

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

[LB717 LB720]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Wednesday, January 18, 2012, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB717 and LB720. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Charlie Janssen; Rich Pahls; Les Seiler; Kate Sullivan; and Norm Wallman. Senators absent: Russ Karpisek. [LB717 LB720]

SENATOR AVERY: (Recorder malfunction) ...the first meeting of this session of the Government, Military and Veterans Affairs Committee. My name is Bill Avery. I represent District 28, right here where you are now. So welcome to District 28 and welcome to this committee. We...I'm going to introduce the members of the committee who are present and then I will talk a little bit about the procedures we will follow today. I'll start here on my right, Senator Pahls from Millard. And then seated next to him is a brand-new member of the Legislature and a new member of this committee, Senator Lester Seiler from Hastings. Welcome to this committee and to the Legislature. Joining us soon will be Senator Charlie Janssen from Fremont, and seated next to him is Senator Scott Price from Bellevue. He is the Vice Chair of the Committee and takes over when I escape the room. And seated next to me on my right is Christy Abraham and she is the legal counsel for the committee. Joining us soon will be Senator Russ Karpisek from Wilber. And also Senator Kate Sullivan from Cedar Rapids will be joining us later. And another new member of our committee is Senator Norm Wallman from Cortland. On the far left there is Sherry Shaffer who is the committee clerk. Now, when you appear here to testify on behalf of any of these bills or to testify against them, we're going to ask you to fill out a form. It looks like this. This is a form for testifiers. We ask that you fill it out as directed and do so clearly and hand this to Sherry so that she can enter all the pertinent information into the record. These are available at each door entering the room. If you are planning not to testify but you wish to be recorded for or against any of these bills, this is the form that you use. It's a slightly lighter shade of yellow. There are the two differences. We will be using the lights system today and that means that when the green light is on, you have five minutes to provide your testimony. When the yellow light comes on, you're within a minute of finishing up the five. And the red light comes on, you should be terminating your discussion. We ask that if you have any material you would like for us to see, any handouts, have enough copies for everyone here. I think the appropriate number is 12--or is it 10? [LB717 LB720]

SHERRY SHAFFER: Twelve. [LB717 LB720]

BILL AVERY: Twelve; 12 copies. If you do not have 12 copies, we have a page here who will help us get that for you. Page Larsen from Omaha is our page today--Catherine, right? [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

CATHERINE LARSEN: Um-hum. [LB717 LB720]

SENATOR AVERY: Okay. If you have a cell phone, turn it off or at least put it on vibrate so that we don't disturb the proceedings. We do...we also ask you not to engage in any demonstrations of approval or disapproval of what is being said. We want to keep this as peaceful as we can--that is always the case in these hearings. I think that's...oh, when you are testifying, try to keep in mind that repetitive testimony is unnecessary and we ask that you listen carefully to the people who precede you so that you don't say the same thing. We will give you, however, the same amount of time as other people yet so as to be fair. The closing remarks are reserved for the presenters. Now because these bills deal with a similar subject, we're going to hear them at the same time. That doesn't mean that Senator Council and Senator Lautenbaugh will speak at the same time. It just means that we will hear their opening and then we'll take testimony from you and we'll start with the proponents. And then after the proponents have had their say, we go to the opponents and then neutral testimony. We understand that you may be in favor of some portions of one bill and then opposed to others and we just ask you when you fill out your...the form, that you try to classify your position as clearly as you can. If you favor both bills, then you can put it all on one form. If you favor one bill but you oppose another, you can do the same thing. But, make it as clear as you can for the clerk and if it's unclear to her, she will ask you to clarify it. Okay, I'm going to start with the...I think I'll start with you, Senator Lautenbaugh, because I believe Senator Council, yours is better in order to follow him because yours is really an answer to what he is going to propose. Am I correct? [LB717 LB720]

SENATOR COUNCIL: Um-hum. [LB717 LB720]

SENATOR AVERY: Okay, Senator Lautenbaugh. [LB717 LB720]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman and members of the committee. My name is Scott Lautenbaugh. I represent District 18 and I am here introducing a bill that has gotten quite a bit of discussion going, I would say safely, without fear of contradiction. There's certainly been a lot of discussion going. What my bill does is very simple. It acknowledges, takes into account the fact that OPS is the only school board in the state that has 12 members. I think there is ample evidence that has developed--over the last few years, certainly--that the number is a problem. The board is simply too large. What my bill is designed to do is to pare it down to a five-member board. The districts, population-wise, would be similar in size, roughly, to an Omaha city council or county board district. Those are not the same numbers, so I'm talking in rough numbers. It would provide that these individuals be compensated for serving on the board at \$20,000 a year. It would limit them to two terms. And I just believe that this is the right direction to go for this board to make it more, in some ways, like other boards as far as the number of members. I think a smaller board and an odd-numbered board would be helpful and more efficient and would work to raise the profile of the individuals that are

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

on. I think paying these individuals would open the door to more people being able to serve, if you will. The thing that I have gotten the most, I would say, negative feedback on is the pay concept. And I do look at it this way: in Omaha, a county board member is paid, I believe, 30-some thousand; a city councilman is in the upper 20s. The OPS budget is larger than the city of Omaha's. We're asking these individuals to come forward and manage an entity that is unlike any school district in the state, just because of its sheer size and some of the other issues it faces. I have long been a proponent of actually paying our public officials for the service they provide--not enough to make it a career, certainly, but some sort of compensation. And when we are looking at a district the size of OPS with a budget the size of OPS's, I think it would be helpful to actually compensate people for their service, again, as a way to hopefully increase the number of people willing to serve, make races more competitive, if you will, and lead to a greater selection of candidates. I think if you look at comparable boards throughout the nation, it's my understanding that I think there might be one school board in Florida that's larger than OPS--they have 14 members. There are no 12-member boards in the state. I think the largest in our state...other than OPS, I think the largest is nine. LPS, which is probably the most analogous one, is a seven-member board. You get into Millard and whatnot, which I believe has six members, but we do have a tendency to have boards that are much smaller in this state than the number 12. I think the number 12 has led to sort of a unwieldiness with the particular board that we have now. I think it has led to fewer competitive races because if you are a successful candidate for the board, you are 1 voice in 12 and your influence is relatively small compared to what you have on a smaller board. I think there's evidence that because of the size of the board, the board has been moved or required to give over more discretion than is normal to a superintendent, simply because no superintendent wants to be answering to 12 people all the time. And I think that has caused some of the issues that we've seen up in Omaha. I also believe that the board members may be limited in the amount of staff assistance they can receive. There are policies in place that limit the access to staff, to research issues, and develop policy. And these restrictions have been put in place just because with 12 members of the board, they felt the need to do something to protect staff time, if you will. That's a problem, and I can't see and I've yet to hear any justification for the number 12. I think we need to take a step and make OPS more in line with the other boards in the state and simply put, that is why I've introduced this bill. As many of you know me, I don't usually run around and ask people to cosponsor my bills, I don't encourage people to come testify. I have no idea who will be testifying on this today at a very basic level. But I'll be happy to answer any of your questions, I'll be happy to provide any additional information you might have, and I will try to stay here for close, although I'm supposed to be introducing a bill in Judiciary, too, so I'm trying to balance that as well. So thank you. [LB717 LB720]

SENATOR AVERY: Thank you, Senator Lautenbaugh. Are you at all concerned that paying board members might be an undue burden on these limited budgets that schools already suffer under? [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR LAUTENBAUGH: Well, in mine as drafted, again it would simply apply to OPS. This would not apply to LPS or any of the smaller boards in the state. And if we go to the five-member size and it's \$20,000, you're talking about \$100,000. There would be commensurate savings involved with eliminating seven board members. If you're talking about travel, conferences, staff to the extent they have access, I don't know how those numbers would balance out. But I don't think--especially when we're talking about an entity the size of OPS--the \$100,000 would be a burden to them. [LB717 LB720]

SENATOR AVERY: Any questions? Senator Pahls. [LB717 LB720]

SENATOR PAHLS: Thank you, Chairman. I know the money is an issue. What I'm...I'm just curious. Okay, let's say I happen to be sitting on the board and I'm one of five. Do you foresee that I would be like not only a policymaker, but I would be like in charge of maybe curriculum or personnel? Is that in your thinking? [LB717 LB720]

SENATOR LAUTENBAUGH: This bill does not specifically...we tossed around the concept of a...sort of analogous to a corporation with nondelegable duties and saying as a board member you must be involved in this, this, and you can't delegate to the superintendent this or that. This bill does not address that issue, though. That was not part of the thinking of this. [LB717 LB720]

SENATOR PAHLS: Okay, but I'm trying to just establish some background here in case this would take off, so at least we'd have some idea and direction. I mean, is that a possible...I'm trying to figure out. I understand lowering the number and there's no argument with that. But to pay them--and I'm not arguing that--but the responsibility other than showing up like we are at meetings and listening, that they would actually be more involved with the workings of the district? [LB717 LB720]

SENATOR LAUTENBAUGH: I think in some ways the district would benefit from that. That would be a hope, certainly, yes. [LB717 LB720]

SENATOR PAHLS: Okay, so if I'm that person and I'm involved in curriculum or personnel or other number of duties "I could be involved in," would that cut back on the need for administrators? [LB717 LB720]

SENATOR LAUTENBAUGH: In a perfect world, yes. I mean...and I'm not qualified as I sit here, I don't think, to comment on how the status of the number of the administrators in OPS and how big an issue that is. But I think others have raised that point and suggested that they may be top-heavy in that regard and this might help alleviate that. [LB717 LB720]

SENATOR PAHLS: Okay. Okay, and that's what I'm trying to sort out, here. So you're

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

telling me that there would be a possibility, you know, and I'm a former school administrator, so I get how administrations can even grow. So one of the outcomes would be fewer...possibly fewer administrators? Savings of dollars? [LB717 LB720]

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR PAHLS: I'm trying to figure out how you're going to pay that--the \$20,000. [LB717 LB720]

SENATOR LAUTENBAUGH: Well, that would certainly be one of the savings to be looked at, would be saving administration costs, saving on additional employees. I mean, administrators aren't cheap. And if you're talking about, once again, \$20,000 for five people, that's \$100,000 a year. That isn't difficult to find in OPS's budget. [LB717 LB720]

SENATOR PAHLS: Okay, and again, I've heard you say two terms. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR PAHLS: So then that tells me, then, you are for limiting state senators for two terms also, then. [LB717 LB720]

SENATOR LAUTENBAUGH: I have supported that in the past and I promised Senator Carlson that I would have no real comments on that this year, so. [LB717 LB720]

SENATOR PAHLS: Okay, okay, so you're...it's the same parallel. [LB717 LB720]

SENATOR LAUTENBAUGH: Yeah. [LB717 LB720]

SENATOR PAHLS: And you're interested in...your major interest is reducing the numbers. Money is not an issue. You think fewer board members would make a better district. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR PAHLS: And what would be your proof of that or your thinking on that? [LB717 LB720]

SENATOR LAUTENBAUGH: Well, I think you have to look at--and I believe there's a board member that will touch on this as well--the Council of Greater City Schools, the members of that. I think OPS is a member. There are no other 12-member boards. I think the largest you get is nine. There's a reason that Omaha City Council has seven and the Omaha County Board has seven. Most of the other boards in the state have

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

seven--six, seven--members for school boards. You get to a point where you get diminishing returns with greater numbers and you end up with inefficiencies and you end up with...I don't want to call it a "group think," but sort of a...and I don't want to go...I'm struggling for a way to put this that isn't offensive because it's not meant to be. It is harder for the members to assert themselves when you get that large a number on a board like this, I believe, and I think we've seen that frequently with this board. [LB717 LB720]

SENATOR PAHLS: Okay, now I'm going to pick up on your seeing diminishing returns. A larger group goes down? [LB717 LB720]

SENATOR LAUTENBAUGH: Right. [LB717 LB720]

SENATOR PAHLS: Well, information will show you a large...a district gets so large and then it goes...its effectiveness in many cases goes down. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes. If you're asking me is OPS too large, too many students, some would say yes. I didn't come prepared to discuss that today and my bill does nothing for that issue, but it is a topic that some have raised. [LB717 LB720]

SENATOR PAHLS: Well, I think that by doing this you're setting those...that ball rolling. I mean, if you're saying we're too large of people who are "in charge of the district..." I've heard you say too many board members, I've heard you say too many administrators. And I'm not trying to put words in your mouth, but I'm just trying to...because I know we will have other people to...too many administrators, too large of a district. [LB717 LB720]

SENATOR LAUTENBAUGH: Yeah. [LB717 LB720]

SENATOR PAHLS: But your agenda is just the board members. [LB717 LB720]

SENATOR LAUTENBAUGH: Yeah, I am not proposing breaking up OPS or anything like that. We've had those discussions in the past, certainly--I think before my time here, even. But no, that's not what this bill is dealing with in any way. [LB717 LB720]

SENATOR PAHLS: Learning Communities, they had a salary, we took it away. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR PAHLS: And I don't know who...and I'm not asking you how you voted on that, but we did have salaries going to those individuals; now it's gone. And the rationale behind that, can you recall? I can't recall. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR LAUTENBAUGH: I think from my...in personal instance, the rationale was that we were asking relatively less of Learning Community. Their focus is narrowed, ideally. What they're doing is not commensurate with what a school board member would do and the array of issues that we're asking a school board member to deal with. So I think that's how I justified it in my mind at least. [LB717 LB720]

SENATOR PAHLS: Okay, one more question, then I will quit talking for a little bit. Do you think the school board members really work hard in your estimation? I don't think you've ever been a school board member. [LB717 LB720]

SENATOR LAUTENBAUGH: No, I have not. [LB717 LB720]

SENATOR PAHLS: But, I mean, do you truly believe...especially in a large or the larger districts which would be Omaha and Lincoln and Millard, but Omaha and Lincoln would be a larger district. Do you think they really work hard? [LB717 LB720]

SENATOR LAUTENBAUGH: I do know that the meetings--much as the same is true of our session--that's not the end of the story; that's just the beginning. I know there are subcommittee meetings, I know they're out in their schools, hopefully. So yes, I believe they do work hard and put a lot of time in on it. [LB717 LB720]

SENATOR PAHLS: So maybe they should get paid now. [LB717 LB720]

SENATOR LAUTENBAUGH: Maybe. [LB717 LB720]

SENATOR PAHLS: Okay, okay. [LB717 LB720]

SENATOR LAUTENBAUGH: You'll not get an argument from me. People used to ask me how we could get more voter turnout and I used to say well, we need more contested elections. And how do we get more contested elections? Well, you make it feasible for more people to serve, and compensating public employees is definitely a part of that. I never imagined I'd be here when I was making that argument back in the day, but I have not changed my mind about that. [LB717 LB720]

SENATOR PAHLS: Okay, thank you. [LB717 LB720]

SENATOR AVERY: Any other questions? Senator Sullivan. [LB717 LB720]

SENATOR SULLIVAN: Thank you, Senator Avery. Thank you, Senator Lautenbaugh. You made some assumptions about the...what you perceive to be the ineffectiveness of the board. Are they your assumptions as well as others'? Maybe that's going to be bore out in testimony, but have others come to you with these concerns? [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR SULLIVAN: A lot? [LB717 LB720]

SENATOR LAUTENBAUGH: You know, I would say a lot, considering I am not usually a person who is...I've never been on the Education Committee, I'm not usually associated with school issues in the first instance, and I will tell you I've learned a lot since I...I think it was reported back in the summertime that I was looking at doing this. Many people have come to me with a variety of concerns and nothing that has dissuaded me from going in this direction. I think the number is demonstrably a problem. [LB717 LB720]

SENATOR SULLIVAN: Do you know the history? I presume that OPS arrived at this 12-member board over time? Or do you know? Can you shed a lot of light on that? [LB717 LB720]

SENATOR LAUTENBAUGH: I know it's been a 12-member board since...I think since I was a student at OPS, certainly, which has been quite some time. I don't really know my...I bet there's a gentleman coming who will tell you how we arrived at the 12, but I will...I don't know the history of that. [LB717 LB720]

SENATOR SULLIVAN: Did I understand you correctly that you said the budget of OPS is larger than the budget for the city of Omaha? [LB717 LB720]

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR SULLIVAN: Thank you. [LB717 LB720]

SENATOR AVERY: Senator, I know you're expecting this question and you've probably already had it asked of you many times. What is the problem that you're trying to fix? [LB717 LB720]

SENATOR LAUTENBAUGH: I'm trying to create a board that functions better, a board that actually does...I think the voting patterns on this board have kind of demonstrated what it is I'm talking about here--that there is, let's say, maybe a lack of vigor brought to issues and a group approach to things that doesn't really lend itself to, I would say, advancement or change when change is needed. I think there's been accounts in the media about this for some issues last summer--that were reported last summer, I should say. As I detailed earlier, I think when you get a number this large, you have to cede too much authority away or people may not want to be your superintendent in the first place, unless you give over a lot of what traditionally you might not have given to a superintendent if you had a smaller board. I think by any measure, the number is part of



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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

the problem. Now, I can't sit here and say that achievement will increase by...you know, test scores will be up by 10 points if we do this. This is not meant to be a cure-all and I'm not selling myself or presenting myself as someone who knows in all instances what should be done in education--far from it. But I can understand and wrap my head around this concept and look at a board of this size and see it's unique and see how it functions and reach the conclusion very readily that it is too large. [LB717 LB720]

SENATOR AVERY: Do you believe that a smaller board would be more accountable? [LB717 LB720]

SENATOR LAUTENBAUGH: I think as you get larger districts, you would have higher-profile candidates and...sometimes I joke about the fact that, you know, people in Omaha, there's so many Senators running around that you...people can't pick us out of a lineup. You know, there's more senators than county commissioners, there's more senators than city councilmen just in Douglas County. I would like there to be larger districts, higher-profile races, higher-profile candidates. I want people to know who their school board member is. And when something isn't going right, there should be someone you can go to and say, you know, what are you doing, I know you're my member. And you don't get the response of: Well, I'm just one of 12, what do you think I can do? It's a difficult position to be in if you're trying to make some changes. [LB717 LB720]

SENATOR AVERY: Any other questions? Senator Pahls. [LB717 LB720]

SENATOR PAHLS: You keep saying things that makes me want to think a little bit. I think the major goal...one of the major goals that any school districts...any school district and probably Omaha more than some, the story is achievement scores. So if I see some value of this is going to help somewhere along the line, that would be a selling point, but that's not your goal. [LB717 LB720]

SENATOR LAUTENBAUGH: No, it's actually my goal. I think improving the board function and making it more, maybe, open to innovation and debate and...I'd hate to use the word progressive, because I don't consider myself a progressive by any reasonable measure. [LB717 LB720]

SENATOR AVERY: Nobody does. [LB717 LB720]

SENATOR LAUTENBAUGH: Yeah, understood. (Laughter) But yeah, the goal is a better output, certainly. I mean, my sons go to OPS. I have nothing but the desire for them to do better. That's where my kids are. [LB717 LB720]

SENATOR PAHLS: Okay, you say your children have gone to...are going to OPS, then I have a feeling then you probably have received some literature saying we want you to

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

be involved, you as a person, in some planning committee somewhere. I mean, I'm sure that...because I...they have committees that are focused on certain aspects of that school district. Isn't that how you get more of those people involved? By saying hey, we have something. Okay, let's say we're concerned about achievement or even let's say we're concerned about school lunches. I mean, there's...they always go to groups of people. [LB717 LB720]

SENATOR LAUTENBAUGH: Um-hum. [LB717 LB720]

SENATOR PAHLS: And you've never been offered that opportunity? [LB717 LB720]

SENATOR LAUTENBAUGH: We were contacted this year about...I can't remember what the issue was, but it was at a time when I was down here. There was nothing I could anyway, but I... [LB717 LB720]

SENATOR PAHLS: Okay, okay, so at least... [LB717 LB720]

SENATOR LAUTENBAUGH: ...I believe... [LB717 LB720]

SENATOR PAHLS: ...you have been given the opportunity. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes, yes. [LB717 LB720]

SENATOR PAHLS: Okay, now another thing. You said 1 of 12, you want to make it like 5 so there would be...I know they would a larger, probably more attention, but they're...you have 12 and if I am involved, wouldn't I not know my person better on the...if I have a smaller unit? [LB717 LB720]

SENATOR LAUTENBAUGH: Well, you would know a less effective person better because he or she is 1 in 12. So, I mean, what is goal? Is it to know them better or to have someone who's...can be effective just because of the law of numbers? I mean, you may know them better, he may be the person next door to you, but I'm just saying knowing them better doesn't lead to effectiveness. [LB717 LB720]

SENATOR PAHLS: So you're telling me if we have 5, 5 is going to be better than 12 because of their abilities are...more attention is going to be given to them. [LB717 LB720]

SENATOR LAUTENBAUGH: I think if it's a higher-profile office and we attract more candidates, we're going to have... [LB717 LB720]

SENATOR PAHLS: And with pay. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR LAUTENBAUGH: Yes. [LB717 LB720]

SENATOR PAHLS: Thank you. [LB717 LB720]

SENATOR AVERY: Any more questions from the committee? I don't see any, thank you. [LB717 LB720]

SENATOR LAUTENBAUGH: Thank you. [LB717 LB720]

SENATOR AVERY: You're going to stay for both? [LB717 LB720]

SENATOR LAUTENBAUGH: Yes, I believe so, yes. [LB717 LB720]

SENATOR AVERY: Okay. Senator Council, welcome to the committee. [LB717 LB720]

SENATOR COUNCIL: (Exhibit 1) Thank you. Good afternoon, Senator Avery, members of the committee. I'm Senator Brenda Council. I proudly represent the 11th Legislative District and by rules of the Legislature, my last name is spelled C-o-u-n-c-i-l. This is an unusual opening for me because while I understood that the committee was going to schedule both bills at the same time, I thought they would go one right after the other. So with the Chairman's permission, I will provide a brief opening on LB717, which is a bill I introduced, and then will try to respond to some of the questions that the committee posed to Senator Lautenbaugh with regard to his bill because, as Senator Avery stated, I introduced LB717 in response to the announcement by Senator Lautenbaugh that he intended to introduce a bill that would limit the members of the Omaha Board of Education, set limits on their term, and provide for pay. As a threshold matter, I do want to address a suggestion that was made that I somehow needlessly added cost to the state by introducing LB717, rather than bringing an amendment to LB720. And the suggestion was that there was some added cost to the state by virtue of the fact that, as is the practice with all bills introduced, a hearing would have to be conducted. Well, I knew full well that the Government Committee was going to be conducting hearings during this session and unless for some reason Chairman Avery felt compelled to have a separate hearing solely for the purpose of hearing LB717, I'm at a loss as to what cost would be incurred by the state by me introducing LB717...the subject of LB717 as its independent, standalone bill. On the other hand, I know full well what the cost would have been had I chose to address this as an amendment to LB720, and that cost would have been to the citizens of the state of Nebraska who wanted to be heard by this committee with respect to their position on the subject matter of LB717. I don't have to remind my colleagues how many times an amendment has failed on the floor of this body, solely by reason of the fact that the subject matter of the amendment did not have the benefit of a public hearing. I did not want the subject matter of LB717 to fall victim to that likelihood, so that is precisely why I introduced LB717 and chose not to offer it--the subject matter of LB717--as an amendment. LB717 simply provides that the provisions

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

that you'll find in LB720, Senator Lautenbaugh's bill...if you as a committee believe that those provisions represent sound public policy for the state of Nebraska, it should be applied to all 251 school districts in the state of Nebraska. As a legislature, our role and responsibility is to set public policy--not to interfere in the operations of a singular school district, but to set public policy. Now if you believe that the provisions of LB720 are sound public policies--Senator Lautenbaugh's bill--then my bill provides that it be applied to all 251 school districts, that we all...for all the school districts, all the classes, we: set a range, a minimum number of school board members; we set two four-year terms; and we pay them all \$20,000. Well, if you don't believe that the provisions of LB720 should apply to all 251 school districts, then I submit to you that that conclusion is based on your determination that that's not sound public policy. So I appear before you today in the interesting position of urging you to kill both bills because it doesn't...either it represents sound public policy or it doesn't, and I submit to you if it's sound public policy, it ought to apply to all. Now, with respect to LB720, I sat back and listened to Senator Lautenbaugh's opening and a number of the questions that you as committee members asked. I sit in the distinct position of having served on that 12-member board for 11 years and I take grave issue with the suggestion that one member of that 12-member board can't be effective, that one member of that 12-member board can't exercise leadership because as a member of that 12-member board, I'd certainly considered myself effective. The people I represented considered me effective. My colleagues on that board considered me effective, so much so that they elected me to four terms as president. Now, I hear these comments that all of a sudden problems have arisen about the operation and the effectiveness of this 12-member board. Senator Sullivan, you asked the question how long has it been a 12-member board? My understanding, in its entire history there's been a 12-member board. It became a 12-member board elected by district after the hard work of my predecessor to have district elections. And the reason there are 12 districts is because at the cornerstone of public school governance is local control. And at the cornerstone of that is to do what you can to increase community involvement, community support--that the community has a connection to the people who are governing them. And that's why the 12-member board was retained when the district election legislation passed and there are 12 school board members. The districts are comparable in size to the legislative districts in Omaha. I also take grave issue with this amorphous, high-profile candidate. I'm surprised that one of you didn't ask Senator Lautenbaugh what does that mean? How does one become a high-profile candidate? Does that mean you have a lot of money to spend on advertising? Does that mean you have a lot of experience in school board governance? I don't know what that means. And I think you need to know what that means because if that's the premise for LB720, you ought to know what a high-profile candidate is. Again, as someone who ran for office in that district four times, I certainly considered myself a high-profile candidate and I was involved in contested elections and people became involved. Senator Sullivan, you also asked a question about...to Senator Lautenbaugh. So you've received complaints, concerns about the effectiveness or the operation of the Omaha Board of Education?

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

And he said that he had from several people. Curiously, as a former member of that board, representing the same people on this legislative body as I did when I was a school board member, I've had one person. One person come to me with concerns about the effectiveness of the 12-member board. One person come to me with concerns about how that board functions and operates. And you'll probably hear from that one person today in support of Senator Lautenbaugh's bill. But beyond that, the residents of that district who have known me as their school board representative, known me as their state legislator, have not brought any such concerns to me. We talk about...Senator Pahls, you asked a question and I sat back and I kind of scratched my head. You said if the school board size is reduced, would that result in the reduction in administrators in OPS? Unless I heard wrong, Senator Lautenbaugh suggested that it would. I was hoping you'd ask me...ask him how. As a school board member, I went to school board training at the local level, I was a member of the board of governors of the Nebraska Association of School Boards, I was president of the National Conference of Black School Board Members, and I was taught that my role as a school board member was to set and enforce policy, not to micromanage the district. And if I come to the school board as I did with a degree in secondary education, it was not my job to go out and become the supervisor of curriculum. It was my job to hire a superintendent who we entrusted to carry out the policy and directive that was set at the board level. And any school board member worth his or her salt will tell you that's what their job is. Their job is not to micromanage. Senator Lautenbaugh also suggested that the fact that there are 12 board members means that the superintendent has to deal with 12 people coming to him, trying to direct what he does. Again, that's not been my experience. And is it any better if five people come and try to direct what you do? I'd think not. He also suggested that if you have a 12-member board that people come to this position with a "lack of vigor." I put quotes around it. Again, that has never been my experience. They're very dedicated people who serve as school board members. You asked, Senator Pahls, do they work hard? Let me assure you they work hard. The committee structure, not unlike the structure here...I was sitting back there and I was reminded of a debate we had this morning: 2008, a bill came through a committee, committee recommended it to the full body, and it passed almost unanimously. I didn't hear anybody say that that was a rubber stamp or that someone wasn't being effective or that we weren't exercising our responsibility. Well, the board of education of the Omaha Public Schools operates similarly to this Legislature. There are committees to which you are assigned that you are...have a responsibility to fulfill the duties and responsibilities of those committees. Those committees vet every proposal that falls within their jurisdiction. They vet those proposals and they provide their recommendation on a vote of that committee to the full board. And it's surprising me. One of the objections that I've heard in the media--because like I said, if people haven't brought it to me--is that my God, the school board of Omaha has all of these 12-0 votes, all of these 11-1 votes. What's wrong with that? Senator Lautenbaugh would have you to believe that that means everybody's walking along lockstep. I submit to you that that's evidence of the hard work put in by the board. I could tell you from my experience, if the superintendent or his staff brought

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

a proposal to a committee of that board that had no merit, no substance, did not fit within the mission, it would never see the full board meeting. It would be killed in committee, not unlike what happens here. It gets killed in committee and you never have a chance to hear, see that divided vote. Yes, that occurs on the Omaha Board of Education. I went back and just kind of reviewed the minutes of some of the metropolitan school districts...school boards. Not uncommon to see a 7-0 vote in Millard, not uncommon to see a 5-0 vote in those boards...in those districts where there are five-member boards. Does that mean there's no vigor? Does that mean there's no leadership? Does that mean they're ineffective? I'd submit that it doesn't. There's been a lot of reference to the Council of Great City Schools. For 11 years, I was an active member of the Council of Great City Schools, consider its executive director, Mike (phonetic) Casserly, a friend of mine. There had been repeated reference to a report prepared by the Council of Great City Schools. And I think what was unfortunate was that the title of this report is Governance: Best Practices of Successful Urban School Districts. But it goes on to say And Implications for New Orleans. The report sets out and identifies that the eight school districts among the members of the Council of Great City Schools that had the greatest increase in performance, Senator Pahls, by whatever measurements they use because they're not consistent if you read the report...and they said here are the top eight school districts, they've shown the most growth. And it just so happened they noted how many members there were of each board and how they came to become members. And the gist of this article, which I would like to have the page distribute to all of the committee members, is that in New Orleans, there were certain parishes in New Orleans that their governance had been taken over by the state. And the issue that's being addressed by this report is: What is the best form of governance? The report isn't what's the best size of a school board, it's what's the best form of governance. And the conclusion in this report is the best form of governance is local control, whether those board members are elected or appointed. What is not a best practice is for state control of a district. That's it, and if you read the Executive Summary it says, "With regard to their governance structure, all eight (8) successful urban districts are governed by local boards of education, with either elected or appointed members." Some had five, some had seven, some had nine. I submit to you if one of the members of the Council of Great City Schools who had such an improvement in performance by whatever they were measuring had 15 members, they'd have been in this list, too. So would that...will we be compelled, then, to conclude that, well, the best size of a school board is 15? No, and this report does not provide any support for the argument that a five-member board is better or a seven-member board is better or a nine-member board is better. What is better is what's best for that community, what meets that community's needs. And a 12-member board elected by district has met the needs of the Omaha Public Schools since 1978, when this body approved district elections and it will continue so in the future. And in conclusion, again, it is not the role of this body to interfere in the operations of a singular school district. But what it is, is to set policy for school districts. And I recognize we have different classes of school district, but it's to reg...to set a policy. And if this body believes, this committee believes,

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

that term limits are appropriate for school board, for a school board district, it should be appropriate for all of them. If you believe that pay is appropriate for a school board district, it should be appropriate for all of them. And with that, I'll answer any questions you may have. [LB717 LB720]

SENATOR AVERY: Thank you, Senator Council. Senator Pahls. [LB717 LB720]

SENATOR PAHLS: Thank you. We need to stimulate a little bit of conversation here. I have a couple questions, and I asked the good Senator Lautenbaugh about the role of the school board. I understand it's policy. But if it would be changed, would you be in agreement with that? Because you talked about governance. It would be a different form of governance. But do you see the possibility that school board members actually take...and you may call it micromanaging, but if it's...the rules are laid out, this is what your responsibilities would be, could you buy into that at all? [LB717 LB720]

SENATOR COUNCIL: No, the role of a school board is not administration. [LB717 LB720]

SENATOR PAHLS: I... [LB717 LB720]

SENATOR COUNCIL: But what I can tell you, Senator Pahls, for example, let's take finance, okay? There's a finance committee, there's a finance chair, and if your expertise is in finance, then I would hope that you would ask to be placed on the finance committee. If you have some background in education and educational instruction, I would hope you'd want to be placed on the instruction committee. If you had background like I did in human resources, I'd think you'd want to be placed on the personnel committee. There are opportunities in the current governance structure for that kind of expertise to be placed in a position where they could have meaningful impact. [LB717 LB720]

SENATOR PAHLS: Okay, I think we're more in agreement. I mean, I...if we find an area other than just policy, doesn't mean you're going to go out there and do the groundwork. But you'd be involved, and you're watching and trying to understand what's going on would be in the area of finances because that's your background. I understand that. So their...the governance could change a little bit if we just got beyond just setting policy. [LB717 LB720]

SENATOR COUNCIL: Well, I think that...but that's the issue, Senator Pahls. No one...no one has come up and said identify a problem with the current governance structure with how the committees work now. [LB717 LB720]

SENATOR PAHLS: Yeah, yeah. Right, yeah. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR COUNCIL: No one, you know? And that's the problem, you know. And it's becoming cliché because I heard it like seven times today on the floor, but LB720 is a solution looking for a problem. [LB717 LB720]

SENATOR PAHLS: Right. [LB717 LB720]

SENATOR COUNCIL: There's no...no one has identified a particular problem. People talk about the fact that we're looking...that OPS is looking for a new superintendent. I was on a 12-member board when we hired a new superintendent once--had no problem. We had excellent candidates. And in fact, the very same Council of Great City Schools, the Council of Urban Boards of Education, they marveled at how effective the Omaha Public Schools Board of Education was with 12 members. And they were...they would often compare how well we did to districts that had smaller boards... [LB717 LB720]

SENATOR PAHLS: Okay, let... [LB717 LB720]

SENATOR COUNCIL: ...who couldn't get along and couldn't get anything done and couldn't move the agenda. [LB717 LB720]

SENATOR PAHLS: I don't doubt that you worked hard a school board member. I mean I don't, because I know you as a...in the position you're in currently. Would you have any heartburn about that position--because I'm trying to, you know, get this stuff cleared up--that person or persons being paid? I don't care if it's 7-member or 12-member board. [LB717 LB720]

SENATOR COUNCIL: I do, for the very reason...if you're going to pay school board members--let's put it on that plane. If you're going to pay school board members, pay them all. But the tradition and the history of school boards, at least in the state of Nebraska, has been they have been servant-leader positions, nonpaid positions. And we've had some excellent school board members throughout the state, over the years, under that very system. [LB717 LB720]

SENATOR PAHLS: Right, and I can see you're saying pay them all. But also, I'm originally from a small town and I know...my dad was like the mayor. He got paid very little. Now, the mayor of Omaha gets paid more than just a very little. So sometimes, the larger the city, the larger the school district, there are more issues. So I can see why in some areas you may not pay but in other areas you may. I'm just... [LB717 LB720]

SENATOR COUNCIL: Okay, and... [LB717 LB720]

SENATOR PAHLS: ...stating that... [LB717 LB720]



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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR COUNCIL: Okay, and what can...if I may add something, Senator Pahls. [LB717 LB720]

SENATOR PAHLS: Sure. [LB717 LB720]

SENATOR COUNCIL: I...at least in my...and I've lived in Omaha all my life and I can't recall a time since district elections, for example, where there's been an issue that there were not enough candidates seeking school board. Some of the most hotly contested elections some years involve school board races. So, I mean, I don't see the basis for that argument that, you know, you'll get it...again, whoever this higher-profile candidate is. People who run for school boards in the state of Nebraska do so knowing full well it is an unpaid position that requires a lot of work. And what you end up with is a board comprised of members who are there because they want to be there for the best interests of children. [LB717 LB720]

SENATOR PAHLS: Okay. [LB717 LB720]

SENATOR COUNCIL: And I think that's what all of us would want. [LB717 LB720]

SENATOR PAHLS: Then let me ask you this on achievement. Do you lay any of the achievement issues of any school district on the school board? [LB717 LB720]

SENATOR COUNCIL: You know, I think that the school board as well as the administrate...the school board develops the policy. And if there policies that need to be implemented to move a district more towards addressing achievement issues, that needs to occur. Now, I've been on the outside looking in at the Omaha Board of Education, but I've also been actively involved in a volunteer capacity. I served on their accountability task force, which the superintendent set up. I led a bond issue effort for them. So I know that when it comes to achievement issues, I know what innovations have been implemented. So are there some proposals out there that someone may have advanced that hadn't been embraced that perhaps could have an impact? That probably...that may have happened. But I know from my conversations with my school board representative--who I speak to on a regular basis--I know that they're constantly looking at ways to improve achievement in the district. [LB717 LB720]

SENATOR PAHLS: And the question I asked Senator Lautenbaugh: You think there are plenty of opportunities for patrons to become involved in the...in your particular school system? [LB717 LB720]

SENATOR COUNCIL: Yeah, and in fact I think the 12-member district election is one of those ways that they can seek a seat in governance. I think that is indeed one of the reasons. As I said earlier, we have a 12-member board so that it provides more opportunity. I mean, we have a very large district in Omaha, we have a very diverse

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

district in Omaha, and a 12-member board provides smaller areas of that district to have their voices heard as a part of the dialogue about the policies of the school district. And personally, I think that's a good thing. I think that's something we should be applauding and embracing, instead of trying to implement measures to tear it down without...again, as I stated this morning on the bill we were discussing, someone bringing forth a compelling reason. There hasn't been one stated. Not one compelling reason to change the size of this board, not one compelling reason to pay them, and not one compelling reason to limit their term. [LB717 LB720]

SENATOR PAHLS: Thank you. [LB717 LB720]

SENATOR AVERY: Question from Senator Janssen. [LB717 LB720]

SENATOR JANSSEN: Thank you, Chairman Avery. Thank you, Senator Council. I had a question about...and if you don't know this or not, I maybe should have known beforehand. But how many...do you know what the turnover is? I'm trying to grasp the term limit concept that both of you have in the bills. Is that...one, is that something you believe in or just something you put in this bill to mirror? And two, is it there--in your opinion in either bill--because there's lack of turnover, because people are staying in there too long in some people's opinion? Not mine, I don't know much about the school,... [LB717 LB720]

SENATOR COUNCIL: Um-hum. [LB717 LB720]

SENATOR JANSSEN: ...the Omaha Public School Board. Would you think sometimes people think that somebody has been there too long and that's why they want to do term limits or there's another reason? Or why did you put it in your bill? And... [LB717 LB720]

SENATOR COUNCIL: I put it in my bill to mirror Senator Lautenbaugh's. I'm not a proponent of term limits--never have been. And I believe that there are...if there are people who have served on...in any body for an extended period of time, if those voters send that person back, that's the person they want to represent them in their interests. And whether that's 4 years, 8 years, 12 years...I was on the board nearly 12 years. [LB717 LB720]

SENATOR JANSSEN: Um-hum. [LB717 LB720]

SENATOR COUNCIL: Is that too long? I don't know, but apparently it wasn't. If I hadn't decided to run for the city council, I'm confident I would have been reelected. If I hadn't decided to run for the city council and then decided to leave, I'd probably still be on the Omaha Board of Education. When I was there, there were people who had served...the late Fritz Stanek, when I got on the Board of Education, had been there 20 years. And south Omaha voters continued to send him back because that's who they wanted to

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

represent them. So if people have particular issues or concerns about particular board members, then they need to talk to the people in that district who elect them. I haven't seen any problem with turnover. I mean, there used to be a time in the old days where a school board seat was seen as a stepping stone to other elective office. I'm happy that people want to continue to serve on a school board... [LB717 LB720]

SENATOR JANSSEN: Well, I had... [LB717 LB720]

SENATOR COUNCIL: ...for the mere fact that it isn't paid and it shows that they're committed to... [LB717 LB720]

SENATOR JANSSEN: I asked the question... [LB717 LB720]

SENATOR COUNCIL: ...providing quality education. Sorry. [LB717 LB720]

SENATOR JANSSEN: I asked the question just because...well, I know in certain school districts--I have smaller districts--we have trouble getting people to run in smaller districts, and I didn't know how it is in Omaha with getting people up...and do you know how competitive some of the recent elections have been? Or do you know if they run opposed or...? [LB717 LB720]

SENATOR COUNCIL: And there have been...I think it depends on the districts. There have been some districts where the incumbent ran unopposed. There have been some districts where the incumbent chose not to run and it was a wide-open seat. I know of some districts where there have been more than one candidate. I mean, it...it's just like any election cycle--it changes. And I'm intimately aware of the concerns, Senator Janssen, about smaller districts. And that's why I say, you know, when you're talking about public policy, think about the implications of your public policy, think about the unintended consequences. I know in some areas of the state you do have difficulty getting people to run. And interestingly enough, you would think--because that's a real concern, that's a real issue--you would think the bill would say in those districts you pay them, because that would make it more high-profile. But interestingly enough, that's not...you know, and that's a real issue that you have documented evidence that there are situations that exist where it's hard to get people to run. But there's no proposal offered to pay as an enticement to get people to run. [LB717 LB720]

SENATOR JANSSEN: Thank you. [LB717 LB720]

SENATOR COUNCIL: I trust I've answered your questions. [LB717 LB720]

SENATOR JANSSEN: Yes. [LB717 LB720]

SENATOR AVERY: Senator Sullivan. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Senator Council. Assuming the intent of LB720 was to focus on improving student achievement or academic achievement, do you, in your estimation, think the size of the board has anything to do with academic achievement? [LB717 LB720]

SENATOR COUNCIL: Absolutely not, Senator Sullivan, and I actually conducted quite a bit of research around these to try to find out if anybody had done any research... [LB717 LB720]

SENATOR SULLIVAN: Um-hum. [LB717 LB720]

SENATOR COUNCIL: ...to draw any correlation between the size of the governing board and academic achievement. [LB717 LB720]

SENATOR SULLIVAN: Um-hum. [LB717 LB720]

SENATOR COUNCIL: Again, this report doesn't draw a correlation between the size of the board and academic achievement. It draws a correlation between the fact that the board is elected or appointed as being one of the cornerstones of moving towards improving academic achievement. [LB717 LB720]

SENATOR SULLIVAN: Okay. [LB717 LB720]

SENATOR COUNCIL: Also, interestingly enough--I have to say it--one of the eight listed in this report, which was published May 2010, they were recognized because their annual yearly progress increased 8 percent over the previous year. That same school board was the subject of a test-cheating scandal that same year--just point of information. [LB717 LB720]

SENATOR SULLIVAN: Aside from, perhaps, academic achievement not being the real reason why we're hearing this bill. Why are we, in your estimation? [LB717 LB720]

SENATOR COUNCIL: I wish I knew, Senator Sullivan. You know, I could speculate, but that's not for me to do... [LB717 LB720]

SENATOR SULLIVAN: Okay. [LB717 LB720]

SENATOR COUNCIL: ...as to why we're here. [LB717 LB720]

SENATOR SULLIVAN: Okay. [LB717 LB720]

SENATOR COUNCIL: But I can tell you what I do know is that we're not here because

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

someone has identified specific issues that have gone unaddressed that may have affected improving student achievement that was a result of a lack of a majority of the Omaha Board of Education moving in a particular direction. [LB717 LB720]

SENATOR SULLIVAN: When you were on the board or even now, do you know if the board members receive any remuneration at all to cover expenses or whatever? [LB717 LB720]

SENATOR COUNCIL: At least not in my experience. If they start...I mean, we didn't even get mileage. [LB717 LB720]

SENATOR SULLIVAN: Okay. [LB717 LB720]

SENATOR COUNCIL: In fact, the big hoopla, Senator Sullivan, was occasionally, the board meets...the regular board meeting is at night. And there would be times when we'd have special meetings before the start of the public meeting and we were criticized if the board provided us a meal. [LB717 LB720]

SENATOR SULLIVAN: Um-hum, okay, thank you. [LB717 LB720]

SENATOR AVERY: Let me ask one question before I go to Senator Pahls--he's had one turn already. Would you admit that it is possible for a governing board or a policy board to be too large to be effective, too unwieldy? And if you can admit that, where do you think that number is? [LB717 LB720]

SENATOR COUNCIL: You know, Senator, with all due respect to you, I can't say that because that would be an assumption. That would be speculation. I have...what is the magic number that becomes unwieldy? And how does unwieldy manifest itself? I can't answer that question. The Learning Community council is 18. I haven't heard anybody say that's unwieldy, that's too large. [LB717 LB720]

SENATOR AVERY: There's some... [LB717 LB720]

SENATOR COUNCIL: I guess a few have... [LB717 LB720]

SENATOR AVERY: There's... [LB717 LB720]

SENATOR COUNCIL: ...I guess... [LB717 LB720]

SENATOR AVERY: There are some ESU... [LB717 LB720]

SENATOR COUNCIL: Come to think of it, there are a couple of people who said that, but... [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR AVERY: There are some ESUs that are also over 12. [LB717 LB720]

SENATOR COUNCIL: Yeah, I mean... [LB717 LB720]

SENATOR AVERY: ESU boards. [LB717 LB720]

SENATOR COUNCIL: I mean, and so...but I couldn't answer that question definitively because again, there's been no correlation between size and effectiveness. [LB717 LB720]

SENATOR AVERY: And measuring effectiveness is difficult, too. [LB717 LB720]

SENATOR COUNCIL: Absolutely. [LB717 LB720]

SENATOR AVERY: Senator Pahls. [LB717 LB720]

SENATOR PAHLS: Yeah, I have just one question. It's my understanding, now, you have served on the Omaha School Board. [LB717 LB720]

SENATOR COUNCIL: Yes. [LB717 LB720]

SENATOR PAHLS: And you have served at the Omaha City Council? [LB717 LB720]

SENATOR COUNCIL: Yes. [LB717 LB720]

SENATOR PAHLS: Which job was the toughest? [LB717 LB720]

SENATOR COUNCIL: Omaha Board of Education. [LB717 LB720]

SENATOR PAHLS: And you didn't get paid, but you did on City Council? [LB717 LB720]

SENATOR COUNCIL: Yes. I served on the Omaha Board of Education because I cared about the education and ensuring the delivery of quality instruction to the youngsters of Omaha Public Schools. [LB717 LB720]

SENATOR PAHLS: And I... [LB717 LB720]

SENATOR COUNCIL: In fact, there's so...I don't know if he's here. When I decided, Senator Pahls, to run for the Omaha City Council, it was the most difficult decision I had to make in my adult life up to that point because I was so committed to providing quality education. But our school...our city council, our 12-year city council member had decided to retire and he wasn't going to run for reelection. And I looked at the people

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

who had indicated that they were going to seek that office and rightly or wrongly, I questioned whether they had the best interest of that district at heart and would really serve the interests of the district. And I saw it as an opportunity for me to address some of the societal issues that play themselves out in our public schools. [LB717 LB720]

SENATOR PAHLS: Yeah, I agree. [LB717 LB720]

SENATOR COUNCIL: Otherwise, I wouldn't have left. It wasn't the...believe me, it wasn't the money... [LB717 LB720]

SENATOR PAHLS: I know it wasn't the money. [LB717 LB720]

SENATOR COUNCIL: ...because I wouldn't be here if it was the money. (Laughter) [LB717 LB720]

SENATOR PAHLS: The point I'm trying to get across, though, is you really work hard as a school board member,... [LB717 LB720]

SENATOR COUNCIL: Yes, sir. [LB717 LB720]

SENATOR PAHLS: ...harder than possibly than you did as a...what did you get, may I ask you, as a council member? [LB717 LB720]

SENATOR COUNCIL: Let's see, I was on the city council, I think it was \$20,000 or \$22,000. [LB717 LB720]

SENATOR PAHLS: Well, they probably get that much or more...do you see? I mean, there's a little bit of question there. If you're working harder on the school board--I know you're dedicated to that, not questioning that at all. So that plays a little bit into maybe that group should be paid. [LB717 LB720]

SENATOR COUNCIL: Yeah, but pay them all, not just OPS... [LB717 LB720]

SENATOR PAHLS: They... [LB717 LB720]

SENATOR COUNCIL: ...because I'm sure Millard School Board members put in the same kind of time. [LB717 LB720]

SENATOR PAHLS: They... [LB717 LB720]

SENATOR COUNCIL: Elkhorn School Board members, Alliance School Board members, I'll bet you they would tell you the same thing... [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR PAHLS: Yeah. [LB717 LB720]

SENATOR COUNCIL: ...if they were sitting here today. [LB717 LB720]

SENATOR PAHLS: And I'm not going to disagree with that. But I'm also going to say the mayor of Omaha, Nebraska, gets paid much more than the mayor of a town that I was in--Atkinson, Nebraska--because of the size. And I thank you for your... [LB717 LB720]

SENATOR COUNCIL: Okay, any other questions? [LB717 LB720]

SENATOR AVERY: Any more questions? I don't see any, thank you very much. [LB717 LB720]

SENATOR COUNCIL: Thank you, sir. [LB717 LB720]

SENATOR AVERY: We will now move to proponent testimony on either of these two bills. [LB717 LB720]

SENATOR COUNCIL: And that's...I was going to ask for clarification. When the testifiers come up, they will...should state whether... [LB717 LB720]

SENATOR AVERY: Yes. [LB717 LB720]

SENATOR COUNCIL: ...they're a proponent for either... [LB717 LB720]

SENATOR AVERY: Yes. [LB717 LB720]

SENATOR COUNCIL: Okay, thank you. [LB717 LB720]

SENATOR AVERY: Any proponent testimony? Too bad Senator Lautenbaugh is not here. I could tease him. All right, we'll go to opponent testimony. Welcome. [LB717 LB720]

JOHN SPATZ: Well, thank you. Senator Avery and members of the committee. My name is John Spatz. It's spelled S-p-a-t-z, but believe it or not it is pronounced Spatz. And I'm representing the Nebraska Association of School Boards. I have been fortunate enough to be named the new executive director. Our previous executive director I think is in the back of the room, John Bonaiuto, and you're still going to have to put up with him a little bit. He's going to be lobbying on behalf of the School Boards Association. But for now, I'm here and I enjoy coming before the Government Committee, but to usually talk about exciting topics like open meetings law. But that's not what is before us today. We are here opposed to both bills. The School Board Association is opposed to both



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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

bills, and I'll briefly talk about the kind of the three topics: number of board members, the paying of the board members, and the term limits. With respect to the number of board members, the School Board Association, we're not--and I think Senator Council alluded to this--we're not familiar with any research or anything out there that would say for a school district with X number of kids, the right or most effective number of board members is blank or some number. There's nothing out there that we're aware of that has done this kind of research that would say what the right number of board members is for a particular circumstance. And also, I wanted to point out...and Senator Avery, you've referred to some ESUs. In the state of Nebraska, we do have some consolidated government...governance structures for school districts and unified governance structures for school districts. And I just wanted to point out that South Central Unified has a 15-member governance board and the Nebraska Unified #1 has 18 members as its governance board. So if we look at that, the population of students that these two particular districts serve is far, far smaller than what Omaha is serving right now. But in the history and tradition of kind of that local choice, in these particular areas it has been decided that either 15 or 18 members is an appropriate number of people to govern the structure that they've set up. Now I'm not saying that's the right number, I'm not saying that's the wrong number, but in these particular circumstances where far fewer students are being served, we have a governance structure that's larger than what we see in the Omaha school district, for example. And also, we have some consolidated school districts such as Bruning-Davenport and Dodge-Howells that utilize 12 members to govern that structure. So overall, we do oppose going about changing the number of board members in this way, so we are opposing that. Now, with respect to the salaries, of paying school board members, working with the Nebraska Association of School Boards, we get to deal with school board members from across the state and really, this issue comes up to some degree once in a while and we've never chosen to support it. Our membership has never chosen to come to the Legislature and say we want to have school board members paid. And I think it does...has something to do with kind of the sanctity of a school board member in the state of Nebraska--there's something to that. I think many of the school board members are very proud that it's a voluntary service that they put in and I know, certainly in Omaha and in other districts, that they do put in an incredible amount of time. And it's not just what we see during the formal school board meeting, it's the committees and all the other things that come with being elected officials, all of you well know. But, you know...and I commend the school board members of the state of Nebraska. This isn't something that has been pushed. Now, I would suggest if the Legislature is interested in coming up with some kind of mechanism to compensate school board members, I hope we...the process that we'd follow is to engage the school board members, from across the state to the School Board Association, to come up with whatever mechanism that would be. But I want to assert and reiterate here today that we're not asking for it--school board members have not been asking for that. And then with the term limits, I think Senator Janssen had a question. And this is something that I didn't know, but in our research with our membership, the average term length is six years for a school board member in the

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

state of Nebraska. And that was something that I found interesting as well, something that I wasn't aware of, and that's for Nebraska Association of School Boards members and that's the vast majority of the membership across the state. So, I'm going to use a term that Senator Council used and I've heard Senator Avery use it, it's...this looks like a solution in search of a problem for all three of these potential fixes. So with that, I see my light's turned yellow, and I will certainly be happy to answer any questions that anyone has. [LB717 LB720]

SENATOR AVERY: Thank you, Mr. Spatz, for your testimony. What if the committee decided well, we...maybe we don't want to advance LB720 exactly as it is, but would put permissive language in to reduce the size of school boards, permissive language to pay school board members and to impose term limits? What would your organization have to say about that? [LB717 LB720]

JOHN SPATZ: I don't think our membership would be supportive of that. [LB717 LB720]

SENATOR AVERY: So it's do it the same way we've been doing it or...? [LB717 LB720]

JOHN SPATZ: Well, you know, it is...for example, you know, most of the school boards in the state of Nebraska are either six or nine members with a few of exceptions that... [LB717 LB720]

SENATOR AVERY: Hmm. [LB717 LB720]

JOHN SPATZ: ...Omaha and Lincoln and then some of the ones that I identified. Now, is that the perfect number? I don't know, but it seems to be working. You know really, while we have challenges in the state of Nebraska--and we have quite a few--and while we have issues that we need to aggressively address in the state of Nebraska, comparatively the state of Nebraska does a pretty good job of educating its children. Now if we identified a particular issue, I'm happy to engage this committee or the Education Committee or whomever to try to find fixes for it. But it doesn't seem...it seems like we're starting backwards when we talk about the number of school board members and starting from this point. I'm not sure what we would be trying to address and I think the membership of the School Board Association wouldn't be able to support it unless we knew what issues specifically we were trying to address and had an opportunity to be a part of them. [LB717 LB720]

SENATOR AVERY: Questions? Senator Pahls. [LB717 LB720]

SENATOR PAHLS: Well, if there's going to be more unification of the towns in the state of Nebraska, which I foresee in the future,... [LB717 LB720]

JOHN SPATZ: I do, too. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR PAHLS: I'm not talking about Omaha. [LB717 LB720]

JOHN SPATZ: Yeah. [LB717 LB720]

SENATOR PAHLS: ...then you guys really better think about this, because I'm just going to give you a little bit of a history, my own personal history. Right out of college, '68, Kansas, that's when they unified. Actually, force unification. What...they ended up having a six-member board, and it happened to be three from this town and three from this and they couldn't do anything because there was a jealousy because they had never...because it was forced upon them. So then we went in there and said I don't care what your number is but it had to be odd. So that could be something you could be thinking about as they go along, because when I hear a small town or three or four small towns and 15 school board members, that tells me that's a lot. [LB717 LB720]

JOHN SPATZ: Um-hum. [LB717 LB720]

SENATOR PAHLS: So I think being proactive, that's something... [LB717 LB720]

JOHN SPATZ: Yeah. [LB717 LB720]

SENATOR PAHLS: ...a person ought to think about. Basically, having odd...I shouldn't say...excuse, I want to say odd man, but odd persons, how's that? Odd person... [LB717 LB720]

JOHN SPATZ: Um-hum, no, that's good. [LB717 LB720]

SENATOR PAHLS: ...school boards because of conflicts that may come up and you may have to break. [LB717 LB720]

JOHN SPATZ: Okay, well I appreciate that, yeah. [LB717 LB720]

SENATOR PAHLS: Well, it's just a suggestion. [LB717 LB720]

JOHN SPATZ: Thank you, I appreciate that. [LB717 LB720]

SENATOR AVERY: Senator Sullivan. [LB717 LB720]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, John. [LB717 LB720]

JOHN SPATZ: Um-hum. [LB717 LB720]

SENATOR SULLIVAN: Because OPS is, of course, different, it's our largest school

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

district in the state,... [LB717 LB720]

JOHN SPATZ: Um-hum. [LB717 LB720]

SENATOR SULLIVAN: ...how does it compare with school districts of other metropolitan areas? Is it...are their boards similar in size? Larger? Smaller? Do you know anything about that? [LB717 LB720]

JOHN SPATZ: I don't, I really don't. In terms of the number of school board members for... [LB717 LB720]

SENATOR SULLIVAN: Um-hum. [LB717 LB720]

JOHN SPATZ: ...similarly-sized cities, I'm sorry, I don't...I'm not very familiar with some of the board sizes from around the nation. [LB717 LB720]

SENATOR SULLIVAN: Okay. [LB717 LB720]

SENATOR AVERY: Any more questions from the committee? [LB717 LB720]

SENATOR SEILER: I have one. [LB717 LB720]

JOHN SPATZ: Yeah, um-hum. [LB717 LB720]

SENATOR SEILER: Some of the smaller school districts... [LB717 LB720]

SENATOR AVERY: Senator Seiler, you are recognized. [LB717 LB720]

SENATOR SEILER: Oh, excuse me. Some of the smaller school districts, salary this size, seven members would break them. [LB717 LB720]

JOHN SPATZ: Oh, yeah, yeah. If we had a six-member board and they're being paid \$20,000, that would be far more than they would be able to afford right now, and I think you'd hear from them if that came out of committee. [LB717 LB720]

SENATOR PAHLS: And I just have to respond to that. We know that that bill was set up to cause... [LB717 LB720]

JOHN SPATZ: Yeah. [LB717 LB720]

SENATOR PAHLS: There's no way that we'd even look at a small community paying \$20,000. I mean, we understand what Senator... [LB717 LB720]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

JOHN SPATZ: Um-hum, right. [LB717 LB720]

SENATOR PAHLS: ...you know, what she's...Council is trying to get across to us.  
[LB717 LB720]

JOHN SPATZ: Right, sure, yeah. Yeah, and at the same token I think obviously there's a difference between Omaha and Ogallala just from pure size differences. But the policy concept of compensating school board members, I think, is the same, whether it be \$20 per meeting or \$1,000 per meeting or what have you. [LB717 LB720]

SENATOR AVERY: Any more questions? I don't see any, thank you for your testimony.  
[LB717 LB720]

JOHN SPATZ: Thank you very much. It's fun to be here today, thanks. [LB717 LB720]

SENATOR AVERY: Additional opponent testimony. Welcome, Mr. Gray. [LB717 LB720]

BEN GRAY: Thank you, sir. Senator Avery and members of the committee, my name is Ben Gray. I reside at 5425 Fort Street in Omaha, Nebraska, 68104. I put on the document for speaking as the chairman of the African American Achievement Council, but I can assure you that I come to you in all of the hats that I wear: as a board member of the Omaha Housing Authority; as the Chairman of the African American Achievement Council; as the city councilman for one of the most challenged districts not only in the city and the state, but the nation. Those...that's the community that I represent and I come to you wearing all those hats because I do have a concern about this piece of legislation, LB720. [LB717 LB720]

SENATOR AVERY: May I interrupt you and ask you to spell your last name for us?  
[LB717 LB720]

BEN GRAY: Gray, G-r-a-y. [LB717 LB720]

SENATOR AVERY: A-y, okay. [LB717 LB720]

BEN GRAY: Yeah, some people say e-y, I'm sorry. [LB717 LB720]

SENATOR AVERY: Yeah. [LB717 LB720]

BEN GRAY: Thank you. Thank you, Senator... [LB717 LB720]

SENATOR AVERY: Thank you. [LB717 LB720]

BEN GRAY: ...for doing that. You all asked various questions and Senator Lautenbaugh

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

made a presentation and you all asked various questions, and I noted that in every one of those, his opinion was that the board was too large. No anecdotal information, no proof, nothing. There is ample evidence--where is it? You haven't seen any of that evidence. Nothing is written down. I believe it would be better--based on what? Nobody has said what that power would be better. There would be more accountability--how would you achieve that? What resources, what information does he have that would say that? What you have here is an elitist bill that needs to be killed in this committee, quite frankly. Now let's put some facts on the table that are real. Senator Pahls, you asked about the involvement of the community. The Omaha Public Schools took the opportunity and took the time to disaggregate data five years prior to it being federal law under the George W. Bush presidential administration. Five years prior, they disaggregated the data, found out that they were not and recognized, they believed it. But the data pointed out that they had not been doing a good job with African-American and Latino-American students. But they went further than that and did something about it, especially as it relates to the African-American community. They created an African-American Achievement Plan and an African-American Achievement Council--which was made up of individuals in the community as well as professionals and others--to address the concerns of student achievement and the lack of achievement by African-American and Latino students, but primarily in this case, African-American students. What we did...and I'll give you some of the results of what that has done. We had a history book that is currently the fourth grade history book in this...that is across this state. When we got a copy of that history book, we found--and this was through our efforts with the school district and others, all of us working together--we found that there were...in that history book, there was no mention of Malcolm X, no mention of Bob Gibson, absolutely nothing about state Senator Ernie Chambers, nothing. And so we went to work with the publishers, brought in Senator Chambers, the African-American Achievement Council and others, and we made 158 changes to that history book that received awards as a top-10 history book in the country. Senator Chambers rewrote the section on the Legislature for them. We added a number of people that were not there. There is another committee that is made up of an accountability group and that accountability group is headed by County...Douglas County Commissioner Chris Rodgers, and it's made up of citizens all across the community looking at ways to talk to the school district and make things better for all of the students in the Omaha Public Schools. So there is ample proof that not only is the school district amenable and willing to make changes and to work and make the community part of what they do in the school district, they have done the necessary work. And the end result...some people are going to talk to you later on and talk to you about achievements that have occurred as a result of some of the work that we have all done collectively. Nobody is going to solve the problems in our district by themselves. It is going to be in a whole group of people that do that. It is going to be the community working with the school district and others to make sure that it gets done. Now let me give you some other statistics that are really concerning to me. Twenty percent of the people in my district don't have a vehicle at all. That doesn't even take into account the

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

other individuals who don't have a reliable vehicle. If you decrease the size of the board and make it more difficult for people without means to meet with their representatives, what you have is an untenable situation that is going to cause people to not be able to make contact with their representative. I can go on, but I will stop and answer any questions that you have because I want to be respectful of...respectful of the red light. But there is ample evidence that the school district works, there is ample evidence that the school district has brought in a number of folks from the community to address certain issues, there is ample evidence that this school district and this school board works exemplary to make change in the school district. [LB717 LB720]

SENATOR AVERY: Thank you for your testimony and for observing the light. Senator Pahls. [LB717 LB720]

SENATOR PAHLS: And I commend you for what you're doing and I understand what you're bringing forth to us. So let me even roll this back further. [LB717 LB720]

BEN GRAY: Sure. [LB717 LB720]

SENATOR PAHLS: If what you are doing is excellent, you're on the move, then do you believe...why don't you pick out one of your elementary schools in your district? [LB717 LB720]

BEN GRAY: Yes. [LB717 LB720]

SENATOR PAHLS: Just pick out one so I would know. [LB717 LB720]

BEN GRAY: Let's pick out Kennedy. [LB717 LB720]

SENATOR PAHLS: Okay, yes, Kennedy. Should Kennedy...should it have--or maybe it does have--a very, very involved, what I call a...basically, a local school board? [LB717 LB720]

BEN GRAY: Yes. [LB717 LB720]

SENATOR PAHLS: Do they have one or should they? [LB717 LB720]

BEN GRAY: No, they shouldn't have a school...they're already being administered to the way that they need to be administered to, if I understand your question. [LB717 LB720]

SENATOR PAHLS: Right. [LB717 LB720]

BEN GRAY: We have--at Kennedy Elementary School, we have--a group of men called

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

the Noblemen. [LB717 LB720]

SENATOR PAHLS: Okay. [LB717 LB720]

BEN GRAY: These are African-American, former-military individuals who are in that school, working with young people, teaching them reading, math, and other skills along with the teacher and being an extra set of hands for the teacher on several days during the week, so it's a collaborative effort. [LB717 LB720]

SENATOR PAHLS: Okay, maybe instead of using the word school board, I should have used like an advisory board. And you would say to some degree they are an advisory board? [LB717 LB720]

BEN GRAY: They're...all of them have individuals that...some of them have greeter programs, some of them have other types of programs where they are gaining information not only from the school board representative that represents that district, but from community members as well who are highly and deeply involved in the school district and trying to find ways to further increase the accountability, to further increase the ability for students to do well. [LB717 LB720]

SENATOR PAHLS: Okay, and then let me ask you this, because I...because apparently you or your organization, the Achievement Council,... [LB717 LB720]

BEN GRAY: Yes. [LB717 LB720]

SENATOR PAHLS: ...they're collecting information or data. Can you...not today, but is there information there that shows from this state to this state that there has actually been, in your estimation, good growth? [LB717 LB720]

BEN GRAY: Yes, there is absolutely great information for that. The data that has recently come out shows the graduation rates have gone up, shows that the dropout rates have gone down, a number of different things that it will show you. [LB717 LB720]

SENATOR PAHLS: Okay, okay, that's all I'm look...so then that's how you get the community involved in it. [LB717 LB720]

BEN GRAY: Absolutely. [LB717 LB720]

SENATOR PAHLS: There's all those parents should actually have a very good idea of what's happening in that school is what you're telling me. [LB717 LB720]

BEN GRAY: Absolutely. [LB717 LB720]



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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR PAHLS: That's... [LB717 LB720]

BEN GRAY: But Senator, the catalyst for that was the school administration and the school board. They were the catalyst... [LB717 LB720]

SENATOR PAHLS: Right. [LB717 LB720]

BEN GRAY: ...for getting this started. [LB717 LB720]

SENATOR PAHLS: Yeah, and I understand where you're coming. Thank you. [LB717 LB720]

SENATOR AVERY: Any additional questions? [LB717 LB720]

SENATOR SULLIVAN: Senator. [LB717 LB720]

SENATOR AVERY: Senator Sullivan. [LB717 LB720]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Mr. Gray. You mentioned that close to 40 percent of the residents or the citizens in your area have transportation challenges. [LB717 LB720]

BEN GRAY: Twenty percent of the people in our district have no vehicle at all. [LB717 LB720]

SENATOR SULLIVAN: No vehicle, and then an additional 20 percent... [LB717 LB720]

BEN GRAY: And an additional number that I don't even know... [LB717 LB720]

SENATOR SULLIVAN: Okay. [LB717 LB720]

BEN GRAY: ...don't have reliable transportation. [LB717 LB720]

SENATOR SULLIVAN: So does the school board member that represents that area provide...avail themselves of an opportunity to interact with those citizens? [LB717 LB720]

BEN GRAY: Absolutely. They'll go to the school board, they'll go to the various schools, they will go to the neighborhood meetings and so forth. And the reason why I know that is because one of them is my wife and I have to attend with her. (Laugh) So I know that that is occurring and I know that the other school board member, Shirley Tyree, does the same thing. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR SULLIVAN: I see. [LB717 LB720]

BEN GRAY: So that...there is accountability all the way down the line. There are school board members that attend various school functions, that attend various community meetings. Most of them are regulars at the Empowerment Network meetings every second Saturday of the month. Many of our school board members are there gaining the information from the Empowerment Network and others, which is a collaboration of over 70 organizations and over 2,000 individuals. [LB717 LB720]

SENATOR SULLIVAN: Thank you. [LB717 LB720]

SENATOR AVERY: Any more questions from the committee? I don't see any, thank you, Mr. Gray. [LB717 LB720]

BEN GRAY: Thank you. Thank you, Committee. [LB717 LB720]

SENATOR AVERY: Any additional opponent testimony? Welcome, Mr. Lindsay. [LB717 LB720]

JOHN LINDSAY: Thank you, Senator Avery, members of the committee. For the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Omaha Public Schools Board of Education. Tonight is the first regularly-scheduled meeting of the Omaha Board of Education since bill introductions started. So this morning in committee, these bills were discussed in committee, and then at a special meeting of the board which was held at noon today. The board fully discussed those proposals and voted on...an 11-0 vote to oppose both proposals. The OPS board is concerned about the policy ramifications of creating subdistricts that would have to be nearly twice the size of your legislative districts. A board member under this proposal would be representing 66,960 people, whereas each Senate...legislative district represents 37,200. Subdistricts have been an important part of creating equitable voices, diverse voices on the board. Back in...from 1969 to 1975, there was extended debate about creating subdistricts within the OPS board, which by the way, Senator Sullivan, 12...been a 12-member board since the 1870s, with the exception between 1909 and 1915, when there were 15 board members at a time when they merged other districts into the OPS. But after six years of extended debate in 1975, the Legislature created 12 subdistricts within OPS, and that was to assure that diverse voices would be heard on the board. That fight that was led over several years, that fight was led by Senator Mahoney who represented south Omaha and Senator Chambers who represented north Omaha, simply because voices were not being heard from significant sectors of town. And again, purpose was to assure a multitude of diverse voices. Local governance of schools--any school district--is critical to involved parents and successful students. Constituent access to elected officials not only impacts voters' opportunity to effectuate change and have his or her voice heard, but at the school board level, it

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

impacts the ability of a parent to effectively engage in the education of his or her child. Parents in OPS, just like parents across the state, care about their children's education and want to be able to pick up the phone and call their school board member, who hopefully they know through some of the involvement that councilman Gray mentioned. Even if the LB720 proposal were modified, for example, to a seven-member board, each subdistrict would still be significantly larger than legislative districts, and that would cause the same challenges for a parent--accessibility, same cost issues, same inequities. You all know what it costs to get elected to a legislative seat. Imagine interjecting that kind of thing into school district elections. LB720 goes further, though, because it's directed specifically and only at Omaha Public Schools. It makes it clear before what is about...what is before you is not about good overall education policy, but about a current board in a specific district. Senator Lautenbaugh stated in his opening that proposal is to create a higher-profile candidate, more responsive to need, better-equipped candidates. I would note there's also even been in the newspaper proposed subdistricts, so really getting state control over a particular school district. In response: first, there's no evidence that smaller school boards are higher profile, nor is there any evidence that five or seven people are more responsive to change or better equipped to give any kind of a district anyone needs, nor is there any evidence that the size of school board has any bearing on student achievement. OPS has been compared to certain large districts across the country with smaller school boards. Does anyone think that smaller school boards in Detroit or Atlanta have improved current student achievement? If it's good policy, if this proposal is good policy, it should apply to everyone--everyone should get a share in that policy. If it's bad policy, then it's all the more important that it not be restricted to OPS. It has been argued that OPS has said that it's different, so treating the OPS Board of Education differently by making it smaller than every other school board in the state is acceptable. And I'm out of time so I will simply urge that OPS position that...to indefinitely postpone both bills, but if one must move forward, that that be LB717. And I'd be happy to answer any questions, Mr. Chairman. [LB717 LB720]

SENATOR AVERY: Thank you. So you are not opposed to LB717? [LB717 LB720]

JOHN LINDSAY: We are opposed to LB717. We are opposed to both bills. [LB717 LB720]

SENATOR AVERY: But if LB720 is advanced by the committee, you would also recommend advancing LB717, correct? [LB717 LB720]

JOHN LINDSAY: Yes, we are opposed to both bills, but if it...if the committee deems it to be good education policy, let's make sure everybody gets to share in that good education policy. [LB717 LB720]

SENATOR AVERY: All right. Senator Pahls, I was just going to give her a chance...

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

[LB717 LB720]

SENATOR PAHLS: I know, I understand, I understand. (Laughter) Okay, a couple of key words. I heard you say diversity. I understand this 12 district, I mean, I get that. What's the diversity on the school board right now? Do you have any idea? I mean, men? Women? [LB717 LB720]

JOHN LINDSAY: Well, genderwise, it's 11 women and 1 man. [LB717 LB720]

SENATOR PAHLS: Okay. [LB717 LB720]

JOHN LINDSAY: I'm not sure racially. I believe three African-American. I'm not sure, you know. [LB717 LB720]

SENATOR PAHLS: Yeah, and I'm not...this is not catch you...trying to catch you. [LB717 LB720]

JOHN LINDSAY: Yeah, yeah, and I... [LB717 LB720]

SENATOR PAHLS: That's not my intent. So you'd...so apparently, the diversity factor has worked... [LB717 LB720]

JOHN LINDSAY: Oh, absolutely. [LB717 LB720]

SENATOR PAHLS: ...for the most part, other than there are an awful lot of women compared to men on the board, you know? And just to let you know that I'm trying to get way more women down here in the Legislature. (Laughter) I mean obviously, we do need more, I believe, of that gender. Term limits... [LB717 LB720]

JOHN LINDSAY: Um-hum. I didn't get there. [LB717 LB720]

SENATOR PAHLS: Okay, well, tell me about term limits. [LB717 LB720]

JOHN LINDSAY: Well, both term limits and pay. The question is again, is term limits good policy statewide? And if not, why are they good policy for OPS? I think that goes and gets into a little bit of what Senator Janssen was asking and I do have the response to his and that is that 6 out of OPS's 12 board members are new within the last four years. And in the last election, four out of six races were...four out of the six incumbent races were contested, including there's one school board member present who was on the school board because he defeated an incumbent school board member. So it's...again, maybe that solution in search of a problem because the turnover is there. It's already occurring. Are there some that are longer serving? Of course there are. But the turnover is there and with majority turning over every few years. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR PAHLS: But there is turnover in the Legislature. The people wanted term limits. [LB717 LB720]

JOHN LINDSAY: The...if I were to...I don't know if I could quote former senator Chambers, but I think he takes credit for term limits trying to oust him. [LB717 LB720]

SENATOR PAHLS: Yeah, okay. So you...I've heard the word there's not a lot of evidence for lots of things that Senator Lautenbaugh said. [LB717 LB720]

JOHN LINDSAY: Um-hum. [LB717 LB720]

SENATOR PAHLS: And I'm not disagreeing with that. You said there's no evidence that the school board size makes any difference. I mean, that's what I picked up. [LB717 LB720]

JOHN LINDSAY: Um-hum. [LB717 LB720]

SENATOR PAHLS: What about school district size? Where is the evidence out there? [LB717 LB720]

JOHN LINDSAY: That evidence is...depends on how you look at, as I've seen the research. It depends how you view that research. And when you control for different variables, district size alone, it doesn't have a significant impact on achievement. What it gets down to is it can get down to classroom size. If a larger school district has larger classes, then that's going to have an impact. If a smaller district...for example, a small rural district with a limited number of students. If they have smaller class size, then by virtue of the smaller class size, there will be...there can be better achievement in those classrooms. [LB717 LB720]

SENATOR PAHLS: Well, it's my...I think there is research that's sort of dubious on this class size. I mean, you can find it both ways. But it's my understanding the research shows back, you hit 25,000, there is a downsize. But you know, I'm just, you know...that's why I'm just saying if we're talking about evidence...you know, to me, there happens to be some evidence--maybe not on school board... [LB717 LB720]

JOHN LINDSAY: Hmm. [LB717 LB720]

SENATOR PAHLS: ...but on district size. Thank you. [LB717 LB720]

SENATOR AVERY: Any more questions from the committee? I don't see any, thank you, Mr. Lindsay. [LB717 LB720]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

JOHN LINDSAY: Thank you. [LB717 LB720]

SENATOR AVERY: Additional opponent testimony? [LB717 LB720]

SENATOR PAHLS: Saved by the light, saved by the light. [LB717 LB720]

SENATOR AVERY: Welcome to the Government Committee. [LB717 LB720]

MARY MORRISSEY: Thank you. Good afternoon, Chairman Avery and members of the Legislature, the committee, and the audience members. My name is Mary Morrissey, it's spelled M-o-r-r-i-s-s-e-y, and I'm here to testify in opposition to LB720. I've been a classroom teacher for Omaha Public Schools for 28 years and I was an assistant principal and an elementary principal for 8 years. And I am also currently on the Omaha Public Schools Board of Education. Two weeks ago, I was elected vice president of this board. I am here today not to speak for the board, but to speak for myself as an individual. I represent subdistrict 6, which is comprised mostly of south Omaha. This is a community in which I was raised in, I attended school in, and I taught in. South Omaha has always been known for its diverse ethnicities and its ability to work together cooperatively. I have access to the people I represent. I meet them in the grocery stores, at church, and in the schools when I attend the various school functions. I'm having difficulty understanding why the Unicameral would even be interested in the number of members on the OPS school board. We have 12 elected members who represent the various sections of our city. This number of members allows for the common voice to be heard. It's not infrequently that I have people call me, e-mail me, stop me when I'm in the schools visiting to say oh, by the way, this is what I have a concern about. I mean, this happens to all the members. Parents and community members feel free to contact us and they have easy access to reach us. In my opinion, school districts should be locally run, having 12 school board members from the various sections of the city of Omaha give our constituents a local, accessible voice. I've also heard prior to today and then also again today that the current board is considered a rubber stamp by some and I find this really very offensive. For those who have that concern, I invite them--I actually urge them--to attend our weekly committee meetings that take place during the day and listen to the discussion, the dialogue, and the diversity of opinion that takes place before any votes are taken on a particular issue. The work of the Omaha Public School Board is extensive. I spend about 20 hours a week on it. I do it because I care about our students, their future, and also mine. We need to have a well-educated population. These students are our future. I don't want to be paid for my services. I feel that you need to give back to the community. I feel this is something that I really just want to do. To even mention board payment seems insensitive to the tight fiscal times that we find ourselves in. That would be money better spent in classrooms. I don't have any aspirations for a higher office and I don't believe in shaking things up just for the purpose of shaking things up. As you can see, I must be one of the less-effective and lower-profile candidates, so. I will tell you that the Omaha

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

Public School Board of Education is seeking not only to build on the past positives of our district, but also to correct and redirect where there are areas of deficit. That's what we were elected to do. As you already know, the Omaha Public Schools student body is large and very diverse. We currently have over 50,000 students. Twelve thousand of those students are learning English as a second language, including over 1,000 refugees from places such as Myanmar and war-torn Sudan. Seventy percent of our students now live in poverty, compared to the 50 percent of our students 10 years ago. Yet in these past 10 years, our students have continued to show growth. The graduation rates for our students of color have increased for over 15 percent from our African-American students and over 20 percent for our Latino students. Our dropout rate has fallen to 2.9 percent. LB720 is not really good policy and what is right for our families. If it is, then why not share it with every school district in the state of Nebraska? Shrinking the board to five members so that a majority of three members would have the power to set the budget and policies and direction for 300,000 citizens would indeed assure that most people's voices would not be heard. I cannot support a bill that will limit our families and their voice. Reducing the board to five members would seriously hamper our current ability to communicate with our constituents. The number of people each member would be responsible for would be difficult to manage. Having 12 members provides easier access for our families and a greater opportunity for their voices to be heard. I urge you to indefinitely postpone LB720. I thank you for the opportunity to express my opinion and I would be happy to answer any questions you might have. [LB717 LB720]

SENATOR AVERY: Thank you, Ms. Morrissey. [LB717 LB720]

MARY MORRISSEY: You're welcome. [LB717 LB720]

SENATOR AVERY: Questions from the committee? Senator Sullivan. [LB717 LB720]

SENATOR SULLIVAN: Thank you, Senator Avery, and thank you, Mrs. Morrissey, for coming today. Ours is not to question why a senator introduces a bill,... [LB717 LB720]

MARY MORRISSEY: Um-hum [LB717 LB720]

SENATOR SULLIVAN: ...but it is our responsibility to give voice to it. And in so doing in this great structure we have here gives you a chance to weigh in as well,... [LB717 LB720]

MARY MORRISSEY: To express... [LB717 LB720]

SENATOR SULLIVAN: ...so that's, I think, one of the beauties of the Unicameral. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR SULLIVAN: In your comments, you mentioned something about the fact that you're going to, as board members, work on deficiencies that you feel are present. [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR SULLIVAN: Can you identify some of the things you're going to be working on? [LB717 LB720]

MARY MORRISSEY: Well, I think one thing that's been in the news quite a bit, obviously, were our recent scores on the math test, the state...you know, the NeSA, Nebraska State Accountability Test. And we're going to use that data there as a baseline and go ahead. We've already put an action plan in as to how we would like to go ahead and see--we've worked with the curriculum and learning department--how we would like to see changes made so our students will hopefully do much better. We had a similar experience when the writing test first came out and in the past several years our scores are more than adequate. I mean, they've reached a really high level, and the same as the reading test. [LB717 LB720]

SENATOR SULLIVAN: Okay. Now it's not so much, I think, that your individual board members are either low-profile or high-profile... [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR SULLIVAN: ...but because you are the largest school district in the state... [LB717 LB720]

MARY MORRISSEY: Right. [LB717 LB720]

SENATOR SULLIVAN: ...you are high profile. Can you shed some light on how the board is operating and maybe in a different way in terms of approaching hiring a new superintendent? [LB717 LB720]

MARY MORRISSEY: The way the board operates is...was mentioned earlier in testimony was that we have a committee system where there are four main committees and one board member is chairperson and a second person is a vice chairperson, and then there are three committee members on that. In terms of hiring a new superintendent, Dr. Mackiel announced his retirement at the very beginning of the school year. From that, an ad hoc committee was formed to find a consulting firm. We went ahead and came up with four candidates for consulting firms, they were presented to the board, the board voted on which consulting firm they wanted. And from there, we



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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

also held community forums where we met with various groups of people in the community and when the consulting firm came on, they also held community forums. We had--I think the number was right around 900--people respond. We also had surveys that were on-line that our parents were informed about, the community was informed about. And the way it looks now, we'll have candidates presented to us in March with the idea that we would interview the end of March and hopefully have someone by April, so. [LB717 LB720]

SENATOR SULLIVAN: Thank you. [LB717 LB720]

MARY MORRISSEY: You're welcome. [LB717 LB720]

SENATOR AVERY: Any additional questions? Senator Pahls. [LB717 LB720]

MARY MORRISSEY: Yes. [LB717 LB720]

SENATOR PAHLS: I have to, and I'm saying this in a kind way, you must be a little crazy, because you said you are a teacher,... [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR PAHLS: ...a principal, and now on the school board. [LB717 LB720]

MARY MORRISSEY: Yes. [LB717 LB720]

SENATOR PAHLS: That's a good kind of crazy. I appreciate for all your services that you have... [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR PAHLS: What...name one of the schools that basically you'd say it's like one of your home schools. [LB717 LB720]

MARY MORRISSEY: I'd be very biased, but I'll go ahead and call on Gomez Heritage because I was the opening principal for that building and I am heavily involved in it. [LB717 LB720]

SENATOR PAHLS: It's a...right, I figured that. But here's the thing that I'm searching for. I'm not searching for oh, this is a good magnet school, it's for that... [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR PAHLS: I'm searching for no matter what school that your child or that your

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

in charge of or your child attends in the city of Omaha or any city, that's a good school. We seem to have to go out and say we're a special school. [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR PAHLS: And that's the thing that irritates me a little bit, you know what I mean? I just...why don't we just have a good school? [LB717 LB720]

MARY MORRISSEY: I like to feel that we do have good schools in Omaha Public Schools. Your reference to... [LB717 LB720]

SENATOR PAHLS: Right, but I...not necessarily...no, I'm not just saying Omaha. But I mean it seems like we have to be out bragging about that we are a specialist in this. We ought to be just a darn good school... [LB717 LB720]

MARY MORRISSEY: Um-hum. [LB717 LB720]

SENATOR PAHLS: ...no matter where you go, you know? [LB717 LB720]

MARY MORRISSEY: Okay. [LB717 LB720]

SENATOR PAHLS: That's just what...that's one of my little pet peeves, you know. [LB717 LB720]

MARY MORRISSEY: Okay. [LB717 LB720]

SENATOR PAHLS: I know that's not in your ball game. Thank you. [LB717 LB720]

MARY MORRISSEY: You're welcome. [LB717 LB720]

SENATOR AVERY: Thank you. Any other questions? [LB717 LB720]

MARY MORRISSEY: Questions? [LB717 LB720]

SENATOR AVERY: Thank you for your testimony. [LB717 LB720]

MARY MORRISSEY: Thank you very much. [LB717 LB720]

SENATOR AVERY: Additional opponent testimony? Welcome, sir. [LB717 LB720]

JON HABBEN: Thank you, Senator Avery, appreciate being here. Members of the committee, my name is Jon, J-o-n, Habben, H-a-b-b-e-n, and I'm the executive director of the Nebraska Rural Community Schools Association--about 175 school districts and

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

service units across the state. There's been a lot of discussion and a lot of it has been focused on, I think, Omaha Public Schools. And I think Senator Sullivan is exactly right; largest district in the state stands out first and foremost in the state of Nebraska. Doesn't mean any other school is less, but it is the largest district in the state and I totally understand all of the discussion that surrounds OPS. But I have to tell you when I was reading the newspaper as some of these issues were popping up...and I tended to wonder, as far as what was going on relative to OPS, if these were...sort of like we would look at in a smaller school district. Well it looks like kind of the local politics and the issues as they play out. Somebody's upset with somebody else because they or they didn't, and so it's playing out. And as it continues to play out, sometimes what you end up with is I think this needs to be handled by our Legislature. And the question that I would have is: Why? I'm not sure that this is the kind of thing that the Legislature is supposed to solve. And the reason I think that is because if I were in the last district I superintended--Falls City Public Schools--and I was seeing this play out, I don't think I would have gone to Senator Heidemann and said you know, I think those people on that school board are doing it right. And you know, if there were less members, I think we'd have...I don't see that happening. The only criticism that I have ever heard regarding schools that are small B, C, and D, relative to the number of people on a school board, have been gosh, why don't you have an odd number? It's the only thing I've ever heard. But school districts get through that process just fine. It's not that they have to have an odd number to operate more efficiently. It's that they are operating efficiently with the six members they have. Now when a school district has nine, it's usually because there has been a past reorganization that has added three members to the board. Sometimes, a few years later they wish they wouldn't have done that because they have said well, this town over here should get these three because you're the last ones we've brought. You have those kinds of things happen. Sometimes they're permanent, sometimes they change them, but the fact is these boards of education operate through their processes and they organize to be as efficient as they can be and they do just fine. They are the wonderful examples of locally controlling as much as they can what is happening with their kids in their school district. Now, how does LB720 affect that? Well, LB720 probably doesn't. I don't think I would be saying anything if the only bill here was LB720. But with LB717...and quite honestly, I'm glad Senator Council advanced LB717 because it really did say what kind of an issue is this and should the Legislature be doing this and does it make sense if we get out the really broad brush. But the fact is we are against LB717. That makes us against LB720 because it basically prompted LB717. But I just want to emphasize--other than don't paint us with the broad brush kind of a thing that, you know, you hear every once in a while--I want to emphasize that the small B, C, and D schools, even though sometimes they might wish they only had...they only needed five members because they can't find number six to run and they have to go out and seek them. The fact is they are efficient, they organize themselves well, and I would like to see them...they would like to see themselves left alone. End of discussion. [LB717 LB720]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR AVERY: Red light. [LB717 LB720]

JON HABBEN: That's red. [LB717 LB720]

SENATOR AVERY: Yes, thank you. [LB717 LB720]

JON HABBEN: You bet. [LB717 LB720]

SENATOR AVERY: Questions for the testifier? I don't see any. Thank you, sir. [LB717 LB720]

JON HABBEN: Thank you, Senator. [LB717 LB720]

SENATOR AVERY: Any other opponent testimony? Okay, we'll move now to neutral testimony. Anyone wish to testify in a neutral capacity? Welcome, sir. [LB717 LB720]

JUSTIN WAYNE: Good afternoon. My name is Justin Wayne, W-a-y-n-e, and I am not here on behalf of OPS, although I am currently sitting on the board. Let me just start off with a brief background about me. I'm a proud Omaha Public product. I spent my whole life in Omaha Public schools, graduated from Northwest High School. I later went on to Creighton and Creighton Law School. Currently, I work for the railroad around here--local railroad. I had an initial thought of what I was going to say, but I'm just going to kind of respond because I don't want to be redundant and take up any more of your time. So Senator Council's bill, I'm opposed to that, but I'm neutral to Senator Lautenbaugh and I wrote that on the sheet. I'm opposed to Senator Council's bill primarily because for the last...I was also on the Learning Community, just as background, for two years. And those two years and even prior to that, I heard OPS's argument, which I agree, that we are a different district than anywhere else in the state, that we should be slightly governed differently as far as finances and everything else. In fact, the Learning Community was a law to help OPS, I believe, with some of its issues. So to single out OPS by this legislator is not new. We are a unique district and should stay that way and I don't think we should walk down the slippery slope of saying treating OPS the same as every other school district if it makes good educational policy sense because as you know in anything, there is evidence to support urban schools and evidence to support rural schools and oftentimes those are different. And we should look at that evidence or that support in that way. I also heard Councilman Gray raise a couple issues, which I didn't know 20 percent of the district he represents--and my district is not in part of his district--does not have reliable transportation. That makes me think of a policy issue that OPS must address. That's why do we continue to bus--including the Learning Community--if 2 out of 10 kids in his district...parents don't have reasonable access to those schools, then how can they stay connected to those schools? They should be able to attend their local school, their neighborhood school, which is a different topic. But what I didn't hear anybody say is that Councilman Gray is

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

an ineffective leader or he can't stay in touch with his constituents. I don't hear anybody arguing for Councilman Gray to have two north Omaha representatives. I think he is in contact with his community in a very positive way and is always out in the community and he can govern a district that encompasses two Omaha Public School districts. So I don't see size being an issue for Councilman Gray as far as his representation. As far as what my research has shown me, I spent a Saturday--all day--looking at 100 school districts, the largest 100 school districts in the country. And what I found out is that out of the top 75 school districts, only 2 have 11 board members. We are by far one of the largest if not the largest. I couldn't find the one that Mr. Lautenbaugh referenced as a 14, but we are the largest out of the Great Council City of Schools (sic). And I was the one who brought this report because I came across it as I was doing my research and I submit to you if district size didn't matter, they wouldn't have included it in the chart--and the chart is on page three of that report you received from Senator Council. It matters because size does matter in some regards when you're governing and trying to be around group dynamic. In the sense that I was on the Learning Community and it was an 18-member board, that was very hard to navigate and very hard to do anything with. And I will submit to you it's not that much difference as far as on the Omaha Public School Board being 12, in my opinion. The reason I am testifying in neutral, I have some grave concerns about five. I have some concerns about a party or an organization running the slate and every year the board changing. I think there does have to be consistency in the education field as far as how we move forward, so I propose a seven number. And how will that increase accountability, which people kept asking? If you...we have seven high schools, if we draw the districts, and if we can legally do that around seven, each member could have their own high school, and that would take ownership that you are that owner of that high school and that community in there and you are their representative. You still care about all the kids in the district, but there's some ownership there. And I can tell you from my personal experience and as my elected position, there are people moving out of my neighborhood in the Ponca Hills and the Raven Oaks because they don't want to send their kids to a particular high school in my district. And that concerns me and that's part of the reason why I think there needs to be more accountability where there is some more say. And necessarily not micromanaging, but policy decisions that can be made and I think that can be made more effectively with a smaller board. One thing I will mention and Mr. Lautenbaugh...Senator Lautenbaugh referred...oh, my time's up. Sorry, my first time doing this. [LB717 LB720]

SENATOR AVERY: Would you be willing to comment on the term limit concept in LB720? [LB717 LB720]

JUSTIN WAYNE: I am not in favor of term limits. However, let me say this. I do believe as an elected official, after about 12 years, you should be creating the next Senator Council, the next Senator Chambers, the next--in this case--OPS Justin Wayne, and taking that advisement role and finding that next person to keep bringing new blood in. I know there's been reference to the board as being six new board members, but I

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

believe that I was the only one in the last...actually, there was one other one in the last 12 years to beat an incumbent. It is hard, because there is this belief of the OPS machine you're running against and you are one person running against the entire 12. I can tell you that from personal experience and it was a lot of hard work to do it. But in the effort of talking to other potential candidates, that is the issue that is raised over and over and over, that I am just one of 12. How do we get things done? How do we have conversations? And I think that is a legitimate concern. [LB717 LB720]

SENATOR AVERY: So it is your experience that you are unable to get as much done with a 12-member board as you might be able to do with a 7-member board? [LB717 LB720]

JUSTIN WAYNE: It is my belief in the numerous boards that I have served, seven...around seven is a good number to have a good diverse pool and over 10 becomes burdensome. I was not on the board when they adopted this policy, but from what I've talked to, to members who were on the board...and our policy, or board policy 1.20, Authority of Members, it says--and this is where board members can request information--"Under normal circumstances, no Request for Information that will require more than one hour of administrative time to prepare should be made by individual Board Members--lengthy and/or more comprehensive requests should be made by the appropriate Committee of the Board of Education." For those who read the papers, that was kind of what started the whole organizational chart debate that I was involved in. The administration said it would take more than one hour to create this organizational chart that I requested. The reason I requested it, to answer your question, is because we were facing budget cuts and 85 percent of our budget is humans, personnel. So I wanted to see what our proposed budget cuts look like and what our current budget staffing looks like. I was told that it would take more than an hour and then the committee chair denied my request to have that information. So I'd asked around why was this put in place? And part of it was 12-member boards, everybody asking questions, would eat up staff time. So based on that evidence alone, I feel like a smaller member board might be able to get more...be more responsive to the community and might be able to have more information. [LB717 LB720]

SENATOR AVERY: You also did not address the issue of salary. I know you ran out of time, but would you care to comment on that as well? [LB717 LB720]

JUSTIN WAYNE: I am not in favor of paying a board member. I am for a seven-member, nonpaid position with no term limits, to state it in one sentence. [LB717 LB720]

SENATOR AVERY: Any other questions? Let me get Senator Price. [LB717 LB720]

SENATOR PAHLS: Yeah, good, yeah. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR PRICE: Thank you, Senator Avery and thank you, Mr. Wayne. I wanted to ask...I'm very intrigued with your testimony and I wanted to ask you is there any part of your testimony you weren't able to give now, perhaps in closing comments, that you could sum up for me so I could capture all of your thoughts? [LB717 LB720]

JUSTIN WAYNE: Well, there are some practical implications of why I think a smaller board. One, the first day of the board, I asked for a strategic planning session. Part of the confusion was getting everybody together on the 12-member board to set aside dates. I believe a smaller board would be more effective in training and more effective in providing those kind of meetings. Also, there's a practical implication of travel. Other boards can send their entire board to a conference. If we send half of our board, it still is just as costly as it would to send to a conference as a smaller board. Lastly--and this is a small point, but it kind of makes me feel important in the sense that I like to raise it--is every board meeting we get a "report to action" folder this big and it's paper and it's of all of the bills and everything that's...we talked about in the last two weeks and that goes to every board member. And if we can just reduce that size, it'll help me out with my environmental itch that I have that we're just printing a lot of paper all the time for our board. It's a 12-member board. And I guess the last point I will make, I think I already said about the smaller district and it will require less time. And I do think--and I just want to stress this--from talking to candidates that it would invite more candidates to run because they don't feel they're 1 of 12. And I'm...we're talking from a recent candidate. That's when I ran, I ran...I had many people say why are you running, you're just 1 of 12 and that's true and that's how I felt when I ran. And when I got on the board, I can say I don't feel that way. I'm 1 of 12, I work with the board, but I do understand from a candidate's perspective why that's a daunting task. [LB717 LB720]

SENATOR PRICE: Well, yeah, and if I can just...one follow-up. You referenced a policy number that talked about the "one hour." What policy number? Where...what did that...numerated as? [LB717 LB720]

JUSTIN WAYNE: It is our board policy and it's just 1.20 and it's the Authority of the Members and it was revised December 15, 2008. [LB717 LB720]

SENATOR PRICE: Thank you very much, sir. [LB717 LB720]

SENATOR AVERY: Senator Pahls. [LB717 LB720]

SENATOR PAHLS: Yes, I'm hoping...are you involved in the hiring process for the new superintendent? [LB717 LB720]

JUSTIN WAYNE: I'm involved as a board member. I was not a part of the ad hoc committee who met to start the process. But I am involved since then, as the rest of the

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

board is. [LB717 LB720]

SENATOR PAHLS: Okay, and I must admit this. I read it in the newspaper and I can't even describe that if I were on the board and I'm limited to one hour if I have a question asking for more information? Is that what you're telling me? [LB717 LB720]

JUSTIN WAYNE: What I'm telling you is that if it requires staff to use one more...more than an hour of time, that is has to go through a committee process. And I spoke to several board members who referenced...who were on the board at the time who referenced part of this was because too many board members were asking too many questions. [LB717 LB720]

SENATOR PAHLS: Well, I'm going to just be flat honest with you. To me, that tells you there's a problem. If you are a board member...if I'm a board member and I'm limited to that, I would say what's up? Why are we establishing those parameters? And that's a sign there's something wrong. I understand...if I were the superintendent of that district and if a board member had some question, I would have my staff, I said, let's find that answer. I wouldn't find...it wouldn't take me long to find out whether you're one of those people, you know, you can never be satisfied, I'll be honest with you. I mean, let's say you're that individual. [LB717 LB720]

JUSTIN WAYNE: No, I'm not that individual. [LB717 LB720]

SENATOR PAHLS: No, no, but I mean, it wouldn't take you long to figure that out. I'm hoping that this is coming out long...I can't...your board, they accepted that policy? They made that part of their policy? [LB717 LB720]

JUSTIN WAYNE: I was not at the board at the time, so I...but it is in policy, so I would assume yes. But please understand the context. We were facing budget cuts of about \$12 million. And again, if 85 percent of our budget is staffing, I was hearing from my district that we want to keep things farthest away from the classroom, so I wanted to see what that would look like and... [LB717 LB720]

SENATOR PAHLS: What were you requesting, may I ask? [LB717 LB720]

JUSTIN WAYNE: I was specifically requesting a "org" chart or some type of staffing chart that would show how many people we had in what areas. So for example, if we had 85 principals, it would say principals: 85, and who they may report to. I wasn't so much concerned about the reporting, but the number. And the reason is while I was running for office and since being in office, I've heard this notion that OPS is top heavy and one of my duties is to ask those questions and find out if they are top heavy. Well, part of that is to find out how many people are there. If we have eight accountants in finance, just put accountants: eight. And even though that chart may have not been



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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

created before, I think going forward, that would have been a good chart or a good spreadsheet to have for any board member asking where things are and where people are. [LB717 LB720]

SENATOR PAHLS: Any district that doesn't have that chart already prepared, somebody is not doing their job. That should be...I mean, that's automatic. I mean, come on. Anybody taking Administration 101 knows that kind of stuff. This is actually relatively irritating to me because you can go to the state board...or the Department of Education and find lots of information, you know, just by Googling some of that. I mean, this is...to me, I...this is...I've been a relatively...thinking that some of these bills or taking what you've just giving us a chance to talk. But things like that, if we're standing in the way of boards of education, now I'm going to have to look into that. Because if this is a minor spot in the road, I'll probably back off. But if we're setting up policies that are keeping people who are elected to check into something, to me that's sort of...there's something's missing there. And your idea of having a district around the high school? Let me give you--because I did this investigation several years ago. At one time there was a group of senators looking around in the '70s of making what they called a "confederation" working around the Omaha high schools and the elementary schools that feed into it as basically as a confederation so there would be more of a control. That was...if you go back and take a look at some of the testimony in front of the Education Committee, that there were people thinking like that. I know that may be something else, but one more thing that I wanted to...you're more interested in the achievement of the school. You're not...are you enthralled of saying this school is this mecca of a particular magnet-type school or are you looking for a good school? [LB717 LB720]

JUSTIN WAYNE: Anybody who knows me...let me start off with this premise. A kid should be able to attend a high-achieving school not by chance that they get a good teacher, not by luck that they get into a magnet school, or not by privilege that their parents can afford to send them to a private school. I believe a kid should be able to walk down the street to their neighborhood school and have the same things that are at every elementary school or every middle school throughout the district as far as high academic achievement. I'm not a proponent of bussing students. Nobody can tell me that it works. We heard a lot about diversity, but nobody can tell me that bussing students all across the district, all across the Learning Community actually works, and nobody can point to it. What they can point to is students who attend middle-poverty schools have a better chance at succeeding, but that's primarily based off their resources and teacher ability to be effective. It's not off of diversity. In fact, there has been studies done over and over and over that diversity can sometimes have the reverse effect, that as many of us know growing up in the Husker State, football players hang with the football players, basketball players hang with the basketball players. We segregate by self interest. And especially at the high school, if you walk into any high school around here, they're segregated by their self-interest. Just bussing a kid sitting

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

next to a kid from a different background would not mean that that kid is going to achieve any higher and nobody's been able to prove to me otherwise. In fact, that's one of the questions I have asked this district repeatedly, is: How are our kids doing? The kids bussed versus non-bussed? And after 30 years, one would think that we have information that is readily available to say that the kids we bus to this school is doing better than the kids we don't bus. But yet, during the Learning Community debate, none of that was ever offered, and I submit that I don't think it exists. [LB717 LB720]

SENATOR PAHLS: Thank you. [LB717 LB720]

SENATOR AVERY: Any other questions? Thank you, Mr. Wayne. [LB717 LB720]

JUSTIN WAYNE: Thank you. [LB717 LB720]

SENATOR AVERY: Any more neutral testimony? I was wondering when you were going to get up. (Laughter) [LB717 LB720]

SENATOR PRICE: I was just about ready to testify. [LB717 LB720]

SENATOR AVERY: Welcome, Senator Chambers. [LB717 LB720]

ERNIE CHAMBERS: (Exhibit 2) Hi, my name is Ernie Chambers, spelled C-h-a-m-b-e-r-s, and I handed out some material for the members. One reason I brought this long World-Herald article is because rather than give my harsh criticisms of OPS as I did while I was in the Legislature--before I got into the Legislature--I wanted you to have something written by somebody over whom I have no control. The World-Herald obtained information, they've done studies to show that the achievement gap is not narrowing but widening. They point out in this article on the second page that the achievement is worse, that it's poor and it's getting worse. And when you have flag wavers for OPS, you have to take it with a grain of salt. OPS is the only district in this state that was officially found to segregate on the basis of race by the federal court. It was found by the U.S. Department of Education that teachers are not assigned to the schools where they're most needed. The ones who have the best chance of helping the children choose not to teach in those schools, so they're not assigned. And when studies are undertaken, you find out that the least-experienced teachers--and I say the least-qualified teachers--are in the schools where my children attend. I graduated from OPS, my children from OPS, and I've been fighting against the racism in that district even before I was married and had children because when I worked in the barber shop, children would come to that shop after having been beaten up by a teacher at the school called Horace Mann and I would go confront the teacher. This is the way I did, not "rah-rah-ing" for OPS, and my record demonstrates it and the community can bear it out. And I would tell the teacher there's less disparity between my size and your size than that child and you. Do to me what you did to the child. I have paddles that I went

and took out of those schools and I can show them to you if you want to see them. When people talk about all of this great stuff that OPS is doing, they had a situation where a teacher committed serial sexual assaults against black girls. Over a period of three years he was doing this. The OPS people had to put him on leave several times to investigate. Yet with all of this, they never saw a reason to report it to law enforcement. That man is facing a half-dozen felony sexual assault charges based on the complaints these young girls made that were rejected by OPS officials. The principal at the school--a white woman--pressured two of them out of school and called one a liar because she made these complaints. This is discovered when the police got involved and began to investigate what had happened. So, the complaints had enough credibility for a judge to give the police a search warrant. And those of you with any training in the law know that that's based on probable cause. It gave enough credibility for the county attorney to file felony charges. But when they went to the school people, you're a liar. And the lawyer had made statements in the paper that could help people identify who these young girls were and she made comments--well, there are credibility problems with them, they change their stories--and did everything to discredit the victims. There is so much that needs to be said that I won't have the chance to say here, so that's why I wanted you to see that information. I think the article is what impelled Senator Lautenbaugh to offer his bill--a knee-jerk reaction, frustration, something needs to be done, what can be done quickly and offered as a bill? And that's what was done. Nothing in the bill makes any sense. It is not essential to solving the problem. You don't have to change the structure of the government, you have to get better and more responsible people. If I had my way I could say I think the Legislature has rolled over for the Governor, so reduce the number to seven and let me be one of them. That is not what is done, but people must be made to feel that the governing entity is responsive and responsible. And contrary to what you've heard, there are many complaints against OPS and the superintendent and the school board members and I have had to intervene to solve problems that the school board would not do anything about. But I also will respect the rules according to which this committee is run and red means stop. [LB717 LB720]

SENATOR AVERY: Thank you, Senator, thank you. Let me ask you: Do you have an opinion on paying board members? [LB717 LB720]

ERNIE CHAMBERS: (Exhibit 3) That shouldn't be done for the reasons that people mentioned. And the nature of school board work is not where the board members do any of the rolling up of sleeves and the day-to-day work. They have staff, administrators who do the work, and the boards by and large are rubber stamps for the administration and the superintendent. And the reason I'm not worried about this bill getting out of here is because you all are realistic people, you are practical people, and you understand the realities of what happens in public schools. The reason you have such a bad set of policies is because Superintendent Mackiel, I believe, pressured these school board members to put these various things into the policy statement. Why would a school

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

board put this into--and it's on page 3 of this document I gave you from the World-Herald. The agreement gave the superintendent "'complete freedom' to organize the administrative and supervisory staff. He controlled the administration of instruction and business affairs, as well" and "he handled hiring decisions." "According to the contract"--and this is crazy--"any criticism, complaints or even suggestions presented to the board members were to be referred to the superintendent." Have you ever heard of anything like that? And as Senator Pahls pointed out, an elected member of a board is going to be told by a staff member I don't have time. Then somebody who was made the chairperson of a committee and they select these people because they're malleable, manipulable, and they go along with the program. And you'll see toward the end of this where one of these board members said that what you have to do is in the best interest of the organization--not the children, not education, but their organization. And they have been referred to as "Mackiel's Harem." They do silly stuff. When the World-Herald was getting e-mails that the school people had to turn over, they tried to redact--cross out--some of the sillier stuff. The president of the school board, a woman, said...she congratulated this committee person for denying board member who just talked to you...I just call him Justin. You all should call him by his last name. Under me, he could be my grandson. But at any rate, the school board president called and complimented her on the way she rejected his request for information and said this is called "big-girl pants" and "steel-toed shoes." The president of a school board? Then she contacted Mr. Mackiel and said advice needed before I put on my steel-toed shoes. This is the president of a school board and you hear people talking about how great the education is? One of the worst achievement gaps in the country: OPS. One of the highest dropout rates, tied with New York for worst: OPS. The only minority-majority school district in the state, more minority students than white students. The administration, the teaching, staffing? Overwhelmingly white. To give you one example of a complaint that was made to the school board, the parents went to the school board. Their son attended Benson High School. He was living with his mother and his stepfather. His biological father came to one of the practices and was standing on the sideline. The kid was talking to his father. The coach chewed him out about it and said you're over there talking to another coach, huh? He's your coach, huh? He said that's my father and it made the coach no difference. Other things happened and the coach was going to discipline this kid because he said he heard that at one of these cheerleading things that they have before a game--a pep rally--he stood up and danced where they were having the pep rally. So he's going to discipline him. He told him you're going to do the worm. That's where you lie down on the ground and you try to unglute like a worm. He said I want you to start at this end zone and do the worm to that end zone and back to this one--200 yards. And the kid tried and he couldn't, so he said I'm not going to do it. I don't use profanity and I'm not going to use it here. The coach said then you take off my "s" and get out of here. The kid had to strip off his equipment and walk off the field in his shorts in front of everybody. That was taken to the school. I brought it to Dr. Mackiel. They didn't think anything should be done. It was taken to the school board members. They didn't do anything. So I filed a complaint with the state Department of Education.

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

They issued a public reprimand, put it in his file, and said if anything else happens, that would be considered in terms of whether he should keep his certification. That's how OPS does. Parents have gone to the school where their child is attending. One woman was very upset because the child never brought home books to do homework. Well as it turned out, they had no books. And when the mother went to the school, she was told well, textbooks aren't that important because you can get things off the Internet. And she came to me. I said then why do they have textbooks in all these white people's schools? They'll only tell you that. When she continued to push, security was called and she was told leave this place or we will call the police--a parent concerned. They say parents should be involved--certain ones. I'm telling you what I know from experience and the complaints that are brought to me that I have to resolve for people because they can't get it done through OPS. Now, I have reason to be very angry about OPS, but I'm not going to say change the method of governing. I'm not going to say pay the school board members. I'm not going to say term limit. I'm going to say we in our community have to become more involved politically and select better people for the board and encourage people to run for the board. And the reason I submitted a series of columns that I wrote is because I broke down the law, analyzed it, and I sent this material to school board members, to members of the Learning Community, to the county attorney who told me that I had raised issues that they hadn't thought about. So if anybody is frustrated, if anybody is furious, it is I. But you have to resolve a problem in a way that is practical and will solve it. Let's say that you reduce the size of the board, whatever the number--five, seven, or nine. It doesn't touch any of the things that I'm talking about. You pay people? There is nothing put in here about the qualifications you should have. There's nothing that says you have to be experienced, even in communicating. It doesn't say you have to read or write, that you have to have a college education, that you have to have a GED or anything. So merely offering money is not going to touch anything. Term limiting is not going to help because somebody who goes onto a board with perhaps the wrong view may be like Justice Black with the U.S. Supreme Court, who had been a member of the Ku Klux Klan. But after he had been on the court for a while, he became one of what people would call liberal. One of the most liberal, thoughtful justices on the court and admitted that he grew and had no way of knowing when he first got on the court that his views would change so much. But his entire world had been expanded. He was exposed to ideas, to concepts, to realities outside of the South that in a manner of speaking--they didn't use the term in those days--blew his mind. And he was receptive. So I would not say change the number--that won't do anything--certainly don't pay, and certainly no term limits. Some of the people who came to the Legislature may have thought at first term limits was a great thing. But when you got here you found out that you're not going to learn everything overnight. And just about the time you begin to catch on to how things are going--this is a car with a standard shift. For those that don't, a stick shift. You're in the car and when you first start you're jerking and jerking and jerking, then you jump your foot off the clutch and you kill the engine. Well, just about the time you know how to synchronize the clutch and the gas pedal, they tell you okay, you're out of here. You say, but I know how to

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

drive the car now. They say well, we're going to get somebody else. Here's the point I'm trying to get across beyond and above everything I've said or anything anybody else said, and you could call it stroking you or anything you want to. There are too many intelligent people on this committee to advance a bill like Senator Lautenbaugh. He is not here. Do you know what it is called when you are the captain of a ship and it's going to create a problem and for some reason it shouldn't be kept afloat? You scuttle it. You sink the ship. He scuttled his bill; he knew it had no merit. But here's what I'm going to do and then I'll stop. I tried to bring concrete basis for what I say. He's a politician in politics and everything we do when we're in politics is political. I don't know why people in politics want to say I'm not a politician, I'm a statesman. No, if you're a statesman, you'd be with the State Department. You're a politician. But when he was not a politician, when he was the election commissioner, a case--and I'm going to leave a copy of it. I can't afford to copy everything and give a lot of them. And I'll leave the case with the clerk. State v. Lautenbaugh, if the page would give that to the clerk. This is the crucial language. It's found for the record at 263 Neb. 652, and the date was 2002. On page 664 are these words in the Supreme Court Opinion: "Lautenbaugh conceded that his assignment of subdistrict numbers had nothing to do with the statutory directives set forth in sections 32-522 (sic) and 32-553." It should be 552 and 553. But he "contended that the residency of the incumbent was a 'political factor' which formed the basis for a 'judgment call that I made as a proper consideration of how to redistrict.'" Admitted a political decision based on trying to benefit an incumbent was why he made that decision to switch the numbers of districts. One was 9, one was 10. You elect by staggering. Even-numbered this time, odd the next. He switched the numbers to protect an incumbent. The court went on still on page 664, "We agree with the district court that the applicable statutes do not authorize an election commissioner to take into account political considerations when adjusting boundaries following a federal decennial census," concluding, "Lautenbaugh's decision to alter the numbering of subdistricts Nos. 9 and 10 was a decision contrary to law"--that means lawless, illegal, unlawful--"and the district court did not err in ordering the issuance of a peremptory writ directing Lautenbaugh to return the original numbers to the subdistricts." So you have a person who has, in a nonpolitical setting, behaved in a highly political way. When we are in public office, people can say anything about us that they want to. You all are going to have to get skin like mine, a hide like mine. Some of you are old enough as I look around this room--even without the benefit of my glasses--to know about that soap commercial that said it gives you the skin you love to touch. Well, compared to the toughness of my hide, the skin of a dinosaur, an alligator, and a rhinoceros would be the skin you love to touch. I am impervious to criticism, to flattery, or all of it because I know the nature of politics. And I know that after you heard the opposition and you know the kind of fallout there would be if a bill as crazy as that one...see, I'm not in the Legislature now, I can use that term. But my colleagues will tell you that this is what I used to call on the floor trash legislation. That's what I called it. And there's a place for that. Some people call it "File 13." I call it the trash can. So having that assurance, I have one regret: that my representative, Senator Council, felt the need to explain why she brought

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

a bill. She doesn't have to account to anybody for why she brings a bill. And as for the cost, if the cost of these bad bills meant anything and you all let me come down here and determine which bills have merit, you all could go home in three days. There is more trash legislation coming out of this place than I've seen in my life or even imagined would happen. Bills go through with no debate, no negative votes. A budget is passed--all the budget bills,--in an afternoon, no objection. I could not have been told when I first got in the Legislature--white people's legislature--that I would ever be concerned about this Legislature in the sense of what they called "institutional thinking." I called it "You-all's Legislature," "The Legislature," never "My Legislature." But after I was here a time, I became aware of how much good could be done if there was the will. I saw the necessity to try to persuade people in the Legislature that in a tripod system of government, the Legislature cannot allow itself to be put in inferior or subordinate role. And although they are to be coequal in power, they really are not. The hand that controls the purse strings controls everything. And the Legislature has an obligation to the people and to itself to be that representative body anticipated not only by the State Constitution, but by the U.S. Constitution. The Constitution, the federal government, is the guarantee to every state of...they call it a "republican," meaning a representative form of government. Now, the executive branch does not represent the people. The executive branch carries out laws. The executive is not elected by district. The courts don't represent the people. They are the ones who interpret and apply the law. The only branch that represents the people is the Legislature and that's why they talk about one person, one vote. You all are the ones that the public will come to and they look to you to look out for their interests and that was envisioned by the so-called "checks and balance" system. But the Legislature is allowing itself to be run over roughshod. And maybe that's not what you all wanted to hear, but this is a little rhyme and you all know who are here that I wrote rhymes. Senator Seiler, this is not meant to be disrespectful, but somebody have a rhyming bone and when that rhyming bone acts up, it's worse than a sweet tooth acting up. "Senator Utter did not stutter, but sadly I have heard. He kept his post 'til gave up the ghost and uttered his last word." Those are the kind of rhymes that I would write. And then for Senator Council, "Members of the Government Committee, as sure as a giant would vanquish an elf, Senator Council's approach today truly reminds me of myself," where you counteract foolishness by presenting something that brings into sharp focus just how foolish that idea is. She knows that one size does not fit all and that's what she was trying to present and make clear. I think it was done. I think it would have been done without her bill, but you don't take chances in the Legislature. I appreciate having had this opportunity. And maybe you feel that I was presumptuous and did not behave in the manner that I should. But for those new people here, compared to the way I behaved in the Legislature, I have been the soul of courtesy. In fact they would say Senator Chambers, you were courtly today. [LB717 LB720]

SENATOR AVERY: You haven't changed. [LB717 LB720]

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

ERNIE CHAMBERS: But if you have any questions, really, that you want a direct answer to, I'll give it. [LB717 LB720]

SENATOR AVERY: Thank you, Senator, but you haven't changed. [LB717 LB720]

SENATOR WALLMAN: No. [LB717 LB720]

SENATOR AVERY: Any questions for Senator Chambers? [LB717 LB720]

SENATOR WALLMAN: Thank you, Chairman. Yeah, Senator Chambers, good to have you here. As you know, we're for the children and I was on the school board 16 years and I actually worked to get rid of some personnel in the school. It's not easy. [LB717 LB720]

ERNIE CHAMBERS: Um-hum. [LB717 LB720]

SENATOR WALLMAN: And when that becomes entrenched, I tried to go to southern schools that really improved things. I think we have to improve our principals and we have to have the principals live in the district. [LB717 LB720]

ERNIE CHAMBERS: Yes. [LB717 LB720]

SENATOR WALLMAN: And I don't think we can put that into law, but it would be nice if we could. [LB717 LB720]

ERNIE CHAMBERS: And as...until we have a situation, especially in a place like Omaha where there's so much racism in the schools and in the classroom. Until every classroom in every building in every district throughout the state, really, a child can get a decent education, then the state is not discharging its duty to the children. I am deeply offended by these so-called "magnet schools" and "focus schools." What they're telling me is Ernie, we know your children need this kind of education. We know that those poor white children need this kind of education. We know these Latino, Native American, Pacific Rim children need this education, but we're not going to give it to you in your district in your neighborhood. See, when they set up these schools, they show that they do know how to provide quality education. They know, but they're going to deliberately withhold it. They should be required by law to offer in every school what is offered in these magnet schools. That's what can be done legislatively that would be of value. But that will not be done, and if I ever get in a position again, you're going to see something. [LB717 LB720]

SENATOR AVERY: Any more questions from the committee? [LB717 LB720]

ERNIE CHAMBERS: Thank you very much. [LB717 LB720]



Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR AVERY: Thank you for coming down. Anyone else wish to testify in neutral position? All right, before I close the hearing, let me read into the record... [LB717 LB720]

SENATOR PAHLS: We have to...senators here. [LB717 LB720]

SENATOR SULLIVAN: We have closing. [LB717 LB720]

SENATOR AVERY: We have what? [LB717 LB720]

SENATOR SEILER: He wanted to know if they wanted to close (inaudible)... [LB717 LB720]

SENATOR PAHLS: Both the senators are here. [LB717 LB720]

SENATOR AVERY: (Exhibits 4 and 5) Oh, yeah, I know. I want to read into the record, though, two letters. One is a letter in opposition to LB720 from Robert Bligh. Another one is from the Greater Omaha Chamber in the neutral position. This is from David Brown. And now, Senator Lautenbaugh, you're welcome to close. [LB717 LB720]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman and members of the committee. He was wrong about me being in the room and that wasn't even the worst thing he was wrong about, but I'm not going to rise to it. You've heard enough today. I think my opening was clear. I'll be happy to take any questions you might have. [LB717 LB720]

SENATOR AVERY: Oh, you've got questions. Senator Price. [LB717 LB720]

SENATOR PRICE: Thank you, Senator Avery. And briefly, in what I've heard here, my question, Senator Lautenbaugh, is how will...how do you perceive the sizing of the board to deal with the policy made by the board? I mean, we've heard a lot about different policies and things of that nature. How does the...how do you perceive that the policy would be changed, particularly when we hear something as difficult as the one-hour rule in a policy book? I mean, would a five- or a seven- or a nine-member board be more effective at changing that policy? [LB717 LB720]

SENATOR LAUTENBAUGH: Well, I think you're answering your own question in that it was the size that resulted in the policy, so yes. [LB717 LB720]

SENATOR PRICE: Thank you. [LB717 LB720]

SENATOR AVERY: Any other questions? Senator Pahls. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR PAHLS: Yeah, as you can tell, that particular item did upset me a little bit. [LB717 LB720]

SENATOR LAUTENBAUGH: I noticed that, Senator. [LB717 LB720]

SENATOR PAHLS: Yeah, well, the reason why...if you're the superintendent, give your board members access to a computer, have them e-mail you, that's the way it's done this day and age. I'm surprised...if it is, I apologize to those who aren't doing things like that. [LB717 LB720]

SENATOR LAUTENBAUGH: If you'd like to talk about technology and e-mailing, I can do that, too. But that's probably not... [LB717 LB720]

SENATOR PAHLS: Okay, yeah, but one thing I wanted to...because I may not have the opportunity. Today, I did hear from a past board member and from two current board members. I see them as sincere people who are trying to make things work. [LB717 LB720]

SENATOR LAUTENBAUGH: Um-hum. [LB717 LB720]

SENATOR PAHLS: So as we leave that, I just want them to know that I've heard what they've said and although there may be some issues such as the good Senator Chambers brought up to us, I did see three individuals that I thought are there for--and I'm going to use the word--for kids. Thank you, sir. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes, sir. [LB717 LB720]

SENATOR AVERY: I think I was the one who asked you what was the problem that you were trying to fix and I wondered if you were aware of this article--I'm sure you are--that's... [LB717 LB720]

SENATOR LAUTENBAUGH: I think I'm quoted in it. [LB717 LB720]

SENATOR AVERY: I think you are, actually. [LB717 LB720]

SENATOR LAUTENBAUGH: So yes, I was aware. [LB717 LB720]

SENATOR AVERY: Did this prompt your interest in this legislation or in some way influenced it? [LB717 LB720]

SENATOR LAUTENBAUGH: Yes, in a word. But it was not a new thought to me that the 12-member board was problematic. But this certainly did. In the run up to this article, I was contacted and...but somehow the reporter...and you're asking me to remember

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

the sequence of events. But somehow, somebody knew that I had an interest in this area. [LB717 LB720]

SENATOR AVERY: Um-hum. [LB717 LB720]

SENATOR LAUTENBAUGH: And so that...there's a reason I'm in the article and I don't fit in there for any other reason. But I was called and asked about it, so...and I did not seek it out. [LB717 LB720]

SENATOR AVERY: You were out of the room when we went to proponent testimony. I was going to tease you about nobody appearing to defend your position. [LB717 LB720]

SENATOR LAUTENBAUGH: Well, some of the neutrals were neutral in varying ways. And as I indicated, I do not generally ask people to come testify at these things... [LB717 LB720]

SENATOR AVERY: Yeah. [LB717 LB720]

SENATOR LAUTENBAUGH: People will send in theirs... [LB717 LB720]

SENATOR AVERY: You made that clear. [LB717 LB720]

SENATOR LAUTENBAUGH: Yes, sir. [LB717 LB720]

SENATOR AVERY: Yeah. Any other questions? Is that it? [LB717 LB720]

SENATOR LAUTENBAUGH: Yes, sir. [LB717 LB720]

SENATOR AVERY: Thank you very much. [LB717 LB720]

SENATOR LAUTENBAUGH: Thank you all. [LB717 LB720]

SENATOR AVERY: That ends the hearing on... [LB717 LB720]

SENATOR COUNCIL: No, no, no, no, sir. [LB717 LB720]

SENATOR AVERY: What? Senator Council, I'm sorry. I am so sorry. (Laughter) [LB717 LB720]

SENATOR PRICE: He was saying that ends it on one bill. [LB717 LB720]

SENATOR COUNCIL: No, no, no. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR AVERY: I am so sorry. [LB717 LB720]

SENATOR COUNCIL: I'm going to be brief. We've been here a long time. Number one, let me make it clear: you really didn't hear any proponents for my bill, either. [LB717 LB720]

SENATOR AVERY: No. [LB717 LB720]

SENATOR COUNCIL: And nor did I invite people or try to advocate for people to come and testify on this bill. But I do want to clarify a couple of things. First, I want to thank Senator Chambers for his kind remarks. And when I've given the opportunity, I acknowledge the fact that I probably wouldn't be here today but for the fact that the Omaha Board of Education is a 12-member board elected by district. I ran against an incumbent in 1982, a very well-known incumbent. And in order to be elected, I had to do what most of us do when we run for election here. I had to go door to door to door. It'd have been real tough going to 67,000 doors, but because of Senator Chambers' efforts, the school board members were elected by district. And I was elected, had the privilege of serving for 11 years. And when people talk about high-profile, I guess to the extent that my name became known, put me in a position...in a better position than had I not occupied that seat. But I wouldn't have occupied the seat but for the fact that there were 12 members elected by district, and I thank Senator Chambers for that. I also thank him for his comment that I didn't need to explain why I filed a bill rather than the amendment. But Senator Chambers, you need to know when the media gives the public the impression that by taking an action that is completely legitimate and appropriate that you're doing something wrong, it needs to be corrected. And that impression was left with the public by a statement from one of my colleagues that by introducing LB717, I was forcing the state to incur needless expense. And as I began my statements, I felt compelled, the need to address that. Clarification: Senator Sullivan, you asked me had I received complaints about the size of the Board of Education and I told you only one. I didn't mean to imply by that I have not received complaints about Omaha Public Schools. I have, and I'm not satisfied with everything that's going on in the district. But I don't want to leave you with the impression that I haven't received complaints about Omaha Public Schools. But I responded directly to your question, which was had I received any complaints about the size of the board? And I've only received one. The issue about the organizational chart--I don't know much about that, Senator Pahls. But what I do know is just like the Atlanta Board of Education which is included on that list of eight, on the OPS Web site is an organizational chart. So I can't tell you specifically what board member Wayne was asking for that he didn't receive, but there is an organizational chart similar to the organizational chart that you'll find on the Web sites of most school districts on the Omaha Board of Education Web site. Now people who weren't on the board when policy 1.20 was adopted want to tell you why it was adopted. I don't exactly recall when it was adopted. But I know during my tenure, one of the reasons we enforced it was because we had 1 out of 12 who made it their life's work to

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

make request after request after request after request after request directly to staff and administration, rather than going through the committee. So does the fact that it's 12 members that you have that rule? I can't say, and I don't think anybody who testified can say that that's the exact reason. But certainly the fact that there are 12 gives more opportunity for someone to request, to make a request that takes more than an hour. But you could also have that same problem with a smaller board with one or two people making repeated requests that take more than an hour. The issue was devote staff time to addressing the children. That was my understanding of the reason for that particular policy. I think it was Senator Pahls that asked a question about size of school district. On the sheet you have, on the report from the Council of Great City Schools, the eight schools that are listed: Anchorage has 58,000 students, which is almost 10,000 more than OPS; Atlanta has 48,000 students, which is very comparable to OPS; Pittsburgh only has 25,000 students, and I think Pittsburgh has a seven-member board--nine-member board. They have a nine-member board with 25,000. OPS has a 12-member board with almost 50,000. So I don't know what correlation or what you can deduce from those relative numbers, but what I submit to you is that size of the board really doesn't have any relation to student population. It's how that community believes it's to be best governed. And with all due respect, I disagree with board member Wayne about why the number of board members is stated in this report. The reason the number is stated is to give you a snapshot of their structure. Again, all you have to do is read the report. Nowhere in the report does it make a correlation between the number of people on the board and what kind of achievement they've obtained. But what is repeatedly stated throughout this report is these school boards are elected or appointed, they are not state-controlled. That runs throughout the report. And I submit to you again if one of the 60...how many currently are members of the Council of Great City? If there...one of the 66 had a 15-member board and had the kind of results that the eight that are in this report had, they'd have been in the report. And it would have stated name of governing boards to: District X; number of members: 15; elected or appointed: elected. That's the purpose of this report. There is no correlation. There's been no evidence presented to this committee that there is a correlation between the size of the board and what we all want to see happen: student achievement. None whatsoever, and I submit to you that what began to come out during this hearing was that there's no real issue with the size of the board. There's some real issue with some of the people on the board, but not with the size of the board. And you correct that through the electoral process. Final comment: if your relative position on a body dictates whether you run for office or not, woe be unto us in the Legislature, because we're all 1 of 49. Thank you. [LB717 LB720]

SENATOR AVERY: Thank you, Senator. Do you want to take questions? [LB717 LB720]

SENATOR COUNCIL: Oh. Yes, sir. [LB717 LB720]

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

Government, Military and Veterans Affairs Committee  
January 18, 2012

---

SENATOR AVERY: In the event... [LB717 LB720]

SENATOR COUNCIL: If there are any. (Laughter) I'm sorry. Now look, I'm getting ready to run now. I'm sorry, Senator Pahls. (Laughter) I was getting ready to break for the door. [LB717 LB720]

SENATOR PAHLS: No, no, I have no questions, I just... [LB717 LB720]

SENATOR AVERY: See, you were in a hurry, too. (Laugh) [LB717 LB720]

SENATOR PAHLS: Point of clarification: while I was talking about the size of school district, that has nothing to do with... [LB717 LB720]

SENATOR COUNCIL: Oh. [LB717 LB720]

SENATOR PAHLS: ...board members. It has a tendency to diminish after around 25,000. [LB717 LB720]

SENATOR COUNCIL: Okay. [LB717 LB720]

SENATOR PAHLS: Thank you. [LB717 LB720]

SENATOR COUNCIL: Okay, any other questions? [LB717 LB720]

SENATOR AVERY: I think that's it. [LB717 LB720]

SENATOR COUNCIL: Thank you very much. [LB717 LB720]

SENATOR AVERY: Thank you very much. Now that ends the hearing on LB117 (sic) and...or LB717 and LB720. [LB717 LB720]