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Education Committee
February 12, 2007

[LB153 LB219 LB230 LB524 LB630 LB678]

The Committee on Education met at 1:30 p.m. on Monday, February 12, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB219, LB630, LB230, LB678, LB153, and LB524. Senators present: Ron Raikes, Chairperson; Gail Kopplin, Vice Chairperson; Greg Adams; Brad Ashford; Bill Avery; Carroll Burling; Gwen Howard; and Joel Johnson. Senators absent: None. []

SENATOR RAIKES: Good afternoon and welcome to this hearing of the Education Committee of the Nebraska Legislature. We are pleased you could be here today. We will hear six bills this afternoon, a relatively heavy hearing schedule for us. Those bill will be heard in the order listed on the sheet posted outside the hearing room, except that I will warn you that Senator Dubas has a commitment later in the afternoon and I think if it looks as though we will not be able to finish LB230, the third bill, before 3:30 we will probably switch those two, so the third and fourth bills would be switched. So I don't know that that will happen, but I just wanted to warn you that that may happen. While I am at it, out procedure for testifying is we will, following the introduction, hear proponent, opponent and neutral testimony. You are certainly welcome to testify. If you do, as you come up to testify please say your name and spell for us your last name. That is for purposes of our transcriber. Also fill out one of the little sheets and put it in that box, again, so that we can maintain our record of the hearing in all its features. I would also remind you that we do have a light system here, and when you testify we will ask you to restrict your testimony to three minutes. The green light will be for the first two, then yellow is for a minute, and finally the red light, and if you do come to testify, you will be amazed at how fast three minutes goes away. So take that as a warning but please do try to respect that because I think in doing so you are respecting not only your own time but everybody else's, and if there are several testifiers, try to make sure what you say is something that the committee has not heard before. Speaking of the committee, I will introduce them for you. To my far right will be our research analyst, Matt Blomstedt; Senator Brad Ashford from Omaha will soon be here; Senator Gwen Howard from Omaha is already here; next to her is Senator Carroll Burling from Kenesaw. To my immediate right is Tammy Barry our committee legal counsel; I am Ron Raikes, District 25. To my immediate left is our committee's Vice Chair Senator Gail Kopplin from Gretna; next to Senator Kopplin is Senator Greg Adams from York; then we have Senator Joel Johnson from Kearney; Senator Bill Avery from Lincoln; and our committee clerk is Kris Valentin. I think other than warning you about cell phones and disabling them and so on, I see some of you reaching, why please do that so that we don't interrupt the proceedings. But beyond that I think we are ready to go, and we have for us to introduce LB219 Senator Cap Dierks. Welcome, Senator. []

SENATOR DIERKS: Thank you, Senator Raikes. Mr. Chairman and members of the committee, it is a pleasure to be here. It has been a while, but I do appreciate your attention to these issues and I am excited about the bills I am going to bring you today.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

My name is Cap Dierks. I am a Senator from the 40th District, you spell that D-i-e-r-k-s. I have two bills before the committee today dealing with freeholder petitions and will begin with LB219. Is that right, LB219, Senator Raikes? [LB219]

SENATOR RAIKES: Yes. You are on track. [LB219]

SENATOR DIERKS: LB219 is a technical bill. It simply adds the date of June 1st to the freeholder petition statutes so that there is a clear date by which landholders must set aside their land if they choose to remove their property from one school district and add it to a contiguous school district. The petition will go into effect the following January 1st if it is approved by the county board, which consists of the county assessor, the county clerk and the county treasurer. I have worked with Cathy Lang, the property tax administrator, and the Nebraska Association of County Officials to come up with the date of June 1st. Currently there is no deadline for landholders to freehold their property. This has caused problems in the past for school districts, which base their school budgets for the following year on a July 31st projection from the county assessors. I believe this date is a fair date for everyone involved in the freeholder process. First of all there is a deadline of June 1st established by state law for land owners to make a decision on freeholder petitions. County boards will have two months to make projections to school boards based on information they received before June 1st. School boards will know without any doubt how much money they will receive to put together a budget. Staff can be hired based on an accurate projection that cannot be dramatically affected by one or more freeholder petitions. I encourage the Education Committee members to support LB219, and I will try to answer any questions you might have. I believe, by the way, that Cathy Lang will be testifying too. [LB219]

SENATOR RAIKES: Okay. Thank you, Senator. Questions for Senator Dierks? Senator Howard has one. [LB219]

SENATOR HOWARD: Thank you, sir. And I ask you this just so understand what freeholding means. According to this, one school district can transfer land to another school district, which I assume the school district that holds the land benefits from the taxation. Am I right on with that? [LB219]

SENATOR DIERKS: The school district that the freeholder is leaving will lose their ability to tax that particular land. It will be moved to a different school district. [LB219]

SENATOR HOWARD: But the receiving school district will benefit from them. [LB219]

SENATOR DIERKS: Yes. [LB219]

SENATOR HOWARD: I have got it. Thank you, sir. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR RAIKES: Any other questions? I don't see any. Thank you, Senator. [LB219]

SENATOR DIERKS: Thank you. [LB219]

SENATOR RAIKES: We will go to proponent testimony. How many proponents do we have? Okay. Opponents? Okay. Neutral testimony? Okay. [LB219]

SENATOR BURLING: There is one back here. [LB219]

SENATOR RAIKES: I am just kind of silently counting here. All right. So if you would, we will begin with proponents, and those of you who plan to testify, there are a few empty seats here toward the front if you would kind of move this way so that we can accommodate the transition between testifiers. [LB219]

CHUCK TRAMP: Thank you. I guess I will go first. I thank you for the opportunity to speak. My name is Chuck Tramp, spelled T-r-a-m-p. I am here to support LB219. My wife and I teach in the Wynot Public School Districts, and I want to tell you what 79-458 has done to our school year without the dates in it. The freeholders started filing in July. We stopped them in court on procedural things. They went back in and filed in September, and right now currently we have them tied up in court. On September 28 they impacted Wymot Public School District to the tune of \$220,000. The county freeholding board had decided that the property should be transferred forthwith, not waiting until January 1st. And without that date clearly spelled out in the statute, they were freely within their rights to do so and we are already into the school year, no change to state aid could be made, no change in the levy could be made, and right now the one word that describes Wymot Public Schools is hardship. Section 79-458, without the dates, has really, really hurt that district. The kids are running scared. The papers say they don't know if they will graduate without the \$220,000. The staff will be impacted later on in the year. Right now Judge Binkard has that money tied up in escrow. It has not transferred to the Hartington District yet, and it is very possible that we are going to win that case. But it doesn't solve the issue for the following freeholding things that may happen. I am a little disappointed that 79-458 took a taxpayer relief stand, where 79-456 talked about your kids, talked about student achievements, educational quality. That the a criteria for freeholding, chose to change that without the dates. This thing is a monster. It has absolutely caused a staff disarray. You can't get even tell if the kids are going to come here to Wynot Public School next year in kindergarten because they don't know if we are going to be open. I think you met Dr. Hoelsing out of Laurel, and he is working on interlocal agreements trying to survive and so forth. So bottom line, these dates are imperative to schools that are already in session because we are the first victim without the dates, and the property is transferred and right now is in limbo, and hopefully we will get that property back through the court system, but it has to be in there. There just isn't any other way. And I thank you. Any questions I would be happy to... [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR RAIKES: Thank you, Chuck. Questions for Chuck? Let me just run through with you because I don't understand the circumstance in Wynot as well as I should. Wynot is a district that has had an average daily membership of less than 60 for 2 consecutive years? [LB219]

CHUCK TRAMP: We met the first criteria of the statute. Yes, sir. [LB219]

SENATOR RAIKES: And you also voted to exceed the maximum levy, an override? [LB219]

CHUCK TRAMP: That is correct. So we met the second criteria. [LB219]

SENATOR RAIKES: And there is another school within 15 miles on a maintained public highway. [LB219]

CHUCK TRAMP: Yes, sir. Hartington is 14.7. [LB219]

SENATOR RAIKES: Okay. And was there any doubt about any of these provisions at the time the override was undertaken? [LB219]

CHUCK TRAMP: The discussion between the school board president that I am privy to and it is first hand from him... [LB219]

SENATOR RAIKES: Right. I understand you are kind of a third party. [LB219]

CHUCK TRAMP: ...it was not going to impact the 2006-2007 school year. It was going to impact the '07-'08, and we had that year of time. The county attorney George Hirschbach said you must follow the letter of the law. The law doesn't say transfer later. It says you shall transfer the property. So when the criteria were met on the petitions, they felt they had no recourse but to transfer the property immediately, which got it into the '06-'07 school year. So in the absence of January 1 being in the statute, they transferred it immediately and, in fact, they did it as a clerical correction. They didn't just...so the school budgets are all in place. But, yes, we knew that freeholding was going to happen, and the reason that we knew that is because Hartington is at 99 cents, we are at \$1.20. There are people that send their students to private schools, and since the population of Hartington doesn't support that private school endeavor they are able to operate cheaper than we are. So we anticipated some, but right now \$17 million has been transferred from our district within a current school year with no recourse for recovery of that money from our taxpayers that are left or from the state department as far as aid. [LB219]

SENATOR RAIKES: So if I am to understand what you were just explaining, you knew

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

that freeholding would happen, but you were willing to go ahead with the override vote anyway. The surprise was that it happened as quickly as it did? [LB219]

CHUCK TRAMP: The surprise was that the money transferred from the '06-'07 school year because we were, in essence, promised...they were trying to interpret the statute and said when is the money going to transfer. So we are talking to the county assessor, and we are talking to the freeholding board people, everything is up front. And their interpretation at that point in time was to transfer for the '07-'08 school year. So we weren't concerned about operating for '06-'07. We knew we had some hard choices to make because freeholding is a fact of life. But we did not anticipate, and it is just definitely caused a mess in the courts. We have gotten them stopped on some procedural things. If I may real quickly, my wife and I are noncontiguous property. We live in the dead center of Wynot. We have taught there for over 20 years each. She is a special ed teacher sitting back here with us. We did not think that they would take our property. They violated 79-458 period. We don't touch. It says three places in the statute you must be contiguous. Well we don't touch. They tabled us the first time. We got them on technicalities. They put \$7 million back. That was in July. They refiled in September. They took our property, along with other noncontiguous property, and now that number is up to \$20 million that is going to leave our district for '07-'08 if Mr. Domina, who is our attorney, is not able to undo some of the procedural things that went wrong. So it is a mess in Cedar County right now with Wynot, even though we knew it was going to happen. [LB219]

SENATOR RAIKES: You said they took our property. [LB219]

CHUCK TRAMP: They being the freeholding board directed the county assessor to take the Wynot Public School Property District 101 and transfer it to District 8, Hartington Public School. We, being the concerned citizens of Wynot, stopped them in court and that money is sitting in escrow right now. It has not transferred to Hartington. Although my tax statement comes from the Hartington Public School District with a note that says this may not be right, pending the outcome of the court case. We may have to bill you more, which is a crazy way to run any county or a school district without specific parameters as to when the thing transfers. So in support of LB219, it is imperative that districts know when this transfer is going to happen and not have to speculate. If we set the precedence, and I believe we are the first district, if we set the precedence, then as soon as that freeholding petition is approved, that property transfers forthwith. That is the way the law is currently being interpreted, and it may go to appeal, it may go higher up. But they intend to do some more on February 15, without the courts deciding what happened in this first case with \$17 million, they have filed, pasted the notes on the school door that says on February 15th we are taking another \$3 million out of your district right now. [LB219]

SENATOR RAIKES: Did you petition to have your property... [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

CHUCK TRAMP: I petitioned to have my property transferred in order to test the constitutionality of 79-458 as it reads contiguous property is being fair and equitable treatment of every taxpayer. It doesn't matter where I live, I should be allowed to get tax relief just like everybody else. Contiguous makes no sense in Cedar County because when the District 57, closed we didn't touch. We were checkerboard already, and I talked to Senator Wickersham about why he did this and he said well, we got to have nice even borders. We didn't have even borders. We have checkerboard, so whoever touches...you want to talk about family reunions? How about the guy that won't leave and the guy that will, and they are both (inaudible) and they are trying to do Christmas together and one freeheld and one didn't. They are in separate rooms. It is a hardship on the students, hardship on the staff, hardship on the community, not knowing what we are doing. Right now we don't know if we are going to attend school in Crofton next year or if we are going to be part of the Laurel, Coleridge, Newcastle mix. And we still don't know. So it needs dates, gentlemen and ladies. It needs dates. [LB219]

SENATOR RAIKES: Any other questions for Chuck? Thank you for being here, Chuck. [LB219]

CHUCK TRAMP: Okay. Thank you. [LB219]

SENATOR RAIKES: Next proponent. Madam property tax administrator. [LB219]

CATHY LANG: Chairman Raikes, members of the Education Committee, my name is Catherine Lang, that is Catherine with a C, last name Lang, L-a-n-g and I am the property tax administrator for the state of Nebraska. I am here today in support of LB219. I agree with the testimony that you have just heard today. We believe that the two amendments made to the language are very important in terms of planning and understanding what your valuation base is that you are going to tax to be able to raise the property tax dollars that you need to fund your budget. And what this will require is that if you are going to freehold petition your from one district to the next, you must file your petition by June 1. And then the board will meet, look at the factors, make a decision whether or not, in fact, you meet the criteria to be freeholded, and then that value transfer will occur in the next year. What you heard today described, I think, gives you a clear picture of the concerns and the mess that was created this last year. However, I do want to bring up one other little nuance to you that has come to our attention just recently in Saunders County. This is one of the counties where we are the assessment official. Persons filed their petition action and it was not approved until after January 1 of this year. If this law were to be in effect right now today, that actual transfer would not occur for another year. So the transfer in this case would occur for tax year 2008. My guess is that most of these petition processes can be decided between the June 1 filing date and December 31 so that you would then have the property transferring in the next tax year. But if for some reason, I just point this out from a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

technical standpoint, if for some reason it would lapse over and for some reason the decisions couldn't or weren't made until after January 1, the land would not transfer for a full another year, and I just want to point that out. I would be happy to try to answer any questions you might have. [LB219]

SENATOR RAIKES: We will give you an opportunity. [LB219]

CATHY LANG: Okay. [LB219]

SENATOR RAIKES: Questions for...so let me ask you this, would it become then strategic for a district--I mean assume that there is--and I know there is controversy over this--that there is good and valid reason for this whole freeholding idea to deal with taxpayer obligations in a school district that does an override. Would it all of a sudden with this bill become strategic, well, look we will go ahead and do the override, as Wynot did, and we will do that knowing that we can get at least one year and maybe two if we can find a judge that will enjoin the freeholding action, all we have to do is get it past January 1 and then there is another year. Does it become strategic, I guess is what I am asking you? [LB219]

CATHERINE LANG: I think certainly they get that first year as you described it. The decision that needs to be made on or before January 1 is the decision of the local board. Is it possible that something could occur in their process that it could take them more than seven months to make the decision? I suppose that is possible. We hadn't looked at it like that until we had the Saunders County situation just occur and we thought to ourselves, I suppose it could go a full another year. But it is the local board decision that would need to be made between that filing date of June 1 and December 31, not a subsequent appeal. You could have those subsequent appeals, but I don't think that would stay the actual movement of the value from one district to another if it was made before December 31. And I guess the question that you might want consider in looking at this bill is do you want to have a date certain by which that local board makes its decision. If all the petitions are filed by June 1, which they would have to be under the way LB219 is drafted, do we anticipate it would take longer than seven months for them to make those decisions? I think we are all thinking, no, it wouldn't, and that might be the only thing that you might want to look at as a possible amendment is to say that the local board would have to make its decision before December 31. [LB219]

SENATOR RAIKES: Okay. Any other questions? Don't see any, thank you. [LB219]

CATHERINE LANG: Thank you. [LB219]

SENATOR RAIKES: Next proponent for LB219. [LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

BETH BAZYN FERRELL: Senator Raikes, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I am assistant legal counsel for the Nebraska Association of County Officials. We strongly support this bill for the reasons that you have heard. The property tax administrator has set out the process, and we are strongly in favor of setting some kind of date to allow this process to happen. Be happy to take any questions. [LB219]

SENATOR RAIKES: Okay. I don't see any, thank you, Beth. Other proponents, LB219? [LB219]

MATT ARNDT: Good afternoon. My name is Matt Arndt, last name spelled A-r-n-d-t. I am speaking on behalf of the Hampton Public School District 91. We are in favor, a proponent, of LB219. Again, for many reasons you have already heard. But you can imagine the difficulty that there must be. I also ought to let you know I am a board member for Hampton Public School as well, and the difficulty that we would have in determining what our next year's budget is going to be based upon not knowing what our land valuation will be. And last year was the first year that Hampton has ever voted on an override. Our community, our district supported that override at 72 percent in favor of it and 28 percent opposed. We feel that we have very strong support by our district for that override. However, the current freeholding statute that is out there is very, very vague. We are opposed to freeholding totally. But we understand that a bill like LB219 will help us in the short term, and what it is going to help us do is to plan for the future. If we are going to continue quality education for our students who attend our school district, we need to have some set deadlines to be able to budget for future programs, whether it is going to be extracurricular activities or whether it is curriculum that we are going to offer. And we are being squeezed basically, in my opinion, by the state on certain requirements that we have to offer, and not knowing what our valuation will be for the next school fiscal year is very detrimental to us as a board. It makes it very difficult to try and determine what way we are suppose to go. So thank you for your time. [LB219]

SENATOR RAIKES: Thank you, Matt. Questions? Would you take me through a little bit the sequence in Hampton. I am guessing it was somewhat similar to Wynot, that it was clear to the citizens that these four criteria were met so that if the override was passed that freeholding could happen. Or am I wrong about that? [LB219]

MATT ARNDT: No, you are correct with that, Senator Raikes. But the problem that I have with knowing that freeholding is an option is that the current law is very vague. [LB219]

SENATOR RAIKES: Okay. I understand. [LB219]

MATT ARNDT: We could not get answers. Many of the lawyers that we had visited with,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

we heard different answers from them. One would say well, it is based upon an opinion or kind of perception of the law and it didn't really specifically state exactly...when I talk about how vague the law currently is would be as an example. Right now nobody has been able to tell us when freeholding can stop. We have achieved our 60 students this year, and I feel that we are also being punished during this next school if freeholding happens on something that happened, you know, when we were under our 60 students. That is in the past. Let's worry about currently the school year we are in. So we are being punished for something that happened prior to the year that we asked for an override. This year we met our 60 students. [LB219]

SENATOR RAIKES: Okay. [LB219]

MATT ARNDT: Is that clear or make sense? [LB219]

SENATOR RAIKES: Yeah. Thanks for the explanation. Any other questions? I don't see any, thanks, Matt, for being here. [LB219]

MATT ARNDT: Thank you. [LB219]

SENATOR RAIKES: Other proponents LB219? Okay. We will got to opponents LB219. Do we have any opponents? Yeah, Clint. [LB219]

CLINT HOHNDORF: My name is Clint Hohndorf, H-o-h-n-d-o-r-f. I am a farmer from Rising City, Nebraska. I did not come here today with the intention of addressing LB219. So I have done a little research on it, but from memory, I have been involved in some of these issues before and to put that date to June 1st my recollection the official student numbers from the Department of Education do not come out until June 30. So I don't know if the crafters of this bill took that into consideration, but it would look to me like effectively they would be giving the schools an extra year because if they did not meet the criteria you wouldn't know by June 1st as a freeholder whether they did or did not officially have the 60 students, and I don't know if that it 100 percent correct, but I believe I am correct in stating that. So it looked to me like you would be giving the schools an extra year because we wouldn't have official numbers from the Department of Education by June 1. That is all I wanted to say about that. [LB219]

SENATOR RAIKES: Okay. Thanks for your testimony. Are there questions for Clint? You raise a point and we will pursue that. I don't know that I can address it right now but thanks for testifying. Are there other opponents? Is there any neutral testimony? Senator Dierks to close. [LB219]

SENATOR DIERKS: (See also Exhibit 6) I guess mainly to answer questions but I think that our purpose was to provide a date-certain that the school board would know that their valuation was established and couldn't be changed. We don't see how a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

government subdivision can be expected to function after they have set their budget and people start taking their valuation away. That is why we put the date-certain as June 1. Because the June 1 time would give you two months, the school board, time to develop a budget. They have to hand it in by August 1st, and by that time everybody knows what the valuation is and there can be not changes. I think I have got that fairly accurate. But if you have any questions, I would be glad to try to answer them. [LB219]

SENATOR RAIKES: Any questions for Senator Dierks? [LB219]

SENATOR DIERKS: Actually I had some help in getting the bill drafted, Senator Raikes. I asked your legal counsel, Tammy Barry, to help me, and then she consulted with Cathy Lang and I think that we had some pretty excellent legal minds there to help us get this put together. So I think we are on pretty solid ground with the bill. [LB219]

SENATOR RAIKES: Okay. I would have to agree with you on that. Any questions? I see none, well thank you, Senator Dierks, and that will close the hearing on LB219 and please open on LB630 for us. [LB219]

SENATOR DIERKS: Thank you. For the record my name is Cap Dierks. I am senator from the 40th District and this bill is LB630 that I am going to introduce. It is the second one that deals with the freeholding petitions. Several schools in District 40 are experiencing problems with enrollment. Some people in these communities want to keep their schools in operation and are desperately trying to find ways to save their schools. LB630 is an attempt to change three of the four requirements before freeholder petitions can go into effect. First, the bill changes the average daily membership of Class II or III school districts in grade 9-12 from less than 60 days for 2 consecutive school years to less than 50 for 4 consecutive school fiscal years immediately preceding the filing of the petition. In other words, we are going to change from a below 60 population for 2 years to below 50 population for 4 years. Second, the bill establishes that the freeholder petition is effective during the fiscal year in which it is filed when the Class II or III school district has voted to exceed the maximum levy. It is not effective in the following school fiscal year. Third, the bill changes the distance from 15 to 10 miles from which one high school is located from another high school on a maintained public highway or a maintained public road. Representatives from schools and communities in District 40 and other legislative districts will be here to tell you about their efforts to save their schools and why these changes are needed. I thank you for your attention, and I will try to answer any questions that the committee might have. [LB630]

SENATOR RAIKES: Okay. Thank you, Senator. Questions for Senator Dierks? Yeah, Senator Burling has one. [LB630]

SENATOR BURLING: Thank you, Senator Dierks. So the gist of this is to make it more difficult to freehold? [LB630]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR DIERKS: The gist of this is to make it more possible for schools to maintain their educational facilities. I mean it depends on which side of the fence you are looking at, it think, Senator Burling. We are not trying to make difficulty for freeholding. We are trying to make it possible for education to take place in smaller schools, to continue good education. [LB630]

SENATOR BURLING: Okay. [LB630]

SENATOR DIERKS: The freeholding would still take place but it would be under different parameters. The trigger is right now is if you get less than 60 students in your enrollment for 2 years. We would like to change that to 50 students for 4 years with this legislation. [LB630]

SENATOR BURLING: And the 15 miles to 10 miles, it still has to be adjacent property? [LB630]

SENATOR DIERKS: Yes. [LB630]

SENATOR BURLING: You are not changing that? [LB630]

SENATOR DIERKS: No. [LB630]

SENATOR BURLING: Yeah. Okay. [LB630]

SENATOR RAIKES: Okay. Any other questions? Thank you, Senator. [LB630]

SENATOR DIERKS: Okay. You bet. Thanks for your attention. [LB630]

SENATOR RAIKES: How many proponents for LB630 do we have? Okay, and please move towards the front. How many opponents? Neutral testifiers? Okay. Looks like we are mostly all proponents here, so move to the front and we will have the first proponent. [LB630]

GENE BURTON: Senator Raikes and members of the Education Committee, my name is Gene Burton, B-u-r-t-o-n. I am superintendent of Prague Public Schools, which is located in Saunders County. I am here testifying on behalf of a lot of schools that would be in the D-2 Class, D-1. Also I am here representing Prague Public Schools. I have to be honest. I marked the thing that I am a proponent of it, but I better be up front with you. I am an opponent to freeholding petitions in general. I believe it treats people in schools the size of the school district I represent as actually second-class citizens. I know it is a law in the state of Nebraska. It does not make it right though just because it is a law. Why is someone who is asked to vote on a situation allowed to take their land

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

out if their position is not the one that is passed. What I am trying to say is that we had an override the first time that passed 78 percent to 22 percent. Then we went for another override that passed 58 to 42 percent. The majority opinion because of the freeholder law is ignored when the minority opinion can take their land and leave. That seems contrary to good policy. It seems contrary to democracy, and for that reason I am an opponent. Now why would I get up here and say that I am a proponent? Because there are some good things in LB630 that could help the district I work for. One being that the 10 mile limitation would exempt us from freeholding petitions. We would have no other school districts that are from high school door to high school door within ten miles of us. We would not have this problem. So I think that is a good part of the bill, and I could go on and on but I don't want to be repetitious. I just feel awful bad as citizen of the state of Nebraska that the Unicameral gives us tools to administer schools with, and then they penalize us when we do it. The Unicameral said you may have an override, but if you do don't pass it if you have less than 60 students because then we will let your valuation go and you won't be able to fund your school. Just doesn't seem right. I guess I am through with my testimony and would answer any questions that you may have of me. [LB630]

SENATOR RAIKES: Okay. Thank you, Gene. Questions for Gene? Let me ask you to just comment on what you know to be kind of the other side of the story, namely that you have got a few people who often believe that they are the primary financiers, if you will, of a school district operation and are of the belief that that school district operation has become too small to be cost effective, so they are given this opportunity, only if as you mentioned, the less than 60 students, the 15 miles, and the override--only if those things are they given an opportunity to say okay, I am going to go someplace else. [LB630]

GENE BURTON: Well, if I understand you questions right my answer would be where else do we get a right to say the vote was wrong? I wasn't asked if I wanted to pay sales tax. I can't think of another place. I feel sorry for the person who feels that their tax burden is greatly impacted, almost makes it impossible maybe for them to operate, but we still live in a country where we all have one vote. We made a vote. Why can't we live by it? Why do we have to have a special circumstance for the person who doesn't feel he is getting a fair shake? I really believe all the people that are affected by freeholders, Senator Raikes, just want to be treated alike and we feel that we are not treated alike. We feel that we are really backed into a situation where we can't do the things that a majority of the people in that political subdivision through a vote have said they wanted to do. Another example is in the law, on a freeholder, you don't change the money collected for bond issues. That stays with the district, right? Does the freeholder petition that passed...you go ahead and move the land out, so you can't take the \$1.05 or whatever amount it is, but is that land still liable for the override portion that was put on that land by a legal vote of the people? The freeholder petition doesn't address that right now. I would believe that those people, even though they put their land...let's say the

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Transcriber's Office

Education Committee
February 12, 2007

one that the lady talked to earlier in Saunders County which involves our district, certainly they are going to attach that to Wahoo. But they ought to be liable for that override petition that was voted on and they had a right to vote, and take it one step further, they might have voted for it. And why would they vote for it? So they could move their land. We don't know how people vote. We found that out with LB126. How many people vote for something so that they can get something? It just seems to be a bad policy with freeholder petitions in general. I think it is something that may be a moratorium or we ought to step back and think about before we continue to do that. And I hope I have answered you question. [LB630]

SENATOR RAIKES: Okay. You have. Senator Burling has got one for you. [LB630]

SENATOR BURLING: Thank you for coming. In short of repealing the freeholder ability in this state, do you think it ought to be changed to allow any sized district to be involved in that? [LB630]

GENE BURTON: In freeholding? [LB630]

SENATOR BURLING: Yeah. [LB630]

GENE BURTON: I guess that is a pretty tough question. I don't know if I have the right answer. Myself I think we would be better off without freeholding and protect boundaries versus having everybody eligible for freeholding. But in reality, if you said everybody can freehold, that would take away one of my arguments. [LB630]

SENATOR RAIKES: Any other questions for Gene? I don't see any, thanks for being here, Gene. [LB630]

GENE BURTON: Thank you. [LB630]

SENATOR RAIKES: Other proponents LB630? [LB630]

DOUG JOHNSON: (Exhibit 1) Senator Raikes... [LB630]

SENATOR RAIKES: Welcome. [LB630]

DOUG JOHNSON: ...committee, my name is Doug Johnson. I am from Wausa, Nebraska, president of the bank and formerly a school board member for 16 years. I guess I am interested in LB630 because of my desire to see continued high education in the rural areas. There is a number of issues that are involved with LB630. I guess I would like to focus on one that seems to me that should make sense almost to anybody. The bill changes the daily membership in schools to four consecutive fiscal years rather than currently two consecutive fiscal years. It seems to me that most districts probably

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

affected by that probably have been in business for 100 plus or minus years, and to sort them out of the herd for two years and have potentially a fatal attachment to that district just doesn't seem right to do that, and at least stretching it to a four year time period would give a better indication of the actual flow of students in those particular districts. Wausa, as an example, our elementary has approximately two and a half students more per classroom in the elementary than we currently do in the high school. So we are a growing community. We are not out recruiting. It is just growth. I don't know if we didn't have enough snow storms there for a couple of winters or what happened. But to have just two years in that provision seems to be fairly short time and something that is so crucial to a particular district. So I would encourage you to support LB630. [LB630]

SENATOR RAIKES: Okay. Thank you, Doug. Questions? Of the changes proposed here, are you suggesting that moving two to four is maybe ranks above the others? [LB630]

DOUG JOHNSON: If I was ranking I suspect that probably would be true. I am in favor of all of them, but I think that one...you can argue about numbers. Fifty, forty, sixty, eighty and the mileage thing, there is some controversy about that, but just good sense on two to four, I think that is pretty easy to see that maybe that isn't fair and equitable. [LB630]

SENATOR RAIKES: Okay. I don't see any other questions. Thanks for being here, Doug. Other proponents to LB630? [LB630]

JACK MOLES: Good afternoon. I am Jack Moles, that is M-o-l-e-s. I am the superintendent of schools at Nemaha Valley Schools, also president-elect of Nebraska Rural Community Schools Association. I am actually speaking on behalf of my school district itself though. Actually I would like to voice my support to both LB219 and LB630. I didn't want to take up your time with two testimonies. [LB630 LB219]

SENATOR RAIKES: Thank you. [LB630 LB219]

JACK MOLES: Actually as the others have said, I am opposed to the idea of freeholding as a whole. The word vile comes to mind I guess. I don't want to go through all of my reasonings because they have all been stated here. Just do want to say that I do believe that, especially LB630 holds some very, very important things for us. Give you a little bit of background. In my district, we are currently on our third override. They have not been easy to pass, but they have gotten progressively easier to pass, and that is because our patrons have become more and more educated as to what the override entails. They also see that my board is only going to access what we actually have to have to operate. They know we are not going to take them to the cleaners, as some of them put it earlier, when we tried to pass these. Again, I am opposed to freeholding as a concept but do want to voice my support for LB219 and LB630. Again, LB630, I think,

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Transcriber's Office

Education Committee
February 12, 2007

holds some very, very good concepts. Going to 4 years would be a very big one in that it does give schools a longer time period to plan and also with that, with 4 years. In the small schools we do see a couple of classes come along that could drop us below 60 for 2 years, probably not for 4 years in many cases. So four years would be a better concept for us to work with. [LB630 LB219]

SENATOR RAIKES: Okay. Thank you, Jack. Senator Adams has a question. [LB630 LB219]

SENATOR ADAMS: You said you have had three overrides? [LB630 LB219]

JACK MOLES: Yes, sir. [LB630 LB219]

SENATOR ADAMS: And generally what is the trend on your student enrollment? [LB630 LB219]

JACK MOLES: It has gone down. When I first started there 11 years ago, we were at 275 kids. We are about 190 right now. [LB630 LB219]

SENATOR ADAMS: Okay. What is your tax rate, may I ask, of your school? [LB630 LB219]

JACK MOLES: For the General Fund is it \$1.22 this year and with the 3 overrides that is the highest we have ever had our General Fund at, although we do have the ability to go to \$1.45. [LB630 LB219]

SENATOR ADAMS: Do you know what your cost is per pupil? [LB630 LB219]

JACK MOLES: It is over \$10,000. [LB630 LB219]

SENATOR ADAMS: Okay. Thank you. [LB630 LB219]

JACK MOLES: You're welcome. [LB630 LB219]

SENATOR RAIKES: Do you have a bond issue? [LB630 LB219]

JACK MOLES: Yes we do. [LB630 LB219]

SENATOR RAIKES: So with the bond issue your levy is... [LB630 LB219]

JACK MOLES: We are at \$1.46 right now, \$1.45. [LB630 LB219]

SENATOR RAIKES: Okay. [LB630 LB219]

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Transcriber's Office

Education Committee
February 12, 2007

JACK MOLES: So in 11 years we passed a bond issue and 3 overrides. Our people see the importance of having our school in our district. [LB630 LB219]

SENATOR RAIKES: Okay. I don't see any other...I do too. Senator Avery and then Senator Burling. [LB630 LB219]

SENATOR BURLING: I was pointing at him. [LB630 LB219]

SENATOR RAIKES: Oh, you were pointing. Okay. [LB630 LB219]

SENATOR AVERY: Thank you, Mr. Chair. If you didn't have your school, how far would your people have to travel to get to another on average? [LB630 LB219]

JACK MOLES: On average, I would say 10-12 miles, maybe a little more. [LB630 LB219]

SENATOR AVERY: And you have 190? [LB630 LB219]

JACK MOLES: Yes, sir. [LB630 LB219]

SENATOR AVERY: And you have \$1.46 levy to maintain that? [LB630 LB219]

JACK MOLES: That is total levy with a bond issue. [LB630 LB219]

SENATOR AVERY: But all 190 are within an easy drive to get to another school district? [LB630 LB219]

JACK MOLES: Actually it would be. We sit in the middle of four different districts, just centered between four districts. Yeah, we actually could. [LB630 LB219]

SENATOR AVERY: So why do you cling to it? [LB630 LB219]

JACK MOLES: Because our people have a lot of pride in our district, in our school. Our students perform very, very high. Just give you an example, average ACT scores are almost always two to three points above the state average. Our people cling to that. [LB630 LB219]

SENATOR AVERY: Using STARS assessment? [LB630 LB219]

JACK MOLES: No, the ACT test. [LB630 LB219]

SENATOR AVERY: Oh, okay. [LB630 LB219]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

JACK MOLES: Our students do very, very well. Most of them go onto college or into military service. Very proud of our graduates. I will tell you that we have had open conversation with all four of our neighbors, that we initiated, to talk with our neighbors. One of the districts is very, very interested in talking with us. The district that most of our people would tell us to talk to is not interested in us. So we have been open about talking about the future. But what our people want and what they would be likely to get are two different things. [LB630 LB219]

SENATOR AVERY: Thank you. [LB630 LB219]

JACK MOLES: You're welcome. [LB630 LB219]

SENATOR RAIKES: Thank you for being here, Jack. [LB630 LB219]

JACK MOLES: You're welcome. Thank you. [LB630 LB219]

SENATOR RAIKES: Other proponents, LB630? [LB630]

HOLLY HERZBERG: Good afternoon. My name is Holly Herzberg and you spell that H-e-r-z-b-e-r-g, and I am the superintendent at Hampton Public Schools, and this is my first time so excuse me if I seem nervous. I took over the superintendency in May and the first freeholding petition was filed in July, and ever since it has been a real roller coaster, not only in my first year as a superintendency but as well trying to deal with 79-458. Is it extremely gray. We have had a lot of trouble in terms of interpretation with different legal counsel and that has just been very frustrating to me as a first-year superintendent. But in terms of criteria and, Senator Raikes, you have asked this several times, was Hampton aware of it when they held the override election and yes, Hampton was aware of it. So I can't sit here and say we weren't. But we were given the opportunity to try to control our school at a local level, and that is what we did by holding the override election. It was 72 percent for and 28 percent against in Hampton when we held it, and it was our first override election. We went for 40 cents for a 5-year time period. So we do feel like we were trying to utilize the local control. We get very little state aid, and we have had several people in our district that have come to me and say what about the concept of doing away with any state aid acceptance and dealing with local control only. It is an idea. Another thing in terms of talking about is it equitable for people who are living in a district with an override? Well, it may not be equitable to all people, but is it equitable that only people on the contiguous borders can freehold? What about the land owner sitting in the middle of my district that can't go who might want to go? So why is it only for contiguous people? I know someone raised the questions earlier, should everybody be able to go? Well that could be a real mess in terms of this person has a bond, this person has this and they all want to go to different districts. So I am not so sure that that is the answer either. I guess what I am asking is I

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

am not in favor of freeholding at all, but I am willing to compromise and I am willing to look at some things and I think LB630 would be a compromise for our district. [LB630]

SENATOR RAIKES: Okay. Thank you for being here. Are there questions? Senator Johnson and then Senator Adams. [LB630]

SENATOR ADAMS: I have to ask and maybe you don't have the information, how do the Hampton students do on the ACT? [LB630]

HOLLY HERZBERG: We are at the state average or above typically. We have obviously not as big a class as sometimes so depending on who takes the ACT has a lot to do with it. Not all those kids are tracked towards college bound with their curriculum. So sometimes those students might not score as well, but they think in the back of their head I might want to go to college and then they maybe haven't had the college curriculum courses. So sometimes that hurts us, but typically we are at the state average or above. [LB630]

SENATOR ADAMS: Okay. [LB630]

SENATOR JOHNSON: I just thought that you might be interested to know that we get nervous a little bit once in a while in situations. But the only people that we really enjoy seeing nervous in your seat is when you get a state patrolman sitting there (laughter). [LB630]

HOLLY HERZBERG: Well I am far from that, I must say. But I followed Russell Hoppner. Some of you may know Russell and he hired me 14 years ago at Hampton. I wish he were here sitting by my side right now. Some of you might not, but... [LB630]

SENATOR ADAMS: May I ask one more? [LB630]

SENATOR RAIKES: Sure. [LB630]

SENATOR ADAMS: I think I know the answer but maybe for the record. [LB630]

HOLLY HERZBERG: Okay. [LB630]

SENATOR ADAMS: How important is maintaining Hampton schools to the community of Hampton, Nebraska? [LB630]

HOLLY HERZBERG: It is extremely important. Without our school, our community will die. And I think we will have some other people here that will talk in a minute on behalf of the taxpayer. But with our freeholding that we are fighting right now, one is in district court. And as a school district, we had to back out of that one because we cannot have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

any standing in a lawsuit that deals with land boundary changes, even though it will be detrimental to the future of our school district. So some of our taxpayers intervened in that suit so that we still had a vested interest, and to get taxpayers to say I am willing to put my own money out there to fight this battle, to keep this school, I have four taxpayers, two of them are with me today. I think that says a lot for what our community is willing to do to keep our school. [LB630]

SENATOR RAIKES: Let me just ask you this, right now you have how many students, K-12? [LB630]

HOLLY HERZBERG: Counting our preschool or just our K-12? Because we have a very active preschool... [LB630]

SENATOR RAIKES: Well make the number as big as you can here. [LB630]

HOLLY HERZBERG: Well we also have a 18-month to 36-month-old program, so if we add those kids in we are looking at about 190. [LB630]

SENATOR RAIKES: One hundred and ninety. So if things don't go well population wise, what is a number that you just say... [LB630]

HOLLY HERZBERG: You know, I am an ex-junior high math teacher. That is what I used to teach and numbers are my thing and I love numbers, but I am not willing to put a number on it nor do I think freeholding should have a number on it. Why is 60 better than 50 or 190 better than 375? If your community wants it... [LB630]

SENATOR RAIKES: Okay. But I am going to press you, 140. [LB630]

HOLLY HERZBERG: Okay. What about 140? [LB630]

SENATOR RAIKES: Is that a time to say you know, it is not really a feasible alternative for us to consider a K-12 with only 140? [LB630]

HOLLY HERZBERG: I think if your local people want to keep it because it is that important to them... [LB630]

SENATOR RAIKES: Okay, 100. [LB630]

HOLLY HERZBERG: I am sorry. I am not going to put a number on it. I can't do that. [LB630]

SENATOR RAIKES: Okay. [LB630]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

HOLLY HERZBERG: That probably wasn't the answer you wanted, Senator Raikes. I know. I am sorry. [LB630]

SENATOR RAIKES: Oh, you know I am used to not getting the answer I want. All right. Well thank you very much for being here, Holly. [LB630]

HOLLY HERZBERG: Thank you for you time. [LB630]

SENATOR RAIKES: Next proponent. Welcome. [LB630]

BOB MARKS: My name is Bob Marks, M-a-r-k-s, and I am the superintendent at Wausa Public Schools, and like the lady that was before me, this is the first time in front of a hearing. I have been in front of 34 years of school boards and justifying a lot of things. But to answer as far as a number, I think the taxpayers will tell you when the numbers you have are too low. I think you are competitiveness with your students and your academic classes when they have the inability to compete against each other will tell you. Our community told us at 89 and 87 percent in our third override that that is what they wanted. But I am fully aware that our community--the ones that voted, including the land owners--don't hold the majority of the land in our district. We are in a freeholding situation. This is our first year of being below 60, and we will be in that situation for at least 3 years. Our numbers, like Mr. Johnson said, are coming back up. Our numbers right now are at 200 in K-12. When I came there 12 years ago, they were 219. The lowest they were was 194. Our ACTs are 22.7 average this year. Our patrons are very proud of the district. When we started the override, we were at \$1.50-plus. Right now I have got it down to \$1.07, and I am proud of that and my patrons are thankful for that. I know full well that it is not a free ticket to spend when we are in an override situation, and I made a promise to the district that we would cut expenses. We went from two administrators down to myself, K-12 superintendent and K-12 principal. And next year I will be half-time superintendent for Bloomfield Community Schools probably. We are making efforts to trim and cut but freeholding, the situation we are in, would negate all that. It would take that away because I do believe that any amount of money that transferred out of our district would take away from the close margin that I have that I operate at. So we are very proud of what we do and I will argue with anybody as much as you want on the fact that we are just as good as anybody else. Our per pupil cost went from over \$10,000, close to \$11,000, down to \$8,200. Now if I am correct, that is close to the state average. Our per pupil cost has been coming down. We are doing the right things, but if we are feeling people would opt to pull and out because we are at \$1.07 or \$1.05 and the neighboring district, if there is one and there is, is maybe at \$1.03, would 2 cents make a difference? Well it may in our case, and it would take away all the efforts and stuff that our community has went to to keep our education. We feel it is important for our small school as well as the others. [LB630]

SENATOR RAIKES: Okay. Thank you, Bob. Questions for Bob? Eleven thousand down

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

to eight thousand is a substantial drop in times of increasing costs. [LB630]

BOB MARKS: It is. [LB630]

SENATOR RAIKES: What were the main things you did to...I mean obviously you didn't increase enrollment so that you were able to realize economies of size. [LB630]

BOB MARKS: Right. Well, when we trimmed one administrator off that took a healthy chunk out. My day starts before dark and it ends after dark and I don't know where the last three years have went. I mean it has been a blur because I have been that busy. That is the sacrifice I have made. We have trimmed our staff that we don't need. We have taken our core subject teachers and we utilize long distance tremendously to bring in other classes that we can supplement to provide the same education that we have in our neighboring schools that maybe have two English teachers and two math teachers. And so we have streamlined the duties of the staff that I have without overloading them and utilizing long distance education in the process and sharing with neighboring schools. [LB630]

SENATOR RAIKES: I did get an answer I wanted, namely that you did mention distance education, and you think that is important to your efficiency and effectiveness as a school district? [LB630]

BOB MARKS: I do. I do. And we have used it since its conception. I built our long distance learning myself, and we have had as many as seven classes in there on different selections and we are at four now, and it varies according to the availability of staff and neighboring schools and ourselves. My teachers participate heavily in giving long distance classes. [LB630]

SENATOR RAIKES: Student acceptance of those has been... [LB630]

BOB MARKS: It has been very good. I always said that the students at Wausa, sometimes you had to hold a mirror up in front of them to see if they were breathing. They are not real reactive and they just stick to business and they are very well behaved. You know, our fans at the game are the same way. But they took well to it. There are some that don't work and you don't know until you get into it and see the staff that are teaching. But it is all on how you approach it. It is all on how you monitor it. If you go into it with a negative perception, that is the way it is going to be, but we haven't. We have done everything we can to maintain our level of excellency in education. But freeholding, people that have no connection to Wausa and have a fair amount of ground would pull it out, that would really be counterproductive to us. We could maybe operate under the lid depending on...our free and reduces went from 19 percent to 59 percent. And I know a lot of other communities have the same thing, and it is not just the rural, it is metropolitan as well. So times have changed and we are trying to change with that.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

But freeholding would be detrimental to us. [LB630]

SENATOR RAIKES: Okay. Thank you, again, for being here. [LB630]

BOB MARKS: Thank you. [LB630]

SENATOR RAIKES: Other proponents to LB630? [LB630]

MIKE MONTGOMERY: Good afternoon. I am Mike Montgomery, M-o-n-t-g-o-m-e-r-y. I am the superintendent/principal at Southeast Nebraska Consolidated Schools in Stella. I am also against freeholding. I see no reason for it to be there. It hurts our schools and I believe it is unfair. You have heard all that from other folks. When I started at Southeast Consolidated five years ago, Southeast had tried for two overrides before I got there and they were unsuccessful. When I arrived, we were in sad shape financially, so we tried for another override and we were successful with it. But before that override took place, I cut \$480,000 out of the budget, I RIFed nine teachers and a principal. Thus I became the principal and the superintendent. We did everything we could and now we are in our second override. We have gotten 30 cents each year, each time we have done an override. And the first year we were at \$1.22. The last 2 years we were at \$1.21, and this year our valuation went up so we were able to drop it to \$1.13. My board members told our patrons that we would use, only what we had to use and that is what we have done. Our state aid 10 years ago was \$572,000 with an enrollment of 264 kids. We are down now to about 142 kids. This year our state aid was \$7,996.05. I don't know how you lose that kind of state aid when your enrollment doesn't drop clear to the basement, but that is what happened with us. But our patrons have been very strong. We passed our last override with a 3-1 vote difference. So our patrons like what we are doing. Southeast we use distance learning. We receive Spanish I and Spanish II. We also transmit college level classes to two other communities and those kids get the college credit through Peru State in English composition and English literature. We also use NovaNET, which is a computer-based distance learning programs with our kids. Many of our kids can graduate with 18 hours of college credit. And we are also a NASA Explorer School, probably the only school of that nature in Nebraska right now. We are hooked in with NASA. When they are doing things, we are able to get right in with them, and here a few weeks ago they were studying asteroids in the Antarctic and our kids were right there with them where they were able to ask them questions. So we are a small school but we are doing a lot good things. But freeholding is rearing its head in our district and it could be very, very detrimental to us. I would hope that something could be done to keep that from happening. Thank you. [LB630]

SENATOR RAIKES: Thank you, Mike. Questions for Mike? Senator Burling. [LB630]

SENATOR BURLING: Thanks, Mike. You said your third vote was successful on override. Did you lose any to freeholding at that time? [LB630]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

MIKE MONTGOMERY: No. [LB630]

SENATOR RAIKES: Did you...oh excuse me. Gail, go ahead, Senator Kopplin. [LB630]

SENATOR KOPPLIN: Well I am not quite sure what my question is so it will evolve as I go, because I am supportive of the small schools. But the last two of you I have heard say well, we are doing the things we need to, and that is cutting bunches of staff. There has to be a downside to that somewhere. So I am not sure what my question is, but distance education may not be the complete answer. What is the downside of all the staff that you lost? [LB630]

MIKE MONTGOMERY: The downside for us having to cut that staff was that we were not able to offer the flexibility in our class offerings that we had in the past. We also were on a four-by-four block schedule before and now we have gone back to the standard eight-period day. So we have seen some changes there that maybe weren't what we would like to do. [LB630]

SENATOR KOPPLIN: Okay. Thank you. [LB630]

SENATOR RAIKES: Mike, did you say that you have 142 students now? [LB630]

MIKE MONTGOMERY: Right. That is correct. [LB630]

SENATOR RAIKES: So how many do you have in high school? [LB630]

MIKE MONTGOMERY: We have got about 54 now. The reason we are seeing the freeholding come about right now because this is the second year now that we have been below 60. So that is why we are starting to see some folks talk about it. [LB630]

SENATOR RAIKES: But because you have not yet completed the second year below 60, it is not really a possibility at the moment, freeholding. [LB630]

MIKE MONTGOMERY: No, but we have got patrons that are talking about it. [LB630]

SENATOR RAIKES: Okay. [LB630]

MIKE MONTGOMERY: So that it could happen in the near future is very real. [LB630]

SENATOR RAIKES: Okay. Thank you. One other question, sorry. Senator Avery. [LB630]

SENATOR AVERY: Thank you, Mr. Chair. Very briefly, two other people have testified

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

that they had performance scores on the ACT that were at the state level or higher. How do you perform on that? [LB630]

MIKE MONTGOMERY: I would say we were right there about the state level. We are a little below with some of our students. I would point out roughly 54 percent are receiving free and reduced lunches. So our district is pretty poor from that perspective. We have a lot of students that come from broken homes, things like this, and those kids usually don't have as strong an educational push as some of our other kids. But our kids that are doing well in their classes are right up there with the state average or better. Last year our graduating class had \$275,000 in scholarships. There were 11 of them in the class. [LB630]

SENATOR RAIKES: Senator Kopplin. [LB630]

SENATOR KOPPLIN: On the ACT scores, for just a moment, we have had a lot of questions and answers on what our ACT scores, but those can vary from district to district simply by which students take those tests. [LB630]

MIKE MONTGOMERY: Yes. [LB630]

SENATOR KOPPLIN: So what percentage of your seniors take the ACT? [LB630]

MIKE MONTGOMERY: Last year we had 9 or our 11 take the ACTs. So we hope that we are going to have 60 percent of our kids that are looking at the ACTs because they are going to go onto college. [LB630]

SENATOR KOPPLIN: Well I agree with you that is the right way, but if you drop down to seven, your ACT scores could take a huge jump. And that is what makes comparisons so difficult when people want to compare ACT scores. [LB630]

MIKE MONTGOMERY: Yes. That is true. [LB630]

SENATOR KOPPLIN: Thank you. [LB630]

SENATOR RAIKES: Thank you, Mike. Next proponent. Do we have any other proponents? One more. Okay. Welcome. [LB630]

DUANE BAIR: Good afternoon, Senator Raikes and members of the committee. I am Duane Bair, B-a-i-r, ex-mayor, ex-member of the city council of Wynot, and as being an opponent of the pulling out of property and so forth. It really wrecks a community, and by wrecking a community it bankrupts it. That is where our school sets right now. We have children that are in a wayward disarray over this. They are upset. We have teachers that don't know if they have got a job next year. There is a lot of decisions that

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Transcriber's Office

Education Committee
February 12, 2007

are going to have to be made in the next month, month and a half, and this is just a poor way I feel in my heart for a state to conduct business. To come in and just bankrupt the school district such as is happening right here to us. Now we have 191 people living in the city of Wynot. We have the farm community around it that we draw a lot of students from also. Children ride a bus, right now they are on a bus 55 minutes a day roughly, morning and night. So that is an hour and 50 minutes. The school in Hartington is 15 miles away, so if we add that onto what the children are riding now, it is going to be even more extensive. And I don't care what anybody says to me, riding on a bus is lost time. There is nothing achieved by riding on a bus, and I have seen it happen to Maskell, to Wilber, and now to Wynot. If we lose our school, we have lost one of the main hubs of our community and I just feel that there has got to be a better way to achieve what we have to. And I think as a local community when we can no longer educate our children, we have the resources to be able to come up with that time with when it is time to close our public school. And I realize that there is a lot of pressure on the members of the committee, Senator Raikes, and I understand where all the pressure comes from. But the number one goal is children, and when we take our eye off of that, I really feel in my heart, as a 70 year old man, that we have lost our ball game. And I am helping pay a lawyer \$300 an hour to fight this in court in Cedar County, Nebraska. Five of us and there are many other people involved in it too. So I thank you for hearing me. I would be happy to answer questions if I can. [LB630]

SENATOR RAIKES: Okay. Thank you, Duane. Questions for Duane? I don't see any but thanks for being here. [LB630]

DUANE BAIR: Thank you, sir. [LB630]

SENATOR RAIKES: Next proponent. [LB630]

CHUCK TRAMP: I will make this one quick. I already had my turn. Chuck Tramp, T-r-a-m-p, just like it sounds, in support of LB630. The study was done, LR180, in 2003 and I just want to read a quick line to you because we are talking about what size of school is relevant and those sort of things. And the study found, did not find conclusive evidence, correlation between school size and assessment results or postsecondary education preparation. Okay. So you had it studied. They found no correlation between large or small. Changing to 10 miles would save Wynot. I don't know if it is going to be in time. It would keep Wausa and company in business. Here is what it means to the kids. We studied it three years ago with Hartington. It costs more to get together. As a staff, we resisted that because the numbers were too large. We froze our salaries for five years, including insurance. Our board let us do that for three years. They couldn't hire teachers. They said back off that, go back and get the money. That is how strongly we felt about having a small school and the outcome. Our ACT scores are higher, but I can show you three state one-act plays, I can show you a state girls basketball trophy that the kids are very proud to participate in. And you know what scares the kids the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

most? If I go to Crofton, I love basketball, too many kids, they are really good, I can't play. We don't have gangs. We don't have locks on our lockers. We don't have all the stuff, you know, police in the hallways and we have good kids getting a good education. I like the idea of keeping teachers in the classroom. Distance learning at Wynot is used for enhancement, it is used for marine biology, it is used for higher level math we can't offer, things of that nature, so it has its place. But where the rubber meets the road is the staff. We wanted to do the override because we needed the money to make the thing work and freeholding used to be 25 under LB456. It got to be a bargaining match, and Senator Jones's notes in that 79-458 said this seems more like an auction than it does like a legislative proceeding and it was 25. So 50 is a compromise and we will be within the 50 parameter in the next 3-5 years, we are going to be out there. So I thank you for listening. We have merit. We will tell you when it is time to close. [LB630]

SENATOR RAIKES: Okay. Thank you again, Chuck. I don't see any questions. [LB630]

CHUCK TRAMP: Okay. Thank you. [LB630]

SENATOR RAIKES: Thanks. Any other proponents? Last call. Opponents LB630? Clint. [LB630]

CLINT HOHNDORF: Senator Raikes and members of the committee, Clint Hohndorf, H-o-h-n-d-o-r-f, Rising City, Nebraska. Again, I did not come here with the intention of addressing LB630, but because of the overlap between this and LB230, I would like to speak in opposition to LB630 and in favor of LB230, if that is allowable to save time. I would like to share some facts about our local district which are much different than the people that have addressed you in favor of these bills. In our district there are cases of people who have optioned their kids out of the district and still want the school to operate for economic reasons, such as they own the town tavern, their kids are going to Shelby school but to keep the business in town we want the school to keep going, and other reasons like that. I don't see where that is right, where a taxpayer has to support when the people by walking, by taking their kids out of our district and yet they have the gall to say yeah, we still want you to pay the lion's share of the tax bill, even though we are not willing to support it by sending our kids to school. Over 80 percent of the high school students in our district are nonresident students. Over 80 percent are nonresident. And again, I haven't done recent research, but the last time I checked, I believe there were approximately 45 students of high school age that live in our district, and the numbers that the school provides for us there are approximately 16 of those actually attending our local school district. The rest are optioning out or going to a parochial school. There is currently one resident student in the junior class at our high school. One resident student. And I know this particular bill does not address residency, but it all meshes together in the big picture. The average class size of resident students of K-12 at our school district is less than 5. I believe it is like 4.9, somewhere in that vicinity. And you seem to have an interest about distance education. I can tell you how it

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

works in our school. We are on a four-day week, yet the pods which we are on in our distance education operate on a five-day week. Our class schedule does not correspond to the class schedule of the pods we are on. So if you are in a class and it comes time for you to go to your distance education learning, you are taken out of that class in some instances and you are allowed to go to the distance education. In other words, the schedules do not allow you to finish your class that you are on. You just simply go when the distance education class comes online. And on the day that we don't have school, it is up to the student whether he wants to come in that extra day or go to another school that is on that same pod. It is up to the student. How many students do you think go in that extra day? I am just telling you some of the things that go on. Unfortunately, not everybody is a good actor in this state. As far as the high voter approval, there are a lot of voters that don't get a chance to vote on a levy override that own property. Basically, it is taxation without representation. I am an alum of our particular school district. All of the real property that I own is in the school district. But yet because I rent where my residence is, I do not have an opportunity to vote on that issue, on any levy override. I have not opportunity to vote. And the other pertaining to LB630, I am assuming this ten mile radius is in the bill because you consider it a hardship to go over ten miles to school. In our situation, we have a school within 7 miles, yet we run 2 buses to Columbus, Nebraska everyday, which is approximately 20 miles away. So can you have it both ways? Can you say it is a hardship to go over 10 miles and yet you were willing to bus students in from 20 miles away everyday? There is a double standard there in my opinion. So thank you for listening. [LB630 LB230]

SENATOR RAIKES: Okay. Thank you, Clint. Senator Adams has a question. [LB630 LB230]

SENATOR ADAMS: What is your tax rate in Rising City? [LB630 LB230]

CLINT HOHNDORF: We have just come off a levy override. We do not have an override or a bond issue now. So most people would say I shouldn't have an issue anymore. I did become involved in 2002. We had a \$1.20 rate at that time. [LB630 LB230]

SENATOR ADAMS: Just general fund or consolidated? Do you have a building fund too? [LB630 LB230]

CLINT HOHNDORF: Not that I am aware of. [LB630 LB230]

SENATOR ADAMS: You said it was \$1.20? [LB630 LB230]

CLINT HOHNDORF: It was \$1.20, but currently we are under the state. We do not have an override. We are down to \$1.05. [LB630 LB230]

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Transcriber's Office

Education Committee
February 12, 2007

SENATOR ADAMS: How many times have you had an override in Rising City? [LB630 LB230]

CLINT HOHNDORF: Just once. [LB630 LB230]

SENATOR ADAMS: Just the one time. [LB630 LB230]

CLINT HOHNDORF: Yeah. [LB630 LB230]

SENATOR ADAMS: And 80 percent of your students are nonresident students? [LB630 LB230]

CLINT HOHNDORF: In the high school, over 80 percent. [LB630 LB230]

SENATOR ADAMS: Okay. Thank you. [LB630 LB230]

SENATOR RAIKES: Senator Burling. [LB630 LB230]

SENATOR BURLING: Thank you, Clint. Right along with what Senator Adams has asked, do you have a net option figure? You said 80 percent was option students. How many of your district leaves? [LB630 LB230]

CLINT HOHNDORF: No, I don't have that figure for you. [LB630 LB230]

SENATOR RAIKES: Any other questions? I don't see any, thanks again, Clint. Other opponents LB630? Is there any neutral testimony? [LB630]

PAUL UNDERWOOD: Committee, thanks for letting me be here today. Paul Underwood, U-n-d-e-r-w-o-o-d. I would like to just present neutral testimony on LB630 as a taxpayer in Senator Adams' district and in another adjoining district. I am the black sheep of the family, but I don't mind paying property taxes. You know we have got some great young minds growing up in our community. The property tax to me is a small token of what we are going to get our kids educated. I started to do a little research to see what the freeholding bill had to offer. As I looked back at LB806 when Senator Bohlke had brought this to the floor of the Legislature, there was considerable debate of whether 25 was the right number of students to enact the freeholding provision, and now we are talking 60 and lowering it to 50. I think 50 would be a help for a lot of our small schools. As a taxpayer, the freeholding provision looks like it would be a certain way to wreck our communities. Our communities, our schools are intertwined. We need them both. You cut the school out because of freeholding, you cut the community out. I don't think our state can survive with having two or three communities in our state. So I stand neutral on that, hope that you will consider that our tax base, even with an override, is pretty minor. And if we are coming in here to talk about taxes to lower our

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Transcriber's Office

Education Committee
February 12, 2007

net cost, then tie it into our fuel cost and our cash rent and everything else, which is none of your jurisdiction I realize. So thank you. [LB630]

SENATOR RAIKES: Thank you, Paul. Questions? Senator Adams. [LB630]

SENATOR ADAMS: Paul, do you think in the time that you have observed freeholding, do you think that as a result of the formula it has encouraged optioning? Has it encouraged schools to market themselves, so to speak? [LB630]

PAUL UNDERWOOD: Definitely. Yeah. I mean it is a world of survival, and if you know that you are coming close to that 60, you better find some way to get your students there or live within the \$1. If you happen to be blessed with a district that has a huge valuation you don't have to worry about that. It looks like a discrimination amongst different districts. To answer your question though, yes. [LB630]

SENATOR ADAMS: Okay. [LB630]

SENATOR RAIKES: Any other questions? Thank you, Paul. After your statement about property taxes, we will arrange for an armed escort so you can get out of the building. [LB630]

PAUL UNDERWOOD: It won't be very popular. [LB630]

SENATOR RAIKES: Any other neutral testimony? Senator Dierks to close. [LB630]

SENATOR DIERKS: Well, I want to thank you for all your kind attention to the folks who have been here today. I think that you have heard quite a variation of problems and issues. And as I look at this committee, I see four people that I know have been educators in their life, two at the college level and two at the administrative level in high school, and I am not sure, maybe there are others as well. I have to tell you a little bit of history, I went on the school board in Ewing, Nebraska in 1969, spent 15 years there and then my daughter graduated, my youngest child, and I got off the board and that was in '84. Well then in '86 I decided to run for the Legislature, so in '87 I was sworn in. I spent six years on the Education Committee. I had spent nine years in college getting a degree in veterinary medicine and other things so I felt like I spent most of my life either getting or giving in education. And so I have to tell you how strongly I feel about the education issue in Nebraska. When I came here in 1987, there were over 40 Class I school districts that were teaching school in my district. Little one-room schools out in the country, and some of them were two-room schools with a basement, and they had good-sized schools. A couple of them were in towns and they had as many as 70-80 kids. They did an outstanding job of education. The 15 years I spent as a chairman of the...I was on the school board for 15 years, chairman for 14 when I first went on, and in those days the chairman of the school board handed out diplomas to the students that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

graduated. I know that the diplomas I handed out in those 14 years that 95 percent of the valedictorians and salutatorians came from those Class I schools. I know that. They did an outstanding job of educating, and yet we took that away from them. They didn't fill the bill as far as education people in the state of Nebraska were concerned. They just weren't cutting the mustard, and so we have taken that away. Now we are starting to take away the Class I's by freeholding, by whatever method we can do, funding, lack of funding, we did sparse schools, we did very sparse schools, they did that to get me off of...what was that bill, Senator Raikes? [LB630]

SENATOR RAIKES: LB806. [LB630]

SENATOR DIERKS: (See also Exhibit 6) LB806. I was doing a filibuster on that and that is how they took my guys away from me. So I am glad that you heard what you heard today because I think you have to have this information in order to make decisions. But keep in mind that what we have asked for LB630 is not out of reach. This is not out of reason. I think that you have heard that freeholding has been a hardship on people. If we can change this in any way to make it easier for these smaller schools to survive and go ahead and educate these kids who will the valedictorians and salutatorians of those days, we should do that. I would be glad to answer any questions you might have. [LB630]

SENATOR RAIKES: Okay. Questions for Senator Dierks? I don't see any. [LB630]

SENATOR DIERKS: Thank you very much. [LB630]

SENATOR RAIKES: So thank you. That will close the hearing on LB630. How many people, might I ask, plan to testify on LB230? Okay. That is either proponent or opponent? Okay. I think we can make that, so Senator Kopplin. [LB630]

SENATOR KOPPLIN: Okay. We will open the hearing on LB230. Senator Raikes for his opening. [LB230]

SENATOR RAIKES: Thank you, Senator Kopplin, members of the Education Committee, Ron Raikes, District 25, here to introduce LB230. LB230 goes in a different direction on the requirements for freeholding than the previous bill. The first one I think is kind of a little bit on a different issue. What LB230 would do is restrict student counts for purposes of eligibility for freeholding to resident students. So it would exclude option students, foreign exchange students, and students who are wards of the court or state. In doing this, making this change, LB230 also clarifies some provisions of statutes and makes several provisions consistent. I will explain that. Limiting freeholding to resident students is the key part of it. But also, there is a section, Section 79-478 which pertains to districts that have less than 3 legal voters or do not attain a school for a least one student. Again, the provisions there would be resident students. You wouldn't count

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

option students, you wouldn't count foreign exchange students, and so on. There are other provisions in statute. Once you get below 35 high school students, you are required to form and implement a cooperative plan with other school districts. This, again, would make that 35 students be resident students, not option students, foreign exchange students, and so on. Finally, there is a provision that once you get less than 25 high school students, then you are required to eliminate the high school grades and go to a Class I structure. Again, this would make it so that those 25 students are resident students, not option students and so on. What other thing I will mention in passing, limiting the count to resident students rather than option students to me makes sense for a couple of reasons. I think the critical thing about a public school district is that it serves the residents and taxpayers in that district. To make the survival of that district, if that is what it comes to, dependent upon students brought in from the outside I think is problematic. I think you have the testimony of the man from Rising City as evidence of that. But this definitely would take the tack that the important count in terms of all of these requirements would be resident students, again, not option students, foreign exchange students or state wards. So that is the essence of it and I will stop there. [LB230]

SENATOR KOPPLIN: Are there questions for Senator Raikes? Senator Howard. [LB230]

SENATOR HOWARD: This may be more of a technicality that you may want to look at changing just a bit, but when you say all wards of the court or the state, I assume you mean children in foster care is what you are considering. [LB230]

SENATOR RAIKES: You are right. You say I am considering or not considering? [LB230]

SENATOR HOWARD: Well I would think that would be the definition that you had in mind for this. [LB230]

SENATOR RAIKES: Actually if the foster parent resides in a school district and that child attends that school district they wouldn't be considered an option student, and I don't think they are considered a state ward, but I will check that. [LB230]

SENATOR HOWARD: You can have a state ward that resides at home, and what my point would be that you would want to possibly be more specific on that because there are children who are wards of the court or wards of the state who are placed at home with their families who could be residents. So you may want to look at that. [LB230]

SENATOR RAIKES: Okay. That is a good suggestion. I will pursue that. [LB230]

SENATOR KOPPLIN: Other questions for Senator Raikes? Senator Adams. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR ADAMS: If earlier testimony is true and this bill would eliminate the nonresident students from the formula, what I am wondering, I would like to hear your thoughts on this, has the freeholding law in and of itself created the problem of the nonresident students and now we are trying to eliminate this chunk of it and are we really getting at the problem? [LB230]

SENATOR RAIKES: Well I am not sure that is not a fair analysis. I think to the extent that you have had, and I think the testimony was that gosh, we were watching our enrollment and we could see what was coming and so we were sort of doing whatever we could to make adjustments to keep the student enrollment above a certain level and we see that option students can do that for us so away we go, that is what we are going try to do. I don't think you can deny that that is happening. I guess what I am asking you to consider is that something you want to happen? And I understand the answer might be either yes or no. But my position is that the key thing is serving the students within that district and having enough students there to support a viable school district. So for that reason, I am proposing this for your consideration. [LB230]

SENATOR KOPPLIN: Senator Avery. [LB230]

SENATOR AVERY: How can you have a viable school district with just a handful of students? You used the word viable. [LB230]

SENATOR RAIKES: I probably wouldn't be the guy that could give you the strongest answer for that, but I will tell you that there are folks that, for example and not everybody agrees with this, but by a judicious and creative use of distance education those opportunities I think you can greatly enhance the educational opportunities provided for students. I would tell you that without some things like that and when you have to get into areas of cutting down on staff and eliminating teachers and probably getting into a situation where you cannot really put endorsed teachers in the classroom for each subject area, you may be able to manage in terms of staying under the levy lid. I think where the jeopardy comes then is providing educational opportunities to the students. I wonder if you don't suffer in that regard. But I know that there will be people that will argue the other side of that one. [LB230]

SENATOR AVERY: Would you be willing to state your opinion on the value of freeholding generally? [LB230]

SENATOR RAIKES: I was, and this was not an excuse, I was not here when those provisions were originally put into statute. But probably the best I can do at spelling out my position, if you will, is okay, our community should be able to decide, and yes we may have a group of resident who are primarily the ones who have the students in school and another group who primarily are property owners and maybe end up paying

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

most of the burden when a property tax levy is passed. So there has, as you know, long in Nebraska been an issue about well, I am voting to raise somebody else's taxes and to provide services for me. So I think the Legislature at the time had the view that this is a legitimate issue, one we need to address and freeholding is the way it was come about. What I would say to you now and particularly in response to folks who very sincerely make the argument well, look it is our community we will make the decision. Well is there a place? If it isn't 190 students, is it 140 students, is it 120 students, is it 60 students, and if you simply allow that to go with no guideline or regulation from the state, then it looks to me like you either force it into a situation in which the cost become simply out of bounds or the educational opportunities available to the students begin to suffer. So it seems to me that there is a point at which there needs to be an organizational change, and certainly I am just a bystander/participant in the discussion as to exactly what that point is. But I do have the opinion that there is a point, and there is a point where responsible state policy says once you get below this level there needs to be action taken. [LB230]

SENATOR AVERY: Thank you. [LB230]

SENATOR KOPPLIN: Senator Adams. [LB230]

SENATOR ADAMS: I am thinking out loud here again. How do we reconcile, in your opinion, our desire to see Omaha students achieve and design a learning community or whatever it will be in Omaha with the premise that first and foremost is student achievement, and I am assuming that that student achievement will be based on what the state Department of Education has determined to be the essential standards. Again, I am thinking out loud and I would just like to hear your opinion. If we are going to spend all this time talking about student achievement, if these Class IIs are meeting that standard then are they in effect doing what the Legislature said needs to be done and does this complicate it for them? [LB230]

SENATOR RAIKES: So we are meeting the standards, leave us alone. And I don't have strong argument with that except that I do see a connection that in the Omaha situation, the learning community situation, there clearly is a top on what you can spend. You can't just go on forever, and there is a requirement that you need to meet in terms of the educational opportunities you make available to students. Unfortunately, we have economies this size in school districts. It just is the case. You may wish we didn't, but we do. And when you get school districts that are really either small or, some can argue, really large, costs tend to be higher. But they are sharply higher when you get to really small numbers. And if you put a school district...I mean you got your choice then. Either the state is going to back a very high cost per student someday or another, however might do it or allow the local people to do it or, in order to keep that cost per student from getting so high, to allow a reduction in the educational opportunities made available to students or in some instances a combination of both, or the state is going to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

step in and say no, those are not outcomes we would like to see. Once you get below a certain level there is an organizational change at least made available, if not mandated. [LB230]

SENATOR KOPPLIN: Senator Avery. [LB230]

SENATOR AVERY: Wasn't that the argument made with Class I issue? Very similar? [LB230]

SENATOR RAIKES: Certainly there were a number of arguments in the Class I issue. One of them was cost per student and compared to K-12 elementaries the cost per student was higher. There was also a governance issue because with the way they were organized before you had, for example, in an affiliated Class I you had people who, although they had control over their elementary school district, did not have any control over the high school district which would educate their kids once they finished with the elementary. So I don't mean to say those were all the issues but that was a couple of them. [LB230]

SENATOR KOPPLIN: Senator Adams. [LB230]

SENATOR RAIKES: This is a tag team here is what this is, I see it. [LB230]

SENATOR AVERY: Well know we were going to school. [LB230]

SENATOR ADAMS: I realize that the bill as written excludes the learning community and talks about levy overrides but in principle, if we are going to have freeholding, then based on some of the testimony we heard last week on the Omaha schools, then if I am living on the edge of OPS in Sarpy, should I be able to freehold my land over into the Bellevue schools where the tax rates are going to be lower? [LB230]

SENATOR RAIKES: Well and that is a legitimate question, a point that was raised today. The way it is now, the answer no. The law doesn't allow that. [LB230]

SENATOR ADAMS: I understand. [LB230]

SENATOR RAIKES: And freeholding, at least as I understand the way it was put into statute, was not sort of a procedure to allow anybody to transfer property anywhere they might like for whatever reason regarding a school district. It was to address the specific issue of a situation where a school district has gotten down in numbers, has gotten perhaps because or that or other reasons a relatively high cost district needed to go on override and had other options in terms of mergers. So the situation it is addressing is narrower than the one you offer. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR KOPPLIN: Other questions? Senator Avery. [LB230]

SENATOR AVERY: Would you agree with this statement that LB630, which we are not talking about now I realize, would make freeholding harder, but it would also encourage perpetuation of Class II which may not be desirable? [LB230]

SENATOR RAIKES: Yeah, I think those are two sides of the same coin, I think. [LB230]

SENATOR AVERY: It is a tough one. [LB230]

SENATOR RAIKES: To the extent that freeholding as it is now provided makes it less likely that a Class II school district can continue to exist. Lightening those restrictions or lightening...taking some of the teeth out of freeholding, for lack of a better phrase, would make it more likely that they can continue to exist and I think that is what a lot of people are arguing for. [LB230]

SENATOR AVERY: Yeah. [LB230]

SENATOR KOPPLIN: Any other questions? Thank you, Senator Raikes. We will move to proponent testimony. First testifier, please. [LB230]

DON CARLEY: If you are doing proponent, I guess that would be me. Don Carley, C-a-r-l-e-y. I am a taxpayer. That is my sole affiliation and reason for being here. The reason I support Senator Raikes rewrite of the bill is because of this philosophical viewpoint. I believe that a school district was created by the Legislature to do one thing: educate those students within that district. And that is as far as my philosophy goes. To keep a school alive by using what I would consider legal but somewhat marginal methods, i.e. putting kids on school buses for 22 miles a day one direction so that you would not get into this issue of freeholding. If you just simply put the resident student language in there that Senator Raikes is proposing here, the kinds of districts that Mr. Hohndorf was speaking about will die, as they should do. There is no reason for a school to exist with a viable school six miles in one direction and another one eight or ten miles in another direction. And when you have the students optioning out, the industry students optioning out, they are already voting with their feet. One other comment. We all know about the law of unintended consequences. The freeholding law does one thing to a superintendent: it forces him to drive the cost to the lowest possible limit that he can get by with. You take it away, and they will indeed do the levy override and they will tax at \$1.40 or \$1.60 or whatever it is because there will be no pressure on them to drive the cost down to keep the people on their side. So there is a consequence to having freeholding, and it is a positive consequence, and that is why it needs to be left in there. That is my comment on that part of it. [LB230]

SENATOR KOPPLIN: Okay. Thank you, Mr. Carley. Are there questions? I see no

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

questions, thank you, sir. [LB230]

DON CARLEY: You bet. [LB230]

SENATOR KOPPLIN: Other proponents? Are there opponents? [LB230]

RON CLARK: Good afternoon, Senators. My name is Ron Clark, C-I-a-r-k. I am farmer and land owner and currently serve as board president McCool Junction Public Schools. Approximately ten years ago when we were down here, Senator Ardyce Bohlke, who was chairman of committee at that time, said if you want to keep your schools open, go out and get your option students, and that is exactly what we have done and some of us have been very successful at it. We live in a representative republic where we elect our officials to serve on the school boards and to make those choices. If there are disgruntled land owners, they have all the right in the world to run on that school board. And when you get to talking about as a taxpayer only, when you look at the bottom line at the dollar, whether it be \$1.20, \$1.30, it doesn't matter if you are in an override or if you are in a bond. When I get that tax statement I look at that levy so it doesn't matter on that part. Three years ago former Senator Ed Schrock told us that this freeholding was put in place to protect the absentee land owners, but that only works one direction; it is only a one way street. My family has land in the Exeter/Milligan consolidated school district. If they do an override, which they currently are in, we don't have that option to take our land out of the school district. It is only the smaller schools that you are going after, and to me, it is nothing more than a back door to start closing down the Class II's and III's. Senator Raikes, and he may correct me on this, but I think he said we want to protect the Omaha school boundaries. Why not protect everyone's? When you talk about efficiency, who is to decide if a land owner says this school is not running efficient? Who makes that decision? My daughter graduated three years ago in a class of 16 students. They received over \$500,000 in scholarships. To me, that says we are doing something about education. And when you talk cost per student, why don't we talk cost per graduating student, and let's look at the numbers that way. Let's look at what the smaller schools are graduating out as opposed to the larger districts and let's look at it that way. And currently McCool is sitting in a \$7,500 cost per student. York is around \$9,000. The district to the west of us who is operating on \$1.05 has \$12,500. So who is being efficient? And that is all I have to comment for. Thank you. [LB230]

SENATOR KOPPLIN: Are there questions from the committee? Seeing none, thank you, sir. Next opponent. [LB230]

ALAN KATZBERG: Good afternoon, Senator Kopplin, members of the Education Committee. My name is Alan Katzberg, that is K-a-t-z-b-e-r-g. I am here today to testify on behalf of the Nebraska Rural Community Schools Association in opposition to LB230. I had a lot of my testimony written out for you and I was going to read it to you but it would seem repetitive so I am going to skip a number of issues. The Nebraska

Education Committee
February 12, 2007

Rural Community Schools Association continues to be opposed to legislation that allows certain land owners to freehold their land out of a school district where the high school membership is less than 60 and a levy override has been passed by a majority vote of the citizens in that school district. Freeholding allows land owners who are dissatisfied with the vote of a majority of the citizens to avoid paying taxes associated with that vote. In no other political entity is that allowed. This option is limited to those residing in less populated areas who own land contiguous to and adjacent school district. Land owners residing in larger districts where a levy override has been approved by a majority vote of the people do not have that option to freehold land to an adjoining district to avoid paying taxes in their resident district. The current freeholding law is not based on educational quality. At one time land owners could freehold property to another school district if the reason for freeholding was in the best educational interest of the students residing on the land. The quality of education is not a factor and freeholding today. It is purely a tax reduction measure available to a few property owners. You have heard about this but I would just summarize by saying some of the following points. Freeholding has been the source of several conflicts among residents within school districts and with residents with neighboring districts. Voting on a tax levy override is divisive in rural communities, as you would guess. Adding a threat to the existence of the district caused by allowing freeholding creates additional issues in animosity among residents. This can and has pit family members and neighbors against each other. Pitting neighbors in rural communities against each other can slow the process of voluntary reorganization. Districts asked to accept the freeheld property are pitted against the district losing the property, resulting in conflict among the residences of the two districts. Examples of this type of intracommunity and intercommunity conflict now exist where freeholding is permitted. An argument is sometimes made to small high schools are of lesser quality than larger schools and that property owners should not be held hostage to supporting them because of a successful levy override. Even though some would dispute the assertion by some that the quality of education smaller schools is less, the freeholding law does nothing to improve the quality of education in these schools. In fact, by denying them resources while allowing them to exist is likely to lessen the educational quality. If small high schools in rural Nebraska are fully accredited by the state of Nebraska, there seems to be little justification for singling them out by allowing freeholding. LB230 proposes to limit the qualifying students to residents only. Thus, a high school that has increased enrollment through option enrollment and gained efficiency would be limited to counting only resident students to meet the 60 student threshold. In all other instances, Nebraska law requires or allows option students to be counted the same as resident students. In summary, the current law affords residents who own land contiguous to another school district with a lower tax rate the option to transfer the land for tax purposes. This is not an option for the majority of residents in small districts, nor is it an option to any resident in large districts, even though they may disagree with the majority vote of the voters who approve a levy override. If the majority of the voters decide an override is in the best interest of the school district, all residents should be required to accept the decision of the voters, just

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Education Committee
February 12, 2007

like they do in every other political entity. That is the democratic process. Thank you. That concludes my testimony. I would try to respond to any questions you might have. [LB230]

SENATOR KOPPLIN: Any questions for Mr. Katzberg? Seeing none, thank you, Alan. [LB230]

ALAN KATZBERG: Thank you. [LB230]

SENATOR KOPPLIN: Next opponent. [LB230]

MOLLY UNDERWOOD: (Exhibit 2) Hi. My name is Molly Underwood, U-n-d-e-r-w-o-o-d. I am a senior at McCool Public School. I would like to thank the Education Committee for hearing my testimony this afternoon. As I read each of your biographies to learn a little more about you, I was pleased to learn that as a committee, you have a least two common bonds. You all have a love for education and a love for a community you live in. Whether it is York, Omaha, Lincoln, Kenesaw, Axtel, Ashland or Sterling, you have made a positive impact on your schools and communities. If I could pick a dream school, it would start with administrators that know each child and his parents; administrators that see that each child succeeds and that no child is left behind; a school with a faculty that works countless hours for average pay to make sure the students are well educated; a school that provides challenging academic classes; a school that demands everyone graduate; a school that offers lots in the way of extracurricular activities and also athletics; a school with small class sizes; and a school, for my parents sake, that can do all of the previously mentioned at an affordable cost near to or under the state average. My dream community would be a community in which lots of people would work together for the betterment of the school and the community; a community that would support its school by building a all-weather track or new high school and community library from private funds; a community that realizes the shortfalls of the state aid funding formula and is willing to provide overrides for its success; a community that is not afraid to take a stand for what is right in rural Nebraska; a community that will provide support for bills like LB630 and will stand opposed to bills like the LB230. I know you will find this hard to believe, but my dream school and dream community is really a dream come true because it is my community and school at McCool Junction. I will be the first to admit I don't know a lot about the intent of the LB230. But I do know that for most of our rural schools to survive, we need an equitable amount of state aid plus option funding and the elimination of the arbitrary freeholding concept. Freeholding appears to be discriminatory at best and life threatening to our schools at worst. If the only concern in LB230 is for the taxpayer, my dad says, remember, they had a chance to vote for the representation and overrides. Case closed. I hope your committee will keep in mind the strong bond of your school and community and relate it to our needs. Keep the control of the school and community in the local hands of those who knows its needs best. For most of us, no school would

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Transcriber's Office

Education Committee
February 12, 2007

mean no community. Passage of the LB230 would have that impact. Thank you.
[LB230]

SENATOR KOPPLIN: Okay. Questions for Ms. Underwood? Thank you, Molly. Next opponent. [LB230]

KAREN BAMESBERGER: I am Karen Bamesberger, my last name is B-a-m-e-s-b-e-r-g-e-r, and I am a taxpayer from Hampton, Nebraska. I am a rehabilitation counselor by trade so I haven't been necessarily involved in the education world as an educator, but I interface a lot with educational systems because of the clients that I assist. As a taxpayer, I am opposed to LB230, but I had a hard time getting my arms around all of the issues. And there has been some wonderful testimony here today. A lot of the details of the school systems and I think that you need to make note of that. But overall I hope that you make note that freeholding is a problem in rural Nebraska. I feel that it is eroding rural Nebraska, the business communities. I am active member of the Hampton Development Corporation and we are always working on bringing new businesses, enhancing the businesses that we have, and working with businesses in any way to build our small community. We had a couple of representatives from the Department of Economic Development out a couple of weeks ago. The Nebraska Advantage Program was the training topic. It is a wonderful program. There are lots of tax credits and sure, some businesses fit, some don't, but we always want to explore all avenues. But it became apparent that small businesses are afraid to take advantage of some of these programs if there is not going to be a school in the community that they wish to have a business in. Freeholding is a problem. I heard earlier testimony saying that maybe there should be a moratorium, and I have heard all the testimony today that this is good and this will help. But it is a Band-Aid approach. We have got to get to the bottom of what our statutes should say for defining a school district, and that was the message that I wanted to give to you today. [LB230]

SENATOR KOPPLIN: Any questions for Karen? Thank you. [LB230]

KAREN BAMESBERGER: Thanks. [LB230]

SENATOR KOPPLIN: Next opponent. [LB230]

GRANT FISHER: My name is Grant Fisher. I am here today to speak to the senators and the committee in opposition to LB230. It is my hope that in the very short time I have I can change some senators ideals possibly or at least express why I believe that including all students as option, as well as resident students is vital to the belief and the intent of what the entire option program was founded upon. It is my concern that support of LB230 would indicate that the group or the committee or those senators do not support choice. Because in the case of our district, what it has done for us is to accomplish several things that were concerns of Senator Raikes. One, the option

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Transcriber's Office

Education Committee
February 12, 2007

enrollment students have helped to allow our school to become very efficient in terms of cost per pupil, you have heard testimony to attest to that. Secondly, and this concern was mentioned, we have been able to increase staff, increase opportunities, add to our district for both our option students and well as our resident students because of what the option students have been able to do, and I realize that part of that comes with option funding. And so that has been a vital tool for our district as well. These things have really added to what our district is all about and it was interesting, the gentlemen who testified from Rising City evidently do not think well of what their district is doing because it sounded like they have gotten to the point that they are not in a levy override. They have students and that is probably helping to increase their opportunities for all students and so I am surprised that they are maybe at least not neutral on the issue of option students. Our district is comprised of about 250 students at this time. That is considerable growth over the last four or five years. It has been due in a large part to option students. The percentage of students in our district probably still about 60-40 or 70-30. I don't have those exact figures. I am sorry I can't provide you with that. But we are still stronger with resident students and I think the interesting thing, one last point and I would like to inquire about this, I know we are not supposed to ask questions but I don't notice anywhere in the writing of this bill that if you are not going to be able to count option-in students at the very least you should be able to count all resident students, even if they are optioning out of your district because it is a choice for our district. We have some students who choose to option to other districts, and I am not sure in the writing of this bill whether we will be able to count those students should we be required to ask our voters for an override. And so that is, I guess, hopefully a few points to consider. [LB230]

SENATOR KOPPLIN: Questions? Thank you, sir. Next opponent. [LB230]

CURTIS COGSWELL: My name is Curtis Cogswell, C-o-g-s-w-e-l-l. My testimony comes as a graduate student. I am working my dissertation on small schools, and what is interesting is that I have heard words used up here that I don't know how you can quantify. Viable. Efficient. I think efficient is 100 percent graduation, no dropout rate. And somebody said, well, you're a superintendent of a school district with 248 students. And I was an administrator in a school district with 30,000 students. And I so choose to have brought my family back to Nebraska to raise my sons in a school district where I wanted the same opportunities for them that I had growing up in rural Nebraska. I am working on my doctorate degree back in Seton Hall, and the interesting conversation came up with administrators in other states is how come Nebraska doesn't have charter schools, which most public school administrators see as a parasite because they take tax dollars away from public entities. And I said that is because Nebraska has a great system, it is called option, open choice. Which basically is stated in the No Child Left Behind mandates is that some of the options for is parental choice. I asked this question, Senators, a lot of people don't go to the church closest to your home. You go to the church that best meets your needs. There are some children that thrive better in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

small school district. My two sons are two of them. When we start taking options away...there is a lot of research that show when we eliminate public school options, parochial school attendance goes up. Why is that? Because people want choices, and I am telling you right now, I would love to have all of you come out to McCool Junction Public School and see where 100 percent of our students graduate, over 90 percent of them go on to pursue postsecondary education, and the most important thing, they all become viable citizens. And isn't that the goal of education? Thank you. [LB230]

SENATOR KOPPLIN: Okay. Are there questions? Senator Avery. [LB230]

SENATOR AVERY: I can't resist this, you are in a doctoral program. [LB230]

CURTIS COGSWELL: Yes, sir. [LB230]

SENATOR AVERY: And you are studying small schools. [LB230]

CURTIS COGSWELL: Yes, sir. [LB230]

SENATOR AVERY: What is the main question you are trying to answer in your research? [LB230]

CURTIS COGSWELL: Right now, do the output of the cost or the output of what we produce relify what the inputs are, which should be cost. Because what we come down to is, just like Senator Raikes said, it comes down to economy of scale. Do we have so much input into students that the cost of it outweighs the end result, which is graduation rate, going onto pursue postsecondary education rates. Those are the things I am looking at in Nebraska right now. [LB230]

SENATOR AVERY: Do you think you might be able to answer some of the questions Senator Raikes raised about the, and I was trying to get at earlier, about the viability of a school, based on size? At what point does the school get too small to do a good job? Now I think we can all agree that when you are at a school that may have 40,000 students, it could be too large to do a good job. [LB230]

CURTIS COGSWELL: Sure. [LB230]

SENATOR AVERY: But you are looking at the other end of it, and that is what our problem is. [LB230]

CURTIS COGSWELL: And the one thing that I would like to and the Legislature has probably two good examples to look at, I think Arkansas just went into forced consolidation, state mandate, and also West Virginia. I think they are finding so far from Arkansas have not lived up to what the policy makers said they would as far as this cost

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

savings that were out there. And my concern is are we moving forward to say we are going to save costs, but we are not going to save it. And save costs versus what? Is the trade off we want to save costs up front on cost per pupil and then in the end of it is we don't have students who graduate from high school, from college and become well-producing citizens who in turn pay taxes who then again invest in our future in the long run. So I guess what is the goal of education? I would say to graduate all students. I would say is their number one goal. And is the investment up front? If a so-called small district chooses to invest \$11,000-12,000 in a student and gets 100 percent graduation rate. Is that worth the investment? I say yes. If we look at what the U.S. Department of Commerce says when it comes to what a high school graduate makes versus a high school dropout. Over their lifetime, they are going to produce more income and pay taxes to support what we are doing right here. And so I don't know if there is dumb route there. The research that I have looked at so far, which is a number, nobody pinpoints an exact number. I know that Nebraska had a study done in the early nineties from a group of researchers from Syracuse University that just said that if you combine two, it was all hypothetical, if you combined two districts, I believe it was of 300 students, you would save 20 percent. It is hypothetical. There are actual cases out there that the Legislature could look at, but then again, I would throw out and say if the investment or if they did cut cost per pupil in the long run did we start losing students by dropout and other things? [LB230]

SENATOR AVERY: I have served on hundreds of committees like yours and usually at some point in your research you have some idea of what your findings are going to be. Have you reached that point? [LB230]

CURTIS COGSWELL: Not yet, sir. [LB230]

SENATOR AVERY: Do you think you have made up your mind what it is going to be? [LB230]

CURTIS COGSWELL: I've been told that I can't come to my committee with this much passion because I have to be an objective researcher. [LB230]

SENATOR AVERY: And don't go to your committee with a preconceived idea of what you are going to find. [LB230]

CURTIS COGSWELL: That is right. Thank you. [LB230]

SENATOR AVERY: Okay. Thank you. [LB230]

SENATOR KOPPLIN: Other questions? Senator Ashford. [LB230]

SENATOR ASHFORD: I think you are certainly a unique witness for us in a way

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

because in my experience, this is my ninth year here in the Legislature, and the biggest frustration for me has been to try to find, I represent an urban school area, it seems to me that our overall goal is that all Nebraskans, whether they live in OPS or in Rising City, should be as successful as they can be, and I remember the Syracuse study very well which basically was part of the whole process that moved us towards consolidation so forth and so on. But I guess what I would ask you, how do we gauge? Try to be concise because we can talk about it later, but how would you determine whether the students at the Omaha Public Schools, how would you gauge success when you are dealing with such diverse school systems? And it may not be graduation because clearly at OPS we have a very low graduation rate and you have a very high graduation rate. [LB230]

CURTIS COGSWELL: And, Senator Ashford, I would say the district I was at it wouldn't be fair to compare a district of 30,000 to my district when it comes to graduation. [LB230]

SENATOR ASHFORD: No, not compare the districts but how do we evaluate, how do we get there? It is so frustrating. [LB230]

CURTIS COGSWELL: Sure. Senator Ashford, I have visited with Senator Adams about this topic before too, and I think the state system has to look at an accountability system where there is comparisons. I really believe that has to... [LB230]

SENATOR ASHFORD: Do we have to compare the inputs as well? Are these children getting, as much as possible, equal inputs? Where you have 100 percent of it, witness said we have 100 percent graduation rate, why? Why is it so different? [LB230]

CURTIS COGSWELL: And Senator Ashford, I think it comes down to this, uniqueness of smallness because of the personal relationships we can build with our students. I really attribute it to one thing, and that is the smallness that we have. [LB230]

SENATOR ASHFORD: And the parents. [LB230]

CURTIS COGSWELL: I believe knowing the parents, who their cousins are, grandparents, I think there is that whole connection. [LB230]

SENATOR ASHFORD: Okay. Well I just think you come from a unique situation where you come from a large district and you are working in an area with a much smaller district. [LB230]

CURTIS COGSWELL: Yes, sir. [LB230]

SENATOR ASHFORD: So your information would be very helpful to us I think. [LB230]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

CURTIS COGSWELL: Thank you. [LB230]

SENATOR KOPPLIN: Okay. Excuse me a minute, how many more testifiers do we have? Okay. We have to move it along so let's move on to the next opponent. [LB230]

MIKE HARMON: Good afternoon Education Committee. My name is Mike Harmon, H-a-r-m-o-n. I come before you today with hope of describing what goes through my mind as I am thinking of current legislation LB230. First let me tell you a little bit about myself. I am a father of five children who used to reside in the Trumbull School District, which became Doniphan-Trumbull in 1999. I sat on the school board that made that decision and dissented on that vote, so my wife and I decided to option enroll our children to the Giltner School District in 2000. I farm, raise cattle and hogs, work with 4-H, coach baseball and serve on my church council. In my opinion, I am about as Nebraskan as one can get. When I think of this bill, I am confused as to its intent. Is it an attempt to be more efficient? If this bill creates a rash of mergers, can anyone assure us that the newly created district will operate within levy maximums? The newly created Doniphan-Trumbull District certainly did not, nor did several other merged districts in our area. So I question the financial fallout of such a bill. I also have a problem with this bill's underlying agenda. This bill would take away the only incentive for a school to maximize its staff and curriculum. These schools with a net positive option enrollment number are obviously doing something right. They have found a balance of personnel, location, facilities, administration and atmosphere that attracts students to their site rather than have them flocking out the doors to other districts. I do not agree of the concept of penalizing these districts for doing their job so well only to have such efforts negated by LB230. I would think the state would like to learn from these districts that have a tendency to attract students instead of deluding their success with forced merger. In my mind this bill only has one intent, and that is to kill most of the small Class D schools in the state of Nebraska. I find it reminds me of the movie The Hunt for Red October, where the Russians build a silent submarine with nuclear launchability. It could approach undetected to a nation and destroy it before a response could be ready. In the movie the skipper of the vessel understands its awesome capabilities are only offensive in nature and not designed to keep conflicts in check. The movie goes on as the skipper tries to give the vessel to the Americans to prevent the destruction of life as we know it. In my mind that is what LB230 is. It is only a small school killer. It has not intention of creating efficiencies. It does not give merit for thousands of option enrollment students attending these attractive schools, nor does it address what will undoubtedly happen when an onslaught of forced mergers happen and the property taxpaying public is saddled with building levy after building levy. I have heard the Governor speak several times of his state's addiction to property taxes and how it is a local issue. I believe that this bill, if passed, will be one property tax asking that was generated by the Legislature and Governor's office. Here in Nebraska we like to hang our hat on a few things that define us as a region of the country. One of those valuable traits is when we can look at

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

you in the eye and say educated in small town school. [LB230]

SENATOR KOPPLIN: Okay. Thank you. Any questions? All right. Thank you. Next opponent. Anybody neutral? [LB230]

GENE BURTON: Again, my name is Gene Burton, B-u-r-t-o-n. I am the superintendent of Prague Public Schools. I am here to serve as an example, I guess, of where I believe LB230 might take us or any of the other freeholder bills you have talked about today. The reality is Prague Public School is feeling the results of it. We had our first freeholder petition approved, the land is going to be taken out of our district. It feels like we have had a diagnosis of cancer. Our initial thought is that we are going to have lots of freeholder petitions. We don't know that for certain. We feel the doctors, which could be the legislature, may be able to help us. But where we are at right now, we have to assume in our operation that there is a good chance that we are going to lose a larger percentage or say 20 percent of our valuation. If that happens, we are going to lose oh, say \$250,000. That is enough that we have to make up that we won't have a big enough override and we are going to have to look for other options. Now it has been maybe suggested and maybe true, I don't know, is it the intent to close the small schools. The reality is that it will cause Prague to have to close. But there is even a bigger reality to that statement. Nobody wants us. It is because of the laws on the books in the state of Nebraska. There are two things that cause us to be maybe undesirable. One is what we have to do with our staff. If we were to say we can't operate anymore, because we can't generate the money to pay our bills, one of the neighboring schools would come in, they don't want us because they don't want to match our staff with their staff and go through reduction in force where part of their staff would have to leave so that part of our staff could stay. Yet another factor that causes us to be undesirable is our facilities. You look across the state of Nebraska where a facility or school has had to close and you see a lot of abandoned structures. They are vandalized, they become eyesores, this type of thing. They cost money to tear down. I really believe that we have been backed into a corner, not intentionally, where we have to make decisions that are just going to cause chaos in communities. And it doesn't matter what you do with LB230 or LB630 or LB219 or whatever other bill you might make. The reality is you are going to end up closing some small schools. We are a small school. Please think about what you do and give us a chance to continue to operate. [LB230]

SENATOR KOPPLIN: (See also Exhibit 6) Okay. Thank you, Gene. Are there questions? Okay. Thank you. Any other testifiers? Senator Raikes, would you like to close? Senator Raikes is not going to close, so that will end the hearing on LB230 and we will move on to LB678 and Senator Raikes. [LB230]

SENATOR RAIKES: Thank you, Senator. LB678, Senator Dubas is here. Senator, welcome. [LB678]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR DUBAS: Senator Raikes, thank you very much. Thanks for helping me get in here and giving me the chance to do this. Good afternoon, Senator Raikes and members of the Education Committee. I am Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I represent the 34th Legislative District. As the introducer of LB678, I am troubled. This bill definitely has a complicated history behind it, but yet it is not legislatively complex. The concept really is simple. In the case that a city would annex a school district, all school districts swallowed into the annex would remain the same that they were before the city was annexed. In other words, it disallows Grand Island from annexing Grand Island Northwest School District. This issue in this bill was definitely not at the top of my legislative things-to-do list during my first year at the Legislature. I am the new kid on block and I know this has been an ongoing situation, but I was hoping that we wouldn't end up in this situation. And I do represent a district that has had an ongoing 40-year border dispute that has been rooted in hurt feelings, unresolved arguments and accusations. I introduced this bill in response to Senator Aguilar's bill. Both Grand Island Senior High and Grand Island Northwest School Boards seem to let their guard down just a little bit, long enough to decide that they do not want this issue decided by the entire legislative body and especially by two competing bills that you are going to hear before you today, LB524 and LB678. It is my sincere hope that this issue can be resolved at the local level. As you will hear today, both schools are working together to develop a plan under the learning community concept. Learning community concept was and is an advantageous idea, and I support that concept if it is still intact at the end of the legislative session. I know there are a lot of questions being raised about this concept. With the political steam that Senator Kopplin's bill is gaining, I would like to state for the record that outstate Nebraska should have seat at this negotiating table also. With both ideas, we must remember that we need to bring urban and rural interests into the mix. We are spending a lot of time arguing about boundaries and how things should be divided up. It kind of reminds me of a real nasty divorce, and the only ones who usually get hurt in a nasty divorce are the children, and that is my concern today. I really want to say at the end of the day that is what it is all about. It is about our children and about giving all children a quality education with competent staff, safe and comfortable surroundings, and a foundation to build their future and our future upon. I firmly believe that investing dollars in all children's education now pays huge dividends to our communities and to our state for years to come. So I appreciate you giving me the opportunity today to bring this issue forward and I truly do hope that it is an issue that can be resolved without legislative interference. [LB678]

SENATOR RAIKES: Thank you, Senator. Senator Avery has a question. [LB678]

SENATOR AVERY: I was just wondering if you believe in the value of one-city one-school district? [LB678]

SENATOR DUBAS: You know, I am still in the process of trying to wrap my mind all the way around this, and I don't think there is a one-size-fits-all approach to educating our

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

children, and the issues that you are dealing with in more urban areas aren't necessarily the same types of issues that we deal with in rural areas. I think this learning community concept definitely has merit across the state. Senator Raikes was kind enough to put together a meeting with the Grand Island people that are involved in this issue, and I think they brought some good points out into what LB1024 was trying to do, but yet it didn't quite mesh with what they were trying to deal with in the more rural areas. So I think we can take these types of ideas and hopefully mold them around to meet the different situations across the state. [LB678]

SENATOR AVERY: I am wondering what would have happened in Lincoln when Havelock was annexed if we had said okay you can retain your school district. It would be a whole different system here now. [LB678]

SENATOR DUBAS: We find our identity in our school districts, you now, the neighborhoods do. So whether you are in Omaha or whether you are in Fullerton or Grand Island or wherever you are at, and so taking that identity away from people is a very difficult thing to do and we do... [LB678]

SENATOR AVERY: Well you should go to Havelock and talk to them. They still have their identity. They call themselves, I am from Havelock, but they don't have their own school district. [LB678]

SENATOR DUBAS: Well as I stated in my testimony, we do get caught up in boundaries and lines and defining things and sometimes we aren't able to see the forest for the trees, and so we have to at the end of the day where is it we want to go, what is it we want to provide for our children, what are we willing to give and what are we willing to take in order to make that happen. Now I am not going to sit here and tell you that I have the answer. As I said, just like you, I am the new kid on the block, and I have walked into a situation that has been ongoing for a long, long time. But I really hope that it is an issue that can be... [LB678]

SENATOR AVERY: But you do like the learning community concept? [LB678]

SENATOR DUBAS: I think it definitely has... [LB678]

SENATOR AVERY: Do you also like the common levy concept? [LB678]

SENATOR DUBAS: The jury is still out on that one. [LB678]

SENATOR AVERY: Okay. [LB678]

SENATOR RAIKES: Any other questions for Senator? Senator, are you going to be able to stick around? [LB678]

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Transcriber's Office

Education Committee
February 12, 2007

SENATOR DUBAS: I will just kind of see how testimony goes. I will reserve my right to close, but if I have to leave, I won't be here. [LB678]

SENATOR RAIKES: Well, have a good trip but be careful of the company you keep. [LB678]

SENATOR DUBAS: Thank you very much. [LB678]

SENATOR RAIKES: Proponents for LB678? Welcome. [LB678]

DEL PRINDLE: Senator Raikes and Education Committee members, my name is Del Prindle, spelled P-r-i-n-d-l-e, and I am the superintendent of schools at Doniphan-Trumbull Public School consolidated school district between Grand Island and Hastings. I have with me Mr. Brent Rainforth, who is the president of the Doniphan-Trumbull school board, and we are here today to offer testimony in support of LB678. The issues of city annexation, school boundary changes and the combination of both, which has been coined one-city one-school district, had been vigorously debated and disputed over at least the past 25 years. Usually the positions taken on these issues pertain to the three elements of community or school identity, fiscal support, or efficiency of services. The conflicting points of view on these issues have resulted in numerous legislative bills, some of which were passed into law, but more recently, the disputes have resulted in referendums and law suits leaving a great deal of uncertainty as to the propriety of basing boundary changes on the three aforementioned elements. In the case of school districts, the socioeconomic status of families, student achievement and racial and ethnic characteristics have further made the issue of establishing appropriate school boundaries all the more complicated. One characteristic the people of Nebraska have had for many generations is the will to work together for a common cause. This quality has become again notable during the past year when many school district representatives were reporting a need for and a willingness to work together to establish workable solutions for meeting the changing needs of students of the state while addressing the many inequities and inequalities that currently exist among school districts. To make it possible to solve this problem through collaborative efforts, school districts must not be further threatened by city annexations, which continually change the playing field and force school districts to be in conflict with each other. The passage of LB678 would go along with way to stabilize districts while answers to some very complex problems are developed. [LB678]

SENATOR RAIKES: Okay. Del, thank you. Questions for Del? I don't see any, thank you, Del, for being here. [LB678]

DEL PRINDLE: Thank you. [LB678]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR RAIKES: Next proponent to LB678. Welcome. [LB678]

DUANE WITT: Good afternoon Senator Raikes, members of the Education Committee. My name is Duane Witt, W-i-t-t, and I come to you this afternoon to testify in favor of LB678. A lot of the things that I was going to say have been said in previous bills and whatever. We, and I am on the board of Northwest High School at Grand Island, really didn't want to do this this year because there are a lot of other things...and there are some good things out there right now that we are looking at, learning communities, common levies, things like that that really need to be looked at. But there is a history that I have got that I could do. I think I am going to pass on that because everybody knows it. This has been an ongoing battle for a lot of years. The thing we really would like to see through this whole legislative session this afternoon is something that has to do about boundaries. We have to decide, whether it be freeholding. Somebody has to say okay, here is a boundary, this community has an entity that says okay, I am Northwest High School, I am Senior High School and figure out how to get the money around because that is the thing. It is all about tax base. It is. We pass a bill or we pass a bond that says I am going to build a new building. We don't build it for yesterday. We build it for 20 years down the line. We build a building with bond money and then a year down the road another school district annexes that ground away, we don't have the ability to support that building that we now have a bond to build. So then a new building sets with nothing to go for. So we really need to look at that. We need to look at what you have got in the pot right now in LB1024. We need to do something like that, but we really need to do something besides keep battling back and forth at each other and saying my boundaries here, your boundaries there. And it don't do any good to go to court because they have the hammer. If we don't decide, it's theirs. So it is a lot of money spent. Lawyers get rich and things like that and we just go on about our business. So we like the fact that you are looking at learning communities, that you are looking at common levies, and you are looking at committees like that. But we don't like the fact that you can arbitrarily come to our school district and take our tax base. [LB678]

SENATOR RAIKES: Okay. Thank you, Duane. Senator Adams has a question. [LB678]

SENATOR ADAMS: First of all, I appreciate the idea that the two school districts are being proactive on this and that you are open to that learning community concept, and in light of that, let me ask you the same question that I have asked other school board members and some of the learning community superintendents. If you had to choose between maintaining your school identity and your tax base, which would it be? One or the other. [LB678]

DUANE WITT: Depending on what you do with our tax base so we can support ourselves. [LB678]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR ADAMS: One or the other. Which is more important to you? [LB678]

DUANE WITT: Our identity is very important, but it is only important if you can support it. [LB678]

SENATOR ADAMS: Okay. Thank you. [LB678]

SENATOR RAIKES: Okay. Thank you, Duane, for being here. [LB678]

DUANE WITT: Thank you very much. [LB678]

SENATOR RAIKES: Any other proponents for LB678? [LB678]

KEITH OSTERMEIER: Thank you, Senator. My name is Keith Ostermeier, O-s-t-e-r-m-e-i-e-r. I am also a school board member representing Northwest Public Schools. I would like to testify in support of Legislative Bill 678. Just to give you some background, Northwest Public Schools is a former Class I, Class VI system that has merged into a Class III district as a result of LB126, and our district currently consists of 4four K-8 elementary attendance centers and one 9-12 high school. Our district surrounds the city of Grand Island and Grand Island Public Schools. Northwest High School was created in 1963 to serve the rural Class I districts surrounding Grand Island in Hall and Merrick Counties. These school districts petitioned to create a Class VI high school after Grand Island Public School Board announced in November of '62 that it would no longer accept tuition students from the districts surrounding Grand Island. Annexation has been a discussion involving both school districts since the creation of Northwest High School in 1963. Each time the city of Grand Island has annexed land, the end result has been that Grand Island Public has fallen behind in taking 100 percent of the valuation. The school boards were able to reach some form of an agreement in 1984 that allowed when the city annexed some property west of Highway 281. This residential area then became part of Grand Island Public. It was part of Northwest High and some Class I districts. That did allow the residents in that area to choose which high school their children attended and then there was a funding formula that reimbursed students that were nondistrict students. That agreement was not renewed in 2004 and then since then there has been some other annexations by the city of Grand Island. Both school boards managed part of 79-473. We could not reach and agreement. The end result was Northwest Public sued Grand Island Public for negotiating in bad faith. Judge Teresa Luther ruled in Grand Island Public's favor, stating that 79-473 only requires that the parties make a good faith attempt to reach consensus on annexed land. The statute does not require the respective school districts to reach an agreement. As required by statute, if the two districts cannot reach an agreement after 90 days then the annexed land automatically transfers to the city school district, in this case Grand Island Public. I guess my question is where is the incentive for a city school district to reach an agreement if after 90 days the land is

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

automatically transferred to it? Northwest High's enrollment is approximately 75 percent option enrollment students now. Most of this is due to annexation over the years. The state does reimburse school districts for option enrollment, and it is an important part of our funding. What concerns me is that the Legislature can eliminate or change the option enrollment funding at any time. I think it is important for a school district to have a stable tax base for long term planning situations. In our case, Northwest Public Schools has lost over \$60 million in valuation due to annexations by Grand Island since the last bond issue passed in 2002. In closing, I like the concept of creating a learning community concept to be created for the school districts. If this can't work out, then I would think 79-473 should be amended to allow a binding arbitration if the two school districts can't reach an agreement. Thank you. [LB678]

SENATOR RAIKES: Thank you, Keith. Senator Adams and then Senator Johnson. [LB678]

SENATOR ADAMS: You said that for quite some time your school board has been wrestling with the issue of boundaries and dollars between Grand Island and Grand Island Northwest. Is that correct? Did I hear you right? [LB678]

KEITH OSTERMEIER: Yes. [LB678]

SENATOR ADAMS: Has race and poverty figured into that discussion? [LB678]

KEITH OSTERMEIER: As far as the needs of each district? Is that what you are asking? [LB678]

SENATOR AVERY: Right, and balance? [LB678]

KEITH OSTERMEIER: It has been brought up in each district and when we look at our needs as part of 79-473. [LB678]

SENATOR JOHNSON: My question was this, now I just need to have you say it again, I am not sure I heard it correctly. What percentage of students do you have that transfer into your district? [LB678]

KEITH OSTERMEIER: Our high school is approximately 75 percent option enrollment. [LB678]

SENATOR JOHNSON: So you have only 25 percent of your own students, so to speak? [LB678]

KEITH OSTERMEIER: Residential students at the high school, yes. [LB678]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR JOHNSON: Okay. Thank you. [LB678]

SENATOR RAIKES: Okay. Thank you very much, Keith. [LB678]

KEITH OSTERMEIER: Thank you. [LB678]

SENATOR RAIKES: Are there other proponents LB678? Opponents? Steve. [LB678]

STEVE JOEL: Senator Raikes, members of the Education Committee, Steve Joel, J-o-e-l, superintendent of Grand Island Public Schools. Just to avoid duplicating testimony on the forthcoming bills, Grand Island Public would stand in opposition of this particular bill. [LB678]

SENATOR RAIKES: Okay. Thank you, Steve. Any other opponents? Any neutral testimony on LB678? Senator Dubas, you survived until closing time here. [LB678]

SENATOR DUBAS: (See also Exhibit 6) This is my lucky day. Thank you, again, for the opportunity to bring this issue to your committee. I guess, again, I just really want to stress that I hope that these two school boards, these two school districts will have the opportunity to come to the table and work out something that they feel will best serve their community, their students, and the taxpayers of their district. So, again, I don't want this to be something that the Legislature dictates to them. I want it to be something that they are going to be happy with. They have to live with it. They have to make it work. And so I think there has been progress made as far as attitudes and wanting to come together and whether it is a learning community concept or something along that same lines, I hope we can give them that opportunity to make it work. Thank you. [LB678]

SENATOR RAIKES: Thank you, Senator. Questions? I don't see any, thank you. Thank will close the hearing on LB678 and we will move to LB153, Senator Aguilar. [LB678]

SENATOR AGUILAR: Thank you, Senator Raikes. I am sorry you have to leave. Chairman Raikes and members of the Education Committee, my name is Ray Aguilar, A-g-u-i-l-a-r. This bill was related to the longstanding boundary disputes between Grand Island Public Schools and Grand Island Northwest High School. Local efforts to resolve issues have been fraught with hurt feelings and reluctance to cooperate. Just recently, however, the schools are looking at the learning community concept as a possibility for addressing their issues. Many questions remain in trying to use the learning community concept designed for the metropolitan area of Omaha in a more rural setting, but they are hopeful that some resolution can eventually be found. LB153 was suggested because of repeated unsuccessful court cases regarding school district boundaries and negotiations over annexed land. In an effort to discourage such court cases, this bill proposes to award the defendant school district court costs, reasonable attorney fees,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

and other expenses directly related to the defense of such actions. These costs would be paid by the plaintiff school district when the case is unsuccessful. In light of the renewed efforts in Grand Island to find a local solution, I am not sure whether this bill needs to be a priority. I think the two school districts would prefer to continue their efforts toward a local solution. If the discussions of this committee and the Legislature can answer some of the questions about adapting the learning community concept to a smaller setting and thereby assist in finding a local solution, that would be preferred. However, I don't want those local efforts to falter and languish either. If they cannot find that local solution, the state may still have to address it in some fashion in the future. My goal is to see that education funding is used for education, not litigation. Thank your for your effort and expertise in dealing with these bills. I would take any questions you may have. [LB153]

SENATOR KOPPLIN: Any questions for Senator Aguilar? Senator Adams. [LB153]

SENATOR ADAMS: So the question that I have, Senator Aguilar, really doesn't so much go to the bill as it does to other testimony we have heard in the last half hour. Are you encouraged that these two school districts are going to be able to come up with something that will work for them? [LB153]

SENATOR AGUILAR: I am very much encouraged and, like I said, we are looking at the learning community concept as well as the common levy concept. Those are two important items to both the school districts in Grand Island. They are both hoping that it can come to a reasonable agreement, assuming the Legislature does advance something with that in place, with those two concepts in place. Assuming that that does happen, we do want to be able to resolve this by ourselves and not have to depend on the Legislature. [LB153]

SENATOR ADAMS: Thank you. [LB153]

SENATOR KOPPLIN: Other questions? Okay. Thank you, Senator. Are you going to stick around to close? [LB153]

SENATOR AGUILAR: I will hand around for a while. [LB153]

SENATOR KOPPLIN: Okay. Are there proponents? [LB153]

STEVE JOEL: (Exhibit 3) Senator Kopplin, members of the Education Committee, Steve Joel, superintendent of schools, J-o-e-l, Grand Island. Senator Aguilar mentioned that negotiations over land annexations are contentious and difficult. Grand Island is a growing, vibrant community, and there is going to be continued annexing of land for expansion purposes. Statute currently requires the two districts to meet and negotiate on four items: educational needs of the students and the impacted areas at school

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

districts; the economic impact upon the affected school districts; any common interest between the annexed or platted area and the affected school districts and the community which has zoning jurisdiction over the area; and then community educational planning. In each of the negotiation sessions, offers and counteroffers were made, which included cash and/or sliding scale or graduated payout regarding land revenue. In each case negotiations broke off after Northwest refused offers from Grand Island Public. A copy of the actual offers and counteroffers is being circulated for your attention. We soon found ourselves in court defending the state statute and our actions within the good faith framework of that statute. In its decision, the court noted that the statute does not require Grand Island Public to offer money to Northwest as part of annexation negotiations, nor does it require parties to reach agreement. It only requires that parties make a good faith attempt to reach consensus on the annexed land. The judge sided with Grand Island Public for going above and beyond the statutory requirements and trying to accommodate our neighboring school district by offering cash and/or sharing. We attempted to avoid the time, expense, and disruption of litigation by being, in our minds, generous with Northwest. For that generosity, we were sued four times. The fact that the court did not side with Northwest on a single point of their argument demonstrates that this type of litigation is frivolous and that the legal fees, approximately \$52,000 incurred by Grand Island Public Schools, which I might mention we are already a very low spending school district with many high-need students, to defend our actions and well as the state statute regarding negotiations should not be a burden to the defending school district. We urge support of this bill as Grand Island will continue to annex land for expansion, and there will continue to be, we think, opportunities to negotiate which may or may not lead to future litigation. [LB153]

SENATOR KOPPLIN: Are there questions for Dr. Joel? Senator Adams. [LB153]

SENATOR JOHNSON: Oh, go ahead. [LB153]

SENATOR ADAMS: Well, a moment ago I asked Senator Aguilar about his feeling in regard to the two school districts working things out, and yet I look at this and I get this gut feeling from your testimony that his optimism may not be shared by Grand Island and G.I. Northwest school districts. Am I reading it right? [LB153]

STEVE JOEL: Well, we have a meeting scheduled tomorrow night. Our board of education and administration are very open to the conversation on learning community. We are looking forward to that. Absent the fact that right now, to me, it is pretty unclear exactly what that learning community is going to look like, we wanted to make sure that this committee understood what is happening back in local school districts whenever land is being annexed and boundaries are being contested. So yeah, I think we are optimistic that we are having some forthright conversation, but it just seems like right now until there is greater definition through some of Senator Kopplin's work, we want this committee to know that there is an issue in Grand Island that really is unique, and it

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

is quite a bit different than what the metro area is currently experiencing. [LB153]

SENATOR KOPPLIN: Senator Johnson. [LB153]

SENATOR JOHNSON: Yes, on your blue sheet, again, now Grand Island Northwest is in the northwest part of Grand Island, and yet I see on this sheet, I know where the Wal-Mart is and it is in southeast. Is that in Grand Island Northwest district as well? In other words, is Grand Island becoming surrounded by Grand Island Northwest? [LB153]

STEVE JOEL: Well Grand Island is surrounded by Northwest tax base and the area that was developed into the Wal-Mart south was originally Northwest's property. Through annexation, obviously, then subsequent negotiations, it became the tax base of Grand Island Public. [LB153]

SENATOR KOPPLIN: Other questions for Dr. Joel? Thank you, Steve. [LB153]

STEVE JOEL: Thank you. [LB153]

LYNN CRONK: Senator Raikes and members of the Education Committee, my name is Lynn Cronk, that is spelled C-r-o-n-k. I am here today to speak in support of LB153, and I would like to thank you for this opportunity to be heard. This is my 13th year on the Grand Island Public Schools Board of Education and my 9th year as board chair. I do not recall within those 13 years coming before this committee with a request for legislation to help us solve a Grand Island problem. We may have been here defending ourselves, but we have never been here seeking a remedy. This year is different. This year we are seeking solutions. Within the past three years, the city of Grand Island has annexed seven different pieces of property. Grand Island Public Schools was sued in four separate actions. Two of those actions were heard in district court by Judge Teresa Luther last summer. One suit was dismissed and one suit was withdrawn. You have been given a copy of our demands, the demands of Northwest and Grand Island Public Schools offers so that you can see what our basis were for the arguments in court. It is important to you to know that legal counsel guided each step of our negotiations process, and that we employed a court reporter to be in attendance at each of the negotiations sessions so that we could maintain an accurate record. Judge Luther ruled in our favor in both cases. However, we found ourselves in the position of winning but not really winning. We had negotiated in good faith with Northwest, but the cost as Dr. Joel has told you of defending ourselves in court was over \$52,000. We could have hired an experienced, highly qualified teacher for those \$52,000. And as a board member, I will tell you that I don't think that I could even calculate the high cost of diverting our administrators' time and attention from academic planning, but I am certain that I can tell you that our taxpayers would find that dollar amount to be highly unacceptable as well. So do school districts have a right to sue? Yes, absolutely. However, ours is a growing community and we expect significant city annexations in the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

near future. We are seeking this legislative remedy as a deterrent for the filing of additional baseless lawsuits. Our tax dollars must be used to educate our students. We feel that the kids are counting on us. [LB153]

SENATOR RAIKES: Okay. Thank you, Lynn. Questions? I don't see any, but thanks for being here. [LB153]

LYNN CRONK: Okay. Thank you. [LB153]

SENATOR RAIKES: Other proponents to LB153? Are there opponents? Bill, welcome. [LB153]

BILL MOWINKEL: Good afternoon Chairman Raikes and members of the Education Committee. My name is Bill Mowinkel, superintendent of Northwest Public Schools at Grand Island. I am here to oppose LB153. Our district has appeared before this committee many times in an attempt to amend or repeal 79-473. The statute calls for good faith negotiations between school districts that are involved in boundary disputes following city annexation. Our attempts have always proposed a leveling of the playing field to make the process more fair, or stated another way, give both sides the incentive to gain or to lose something. Needless to say, we have been not successful. If I could, I would quote one section of the law: "If no agreement has been reached within ninety days after the effective date of the annexation ordinance, the territory shall transfer to the school district of the annexing city or village..." Since the passage of 79-473, how many parcels of property would you expect had remained in the Northwest district using this negotiations process? Zero. Zero. To the point of if a student lives across the street from the high school, they become a nonresident student. There are not students that boundary our building that could be called resident students. This bill would further the stance of always all the property transfers by adding the burden of one school district paying the cost to test negotiations in court. I do not personally feel school districts should spend money litigating disputes. However, when other avenues have not been successful, then the only alternative is to test the law through the courts. This bill is aimed specifically at our school district. We were doing, through the elected board of education approval, everything we could to protect the integrity of our district boundaries and our patrons. We as well as other school districts who engage in court action should have the right without additional expenses. I urge the committee not to advance LB153. Are there any questions that I could answer about this bill? [LB153]

SENATOR RAIKES: Okay. Thank you, Bill. Questions for Bill? [LB153]

SENATOR JOHNSON: Just one quick one. [LB153]

SENATOR RAIKES: Senator Johnson has one. [LB153]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR JOHNSON: Following up on the question I asked the other gentleman, the 75 percent of the students transferring into the school, what would seem to be a reasonable percentage of option-in students? [LB153]

BILL MOWINKEL: In our high school we have 78 percent in, and in our elementaries probably about 60 percent, the reason being they are attending their neighborhood school. As I stated in my testimony, when you have to walk across the street and you are a nonresident student, I would say the students that attend our school, it is because of their neighborhood school status. And we have looked at those demographics, Senator, and in reality about 70 percent of the students are neighborhood students, the other 8 percent come from further away than the area west of Highway 281. [LB153]

SENATOR RAIKES: Okay. Any other questions? Thanks, Bill. Any other opponents to LB153? Is there any neutral testimony? Senator Aguilar. [LB153]

SENATOR AGUILAR: Thank you for taking the time to hear this today. As you heard from both superintendents, I think the law is very clear, and the purpose of my bill, simply single purpose bill, is to quit spending education dollars on litigation. That is all it is trying to accomplish. The school districts have felt that they have done everything they can to follow the law. I would ask this committee not to take action on this bill until these two districts have had an opportunity to work through this. Thank you. [LB153]

SENATOR RAIKES: Thank you, Senator. Questions for Senator Aguilar? I don't think so, so that will close the hearing on LB153 and Senator Aguilar, if you would introduce LB524. [LB153]

SENATOR AGUILAR: Thank you, Senator Raikes, members of the committee, I am still Ray Aguilar, A-g-u-i-l-a-r. LB524 is a bill introduced to... [LB524]

SENATOR RAIKES: You sound disappointed about that (laughter). [LB524]

SENATOR AGUILAR: ...address this issue of the city's annexing land and the resident school districts expanding with it. As you know, Grand Island has two school districts that are somewhat unique within the state because Northwest was once a rural school, but is now surrounded by the growing city population. This bill ask that the Grand Island Public Schools grow with the city without the current negotiation requirement. However, Grand Island Public Schools and Grand Island Northwest are looking for ways to adjust the learning community concept to work for this situation. Again, if the discussions of this committee and Legislature can answer some of the questions about adapting the learning community to the smaller setting and thereby assist in finding a local solution, that would be much preferred. If they cannot find a local solution, the state may still have to address it in some fashion in the future. I thank you for that. Strongly encourage you as you are looking at the Omaha metropolitan situation, don't forget about the rest

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

of the state, don't forget about Grand Island. This issue has been before us for too long, and I think the concepts are in place in LB1024 to allow us to move forward as a community, and hopefully as one whole community. Thank you. [LB524]

SENATOR RAIKES: Thank you. Any questions for Senator Aguilar? I don't see any. Thanks, Ray. Proponents LB524? Welcome. [LB524]

TERRY BROWN: (Exhibit 4) Hello. Senator Raikes, members of the Educational Committee, my name is Terry Brown, that is B-r-o-w-n, like it sounds and the color. I am with the Grand Island Public Schools board. I have been a member for the last two years. I will wait for this illustration to get around to you because that is the basis of my topic. I would like to draw the attention to the illustration that you have in front of you because I think what it does is it represents the city limits that compares the 1964 city limits to the 2006 city limits. And if you look, the pink color, if you will, and some of you actually may have seen this in the past so if this is new information that means you are new on the committee. The pink area that you see on there represents the 1964 city limits and the 2006 boundary would be considered the white area. I think what this map illustrates is several of the locations of the schools are shown on here and also a lot of the businesses that happened to fall kind of within that 1964 boundary and the current 2006 boundary, and it also help maybe look at the impact of the economy that it has on the education that goes on in the city of Grand Island. What I look at is the impact of most of this has to do with development. We have several areas that have developed in Grand Island. The 281 corridor, since 281 was relocated, is one of those areas. And since 1964 you can see by the valuations that have included on the right side tables showing the amount of valuations that have come in since 1964. An example of noncommercial impacts would be the Swift meat packing plant, which is located on the eastern side of Grand Island. The upper table on the right of this illustration illustrates the current enrollment in Grand Island Public Schools that the Swift company has. We call them the Swift kids but it is really children that are being educated in Grand Island that their parents are employed by the Swift company. Now imagine, if you will, businesses like Swift or Wal-Mart that have kids that are being educated within Grand Island and their businesses that generate the tax base for our schools would be outside of the school district. I guess what we are looking at in our position as a school board would be that as the community grows, so does the school district. That concludes my testimony. [LB524]

SENATOR RAIKES: Okay. Thank you, Terry. Questions for Terry? Again, tell me where the Swift...I am not reading the... [LB524]

SENATOR AVERY: Number two. [LB524]

TERRY BROWN: Number 2 is the Swift company on the eastern side. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR RAIKES: Okay. Two is Swift company, all right. And is that a recent business in Grand Island? [LB524]

TERRY BROWN: Swift company has been in Grand Island for some time. It has just been known by other names, Monfort, whatnot. I am not sure of the exact date of the actual time it was in the city limits. [LB524]

SENATOR RAIKES: So Swift kids, students, have been in Grand Island for a number of years? [LB524]

TERRY BROWN: Yes. That is correct. [LB524]

SENATOR RAIKES: Okay. Senator Avery has a question. [LB524]

SENATOR AVERY: Very quickly, is all this white territory here the Northwest district we are talking about? [LB524]

TERRY BROWN: This being the white out here. [LB524]

SENATOR AVERY: Yeah. [LB524]

TERRY BROWN: Actually that is part of the Grand Island Public Schools. Outside of that, which would be the brown area, if you will, would fall in the Northwest territory. [LB524]

SENATOR AVERY: Okay. All right. [LB524]

SENATOR RAIKES: So to clarify, the white area is the city of Grand Island, which corresponds with the Grand Island School District. [LB524]

TERRY BROWN: That is correct. [LB524]

SENATOR RAIKES: So Northwest would only be in those areas that are outside the... [LB524]

TERRY BROWN: Outside the white line. [LB524]

SENATOR RAIKES: Okay. Thank you very much for the testimony and the map. Other proponents, LB524? [LB524]

JENNIFER WORTHINGTON: (Exhibit 5) Hello. My name is Jennifer Worthington, W-o-r-t-h-i-n-g-t-o-n. I am member of the Grand Island Public Schools Board of Education. Thank you, Senator Raikes and Education Committee members, for allowing

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Transcriber's Office

Education Committee
February 12, 2007

us to speak in support of LB524. Grand Island, as you have heard, is a growing community in terms of population, industry, and number of jobs. This growth has led to seven instances in the past three years where the city annexes land and then the school districts involve negotiate over that land. The negotiations cause community unrest and confusion, which plays itself out in several different ways. Virtually all of the negotiations have dealt with land in the western part of the city, and so the negotiations occur between Grand Island Public Schools and Northwest Public Schools. I live in this area of Grand Island and know firsthand the unrest caused in the community. In fact, I have had constituents meet with me to ask that as a Grand Island Public Schools Board member, I vote to leave some of the annexed land in Northwest Public Schools so they can continue to have strong programs and strong teachers. Many don't understand that between two equalized districts, the only impact of annexation is on the building fund, and that building fund is very important to Grand Island as shown on the green handout that went around. There are three important things I would like you to consider as you talk about this bill and as you talk about other education bills that deal with this area of the state. Those are shown in red on your handout. The first is on the K-12 enrollment line, you can see that from school year 2000-2001 to '06-'07, Grand Island Public Schools grew by 766 students, or a 10.8 percent increase. And then down a little further on the poverty line, during that same period of time, Grand Island Public Schools poverty enrollment grew by 1,576, or a 52.8 percent increase, and on the minority line you can see a similar trend, a 73.2 percent increase. So the additional students overall and the even larger number of minority students requires additional facilities to meet student needs. That is why the building fund and annexation are so important to Grand Island Public Schools. Unrest occurs between many of the families in the western part of the city option their children into other school districts. The result is that families in higher socioeconomic brackets can choose where to send their children while families in lower economic bracket don't have those choices. Less flexible jobs, transportation issues, those are some of the reasons they don't have those choices. So often the students with the highest needs are the ones that remain in the Grand Island Public Schools. So allowing Grand Island Public Schools to grow as the city grows would help alleviate the community unrest, but more important allow Grand Island Public Schools to meet the needs of a growing, more diverse population with higher needs. [LB524]

SENATOR RAIKES: Okay. Thank you, Jennifer. Senator Adams has a question. [LB524]

SENATOR ADAMS: In looking at these numbers, it begs the question do you also see the same kind of achievement gaps between Caucasian and, in this case, Hispanic students that the Omaha schools are talking about? [LB524]

JENNIFER WORTHINGTON: It varies, and I can't speak of that with as much conviction as our superintendent can, but in some areas this last year, we saw very obvious narrowing of that gap, especially in math for example. In some areas there is still an

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Transcriber's Office

Education Committee
February 12, 2007

achievement gap and that is something we are constantly working on. But we do know that smaller class size and special resources are needed to help with that achievement gap, especially with non English speaking students and minority students. [LB524]

SENATOR RAIKES: Senator Ashford. [LB524]

SENATOR ASHFORD: I will only ask one. [LB524]

SENATOR RAIKES: No, no, go ahead. [LB524]

SENATOR ASHFORD: Just so I fully understand the chart, you are telling the '06-'07 school population is 7,853, is that correct? [LB524]

JENNIFER WORTHINGTON: Yes. [LB524]

SENATOR ASHFORD: And that the poverty, the free and reduced lunch population, is 4,563, is that right? [LB524]

JENNIFER WORTHINGTON: Yes it is, 58.1 percent. [LB524]

SENATOR ASHFORD: So that is an increase from 42 percent to 58 percent? [LB524]

JENNIFER WORTHINGTON: Um hum. [LB524]

SENATOR ASHFORD: Okay. Thanks. [LB524]

JENNIFER WORTHINGTON: So we have had some growth in student population in all areas, just overall numbers, but the percentage growth in some of those higher needs areas has been even more dramatic. [LB524]

SENATOR ASHFORD: Can you tell us how many students are optioning out of Grand Island? [LB524]

JENNIFER WORTHINGTON: I cannot tell you that. I am sorry. I could find that out though or maybe one of our administrators could answer that. [LB524]

SENATOR ASHFORD: It might just be an interesting number. [LB524]

JENNIFER WORTHINGTON: Okay. We will be sure you have that information. [LB524]

SENATOR ASHFORD: Yeah, I would like to know that figure. [LB524]

SENATOR RAIKES: I don't see any other questions. Thank you, Jennifer. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

JENNIFER WORTHINGTON: All right. Thank you very much. [LB524]

SENATOR RAIKES: Steve. [LB524]

STEVE JOEL: Senator Raikes, members of the Ed Committee, thank you, again, for giving us the opportunity. Whenever annexation occurs in Grand Island, one of two things happens with that property. First, it is industrial or it is commercial. That brings in jobs. That brings in students to our school district. Secondly, it is residential. That brings in students into our school district. Our discussions, our negotiations with Grand Island Northwest have always centered on the tax base piece and who is getting the majority of kids from our perspective. As we worked our way through court, I just wanted to highlight some of the things that the judge mentioned when she looked at the good faith component of the statute. Grand Island Public Schools has a growing enrollment and that is creating its financial needs. Northwest does not have to expand because once it reaches capacity it can cap enrollment as an enrollment option school district. Grand Island Public needs additional land to help fund building projects to alleviate overcrowding. Northwest has neither an immediate need to expand nor need in the foreseeable future. Northwest does not have a common interest in the city of Grand Island because it is not legally obligated to educate the city's children, and Grand Island Public is required to educate the entire student population of the city, and you can see what is happening with our demographics. We are beginning to look a lot like OPS. And so allowing Grand Island Public to expand when necessary enhances community educational planning because Grand Island Public is obligated to place schools throughout the entire city of Grand Island. In past negotiations we have made that case. We are a growing enrollment school district. Demographically, we have a lot of challenges and we continue to see major increases in students who come to us with high academic needs. To accommodate the need for additional space, our board has felt that the tax base represented by annexation was essential to expand a tax base for bonding and building fund purposes. Despite our offers of money and opportunities to phase out revenues, Northwest sued us four different times. With close to 8,000 students and growing, Grand Island Public is K-12 on the east side of Highway 281 and K-8 on the west side of 281, and there is a real distinction between what we are dealing with and what is happening in the metro area. Having a separate enrollment option district sitting inside the boundaries of Grand Island Public in a predominately middle class section of our city causes Grand Island Public to lose students to Northwest and the elementary attendance centers on the parameter after receiving their K-8 education in our schools. Grand Island Public believes there is an academic and financial loss to our system when this occurs. We know that we heard before Lincoln has a situation where when the city annexes, Lincoln automatically grows with the city. We believe that is a solution in Grand Island as well too. Primarily because it is going to continue to be annexation opportunities. We are going to continue to grow. We are excited about that and we think that that eliminates confusion. It causes us to not have to go to the table

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

and talk about the same things over and over again that leads to community discord and, quite frankly, keeps us from being locked into an intercity. So with that, we obviously urge the support of LB524. [LB524]

SENATOR RAIKES: Okay. Thank you, Steve. Questions for Steve? Steve, I have one, when you enter a situation of annexation to keep up with the city, I am wondering about the legal advice you get. What I am thinking about is in the Omaha metro area, Omaha Public Schools decided at the time then the municipality of Millard was annexed, they decided not to extend the school district along with the city. At least one legal analysis that I have seen suggests that because they refused at that point and the Millard School District was formed and students in that area are now being served, that that option is now foreclosed, that they, just in terms of expanding the school district, they can't go there because that is legally protected. So it would seem to me that, in Grand Island's case, if the opportunity to annex with the city were turned down for whatever reason, that would be an option that would be permanently foregone. In the case of Omaha, that could potentially have ended up with a patchwork of school district boundaries where you have surrounded school districts, and in that case, hollowed out school districts and so on and so forth. I am wondering have your legal people advised you regarding that in terms of annexation? [LB524]

STEVE JOEL: Our legal counsel has been very up front with us about the fact that every negotiation is a stand-alone episode and that we have to consider the facts of the case when we negotiate. But we are very cognizant of what Omaha is going through right now, and I will just say as superintendent of Grand Island schools, the thing that I want our board to consider as we go through negotiations is let's not let ourselves become an Omaha five or ten years from now, recognizing the fact that we are growing and our numbers are getting to the point where demographically we are just overspent and that we can't argue to anybody that we can take advantage of the tax base. So we are very, very cognizant of that. But, again, I think the statute is clear. We have to put forward arguments that are representative of what are the circumstances facing both districts at the time of the annexation when we negotiate, and we have done that and the judge has very resoundingly said the facts of the case are compelling in our favor. [LB524]

SENATOR RAIKES: Okay. Any other questions? I don't see any so thank you, Steve. [LB524]

STEVE JOEL: Thank you. [LB524]

SENATOR RAIKES: Other proponents LB524? [LB524]

VIRGIL HARDEN: Senator Raikes, members of the Education Committee, good afternoon. My name is Virgil Harden, H-a-r-d-e-n, and I am the director of business for

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

Grand Island Public Schools, which you know very well. I guess I am here to specifically answer Senator Ashford's question about option enrollment. For some odd reason, I have a copy of the state aid supplement in front of me for fiscal year '05-'06, and it so happens that the numbers on this document indicate that we have 52 contracted students. And so just talking about that for a minute. You heard earlier that there was a 20-year agreement between Northwest and Grand Island. That ended. We paid over \$35 million out to Northwest over that 20 year of contract. At the end it was close to \$3 million a year. We were bleeding and we were bleeding bad on that. So those contracts look good up front and then at the end they just don't work out because they are so long in nature. So that 52 students that are contracted out specifically deal with Cedar Hollow Elementary, which is now part of Northwest. So we are back in the business of paying money to Northwest because of the implications of LB126 and the Class I schools being merged in with their affiliated high schools. So when that agreement ends, finally, in another four years, we will hopefully be out of the contracted-out student business and those students in essence would end up having to be enrollment option. So just keep that in the back of your mind. But to answer you specific questions then, enrollment option students, 550 students out, 103 students in, so a net of 499, roughly 500, and then we have 35 that are basically the other categories, foreign exchange students and things like that. So with that, I conclude my testimony. [LB524]

SENATOR RAIKES: Okay. Thank you, Virgil. Questions for Virgil? Okay. Thank you. Any other proponents LB524? Opponents LB524? Bill. [LB524]

BILL MOWINKEL: This will be very quick. I am Bill Mowinkel, for the record, superintendent at Northwest Public Schools in Grand Island. I am here in opposition to LB524. Just on the basis of when those school district boundaries move with annexation, there is no opportunity for the Northwest districts valuation to grow. There is a city council ordinance in Grand Island, which they have the zoning jurisdiction three miles around the community, no development can happen unless they ask to be annexed. So there is virtually no opportunity for the valuation of the Northwest district to grow other than through the greenbelt status and valuation growth in ag land, and if my memory is correct, I believe ag land values are going to roll back in a year. So it is going to create a harder burden on our district to get under the \$1.05 general fund levy. So it is a double-edged sword that Grand Island... [LB524]

SENATOR ASHFORD: Excuse me, what is your levy now? [LB524]

BILL MOWINKEL: One dollar two for our general fund and \$1.07 including the building fund. So there is no opportunity for growth other than on the rural people and they are educating, as I stated earlier, 78 percent and Mr. Harden just told you, 500-and-some students of Grand Island through the state aid formula, and he mentioned the \$35 million cost to the city. Well what he failed to say is that they collected all of the state aid for those students. Currently they pay us the per pupil cost at our largest elementary

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

attendance center, which is 300-and-some students, it is around \$5,000 a student and yet they are collecting the state aid formula on those students. So I don't know as it is costing them anything. They are paying what it would have cost to educate them had those students stayed in their school system. And with that, I will conclude my testimony. I hope you oppose LB524. [LB524]

SENATOR RAIKES: Okay. Thank you, Bill. Senator Avery. [LB524]

SENATOR AVERY: One quick question. Thank you, Mr. Chair. Could you provide this committee with demographic information on your student population? [LB524]

BILL MOWINKEL: Sure. I don't have it all with me right now. [LB524]

SENATOR AVERY: Great. [LB524]

BILL MOWINKEL: What particular areas would you like? [LB524]

SENATOR AVERY: Ethnicity. [LB524]

BILL MOWINKEL: Okay. [LB524]

SENATOR AVERY: Students who are on the free or reduced lunch program. [LB524]

BILL MOWINKEL: Poverty. [LB524]

SENATOR AVERY: Yes. [LB524]

BILL MOWINKEL: And I have some of that out from memory. We have one attendance center that has poverty at a little over 60 percent because we are working on Title I funding for next year, so that is the reason I have it in my mind. I met with the elementary principals Friday. We have one at a little over 60 percent. The other three elementaries are 28-24 percent and the high school is 17 percent poverty. Ethnicity, I don't have that off the top of my head because we are not dealing with it right now. [LB524]

SENATOR AVERY: Yeah. It would be nice to have something comparable to what we have from Grand Island. [LB524]

BILL MOWINKEL: Certainly. [LB524]

SENATOR RAIKES: Bill, what is the valuation trend in Northwest? Are you going up in valuation? [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

BILL MOWINKEL: Last year's budget, our valuation went up 1.9 percent districtwide and 1.5 percent in Hall County and, again, that is due basically to increase in ag value. [LB524]

SENATOR RAIKES: I see. And the student numbers? [LB524]

BILL MOWINKEL: They fluctuate, obviously, because we became a K-12 system this year. We are at about 1,400 students, K-12. A year ago when we were the K-8 and the 9-12, we were about 1,410-1,420. So we are actually down about 20 students. [LB524]

SENATOR RAIKES: Okay. [LB524]

BILL MOWINKEL: And that includes all of the option students, Senator Raikes. [LB524]

SENATOR RAIKES: Senator Adams. [LB524]

SENATOR ADAMS: Just a couple of quick questions. When was Grand Island Northwest created? [LB524]

BILL MOWINKEL: 1963-64 school term. [LB524]

SENATOR ADAMS: So it is safe to assume then compare the city limit boundaries in '63-64 with where your school buildings are at you were definitely out in the country. [LB524]

BILL MOWINKEL: Oh, by a long ways, yeah. About... [LB524]

SENATOR ADAMS: And reliant on that ag base predominately? [LB524]

BILL MOWINKEL: ...three miles. Right. [LB524]

SENATOR ADAMS: Thank you. [LB524]

BILL MOWINKEL: We have lost three buildings through annexation. When they were Class I's, they take the buildings when it is annexed and the only one that was protected was the high school. [LB524]

SENATOR ADAMS Okay. [LB524]

SENATOR ASHFORD: What is your student population? [LB524]

BILL MOWINKEL: 1,400, K-12. [LB524]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Education Committee
February 12, 2007

SENATOR ASHFORD: And you have not done an override? [LB524]

BILL MOWINKEL: No we have not. I think that would be a hard sell. We had a bond issue. When you have 75 percent of your students option students, I think it would be tough to sell an override to do that. [LB524]

SENATOR RAIKES: When was the last time you had a bond issue? [LB524]

BILL MOWINKEL: 2002, and it passed 72 percent. [LB524]

SENATOR RAIKES: And that is in spite of a high percentage... [LB524]

BILL MOWINKEL: In spite of 75 percent option enrollment students. [LB524]

SENATOR RAIKES: Okay. [LB524]

BILL MOWINKEL: Because we look at them as neighborhood students. [LB524]

SENATOR ASHFORD: And the demographics on the option students, did you have those? You had a grade school at 60 percent. [LB524]

BILL MOWINKEL: No, the race demographics I don't have, but free and reduced I have. [LB524]

SENATOR ASHFORD: Not even race, free and reduced. [LB524]

BILL MOWINKEL: Yeah, poverty, the high school 17 percent and the elementaries run from 28 to 24-25, except the one is at 60 percent. [LB524]

SENATOR RAIKES: Okay. Thank you, Bill. Other opponents LB524? Is there neutral testimony, LB524? Is Ray still around? He had to go. Okay. We will assume he waives closing, so that will close the hearing on LB524 and it will close the hearings for this afternoon. Thank you for being here. [LB524]

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Transcriber's Office

Education Committee
February 12, 2007

Disposition of Bills:

LB153 - Indefinitely postponed.
LB219 - Advanced to General File, as amended.
LB230 - Indefinitely postponed.
LB524 - Indefinitely postponed.
LB630 - Indefinitely postponed.
LB678 - Indefinitely postponed.

Chairperson

Committee Clerk