: Thank you, Madam President and members of the Legislature. Could I ask Senator Raikes a question?

SENATOR SCHIMEK: Senator Raikes?

SENATOR WEHRBEIN: Yes.

SENATOR RAIKES: Yes.

SENATOR WEHRBEIN: Senator Raikes, I'd like to ask the \$64 million question, maybe \$100 million question. Why not give everyone the right to the \$1.10? Instead of going down, why not go up for everybody?

SENATOR RAIKES: Well, I...one way to answer that, Senator, is that if you look at how we rank as a state compared to other states--and I know in many contexts I reject the comparison of Nebraska to other states--but if you do that comparison, Nebraska is a state that is very high currently in property tax support of school districts as compared to state support of school districts. So I don't think it's wise for us in this particular situation to even exaggerate that high ranking that we have.

SENATOR WEHRBEIN: Thank you. It isn't that I don't know the issues. I just wanted a discussion. I mean there's increasing pressure from school districts to have an increased access to levies and expenditures. And I just wonder...then can I ask also, what will the implication be for state aid to schools under where we're headed from the state standpoint?

SENATOR RAIKES: That's the other part I should have mentioned, because in this proposal there would be additional state aid to schools. And it certainly would impact schools in the metro area, but it would also impact schools throughout the state. The total additional obligation in state aid beginning in the 2008-2009 school year as we now have it proposed would be about \$24 million.

SENATOR WEHRBEIN: Statewide.

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SENATOR RAIKES: Statewide.

SENATOR WEHRBEIN: Which represents essentially from what?

SENATOR RAIKES: That's on a base of the current year the TEEOSA funding is about \$720 million.

SENATOR WEHRBEIN: Doesn't include special ed then.

SENATOR RAIKES: If you add special ed, it comes to a total of about \$900 million.

SENATOR WEHRBEIN: Thank you.

SENATOR SCHIMEK: Thank you, Senator Wehrbein and Senator Raikes. Senator Beutler, you're recognized to speak. Senator Beutler waives. Seeing no other lights, Senator Raikes, would you like to close on your amendment?

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. This amendment again reduces the levy caps for the school districts that would be in the learning community. I think it responds to a concern many of you have. It certainly does create a concern on the part of some of the school districts, I can assure you that. But I think at this point this is a commitment we need to make so I would ask your support. Thank you.

SENATOR SCHIMEK: Thank you, Senator Raikes. You've heard the closing on AM3141 to the committee amendment. The question is, shall we adopt AM3141? All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Madam President, on the adoption of Senator Raikes' amendment.

SENATOR SCHIMEK: The amendment to the amendment is adopted. We are now...

CLERK: Senator, Madam President...

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SENATOR SCHIMEK: ...back to the committee amendment. Mr. Clerk, are there further amendments?

CLERK: There are. Senator Chambers would move to amend the committee amendments with AM3142. (Legislative Journal pages 1492-1494.)

SENATOR SCHIMEK: Thank you. Senator Chambers, you're recognized to open on your amendment.

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, I want to make it clear at the outset that I am very serious about this amendment. Several years ago I began discussing in my community the possibility of carving our area out of OPS and establishing a district over which we would have control so that when it came to the hiring of teachers, administrators, providing the basic equipment and supplies, and establishing the curriculum, we would have control over that. People have asked me, who became aware of my position, whether I'm saying it would be a district which would exclude white people. My intent is not to have an exclusionary system, but one which would probably be more inclusive than all others. But we, meaning black people, whose children make up the vast majority of the student population, would control. That does not happen as long as we are part of OPS. When you go to the poorer areas of the city, you will find minority group members and poor white children, all of whom are victimized by the current operation of the Omaha Public Schools System. When people have no say that is effective in the destiny of their children themselves or the education being provided for their children, there is a feeling of futility and hopelessness. When approaches are made to individual teachers and principals, parents are often treated rudely and dismissively. Going to the school board is even less helpful. So what this amendment would achieve, if it is adopted, is the creation of at least one district, but there would be more than one, which fits the pattern or model which I've discussed. It would become a model of what an education system should be, not only because I am well educated, self-educated basically, but I have degrees showing I went to white people's schools and got what they

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called education too. And we would create a system where anybody interested in having their children treated like human beings with respect and concern and above all properly educated, they'd be welcome to let their children come. And any teachers who are competent, meaning they know their subject, they know how to teach or impart that information to children, have respect for the students would be welcome. It is not exclusionary, but it would no longer be one of those areas where people who are not qualified can be dumped to the detriment of the children. What I need to do for the record is to go through this amendment, but I wanted to give you a context. And I will put on my light and take whatever time I need to be as clear as I can on what this amendment is about and what I'm doing. Senator Raikes' name is on the amendment, too, because he agreed to serve as the one who can answer questions if there are any as to how this particular amendment would mesh with his underlying bill. And I will point out that when it comes to the mechanics and the methodology of implementing what I'm talking about, there is existing law that relates to reorganization so that doesn't all have to be rewritten in this amendment. But I'm sure there are bigger fish to fry than that which people will have an interest in. The amendment says, and I may not be able to complete it, but I will before the morning is over: On or before July 1, 2007,--that's next year; I wanted to be sure this is not put off to a time when I no longer will be here--each learning community coordinating council shall submit a plan to the state committee to divide Class V school districts in the learning community into new Class V school districts organized around the attendance areas of existing high school buildings, and these would be those which are not currently being used exclusively for specialized programs, such as those quasi-reform schools, with two or three such high school buildings in each new Class V school district. Such new Class V districts shall consist of school buildings having attendance areas which are contiguous and whose student populations share a community of interest. The effective date for reorganizations pursuant to this section shall be July 1, 2008. The Legislature for 2008 will have deconvended, but I will have been here to make sure that nothing is undone. Continuing: Such reorganizations shall not be subject to the approval or disapproval of any school board pursuant to Section 40 of this act, meaning the underlying

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bill. If the state committee disapproves such plan pursuant to Section 38 of this act, the state committee shall revise the plan and shall hold one or more hearings pursuant to Section 36 of this act on the revised plan. The state committee may further revise the plan--that's after these hearings--and hold one or more additional hearings pursuant to such section. If a learning community coordinating council fails to submit a plan as required pursuant to subsection (1) of this section on or before July 1, 2007, the state committee shall develop a plan to divide any Class V school districts in the learning community into new Class V school districts organized around the attendance areas of the existing high school buildings which are not currently being used exclusively for specialized programs, with two or three such high school buildings in each new Class V school district. This provision is to make sure that the plan, the actual reorganization, cannot be thwarted by this first stage refusing to take action. A responsibility is placed on the state group. The state committee...continuing: The state committee shall hold a hearing pursuant to Section 36 of this act and may revise the plan, which would be the state committee's own plan, and may hold one or more additional hearings pursuant to such section. On or before December 31, 2007, the state committee shall approve plans to divide all Class V school districts in learning communities into new Class V school districts organized around the attendance areas...and a repetition of that language. Then it has some technical amendments. And any questions you have I will answer. But I want to sum this up in a nutshell so to speak. Obviously, if this amendment is adopted, that notion of one city, one school district is automatically taken off the table. When two things contradict, they cannot both exist at the same time. One will prevail and the other has got to go. If this plan that I'm presenting here is adopted, you are going to have more than one school district in the city of Omaha. Those people who were worried about all of that other, which I call white folks' mess, don't have to worry about it. I am interested in the education of children in the school buildings where they attend. I'm not interested in segregation. I'm not interested in separation. I'm not interested in desegregation. I'm not interested in integration. I am interested in quality education. White people in various cities, including Omaha, have put in place

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what they call desegregation. The educational quality made available for our children has not improved. It has worsened. They have had in other cities not what is called desegregation, but what they call integration; and that in and of itself did not improve the quality of education for black and poor white children who, as white people would see it,...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...are stuck in a community where most of the children are black. So what has to be done is to get rid of that shibboleth of integration, which to me is a red herring. You can integrate all you all want to and that does not ensure that our children get a decent education, because white people still control everything. And as long as they control, our children and our interests are not going to be met even if white people have the best of intentions. I know my children better than you know my children. I care about my children more than you care about your children. In doing this, I'm not hurting anybody. I'm helping those who mean so much to me and who have been left out in the cold for far too long. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Raikes, you're recognized to speak. Senator Raikes, you're followed by Senators Kruse, Brown, Redfield, Chambers, and others.

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. I support this amendment. I want to make a couple of points clear about what I think is involved and maybe distinguish a couple of ideas. We have public schools in a community. One of the ideas is whether or not that school is controlled by people in that community or by people outside that community. This says that the school district is controlled by people within the community. Senator Chambers and I may not totally agree on the second issue, which is that of diversifying the student body in those school districts. Even though the school district is controlled by a particular community, it is certainly my hope and goal that the diversification of students is part of the plan, but they are two separate issues. One of them is, who controls the school in that local community? The

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second is, what do you do about diversification or integration of students with surrounding districts? This allows, in my view, for the accomplishment of both of those objectives. This is a unique, maybe, opportunity to do something like this. We are talking here about the formation of a learning community which is a collaborative effort among school districts. There is common financing arrangement involved. It makes it possible that something like this could succeed financially. And in addition, all of the reorganization statute that would be needed is a part of this proposal. Make no mistake, it would involve some significant change. It would involve the creation of two additional school boards and two additional administrative units. That change would be involved. It's not like you're blowing a school district into smithereens. These...if this were to happen, this would result in the third, fourth, and fifth largest school districts in the state. OPS is about 45,000 students, some more. If it were divided into thirds, that would be 15,000-student districts. There are only two districts in the state that have more than 15,000 students now, Millard is one and OPS is the other. The final point I'll mention quickly is that this is not an idea that is first introduced at this point. Senator Redfield introduced this idea to the committee. Her proposal was a little bit different in that she had more school districts being created. But it does, I think, follow along the lines of what she has proposed. So I will be happy to try to address questions, but again, I think this moves us in the right direction. I think this is something we should do and I do support it. Thank you.

SENATOR SCHIMEK: Thank you, Senator Raikes. Senator Kruse, you're recognized.

SENATOR KRUSE: Madam Chair and members, I'll take quite an opposite point of view. This is an outrageous proposal on the face of it. And when you dig into it, it's more so. What it seeks to do is to negate the work of OPS in providing integration within a district. We're all well aware of that struggle because that's why we're here. They have called us here to say, how do we deal with this across the total area? And this particular amendment is, give up. We'll just give up on integration, on movement between high schools and so on. Now

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it's a very clever way to spank OPS for the things they haven't done, and all of us have our critics of that. Three of us would have four different opinions on how they ought to run the place. We recognize that. But I hope every person on this floor recognizes the exceptional progress that OPS has made in mixing and matching across the district, the exceptional commitment that I witness in my own neighborhood where power of a large district is brought to a very small school and changes it. Three of the grade schools in my area have been transformed by support of some of these other places that are now supposed to be moved out of the district. How can we go ahead with that type of a thing if we are to go into segregated units? We have on this map one high school that's 95 percent black a few miles from another high school that is over 90 percent white. And this solution would be just to separate them. It's a give-up plan. It's an outrageous plan. And if we were to choose it, I would consider it one of the most racist acts this Legislature would ever take. I thank you.

SENATOR SCHIMEK: Thank you, Senator Kruse. (Visitors introduced.) Senator Brown, you are the next speaker.

SENATOR BROWN: Thank you, Madam President and members. Would Senator Raikes yield to a couple questions?

SENATOR SCHIMEK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: Yes.

SENATOR BROWN: Partly in light of the previous comments by Senator Kruse, is your decision to support this amendment based on some educational principles and...I'll just leave it at that?

SENATOR RAIKES: Yes. That regarding size of school district, and also, for lack of a better phrase, local control issues.

SENATOR BROWN: You mentioned in your previous remarks something about diversity. Do you see it being as dangerous as Senator Kruse suggested to the diversity, or do you have some idea of how we accomplish that within the framework of the bill?

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SENATOR RAIKES: All of the...yeah, I'll try to respond, Senator Brown. All of the effort to achieve an integrated student assignment within the learning community would, in fact, be retained with this proposal and to some extent, in an amendment that's coming, enhanced. Discussion last time, you remember, about putting teeth in it, and I think we've tried to address that. Yeah, could.

SENATOR BROWN: Thank you. Would Senator Chambers yield to a couple questions?

SENATOR SCHIMEK: Senator Chambers, would you yield?

SENATOR CHAMBERS: Yes, I will.

SENATOR BROWN: Senator Chambers, I'm asking you essentially the same questions. Was this amendment drafted in light of educational principles?

SENATOR CHAMBERS: That is the only reason I have for doing something like this because I believe it's the only way that the children I'm concerned about will have a shot at a quality education.

SENATOR BROWN: And my second question would be that in your amendment you talk about a community of interest. Does a community of interest negate the community as a whole, as I think that maybe Senator Kruse just suggested?

SENATOR CHAMBERS: No. What it is designed to do is indicate that we're not just talking about geographical boundaries, but people who have similar interests and concerns and identify with each other. Currently, there is segregation in Omaha. Most of the black kids go to school in identifiable segregated schools, but we, as black people, have no control over them. So this goes to the control of the education so the quality can be improved. And people of any race who want their children to attend within this district I'm talking about would be more than welcome. Nobody would be excluded.

SENATOR BROWN: Are there guarantees within your amendment or

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within the underlying bill, if your amendment were adopted, of participation in the broader community by all the school districts?

SENATOR CHAMBERS: I don't understand what your question...are you asking me in a different way whether people outside the district could have their children attend? Is that what you're asking me?

SENATOR BROWN: No, I'm talking about more from the standpoint of the organization. I understand that you're saying control over the education, but will there be participation by every school district in some way in the broader community?

SENATOR CHAMBERS: Let me try to answer it this way, without being...

SENATOR BROWN: Good. That's fine.

SENATOR CHAMBERS: ...without evading the question. These districts being considered school districts would have the same standing and status as any other existing school district. And whatever relationship these existing districts have vis-a-vis any other community, these districts would have the same.

SENATOR BROWN: And I have some concerns about making sure that whatever we do, your principle of having quality education being the first principle, but a second principle Senator Raikes identified his as diversifying. Mine would be that we maintain some sense of community, that even though our schools are divided for administration purposes to make sure that the kids can succeed as best as possible.

SENATOR CHAMBERS: Oh, there will still be interrelationship because in competitions of an athletic nature, ours will win all the championships because right now the black athletes are very welcome in white schools and they've been cherry-picking them from all over the city of Omaha, but the black student at large is not welcome. So when we get those kids back in our district, football, baseball, basketball, you all can forget it. But there will be that interrelationship and everybody will be

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happy.

SENATOR BROWN: (Laugh) You and I may not agree on what constitutes community, but I would yield the rest of my time to Senator Chambers.

SENATOR CHAMBERS: Thank you. Madam President, I'm not trying to be entirely facetious, but if I understand what Senator Brown is getting at, whether or not there might be isolation of some kind or an enclave which is designed to strictly and rigidly...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...separate the children who attend school in this area that I'm talking about from the rest of the city. They still go to stores where everybody who runs the stores will be white. It is not going to affect any other aspect of what is done in the city of Omaha. And people are not concerned right now about the existing segregation that exists in the public school system, the existing segregated buildings where our children attend, or the poor quality education. All I'm saying is since we as black people have been confronted with segregation ever since we've been in this country, we are now going to take control of where we are and make sure that the things that happen there with reference to our children will be based on a principle of...

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: ...quality education. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Redfield, you are next to speak.

SENATOR REDFIELD: Thank you, Madam President, members of the body. I rise in strong, strong support of the Chambers amendment. Senator Raikes is right. I introduced LB 1167. We had a public hearing the same day that they heard LB 1024 and Senator Brashear's bill. There was a long and lengthy debate on all of those bills before the Education Committee. And the bill

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that I presented was based on science. It was based on research. And I'm holding in my hand, Senator Brown had asked whether in fact there was any data to support it, I'm holding in my hand copies of just a few of those studies that you are welcome to look at. We found that students do better not only in smaller schools, smaller classrooms, but especially in smaller districts. It involves the community to a greater level. It involves the parents where they feel empowered to make a difference in their schools, and the data is there. This is not a slam against Omaha Public Schools. I would have no reluctance to put my children in Omaha Public Schools. But it is about a nationwide trend that shows us that, in fact, costs go up the larger the districts are. And I distributed the fishhook in Nebraska and you will find that pattern across the country. But more than that, you will find that instruction funding in smaller districts is higher because the costs of administration are less and the costs of all the supports go down. We can invest more dollars in the classroom where our children can benefit. Now I will tell you when you look at a study that Asian students do better than white students. And I'm not going to argue for why that is, whether it's culture, whether it's genetics, I'm not going to argue that. We just know the data says that. But I know that a white student doesn't do better in a classroom just because they're sitting next to an Asian student. And Senator Chambers is right. Preach it, brother. They don't do better just because they're sitting next to a child of a different color. They do better because they have a teacher who knows what they're teaching and can inspire that child to learn. Teachers will always be the essence of a quality education. It is not based on size. But if we can't give the teacher the tools that they need and the money they need in the classroom and we don't invest our dollars where they matter at the classroom and teacher level, we will not achieve excellence. So I agonized over the OPS and suburban school problem. I drove back and forth from Lincoln. It was never out of my thoughts. I pondered and I agonized and I studied, what's the best solution? If I were to design a district that would provide the best education for the students in our state, how would I design it? Would I just try to tweak the one we have? Or would I take the opportunity to try to redesign it so that it's based on the data we have, the research

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we have that tell us what produces the best result for that child, every single child. I don't subscribe to any theory that says a child can't learn and excel just because they're poor. And I don't subscribe to any theory that would say a child can't succeed because they belong to a certain race or they've been raised in a certain culture. If we give them a teacher who knows what she's teaching and can inspire those students to learn, we can make sure that every child reaches their full potential in this state.

SENATOR SCHIMEK: One minute.

SENATOR REDFIELD: In no way do I want you to think this is a slam against OPS. I think they've done a good job with what they had. But I'm telling you that the data tells us, on a national scale, whether it's Los Angeles or Baltimore, anywhere else, when you get into a school district of that size they are fighting an uphill battle. This will give them a chance. It will not only bring them into the efficient size of our fishhook...and I will tell you, when I introduced the bill it was one high school and all the feeder elementary and middle schools that fed into the high school, but I told the committee that day: I don't care if it's two high schools and the feeder schools or three. That's up to the committee to decide. As long as we get it in that range that we know for cost and quality delivery of academics can best be achieved, that's my goal. And I wholeheartedly support this amendment. I think it's best for the students of the state of Nebraska. Thank you.

SENATOR SCHIMEK: Thank you, Senator Redfield. (Visitors introduced.) The next speaker is Senator Chambers, followed by Beutler, Bourne, Jensen, Pahls, and others. Senator Chambers.

SENATOR CHAMBERS: Thank you. Madam President and members of the Legislature, I appreciate what Senator Redfield said. You all must understand that when we deal with a complex social issue people come to that issue for different reasons, different motivations. But when you put them all together, they may wind up going down the same path pursuing a common objective for different reasons. I don't care why people would support what I'm offering. But to maybe put some people at ease in their

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minds, let me start again with what I said. There is racial segregation in Omaha right now. There are identifiable minority school or African-American schools or academy schools which can be pointed out to anybody who would come through Omaha and they would see that the segregation is there. And the vast majority of black children go to those schools, will continue to go there. So I don't even want to talk about integration. It's not happening now. It's not going to happen in Omaha or anyplace else. Recognize the reality and understand what the purpose and function of a school system is. It's simple--educate the children. We want our children educated--and let me give an analogy--like a stem cell, which is capable of diversifying, then specializing and becoming various types of organs. We don't want our children viewed as the workers and flunkies of society so that they're trained in the schools to be subservient and work for somebody and never have a high aspiration. We want our children to get a quality education. We want history, we want English, we want geography, we want ciphering or math, social studies, so that every child gets that basic education and not put some over here and say, you want to go to college, you want to be an auto mechanic, then we'll give you a wrench and a pair of pliers. We'll give you a book. We want every one of those children to have a book. We want those children to be able to read that book and understand what is in it. And if this child decides after elementary school or high school to go to college, there doesn't have to be a lot of remedial work because the child had been what they might call specialized or channeled someplace else and did not have exposure to the things needed as a basis for going to college. They all have that fundamental basic background. They can pass these entrance exams as I did when I went to Creighton. And I scored so high on mine that I was put in what they call honors English. English is not even the native tongue of people of my complexion. I don't know what that language is because it was lost in the midst of history and Africa. But when I came around white people, I was not going to be outdone by any of them, to show them that my complexion does not make me inferior. As Senator Redfield pointed out, children don't learn in schools because they're not being taught. If you engage the mind and the imagination of those children, you don't have discipline problems, you don't have behavior problems. You have

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enthusiastic young people manifesting what all young people say when they're not suppressed by adults. They have a zest for life. They're curious. They want to know. They will listen to somebody who can tell them something, but not somebody who will tell them, you ain't nothing, your family ain't nothing, your people are nothing, you've never been anything, and you will never be anything; I've got my mine, now you get yours. And they sit down and cross their feet on a desk and read a book, and our children are lost. And suddenly when I bring something that is in the way of a solution...

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: ...people now want to talk about dividing the city. It's divided now. What those people don't like is control in the hands of people whose children's welfare is at stake, who want more for our children than they are receiving. That's what I'm after. And there are white teachers teaching in our schools now who I believe don't do the job, not because they can't, but they don't have to. If they were put in the environment that I'm talking about, we'd see some people blossom and show that they know how to teach who currently are deemed by the school system to be totally incompetent. Thank you, Madam President...oh, thank you, Mr. President.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, wow. I never thought I'd be arguing this issue by the time I left the Legislature. This is...this represents the question of a change in the way of thinking. Let me start out with one aspect of the situation, and I wanted to ask Senator Raikes some questions if I might. But in his absence, I would ask Senator Redfield because my questions are really centered around the size of school districts.

SENATOR CUDABACK: Senator Redfield, would you yield?

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SENATOR REDFIELD: Yes, I will.

SENATOR BEUTLER: Senator Redfield, before you were on the Education Committee, I was on the Education Committee for a number of years. And I know even back then studies were starting to appear that indicated that there did seem to be a kind of middle-size school district that was the optimal for advancing the quality of education of children. And that's always been intriguing to me. And I don't know if you can remember or recall or have in front of you enough evidence about what those studies say, but let me ask you this. Let's assume for the moment that we're talking of dividing the school district into three parts. I'm not sure why that assumption is there, but that seems to be what Senator Raikes is suggesting. And I assume there's a southern district bordering the river and a northern district bordering the river and some kind of western district. But if it's divided into three parts, and we don't even know if they'll be divided equally, but assuming that they're divided roughly equally, that's 15,000 students per district. Is...what have the studies shown? What is the optimal size? Is that right there in that range?

SENATOR REDFIELD: Senator Beutler, nationally they've pretty much come down to about 6,000. But there are a number of studies that have a range of optimum size and 6,000 seems to be the median point in those studies. But I will tell you from the data here in Nebraska we know that our most efficient district is from 4,000 to 20,000. And if you looked at the fishhook chart that I distributed the other day, you'll see that Millard is actually our most economical district and it's almost 20,000. So I think 15,000 would actually be a good size, and you cannot fault the academic results that you are seeing produced in the Millard School District. I am having my staff go down and bring up some of the materials, LB 1167, so that we can distribute to you some...a synopsis of some of those studies. And then you can look at them for yourselves, the impact on academic performance, the impact on instruction, funding to the classroom, and the impact on the overall cost. So we have a number of those studies just in synopsis form on a page that you can look at.

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SENATOR BEUTLER: Okay. Senator Raikes, let me ask you a question related to that. Under this proposal, if the council is empowered to divide the district, what is the check upon, or is there any check upon how many portions they make?

SENATOR RAIKES: Senator, as I read Senator Chambers' proposal, there would be districts of two or three high schools. And they would be organized along community interests, or I don't have the copy right in front of me, but I think that's...

SENATOR BEUTLER: So if they have to have two or three high schools, they can't be more than...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...three probably, right?

SENATOR RAIKES: I believe there are seven high schools now in OP...

SENATOR BEUTLER: How many...I don't know them. I went to Benson High School, but I don't...I'm way gone from being close to that system.

SENATOR RAIKES: I believe there are now seven high schools in the Omaha Public Schools District.

SENATOR BEUTLER: All right. And each...and there has to be at least two.

SENATOR RAIKES: Right.

SENATOR BEUTLER: So you could have one, two...you could have, most, three...

SENATOR RAIKES: Right.

SENATOR BEUTLER: ...districts, maybe two. You have two or three districts then, right? That's the way it works out.

SENATOR RAIKES: Well, you couldn't have only two because

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there's seven high schools.

SENATOR BEUTLER: Seven, okay. So you have to have...

SENATOR RAIKES: Three.

SENATOR BEUTLER: Why didn't you say three?

SENATOR RAIKES: Pardon?

SENATOR BEUTLER: (Laugh) Why didn't you just say there would be three districts?

SENATOR RAIKES: I'm trying to be deceptive here.

SENATOR BEUTLER: (Laugh) Yeah, Ernie says you're not much of an economist.

SENATOR RAIKES: (Laugh)

SENATOR BEUTLER: Oh, okay. Well, in any event, I have some other questions, but I think that finishes that particular topic, which probably causes my Lincoln people to be slightly uneasy since they have 30,000 people, 30,000 students...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...and divide evenly into two.

SENATOR CUDABACK: The treats you are receiving for a birthday yesterday and a birthday tomorrow--happy medium--Senator Foley and Senator Erdman. So happy birthday, Senator Erdman and Senator Foley. On with discussion, Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. Frankly, I don't know if I support this amendment or not because I don't know if it's the best policy for the state. And if Senator Chambers gets angry because I'm asking questions, then we'll deal with that later I guess. But I do think we need to talk about the policy behind what is going on here. And to that end, would Senator Raikes yield to a question or two?

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SENATOR CUDABACK: Senator Raikes, would you yield to a question or two?

SENATOR RAIKES: Yes.

SENATOR BOURNE: Senator Raikes, you and I have had a conversation about this amendment and I don't want to imply otherwise. And as we discussed, I said, you know, it's something that we need to chew over. I do remember Senator Redfield's bill and so I don't necessarily believe that we haven't had some semblance of a hearing on this concept. But would you agree that we never, never discussed in the Executive Sessions doing what we're contemplating here this morning?

SENATOR RAIKES: I would, yes.

SENATOR BOURNE: Okay. So I guess what I'm asking you is if we...as I see this, we're breaking up the Omaha Public School District. Is that an accurate statement?

SENATOR RAIKES: Yes, it is.

SENATOR BOURNE: Okay. So there would be how many districts left over after...if this amendment were to be adopted? Or, excuse me, how many districts would the one metropolitan district be broken into?

SENATOR RAIKES: The one district would become three districts under this proposal, so there would be two additional ones in the learning community.

SENATOR BOURNE: So there would be total of three districts created, so two additional districts or three additional districts?

SENATOR RAIKES: Two additional, three in total.

SENATOR BOURNE: Okay. And I will be honest with you. I listened to Senator Chambers talk about how his community knows his kids best and he's probably right in that regard. But I

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will tell you, the other day when I introduced an amendment to increase segregation, that was a sincere amendment. That's something that I feel strongly about. And are you familiar with these neighborhoods according to your map?

SENATOR RAIKES: I think the amendment you introduced...

SENATOR BOURNE: That failed miserably.

SENATOR RAIKES: ...was an attempt to increase integration, not segregation.

SENATOR BOURNE: Exactly, but that was the amendment that failed miserably, if you remember, the other day.

SENATOR RAIKES: I do remember.

SENATOR BOURNE: (Laugh) I guess what I'm saying is I truly believe that that is the way to go, that we have socioeconomic integration. And I'm curious. I don't disagree with Senator Chambers to the end that that community, our community knows those kids best and could develop curriculum designed to further their education. But how does isolating, for lack of a better way to say it, how does that improve the overall education in the entire metropolitan area?

SENATOR RAIKES: Senator, my answer to that would be, again referring back, what we're talking about is, again, the public schools in a community and who controls those schools. And you made reference to Senator Chambers' remarks about that, the people in that community being best able to judge the needs and respond to those needs. So I think the improved education comes from that score. Now I will absolutely agree with you that to do something like this without insisting on an integration plan at least doesn't get me where I want to go.

SENATOR BOURNE: And you and I are in agreement in that regard. And the other day Senator Chambers said something about the meat mouths that are discussing socioeconomic integration. And I'm not exactly sure what that term means, but I do believe that has to be a component of any plan, and I've been up front about that

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since the beginning of LB 1024. And I guess what I'm looking to you is, is this amendment, AM3142, regarding the socioeconomic integration, would you...is it in your opinion that this would set it actually back?

SENATOR CUDABACK: One minute.

SENATOR RAIKES: Not. I don't think this amendment in and of itself would improve it, but I also don't think it would set it back. I think that the integration plan of the learning community needs to...is the instrument by which that moves forward.

SENATOR BOURNE: So let me ask this so I can kind of chew on this a little bit more. How many students then, there'd be 15,000 students in each of these three districts that was OPS?

SENATOR RAIKES: That would be right roughly.

SENATOR BOURNE: Okay. Are we looking at...so obviously 15,000 is the optimal number because we wouldn't just do this arbitrarily. So are we looking at breaking up Millard, Ralston, Westside, Gretna, all these other school school districts into the optimal number of 15,000?

SENATOR RAIKES: No, not...that's not a part of this proposal, Senator. I will...I've got another amendment coming which actually...

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR RAIKES: ...maybe addresses that, but I won't take more of your time.

SENATOR CUDABACK: Further discussion, Senator Jensen, followed by Senator Pahls and eight others.

SENATOR JENSEN: Thank you, Mr. President. And, Senator Raikes, would you address a couple questions that I have, please.

SENATOR CUDABACK: Senator Raikes, would you...

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SENATOR RAIKES: I'll try.

SENATOR JENSEN: Certainly we have formulas in the state, the TEEOSA formula. How would that play into setting up of a separate district within a school district that's already in existence? In other words, how is...this particular district where I used to live, certainly does not have the tax base of the greater Omaha area. And so it's going to have to rely heavily on the, I would think, state aid. Will this change at all?

SENATOR RAIKES: Keep in mind, Senator, that part of this proposal is the formation of a learning community and a common operating levy within that learning community and a sharing of that entire community resource. You're right that any one of these or any other district in the learning community that happened to be relatively low on property tax resources would rely relatively more on state aid. But that's kind of the way it's always...always has happened. Well, I shouldn't say "always," but that's the way it does now happen in our aid formula. So I don't see any sort of a once and for all shift or a philosophical change or a significant financial change in what's being proposed here.

SENATOR JENSEN: How will the boundaries be set on something like this? How will it be decided as to who will be included and who will be out of it?

SENATOR RAIKES: I don't have the proposal right in front of me, but the...it begins I think with a proposal from the learning community coordinating council. Then it goes to the state reorg committee. And if the state reorg committee does not come up with a proposal that's acceptable or can agree upon, then I believe the State Board of Education, no, state reorg committee can revise the plan. But in the end, the state reorg committee does come up with a plan. There's not an escape from that. It's the combination of the learning community coordinating council and the state reorganization committee.

SENATOR JENSEN: Now there still would be opportunities I would

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think for diversification throughout the whole learning community.

SENATOR RAIKES: Oh, absolutely. We're really talking here, again, about the control of the public schools in a particular community. The people in that community control the schools. It certainly doesn't mean that that school serves only the students in that community, particularly if that sort of an arrangement results in segregation or whatever the appropriate term is.

SENATOR JENSEN: So if LB 1024 were to go forward, this would really not be all that different than a Westside or a Ralston within that...within...

SENATOR RAIKES: Not at all, not at all. It'd be much the same.

SENATOR JENSEN: So it's unique but then again it's not all that different than what we're talking about.

SENATOR RAIKES: Right.

SENATOR JENSEN: Thank you, Senator Raikes. I think it is a unique program. I think it deserves consideration. I'm pleased to see Senator Chambers come forward with something like this. Without a doubt for a district to have its own school board, to be responsive to the needs of that area, that citizens, and who can make those decisions better than those individuals? I think it deserves support. At this point in time, I feel that I can support that and will certainly listen to the rest of the debate. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. (Visitors introduced.) On with discussion to AM3142, Senator Pahls.

SENATOR PAHLS: Mr. President, members of the body, I just have some data that I'm not going to read, but I just...I'm going to ask the question because needless to say, I have immersed myself in lots of material. Have you had the opportunity to read the brief of the lawsuit that Omaha has against the state of Nebraska? I will not read it now, but if I were a patron,

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somebody in the Omaha school system, my child was being sent there, I would really question it. I will read parts of it later on if necessity requires that. Also another bill that I ran across, LB 513 in the year 2001, I read from the transcript a number of African-American people who spoke on this bill. You can feel the voice that they feel disenfranchised. Again I will read parts of that if need be. They feel disenfranchised and it's sad. If you just...it's just amazing. Also if we need research about the size of a school district, I have pages of it. And I see Senator Redfield passed around a very short description, two pages of various bills...or, various articles that she has read or looked up. I have them. It tells us when the school district gets too large it cannot meet the needs of the children. I didn't say the needs of the parents; I said the needs of the children. So we've got to take a look at that. And yes, a school district reaching a potential of 25,000 then you start seeing that u-shape go up. You're not as effective. Fifteen thousand would seem like a good number. Six thousand is the number that lots of people come up with. But the larger the school district gets, those children in need, it's been proven they suffer. And again I can read that to you. Another thing, just as personal experience, I have been an administrator of a building with more needs, then a building that was in pretty good shape. You operate them differently. You need to know what's going on. Now if I did not understand the culture that I was dealing with, I would be behind the eightball. So you do need people who understand what's going on. You need to understand their culture. I will grant that. Also over my past few years I've had the opportunity to teach for Wayne State and also classes for UNO. And I was always amazed when I would have conversations with teachers from OPS. I saw in their heart that they were really trying to make a difference. But I also could see that they were up against some obstacles and I attribute that to the design of the school system. I know OPS does many unbelievable things. But I truly believe if you would modify this school system, make it so when a person has a question they know where to go...and I'll just be very frank with you.

SENATOR CUDABACK: One minute.

SENATOR PAHLS: If the administration has a question, they

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refused--and this was the open meeting law--they refused to give information to the World-Herald, they refused to give information to the Attorney General, what would it be like if you were one of those parents who were basically, in their eyes, at the low end of the totem pole because you didn't have a lot of money? How would they be responded to? I would question that. Again, if need be, I will read some of this material. Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. Senator Erdman, followed by Senator Howard.

SENATOR ERDMAN: Thank you, Mr. President. I yield my time to Senator Redfield.

SENATOR CUDABACK: Senator Redfield, almost five minutes.

SENATOR REDFIELD: Thank you, Mr. President. Thank you, Senator Erdman. I appreciate the time. One of the things that has been brought up here on the floor is, what happens to the goal of integration? We have adopted an amendment, and I don't believe that goes away with the Chambers amendment. And that amendment that we adopted two days ago would form a task force that would come up with an integration plan. That I think is a worthy goal and it should continue under the bill and would not be impacted as I understand it. If it is for some reason, we can make sure that we get that back in there because I think that's a crucial component. But the concern that I had when looking at trying to design a system that I thought would help students, we're distributing to you some of the handouts we used on the hearing for LB 1167 so there's some extraneous items in there. But the one that says "Solve for Academic performance," the last bullet says that students from lower socioeconomic status families achieve significantly less when enrolled in large districts; students not living in poverty were not as negatively impacted by large district size. So if we are concerned about students of low income, we should be trying to design a system that will help them achieve academically. And smaller district, datawise, nationwide, has demonstrated that. It also says that ACT scores, higher SAT scores, NAEP scores, they found a number of programs that have been very successful, and I want to tell you

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about one. I told the Education Committee about it. It was the Boston MATCH program. Now, Boston is a large metropolitan area, and they have founded a media and technology charter school and the acronym is MATCH. It draws from a predominantly black and Hispanic student area from the city's poorest demographic area. Most of the students enter ninth grade achieving well below grade level. Yet 100 percent of its 2005 graduates went on to college. Let me repeat that. Do you know what that says to us? Students that started ninth grade behind the curve, by the time they graduated from twelfth grade every one of them went to college. Among the Bay State's 334 open-admissions schools, MATCH's 2005 tenth graders ranked 1st in math, at 96 percent on the scale; 14th in English, with a 92 percentile ranking for the percentage of students scoring at proficient or above on the Massachusetts Comprehensive Assessment System. That's a statewide exam. And we have a school in a struggling area of inner-city Boston that's ranking 1st in math and 14th in English when compared to the entire state student population. Isn't that what we want for Nebraska? It's what I want. If you look at instruction funding, which I think is key to achieving those results--it's another sheet there, solving for instruction, solving for I--districts with 1,800 to 6,000 students had the lowest administrative costs per student. Senator Jensen has talked about that here. We've looked at comparisons from state to state and we know how high Nebraska is on its administrative costs. And it's clearly from our lowest- and our highest-size districts, not from the middle range, the fishhook optimum level. They found that centralized management of schools through consolidation led to higher spending of administrative staff. So if we were to consolidate all of the school districts in the Omaha area, we would only increase our administrative costs, not bring greater efficiency to the equation. We found that the Los Angeles Unified District spent...

SENATOR CUDABACK: One minute.

SENATOR REDFIELD: ...\$107 per student on supervisor salaries alone. It's 191 percent of the state average and that does not include the building principal. The end result of consolidation has often been higher administrative costs. That was found in the Morris Barret and Boaz study. Per pupil spending on other

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services averaged \$584 in ten mid-size districts of 6,000 at optimum range and it jumped up to a great deal more in some of the other districts. I hope you look through some of this data. This is based on education research done by educators. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield and Senator Erdman. Senator Howard, followed by Senator Raikes.

SENATOR HOWARD: Thank you, Mr. President and members of the body. Senator Raikes, if I may ask some questions.

SENATOR CUDABACK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: You may.

SENATOR HOWARD: Thank you. One of the first things that you taught me when I came down here and began working with the Education Committee was that the decisions that we make on this level not only impact the district I come from, but the entire state. You may remember this. (Laugh)

SENATOR RAIKES: You listened well.

SENATOR HOWARD: What I'm wondering in looking at this and looking at the bigger picture is how would this impact, say, the Lincoln community, the Grand Island community, and I'm not personally familiar with Grand Island, but I remember many discussions that we've had regarding the inner-city schools in Grand Island and the suburban schools surrounding it and then projecting it on west to the Lexington area where there are more and more people of color working the packing plants and moving into that area? How would this affect or what are the long-term implications that you would see with this?

SENATOR RAIKES: Senator, there are probably two ways to view that. One would be sort of technically and mechanically. And the answer there is that this specifically refers to Class V school districts. And as you know, there's only one Class V school district and a Class V school district is the school

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district within the...a city of the metropolitan class, I think is the way, the right phrase. So technically it involves only the Omaha metro area, this particular proposal, at least as I read it. The other that you may have, well, you've raised and maybe have more interest in is sort of the philosophical issue. Does this say something philosophically about how you organize school districts? I think it does. I don't know that it is a different direction than what we take now. To the extent that as long as we have a reasonably sized, efficiently sized school district, we try to grant authority to local people to control that district. Now certainly we have statewide regulations, laws, and other things that bound what an individual school district does. But we do, in fact, lean as a state toward allowing communities, communities of interest, to decide how they want to do public schools.

SENATOR HOWARD: As always, you provide the information and I appreciate it very much. Can you...would you see in the future the possibility of communities or districts bringing in the concept of a learning community for their own school system, even though they're not Class V? Say Grand Island would like to utilize that concept and these principles. I wouldn't see that too far fetched as happening. Would you agree with that?

SENATOR RAIKES: I would agree with that. In fact, in LB 1024 there is specific provision for that to happen. And as you know, on the committee we've been very much interested in organizational changes that promote, require school districts to work together. This is one way of doing that. And I think that the specific provisions are that a learning community could be formed anywhere in the state as long as it includes all the school districts headquartered in at least one county and there are at least 2,000 students involved. So Grand Island, Hastings, maybe Lexington, South Sioux City would all be possibilities, I believe.

SENATOR HOWARD: I think this is something important for us to consider. Both you and I will be here on the Education Committee next year, and I think we have to be mindful of what we may plant with this concept. I have an additional concern, a number of them actually, but whenever I hear of another board or

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committee or a concept of a governing group going into place, to me it smacks of bureaucracy. And anyone that's dealt with the bureaucratic system that I recently came from, Health and Human Services, knows full well that more bureaucratic structure doesn't equate to better services or more delivery to individuals and in this case classrooms.

SENATOR CUDABACK: One minute.

SENATOR HOWARD: Thank you. I'd like to take the last minute that I have to reflect on this map. I grew up in Omaha. I grew up in a community in an area of town that would now be considered economically disadvantaged. We didn't realize that at the time. I attended a school, my early years, old Cortland School, that was so economically disadvantaged it's no longer standing. This map is very reminiscent to me of what Omaha looked like in the fifties, the areas that existed then. We worked hard to change that. I'm very concerned if we revert back to that time period. We isolate ourselves from one another. We don't work together for the greater good. Thank you.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I wanted to make a couple of points, listening to the conversation. One of them had to do with how does this improve education. And I would, I guess, point out that to some extent the more governing bodies you have the more different ideas for education that are available, and there may well be more types of opportunities. I know that that doesn't necessarily always happen. And Senator Howard's point about creating additional levels of administration is certainly a valid one. On the other hand, for good, bad, or other reasons, we have a great many school districts in Nebraska now with school boards and administrations that deal with many...a much smaller number of students, less than 300 or less than 400. These would be school districts that deal with 15,000 students. Another point that I neglected to make that I should have in talking about our work on this type of a proposal in committee, the original LB 1024 as it was introduced, in fact, proposed the

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breakup of OPS. It did it in a different fashion. It said that there could be no school district with more than 25,000 students. Now we changed that in a later version, but that was certainly an idea that was made available in the committee. The other thing I'll mention is Senator Kruse I think really related to concerns that a number of people may have, and certainly I've had to work my way through, and that is that OPS has done all this work in the form of trying to create and accomplish an integration plan. I will tell you in that connection that OPS also probably, for good, bad, or other reasons, created the job. In 1998, OPS went to neighborhood schools. That basically created school buildings that were pretty much one race in the building or predominantly one race. Now I will admit that...or not just admit, I will absolutely and properly concede that they've worked on trying to address that since then. But the fact is that there's sort of two sides of that coin to deal with as regards the administration of the Omaha Public Schools. This is not, certainly, in my view a proposal to further segregate or further separate by racial group students in Omaha Public Schools. Again, this particular proposal deals with what group controls the public schools in that community. As far as I'm concerned, all of the things that we would otherwise do to ensure that there is a diversity of students would, in fact, be maintained or even enhanced. Another way or another point I would make is that this is a request by local communities to have a chance, have the opportunity to direct and control and administer their own school districts. These are communities that have a number of able people, qualified people, and certainly interested people.

SENATOR CUDABACK: One minute.

SENATOR RAIKES: It's my view that they absolutely deserve that chance. And I am certainly not willing to say that they can't do it. I think there's no evidence to indicate that that would be an appropriate thing to conclude. So again, this is about who controls the public schools in a local community and suggests that the folks that are in the local communities should have that chance, should be given that responsibility. Thank you.

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SENATOR CUDABACK: Thank you, Senator Raikes. (Visitors introduced.) On with discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. On the handouts that are going around to you, there is a sheet on "Solve for Instruction funding." And the last two bullets I want to point out to you. Only 45 percent of education dollars are spent in the classroom in the huge Los Angeles Unified School District, and only \$84 per pupil is spent on textbooks. Haven't we heard, haven't we read, and haven't we grieved over the fact that OPS finds it very difficult to find enough money to put new textbooks in the hands of their students? How can they learn if we don't give them the tools? How can the teachers teach if we don't give them the tools? The Illinois classroom expenditures represent only 46 percent of the budget, this is the last bullet, support services consume 44 percent. A district is too large when we have to spend almost half the budget on support and only 46 percent of the budget on classroom instruction. And then the sheet that says "Solve for Cost," the first two bullets, a survey of 30 years of research on school size and school consolidation found that 6,000 students is the optimal number for cost effectiveness. This is the number that I quoted to Senator Beutler when he asked that question. And the second bullet, costs begin to rise when districts exceed 6,000 students, and sizable per pupil increases begin to occur in districts over 15,000. That's national data. I will tell you that it has not happened in Nebraska because we know that Millard schools with almost 20,000 students are, in fact, our most economical district. So I think we're still well within the range with 15,000 students. Senator Bourne asked about, well, what about the other school districts? Are they impacted? Well, they're not by the amendment. But, Senator Bourne, when I introduced LB 1167, you may remember from the hearing that I actually did impact the suburban districts. Because in the proposal that I brought with one high school and all the feeder schools and a minimum size of 4,000, what that meant was that Millard, with three high schools, was going to be forced to break up as well. And that wasn't very attractive. I will tell you the Millard School District is one of the districts that I represent, and they legitimately could ask me

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why should they when, in fact, they have been so cost effective and they have delivered such good academic results. Mainly because I thought it was a question of fairness. If I was asking OPS to give up something based on national data, then it was unfair for me not to require it of my own districts. The Ralston and Elkhorn School Districts were not 4,000 students and, in fact, they were being asked to grow in order to fit into the parameters of LB 1167. Again, that is not here before us in Senator Chambers' amendment, but clearly it's something that we can talk about and address, certainly in the future, if not this year. I'm really proud of every one of my districts. I represent four. I think they do an excellent job with the tools that they have. I think they have a hard task before them. Today delivering education is not as it once was. Families are busier. Both parents are often working. Sometimes there's only one parent, and they're hard-pressed to sit down and do homework with their student at night. All the more reason why we should create the optimum-size district and the optimum resources for those school districts to deliver a quality education. We can't ask parents to do it all. We can't ask teachers to do it all. But working together I think we can do it all. I again ask you to support the Chambers amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. (Visitors introduced.) On with discussion. Senator Chambers. Senator Chambers, followed by Senator Brown, Beutler, Bourne, Schimek, Erdman, Kruse, Pahls, and Synowiecki. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. I want to make it clear that people can ask me any question about any aspect of this that I'm talking about which is on their mind. I want as complete a record as is possible. And the only way that can happen is my trying to anticipate what might be a question or your asking it and I answer it. But to carry a step further what Senator Pahls was mentioning, because I've talked about it frequently, if we would take the petition that the Omaha Public Schools filed as a part of a lawsuit to try to get more state aid, I could take that petition as admissions against their own interest and show how they're cheating these students, not doing their job, and I think it would be a perfect petition to just caption a different way,

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take it into federal court, and I could kick OPS' rump in terms of how they're messing over these other children. At OPS, and their lobbyists will try to represent their position, they know that there are so many minority children in their school system that more federal money is drawn by those students, more state money, because they can put so many of those students in special education and double up on what they get in state aid. That's the only thing OPS sees of value in children of my complexion, cash cows. But I had a couple of things I wanted to be sure and touch on. Somebody is running around here talking, from OPS, that what I'm saying should be done is unconstitutional. How is it unconstitutional? They will say, well, there will be a white district here, Latino district with some white people in south Omaha, and then the black district. I say, well, that's the way it is now. How can you tell where these different groups live if that's not the way it is right now? And if it's not unconstitutional right now while white people control everything, how does it suddenly become unconstitutional because black people simply want to say it's going to be a different sheriff in town? White people have established the segregation. Mackiel and his minions are the ones who wanted to go back to what they called the neighborhood schools. They will argue that the schools are segregated because neighborhood patterns are segregated, residential patterns. Therefore, the schools are not guilty of unconstitutional segregation. Well, if the segregation that exists now which results in discrimination against children at the hands of the white school administrators, if it's not unconstitutional now, how does it become unconstitutional when we, as black people, say we're going to leave the divisions right where you have placed them? We're going to leave the attendance districts that you have established in place. The only thing we're changing is control. Then you hear them hollering, jumping up and down, that's unconstitutional. Well, when I would tell them that an argument could be made that the existing segregation could be unconstitutional, they defended it and said, no, it's not. So don't you all accept all that BS. A lobbyist is paid to say what they tell him to say, and I'm talking about John Lindsay and some of the others now. I'm going to tell you what the problem is. All this talk of integration was a misplaced approach settled on by white people who felt they know better

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than black people what is in our interest. Whenever we speak up they say, but, Ernie, you don't understand. I say, man, I don't understand my situation? I don't understand what my children are facing? But, Ernie, I know. So white people have had it their way all of these decades, all of these generations. And the further our children go through school, the further behind they fall. The less well-educated becomes our entire race throughout this city and other cities where this type of segregation exists. It's not going to go away. White people can send their children into this district. And if we become a model, they'll want their children to go there. And it will set an example for the rest of the country. Why do I say that? Because you've never had anybody in this Legislature or any legislature in this country throughout its history like me. Check your history books. Check the history of Nebraska.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: There is more known about this state because of what I've done than all the other senators who were ever in this Legislature. And if you don't believe it, I have the documentation from white people's newspapers where they acknowledge things. And there certainly has never been or never will be anybody who would work to make an education system function properly as I will. That is something that no other education system in this country has or will ever have. This will work. And that's why OPS is upset and afraid, because the success of it would give the lie not only to the things they have done paternalistically, but that have been done paternalistically throughout this country in every education system presided over by white people where black children and other nonwhite children are cheated and poor white children also. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Brown, followed by Senator Beutler.

SENATOR BROWN: Thank you, Mr. President, members. Would Senator Chambers yield to one question?

SENATOR CUDABACK: Senator Chambers, would you yield to a

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question?

SENATOR CHAMBERS: Senator Brown, I'll yield to as many questions as you want to ask me, so don't feel limited to one.

SENATOR BROWN: I listened to what you said about the constitutionality because I have heard the same thing. Would you be willing to put a severability clause into this section of the statute?

SENATOR CHAMBERS: Oh, yes, I would have no problem with adding the severability clause. And you know what would happen? The court would say, the only thing constitutional in your bill is that thing that Chambers did.

SENATOR BROWN: Thank you, Senator Chambers. (Laugh)

SENATOR CHAMBERS: (Laugh) Okay.

SENATOR BROWN: I would yield the rest of my time to Senator Schimek.

SENATOR SCHIMEK: Thank you, Senator Brown. Members, Mr. President,...

SENATOR CUDABACK: Senator.

SENATOR SCHIMEK: ...I wasn't really going to speak on this bill until some questions were raised, both in the lobby and on the floor. And I would just like to ask Senator Raikes, for the record, a couple of things. And, incidentally, I am going to support the Chambers amendment. But, Senator Raikes, may I ask you for the record? I know that you've had a discussion or two with people about this, but there is, on the part of some people at least, a fear that something like this might happen to Lincoln at some time in the future. And, yeah, I think you would agree with me that we have a pretty good situation here in Lincoln already. We have a, I think, a fairly well-integrated school system; we have a very supportive community. It's a community that's always asked for input when decisions are made. And so...and if they're not, generally those decisions go awry.

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I think the schools have done a good job of involving the community. I think I heard that you said that this could happen in other places at some time in the future. It would depend upon another Legislature. And Senator Raikes, that makes me very nervous and it might make me nervous enough not to support the whole idea in the first place. Would you like to respond to that, if you would?

SENATOR BAKER PRESIDING

SENATOR BAKER: Senator Raikes, would you respond, please?

SENATOR RAIKES: I will. Senator, there is nothing in LB 1024 that requires any other school system anywhere in the state to become part of a learning community. So it is voluntary, would be done by agreement, by cooperative agreement between school districts in other parts of the state. There are the minimum requirements: all the school districts headquartered in a single county, at least 2,000 students. But it's voluntary. There's no requirement. The other point I would make is that Senator Chambers' proposal deals only with Class V school districts. There are no other Class V school districts...

SENATOR SCHIMEK: And I'm not...

SENATOR RAIKES: ...in the state.

SENATOR SCHIMEK: ...I'm not concerned about his amendment with relation to the whole. I'm more concerned about...would it be possible under the language of this bill for, say, all the other school districts in Lancaster County to get together and form a learning community so that the Lincoln practice of expanding its school districts with its annexation of additional area, generally the school district goes right along with the city boundaries,...

SENATOR RAIKES: Right.

SENATOR SCHIMEK: ...would it be possible for that to...practice to be changed by some kind of a voluntary agreement on the part of the other communities in...

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SENATOR BAKER: One minute.

SENATOR SCHIMEK: ...Lancaster County?

SENATOR RAIKES: My answer to that would be, only if the city...Lincoln Public Schools agreed to that.

SENATOR SCHIMEK: Okay. Then for now I think you've answered my questions. I may come back at you later.

SENATOR RAIKES: Okay.

SENATOR SCHIMEK: Thank you.

SENATOR BAKER: Thank you, Senators Brown, Schimek, and Raikes. Senator Beutler, you're recognized to speak.

SENATOR BEUTLER: Senator Baker, I think ultimately I'd like to offer Senator Chambers and Senator Raikes a chance to respond to a question that I hope I can frame quickly.

SENATOR BAKER: Senator Raikes and Senator Chambers, both?

SENATOR BEUTLER: I haven't been involved in school law for a long time, or constitutional law, but I know, starting back in the 1950s with Brown v. the Board of Education, the old-time rule that separate but equal was stricken, and the new law said separate cannot be equal; that the schools in this country had to integrate. And there are lines of cases going in different directions from that basic principle with regard to school boundaries and school composition and all sorts of things, and now today we seem to have come full circle, and we have a black legislator advocating to this body essentially the intentional drawing of boundaries so that most of the black students are put in one district. Now in the South, days...many years ago, and in other areas of the country, this sort of thing was identified as the very most wrong thing that could be done, and the law precluded it for a number of years. And my question to you and Senator Chambers would be, if we do this thing, what has changed in the law that allows us to intentionally put black students

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all in one district?

SENATOR RAIKES: Senator, I'll make a shot at it, and then turn it over to Senator Chambers. The issue here is control of the public schools in a community; nothing more. You're right in regards to Brown v. Board of Education. I think that still is the law of the land, although I think Senator Bourne pointed out that Milliken v. Bradley is a court decision that is somewhat confounding in that regard. But the issue here is who has control of the school system in a particular community. There would not be, as a result of this, as a practical matter, any more concentration of students by racial group than there currently is. And, in fact, it would be my intent, because of the formation of the learning community, which is a much more diverse group of students, to use that as a way to address concentrations by race.

SENATOR BEUTLER: Okay. So it really becomes very complex and probably unprecedented, in a way, doesn't it? Because you're putting within one district most of the black students, and in an administrative sense you're creating that kind of a district. But when you create then a larger administrative unit with certain kinds of powers, you have a very complex question, do you not, of what in fact you've created here.

SENATOR RAIKES: Well, it's complex but yet not complex. Part of the administrative power is granted to the individual school district, the ones that control in the local community,...

SENATOR BAKER: One minute.

SENATOR RAIKES: ...and part of that goes to the broader learning community. And what we're proposing here in the next amendment is that a part of what happens in that broader learning community is implementation enforcement of a plan that deals with moving...integrating students.

SENATOR BEUTLER: I would yield the rest of my time to Senator Chambers, to react to that question, if you're interested.

SENATOR BAKER: Senator Chambers, you would have about 25

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seconds.

SENATOR BEUTLER: We're not going to be able to do it, Senator Chambers.

SENATOR BAKER: Thank you, Senators. Senator Bourne. Senator Bourne is recognized to speak next, followed by Senator Erdman, Kruse, and Pahls.

SENATOR BOURNE: Thank you, Mr. President, members. I am not an expert in educational law, but I am a lawyer. I read the Milliken v. Bradley case. It, to me, is absolutely clear that if we go forward with this amendment that we are adopting...we are, as a state, adopting an action that encourages segregation. That is my opinion. I have not talked to the OPS lobbyists at length about this. I have read this case...I've read the case as it relates to my amendment regarding the integration amendment that I had the other day. There is no doubt in my mind, and I have not heard anyone on the floor dispute that this is not a state action that actually encourages segregation. I listened with interest to Senator Redfield, stand up and talk about how it's appropriate to break up the Omaha Public School District into small districts because they're no...because they're more efficient, even though she knows that they...of the large minority population in Omaha, but she does not make the same argument for the Millard School District, which is predominantly white. I can't even believe that we are, as a Legislature, discussing this. If you don't think that this is a state action that encourages segregation, I think you're mistaken. I'm not disputing what Senator Chambers says, but you have got to exercise caution when you are separating out a segment of Omaha that is predominantly minority and saying that, in and of itself, is one school district. I think if you read the case law, I personally am comfortable. It is extremely clear that that is state action that encourages segregation. I don't intend to support the amendment. I'm kind of surprised, to be honest with you, that it is here. We never discussed this in our committee. While the concept, you might argue, came from Senator Redfield's bill, she did not discuss districts that are predominantly minority in her bill, that I recall. And I will tell you the Exec Committee never, to my recollection, discussed

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her bill after it was introduced. I don't understand how this is not a state-based action to encourage or increase segregation, but I do like to hear the other side of the story. If Senator Chambers would like the balance of my time, I would be happy to hear what he has to say. Tell me why this is not state-based segregation.

SENATOR BAKER: Senator Chambers, you have 2 minutes, 10 seconds.

SENATOR CHAMBERS: Thank you, Mr. President. And thank you very much, Senator Bourne. First of all, the segregation that Senator Lindsay, who is the lobbyist for OPS, is trying to raise as a "bugabear," or whatever they call it, at this point, that segregation was created by OPS, by Mackiel going back to neighborhood schools. That which Mackiel did was a state action, but Mackiel knows, as a lot of these administrators know who have started resegregating their school districts brazenly, that the federal courts have backed away from the decisions that they had given before, and a case that could have prevailed in the past on the basis of what Senator Bourne is discussing will not prevail now. There are integration plans that had been in place for generations, and integration has not yet occurred, but those plans have been dissolved by federal courts, even though the same segregation exists now which did at the beginning. And that is the argument that is given in court by those who obtain the implementation of the programs. They will say the reason for implementing this program, and in some cases a court imposed it, that reason continues to exist. The segregation and discrimination are still there, but the...

SENATOR BAKER: One minute.

SENATOR CHAMBERS: ...courts say, no, it's been there enough time and if it's not going to resolve it by now it's going to be dissolved, and they have dissolved them. The Milliken case means really nothing as far as what we're talking about here, because the state is not drawing any boundaries which say...which boundaries would enclose only certain groups. We are accepting attendance areas established by OPS. If those attendance areas are not violative of the federal law now, they

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will not be violative when we do what we're talking about here. All we're doing is changing control in this area, but you still have that overarching learning community which is going to ensure that we're not creating isolation or enclaves. We are dealing with what exists right now, but simply giving control to the parents whose children go to these schools. So I don't see this as...

SENATOR BAKER: Time.

SENATOR CHAMBERS: ...something fostering segregation. Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Chambers and Senator Bourne. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I would yield my time to Senator Redfield, and if there's remaining time I believe Senator Chambers would receive that.

SENATOR BAKER: Senator Redfield, you have nearly 5 minutes.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. Senator Bourne didn't listen earlier when I pointed out to you that LB 1167 actually did impact the Millard School District, which is predominantly white. It broke it into three school districts. I was not ignoring that, but I would agree it's not in the amendment Senator Chambers has provided for you. The one thing I want to point out about the Chambers amendment, it does not say that the new districts would be sharing a border or contiguous. They could take Burke High School, which is the most affluent, and pair it with Benson, which has the highest poverty rate in the OPS school systems. And that would be up to the learning community to decide so that they can look at the demographics and they can look at this plan, and if in fact they put together a plan that the state board doesn't approve, the state board can overrule it and create a different plan. So there are a number of safeguards in the amendment. I think that it's well crafted, and I would certainly be happy to yield the rest of the time to Senator Chambers, who I absolutely think has the best handle on constitutional issues in this body.

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Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, let me put some people's mind at ease by saying the following. If there is a chance to put in place a program that will benefit the children I'm concerned about...and who are those children? If you hear me mention it, I will say black children and poor white children. There are poor white children currently going to some of these so-called academies and they are cheated too. So my interest is in quality education. I would not push for a program which on its face is unconstitutional, because it would mean nothing, it would achieve nothing. I'm not one of those who wants to give people false hope by thinking that for once the Legislature paid attention to our problem, which we cannot solve by going to the local school board. I would not create that false hope by pushing for something like this and then have it pulled away because it's unconstitutional. It would be better not to do anything in the first place. I believe this will work. I've been advocating it for years. I simply couldn't get anybody with enough interest to cooperate as happens to be the case now. Remember this, if you can keep it in your mind during the discussion that we're having here: Nothing in this amendment creates segregation, as if that meant anything to the people here or to OPS. How long do you think we've had the segregated conditions in Omaha? Did you hear Senator Lindsay come down here with OPS saying you ought to do something about that? Did you hear Mackiel, the superintendent, ever say that we've got to break up the segregation in the Omaha Public Schools? The only program that offered a scattering and a smattering of children in districts other than which was predominantly their own race was the one that Mackiel killed. He said we're going back to neighborhood schools. So I think Senator Lindsay is being forced to advocate a very hypocritical, cynical position, because he talked differently when he was a member of the Legislature, and he knows that the current segregation in the

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Omaha Public Schools was brought about by deliberate policies of that public school system that hired...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...him as a lobbyist. But to get away from that, back to what we're talking about here, nobody is harmed by this amendment. Who opposes it? OPS. How are they opposing it? By talking about segregation. Which district has segregated itself more than any other district in the state? OPS. OPS is a district where there are children of different races, ethnicities, national origins, derivations, and so forth, but it is the OPS practice which has made it possible, for some of you who've never been to Omaha to see it, to look on a piece of paper and know right where the bulk of the black children go to school, the bulk of the Latino children go to school, the bulk of the white children go to school. Black people didn't set it up like that. The Legislature didn't set it up like that. The Latinos did not set it up like that. The Omaha Public School System set it up like that. Now they're going to come down here and tell you it's unconstitutional?

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers and Senator Redfield. Senator Kruse, followed by Senator Pahls.

SENATOR KRUSE: Mr. President and members, thank you. I welcome the debate. We're talking about quality of education and I support a number of the things said on both sides. But we're looking past some things. First, let me recognize, school is where education takes place. Been said several times; oh my, yes. It's also been said that schools represent the neighborhood and that OPS has tried to make this a neighborhood thing. Oh my, yes. It has been said that smaller districts do good work. Oh my, yes. I have lived in small, medium, and large districts across this state. And here's where I differ. The next one that I have down is, there's more input from citizens in small districts. Oh my, no. That depends upon the

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district. That depends upon the people. And I certainly have no less representation in my district affairs now than when I was in a small district. I want to make clear that the real problem is breaking my local school off of its base. My local neighborhood school is a grade school. It's well past 95 percent black. And this amendment will tear it off of its base. It's getting a new school built there by west Omaha. There's no way on God's green earth we could build it ourselves. And it's being done by the whole district, willingly, in a massive vote that passed all the way across. They are giving to us a facility that we could not afford for ourselves. So if this is to go forward, then who's going to pay for it? I hope you all got your hearing aides on. You are going to pay for it. West Omaha is off the hook, but the Legislature is on the hook to take care of these low-base districts, and these would be that compounded. Now I want to emphasize here--and I've said it enough times I hope people, everybody, knows--that from day one I oppose boundary change, absolutely oppose boundary change, have consistently, in the west and in the east. I have a question here. And if some...don't have time enough to do a dialogue on it, so I'll just state that my reading of the bill says that OPS input has 1 vote out of 11 on its breakup, unless there is no plan developed; then it has no input at all, gets kicked over to the state. I'm wondering what that feels like to anybody else around here. Let me put another face on it. This amendment puts most of the minority people in the state with a one-eleventh vote in their future. Most of the minority people in the state will have 1 vote out of a council of 11 on what's to happen. We are trying to move as a city. And you know, there's a lot of grumping about OPS and OPS brought this on themselves. I don't...(laugh) I don't challenge that. But now let's look at Omaha. This amendment redivides Omaha into north Omaha, south Omaha, and west Omaha. We've been trying to get past that. We have gotten past it. We are one city. We move that way.

SENATOR CUDABACK: One minute.

SENATOR KRUSE: We think that way. We work that way. But this would cause it not only to be separated by schools but by movement of home purchases and so on. The people are going to

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move out of one of these districts to another and reinforce the distance. Area...attendance areas are neighborhood, as Senator Chambers is saying, but please (laugh) understand that all of these attendance areas are presently in one district. We are putting them into separate districts. Chambers says this is not isolation. I don't know what else it is, to isolate my neighborhood from other people who live a few miles away and will be in the white district, and I'm to be in the black district, and somebody else will be in the Hispanic district. And those names are going to stick. I don't want that to happen to Omaha. Leave OPS out of it.

SENATOR CUDABACK: Time, Senator.

SENATOR KRUSE: I plead that we can be kept together.

SENATOR CUDABACK: Thank you, Senator Kruse. Senator Pahls, followed by Senator Synowiecki.

SENATOR PAHLS: Mr. President, members of the body, I find it quite interesting about causing some havoc in the OPS school system. Just going to indicate if what they wanted would come through, just to have you have a real...this is real life stuff. If you were a student at Bryan Elementary, out of 354, 136 of you would no longer go to that school. If you're at Cather, out of 451, 209 could no longer go to that school. And I'm just going to jump down. If you were at Ezra Millard, out of 447, 285 of you could not go to that school because you did not...no longer belong to that district. It goes on and on. And the significant numbers, if you go to Millard North, out of 2,200 children, 975 of them couldn't go there. And if you're Millard South, out of 2,400, 956 of you couldn't go there or shouldn't go there. Now if you're in Millard West, you'd have to take all those other kids in, so you'd have to have, a school built for a couple thousand max, you'd have 3,500 kids in there. It's really interesting how that havoc didn't matter, but this havoc would be organized. There's plenty of time. There is a council developed that would help bring this process through. One of the things, I just want to point out over the last week or two I've been handing out information saying, follow the money, and I do have a concern, because this goes along with the size of

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the district. In Omaha, all instruction expenditure is 50 cents on the \$1; Elkhorn Public Schools, all instruction is 65 cents; Millard Public Schools is 61; Ralston it is 64. So there is a difference. We have to find out where all that money is. One of my suggestions, if this bill had progressed in a different direction, is to have an audit, not an audit of the money but an audit of performance. Now I am not naive enough to believe that the Millard School system compares to the OPS school system with all of its needs, but I just want to show you or just demonstrate some of the ways to look at it. If the Omaha school dollar, per student, and Millard would get the same exact dollar, this is what Millard could do with this 20-some thousand kids. They could purchase a new computer for every Millard student. Sounds pretty good. They could purchase one every year. Okay, they could build three elementaries every year, because they run around \$6 million. Every year they could build three more elementaries. Or they could spend around a half a million, or \$500...let me see, I have to figure out, about half a million dollars every year for every building. Again, I know the needs are different, but you must take in the whole ball game. Again, look at the money. See if it is making it to that classroom. It appears to me that in the largest school district in the state it is not. They have needs and I'm all for providing money for those needs. Question: Where is the dollar ending up? Thank you.

SENATOR CUDABACK: Thank you, Senator Pahls. Senator Synowiecki, followed by Senator Howard.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. Senator Raikes, could you yield to a question?

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes, Senator.

SENATOR SYNOWIECKI: Senator Raikes, as Senator Kruse kind of alluded to this a little bit in terms of the impact of this proposal relative to state aid, and there's talk now of essentially what becomes a black district, an Hispanic district, and a white district within the current OPS boundary. One of my

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concerns is the Hispanic district and the disproportionate number that would be within that district for ESL, English as a second language, students. And correct me if I'm wrong in this assumption, but currently, because OPS' boundaries extend beyond South High in the south area, they have access to a bit more affluent or higher-valued property tax assessments than what is in the southeast area of the city of Omaha, which I think you would agree that...

SENATOR RAIKES: Right.

SENATOR SYNOWIECKI: ...the affluency and the value of the property tax base is not as high in that area. So could you help me understand, given the ESL segment of this and the low property tax values to begin with, what would be the...do you know, or what would be...what do you think the potential implications are on that state aid formula for the Hispanic district?

SENATOR RAIKES: Senator, let me address it this way. The funding for English as a second language students is a part of operating costs and in our needs calculation in the state aid formula there's additional weighting provided for that. All of the...well, Omaha Public Schools is an equalized school system, so when you calculate needs, you match it against the resources, there's state aid required to make up the difference. That would be the case with each, if there were three school districts that are within what is currently OPS. In the event that you had one of those that was particularly lower in valuation or property wealth than the others, there would be...the needs would be met regardless. It would simply take more state aid for that district than one that had higher property values.

SENATOR SYNOWIECKI: So the net outcome in your estimation would be more state aid to the Omaha area. You know, like right now, to help fortify and to help assess the needs, with the current geographical configuration of OPS, they have access to a bit more property wealth, but that will be discontinued. So do you have any estimation on what that increased state aid might cost the state? Is there any assessment being done relative to that?

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SENATOR RAIKES: Actually, Senator, I misspoke if I indicated that more state aid would be required. There would be a different distribution of state aid, but basically all the property...let's assume that all the property resources would remain, the students would remain, and their demographic characteristics would remain. So we basically have the same total needs compared with the same resource base. Now, you...percentagewise, more of the needs may end up in one district compared to another versus now, but the total...those totals would remain the same.

SENATOR SYNOWIECKI: I appreciate that. Senator Raikes, would you anticipate any additional administrative costs...

SENATOR CUDABACK: One minute.

SENATOR SYNOWIECKI: ...with...

SENATOR RAIKES: It's a good question, Senator. You'd be talking, under this proposal, let's say, about three administrations versus one administration. My experience, limited as it may be, is that moving a school district in size from, say, 5,000 students to 10,000 students, or 10,000 to 20,000 students does not reduce the administrative cost per student. You may have a fewer number of superintendents, say, but there's a certain amount of administrative burden that has to be carried, so that's done instead with assistant superintendents and so on as you get to a bigger district. We have a great many, as you know, districts in Nebraska that are much smaller than 15,000...

SENATOR CUDABACK: Time, Senator Synowiecki.

SENATOR RAIKES: ...students. Thank you.

SENATOR SYNOWIECKI: Thank you. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Senator Howard, followed by Senator Kopplin.

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SENATOR HOWARD: Thank you, Mr. President and members of the body. I rise to respectfully disagree with my learned colleague Senator Chambers. Segregation did not originate with Dr. Mackiel or John Lindsay. I grew up in Omaha. In the fifties, Omaha was very segregated. In the disadvantaged, if you would, area where I lived, you were considered rich if you had a bicycle as a child, and you were considered really rich if your family owned a small black and white television. And if you had kid skills, you'd make good friends with the children that lived in that family so you could watch television sometimes. When I look at this map, I see Omaha as it was in the fifties. You knew where every child lived by the color of their skin. I thank God that we've moved on from that. My children were born in the seventies and the eighties, and they were bused. Omaha was going through a transition at that time, and my children grew up in a much different Omaha than I grew up in. My children had friends of every color, good friends, and I think they are far better for that experience. I don't want to see us regress. I don't want us to see us...a community where people choose where they will live by what school is offered in that vicinity. I remember those days. Where you lived depended on the cost of the house, what you could afford, and then the area that you chose that house to be in, and there were very definite factors that you looked at. We've moved on from that. We're no longer an eight-inch, black and white television set. We're a big world, and our children are the better for it. I'm very grateful that my children went to schools with children of every color and every background. My children interact with everyone, without fear, without concern, and I think we owe this to all the children that we have in our community. And I pose this question: If the learning community concept is an idea that we want to adopt, then we need to look at this in terms of the Lincoln School System, the Grand Island School System, the Lexington School System, because the populations of children of color are growing, growing, growing. This problem is going to be with us and we need to be realistic about the solution. Thank you.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Kopplin.

SENATOR KOPPLIN: Question.

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SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM3142? All in favor vote aye; opposed, nay. Voting on ceasing debate on the Chambers amendment, AM3142. Have you all voted who care to? Senator Kopplin? There has been a request for a call of the house. All in favor of the house going under call vote aye; all those opposed, nay. Record please, Mr. Clerk.

CLERK: 21 ayes, 0 nays to place the house under call.

SENATOR CUDABACK: Motion was successful. The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. All unexcused senators please report to the Chamber and check in. Senators...Senator Stuthman. Senator Baker. Senator Stuhr. Senator Cudaback. Senator Schrock. Senator Brashear, and Senator Dwite Pedersen. Senator Bourne, will you check in, please? Thank you. Senator Stuhr. Senator Dwite Pedersen. Senator Baker, the house is under call. Senator...all members are present or accounted for. Senator Kopplin, how did you wish to proceed? Been a...the question is, shall debate cease on AM3142? You have...Senator, did you wish to accept call-ins? That's your other choice. Mr. Clerk, can you accept them now? Yeah, the motion was to cease debate on the Chambers amendment, AM3142. We will now accept call-in votes.

CLERK: Senator Dwite Pedersen voting yes. Senator Jensen voting yes. Senator Johnson voting yes. Senator Don Pederson voting yes. Senator Engel voting yes. Senator Beutler voting yes. Senator Stuthman voting yes. Senator Baker voting yes. Senator Kremer voting yes. Senator Stuhr voting yes.

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 25 ayes, 2 nays, Mr. President, to cease debate.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Chambers, you're recognized to close.

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I think all that needs to be said probably has been said, but I will not waive closing because I want to touch on a couple of things. Senator Howard should understand that if this plan that I'm talking about is adopted, people can send their children to this district from anywhere in the city. The segregation that existed in the fifties still exists now and, Senator Howard, the reason I mention Mr. Mackiel, mentioned him, is because he is the one who ended busing and said the purpose is to go back to neighborhood schools, which everybody knew meant segregated schools. If you go through Omaha, you'll see the segregation is there. That's why I'm not even talking about that. That is a given. But here is what is really troubling to me. I mentioned it the other day. Not long ago, the First National Bank donated a copy machine to one of these so-called academies in the black district because everything they copied had to be done at Kinko's. When white people talk about a school, the givens, among other things, would be adequate textbooks, paper, pencils, copy machines, and so forth. If you buy a car, and I've used this example because it simplifies it for me, that is a term which, when used, means all of the elements and component parts are there to give you a vehicle which will move when you put gasoline in it, start it, and you got a battery, and so forth. But it would be preposterous to say that if I go to buy a car I have to specify that I want four wheels, I want a steering wheel, I want a motor, I want a battery, I want a gas tank. They'd say, man, what's the matter with you? I'd say, well, that's the way they do me when I come for a car, and if I don't mention every thing, whatever I mention I don't get. So when you talk about a white school, those givens are there, but when we talk about a school in the black community, and Senator Kruse admitted this, one of the things you're going to be pretty sure of, they don't have adequate textbooks. I'll tell you they don't have adequate supplies. There are schools, so-called academies, where mostly black children attend, and parents and others donate money to the teacher to buy paper, to buy pencils, to buy crayons and other things which white people presume go along with the concept of school. I'm not talking about frills. I'm not talking about Cadillacs. I'm talking about the bare

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necessities, the bare essentials. If somebody came from another country with the misperception about how advanced America is, and you let them go to white schools, that person will say, yeah, well, that's what America is about; I've read about it. Then bring them to the black schools and don't say a word. They'd say, this is a school? And we'd say, yes. Then they would have some comments about the disparity that exists within a district. I am not going to advocate anything that would hurt anybody's child, but my obligation has to be to those children that I observe every day, the ones who are cheated. There are schools where poor white children go. There's one in east Omaha, but it's in a part of the Omaha School District. Their achievement level is low. Since people, most of them, have gotten past the point of saying that the genes that make my complexion black also are accompanied by genes that make it impossible for me to learn,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that's not the way that it is. But when there are low or no expectations on the part of teachers where the children are concerned, if all rivers and most adults are crooked because they follow the path of least resistance, how many children without guidance and some measure of discipline--and I'm not talking about physically hitting kids--are not going to follow the path of least resistance? They're going to, and it's wrong for people who operate a school system to say, well, these kids don't want to learn so they don't have to learn. You know what children are. You know how children will behave. I hope you will vote for this proposal. And thank you, Mr. President.

SENATOR CUDABACK: You've heard the closing. The question before the body is, shall the Chambers amendment, AM3142, be adopted? All in favor vote aye; opposed, nay. Voting on adoption of AM3142. Have you all voted who care to? Please record, Mr. Clerk.

CLERK: 33 ayes, 6 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment has been adopted. I do raise

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the call. Items, Mr. Clerk, please.

CLERK: Thank you, Mr. President. Enrollment and Review reports LB 1199, LB 1199A, LB 1222A, LB 1226, LB 1226A correctly engrossed. Amendments to be printed: Senator Foley and Landis to LB 57, Senator Jensen to LB 965, Senator Schrock to LB 1113. (Legislative Journal pages 1494-1507.)

Mr. President, the next amendment I have to LB 1024, Senator Bourne, AM3128. (Legislative Journal page 1507.)

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President and members. Frankly, I think we just made a huge mistake. In my mind anyway, what we just did was encourage segregation by the adoption of the amendment, and I think individuals can disagree with that, but I think it's pretty clear that that is what we just did. In my haste--this issue just came up this morning--did some research briefly. I found two cases quickly that talks about what a de jure act of segregation is. There's two cases. And again, Senator Chambers mentioned earlier that the courts wouldn't hold that way today. He can argue that. I don't know if it's true. The cases that I found are still good case law that say otherwise. There was a U.S. v. Indianapolis Board of Ed. This is a 1978 case. I'll concede it's old, but a quick shepardizing, it is still valid law. The state of...or, Indianapolis had a law that the district would expand with city boundaries. The Legislature removed that provision, prevented growth of the district that was largely minority. Stated the Legislature act was de jure segregation and the result was a mandatory interdistrict busing. Now that was a 1978 case. Senator Chambers had said that the court wouldn't necessarily hold that way today. I don't know if that's true or not, but this is good law. It has not been overturned. There was another case, Keyes v. the Denver Board of Education (sic), said a de jure act includes acts of the state with a discriminatory purpose--I don't think that occurred here today--or one that will result in discrimination. Anyway, that's what I think we did, so to that end, I've introduced AM3128, which is essentially a reverse severability clause, so the following

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section would be introduced: Section 114. This act is complete...this act is a complete act, its provisions inseparable. If any provision is declared unconstitutional, the entire act is invalid. That's what my amendment does. Again, I think we made a mistake in the adoption of Senator Chambers' amendment. That's my interpretation of the case law. I do believe that we have encouraged segregation here today and, again, what my amendment says is that if that provision that Senator Chambers has put in there, or I shouldn't say Senator Chambers, that we as a Legislature put in there, if that act is held...or if that portion is held unconstitutional, the entire bill is struck. I'd be happy to answer any questions.

SENATOR CUDABACK: Further discussion? Senator Beutler. You've heard the opening on the Bourne amendment, AM3128. Senator Beutler.

SENATOR BEUTLER: I would waive for the moment.

SENATOR CUDABACK: Senator Beutler waives his time. Senator Preister.

SENATOR PREISTER: Thank you, Honorable President, friends all. I'd like to ask Senator Raikes a couple of questions, if I might, please. I'm still, Senator Raikes, trying to understand what we just did and the actual application of it, and as I read the amendment it talks about learning community. Could you give me a definition of what we're talking about in this amendment? What is "learning community"?

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: The learning community is the metro area group that includes all, with OPS as 1, all 11 school districts headquartered in Sarpy/Douglas County. So that is the broad group that contains all the school districts, and certain authority accrues to that level of organization. But in addition, the school districts within that community retain a considerable amount of authority, including an elected school board and decisions about budgeting, about curriculum, teaching salaries, and all those sorts of things.

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SENATOR PREISTER: So the learning community is the entire school district as it exists?

SENATOR RAIKES: Well, actually, the learning community is a collection of school districts.

SENATOR PREISTER: It includes the suburban and all of the other school districts as well...

SENATOR RAIKES: Yes. Yes, that's right, Senator. Yeah, so...

SENATOR PREISTER: ...and their voting rights in this superboard that we're looking at.

SENATOR RAIKES: The coordinating council, yes. There are certain authorities or responsibilities that are reserved for that learning community coordinating council, and then there's a voting mechanism for decisions made at that level, and that's by a collection of the...or representatives from each school district, but in addition to that, each school district has its own school board and they make all the decisions at the local school district level, virtually, that they make now, with a couple of exceptions.

SENATOR PREISTER: Okay. I wanted to be clear that we weren't further subdividing; that when we talked about learning community we weren't talking about just the north Omaha learning community or subdividing into a black community; that we weren't looking at the Hispanic community and subdividing that as...or identifying that as a learning community. That's not the case, is what you're saying?

SENATOR RAIKES: That's not the case. The learning community is the, actually, the broader collection of all the school districts. So both Ralston, Millard would be in the learning community, as well as OPS.

SENATOR PREISTER: Okay. I wanted to be clear on that. The other thing I'd like to ask you, it talks about the high school buildings which are not currently being used exclusively for

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specialized programs. Now in south Omaha, the South High High School is currently a magnet center and it's a magnet center for computer skills. That doesn't fit this category, does it?

SENATOR RAIKES: No, it doesn't. That's meant to identify schools that are primarily for particular programs, special ed programs, alternative school programs, that sort of thing.

SENATOR PREISTER: So would that include the magnet schools?

SENATOR RAIKES: The magnet, particularly magnet high schools, is that what you're referring to? Yeah, that...

SENATOR PREISTER: I guess I didn't mean to say magnet. I meant to say learning academies.

SENATOR RAIKES: Yes. Yes. The...although this, the proposal, Senator Chambers' proposal that was adopted, referred to high schools, so in...if that's what you're referring to. So in OPS,...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...that would include the seven high schools.

SENATOR PREISTER: Okay. It would be all seven of those, and it would only be the elementary schools that might have the magnet school definition or be more specialized, but they wouldn't be counted. This only applies to the high schools.

SENATOR RAIKES: Well, I'm not sure I'm giving you the right answer here. The proposal is that there would be districts created within the existing Omaha Public Schools, which include either two or three high schools and their associated attendance areas. So the magnet elementary schools, for example, that are associated with, say, South High School would be included in that manner.

SENATOR PREISTER: Okay. All right. Then I guess my last question for you is, how would you envision the practical application of this?

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SENATOR CUDABACK: Time, Senstor.

SENATOR PREISTER: How would you see it actually being applied, if this were to become law?

SENATOR RAIKES: Senator, one of the things that would happen is, in terms of the act...or let me ask you back, are you talking about how the district lines would be drawn, or how the school districts would operate once those lines are drawn?

SENATOR PREISTER: I guess I'm looking at how the lines would be drawn.

SENATOR RAIKES: Okay. That's...

SENATOR CUDABACK: Time, Senator.

SENATOR RAIKES: I'm sorry.

SENATOR CUDABACK: Your time is up, Senator.

SENATOR PREISTER: Oh. Thank you.

SENATOR CUDABACK: Senator Bourne. Is Senator Bourne present? We'll go to the next speaker. Senator Kopplin.

SENATOR KOPPLIN: Thank you, Mr. President, members of the Legislature. I am standing to support Senator Bourne's amendment. In my own mind, I believe that there was nothing constitutional about what we did this morning. It will be challenged, and when that's challenged this whole law goes away. A very complex proposal has become even more complex, difficult to understand, and we're going to deal with it in a few hours, a couple of days. This morning we passed an amendment to reduce the property tax lid. That was something that I wanted to get done. But Senator Mines asked an excellent question. He said, where will the money to support this come from if we reduce the levy? It's becoming even more important because, when you think about it, we are so increasing the power of that learning community council, or whatever you want to call it. We are now

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giving them the authority to sit down together, draw lines on a map, and say this is where the school districts will be. It can't stop there because you have to deal with all other kinds of laws, tenure laws, teachers' salaries. It goes on and on. The amendment that we're going to be hearing later is a proposal that all members will participate. Doesn't say what "participate" is, but if you don't participate, this board can then dissolve that district. This is getting completely out of hand. It's time to say stop, stop. Keep the boundaries where they are on a two-year basis, or whatever you have. Let the Education Committee...or community get together and come up with a decent plan for educating all children fairly. If they can't do it, then we can go back to these kinds of things. We can't make these decisions in a couple hours, in a couple of days. This will be law if we pass it. It will be in effect and we're on our way to something we don't really know what it is. This whole thing started about questions that were never defined. We never really knew what the problem was because it wasn't stated. I know I may upset some of my colleagues in the suburbs, but you know this ended up being about we've got to save our boundaries. Well, yes, this law saves our boundaries but, for crying out loud, what are we creating to do it? Stop. Back off. Let's take some time with this. Thank you.

SENATOR CUDABACK: Thank you, Senator Kopplin. Senator Chambers, on the Bourne amendment.

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature, OPS has had a law firm messing up their affairs for decades, but Senator Lindsay is not a member of that law firm. He happens to be their lobbyist. If segregation still exists in this country, which it does, if discrimination is still occurring in those segregated school districts, which it is, why would Senator Bourne have to read us a case that's almost 30 years old? What is happening, which Senator Lindsay and others who don't live this issue like I do, is that appellate federal courts are not taking cases, or they're striking them down, and the people who work in this area, trying to improve the education of poor children of all races are not going to waste their time with theories that worked in the past but which the courts at the federal level are now rejecting. We all know that whenever the

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U.S. Supreme Court hands down a decision, until it is directly overruled, it remains, what Senator Bourne referred to as good law. That doesn't mean it is followed. That does not mean if a case, which is on all fours with the one that led to that decision, comes before the Supreme Court that it will be decided the same way. The Supreme Court will nibble a bit here, add a bit there, deviate someplace else, and it's why you cannot look at the first case in which the U.S. Supreme Court handed down a decision which is good law today and feel that you can argue on the basis of that case one that is pending today. What you have to do is go through all of the cases, not just based on that one, but similar cases, to find out what the state of the law is. So when Senator Lindsay runs out and has somebody get a case here and a case there and say this is the law, well, there are different ways to interpret that. Although people laughed at Clinton when he said it depends on what "is" is, or something like that, it depends on what the meaning of "the" is when you say it is "the" law. Do you mean the law at the time it was handed down, the law when the court has ruled exactly the same way on similar cases, or the law today, just as it was when the first decision came down? The law that was handed down in 1953 in Brown v. Board of Education is not the law today. You know what Brown v. Board of Education said, which Senator Lindsay probably forgot, if he ever knew? That when schools are segregated, they are inherently unequal. A segregated system is inherently unequal, and if unequal educational opportunity violates the constitution guaranteeing equal protection of the law and due process, how can these segregated school systems, which the U.S. Supreme Court said are inherently unequal, continue to exist and withstand court challenge in the federal court? Because what the Supreme Court said in '53 is no longer the law today. They haven't overruled that case. They don't have to. They can get around overruling it. Sometimes they'll say, we don't have to reach that issue to make a decision, we will send it back to the trial court for further deliberations in conformity with this decision. And when they send it back to the trial court, the parties know what they're dealing with and sometimes they will reach a settlement. So these isolated cases...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...that Senator Lindsay is bringing can be disregarded. It doesn't matter whether you accept Senator Bourne's amendment or not, because if you're hanging your hat on defeating this bill on the notion that what we just did is unconstitutional, your hat is going to be on the ground because it's hanging on nothing; a wish, a hope, and pray. And, Senator Kopplin, (singing) wishing and hoping and thinking and praying will do you no good. The facts are what will determine the outcome of this matter, and the facts are on the side of what we just did. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Beutler, followed by Senator Howard.

SENATOR BEUTLER: Question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM3128? All in favor vote aye; opposed, nay. Voting on ceasing debate. Motion before the body is, shall debate cease on the Bourne amendment, AM3128, to the Education Committee amendments? Have you all voted who care to? Have you all voted? Senator Beutler.

SENATOR BEUTLER: Could I have a call of the house and a roll call vote?

SENATOR CUDABACK: Been a request for call of the house. All in favor of the house going under call vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: 18 ayes, 0 nays to place the house under call.

SENATOR CUDABACK: House is under call. Senator Beutler, for what purpose do you rise?

SENATOR BEUTLER: I'd take call-ins.

SENATOR CUDABACK: Thank you. When everybody checks in, then they will be permitted. The house is under call. Members,

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please check in. Senator Schimek, Senator Stuhr, Senator Landis, Senator Heidemann, Senator Friend, Senator Foley. House is under call. All unexcused members please report and check in. Senator Heidemann, Senator Landis, Senator Schimek, Senator Friend. Senator Landis and Senator Friend. All members are present or accounted for. We are voting on ceasing debate. Mr. Clerk, when you get ready, call the...or taking call-in votes, rather.

CLERK: Senator Stuthman voting yes. Senator Landis voting yes. Senator Cunningham voting yes. Senator Brown voting yes. Senator Mines voting yes. Senator Stuhr voting yes. Senator Dwite Pedersen voting yes. Senator Kremer voting yes. Senator Schrock voting yes. Senator Fischer voting yes.

SENATOR CUDABACK: Record please, Mr. Clerk.

CLERK: 25 ayes, 1 nay to cease debate, Mr. President.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Bourne, recognized to close.

SENATOR BOURNE: Thank you, Mr. President, members. Again, this amendment...or, yes, this amendment is what I would call a nonseverability clause. The act, it would say, if adopted, this act is a complete act and its provisions inseverable. If any provision is declared unconstitutional, the entire act is invalid. And then it would say renumber the sections accordingly. I do believe what we put on there earlier, Senator Chambers' amendment, no matter how well-intentioned, is in fact a state act designed to encourage or increase segregation. I, frankly, I regret voting the bill out of committee. I find it interesting that those people that stepped up and supported the amendment were from the suburban coalition. That raises questions in my mind. I'm wondering why we're breaking up the Omaha Public School District when we're not doing the same thing to Millard, West Side, Ralston, Gretna, wherever else you want to talk about. It really doesn't even make sense what we've done here. Again, I regret voting the bill out of committee. I did so in good faith. This issue, the Chambers amendment, the Chambers-Raikes amendment, was never discussed. I don't believe

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I missed one Executive Session. It was never discussed. The implications of splitting up the Omaha Public Schools was never discussed in any regard. We never discussed the impact it would have on segregation. We never discussed the impact it would have on state aid. We never discussed the impact it might have on our kids, whether they be from the west part of the city or the east part of the city, the north, or the south. We never discussed it. Senator Redfield stands up and champions the concept, but it was not, in its entirety, reflected in her concept. She, of course, is from Ralston and, as I understand it, Ralston is part of the coalition or the suburban coalition, whatever that...their actual name is. So I think what we had here was a negotiation in good faith all along, since last fall, and then we get like things happen. I'm not blaming anyone. It gets to the floor and they kind of take on a life of their own. But I do think what we've done today is sanction segregation. I listened to Senator Beutler's comments about the integration plan. Well, it's still not in there. I think we'll be further segregated if this bill goes forward. I know we have a long weekend coming up ahead of us. I don't know what else to do. Hopefully, you'll adopt this amendment so at least this issue will be resolved, the nonseverability component of it. But again, I think we made a huge mistake with the adoption of the Chambers amendment. With that, I'd urge your support of this amendment.

SENATOR CUDABACK: Thank you, Senator Bourne. You've heard the closing on AM3128. The question before the body is, shall that amendment be adopted? All in favor vote aye; opposed, nay. Voting on adoption of the Bourne amendment, AM3128, to the committee amendments, Education Committee, to LB 1024. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 3 nays, Mr. President, on the adoption of Senator Bourne's amendment.

SENATOR CUDABACK: The Bourne amendment has been adopted.

CLERK: Senator Raikes would move to amend the committee amendments with AM3145.

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SENATOR CUDABACK: I do raise the call. Senator Raikes, you're recognized to open.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This amendment deals with the integration plan that Senator Bourne has been actively involved with throughout the discussion. I have tried to, in this amendment, to address his concerns about putting teeth, for lack of a better phrase, into that and requiring that school districts within the learning community participate in good faith in an effort. I want you to look at the amendment. As I do that, I will ask that it be withdrawn at this point and refiled on Select File. Thank you.

SENATOR CUDABACK: So ordered, Senator Raikes.

CLERK: I have nothing further to the committee amendments, Mr. President.

SENATOR CUDABACK: Back to discussion of committee amendments themselves. There are a number of lights on. If you don't wish to speak, it's your choice. Senator Howard.

SENATOR HOWARD: Thank you, Mr. President, members of the body. If I may ask Senator Raikes a few questions?

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

SENATOR HOWARD: Thank you. As you know, you and I worked closely on the issue of the common levy and I'm very supportive of that. I think that's a way to address the needs of all children equally. But my question is the common levy, and I know that you understand this and really can help me better understand it, the common levy is used to equalize the resources among districts. Am I correct in that?

SENATOR RAIKES: Yes.

SENATOR HOWARD: My second part of this question then, would you

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see this issue, would you see this as...this equalization, this funding being used for a purpose for the state, a more general purpose regarding the students?

SENATOR RAIKES: I'm not sure I follow your question, Senator. Are you talking about the common levy within the learning community and its implications for statewide finance or policy?

SENATOR HOWARD: Well, my question really is...and I'm sorry if I'm vague. I'll have to try to phrase this better to be...to have some more clarity in it. But the levy will result, no matter what the levy is, that amount of money will come from property tax, is that correct? I mean the source of it, when you boil it right down.

SENATOR RAIKES: Right.

SENATOR HOWARD: So if we take that then and look at that money that's going to be used for educational purposes for all students, is this considered a state purpose, since education funds come from the state, it's governed...the educational program is governed by the decisions made by the legislative body for the state, and is the levy going to be used for a state purpose?

SENATOR RAIKES: No, the levy is to support the local school system.

SENATOR HOWARD: But isn't that the state? Aren't we ultimately responsible for that? And I know it's local in that many of the decisions are made locally and by the school boards, but ultimately isn't this the state that is responsible?

SENATOR RAIKES: Well, it's a shared responsibility between the state and local districts, and the local property tax is the local share of the financing of the school districts.

SENATOR HOWARD: Okay. I think I have a better concept of this. So that the levy, the common levy would be divided by the committee, no longer being called a board, now called the committee, they would...

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SENATOR RAIKES: It's a council.

SENATOR HOWARD: ...they would make the...

SENATOR RAIKES: Coordinating council.

SENATOR HOWARD: Thank you. Thanks. The council. We've changed that name a few times. But they would have the leverage to make the decision regarding the funding.

SENATOR RAIKES: They...that council has the authority to set the common levy up to a maximum...

SENATOR HOWARD: And that would be...

SENATOR RAIKES: ...much the same as an individual school board now has the authority to set a local school district levy up to a maximum.

SENATOR HOWARD: Would you envision that they would reach that maximum? How likely is that?

SENATOR RAIKES: I think it would be very much parallel to what is done now in local school districts. Many of them are at the maximum levy, but not all of them.

SENATOR HOWARD: And the maximum that we've established in this would be \$1.10.

SENATOR RAIKES: Well, with the amendment, the maximum would be \$1.05, if you include both the common...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...or the special building fund and the learning community levy.

SENATOR HOWARD: Okay. Well, I appreciate the information. I think the common...the levy and the property tax issue and how this is utilized are really intrinsic to this whole proposal,

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this whole bill, and I hope that everyone has a clear understanding. I know it's taken me awhile to process how this would work and how it would equate out, as well as the decision-making power with the 11-member council. So I appreciate your patience and I appreciate your explanation of this matter. Thank you.

SENATOR RAIKES: Okay. You're welcome.

SENATOR CUDABACK: Senator Howard. Senator Mines.

SENATOR MINES: Thank you, Mr. President, colleagues. I'd like to have Senator Chambers yield to a question, please.

SENATOR CUDABACK: Senator Chambers, would you yield?

SENATOR CHAMBERS: Yes, I will.

SENATOR MINES: Thank you, Senator Chambers. You and I had talked off mike about...or actually, I asked you a question and you responded, and I'd like to do it maybe on mike so that I have a full understanding.

SENATOR CHAMBERS: Yes.

SENATOR MINES: This has to do with the original premise that OPS used in their one city, one school proposal, and if in fact OPS chooses to follow through with their action and file suit, based on the hundred-year-old law, they believe they win, and I know the suburban districts believe they win, but if a case is filed in court, does that render what we do here today moot?

SENATOR CHAMBERS: I think by the time the issue comes before the court, the original issue they raise may be moot, because there may be additional work on this bill which would repeal that 1891 law. I would have opposed the repeal.

SENATOR MINES: Uh-huh.

SENATOR CHAMBERS: And I was the one who had stated strongly, and people knew that I'd be able to do it, that I would fight

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the repeal because that was what gave me the leverage on the suburban schools;...

SENATOR MINES: Okay.

SENATOR CHAMBERS: ...that as long as that law was on the books, they were in danger of losing their identity. But if it were taken off the books, then they would be safe. But before I would let that happen, they would have to look at the issue that I'm raising where the...although the people in my area are a part of OPS, we ought to have a district. So we were...

SENATOR MINES: But just in practical application, Senator, and I understand, but if OPS should file suit tomorrow,...

SENATOR CHAMBERS: Uh-huh.

SENATOR MINES: ...would that not stop the proceedings, or not what we're doing, we can do anything we want to do, but wouldn't the court base their judgment on the previous law and not what we do after the lawsuit by enacting this?

SENATOR CHAMBERS: If no change had occurred in the law, the case, if it was heard by the court, would be heard on the basis of the filings that caused the court to act.

SENATOR MINES: Okay.

SENATOR CHAMBERS: But the mere filing of a lawsuit does not mean the court is going to actually hear it and decide it before whatever we do takes effect. And OPS realizes that the threat of something...

SENATOR MINES: Right.

SENATOR CHAMBERS: ...is more effective than actually doing it, or they would have filed their lawsuit.

SENATOR MINES: Thank you. You've answered my question. I was just...just from a practical perspective, I wanted to know what might happen from there on. Mr. President, may I ask Senator

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Raikes to yield? Mr. President, Senator Raikes, could he yield, please?

SENATOR CUDABACK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: Yes.

SENATOR MINES: Senator, ...and a completely different subject but one that's been...I've been thinking about. If what we do here today is enacted, how is the Elkhorn School District impacted with the possibility that Elkhorn will be annexed by Omaha? Will OPS then be allowed to annex their school district? We're not changing that part, do you think?

SENATOR RAIKES: We are changing that part. LB 1024 would fix the school district boundaries of all those districts in the metro area...

SENATOR MINES: Okay.

SENATOR RAIKES: ...and, yes.

SENATOR MINES: So a municipal annexation doesn't necessarily dovetail into a school district annexation.

SENATOR RAIKES: Correct.

SENATOR MINES: Okay. Thank you. Thank you, Mr. President.

SENATOR CUDABACK: There will not be time permit to do any more discussion on the LB 1024. We'll now, as state...1:30 is nearing, we will now go to Final Reading. Members, we are on Final Reading. We are on Final Reading. You know the rules. Members, we are on Final Reading. Please get to your...turn to your seats. And all bills with motions to return will be passed over, as the agenda states. All unauthorized personnel please leave the floor, please. We're all on Final Reading. Mr. Clerk, LB 808. The first vote will be to suspend the at-large reading. All in favor of the motion vote aye; opposed, nay. All in favor of the motion vote aye, please, dispense

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with the at-large reading. Members, have you all voted who care to, dispensing with the at-large reading? Please record, Mr. Clerk.

CLERK: 35 ayes, 2 nays to dispense with the at-large reading.

SENATOR CUDABACK: The at-large reading is dispensed with. Mr. Clerk, please read the title to LB 808E.

CLERK: (Read title of LB 808.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 808E pass with the emergency clause attached? All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1508.) 43 ayes, 0 nays, 1 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 808E passes with the emergency clause attached. Mr. Clerk, we now go to LB 819.

CLERK: (Read LB 819 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 819 pass? All in favor of the motion vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1509.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 819 passes. Next bill, LB 856. The first vote will be to dispense with the at-large reading. All in favor of the motion vote aye; opposed, nay. Voting on dispensing with the at-large reading. Please record, Mr. Clerk.

CLERK: 39 ayes, 1 nay to dispense with the at-large reading.

SENATOR CUDABACK: Motion was successful. Please read the title

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to LB 856, Mr. Clerk.

CLERK: (Read title of LB 856.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 856 pass? All in favor vote aye; all opposed, nay. Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal page 1510.) 44 ayes, 0 nays, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 856 passes. Mr. Clerk, LB 856A.

CLERK: (Read LB 856A on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 856A pass? All in favor of the motion vote aye; all opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1511.) Vote is 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 856A passes. We now go to LB 898, Mr. Clerk.

ASSISTANT CLERK: (Read LB 898 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 898 pass? All in favor of the motion vote aye; all those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1511-1512.) Vote is 41 ayes, 0 nays, 3 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 898 passes. We now go to LB 904, Mr. Clerk.

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ASSISTANT CLERK: (Read LB 904 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 904 pass? All in favor vote aye; all those opposed vote nay. Have you all voted on the question who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1512.) Vote is 38 ayes, 4 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 904 passes. We now go to LB 956. The first vote will be to suspend the at-large reading. All in favor of the motion vote aye; all those opposed vote nay. We're voting on dispensing with the at-large reading. Members, have you all voted who care to? Members, we're voting on dispensing with the at-large reading. Record please, Mr. Clerk.

ASSISTANT CLERK: 33 ayes, 2 nays to dispense with the at-large reading, Mr. President.

SENATOR CUDABACK: The at-large reading is dispensed with. Mr. Clerk, please read the title.

ASSISTANT CLERK: (Read title of LB 956.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 956 pass? All in favor vote aye; all those opposed, nay. Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1513.) Vote is 40 ayes, 0 nays, 4 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 956 passes. We now go to LB 956A, Mr. Clerk.

ASSISTANT CLERK: (Read LB 956A on Final Reading.)

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LB 956A, 962, 962A, 994

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 956A pass? All in favor of the motion vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1514.) Vote is 42 ayes, 0 nays, 2 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 956A passes. We now go to LB 962, Mr. Clerk.

ASSISTANT CLERK: (Read LB 962 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 962 pass? All in favor vote aye; opposed, nay. Have you all voted on the motion who care to? Have you all voted? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1515.) The vote is 39 ayes, 1 nay, 4 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 962 passes. We now go to LB 962A, Mr. Clerk.

ASSISTANT CLERK: (Read LB 962A on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 962A pass? All in favor of the motion vote aye; opposed to the motion vote nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1515-1516.) Vote is 33 ayes, 3 nays, 8 present and not voting, 5 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 962A passes. (Visitors introduced.) We now go to LB 994E. The first vote will be to dispense with the at-large reading. All in favor vote aye; opposed, nay. Record

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please, Mr. Clerk.

ASSISTANT CLERK: 34 ayes, 2 nays to dispense with the at-large reading.

SENATOR CUDABACK: The at-large reading is dispensed with. Mr. Clerk, please read the title to LB 994E.

ASSISTANT CLERK: (Read title of LB 994.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 994E pass with the emergency clause attached? All in favor of the motion vote aye; all opposed, nay. Time. Time for what? Time to record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1517.) Vote is 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 994E passes with the emergency clause attached. We now go to LB 994AE, Mr. Clerk.

ASSISTANT CLERK: (Read LB 994A on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 994AE pass with the emergency clause attached? All in favor vote aye; opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1518.) Vote is 41 ayes, 0 nays, 4 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 994AE passes with the emergency clause attached. We now go to LB 1010, Mr. Clerk, when you get time.

ASSISTANT CLERK: (Read LB 1010 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure

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April 6, 2006 LB 1010, 1038, 1107, 1189

having been complied with, the question is, shall LB 1010 pass? All in favor vote aye; all opposed, nay. Have you all voted on the question who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1519.) Vote is 39 ayes, 3 nays, 3 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 1010 passes. We now to LB 1038, Mr. Clerk.

ASSISTANT CLERK: (Read LB 1038 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 1038 pass? All in favor vote aye; opposed, nay. Have you all voted who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1519-1520.) Vote is 41 ayes, 0 nays, 4 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 1038 passes. Mr. Clerk, LB 1107.

ASSISTANT CLERK: (Read LB 1107 on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 1107 pass? All in favor vote aye; opposed, nay. Have you all voted who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1520.) Vote is 45 ayes, 0 nays, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 1107 passes. (Visitors introduced.) As conditions state, bills with motions will be passed over. LB 1148 will be passed over. Mr. Clerk, next bill, LB 1189E.

ASSISTANT CLERK: (Read LB 1189 on Final Reading.)

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April 6, 2006            LB 1189, 1189A  
                             LR 259

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 1189E pass with the emergency clause attached? All in favor vote aye; all opposed to the motion vote nay. Have you all voted on the issue who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1521.) Vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 1189E passes with the emergency clause attached. We now go to LB 1189A, Mr. Clerk.

ASSISTANT CLERK: (Read LB 1189A on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LB 1189A pass? All in favor of the motion vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1522.) Vote is 42 ayes, 0 nays, 3 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LB 1189A passes. We now go to LR 259CA, Mr. Clerk.

ASSISTANT CLERK: (Read LR 259CA on Final Reading.)

SENATOR CUDABACK: All provisions of law relative to procedure having been complied with, the question is, shall LR 259CA pass? All in favor vote aye; opposed vote nay. As you know, it requires 30 votes. Have you all voted on the issue who care to? Please record, Mr. Clerk.

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1524.) Vote is 38 ayes, 2 nays, 5 present and not voting, 4 excused and not voting, Mr. President.

SENATOR CUDABACK: LR 259CA passes.

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April 6, 2006            LB 808, 819, 856, 856A, 898, 904, 956, 956A  
                              962, 962A, 994, 994A, 1006, 1010, 1024, 1038  
                              1105, 1107, 1148, 1189, 1189A, 1248  
                              LR 259  
                              272

**SPEAKER BRASHEAR PRESIDING**

**SPEAKER BRASHEAR:** Members, while the Legislature is in session and capable of transacting business, I propose to sign and do now sign the following legislative bills: LB 808E, LB 819, LB 856, LB 856A, LB 898, LB 904, LB 956, LB 956A, LB 962, LB 962A, LB 994E, LB 994AE, LB 1010, LB 1038, LB 1107, LB 1189E, LB 1189A, and LR 259CA. Thank you. Mr. Clerk.

**CLERK:** Mr. President, your Committee on Enrollment and Review reports LB 1105 to Select File with Enrollment and Review amendments. Amendments to be printed: Senator Connealy to LR 272CA; Senator Jensen, LB 1248; Senator Raikes, LB 1024; Senator Kruse, LB 1024; Senator Raikes, LB 1024; Senator Jensen, LB 1148. A series of adds and withdrawals: Senator Thompson would like to add her name to LB 994; Senator Brashear to LB 1006; Senator Bourne to LB 1006; Senator Price to LB 1107. (Also, "at the request of the Governor" was withdrawn from LB 1006, Legislative Journal pages 1525-1528.)

Mr. President, a priority motion: Senator Friend would move to adjourn until Monday morning, April 10, at 10:00 a.m.

**SPEAKER BRASHEAR:** Thank you, Mr. Clerk. Members, you've heard the motion to adjourn. All those in favor signify by saying aye. Those opposed, nay. The ayes have it. We are adjourned. Thank you.

Proofed by: AEG