

## Omaha Public Schools Issues and Implications of Nebraska Legislative Bill 1024

On April 13, 2006, Governor David Heineman signed Nebraska Legislative Bill 1024,<sup>1</sup> which included an amendment by State Senators Ernest Chambers and Ronald Raikes. The new law made a number of changes to the way in which school districts in the Omaha metropolitan area were structured and empowered. In particular, the Chambers-Raikes amendment would have required that the Omaha Public School District be divided into three. The new law would have become effective July 1, 2008 unless repealed, superseded, or modified by lawmakers before that date.

The U.S. Commission on Civil Rights (the “Commission”) conducted a briefing in Omaha, Nebraska, on September 8, 2006 to get a better understanding of the civil rights ramifications of the Chambers-Raikes amendment and its effects on minority and non-minority students. The Commission consulted 10 panelists, including state government officials, community activists, parents, and other individuals representing a broad segment of the Omaha community.

Since the Commission’s visit to Omaha, LB 1024 has been repealed and superseded. On May 24, 2007, Governor Heineman signed Nebraska Legislative Bill 641<sup>2</sup> in an effort to address the issues raised in the Commission’s briefing as well as other issues. Rather than publish a report on what is now a moot issue, the Commission has elected to post only the panelists’ statements, their biographies and a transcript of the briefing.

Following are the statements of seven of the 10 panelists who participated in the briefing. The following panelists did not submit prepared statements: (1) Senator Ernie Chambers, whose testimony can be found at transcript pages 7 thru 10; (2) Brenda Council, whose testimony can be found at transcript pages 124 thru 130; and (3) Ben Salazar, whose testimony can be found at transcript pages 159-166.

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<sup>1</sup> B. 1024, 99<sup>th</sup> Leg., 2d Sess. (Neb. 2006).

<sup>2</sup> B. 641, 100<sup>th</sup> Leg., 1<sup>st</sup> Sess. (Neb. 2007)

## **Panel 1**

### **STATEMENT OF SENATOR PATRICK BOURNE, NEBRASKA STATE SENATOR**

There are several components of LB 1024 that divide by race. It is critical to understand that the Legislature did not just create three districts divided by race, they created many districts separated by race. What we did was make permanent the boundaries for the other school districts inside Omaha who, prior to this law, would have been absorbed by the city school district as the city itself grew. The law now guarantees that all the districts in the fastest growing and wealthiest parts of Omaha have permanent boundaries. These districts are over 90% white, as compared to the whole district of Omaha which is over 50% minority. Therefore, LB 1024 creates racially isolated districts throughout the city - minority districts in the former OPS and white districts everywhere else.

As if segregating the districts was not enough, LB 1024 (section 16) also destroys the current integration in OPS and prohibits most of the common tools used across the country to intentionally integrate. Section 16 puts a concept of "choice" before intentional integration, but the choice is controlled by the segregated school districts who are authorized to "cap" their own enrollment and who have to pay for the transportation of any student outside their district who comes in. Worse, it requires transportation for every student who attends a school other than the one in his or her neighborhood, regardless of whether such movement fosters integration. It also doesn't permit, internally, school districts to control the access to magnet schools.

In other words, the law prohibits mandatory assignment to anything but a home attendance area school, prohibits using magnet schools as an intentional incentive to integrate, prohibits using transportation as an intentional incentive to integrate and creates an enormous incentive on school districts to try to keep everyone at home to control what otherwise would be huge transportation costs (There is no exception to the spending lid for the transportation funds to be paid, in arrears, by the state, so it eats into what a district can spend on everything else.)

The most infamous component of the bill, Section 41, is being litigated because the Legislative record plainly reflects that at least one of the purposes for dividing OPS was to create a "black" district.

The intent of AM 3142, the amendment to LB 1024 which requires the division of the Omaha Public School District, was stated succinctly on the floor by Senator Ernie Chambers, sponsor of the amendment. Since he is appearing as a member of the panel, I would encourage commissioners to review the transcript of floor debate on AM 3142 with particular regard to his introductory and closing statements. Other senators joining in the debate concurred with Senator Chambers and I would encourage commissioners to review their statements as well.

As a Legislature, we took action knowing full well what was included in the language of AM 3142. That amendment requires that OPS be divided using attendance areas of existing high schools. It also requires that the new districts be comprised of contiguous attendance areas and that two or three new districts be created. Limited by those rules, in the absence of some intervening change, it is simply impossible to create districts which are not racially segregated. I challenge commissioners to create non-segregated districts using the rules the Legislature set forth. It cannot be done.

Some would argue that integrated districts can be created if OPS were to change attendance areas. No one in the Legislature suggested that course during debate on the bill. In fact, every effort was made to prevent intervention by the OPS board. AM 3142 clearly sought to exclude any input from OPS by specifically providing that the new districts boundaries not be subject to approval of any school board.

As originally introduced, AM 3142 required that the districts share a “community of interest”, thus guaranteeing segregated districts. While a later amendment eliminated the “community of interest” language, that occurred only after it was apparent that no non-segregated division of the school district could take place under the language of the amendment.

While argument may be made that the intent was not to segregate, but rather to simply divide an overgrown district, that was not the intent on the floor. Had it been, we would have adopted AM 3167 which would have reduced the size of Millard Public Schools and Lincoln Public Schools.

The Legislature knew what it was doing when it adopted AM 3142 and approved LB 1024. The Legislature was aware of the effect of AM 3142. The Legislature knew the racial composition of the other districts and that they would remain intact.

Without going into great detail, what we do know about our federal constitution is that if a governmental entity takes race into account when it makes a law – and there is no doubt this does - then the courts must apply what is called "strict scrutiny". Nebraska will be required to show that it has a compelling interest to accomplish what cannot be achieved other than by using race. This has been the test required by our Supreme Court for years, it hasn't changed, and there is simply no compelling reason to use race to divide OPS.

In a nutshell, the end result of LB 1024 will be exactly as intended: schools segregated by race, the districts themselves segregated, continued underfunding for what are and will be very high poverty areas. We will deny children an equal opportunity to the education they deserve in direct contradiction to the principles of Brown v. Board of Education.

I am not aware of any evidence, empirical or anecdotal, that segregated education provides students with enhanced educational opportunities. But it is simply irrelevant. For I am aware of the view of the United States Supreme Court when it stated, in Brown v. Board of Education, 347 U.S. 483 at 495 (1954): “We conclude that, in the field of

public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

## **STATEMENT OF CHRISTOPHER TODD RODGERS, DOUGLAS COUNTY BOARD OF COMMISSIONERS**

I want to express my thanks to Chairman Reynolds and fellow members of the USCCR for their willingness to hold this briefing on Nebraska Legislative Bill 1024.

The hearing is needed to have a comprehensive dialogue on what this legislation entails and what the consequences will be to children in the eastern part of Omaha particularly Black and Latino children if the Omaha Public School District is split into three separate school districts.

As a Commissioner on the Douglas County Board, I have no direct authority over how education policy is governed or implemented in the school districts within our boundaries. The only direct involvement Douglas County Government has with its schools districts is through its Juvenile Detention Center and the educational options we offer while they are detained in our facility.

I bring to this discussion five years of experience as member of the Metropolitan Community College Board of Governors where I acquired a sound understanding of the how the State of Nebraska finances primary and secondary education. The taxing authority for Nebraska Community Colleges is under the same section of the law.

My interest in the section of the bill that splits OPS is totally personal. I came to Omaha in August of 1987 after graduating from East St. Louis Lincoln Sr. High School in Illinois School District 189 an entirely black school district. The first time I had a white classmate was my freshman year at Creighton University.

From that personal experience and my appreciation for the historic battles in Black History nationally and locally that have allowed me to serve as an elected official, I think the language in LB 1024 that authorizes the splitting of OPS creates an educational disadvantage, and strikes a blow at the foundations of Civil Rights: The Brown v. Board of Education Decision.

There are three provisions in LB 1024 that I feel will have unintended consequences for low income children in the newly formed Learning Community if the Omaha Public Schools (OPS) is split into three districts. Those provisions deal with the following issues:

- Equitable Funding
- Local Control
- Integration

### Equitable Funding

The key attraction of LB 1024 is that it will address the issue of equal funding for school districts that have greater challenges associated with poverty and language barriers.

The bill attempts to accomplish this by giving the new Learning Community the same \$1.02 taxing authority as the 11 or 13 school districts within its boundaries. The school districts within the boundaries are still allowed their same taxing authority (\$1.02), but can only use the amount the Learning Community does not authorize (i.e. if the Learning Community uses \$0.52 cents, the school districts have \$0.50 cents worth of taxing authority available).

This provision does not guarantee equitable funding. Without a mandate to have the Learning Community use the entire \$1.02 tax levy, funding between the school districts will still be unequal because the property values in the districts are different and some districts will not be able to generate the same amount of funding.

The bill provides state aid but this does not offer a guarantee to equitable funding. If it did, we would not be here at this point in time because the school districts would be satisfied with the current provisions to fund primary and secondary education.

### Local Control

It is argued that the section of LB 1024 that breaks OPS into three separate districts will provide increased input for parents and increase local control. This argument is a “Trojan Horse” used to ignite the emotions that come from a community’s sense of pride and its feeling of oppression in the past and today.

LB 1024 could actually weaken local control by adding another layer of authority to the local governance process and removing important powers from the representatives elected by the voters. The influential duties of establishing tax levies and the placement of specialized schools will no longer be the authority of local school boards. Those powers now go to an appointed learning community not representative of the individual school district populations.

LB 1024 has set up a local education structure that resembles a business franchise model. It has turned each of the 11 or 13 school districts into franchisees with the Learning Community as the franchisor. Similar to the Marriott Hotels which is the umbrella with hotels under its ownership such as the Renaissance, Courtyard, Residence Inn, Fairfield Inn, Towne Place, and Spring Suites. In the structure of LB 1024, the Learning Community is the umbrella organization with the 11 or 13 other school districts being separate entities that function under its guiding hand. Similar to a hotel chain they have different names, hiring authority, but key and I emphasis key decisions are influenced and made by the umbrella organization.

That is not local control.

## Integration

There is a common interest among all the parties involved to make sure that our schools are integrated and that children have a diverse educational experience. Before the passing of LB 1024, the OPS was the only school district within the newly formed Learning Community that had to deal with diversifying its student body in select schools.

Even though the new law promotes efforts to integrate such as prioritizing student placement according to income levels and providing transportation for all students, I expect the practical application of the law to be difficult because of the following:

- Option enrollment has been eliminated,
- The school district which the child chooses to attend must pay for the transportation,
- Each school district has the ability to set its own capacity, and
- A hardship clause allows school districts to exceed the district's capacity, but the rationale for the decision is not transparent.

In closing, I want to thank the USCCR again for holding this briefing. The agency is on a limited budget, and for the Commission to hold a briefing on this issue speaks volumes about its importance in the context of civil rights.

I hope this brief summary of my concerns gives you a clearer picture of the unintended consequence that will result if the provision of this bill that splits OPS is allowed to become law.

## **Panel 2**

### **STATEMENT OF WALTER VINCENT BROOKS, MEDIA SPECIALIST, UNIVERSITY OF NEBRASKA MEDICAL CENTER**

Nebraska Legislature Bill 1024 comprises 172 pages but its passage has resulted in a firestorm of resistance and criticism, primarily centering on a 1 ½ page amendment added by Senator Ernie Chambers. The Chambers Amendment calls for the reformation of the Omaha Public School system into three autonomous districts – A north unit that will be predominately African American, but not totally African American; a south unit that will be predominately Hispanic, but not totally so; and a west unit that will be predominately Caucasian, but not totally so.

I support this legislation. I have written a three-part series detailing my support for LB 1024 in the Omaha Star newspaper, Nebraska's only black-owned newspaper (May 4, 11, 18, 2006 editions). My presence here today is to reiterate that support and offer to the U.S. Commission on Civil Rights a summation of my reasons for supporting this legislation.

I am not here today to bring forth stacks of data and crunched numbers to prove, according to prevailing methodologies of scientific and administrative evidence, that the Omaha Public School system, in the main, has miserably failed African American children in this city. There are others on this panel today better equipped to provide the irrefutable documentation of this educational dysfunction.

The opposition to LB 1024, while not yet presenting the fullness of its legal case in a court of law, seems to be focusing on certain areas. Greatest of all is their deep concern for the ramifications of what they are designating a de jure "legalization" of segregation in Omaha because of the obvious racial composition of the three districts to be formed. In addition, regarding the "fine points" of the legislation, all of which remain to be worked out, just as any other legislative enactment requires fine tuning and detail administration, there is great concern, for example, that the break-up of OPS into three divisions will hamper such issues as administrative and teacher contract negotiations, and jeopardize a host of grants, some of which are currently providing additional programming support for minority children in the OPS system.

The working out of administrative details requires the presence of properly authorized representatives, timely and adequate review by all the parties involved of the issues at stake, and a table cleared of any and all possibilities of legal reversal of the entire platform. Until LB 1024 has met all of its legal challenges, the fine-tuning administrative questions can be asked but not fairly discussed and answered. This is the nature of bureaucracy. The mere fact that there may not be a satisfactory answer to such questions written into the bill itself has rarely been used as an excuse to call for the rejection of a wide array of national and local civil rights legislation passed over the last 40 years. Advocates get as much detail as possible into the mix, but the primary effort is to get something on the "board" that can be evolved. The key focus was to get a legal



precedent that can be immediately used to fight discrimination even if the legislation didn't, in full initial text, offer every answer to every potential question.

The history of African American struggle for progress is filled with significant, pivotal moments of change and at every one of these junctions in our history, there were powerful voices saying, "No, it won't work, leave it alone, we'll be worse off in the end."

As America entered the 20<sup>th</sup> century, there were two giant voices clashing over the future course of the African American population – Booker T. Washington and Dr. William E. B. Dubois. Washington was counseling a reduction and aversion to political activism, and building up from within, while Dubois excoriated Washington for decades about his disinclination to pursue integration and significant political agitation. Yet, was it not Dr. Dubois himself, after struggling well into old age for equal rights for African Americans, who finally threw in the towel and abandoned America altogether and spent his final years living in West Africa. He wrote America off as a lost cause. In fact, in his twilight years, Dr. Dubois was quoted as saying that maybe in the final analysis, the biggest difference between Booker T. Washington and himself was that Washington had actually been born a slave and understood things about the nature of Black people and American reality that perhaps Dr. Dubois never could because he had been born into the black middle class.

When Rosa Parks refused to move out of her seat in Montgomery, Alabama in 1955, nobody in the world would have or could have predicted that single act would result in a complete galvanization of the black community, a historic boycott, the elevation of a young minister named Dr. Martin Luther King, Jr. to planetary prominence and a global resonance from America that the African American people were finally standing up. And it almost never happened. The male pastor dominated black church system in Montgomery rejected the initial calls to join the battle. The pastors felt that a bus boycott would trigger a white backlash that would be much worse than the community was prepared to handle. If black millionaire and primary civil rights activism financier A.D. Nixon had not threatened to encourage every black female church member to quit their churches rather than be led by cowards, that boycott would never had happened. Also don't forget that the mighty National Baptist Convention, the largest black Christian association in the world, then led by conservative Dr. Joseph Jackson, had to be dragged into the civil rights struggle kicking and screaming. Dr. Martin Luther King, Jr., despite the fact that his own father was an executive official in the organization, renounced it and joined hundreds of other young dynamic fighting ministers to form a new national black ministers association dedicated to pursuing social justice for black people as well as heaven.

When Dr. Martin Luther King, Jr. finally acknowledged the arguments of African American youth activists in the Student Nonviolent Coordinating Committee that he must openly reject America's role in the Vietnam War, virtually the entire national civil rights apparatus, white and black, desperately tried to change his mind. The airwaves and news editorials thrashed Dr. King and said he could actually kill the civil rights movement. Major financial backers withdrew and said they would no longer support anything to do

with Dr. King. The naysayers were legion, but he held his ground and his voice became a global beacon light that helped spark an opposition that helped America regain its soul and eventually end that madness. We'll never know how many young Americans **didn't die** in Vietnam because Dr. King did the unthinkable.

And what about Malcolm X? How hard was it for him to spend the bulk of his activist life verbally burning white people at the stake, only to look deep into this own vision and realize that the primacy of his Islamic religion and his unceasing denigration of the entire white race were ultimately disserving the African American struggle for justice? He turned around and made the kind of earth shaking change that opened the door for an entirely new generation of activists, even as it cost him the loyalty of thousands of devoted followers.

What is it that scares everybody so much about this bill? It is that LB 1024 has touched the third rail of the train track carrying the African American civil rights educational movement since Brown vs. the Board of Education in 1954. The mantra has never changed. Any form of separation or racial segmentation is detrimental to the African American community. Yet, all we have heard about since Brown turned 50 years old is how there has been just about a complete restoration of segregation in America's public school systems. Nobody knows how, nobody knows why, it's just that, like magic, everything is virtually back to the way it was. We've lived through bussing, and every manner of special project, special program, magnet school, and pea under the shell manipulation – “Now, where's the education for black children that black people are still looking for? Which grant is it under now? Which new administration – presidential, gubernatorial, mayoral or school administrative? And we keep betting our children – **our children** – over and over again, that the dream educational “pea” is under “this” shell or “that” shell. And with the rarest exceptions, like natural born suckers, we keep losing, each and every time.

Senator Ernie Chambers did the one thing nobody expected, even from him. He said, Omaha is a segregated city and it is going to be this way for long time to come. The economic disparities for African Americans in this city, the residential resistances to developing the kind of housing minorities can afford, the quite blatant – almost riotous – response from white west Omaha to the very thought that their white schools would have to merge into minority-majority Omaha Public School's “One Omaha, One School System”, was enough for Senator Chambers, and a whole lot of us in North Omaha, to say, “Fine. You want it, you got it. Just give us the same autonomy in our side of town and let's see what we can do for our kids, the same way you look out for yours.”

So the primary notion that LB 1024 deliberately segregates the Omaha Public School system is really quite indefensible. The specifics of the bill actually guarantee a complete freedom of choice for every single student in the OPS system. But, really, have white kids from the suburbs ever truly indicated a significant will and desire to go to school in north or south Omaha? I don't think so. And minority parents can still take their child to attend whatever majority white school (or other school they consider integrated, if North

Omaha schools aren't good enough for them). If they get in that school, their kids will receive free bus transportation.

Now, whether they get in that school or not will be up to that particular school. LB 1024 makes every student in Omaha welcome in North Omaha, but allows every school outside North Omaha to accept North Omaha kids on an individual basis. Nobody is being forced to do anything they don't want to do. If none of us on this panel can agree on anything, I'd like to think we all can agree that forcing any school to take kids their community and culture doesn't really want around is a dead horse in present day America. LB 1024 is not about forcing anybody to do anything. It's about trying to maximize the day-to-day classroom administration and effectiveness for a handful of schools in each community.

This brings me to an interesting observation. Have you ever really wondered why, after over 140 years since black emancipation from slavery, historically black colleges and universities still account for the lion's share of all black college graduates? Yet, I never hear black college administrators crying to the media about how they need to have more white students on their campuses, that attending a predominately black college is somehow stunting the growth of those students. In fact, increasingly, HBCU students are highly sought after for immediate employment and graduate studies by major corporations and majority academic institutions. Black colleges and universities need more endowment money, they need more research grants, they need facilities upgrades, but I never hear anybody say those students didn't get a good, if not outstanding, education because there were no white students in their classrooms.

Or look at the astonishing growth of black church mega-ministries, the ones with 10,000, 20,000 and even 30,000 members. I don't hear Bishop T.D. Jakes, Bishop Eddie Long, and their peers talking about how they need more white people in their churches. Or 100 Black Men or the National Council of Negro Women, Delta Sigma Theta International or Omega Psi Phi National Fraternity. All of these organizations and associations have world-wide affiliations and nobody seems to mind that there may not be any white people with them when they show up.

Why is there a refrain that LB 1024 is going to segregate black children and they won't be going to school with white children or other children from other cultures, and therefore they will receive a stunted upbringing and education? Isn't it interesting that this argument is never successfully made when the children in question are white. White children in West Omaha go all 12 grades of public school without any meaningful interaction with students of color. And if there are students of color in those schools, their histories and cultures have no prevailing credibility and authority that extends past the momentary celebration of ethnic history day/week/month (you name the group) or a cultural foods day in the cafeteria or an annual entertainment assembly.

White people don't run around worrying about any of their children missing something because they didn't have black people in their lives during their formative years. Since when? One of the biggest reasons Americans struggle so hard today with developing a

true diversity mentality, especially in today's changing "flat world" as outlined so vividly by Thomas L. Friedman in "The World is Flat: A Brief History of the Twenty-First Century," is that Caucasians have consistently failed to embrace and empower the very cultures that have been in America the longest and done the most for white progress in this nation –African Americans, Native Americans and Hispanic peoples. All of our peoples have been in America since before the Mayflower, and after almost 500 years white people are still struggling with evolving true parity and inclusion for even its longest serving and most faithful brethren of color.

On the other hand, what is that makes highly intelligent and community-minded black people in Omaha insist that black people cannot gain control of a handful of schools in North Omaha, and legitimately provide a more hospitable learning environment that won't eventually deaden the desire for education in 40 to 60 percent of the black children who start out in kindergarten each year. Is it their sincere belief that somehow we actually can't do even at least a little better than this attrition rate once we get behind the steering wheel and have a authorized say over budget distribution, curriculum development, auxiliary support and the hiring and firing of the teachers and administrators who spend eight hours a day, five days a week with our – **our** – children?

Black slaves created the first public education system for school children in the south after the Civil War. Are you saying poor white people didn't send their kids to those schools? Of course they did. But unfortunately for black people and those racially misunderstanding white people, the federal government sold out that great opportunity to uplift all of America and allowed racist state's rightists to prevail but we had done it. The cat was out of the bag. We showed how everybody benefits when black people get some leeway to develop our own community and creativity. **We include everybody. We have never shut anybody out of our progressiveness.** Today, there are thousands of white kids dropping out of the American education system every year and they are doing it without any help whatsoever from African Americans. Maybe some of those kids, too, need the fresh perspective LB 1024 can bring to public education in Omaha.

The U.S. Commission on Civil Rights wants to consider whether or not LB 1024 is constitutional. I've been observing Senator Ernie Chambers for 28 years. I haven't seen him project an unconstitutional act yet. In fact, most of us think he's one of Nebraska's – if not the nation's – staunchest defenders of the U.S. Constitution. His record certainly speaks for itself.

The Commission wants to know the long-term potentially harmful affects of this legislation on minority children. Well, here's what I have to say about that: Nothing. I'll let Joe R. Feagin and Melvin P. Sikes speak for me. They provide an astonishing look at contemporary education for middle class African American children in their 1994 book, "Living with Racism: The Black Middle Class Experience."

Here are some bullet points taken from the Chapter titled, "Seeking a Good Education – Obstacles in Elementary and Secondary Schools." These points are black middle-class

parents' reflections on the short term and long term damage that discriminatory white actions in desegregated schools can often do to black children:

Hurdles from white administrators, teachers, students, and parents such as subtle racial cues, strange looks and the familiar "hush" noted by many blacks when entering traditionally white spaces.

School desegregation as it has actually been implemented mainly mixes together children and teachers of different racial backgrounds. But the curriculum is often not desegregated, and continues to reflect the topical interests of the white parents. A black parent may have to fight to bring new materials on African Americans into the instruction process, including expanded multicultural courses and programs educating all children about the contributions of Africans and African Americans to the development of the United States.

The tracking system. The negative psychological impact of tracking black and white children into separate schools was at the heart of the 1954 Brown school desegregation decision, yet desegregated school testing procedures, administered under the guidance of school counselors and teachers, have often been used to place black children into special tracks.

The interaction of black parents and children with white teachers, parents, and children can involve contending with common anti-black stereotypes. Harassment by white students that is overlooked as child's play by white teachers, nevertheless gives the black child the impression of collusion. Exclusion from some playtime activities breeds a sense of quarantine and isolation.

Schools that are predominately white develop their own cultures, often with a certain tolerance for conventional white prejudices and even racist symbols. What constitutes a racist slur in the black community is often considered, "just kidding around," or even a sign of affection among whites.

In closing, there is so much more to be addressed. LB 1024 is not trying to save the entire public school education for the entire African American people in the United States. There was an excellent automobile transmission repair shop in Omaha years ago called, All-Car Transmissions. They had a unique marketing promotion. They'd say, "We're not nation-wide, but we're one of the best in Omaha."

That's what LB 1024 is. If it succeeds, then maybe, just maybe, somehow tiny little Omaha may have uncovered a Rosetta Stone for how common community people can take back the education of their children and change the course of so many thousands of black children, especially boys, who really only have a prison cell waiting for them at the end of their failed "trial by education". If LB 1024 fails, then America really needn't worry about anybody else coming this way anytime soon. Right?

We've bet the lives of our children for 52 years on everything the white race has foisted upon us in the name of public school education. And what do we have to show for it in 2006? Isn't it time that just this once, we try it ourselves? How could we now have so much more to lose than the heart-breaking record that already totally speaks for itself?

I'm Walter Vincent Brooks. Thanks for listening.

## **STATEMENT OF MARIAN FEY, ARTISTIC DIRECTOR, THE ARTERY**

My name is Marian Fey and I am a parent of four OPS students and the Artistic Director of a local arts organization. I am a professional educator with a degree in elementary education. I want to welcome the U.S. Commission on Civil Rights to Omaha and thank them for taking the time to look into, what I feel is not only a violation of civil rights as I understand them, but also a dangerous situation that presents a serious injustice to the children of Omaha.

First of all, let me tell you about Omaha, who we are, and where we live. In Douglas and Sarpy County there are currently eleven school districts (map). That's eleven in the greater Omaha Metro. Until approximately forty years ago, as Omaha grew, so grew the Omaha Public Schools. City annexations were made and OPS, with very little fuss, absorbed the previously independent school districts. I won't go into the history of court ordered desegregation in the Metro, which, by the way, applied only to OPS, or the political climate at the time, or white flight, but you do need to know that when the city of Omaha annexed Millard in 1971 the Millard Public Schools were *not* taken in by OPS (chart). I'm certain the current school board has questioned that decision, or rather *indecision* many times (census map). This map expresses the racial breakdown of the Douglas Co. school districts. The vast majority of minority families live within the boundaries of the Omaha Public Schools. If this map could be broken down further, you would see that, in general, this section is primarily white, this section is primarily African-American, and this section is primarily Hispanic. Because of the large numbers of minority families and where they live, I don't envision a situation where OPS could be divided into three districts in a way that doesn't create a racially identifiable district.

Now let me tell you a little about my family and why we're in OPS. We live about right here. We chose our neighborhood and our children's schools for their diversity, we were aware of the academic excellence of all the Omaha school districts but, viewing academics as something more than test scores, my husband and I chose the district that would best prepare our children for life outside of school. What I have found is that not all of Omaha agrees with that philosophy and we have had to speak up to defend our schools and the children who attend them. My children perform just fine in school and honestly, they would probably do OK wherever we sent them. They have two college educated parents at home, a comfortable house, and all their basic needs met. They are ready to learn when they enter the school building. The same can't be said for every OPS student, in fact, many OPS students face challenges that I can hardly comprehend. One out of every eight OPS students is an English language learner and over 60% of OPS elementary students live in poverty. As OPS parents, neighbors, community members, and citizens of Omaha, we stand up for the rights of those children and work to ensure that the Omaha Public Schools are treated fairly in the legislature, within the state's school finance formula, and by other local districts. I have testified before the legislature's education committee on two occasions and my son, a sophomore at Omaha Central has even testified against 1024 articulating something that was clear even to a teenager, that many people in Omaha want the perks of the city, the zoo, memorial Park, Rosenblatt Stadium, the Qwest Center, and Holland Performing Arts Center, and then

they want to turn their backs on the problems of the folks who live and work in those areas and go home.

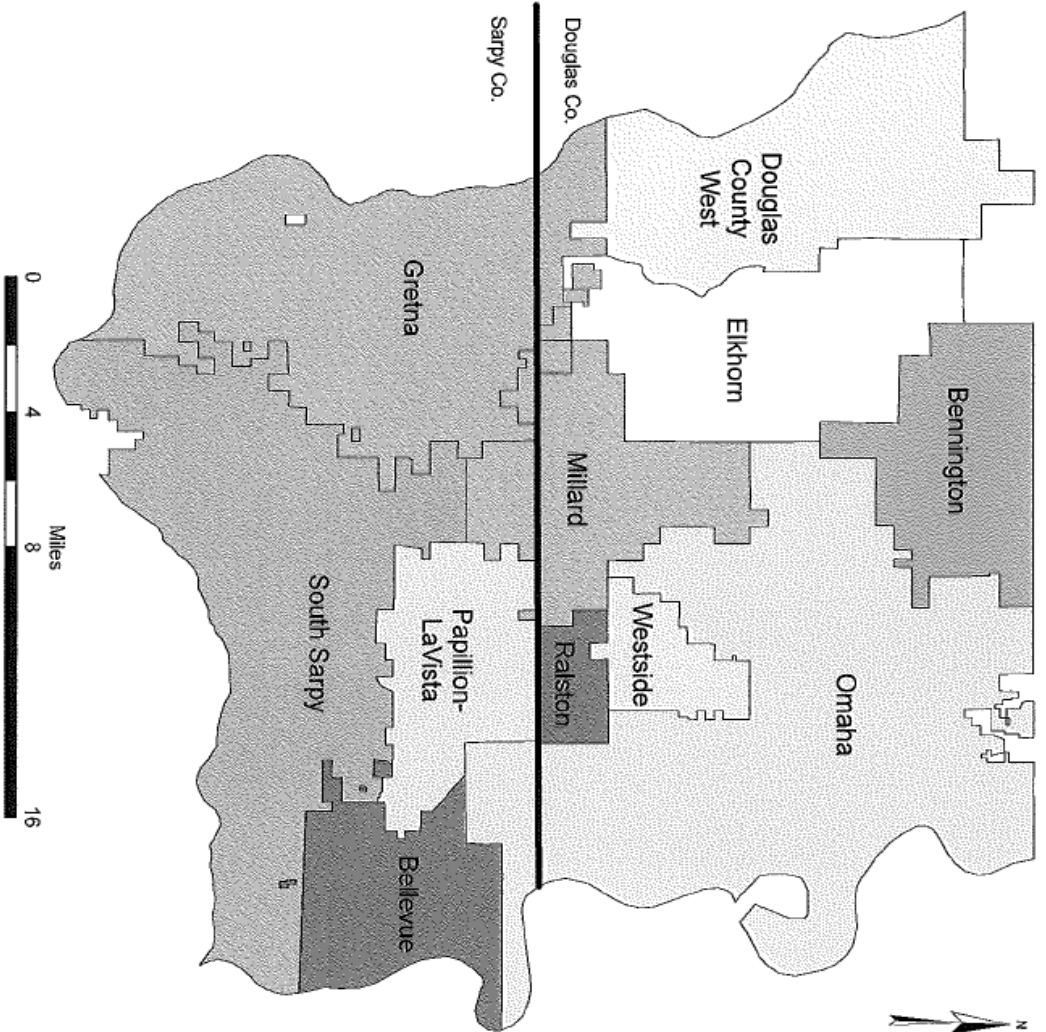
OPS has had in place an integration plan that works. It is natural that parents of elementary school age children, particularly those in the primary grades, prefer to attend neighborhood schools (map). In fact, in voting to approve the 1999 bond issue parents confirmed their support of this idea and mandatory busing based on race was ended. Before choosing to restructure the student assignment plan, OPS interviewed, polled, and met with parents across the district and a return to neighborhood schools was the overwhelming response. *Knowing* that the balance of racial and socio-economic integration could be upset, parents choose community, convenient access, and local control over court mandated integration. In response, OPS created a magnet program that continues to grow and attract students across racial lines (pie chart). Consistently, elementary schools are more diverse than the neighborhoods in which they stand.

There is no way that in one morning of listening to testimony you can fully understand the ideas and culture of a city but I have tried to give you a glimpse of the history and attitudes that define Omaha. Segregationist ideologies no matter how subtle or overt, no matter if they come from whites or blacks, if they're demonstrated through hate crimes or perpetuated through legal channels, are wrong. Wrong for this country and its global economy, wrong for this city and its sustained growth and development, and wrong for children and their futures. I want to close with a lesson I learned from my 15 year old (story).

I'm glad that my children succeed academically but I'm grateful that their education includes seeing people for who they really are and not just for the clothes they wear or the color of their skin. As I said before, my children will do fine in school, but it is the lessons of life that I'm afraid will suffer if the Learning Community succeeds in dividing OPS into three school districts.



# Douglas and Sarpy County School Districts

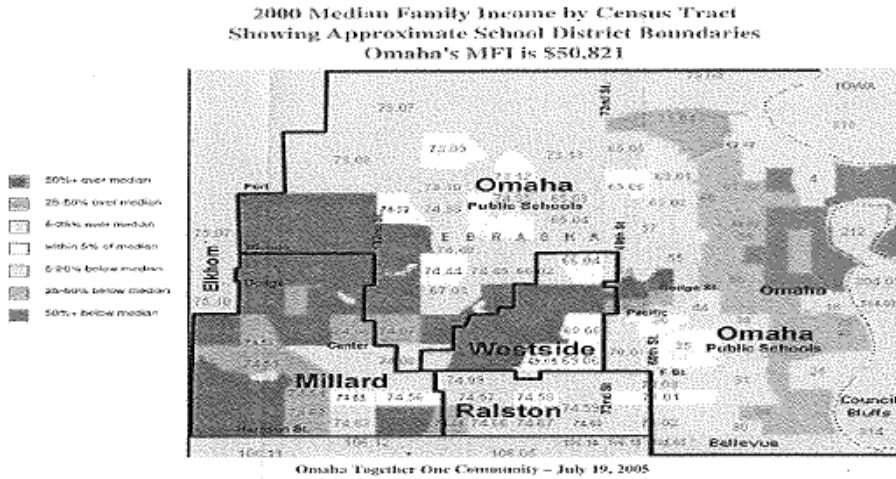


**One City One School District:**

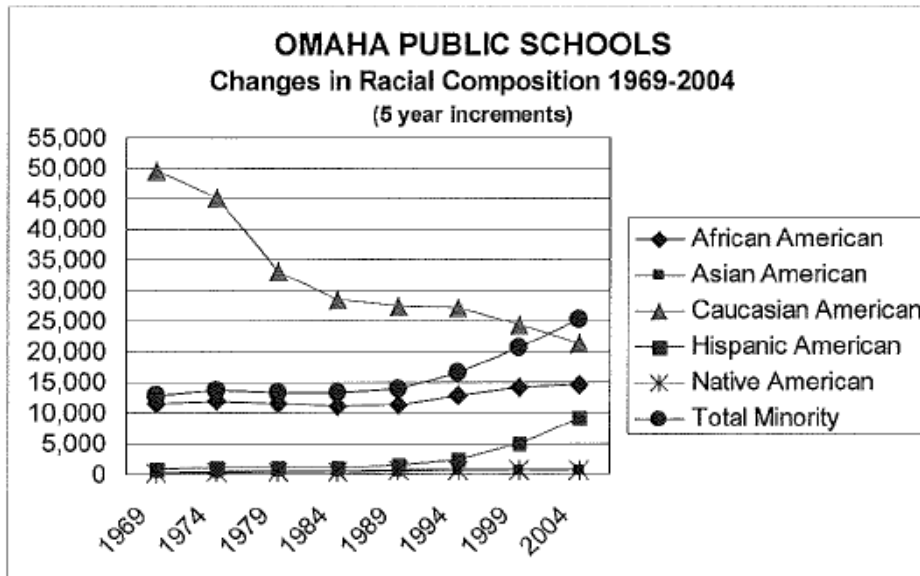
Information on the harm of multiple districts, and the strength of unity

**1. Omaha's multiple school districts are segregated economically and racially**

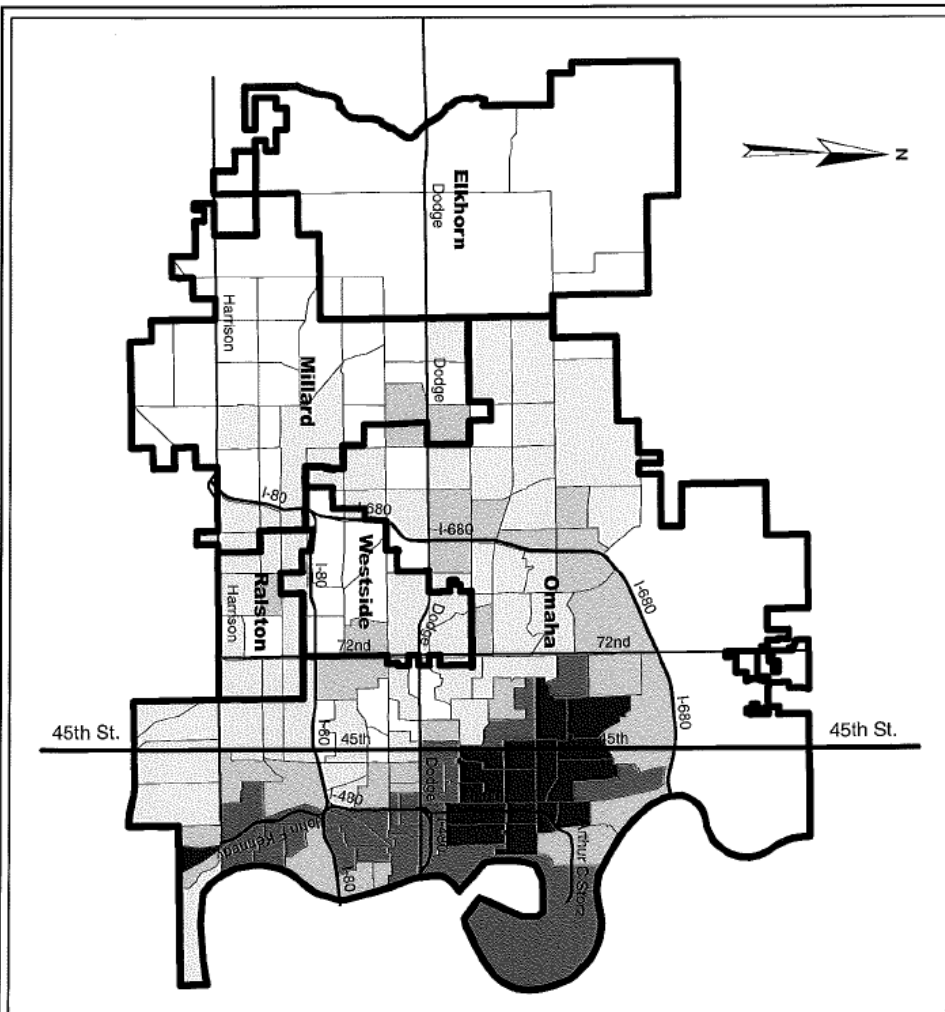
OPS has been impoverished, while other school districts are wealthy. 55% of OPS students live in poverty, and over 60% of OPS elementary students live in poverty.



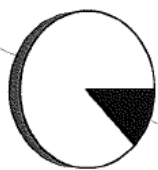
Multiple school districts have caused white flight.



# Percent of Persons Who are White Only by Census Tract for Omaha and Vicinity: 2000



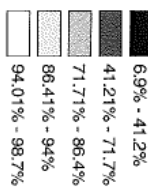
Students Opting into Millard, Ralston, or Westside from OPS



- Students Living West of 45th St
- Students Living East of 45th St

Source: Omaha World-Herald (November 13, 2000)

## Percent of Persons Who are White Only by Census Tract

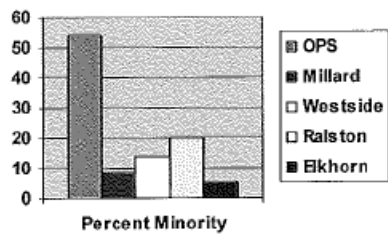


Source: U.S. Census Bureau, 2000 Census. This map represents data based on an unweighted average of census tracts contained within the city. Prepared by GPS Research Department.

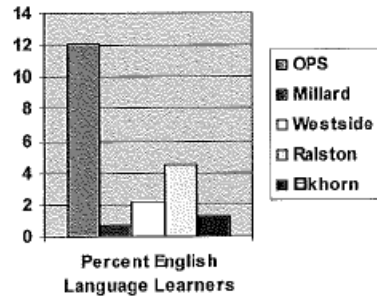
OPS has the lowest property value per child of all of the Omaha school districts.

District	Total	Per Pupil Enrollment (2004-05)
OPS	\$15,674,302,551	\$336,727
Elkhorn	1,849,624,221	501,117
Millard	7,212,226,116	354,044
Ralston	1,345,890,114	432,484
Westside	2,823,076,272	479,544
Total	\$28,905,119,274	\$363,084

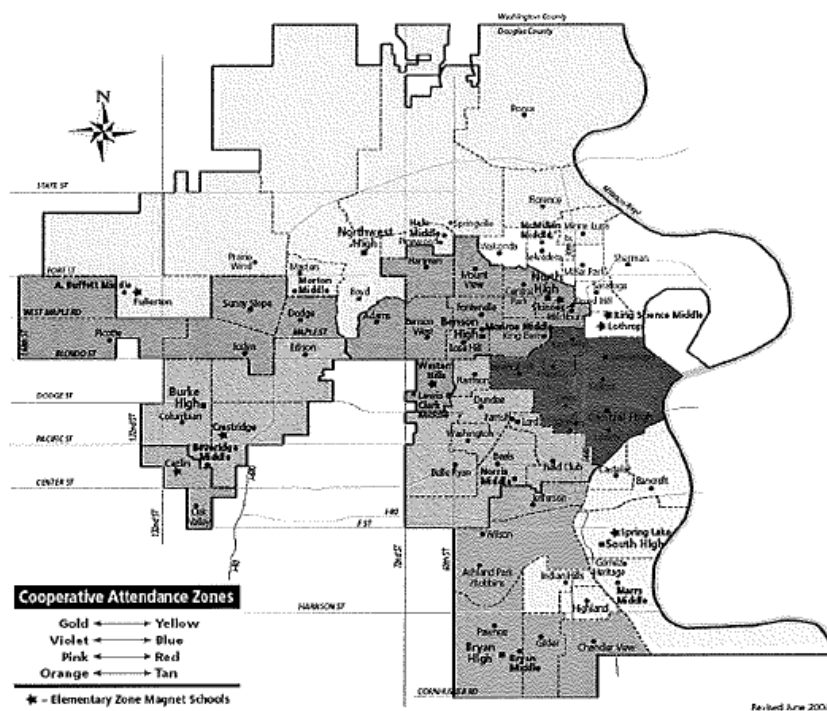
Minority students are concentrated in OPS.



English language learner (ELL) students are concentrated in OPS. There are 63 different languages in OPS, and 1 out of every 8 children in OPS is an ELL student.



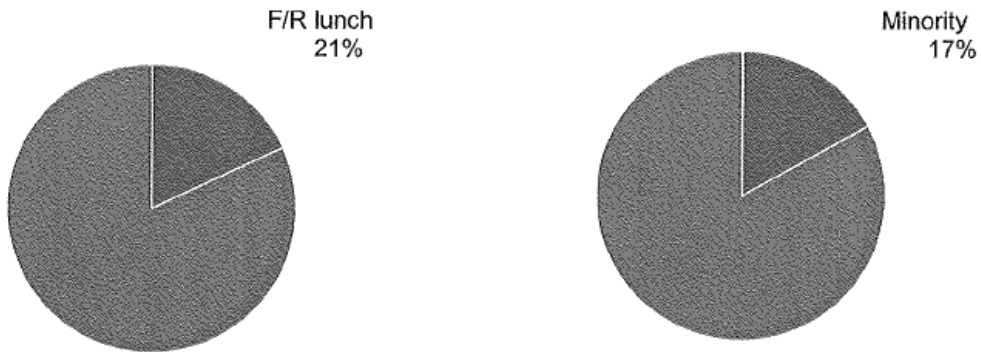
Elementary students in 'home' schools may transfer to another school in the appropriate 'cooperative zone'



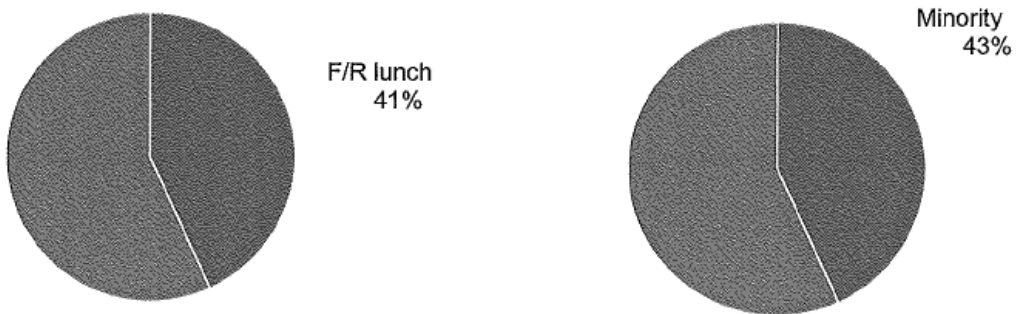
The colors represent cooperative zones:  
 Students in the yellow zone may transfer to schools in the gold zone, and vice versa;  
 Students in the blue zone may transfer to schools in the violet zone, and vice versa;  
 Students in the red zone may transfer to schools in the pink zone, and vice versa;  
 Students in the tan zone may transfer to schools in the orange zone, and vice versa;

Students are attracted to 'cooperative zone' schools for many reasons. For example, magnet schools offer special programs that attract student from across the district, and magnet schools increase diversity. Example: This is Catlin Magnet school, a Visual and Performing Arts Magnet located in southwest Omaha.

### Enrollment without Magnet Students



### Enrollment with Magnet Students



## **STATEMENT OF CAROL KREJCI, PRESIDENT, OMAHA EDUCATION ASSOCIATION**

Ladies and Gentlemen, my name is Carol Krejci and I am president of the Omaha Education Association. I appreciate the opportunity to appear today on behalf of the nearly 3000 professional members of the Omaha Education Association.

As I begin, I am reminded of the first motto of the United States and adopted as part of our Great Seal in 1775. This Latin phrase *E pluribus unum* translated means, "From many, one" or "out of many, one." It refers to the integration of the 13 independent colonies into one united country. But since 1776, it has taken on an additional meaning, given the pluralistic nature of American society. Today more than ever American society is a diverse society made of up of distinct racial, ethnic and religious groups. If America is to survive well into the 21<sup>st</sup> century it must accommodate this diversity through assimilation and the teaching of shared values. For more than 200 years of our history, that assimilation has occurred in America's public schools and so *E pluribus unum* could very well be the motto of America's public school system. It is here, in our public schools, that our students, regardless of their national origin or mother tongue, become true Americans with shared values and a shared sense of national purpose. Public education is the glue that binds American society together and preserves our nation as a functioning democracy.

We know of NO research that suggests that the best way to assimilate our children into American society is to isolate them in ethnic or racial enclaves. On the contrary, as history shows, if we are to educate our children to live in a diverse, multicultural society, this is best accomplished through integrated classrooms where students learn to respect each other, to appreciate the strength of diversity, and to share the common values that bind our nation together. LB 1024 seems to be in direct conflict with our public school mission and while the ultimate consequences of LB 1024 are yet to be determined, the statutory framework leaves many questions unanswered both for the students and teachers of the Omaha Public Schools.

Researchers and reviewers have investigated the ways that knowledge, attitudes, and behavior are affected by a host of issues, including school desegregation, other forms of increased intergroup contact, multicultural education, self-esteem building activities and many others. For example, the use of cooperative learning as a means to improving intercultural relationships is supported by more well-designed research than other single schooling practices. This teaching strategy involves organizing learners into culturally heterogeneous teams giving them tasks requiring group cooperation and interdependence, and structuring the activity so that the teams can experience success. This technique has been shown to be an extremely powerful means of enhancing intergroup relations. The research also shows that heterogeneously grouped learners experience other positive outcomes, such as increased self-esteem; improved attitudes toward school, specific classes, subject areas, and teachers, and a greater ability to appreciate the strengths that diverse people bring to a learning team. In other words, if our goal is to prepare students

to live and work in a diverse society, then it is critical that our schools mirror that society.<sup>3</sup>

We agree that it is important for students to have teachers and administrators of one's cultural group in one's school, but we also believe that it is important to expose children to a diverse teaching staff within each of our schools. Unfortunately, while our school-aged population is becoming increasingly multicultural, the teaching profession is becoming more monocultural. The recruitment and retention of significant numbers of ethnic minority teachers is a problem that is not unique to Omaha. "In 1985, approximately 88 percent of the U.S. teaching force was white," today that number is probably closer to 95 percent.<sup>4</sup> Clearly, if this trend is to be reversed, it will require a very concerted effort of public school administrators and teacher training institutions.

One of the major concerns we have with LB 1024 is that it does very little to address the antiquated state system for financing public education. The breakup of the Omaha Public Schools and the addition of the Learning Community governing council will only add to the bureaucratic overhead costs, thus making the inadequacy of current funding levels even more critical. We cannot adequately staff or equip high poverty schools until we adequately fund them. Simple common sense should tell us that, to tackle the greater challenges they face, schools serving large disadvantaged populations should receive additional resources on top of an adequate and equitable base funding.

LB 1024 is a 172 page document that generates far more questions than it answers. These questions come in two broad categories: questions being asked by students and parents, and questions that the teachers and staff are asking.

Let's start with the unanswered questions of parents and students.

- Will each of the three new districts have the same curriculum?
- Will they provide equal opportunity?
- If students wish to integrate themselves, will opportunities be afforded to move across new district boundary lines and attend schools in other parts of the former district?
- Will students have equal access to centers of academic excellence, for example, attendance centers that concentrate on math and science instruction?
- If students live with extended families, will arbitrary boundary lines divide family members from family members?
- If a parent wants his child to attend an integrated school, how does he find such a school?

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<sup>3</sup> Source: "Topical Synthesis #7: Fostering Intercultural Harmony in Schools: Research Findings" by Kathleen Cotton. Northwest Regional Educational Laboratory, 101 S.W. Main St., Suite 500, Portland, Oregon 97204

<sup>4</sup> Source: "Topical Synthesis #7: Fostering Intercultural Harmony in Schools: Research Findings" by Kathleen Cotton. Northwest Regional Educational Laboratory, 101 S.W. Main St., Suite 500, Portland, Oregon 97204



- What if a student is currently attending a school that is not in his home district, will he have to “apply” to continue there?

It is clear that LB 1024 has created morale problems for both parents and students. This is evidenced by the fact that both African-American and Hispanic parents have filed separate lawsuits challenging the constitutionality of LB 1024. Evidently these parents, who know best the special needs of their children, are not convinced that dividing OPS along racial lines into three separate districts will be in the best interests of their children.

The list of teacher questions and concerns is even longer.

- How will the current Omaha Public School faculty be reallocated to three new independent school districts?
- Will the allocation be along racial lines?
- Currently all faculty are part of a single bargaining unit with commonly determined salaries, fringe benefits, leave policies, professional growth policies, etc. What guarantees are there that faculty will be treated equitably by the three new districts, each with a separately elected school board?
- How will funding affect the look of negotiations within districts separately and collectively?
- How will this affect teacher compensation?
- How will it affect the number of educator jobs?
- Will the Learning Community become one contract for all?
- Currently OPS employees are all included in a single retirement system with pooled funds and common benefits. How will future retirement benefits be handled and how will retirement funds be allocated to the three new districts to guarantee equity?
- How do the Nebraska school reorganizations statutes apply to the break up of OPS?
- Will this division ultimately require other districts to re-structure?

One last concern is the make-up of the governing body for the new “Learning Community” that is created in LB1024. Each of the 11 school districts that are to be part of the new learning community are to have equal representation on this board, yet the 11 districts are not remotely equal in size. Bennington, with 800 students will have the same vote as Omaha with 45,000 students! This is not proportional representation and clearly violates the principle of “one man, one vote” as established by the Supreme Court nearly 50 years ago. Making this situation even more nefarious is that it is ethnic minorities and the economically disadvantaged that are being the most underrepresented in this system.

I want you to know that the Omaha Education Association, the Nebraska State Education Association and the National Education Association have a long history of opposing segregation and protecting the rights of teachers. No matter what direction this new law takes, we will be there on the front line of this important political, educational and social justice issue. But more importantly, we will be where we’ve always been-- in the classroom, looking into the bright eyes, teaching the eager minds, compassionately caring for the frightened and neglected, and celebrating the milestones of our students’ success.

We, the professional educators of the Omaha Public Schools, believe that strong public schools are the foundation of our democratic society and that every child deserves a great public school.

**STATEMENT OF JOSEPHINE R. POTUTO, PROFESSOR OF  
CONSTITUTIONAL LAW, COLLEGE OF LAW, UNIVERSITY OF NEBRASKA  
AT LINCOLN**

**CONSTITUTIONALITY OF DISTRICTS CREATED ON RACIAL LINES**

1. Generally speaking a violation of the equal protection clause of the 14<sup>th</sup> amendment based on race requires a discriminatory effect (different treatment) and a purpose to discriminate against a racial group. *Washington v. Davis*, 426 US 229 (1976).
2. All other things being equal, the higher the race concentration – African-American; Latino; white – per district, the clearer the discriminatory effect and, in turn, the more constitutionally suspect the plan.
3. The constitutional presumption is that of a unitary (integrated) system. Providing separate systems for whites and other races is presumptively unconstitutional. *Brown v. Board of Education*, 347 US 483 (1954). To override the constitutional presumption the state must show that it has a compelling reason for its policy AND that there is no alternative that would have less discriminatory effect.
4. Constitutional violations require a state actor.
5. Dividing the races into different groups, even if the groups are then treated equally, violates the constitution when the reason resides in racist notions of racial supremacy of the white race and the motivation is to insulate the white race from contact with other races. Such a policy is considered a badge or indicia of slavery. *Loving v. Virginia*, 388 US 1 (1967).
6. Equal protection principles do not change because a majority of each race supports the particular policy (although the fact of wide support among racial groups is evidence that the district plan does not embody a purpose to harm racial groups).
7. Permitting free transfer in and out of these districts by students from the other districts does not avoid an equal protection challenge (although the fact of free transfers is evidence that the district plan does not embody a purpose to harm racial groups). Transferees seeking an integrated experience are faced with an additional burden not faced by students satisfied with the districting plan and not seeking to transfer.
8. If the district lines described separate cities or were pre-existing historical districts whose populations developed without state intervention, then there would be no constitutional violation where the discrimination was intra-district or city as the equal protection clause does not require state actors to ignore traditional city or district boundaries to cure intra-district or city discrimination. *Miliken v. Bradley*, 418 US 717 (1974).

9. The difference between the race districts created by the Nebraska legislation and the de jure race discrimination in school districts found unconstitutional in Brown v. Board of Education is that the Nebraska legislation neither was impelled by notions of white race supremacy nor by a purpose to treat the non-white races less well than the white race.

10. At one time in constitutional history it seemed that equal protection violations arose exclusively out of policies that disadvantaged “discrete and insular minorities,” and not from policies designed to help these groups. *United States v. Carolene Products Co.*, 304 US 144 (1938). Today, however, the prevailing paradigm is that any focus on race in the provision of benefits is constitutionally suspect; that “benign” discrimination is still an equal protection violation because the benign help provided one racial group disadvantages the racial groups not so helped. *City of Richmond v. JA Croson Co.*, 488 US 469 (1989).

11. Even if the Omaha districting plan withstands constitutional challenge in its creation of the three districts on racial lines, there still is a very large constitutional obstacle related to whether the districts are, and will continue to be, equal in fact. The doctrine of “separate but equal” was found constitutionally insufficient in Brown v. Board of Education. The line of cases that preceded Brown were decided under the rubric that separate but equal is constitutional if the separate in fact are equal. Consistently in these cases the Court held that there was not equality in fact. Whether there is equality in the schools in each district will be a continuing issue.

## **STATEMENT OF REVERENED DOCTOR EVERETT S. REYNOLDS, FORMER PRESIDENT OF THE OMAHA NAACP**

First let me thank Ms. Sock-Foon MacDougall for calling me and Mr. Kenneth L. Marcus for writing me, submitting the guidelines from which I shall address my remarks.

Ladies and gentlemen, members of the United States Civil Rights Commission, let me thank you for the opportunity to come before you today.

Education is the number one issue in the world today. It must necessarily, then, be the number one issue in Nebraska and yes, Omaha, Nebraska. We all know that at one time in America, it was against the law for slaves--black people--to learn, or to be taught to read and write. The struggle for equality and justice began when the first slaves were brought to America in 1619 and continues even as we speak.

Booker T. Washington, the first Negro to receive an honorary degree from Harvard University, is quoted as having said, "The conditions of Negroes are deplorable but needing change from within. The change should be gradual, and its wake should not disturb the rest of American society."

For the moment, let's set aside former U. N. Ambassador Andrew Young and former U.S. Secretary of State Colin Powell and current Secretary of State Condoleezza Rice. Let's look at what Booker T. Washington calls gradualism. It took fifty eight years (1896 to 1954) from Plessy v. Ferguson to Brown v. Board of Education and now it is fifty two years (1955 to 2006) from Brown v. Board of Education to LB 1024. Over one hundred years and still we are talking about yesterday's issues. One moment of change in American education came when Homer Plessy stood up for what he believed and the courts ruled in 1896, Plessy v. Ferguson, that segregation could be practiced if the facilities were "separate but equal." Really, everybody knew even then what that really meant: "separate and unequal". It was not until 1955 that Brown v. Board of Education declared that "separated but equal" was inherently unequal and violated the constitution of the United States of America. That was in 1955.

Let me ask: Which one of us would go out today and buy an 1896 automobile? You would say, "You have got to be joking!" Well, what about buying a 1955 automobile? And again, you would say that we must be joking. The 2006 automobile comes from the factory equipped with air conditioning, heat, cassette and DVD players, on-star tracking and alarm systems, new suspension, etc. On any make, and, as standard equipment on most. We buy these modern automobiles and expect such features, look for such features and demand such features when they come from the factory.

Ladies and gentlemen, everything has changed. The way we fight wars has changed. Health and medical technology has changed and, lastly, computers have changed the world. I come before you today to let you know, and to declare, that quality education, quality integrated education must be the order of the day in 2006 and onward into the future.

## Quality, Integrated Education and Nothing Less!

Integrated education was good back then, for it was the stepping stone to quality education. Plessy v. Ferguson was good in its day; it was a stepping stone to Brown v. Board of Education. When I talk to legal minds here in Omaha, Nebraska, they tell me that Brown v. Board of Education was about integration and not, I repeat, and not about quality education.

When I sat in the class room as a 4<sup>th</sup> grader in a Nebraska school, I would hear my teacher tell jokes, the “N” word jokes. I finished high school in a Nebraska school system and never finished reading an English book. Yes, I graduated. As President of the Omaha branch of the NAACP, I was called to many schools. Let me share a few experiences. I remember when I was called to assist a black family where the son had been suspended from school for kicking a student. The young man was wearing white tennis shoes and socks, white pants and shirt. The young man who was kicked was white-Caucasian kicked in the face. There was blood on the floor and on the steps and hallway floor, but no blood anywhere on the young black student. With white shoes, socks and pants, he had no blood on him at all, and yet he was suspended for kicking the white student in the face. Or take the case of the teacher who grabbed a young black girl by the arm so hard that her nails broke the skin, and when the young black girl pushed the teacher away because she was hurting her, the girl was suspended. You might ask what was the girl doing? It was reported that she and two of her friends were making too much noise going down the hall. Also, consider the case of the teacher who held a picture of an ape next to a little black girl’s face and told her that she looked just like the picture; and finally, there is the school that sold “slaves” as a money-making project.

No, integrated education is not the end of the journey in education, it is another jump-off point on the journey for quality education, integrated, quality education. LB 1024, as amended, is a step in that direction. I tell you this, the present system is not working. There must be a change, a radical change in order to be educationally competitive, not just for minority (African Americans, Latino Americans, Native Americans and Asian Americans) but for all students. Not just for minority students to compete with white students, oh no, but for all students to be able to compete in a world and global educational market. We can no longer talk merely about “separate but equal” or Brown v. Board of Education, we must talk about students achieving equally in a highly competitive educational global market. Two-and-a-half grade levels behind can not be acceptable under any circumstances. In this current system, it is growing worse; yes, the achievement gap gets wider and wider. We need a radical change in the system in Omaha, Nebraska, and I fully support LB 1024, as amended, and signed by our governor. The law needs to stay in effect and be fully implemented. The class room must be, for our young people’s minds, exactly what the modern factory is for the automobile – fully equipped with the best technology and educational methodology available, for every student.

Does “neighborhood schools” under this plan mean segregation, because the respective neighborhoods are predominantly of one race? If so, then certainly Omaha schools

currently are segregated, like district 66 and west Omaha. You see, it only becomes “racial” when the race is minority. However, neighborhood control of schools has always been the goal of American education. The problem is that we are talking here about minorities exercising control. Ladies and gentlemen it is really racist to say that an all white district is all right, but any district that is majority minority is all wrong. Unquestionably, that is a purely racist idea; and I hope we are not going to redefine racism in 2006 to attempt to make it look different for what it actually is. What this Bill is talking about is quality, integrated from the factory. From the class room of every building in every district.

In the beginning, it was against the law for slaves to learn or to be taught to read and write. The first step or jumping-off point toward quality, integrated education was Plessy v. Ferguson. The second step or jumping-off point toward quality, integrated education was Brown v. Board of Education; and the third step or jumping-off point toward quality, integrated education is LB 1024.

Let’s make it happen.

Thank you for this opportunity.

## PANELISTS' BIOGRAPHIES

**Senator Ernest Chambers**, the first and only black member of the Nebraska Legislature, was first elected in 1970. He represents District 11, a poor and largely minority section of Omaha. Since 1970, Senator Chambers has been returned to office in every election. His term of office will expire at the end of 2008 as a result of a term-limits referendum that passed in 2001. Senator Chambers was the force behind LB 1024 amendment which divides the Omaha School District into three racially identifiable school districts, one predominantly white, one mostly black, and one largely Hispanic. He earned a bachelor's degree from Creighton University and a law degree from Creighton University Law School.

**Senator Patrick J. Bourne** is an Omaha native. He is a member of the Nebraska Legislature representing District 8 since 1998. From 2005-2006, he was the chairman of the State Judiciary Committee; a member of the Education Committee, Nebraska Retirement Systems Committee, Committee on Committees, Redistricting Committee, and the State Workforce Investment Board. He holds a bachelor's degree from the University of Nebraska, Omaha, and a juris doctorate from Creighton University Law School. Senator Bourne is a member of the Omaha Bar Association, Nebraska State Bar Association, American Bar Association, and National Conferences of State Legislatures.

**Christopher Todd Rogers**, a Douglas County Commissioner, was sworn into office in 2005. Mr. Rodgers previously served as an assistant to Omaha Mayor Mike Fahey and an elected member of the Metropolitan Community College Board of Governors where he represented its second district. In addition to his public service positions, he worked as a bank representative for First National Bank of Omaha, the United Way of the Midlands, the Omaha Small Business Network, Culver & Associates, Inc. and the Omaha World-Herald. He graduated from Creighton in 1992 with a bachelor of arts in journalism. In 1999, he received his Masters of Business Administration also from Creighton. He later attended the University of Nebraska at Omaha where he received a Masters of Public Administration in 2002.

**Walter Vincent Brooks** is a 59 year old African American who has resided in the city of Omaha since 1977. He has two children who attend Omaha Public Schools. He is a high school graduate, a U.S. Marine Corps combat veteran of the Vietnam War, and a community activist. He has worked for the Omaha Star newspaper, Nebraska's only black-owned newspaper, as a contributing writer for 28 years.

During his time in the military, Mr. Brooks witnessed extraordinary disparities in the treatment of black soldiers such as duty assignments, arrests, convictions, and punishments. This along with other civil rights events from the 1960s, including the assassination of Dr. Martin Luther King, Jr., has led him to become a historian of the African American experience. He has been affiliated with organizations that have challenged economic equality, racism and injustice in America, including the Black Panther Party and Vietnam Veterans Against War.



**Marian Fey** is the mother of four students in the Omaha public Schools and is deeply committed to the concept of public education. She has volunteered extensively within the school system serving as President of the Alliance for Omaha's future, on the board of the Omaha Schools Foundation, PTA president, chairman of the Harrison Elementary School 75<sup>th</sup> Anniversary Celebration, and on the Omaha Council PTA. Volunteer activities outside the public schools include teaching Sunday school at First Central United Church of Christ, Nebraskans for Peace, and leadership roles in both Boy and Girl Scouts.

Marian has a degree in elementary education and was a substitute teacher in the Millard and Ralston school districts. She served as Nursery Coordinator at Dundee Presbyterian Church and teaches dance classes at two local dance studios. Currently, Marian is the Artistic Director and co-founder of The ARtery, a not-for-profit arts education organization with a commitment to community outreach. The ARtery is the home of Dancing Classrooms, a ballroom dance program for fifth grade students in the Omaha Public Schools.

She is married to Paul Fey, an associate professor at the University of Nebraska Medical Center.

**Carol L. Krejci** has been a professional educator for 35 years, the last 20 years teaching American history and government at Omaha Central High School. In August 2006, she became president of the Omaha Education Association, representing nearly 3000 professionals in the Omaha Public Schools. Ms. Krejci is a graduate of university of Nebraska at Kearney, and earned her master's degree in political science from the University of Wisconsin (Madison). Although a native of Omaha, her professional career has included positions in several states, urban, suburban and semi-rural schools, as well as both public and parochial. Ms. Krejci has served in various positions on the Board of Directors of the Omaha Education Association for 15 years and recently completed 6 years on the Board of Directors for the Nebraska State Education Association. Outside of education, she is also active in political and community issues.

**Josephine (Jo) Potuto** is the Richard H. Larson Professor of Constitutional Law at the College of Law, University of Nebraska at Lincoln as well as the University's faculty athletics representative. She has written three books, *Winning Appeals*, *Prisoner Collateral Attacks*, and *Federal Criminal Jury Instructions* (with Perlman and Saltzburg). In 2003, she received the Outstanding Faculty Member Award from the Nebraska Law College Alumni Association.

Potuto earned a bachelor's degree at Rutgers' Douglas College, a master's degree at Seton Hall University, and a juris doctorate at Rutgers Law College. She is a member of the bar for the US Supreme Court; US Court of Appeals, Third Circuit; and the US District Courts for Nebraska and New Jersey. She is also a member of the American Law Institute and the Nebraska Bar Foundation. She is a past member of the Nebraska Commission on Law Enforcement and Criminal Justice, the County Attorneys Standard

Advisory Council, and the Federal District Court Practice Committee for the District of Nebraska.

**Everett S. Reynolds** is the Pastor of Lefler United Methodist Church in Omaha, Nebraska, and has taught at Wichita State University, Philander Smith College, and the University of Omaha. He earned his bachelor's degree at Omaha University and Philander Smith College, and his ThD at Faith Theology Seminary. He is a life member of the Nebraska PTA, former President of the Omaha Branch of the NAACP, and former Vice President of the Lincoln Branch of the NAACP. He has also served as a member of the Omaha Public Schools Advisory Committee for Desegregation and the Urban Renewal Authority in Lincoln, Nebraska.

**Ben Salazar**, born and raised in Nebraska, is an advocate for Latinos and Spanish-speaking people. He received his bachelor's degree in sociology as well as his juris doctorate from the University of Nebraska-Lincoln. Describing himself as a Chicano activist, he has worked with Nebraska organizers of farm workers since the 1960s. He has also worked with Legal Aid in Phoenix, Arizona; Lincoln Action Program; Chicanos por la causa; the public defender's office; and the Arizona attorney general's office. He is currently the publisher of the Nuestro Mundo Newspaper, a Spanish-English newspaper, in Omaha.

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION BRIEFING

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FRIDAY, SEPTEMBER 8, 2006

\* \* \* \* \*

HILTON OMAHA HOTEL  
1001 CASS STREET  
OMAHA, NEBRASKA 68102

\* \* \* \* \*

The Commission convened at 9:07 a.m., Ashley L. Taylor, Jr., Commissioner, presiding.

PRESENT:

ASHLEY L. TAYLOR, JR., Commissioner  
PETER N. KIRSANOW, Commissioner (via telephone)  
ARLAN D. MELENDEZ, Commissioner  
MICHAEL YAKI, Commissioner

KENNETH L. MARCUS, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD  
MARGARET BUTLER  
RANITA CARTER  
PAMELA DUNSTON  
DEREK HORNE  
SOCK-FOON MacDOUGALL  
JANIS MINOR

**THOMAS & THOMAS COURT REPORTERS  
& CERTIFIED LEGAL VIDEO, LLC  
OMAHA, NEBRASKA**

COMMISSIONR ASSISTANTS PRESENT:

RICHARD SCHMECHEL  
KIMBERLY SCHULD

**THOMAS & THOMAS COURT REPORTERS  
& CERTIFIED LEGAL VIDEO, LLC  
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## C O N T E N T S

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Nebraska State Senator

Hon. Patrick Bourne  
Nebraska State Senator

Christopher Todd Rodgers  
Douglas County Board of Commissioners

Panel 2

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Media Specialist, University of Nebraska  
Medical Center  
Brenda Council  
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Marian Fey  
Artistic Director, the ARTery  
Carol Krejci  
President, Omaha Education Association  
Prof. Josephine Potuto  
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Ben Salazar  
Publisher, Nuestro Mundo Newspaper  
III. Questions by Commissioners and Staff Director

## P R O C E E D I N G S

(9:07 a.m.)

COMMISSIONER TAYLOR: Good morning.

I am Commissioner Taylor, and on behalf of the Commission -- the United States Commission on Civil Rights, I would welcome everyone speaking on the impending decision of the Omaha School District.

The Commission, as you all probably know, is an independent, bipartisan agency established by Congress in 1957.

The mission of the Commission is to inform on the development of national civil rights policy and enhance enforcement of federal civil rights laws for quality research, objective findings and sound recommendations.

We are directed by Congress to, among other things, study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution due to race, color, religion, sex, age, disability, or national origin in the administration of justice.

Our Commission frequently arranges such public briefings with presentations from experts outside of the agency in order to inform itself and the nation of civil rights situations and issues.

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1           At the briefing, we have invited this morning a  
2 panel of experts to advise us on the legal and policy  
3 issues and implications raised by the Nebraska Legislative  
4 Bill 1024.

5           The bill includes an amendment by State Senator  
6 Ernie Chambers and Senator Raikes which divides the Omaha  
7 School District into three identifiable segments: One  
8 district will be predominately African American another  
9 will be chiefly Hispanic, and the third being primarily  
10 white.

11           Although some support the amendment as a means  
12 of providing local control to minority communities, others  
13 oppose it, in their words, as a modern-day form of  
14 governmentally imposed de jure racial segregation.

15           This morning we are pleased to welcome our  
16 first panel of experts on the legislation. First, we  
17 have Senator Chambers, Nebraska state senator; Patrick  
18 Bourne, also a member of the senate; and Christopher Todd  
19 Rodgers, a member of the Douglas County Board of  
20 Commissioners.

21           I welcome all of you on behalf of the  
22 Commission, and I will introduce everyone describe your  
23 activities, and then we will call on you according to the  
24 order you have been given for the record.

1           What we would like to do is have each member  
2 provide us with comments for ten minutes and with no  
3 questions, and then we will circle back around and open up  
4 the floor with questions.

5           Before I go any further, Commissioner Kirsanow,  
6 are you on the line?

7           COMMISSIONER KIRSANOW: I am.

8           COMMISSIONER TAYLOR: Great. A community  
9 activist -- this is to give you all a sense of the  
10 background of Senator Chambers.

11           A community activist since the '60s, Senator  
12 Chambers came into office on the crest of the new black  
13 electoral power in 1970, and much of the senator's time  
14 has been devoted to promoting human rights legislation.

15           He is the primary sponsor of Bill 1024, which  
16 breaks the school district into three racially  
17 identifiable districts. The bill was passed by a 31 to 16  
18 margin and was signed into law by Governor Heineman.

19           Even though the districts are encouraged to act  
20 voluntarily, pursuant to the integration plans, a number  
21 of court battles are expected and believed -- and I  
22 believe to be a number have already been initiated.

23           In a New York Times article of April 15th, 2006,  
24 Senator Chambers is quoted as saying, "Several years ago I



1 began discussing in my community the possibility of  
2 carving out our area of Omaha Public Schools and  
3 establishing a district over which we would have some  
4 control. My intent is not to have an exclusionary system,  
5 but we, meaning black people, whose children make up the  
6 vast majority of the student population, would indeed  
7 control."

8 Senator Bourne will be next and then followed by  
9 Mr. Rodgers.

10 And with that, Senator Chambers, I welcome you  
11 and I look forward to your comments.

12 SENATOR CHAMBERS: Thank you and members of the  
13 Commission.

14 I can't say that I'm pleased to be here without  
15 qualification; I would rather be with the Congressional  
16 Black Caucus in Washington, D.C., but they did not extend  
17 an invitation to me until after I had agreed to appear at  
18 this briefing with the Commission, and I feel that when an  
19 agreement is made it must be kept.

20 The Commissioners are going to take information,  
21 a report will be written, and I have read some Civil  
22 Rights Commission reports.

23 In fact, many years ago when, as Billy Joel  
24 sang, I wore a younger man's clothes, I was actually on

1 the state committee for the Civil Rights Commission.  
2 Obviously, we did not succeed in carrying out the mission  
3 of the Commission or you all wouldn't be here today.

4           Racism is as virulent as it ever was.  
5 Discrimination continues to tromp across the country in  
6 seven-league boots. Political appointments are made to  
7 various agencies and entities which ought to be  
8 nonpartisan. But we have to deal with reality. I am a  
9 practical politician.

10           I'm a pragmatist and a realist. I deal with  
11 things as they are.

12           Omaha has had a segregated school system for the  
13 69 years I've been in this world. It had a segregated  
14 system while I attended OPS through elementary school at  
15 Lothrop, high school at Technical.

16           It continues to have not only a segregated  
17 system, but it is more segregated now than it has ever  
18 been. And throughout the country, there is more racial  
19 segregation in public school systems than was the case  
20 prior to Brown.

21           Mr. Taylor mentioned the New York Times article,  
22 which caused the Commission to be here, which was  
23 misleading in its headline and that's all some people

1 read. The headline was, "Law to Segregate Omaha Schools  
2 Divides Nebraska."

3 First of all, the schools are segregated, as  
4 I've stated. To say that my provision would segregate the  
5 schools is like saying I will make water wetter.

6 When I have been contacted by people around the  
7 country about this provision and I ask them, "Have you  
8 read the provision," they say - they remind me of that  
9 Holiday Inn commercial: An expert -- an expert-sounding  
10 individual runs through all of the jargon, and then the  
11 individual to whom he is speaking says, Well, are you this  
12 expert? And the person says, Well, no, but I did stay at  
13 a Holiday Inn Express last night.

14 Well, when I ask people have they read the  
15 provision, they say No, but I did read the New York Times.  
16 The New York Times is not the bible - the Bible, as some  
17 people say; and rather than read just the quote in the New  
18 York Times, it would have been good to read the language  
19 of the provision. So in order that that would be in the  
20 record, that's how I'm going to start.

21 "On or before July 1st, 2007, each Learning  
22 Community coordinating council shall submit a plan to the  
23 state committee to divide school districts organized  
24 around the attendance areas of existing high school

1 buildings with two or three such high school buildings in  
2 each new Class V school district."

3           Digressing, Omaha is the only metropolitan-sized  
4 city, OPS is the only Class V district in the state.

5           "Such new Class V districts shall consist of  
6 school buildings having attendance areas which are  
7 contiguous. The effective date for reorganization  
8 pursuant to this section shall be July 1st, 2008."

9           "If the state committee disapproves such plan,  
10 the state committee shall revise the plan and shall hold  
11 one or more hearings on the revised plan."

12           "The state committee may further revise the plan  
13 and hold one or more additional hearings."

14           "If a Learning Community council fails to submit  
15 a plan as required pursuant to subsection (1) of this  
16 section on or before July 1st, 2007, the state committee  
17 shall develop a plan to divide any Class V school  
18 districts in the Learning Community into new Class V  
19 school districts organized around the attendance areas of  
20 the existing high school buildings with two or three such  
21 high school buildings in each new Class V school  
22 district."

1           "The state committee shall hold a hearing and  
2 may revise the plan and may hold one or more additional  
3 hearings."

4           "On or before December 31st, 2007, the state  
5 committee shall approve plans to divide all Class V school  
6 districts in learning communities into new Class V school  
7 districts organized around the attendance areas of  
8 existing high school buildings with two or three such high  
9 school buildings in each new Class V school district."

10           No mention of race. The criteria for drawing  
11 boundaries are neutral. The Legislature does not draw the  
12 boundaries. The attendance areas referenced are drawn by  
13 OPS.

14           If those attendance areas are segregative, they  
15 constitute formal state action by OPS in violation of  
16 Brown versus Board of Education.

17           My provision deals with administration and  
18 control of public education. It has nothing to do with  
19 student attendance. It will bring local control to the  
20 communities where the schools are located, provide more  
21 input and influence to the parents whose children attend  
22 those schools.

1           There is one other thing that I want to I want  
2 to add to what was quoted by Mr. Ashley from the New York  
3 Times.

4           After that ending of that -- oh, my time is up?  
5 I see -- the red light

6           COMMISSIONER TAYLOR: Go ahead and finish up.  
7 We have 13 seconds.

8           SENATOR CHAMBERS: Okay. 13 seconds? I can't  
9 get it done in that and so I will stop.

10          COMMISSIONER TAYLOR: We will come back to you,  
11 sir. Don't worry.

12          SENATOR CHAMBERS: Okay.

13          COMMISSIONER TAYLOR: Senator Bourne. Senator  
14 Bourne graduated from Southeast Community College in 1994  
15 (sic) and Creighton University School of Law in 1997. He  
16 was elected in 1998 to represent the 8th Nebraska  
17 Legislative District and reelected in 2002. He currently  
18 sits on the Education and the Nebraska Retirement Systems  
19 Committee as well as the Committee on Committees and  
20 chairperson of the Judiciary Committee.

21                 Senator Bourne voted against Senate Bill 1024.  
22 And I will allow you to characterize the bill and the  
23 basis of your opposition to the bill, sir.

24                 Welcome and I look forward to hearing from you.

1           SENATOR BOURNE: Thank you very much welcome to  
2 Omaha.

3           There are several components of LB 1024 that, in  
4 my opinion, divide by race. It's critical to understand  
5 that the Legislature did not just create three districts  
6 divided by race, they created several districts divided by  
7 race. What we did was make permanent the boundaries for  
8 the other school districts inside Omaha who, prior to this  
9 law, would have been absorbed by the city school district  
10 as the city itself grew.

11           The law now guarantees that all districts in the  
12 fastest growing and wealthiest parts of Omaha have  
13 permanent boundaries. These districts are over 90 percent  
14 white, as compared to the whole district of Omaha which is  
15 over 50 percent minority. Therefore, 1024 creates  
16 racially isolated districts throughout the city, minority  
17 districts in the former OPS districts and white districts  
18 everywhere else.

19           As if segregating these districts were not  
20 enough, LB 1024, in Section 16, also destroys the current  
21 integration plan in OPS and prohibits most of the common  
22 tools used across the country to intentionally integrate.  
23 Section 16 puts the concept of choice before intentional  
24 integration, but the choice is controlled by the

1 | segregated school districts who are authorized to cap  
2 | their own enrollment and who have to pay for the  
3 | transportation of any student outside the district who  
4 | comes in. In other words, the receiving school district  
5 | can determine if they're at capacity without any  
6 | justification for doing so.

7 |           Worse, it requires transportation for every  
8 | student who attends a school other than the one in his or  
9 | her neighborhood, regardless of whether such movement  
10 | fosters integration. It also does not permit, internally,  
11 | school districts to control the access to magnet schools.

12 |           In other words, the law prohibits mandatory  
13 | assignment to anything but a home attendance school --  
14 | home attendance area school, prohibits using magnet  
15 | schools as an intentional incentive to integrate,  
16 | prohibits using transportation as an intentional incentive  
17 | to integrate and creates an enormous incentive on school  
18 | districts to try to keep everyone at home to control what  
19 | otherwise would be huge transportation costs.

20 |           There's no exception to the spending lid for the  
21 | transportation funds to be paid, in arrears, by the state,  
22 | so it eats into what a district can spend on everything  
23 | else.



1           Section 41 of the bill, which I consider to be  
2 the most infamous component of it, is being litigated  
3 because the legislative record plainly reflects that at  
4 least one of the purposes for dividing OPS was to create a  
5 black district.

6           The intent of Amendment 3142, the Ernie  
7 Chambers/Raikes amendment, which requires the division of  
8 OPS, was stated succinctly on the floor by Senator  
9 Chambers, sponsor of the amendment. Since he is appearing  
10 as a member of the panel, I would encourage the members to  
11 review the transcripts of the floor debate on this  
12 amendment with particular regard to his introductory and  
13 closing statements.

14           Other senators joining in the debate concurred  
15 with Senator Chambers and I would encourage the  
16 Commissioners to review those statements as well.

17           As a legislature, we took action knowing full  
18 well what was included in the language of Amendment 3142.  
19 That amendment requires that OPS be divided using  
20 attendance areas of existing high schools. It also  
21 requires that the new districts be comprised of contiguous  
22 attendance areas and that two or three new districts shall  
23 be created. Limited by those rules, in the absence of

1 | some intervening change, it is simply impossible to  
2 | create districts that are not racially segregated.

3 |           I challenge the Commissioners to create non-  
4 | segregated districts using the rules the Legislature set  
5 | forth. It cannot be done.

6 |           Some would argue that integrated districts can  
7 | be created if OPS were to change attendance areas. No one  
8 | in the Legislature suggested that course during debate on  
9 | the bill. In fact, every effort was made to prevent  
10 | intervention by the Omaha Public School Board. AM 3142  
11 | clearly sought to exclude any input from OPS by  
12 | specifically providing that the new district's boundaries  
13 | not be subject to approval of any school board.

14 |           As originally introduced, AM 3142 required that  
15 | the districts share a, quote, community of interest, end  
16 | quote, thus guaranteeing segregated districts. While a  
17 | later amendment eliminated the community of interest  
18 | language, that occurred only after it was apparent that no  
19 | non-segregated division of the school district could take  
20 | place under the language of the amendment.

21 |           While argument may be made that the intent was  
22 | not to segregate but, rather, to simply divide an  
23 | overgrown district, that was not the intent on the floor.  
24 | Had it been, we would have adopted Amendment 3167 which

1 would have reduced the size of Millard Public Schools and  
2 the Lincoln Public School system.

3           The Legislature knew what it was doing when it  
4 adopted AM 3142 and approved the subsequent bill, 1024.  
5 The Legislature was aware of the effect of AM 3142 and  
6 they knew the racial composition of the districts and that  
7 they would remain intact.

8           Without going into great detail, what we do know  
9 about our Federal Constitution is that if a government --  
10 governmental entity takes race into account when it makes  
11 law, and there is no doubt that LB 1024 does this, the  
12 courts must apply what's called strict scrutiny. Nebraska  
13 will be required to show that it is a compelling interest  
14 to accomplish that which cannot be achieved other than by  
15 using race. This has been the test required by our  
16 Supreme Court for years; it has not changed, and there is  
17 no compelling reason to use race to divide Omaha Public  
18 School system.

19           In a nutshell, the end result of LB 1024 will be  
20 exactly as intended: Schools segregated by race, the  
21 districts themselves segregated, continued underfunding  
22 for what are and will be high poverty areas. We will deny  
23 children an equal opportunity to the education they

1 | deserve in direct contradiction to the principles in  
2 | Brown versus Board of Education.

3 |           I am not aware of any evidence, empirical or  
4 | anecdotal, that segregated education provides students  
5 | with enhanced educational opportunities, for that is,  
6 | simply, irrelevant. For I am aware of the United States  
7 | Supreme Court when it stated, in Brown v. Board, "We  
8 | conclude that, in the field of public education, the  
9 | doctrine of separate but equal has no place. Separate  
10 | educational facilities are inherently unequal."

11 |           COMMISSIONER TAYLOR: Thank you, Senator Bourne.

12 |           Mr. Rodgers, welcome.

13 |           Mr. Rodgers is a graduate of Creighton, a 1992  
14 | graduate, with a degree in journalism who later attended  
15 | Creighton and received his --

16 |           COMMISSIONER YAKI: Creighton.

17 |           COMMISSIONER TAYLOR: Creighton. I apologize.

18 | He later received --

19 |           COMMISSIONER YAKI: Haven't you (inaudible) the  
20 | NCAA brackets?

21 |           COMMISSIONER TAYLOR: I have not. He was sworn  
22 | into office as Douglas County -- Douglas County  
23 | Commissioner in January of 2005, and he focuses on  
24 | increasing public health resources, strengthening

1 community corrections programs through controlling  
2 spending through a better use of the taxpayers' dollars.

3 Welcome, Mr. Rodgers, and thank you for coming.

4 MR. RODGERS: Thank you, Mr. Chair, and let me  
5 give you my welcome to you and thank you all for coming to  
6 hear testimony.

7 My watch will be briefer because Senator Bourne  
8 touched on some of those things, but I would -- I have a  
9 couple of things I want - might want to highlight for you.

10 Let me say for the record, officially, that the  
11 Douglas County Board doesn't have any direct involvement  
12 in education, other than when a young person is put into  
13 the Douglas County Detention Center; we have authority  
14 over the guidance of education while they are there.

15 My background on this mostly comes from five  
16 years that I spent on the Metropolitan Community College  
17 Board, and the community college finance structure is in  
18 the same section as the primary and secondary education --  
19 education finance structure so I have some knowledge of  
20 that, also.

21 I grew up for 13 years in District 189 in East  
22 St. Louis. I came here in '87 on a basketball scholarship  
23 to Creighton and stayed because I love the city. I spent  
24 13 years in an all-black school district. I know

1 personally, have experienced the pros and the cons of  
2 that experience.

3 I think the law, the section of the law that  
4 breaks OPS into three districts is a disadvantage to the  
5 kids of color because of three reasons in the law, when  
6 they're practically applied, they don't set the advantage  
7 out for kids of color.

8 One, particularly, is the financing of how it  
9 will happen. One of the starting points of the -- one of  
10 the herald points of the law is the fact that it will give  
11 equitable finance. That can't happen how the law is  
12 written.

13 The Learning Community is set up and it's  
14 governed by the law and the Learning Community is given  
15 the same tax levy as the other school districts, but they  
16 have first dibs on how to use that levy.

17 Because of the fact, if they don't use all of  
18 the levy, which is \$1.02 with -- \$1.05 with capital  
19 improvement, if they don't use that, the formula is  
20 inherently unequal. There is nothing mandated to tell the  
21 Learning Community you have to max out your tax levy.

22 For instance, if they use 50 cents of the tax  
23 levy, the remaining districts have the authority to use 52  
24 cents. It cannot be equal because the housing values in

1 the parts of the district are unequal. The eastern part  
2 of the city's housing values may be somewhere between 60-  
3 and \$80,000, while the outer parts range from 150- to  
4 \$300,000. There's no way, when the split up happens, that  
5 the financing can be done equally.

6 One of the main reasons this issue has been  
7 brought to the floor is because the Omaha School District  
8 felt they were not getting equal funding. This does not  
9 solve anything.

10 In the bill, there is allocation for, I think,  
11 \$26 million for state aid. My understanding is it's there  
12 but hasn't been funded. So by that instance alone, you  
13 don't get equal funding for those districts that are in  
14 the eastern part, particularly those that are Latino and  
15 black.

16 The other part is through the transportation  
17 part of the law that talks about integration. There are  
18 some things in there that says yeah, you will give  
19 transportation to kids that are in the district and they  
20 can go anywhere they want to go, but there are some hidden  
21 hooks in the law.

22 One part is, as was stated, there is a piece of  
23 school law that said there was option enrollment. Option  
24 enrollment is when the kid went to another school

1 district, that money followed it. From reading that, my  
2 understanding is that is gone, that is no longer there.  
3 Plus, the district that the kids go to when they need  
4 transportation has to pick up that cost. I don't know  
5 what the incentive is for people to come here to that  
6 degree.

7           In the law, it says that individual school  
8 districts have the power to set their capacity. This is  
9 done at the beginning before all of this happens before,  
10 so if the school district sets their capacity from the  
11 start and they say we can just have a certain amount of  
12 kids, no matter what that integration plan does, if they  
13 set their capacity, you can't do anything in that regard  
14 to override that amendment.

15           There is another part in the law that --  
16 something that's been called a hardship clause. What that  
17 hardship clause says is that a school district can declare  
18 a kid hardship and pull them into the school district, but  
19 that process is closed, nobody knows what determines that.  
20 So you could potentially have an instance where some of  
21 those outer school districts can go into the eastern  
22 parts, pick the best and the brightest and bring them into  
23 the school district and also start picking out top



1 athletes, to give them overrides to come into the school  
2 district.

3           There's nothing that's equal in that regards to  
4 me in that law. It just has too many flaws in that regard  
5 to when the school districts are separated.

6           And lastly, a lot of people, because of  
7 community pride -- even myself sometimes when I hear that  
8 part of local control, you know, because I grew up in a  
9 black district, I want to say, yeah, okay, that probably  
10 can happen, but there's a whole lot of things that go with  
11 that. I mean, I don't think local control in that law is  
12 local control. The Learning Community is an extra way of  
13 (inaudible).

14           The strongest part of local control, in my 13  
15 opinion, is the taxing authority and also the  
16 determination to be able to determine what schools go in  
17 place in certain areas. OPS had that with the magnet  
18 schools, but now the Learning Community has the power to  
19 determine where focus schools go. That's one of the  
20 biggest attractions of a kid to a district, these special  
21 schools that are focused in there.

22           Also, like I just explained to you, you don't  
23 have the true levy authority because the Learning

1 Community gets first dibs on it, and depending on how  
2 they choose to do it, it could be unequal.

3           If they do not max out the levy, like I said  
4 before with local control, you're going to put people in  
5 the eastern part of the city in a situation where they are  
6 going to have to vote for an override, and one of the  
7 things that the Board of Commissioners does do is their  
8 Board of Equalization. And I can tell you, personally,  
9 there is a great sensitivity in all parts of the city  
10 because of the tax levies.

11           I don't know if you will get a district where  
12 you have a lot of elderly and low income and override  
13 their tax levy and you add more taxes on to that, so the  
14 question is will the money come. Those are my thoughts in  
15 that respect. Again, I don't have direct involvement in  
16 it, but I do feel that the benefits of the law when OPS is  
17 split will not be beneficial to those kids in the eastern  
18 part of the city.

19           COMMISSIONER TAYLOR: Thank you, Mr. Rodgers.

20           And before we open up the floor for questions, I  
21 first would like to give each Commissioner an opportunity  
22 to respond globally to what has been said or to make an  
23 opening statement.

24           Commissioner Yaki.

1                   COMMISSIONER YAKI: Thank you very much,  
2 Commissioner Taylor.

3                   I'm Commissioner Michael Yaki, and I had the  
4 opportunity to go introduce myself to members of the  
5 audience out there. It's probably the old politician in  
6 me: When it sees a crowd, just can't help shaking hands.

7                   But what I heard -- what I heard from a few -- a  
8 fair number of people is why are we, the United States  
9 Commission on Civil Rights, here in Omaha today.

10                  And just by way of background, we are coming up  
11 on the 50th anniversary of the creation of the United  
12 States Commission on Civil Rights. It was formed in '57  
13 by President Eisenhower in response to, essentially, the  
14 convulsions affecting this nation in the wake of the Brown  
15 versus Board of Education decision in 1954 with the  
16 integration of the Arkansas School District with the -- in  
17 the wake of Rosa Parks' defiance on a Montgomery school  
18 bus.

19                  We were formed to, essentially, be the body that  
20 would go out and be, essentially, the watchdog for the  
21 federal government, to go out and find out what  
22 discrimination is out there, what can be done, what can we  
23 do to recommend, what changes can be -- can be made in  
24 federal law that would help better heal a divided nation.

1           So when someone asks why are we here, in many  
2 ways we are here precisely because, you know, what we have  
3 read in the newspapers, not just in the New York Times,  
4 but, you know, articles from Ohio, Mississippi, Missouri,  
5 Kansas, Colorado, California, comments of all kind about  
6 what is happening in Omaha. It strikes at the very core  
7 of who we as the Commission are when anyone talks about  
8 the possibility, and I don't think anyone is concluding  
9 anything right now. We are here to hear, to listen, and  
10 make findings later.

11           But when anyone talks about the fact that anyone  
12 has potentially done something that strikes at the very  
13 root of why we were formed, that is to increase rather  
14 than decrease the integration and diversity upon our  
15 country, I think that is very probable for the Commission  
16 to come forward.

17           I just want to say that we are here with pen  
18 minds and open hearts. In just with the brief time that I  
19 have been here in Omaha, I found a very welcoming  
20 presence. When I'm eating dinner at Gorat's last night --  
21 I'm just trying to do the thing. Luckily, I had all of my  
22 stat drugs with me so that helped with all of the meat I  
23 was getting.

1           But I just want to say that I want to thank the  
2 panelists for being here. This is going to be an open and  
3 fair and free exchange of ideas and discussion today. But  
4 make no mistake, we are here because of what has been  
5 written and what has been said, and it is -- it is our job  
6 and our solemn duty to investigate and to determine what  
7 is going on and report back. And we look forward to  
8 hearing and we have looked forward to hearing from what  
9 has been said now and what will be said in the coming  
10 hours.

11           COMMISSIONER TAYLOR: Commissioner Melendez.

12           COMMISSIONER MELENDEZ: Thank you, Mr. Chairman.

13           It's great to be up here, and my name is Arlan  
14 Melendez. I'm -- I live in Reno, Nevada. I'm actually a  
15 member of the Paiute Tribe out in Reno, Nevada.

16           I was actually appointed on the Commission about  
17 ten months ago, so I'm relatively a new Commissioner, but  
18 I'm really glad to be out here. Most of our meetings are  
19 actually held in Washington, D.C., so it's a breath of  
20 fresh air to actually come out to a field hearing, to your  
21 beautiful city here in Omaha and your hospitality. So I  
22 just wanted to just say that.

23           We are here to listen to both sides of the issue  
24 and, hopefully, you know, come to some recommendations

1 later. But I just want to thank you for extending the  
2 invitation for us to come here, so thank you.

3 COMMISSIONER TAYLOR: Commissioner Kirsanow.

4 COMMISSIONER KIRSANOW: Thank you, Commissioner  
5 Taylor.

6 I (inaudible) with the comments made by  
7 Commissioners Yaki and Melendez.

8 COMMISSIONER TAYLOR: Very well.

9 Questions?

10 COMMISSIONER YAKI: Yeah, I have -- I have a  
11 question. I don't know if either of you can answer it, or  
12 maybe one of the other panelists can, but what -- how is  
13 the OPS School Board elected today? Is it at large? Is  
14 it by district?

15 SENATOR CHAMBERS: I had run -- this is Chambers  
16 speaking.

17 In the mid to late '60s, I ran for the school  
18 board. It was an election at large. Black people could  
19 not get anybody on the school board in that at large  
20 election. South Omaha could get nobody. So when I got  
21 into the Legislature, I persuaded my colleagues to adopt a  
22 district form of election, so, currently, school board  
23 members are elected by district.

1           There are two black people on the 12-member  
2 board. Brenda Council, who will speak later from what I  
3 saw in the paper, got on the school board by virtue of my  
4 legislative work.

5           The school board opposed vociferously and  
6 strenuously a change from at large to district because  
7 they would put out what they called an orange ticket  
8 containing the members they wanted elected and that orange  
9 ticket would prevail. So when districts came, all of that  
10 was broken up. Representation could come from all parts  
11 of the city.

12           So my history has been one of trying to empower  
13 those voiceless, powerless people, and that is what I'm  
14 doing with the amendment that I have. All of those  
15 efforts were fought. The only reason Mr. Rodgers is on  
16 the county board is because I got district elections. He  
17 hasn't been here very long --

18           COMMISSIONER YAKI: I understand.

19           SENATOR CHAMBERS: -- so he doesn't know things.

20           COMMISSIONER YAKI: If I could just follow up,  
21 in addition to the two black members of the school board,  
22 are there any from the Latino or Hispanic community as  
23 well?

1           SENATOR CHAMBERS: There might be one from the  
2 Latino community.

3           SENATOR BOURNE: One.

4           COMMISSIONER YAKI: So three out of the 12.

5           The reason I ask that, Senator Chambers, goes to  
6 your continued usage of the word local control. In many  
7 of the situations that either the Justice Department or  
8 the Commission has examined over the past, the issue --  
9 the issue of local control actually comes down to the --  
10 it comes down to the method of election of school board  
11 members.

12           And you're right, traditionally in the past, at  
13 large -- at large schemes were a -- were a device to  
14 ensure the -- that minority members were not elected to  
15 school boards.

16           But given the fact that you have districts  
17 currently, why -- why, then, do you believe that what you  
18 are doing is better than -- than having school district --  
19 school board members elected by district who do represent  
20 the interest of African Americans or Latinos, or what have  
21 you; why - why is this particular scheme that you put up  
22 better than -- than that current system?

23           SENATOR CHAMBERS: My goal is quality education.  
24 In Omaha in OPS, whether you are talking about the ACT,



1 SAT, CAT, reading and other tests, the scores for Latino  
2 and African American students are extremely low,  
3 criminally so. So when I talk about local control in this  
4 proposal, I'm talking about reducing the size of the  
5 student population.

6 Right now there are about 46,600 students in  
7 OPS. If the division occurs -- and by the way, nobody  
8 knows what these districts will look like, nobody. And  
9 contrary to what Senator Bourne and others have said who  
10 have not read the language carefully, when the  
11 coordinating council lays out the preliminary drawings,  
12 those attendance areas must be contiguous, but when the  
13 state committee takes over, there is no requirement that  
14 the attendance districts be contiguous. So they are not  
15 restricted to that.

16 And since you have seven high schools, two in  
17 two of the districts each and one district having three,  
18 the combination is almost infinite of how the district  
19 boundaries could appear.

20 COMMISSIONER MELENDEZ: But --

21 COMMISSIONER YAKI: But --

22 SENATOR CHAMBERS: But you will have in each one  
23 of those districts which is smaller a 12- member school  
24 board.

1           COMMISSIONER YAKI: I understand what - I  
2 understand what it was -- what it is you're saying and why  
3 -- why you rationalize what it is that you did.

4           Two questions that follow: One, isn't state law  
5 a rather blunt instrument to deal with a city's  
6 educational system, number one? Number two, what -- why  
7 was the amendment, Amendment 31- -- I think it was 3142,  
8 why was it brought up rather late in the process such that  
9 when I was reading the transcripts of the debates over the  
10 past few weeks that members were surprised, it was clear  
11 that many did not understand? Some, like Senator Bourne,  
12 seemed to understand what was going on, but, I mean, is --

13           SENATOR CHAMBERS: First of all, in a  
14 legislature, those kinds of things happen all of the time,  
15 in Congress, in every state in the union.

16           And Senator Bourne is aware of very substantive  
17 amendments coming up late in the session, that has nothing  
18 to do with anything.

19           If it was a violation of the constitutionally  
20 mandated methods for legislation, it could be attacked on  
21 the basis of violating the Constitution. There was  
22 nothing irregular about it, nothing. It was a matter of  
23 political timing as everything in the legislature is.

1           But to get -- I'll get back to that. But I  
2 want to get to this local control. We're making a record  
3 here.

4           You have smaller districts, 12 members. That  
5 district hires its own superintendent, hires the  
6 administrators, hires the teachers, formulates the  
7 curriculum, and can do something to improve the quality of  
8 education, and that's what I want. I don't care about  
9 integration, I don't care about separation. I see black  
10 children, Latino children and poor white children in these  
11 deprived areas failing, generations, and I'm not going to  
12 sit back And watch it happen.

13           But right now, it doesn't matter what Senator  
14 Bourne says, what Mr. Rodgers says, or what anybody on  
15 those other panels will say. The issue is in federal  
16 court now. That's where the constitutional issues will be  
17 resolved.

18           But when you talk about why it came up early --  
19 I mean late, let me explain how things happen in the  
20 legislature.

21           I'm probably the most potent individual senator  
22 there. There are 48 of them and one of me. It's an  
23 unfair fight. I think they need more help.

1           But in any case, I can stop all of this,  
2 anything. This bill came because there was a dispute  
3 between the white superintendent at OPS and the white  
4 superintendents in the suburban areas. They were snarling  
5 and sniping at each other and would not sit down and talk.  
6 And I sat back and watched them.

7           What OPS was counting on as leverage was an 1891  
8 law that said there should be one school district in a  
9 metropolitan city, although as the city limits of Omaha  
10 expanded, OPS never acted on that. But they had told  
11 these suburban districts they were going to absorb  
12 whatever parts of it extended into Omaha. I had said --

13           COMMISSIONER YAKI: Can we have -- just a  
14 second, Mr. Chambers.

15           SENATOR CHAMBERS: Yes.

16           COMMISSIONER YAKI: Mr. Chambers, just one  
17 second, Senator.

18           As much as we love enjoying your ring tones, if  
19 you could please put your cell phones on vibrate, that  
20 would help out, certainly, and not be so distracting.

21           I apologize, Senator Chambers.

22           SENATOR CHAMBERS: Was that what that - I  
23 thought those were the angelic harps.

1           COMMISSIONER YAKI: I realize -- I realize that  
2 -- I realize that perhaps background music is part of the  
3 --

4           SENATOR CHAMBERS: Thank you.

5           COMMISSIONER YAKI: If we were in Los Angeles,  
6 we would just call it -- we call it scorned background  
7 music but --

8           SENATOR CHAMBERS: Okay. The only reason I'm  
9 giving you a little background is so you can see the  
10 political context --

11          COMMISSIONER YAKI: No. I understand the  
12 background. The question -- I just only have one quick  
13 question for Senator Bourne which is that Senator Chambers  
14 said --

15          SENATOR CHAMBERS: Well, you asked why it came  
16 up late because it's my amendment.

17          COMMISSIONER YAKI: I understand. I understand.

18          SENATOR CHAMBERS: So you don't want me to  
19 answer that question?

20          COMMISSIONER YAKI: Well, actually, there's one  
21 point of your question that I really wanted -- that you  
22 said before that I really wanted an answer from Senator  
23 Bourne because he seemed to have a reaction to it, and  
24 that was --

1           SENATOR CHAMBERS: So you want him to answer  
2 the question you asked me?

3           COMMISSIONER YAKI: No. I'm asking --

4           SENATOR CHAMBERS: I don't understand what  
5 you're saying --

6           COMMISSIONER YAKI: I'm asking him to answer a  
7 different question --

8           SENATOR CHAMBERS: Okay.

9           COMMISSIONER YAKI: -- which is Senator Chambers  
10 stated that no one knows what these districts are going to  
11 look like, but it appears, at least from our reports, that  
12 everyone kind of has an idea what the districts are going  
13 to look like. Could you respond to that.

14           SENATOR BOURNE: Well, the law says that they  
15 have to be -- they have to be contiguous. Now, keep in  
16 mind that the first iteration of the law -- or of the  
17 amendment said they had to have communities of interest  
18 with two to three high schools in each one of them. Then  
19 that was changed so that it said contiguous with two to  
20 three high schools in it.

21           If you look at the map of the Omaha Public  
22 Schools and plot out where the high schools are, you  
23 cannot draw the map in any way other than there being a  
24 black district in the north, a Hispanic district in the

1 south, and a white district to the west. It cannot be  
2 done.

3           And we had a -- there was -- I think what  
4 Senator Chambers was referring to, there was a newspaper  
5 article that talked about attendance centers. Nowhere in  
6 the law is that contemplated. So now to hear -- to say  
7 that there's hundreds or dozens, I don't know what the  
8 words Senator Chambers used, that they could be drawn in a  
9 way that doesn't divide racially is inaccurate. It is not  
10 possible to draw -- to draw those districts in any way  
11 other than to have a black district, a Hispanic district,  
12 and a white district; it cannot be done.

13           COMMISSIONER TAYLOR: I have a question. And  
14 Commissioner Kirsanow, are you still on the line?

15           COMMISSIONER KIRSANOW: Yes, I am.

16           COMMISSIONER TAYLOR: Great. I didn't want you  
17 to think I had forgotten about you and Commissioner  
18 Melendez. I'm going to allow both of you all to hopefully  
19 have a number of questions for our panelists.

20           I wanted to ask one overarching question so that  
21 -- and maybe I'm the only person here who has this  
22 perspective.

23           I sense that the unspoken issues relate to  
24 quality education versus integration, and whether or not

1 we place them on the same plane relative to priorities is  
2 one issue. But in order to get that far, in my view, it  
3 sounds like Senator Chambers has said, I size up the  
4 situation as follows: What we have in place here is not  
5 working for certain kids. And if that is a point of  
6 agreement with the panelists, then I think we can get to  
7 the second question and that is where do we place  
8 integration on the plane in terms of priority with quality  
9 education if certain kids aren't receiving a quality  
10 education today.

11 So to Senator Bourne and Mr. Rodgers, I would  
12 ask you all: In your view, are the kids that Senator  
13 Chambers is concerned about today receiving a quality  
14 education in the current system?

15 SENATOR BOURNE: I won't deny what Senator  
16 Chambers says regarding some of our kids.

17 COMMISSIONER TAYLOR: Okay.

18 SENATOR BOURNE: And I think we could make that  
19 argument for any city of our size throughout the country.

20 COMMISSIONER TAYLOR: Mr. Rodgers.

21 SENATOR BOURNE: But if I could just -- one more  
22 thing.

23 COMMISSIONER TAYLOR: Okay.



1           SENATOR BOURNE:  If I could say, though, that  
2 doesn't warrant destroying the district.  Let's fix it  
3 rather than tear it apart.

4           COMMISSIONER TAYLOR:  And that's -- that's level  
5 two of my analysis, and I apologize; I want to make sure  
6 we're starting from the same point.

7           Mr. Rodgers, would you agree with the statement  
8 that it's not working for the kids that Senator Chambers  
9 has identified today?

10          MR. RODGERS:  I agree in the general spirit of  
11 the statement that we have to address the gap between kids  
12 of color and in schools; that's general.  But I want to  
13 say in defense, in being involved in some of the parts,  
14 that the school district has taken steps with African  
15 American Achievement Councils and things of that sort to  
16 try to increase the grades.  So I agree there is a crisis  
17 we need to address in that respect but efforts are being  
18 made.

19          COMMISSIONER TAYLOR:  And it sounds like, if we  
20 are at that second level of analysis, that we all agree --  
21 you all agree that something should be done and now we're  
22 discussing methods.  And with respect to Senator Chambers,  
23 it sounds as if he has identified a possible method.

1           Your opposition that I have heard, at least  
2 what I have heard today, was not grounded in the sense  
3 that you thought it would not lead to a better education,  
4 it was grounded in something else.

5           COMMISSIONER YAKI: Well, I -

6           COMMISSIONER TAYLOR: Is it, to answer the  
7 question?

8           COMMISSIONER YAKI: I would just - I mean, just  
9 before anyone answers, I would slight -- my own opinion on  
10 this, not that of Commissioner Taylor's, is that I hope  
11 that we're not seen creating the dichotomy, that we're  
12 saying that there must be a choice between quality  
13 education and integration at the same time. I think  
14 that's a false choice. I think that's -- that's the kind  
15 of choice that people would want to try and lead down to a  
16 path that none of us would want to see, I think.

17           So I would just say flat-out that I don't  
18 believe that it should be a choice between quality  
19 education and integration. I believe that the principles  
20 of this country and the principles of Brown say that those  
21 two are inexorably intertwined. If we are failing on one,  
22 it doesn't mean we abandon the other. It means that we  
23 have to continue on -- continue on that path that Brown  
24 set forth over 60 years ago.

1                   COMMISSIONER MELENDEZ: Mr. Chairman, may I  
2 comment.

3                   One of my concerns, and I had read through some  
4 of the history that said that we had - Omaha had stopped  
5 the busing program a number of years ago, and when you  
6 think about integration, you think that busing used to be  
7 a big component to do that, in, you know, creating magnet  
8 schools and all of those different things. I just wonder  
9 any of your opinions as to -- as to trying -- and we hear  
10 the quality of education is the main concern, but what is  
11 the plan as far as integration in either scenario, if  
12 anybody could just comment on that?

13                  SENATOR CHAMBERS: I think integration is a  
14 chimera, a will-o'-the-wisp. It started originally as a  
15 means to an end and the end was supposed to be equality of  
16 educational opportunity.

17                  You put black kids among white kids and they  
18 would have access to what is considered an enriched  
19 educational environment. You bring white kids into the  
20 black community and the facilities would be upgraded,  
21 better teachers would be sent there to take care of the  
22 white kids, but through it all, the aim supposedly was  
23 quality education.

1           Now the quality education has not happened,  
2           busing is over, integration has become an end in itself,  
3           and nobody can say how it will occur, not the federal  
4           courts, not this Commission, not the Legislature.

5           You are not going to have busing mandatory. You  
6           are not going to transplant the homes of black people from  
7           their neighborhood into the homes -- into the  
8           neighborhoods of white people. Since you are not going to  
9           have housing transplants, you are not going to have  
10          busing, I'm the only one willing to say honestly and  
11          forthrightly there is no practical way to integrate the  
12          schools in Omaha or any other city.

13          OPS has right now what they call a voluntary  
14          integration program and the schools are more segregated  
15          now than they ever have been before.

16          So my view is instead of wasting energy arguing  
17          about integration, which has no bearing on the quality of  
18          education, focus our efforts on what schools exist for and  
19          that's to educate the children.

20          One point and then I'll stop at this point, the  
21          19- -- last year's California Achievement Test, 2005, for  
22          eighth grade students in English, white children tested --  
23          tested out in the 85 percentile, Latino students 47

1 percentile, African American students 33 percentile which  
2 is ten points worse than it was five years before.

3 I don't care what people here say, I don't care  
4 what the Commission says, with all due respect of the  
5 individuals here. I'm not going to continue watching the  
6 grades plummet for these black children and have people  
7 talking to me about integration. They don't live in  
8 integrated neighborhoods. Their spouse is not of another  
9 race. They are not bringing up their children to marry  
10 somebody of another race. The corporations run by these  
11 rich white men who spoke against my bill do not have  
12 diversity and integration in their businesses. So it's  
13 been a distraction. Why can't we focus on quality  
14 education.

15 You know what I've told OPS down through the  
16 years: If you show me a plan that is going to improve the  
17 quality of education, I'll be your biggest fan. And they  
18 have never shown me anything.

19 And if you read the transcript of the debate,  
20 you'll see where other senators ask OPS: While you're  
21 opposed to Senator Chambers' idea, what plan do you have?  
22 What alternative do you have? They have none.

23 I feel like I should have gone on to the  
24 Congressional Black Caucus gathering. You know why?

1 | Because they are politicians who can do something. A  
2 | report will be produced and it will go to that repository  
3 | where there is so much dust you would think it's a  
4 | cemetery where we all revert to when we go ashes to ashes,  
5 | dust to dust from once we came. And I'm not trying to be  
6 | disrespectful. It's not my intent. But when I'm speaking  
7 | for the welfare of our children, I'm going to let you all  
8 | talk about integration.

9 |           When Senator Bourne had an amendment and he was  
10 | asked, How will you solve the problem of segregation in  
11 | Omaha? And I've got the article and he was frank. He  
12 | said, I don't have the answer. Well, who has got the  
13 | answer?

14 |           When OPS attacked my proposal, they attacked it  
15 | on the basis of segregation. Which is the most segregated  
16 | school district in the state? OPS. Who segregated OPS?  
17 | OPS's policies and practices. Who ended busing which was  
18 | allowing a struggling bit of integration? OPS ended it.  
19 | Who has segregated the schools through their assignment of  
20 | students? OPS.

21 |           And if you want figures, you don't have to take  
22 | them from me. You can get them from the State Department  
23 | of Education. So all of this opinionating by Mr. Rodgers,

1 Senator Bourne, and even myself, doesn't have to be the  
2 final word. You can go get the facts.

3 And if Senator Bourne and those supporting OPS  
4 had the evidence, why didn't they show the test scores to  
5 shut me up? Why didn't they show that they were not --  
6 why didn't -- why did they not show with the figures that  
7 I have that segregation is not worsening? That would have  
8 been the best argument of everything I said against it,  
9 but they didn't produce it.

10 There is a disproportionate number of  
11 expulsions, suspensions, dropouts among non-white  
12 children. And when you have 56 percent of the student  
13 body being minority, 92 percent of the teacher corps being  
14 white, there is a disparity there that nobody talks about.

15 Nobody on this panel has brought up the fact  
16 that an all-white district has been carved out of the  
17 heart of OPS by statute. It has its own school board, its  
18 own superintendent.

19 COMMISSIONER TAYLOR: That's all -- Senator  
20 Chambers, is that -- is that District 66?

21 SENATOR CHAMBERS: Yes.

22 COMMISSIONER TAYLOR: That's actually a question  
23 I wanted to raise.

1           SENATOR CHAMBERS: Then let me stop. Maybe I'm  
2 anticipating.

3           COMMISSIONER TAYLOR: And, you know, don't take  
4 my thunder in asking questions.

5           And I would ask folks in the audience to please  
6 keep your applause to a minimum because we are trying to  
7 create a record here, and in order to do our job well and  
8 hopefully provide policymakers with the information they  
9 need to make informed decisions, I want to get as much  
10 information into this record as possible. And so for that  
11 reason, I would ask you to keep your applause to a  
12 minimum, please.

13           Senator Bourne.

14           SENATOR BOURNE: You know -- thank you.

15           Senator Chambers talks a lot about integration  
16 of Omaha Public Schools. The reality of this is that 56  
17 percent of OPS's elementary schools are more racially  
18 diverse than the neighborhood in which they are located,  
19 64 percent of the middle schools are more racially diverse  
20 than the neighborhoods in which they are located, and it's  
21 close to 80 percent of the high schools are more racially  
22 diverse than the neighborhoods in which they are located.  
23 That was before the passage of 1024.



1           Part of the reason -- and Senator Chambers is  
2 right that an amendment in our legislature can be brought  
3 forth at any time, but in my opinion, part of the reason -  
4 - or part of the problem with the Chambers' amendment and  
5 why I feel that the enormity of that amendment will come  
6 back and haunt us is that we weren't provided the  
7 opportunity to fully vent these issues.

8           When Senator Chambers gets on the floor and says  
9 that the schools are segregated, it's -- it's not  
10 accurate. Are they as integrated as they should be? I  
11 don't think so. But to say they are segregated is not  
12 accurate.

13           I want to go back to the -- when he talks about  
14 funding for schools and quality education. I can't  
15 dispute that everybody that's involved in this issue wants  
16 quality education for every one of our children. But how  
17 do you take a district that is already struggling to  
18 provide quality education to everybody because the  
19 financial resources aren't what they should be and divide  
20 it into three separate districts when -- when you look at  
21 how our education is funded here, half through property  
22 tax and half through income tax, state aid, and you divide  
23 up the areas east of 72nd Street into two separate  
24 districts and one district is out west, when the property

1 values east of 72nd Street are dramatically less than  
2 that in west Omaha, so what you are going to have is at  
3 least two of the three districts that are going to be  
4 inadequately funded. I don't understand how breaking the  
5 one district up into three is going to enhance quality  
6 education for any of our kids.

7 SENATOR CHAMBERS: On the funding -- oh, go  
8 ahead. I'm sorry.

9 MR. RODGERS: Let me add on to Senator Bourne's  
10 comments. In addition to the 55 percent earlier, as it  
11 goes up into the junior highs and high schools, it  
12 continues to get diverse.

13 But the situation, I guess, with -- with the new  
14 law -- and let me note, I agree with Senator Chambers'  
15 point, but the process and how they go about doing it  
16 politically is -- is a political process. That's why  
17 there's no dispute mostly with what they came up with the  
18 Learning Community; that was a political issue to say yes.  
19 That district you talked about, 66, and all of those  
20 others, that was a political solution. The split, in my  
21 opinion here, aggravates it for those kids of color.

22 For instance, the priority in the integration  
23 plan is that it goes to low-, moderate-, and high-income  
24 kids, and they get first choice. So how the plan is set

1 up, all of the transportation is going west, nothing is  
2 coming in. Those incomes are higher so they don't get  
3 first priority coming here. The transition would go from  
4 bogy income to income the way the law is set up. There is  
5 no incentive to encourage that. OPS has that today with  
6 some degree.

7           And back to the issue of the test scores, Speak  
8 from personal experience. I'm not a big fan of  
9 standardized tests. I got a 14 on my ACT. I took the  
10 GMAT and flunked it, took it again and got a lower score.  
11 I passed high school, I passed my MBA with flying colors  
12 and an MPA. I'm not saying they don't have (inaudible)  
13 but there are other measurement tools.

14           And if you are going to take the facts of an  
15 eighth grade kid, everybody -- when you look at the data  
16 of OPS, you know there's troubles in the eighth grade, but  
17 there's issues outside of the classroom. And to their  
18 credit, they passed a bill with emphasis on early  
19 education to try to prevent some of that in the early  
20 part. You don't just look at the test scores and say that  
21 that is the issue. There are a whole lot of other  
22 elements in there that have that issue at hand.

23           Now, my personal opinion with what Senator  
24 Chambers said, and I agree on the spirit of the fact that

1 | this society is not perfect, there is still a lot of  
2 | things that I'm not thinking I should be here battling  
3 | today when I thought my mother battled those 40 years ago.  
4 | And in that spirit, if you have a kid, and I'm speaking  
5 | personally, that is in one of those black or Latino  
6 | districts, they would have to be above and beyond par to  
7 | get over the stigma that would come from coming out of  
8 | that district.

9 |           I went through it, I lived through it, and every  
10 | time I came into it, the fact was that I came out of that  
11 | all-black district; I had to be two times better.

12 |           COMMISSIONER TAYLOR: Commissioner Kirsanow, do  
13 | you have any questions?

14 |           MMISSIONER KIRSANOW: Yes, I do. Thank you very  
15 | much.

16 |           First, I would like to apologize for speaking to  
17 | you in a disembodied voice. But I have a question for  
18 | Senator Chambers.

19 |           Commissioner Taylor, can you hear me okay?

20 |           COMMISSIONER TAYOR: Yes I can.

21 |           COMMISSIONER KIRSANOW: Okay.

22 |           Senator Chambers, I think I'm - everybody is  
23 | sensitive to the fact that black students (inaudible) are  
24 | performing at high school levels. The average black high

1 school graduate nationwide has the academic skills of an  
2 average white eighth grader, and according to the National  
3 Assessment of Education Progress, 90 percent of black 17  
4 year olds score below the average white 17 year old in  
5 math, more than 90 percent of black 17 year olds score  
6 below the average white 17 year old in science, and the  
7 same type of scores are present in reading.

8           What do you think that this bill will do what  
9 would improve those scores?

10           SENATOR CHAMBERS: All right. It goes back to  
11 what I said about local control. It will bring the  
12 administration of those schools to the parents whose  
13 children go there. They will not be treated dismissively  
14 and insultingly. The least qualified teachers will not be  
15 dumped there.

16           So when you have an involved community whose  
17 input is going to be respected and you can make the  
18 teachers and administrators accountable to that community,  
19 there will be an improvement in what is done in the  
20 classroom because there are teachers who don't teach now  
21 because they don't have to but they are able to.

22           If they know that they are going to be respected  
23 and well paid and the community is watching them, they  
24 will do a better job, and the parents will watch to make

1 | sure that what is going on in those classrooms is aimed  
2 | at teaching their children.

3 |           And the way some parents test their children is  
4 | to give them a newspaper and say read the newspaper, give  
5 | them a book and say read me from the book. We don't need  
6 | a standardized test. If your child can't read the  
7 | newspaper, can't read the book, your child is being  
8 | cheated when it comes to reading.

9 |           So I believe that this plan that I'm advocating  
10 | will result in an improvement in the quality of education.

11 |           And going back to the funding, what happens  
12 | under this bill is that the wealthier districts are, in  
13 | fact, going to have to help subsidize the cost of  
14 | education in these deprived areas. All of the tax money,  
15 | there will be a common levy across the Learning Community,  
16 | all 11 districts which exist now and 13 after the division  
17 | occurs; all of that money goes into a common pot.

18 |           Then there is what's called revenue sharing  
19 | similar to what happens in the professional leagues. The  
20 | wealthy teams subsidize the poorer teams to ensure the  
21 | health of each individual team and stabilize the financial  
22 | well-being of the league. So all of these districts will  
23 | contribute according to their means which means the  
24 | wealthier ones will put more into the pot.

1           Then it is allocated based on need which means  
2 that when you weight things, such as poverty, English as a  
3 second language, those districts where those children are  
4 located will take more money out of that pot and it will  
5 go directly to those children. When it comes to the state  
6 aid formula, the same weighting occurs.

7           The problem that some people don't realize with  
8 the funding is that the Learning Community wanted to go to  
9 \$1.10 instead of \$1.05. The others didn't want that  
10 because the rest of the state could not levy that large an  
11 amount. So what I see from this is an equalizing of  
12 financial means, control and accountability demanded by  
13 the parents, plus that overarching allowance of students  
14 to seek attendance in any school in the 11 school district  
15 area and transportation provided.

16           I will give my colleagues this much. Anytime  
17 you look at a comprehensive piece of legislation, you can  
18 raise a lot of what-ifs or suppose or maybe this or maybe  
19 that. Let's get away from that and look at the reality.

20           They say that they have this voluntary integration  
21 plan in Omaha. There is more segregation now than before.  
22 There are more minority dominant schools with higher  
23 concentrations of minority students than there has ever  
24 been before. The test scores are not improving. So

1 despite what Mr. Rodgers says, I do think you have to  
2 have some objective indicia or criteria for getting an  
3 idea of what is happening in these schools.

4 I never had a black teacher in my life. I hated  
5 every day of school. It was a white teacher when I was in  
6 the kindergarten or first grade who read Little Black  
7 Sambo and let those kids laugh at me. The only thing I  
8 saw in these schools, and all of them were majority white,  
9 vastly so when I attended, was favoritism toward the white  
10 kids and belittling of black kids such as myself.

11 I developed no ongoing friendships from  
12 elementary school where I went to school with white kids,  
13 from high school where I went with white kids, from  
14 Creighton University from which I graduated and most of  
15 them white, or Creighton Law School from which I  
16 graduated. And at Creighton University in the law school  
17 I seldom attended a class. I didn't want to be in those  
18 classes. I hated school, and school should not be a place  
19 where children hate it.

20 But if you look at the funny papers, you will  
21 see that it's a traumatic experience for the students, for  
22 the teachers, for the parents; going back to the school is  
23 a terrible thing.



1           We, if I have anything to say about it, in a  
2 district where we have some influence, would create an  
3 environment where the children would see that they count  
4 and they would want to learn.

5           So in summing up what I'm getting to right now,  
6 I will provide the Commission with actual figures that go  
7 not just to percentages of how many minority students  
8 there are, but how many by number there are in each of  
9 these schools, and when you see that number increasing,  
10 you know that something is wrong.

11           COMMISSIONER KIRSANOW: Commissioner Taylor, I  
12 have a follow-up question, and, again, this is piggyback  
13 on my question about what you hope to accomplish, how do  
14 you prove the academic performance of the black and/or  
15 Hispanic kids in those school districts.

16           I'm originally from Cleveland, Ohio, although  
17 I'm based right now in Washington, D.C. In Cleveland,  
18 Ohio, there is a suburb of Cleveland known as East  
19 Cleveland, but there a number of other metropolitan  
20 districts -- Baltimore, District of Columbia in  
21 Washington, Chicago, and others, Newark, you name it -- a  
22 number of metropolitan districts where the environment  
23 that you just described has either existed in practice or  
24 by law. There's local controlled schools, improved

1 funding, black teachers in many of the classrooms, if not  
2 most, where a learning environment is one where there is  
3 the considerable stress on (inaudible), for example, and  
4 yet in the school districts that I mentioned, the  
5 performance of black children still is abysmal.

6           Were any of these empirical pieces of evidence  
7 or data related to local control in other jurisdictions in  
8 effect on performance of black and Hispanic children  
9 considered in the deliberations of this particular bill?

10           SENATOR CHAMBERS: Was -- to whom - was your  
11 question addressed to me as a follow-up, Chambers?

12           COMMISSIONER KIRSANOW: Yes, or anyone -- anyone  
13 else who can answer if they wish.

14           SENATOR CHAMBERS: Well, first of all, Nebraska  
15 and the Legislature are unique because I'm there. I make  
16 things happen that don't happen other places. I brought  
17 this Commission here. I'm causing the congressional black  
18 congress - the Congressional Black Caucus to have a  
19 seminar on this. There are law schools having seminars on  
20 it. It's being debated around the world.

21           My activity made these white superintendents sit  
22 down and talk to each other which nothing and nobody else  
23 could do, not editorials, not criticism by organizations,  
24 none of that but I made the difference.

1 I was the senator who made Nebraska the first  
2 legislature to take formal action to divest public funds  
3 from South Africa, so my presence is going to make a world  
4 of difference in how this whole thing goes. I don't just  
5 want a piece of legislation with my name on it. I have  
6 lived in the black community all of my life, all of my  
7 children went through OPS, I have two grandchildren there  
8 now.

9 Most children are going to attend public school,  
10 so I want to improve the education in every school  
11 building wherever located. And because of my interest, my  
12 ability, the driving force that I can provide, what  
13 happens in other cities and states will be rendered  
14 totally irrelevant. This is a different, this is a  
15 unique, this is a rara avis. It is a one-of-a-kind  
16 activity. You will not find any piece of legislation  
17 anywhere in the country like this one.

18 So it's going to be an experiment in the minds  
19 of some people, and either we're going to deliver or we're  
20 not. When we deliver, it's going to give the lie to all  
21 of this focus on integration, these side, or tertiary  
22 issues, that don't go to the quality of education.

23 When children can read, when they understand  
24 principles of math, not just how to pass a math

1 examination, when they understand geography, history,  
2 social studies, civics, and can relate those things to  
3 what's going on in the world around them, you and  
4 everybody else will see what this is and what it will do.  
5 That's the confidence that I have and that's the only  
6 answer really that I can offer.

7 COMMISSIONER YAKI: But at what -

8 SENATOR BOURNE: If I may -

9 COMMISSIONER YAKI: But at what -- but at what  
10 cost? I guess the question is at what cost in terms of --  
11 in terms of the fact that under the districts that have  
12 been drawn, if we were to believe what is -- what has been  
13 stated by Senator Bourne and others --

14 SENATOR CHAMBERS: That's not correct. You keep  
15 interrupting me on a false premise. I'm not going to  
16 answer a question like "have you stopped beating your  
17 wife?" I'm going to frame the question based on the facts  
18 and then I'll answer that, but you can ask it however way  
19 you want to and then I will rephrase the question.

20 COMMISSIONER YAKI: Well, then, I'm just -- then  
21 I'll ask it in a hypothetical if you would allow me.

22 SENATOR CHAMBERS: Yes.

23 COMMISSIONER YAKI: I mean, if -- if under a  
24 hypothetical --

1           SENATOR CHAMBERS: Yes.

2           COMMISSIONER YAKI: -- your plan results in the  
3 concentration of minorities in two distinct districts  
4 predominantly classified by race, one African American  
5 district in the northwest, a Latino district in the south,  
6 as a hypothetical, if that were to be the result, is that  
7 a good thing?

8           SENATOR CHAMBERS: It means nothing.

9           COMMISSIONER YAKI: It means nothing to you?

10          SENATOR CHAMBERS: No. Let me explain this to  
11 you. The term racially identifiable districts was put out  
12 by the media and OPS. All -- that's a description.

13          COMMISSIONER YAKI: But I'm just asking that --  
14 I understand. I'm asking -

15          SENATOR CHAMBERS: I'm going to answer.

16          COMMISSIONER YAKI: But I'm asking a  
17 hypothetical.

18          SENATOR CHAMBERS: And I'm --

19          COMMISSIONER YAKI: Would that be a good thing?

20          SENATOR CHAMBERS: I'm not going to answer --

21          COMMISSIONER YAKI: Do you see that it's good or  
22 bad?

1           SENATOR CHAMBERS: I'm not going to answer the  
2 way you want me to answer. I'm going to answer it in  
3 accordance with my understanding of the question.

4           That simply means there is a sufficient  
5 concentration of that group to affect the identity. It  
6 means nothing else. It is constitutionally neutral. So  
7 right now you have those concentrations.

8           COMMISSIONER YAKI: How is it constitutionally  
9 neutral?

10          SENATOR CHAMBERS: OPS is running a split or  
11 dual system: One for the white children where they  
12 achieve much better, another for the Latino and black,  
13 poor white children where they achieve much worse.

14          All I'm saying is that we're going to alter the  
15 administration. The children will still attend the same  
16 schools, but we will have a different way of  
17 administering, allocating the funds, hiring and assigning  
18 teachers. These children will still attend the schools  
19 they are attending now --

20          COMMISSIONER YAKI: Let me --

21          SENATOR CHAMBERS: -- no matter what.

22          COMMISSIONER YAKI: Let me -- just indulge me,  
23 Senator Chambers. Let me just indulge further my  
24 hypothetical.

1           SENATOR CHAMBERS: Then why don't you just ask  
2 me directly. Do I think that there have to be white  
3 children in a classroom before black and Latino children  
4 can learn? No, I don't think that and --

5           COMMISSIONER YAKI: I'm not saying that at all.

6           SENATOR CHAMBERS: -- I find it offensive if  
7 that's the question.

8           COMMISSIONER YAKI: I'm not saying that at all.

9           SENATOR CHAMBERS: I don't think there needs to  
10 be integration, in other words. Does that answer the  
11 question? Because you want to ask me something.

12          COMMISSIONER YAKI: Yeah, I do.

13          SENATOR CHAMBERS: Well, ask me directly.

14          COMMISSIONER YAKI: I guess you just answered  
15 it. Do you believe that integration, as a value, has no  
16 place in education in Omaha? Is that saying --

17          SENATOR CHAMBERS: I'm saying it's not  
18 education's job.

19                 When you have all of these rich people speaking  
20 against my proposal, why don't they talk about residential  
21 segregation, which if they broke that up, then the kids  
22 going to school will go to integrated schools.

23                 The problem in the south is that they didn't  
24 have as much residential segregation so black kids had to

1 walk past white schools to go to these ramshackle, black  
2 schools.

3 COMMISSIONER YAKI: I mean, I do - I think -- I  
4 think you were aware that problems with integration  
5 between the north, as you go further south and you go  
6 further north, in terms of concentration of housing and  
7 other kinds of things are unique things that have caused  
8 difficulty and that many -- many people have -- have  
9 struggled with over the years but --

10 SENATOR CHAMBERS: And the Supreme Court has  
11 said --

12 COMMISSIONER YAKI: -- but I know --

13 SENATOR CHAMBERS: -- that the schools are not  
14 responsible to deal with that.

15 COMMISSIONER YAKI: But I guess - I guess, you  
16 know, what it comes down to and what -- and what I am  
17 concerned about is your last statement that integration  
18 has no place in education.

19 SENATOR CHAMBERS: I said -- I don't say it has  
20 no place. I said it is not significant. It is of no  
21 consequence because right now black children are failing.

22 COMMISSIONER YAKI: Well, if it -- if it's  
23 insignificant and has no consequence, it, therefore, has  
24 no value in any school system that you would devise.



1           SENATOR CHAMBERS: No, that's what you're  
2 saying.

3           COMMISSIONER YAKI: No. I'm saying --

4           SENATOR CHAMBERS: I'll answer the question my  
5 way.

6           COMMISSIONER YAKI: Then how -- then how am I  
7 supposed to interpret it when you say --

8           SENATOR CHAMBERS: All right. Let me put t like  
9 this. You have a Latino student, a white student in the  
10 same class with a white student, African American student,  
11 Asian/Pacific Islander student, a Native American student  
12 and they are in an environment where you have a teacher  
13 who is not that competent, not adequate supplies and you  
14 have a checkerboard of dumbbells.

15           I don't want an integrated classroom where the  
16 children don't learn. A single-race school is not in and  
17 of itself an evil.

18           The segregation exists in America and in Omaha  
19 right now, rather than spend all of this time contriving  
20 these artificial means of bringing about what they call  
21 integration. You heard Senator Bourne and Mr. Rodgers  
22 condemn the proposal for transferring students. Everybody  
23 is against everything. So I'm saying let's concentrate on  
24 how to improve what the children learn in school.

1                   COMMISSIONER YAKI:  Senator Chambers, I think  
2 that seems --

3                   SENATOR CHAMBERS:  That's all schools are for.

4                   COMMISSIONER YAKI:  Senator Chambers, I think in  
5 the real world, where you and I do exist outside of this  
6 artificial hearing, I would - I would agree with  
7 everything that you say and do probably 99 percent of the  
8 time.  I think you and I are very like spirits in terms of  
9 how we approach policy, how we approach representing  
10 communities, how we approach the fact that if a system is  
11 failing we need to change it, we need to change it in a  
12 way to think outside of the box.

13                   But my problem continues to be, and I'll just  
14 state my own -- as evidence my own biases out here, and --  
15 and I apologize for the fact that it is, but I just have a  
16 very difficult time comprehending the fact that someone of  
17 your stature and background and what you have done with  
18 your life can say that I don't mind a one-race school, I  
19 don't think that putting kids of different races together  
20 has any -- has any educational social benefit when, in  
21 fact, you know, we can -- we can go through - I have a  
22 stack of studies.  We just did a briefing about diversing  
23 in the elementary and secondary school education, because,

1 as a broader issue, the issue of integration is very much  
2 under debate and under attack throughout this country.

3           And I have a stack of studies about this high  
4 that I've been reading that talk about the benefits of  
5 integration in terms of performance, in terms of job  
6 performance later on, in terms - in terms of the ability  
7 to relate better together as a society.

8           I mean, whether we want to say it - say it or  
9 not, education has not been education. Education has  
10 always been a form of socialization for -- for this  
11 country. And back in the '30s and '40s, it was a  
12 socialization that said that African Americans were  
13 inferior to whites and we were going to change that and  
14 Brown v. Board did that. And now it's 2000, things are a  
15 lot more complicated, we don't know that, forget it. I  
16 understand your frustration.

17           But I -- but I don't know if I can go to where  
18 you are, and that's what I'm having trouble understanding  
19 to the point where integration has no --

20           SENATOR CHAMBERS: But, Mr. Commissioner --

21           COMMISSIONER YAKI: -- integration has no value  
22 or integration has no -- no real meaning --

23           SENATOR CHAMBERS: You hit -- you hit the nail  
24 on the --

1           COMMISSIONER YAKI:  -- regarding how we design  
2 it.

3           SENATOR CHAMBERS:  You hit the nail on the head  
4 when you said that there was that given or accepted notion  
5 that black people are inferior.  That's what integration  
6 presumes.

7           If all white people go to the same school,  
8 nobody says that's bad.  I mean, it becomes bad only when  
9 black people or Latinos or Native Americans are going to  
10 be in a school.

11           I would like to see people --

12           COMMISSIONER YAKI:  I don't think it's bad.

13           SENATOR CHAMBERS:  -- of all groups work  
14 together but it's not leading to quality education in the  
15 schools, but we're spending a lot of time arguing it, and,  
16 apparently, people say if we have -- if we have  
17 integration, it doesn't matter if children fail.  That is  
18 not what I want.

19           COMMISSIONER TAYLOR:  Senator Chambers, I want  
20 to get Senator Bourne and Mr. Rodgers in here.

21           SENATOR CHAMBERS:  Yes.

22           COMMISSIONER TAYLOR:  I think they want to  
23 address Commissioner Kirsanow's questions and a couple of  
24 things that he's said.

1           SENATOR BOURNE: Commissioner, I wanted to go  
2 back just for a minute. The question the gentleman on the  
3 phone asked was did we contemplate solving the problem in  
4 the low test scores and with Senator Chambers amendment  
5 and the answer to that is no, we did not.

6           I also wanted to comment, Senator Chambers said  
7 there is no legislation like this anywhere, and he's  
8 probably right because the law is so clear on what is  
9 constitutional and what isn't and this law is so clearly  
10 unconstitutional that no other state is going to adopt  
11 such a law.

12           The reason integration keeps coming up in this  
13 argument is because what Senator Chambers has done through  
14 that amendment is -- is encouraged or convinced the  
15 Legislature to pass an unconstitutional law because it  
16 does segregate. That's the law. So when we keep talking  
17 about integration, that's why it's relevant here because  
18 the entire law on its face is unconstitutional.

19           So we can argue all day, if you want, about  
20 whether or not integration is good or bad or what we  
21 should do in that regard, but the reality is the reason  
22 it's relevant as it relates to 1024 is for the first time  
23 in 25 years a state has passed a bill that is state-  
24 sanctioned segregation. That's why it's relevant.

1           COMMISSIONER TAYLOR: Mr. Rodgers.

2           MR. RODGERS: I mean, back to the point on  
3 quality education and even when Senator Chambers said  
4 about the practicality of it functioning, he gave his  
5 experience when he was in school as well. I was in  
6 school, never had a -- you know, nobody -- I don't know,  
7 if anybody in the building was white when I went to  
8 school, they were gray. You know, there was no white  
9 presence when I grew up at Spring Creek.

10           But when you say to the quality of education,  
11 there are a lot of factors that go in there. If you talk  
12 to any educator, they would talk about socioeconomic  
13 things, they don't come from homes with passion, they will  
14 talk about the teachers themselves, they will talk about  
15 the principals and other things.

16           I had all-black teachers, teachers that  
17 constantly every day reinforced to you, you are in a hard,  
18 cruel world; these are the realities of a young black kid.  
19 You deal with it and you make it happen.

20           Now, in the practicality of how this law is laid  
21 out with the local control piece -- let's take OPS. OPS  
22 knows it has a trouble with, one, recruiting black  
23 teachers. They also have trouble with getting them here  
24 because the state doesn't pay high enough.

1           What OPS can do is take teachers and move them  
2 around, and to their credit, they have. They have tried  
3 to mix them with years of experience and try to mix them  
4 with color in schools. But you can't get black kids to  
5 get into education nowadays.

6           When you break this school district up, and I  
7 want to make this clear, the world has still got issue  
8 with race to some degree.

9           So you have an all-black and all-Latino  
10 district. You don't have enough Latinos going into  
11 education, you don't have enough black people. And to the  
12 people that support local control, it would be a slap in  
13 their face if they walked their kids into a school and 90  
14 percent of them were young black females -- I mean young  
15 white females. They are going to want to see black  
16 teachers, and right now you don't have enough going into  
17 the field, and to make that happen, the state would have  
18 to pay at least \$50,000 a teacher. They are not ready to  
19 do that.

20           So the practicalness of it functioning is you're  
21 going to have this district, you will not have enough  
22 black teachers coming in; and the realness of it, like I  
23 just said, when you come out of this district, you are  
24 going to have to be that above and beyond par, you are

1 going to have to have some people in there dealing with  
2 them who understand what they are going through and go  
3 through.

4 I think practically that is the issue on a lot  
5 of things. You can't avoid the practicalness of it: How  
6 are you going to teach the teachers, how are you going to  
7 get them here, how are you going to get the Latino  
8 teachers to come to deal with the students that -- the  
9 English as a second language students? There is a whole  
10 lot of things in there (inaudible) practically wrong.

11 COMMISSIONER TAYLOR: Commissioner Kirsanow, do  
12 you have a follow-up question.

13 MR. RODGERS: And, excuse me, but I have to go  
14 to an appointment I made. (Inaudible.)

15 COMMISSIONER TAYLOR: Oh. Well, thank you for  
16 your time.

17 COMMISSIONER KIRSANOW: Commissioner Taylor, I  
18 don't have a lot but I just have one -- one additional  
19 one. This is to anyone who wishes to respond. Is Senator  
20 Bourne still there, though?

21 COMMISSIONER TAYLOR: Senator Bourne?

22 COMMISSIONER YAKI: Yes, he is.

23 COMMISSIONER KIRSANOW: Yes.



1           COMMISSIONER TAYLOR:  Senator Bourne is still  
2 here, yes.

3           SENATOR BOURNE:  Go ahead.

4           COMMISSIONER KIRSANOW:  Okay.  And this goes to  
5 I think what Senator Bourne had made mention of.

6           When I looked through the legislative record,  
7 and this bill was being considered by the Nebraska  
8 Legislature, there was repeated reference to not only  
9 local control but black districts having control of black  
10 students by black parents and black teachers and black  
11 administrators, et cetera.  And it also appears, based at  
12 least on the limited amount of information that I have --  
13 and anyone can correct me if I'm wrong.  Obviously, you  
14 know more than I do about this.  But we -- we have  
15 hundreds of pages of information which I have gone through  
16 and it appears on my best assessment that if you look  
17 under Section 41, there's only four ways of dividing this  
18 up so that contiguous attendance areas would satisfy the  
19 mandates of the statute.

20           Now given that you've got a legislative record  
21 that talks about race is one of the primary reasons for  
22 doing this and then that the effect of this is to have  
23 districts that are predominantly white, Hispanic or black,  
24 how does one defend this on Fourteenth Amendment grounds?

1           SENATOR BOURNE: I don't think it's defensible,  
2 and I -- sir, I think your question probably should be  
3 directed to Senator Chambers because he brought the  
4 amendment and I tried to stop it and I could not get it  
5 done. Senator Chambers is formidable in the Legislature  
6 and I think the question is more suited for him.

7           I don't think it's defensible. I think it's  
8 clear that it is creating separate segregated districts.  
9 I don't think anyone would dispute that.

10           If you looked at the fact that in 1024 if a  
11 student from the Omaha Public School District, say --  
12 let's say a student from the newly created black district  
13 wants to go on Millard. The superintendent in Millard  
14 gets to decide whether or not they are at capacity. If  
15 they are at capacity, nobody comes into that district.  
16 They could have ten empty classrooms, 20 empty classrooms,  
17 an empty school building and they get to solely determine  
18 whether or not they are at capacity.

19           So right now Senator Chambers would argue that  
20 these schools aren't integrated and he did argue that on  
21 the floor.

22           If they are not integrated today and there is a  
23 mechanism to move kids west into east, east into west via  
24 specialized magnet schools -- and I would argue that OPS

1 is successful in integrating those schools, contrary to  
2 what Senator Chambers says -- but if that's the case today  
3 and there's not sufficient integration, then how do you  
4 think there's going to be integration in the future if the  
5 receiving school district can say we are at capacity and  
6 there is a disincentive for them to say we have room,  
7 because if they say we have room, they have to pay the  
8 transportation costs, and they don't get reimbursed for  
9 those transportation costs until the next year under our  
10 formula.

11           So I think it's pretty clear it does not square  
12 with the Fourteenth Amendment. I think it is clearly  
13 unconstitutional under Brown versus Board of Education.

14           And, again, to Senator Chambers' point, no other  
15 state is doing this because this is an area of law that is  
16 so clearly defined there isn't any ambiguity as to what  
17 you can do. And we, unfortunately, went ahead and passed  
18 a law that is so blatantly unconstitutional it is still -  
19 several months after we've done it, I'm still shocked.

20           SENATOR CHAMBERS: The reason I won't keep  
21 arguing about constitutionality, it's before the court.  
22 What we say is piffle; it means nothing. The federal  
23 court will make that determination, so Senator Bourne can  
24 say what he pleases.

1           But to the gentleman who was calling, there is  
2 not reference throughout the transcript about black  
3 teachers, black administrators unless it's by those who  
4 oppose this because what I emphasized is that what we're  
5 interested in is quality education for all children. And  
6 if among the pool of teachers available the most competent  
7 ones all are white, every classroom would be presided over  
8 by a white teacher, and what we mean by competency is to  
9 have knowledge of the subject and the ability to impart  
10 that knowledge and that information. And I did emphasize  
11 over and over and over that quality education is what I'm  
12 interested in.

13           My mantra was I don't care about separation or  
14 integration but quality education. So when people say  
15 they have read the transcript, they say they've read the  
16 law, they haven't read well. They recite as though they  
17 are victims of OPS' education because if you look at the  
18 language that I read this morning, the contiguousness of  
19 attendance areas is required when the coordinating council  
20 makes the initial drawing. But when it comes to the state  
21 committee, which has the final say-so and the final  
22 approval, it is authorized to revise or substitute a plan,  
23 and there is no contiguous attendance area requirement  
24 when it comes to the state committee.

1           So you looked at the authority of the final  
2 arbiter, which is the state committee, and it is not bound  
3 by that contiguous word which means the number of possible  
4 configurations is virtually finite.

5           Senator Bourne is going by what OPS said. When  
6 Commissioner Yaki mentioned having read from all of these  
7 other newspapers, I've had the articles, too, and they all  
8 follow what was written by the New York Times. They  
9 didn't do any independent research. They quoted from the  
10 New York Times. And the New York Times cut off from that  
11 quote they made, a comment that I made right with that.

12           I had said words to the effect: people who have  
13 become aware of my intent ask me, Does this mean that  
14 white people are not welcome? White children can't come  
15 to these districts? I said, Everybody is welcome and, in  
16 fact, these districts will be more inclusive than any  
17 others. But that was left out by the New York Times, it  
18 was left out in the NAACP's lawsuit, it was left out in  
19 the Chicano Awareness lawsuit.

20           So, again, since the courts are going to take  
21 care of all of that, I don't even need to keep going  
22 through it. I'm trying to give the Commissioners the  
23 rationale I have for what I did.

1           That bill would have been dead in the water had  
2 I not removed my opposition. The reason it came up late  
3 is because the bill was late getting to the floor of the  
4 Legislature.

5           The first day I said nothing on the bill. I  
6 wanted to see if they were going to talk about quality  
7 education and nobody did. They talked about boundaries  
8 and these other types of things.

9           So Senator Raikes, who is the primary  
10 introducer, came to me and asked what would it take for me  
11 to not oppose the bill. I had discussed with him and  
12 others months before, my plan of dividing OPS. He said,  
13 Do you still feel that way? I said, If we can do that,  
14 not only will I withdraw my opposition, I will support the  
15 bill and guarantee that it will pass.

16           So when that amendment was drafted and presented  
17 to the Legislature, it wasn't a surprise to all of the  
18 senators. They knew what I had been trying to do down  
19 through the years. But this was that golden opportunity,  
20 the confluence of circumstances that made it feasible so I  
21 offered the amendment. I persuaded by colleagues that  
22 they ought to adopt it.

23           Senator Bourne made his arguments that it's  
24 unconstitutional. OPS and their lobbyists made the same

1 arguments. The senators took the amendment, it became  
2 law, and now is before the court, but that's why it was  
3 late in coming.

4           If you look at the legislative history, you will  
5 see hundreds of pages of debate which is a greater amount  
6 of debate than occurs on practically any other provision  
7 that has come before the Legislature. So when they say  
8 they didn't understand, the problem is with them, not with  
9 what I presented. If they say the debate was not lengthy  
10 enough, it's because they didn't pay attention to what was  
11 going on. But the facts are there. The record is there.

12           And I even made a statement that there are  
13 people creating a false legislative history; that this  
14 bill is not designed to create racial districts; the  
15 boundaries will not be drawn on the basis of race; and I  
16 as the introducer want to make it clear that when you read  
17 their false legislative history they are trying to  
18 contrive, that it is false.

19           COMMISSIONER TAYLOR: Senator Bourne (inaudible)

20 --

21           COMMISSIONER KIRSANOW: If I could ask a  
22 question, Mr. Chairman.

1                   COMMISSIONER TAYLOR: Commissioner Kirsanow,  
2 Senator Bourne wanted to follow up on comments Senator  
3 Chambers made. Then let's go back to your next question.

4                   COMMISSIONER KIRSANOW: Sure.

5                   SENATOR BOURNE: Thank you.

6                   With all due respect to Senator Chambers, I've  
7 heard his story change about five times as to why the  
8 amendment was brought forth.

9                   Senator Chambers has a long-standing animus  
10 towards Omaha Public Schools. Anytime there has ever been  
11 a bill that would either benefit or hurt Omaha Public  
12 Schools, he's issued or handed out on the floor of the  
13 Legislature volumes of information criticizing the  
14 superintendent of Omaha Public Schools. Any chance or  
15 opportunity he has on the floor of the Legislature to rail  
16 against the Omaha Public Schools and its administration,  
17 he does so.

18                   Senator Chambers forgets the fact that in a lot  
19 of legislatures there's a Democrat versus a Republican  
20 bent. In Nebraska I think it's fair to say that there's  
21 an urban versus rural, a rural versus urban bent rather  
22 than Democrat versus Republican.



1           People in greater Nebraska resent the City of  
2 Omaha, so it's real easy to pass a bill that hurts Omaha  
3 and/or its inhabitants.

4           There was at the last minute a provision that  
5 was put into the bill that gave an additional \$2 or 3  
6 million to the declining enrollment schools in rural  
7 Nebraska.

8           The first time the bill went to go for closure  
9 under our rules the bill failed. Then they gussied up the  
10 bill, prettied it up, put lipstick on a hog, so to speak,  
11 and put in additional money for declining enrollment  
12 schools to bring on rural voters. They took away the  
13 language in there that talked about how Omaha Public  
14 Schools had to be divided by communities of interest which  
15 is clearly racial. There is nothing else you can argue.

16           There is a whole host of reasons why this bill  
17 passed, and Senator Chambers, it was his amendment, it was  
18 his idea, but there are a whole host of things going on as  
19 it relates to the amendment.

20           But the bottom line is, the original iteration  
21 of the amendment said communities of interest. I don't  
22 know how you define that in any way other than black,  
23 Hispanic, or white. And ultimately that's what was  
24 passed.

1           COMMISSIONER TAYLOR: Commissioner Kirsanow,  
2 you are next on the line and then I think Commissioner  
3 Melendez is next in the cue of questions.

4           COMMISSIONER KIRSANOW: Thank you very much.  
5           Senator Chambers, this goes to the comment that,  
6 you know, (inaudible) read the transcripts personally, and  
7 I will admit that I haven't read every single page of it,  
8 but I've read almost all of it, and I can just flip it  
9 open and you can come to almost any page. I'm looking at  
10 page 12,792 where you are testifying and you say, quite  
11 frankly, as you just indicated, My intent is not to have  
12 an exclusionary system, but one in which we, meaning black  
13 people, whose children make up the vast majority of the  
14 student population, would control.

15           Now, that was -- the history would suggest that  
16 the intent is to have districts that are divided, at least  
17 in some measure, with the consideration or voice which  
18 would implicate the Fourteenth Amendment, but you think  
19 it's - the Fourteenth Amendment wouldn't just  
20 automatically strike this down.

21           I guess the question is what empirical evidence  
22 is there that a district could control -- by the way, I  
23 think everybody wants to have a district that improves the  
24 schools black kids, black, white, Hispanic, whatever. But

1 | what evidence is there for having such a district would,  
2 | in fact, improve the performance of black students or  
3 | Hispanic students or anybody?

4 |           SENATOR CHAMBERS: I answered that so I will  
5 | keep it brief. I can do it by reading the language that  
6 | you left out when you read that.

7 |           After it, it says, The student population of  
8 | people there, since the majority of the students go there,  
9 | they will control that district.

10 |           This is what you didn't read: "That does not  
11 | happen as long as we are part of OPS. When we go to the  
12 | poorer areas of the city, you will find minority group  
13 | members and poor white children all of whom are victimized  
14 | by the current operation of the Omaha Public School  
15 | system. When people have no say that is effective in the  
16 | destiny of their children themselves or the education  
17 | being provided for their children, there is a feeling of  
18 | futility and hopelessness."

19 |           "When approaches are made to individual teachers  
20 | and principals, parents are often treated rudely and  
21 | dismissively. Going to the school board is even less  
22 | helpful."

23 |           "We will create a system where anybody  
24 | interested in having their children treated like human

1 | beings, with respect and concern and, above all, properly  
2 | educated, they would be welcome to let their children  
3 | come. And any teachers who are competent, meaning they  
4 | know their subject, they know how to teach or impart that  
5 | information to the children, have respect for the  
6 | students, would be welcome. It is not exclusionary but it  
7 | would no longer be one of those areas where people who are  
8 | not qualified can be dumped to the detriment of the  
9 | children."

10 |           I always included the poor white children,  
11 | always.

12 |           COMMISSIONER KIRSANOW: But, Senator,  
13 | specifically to my question, what evidence is there that  
14 | by doing this, all of the things you just mentioned,  
15 | would, in fact, occur?

16 |           SENATOR CHAMBERS: This hasn't been done in  
17 | Omaha.

18 |           COMMISSIONER KIRSANOW: It's been done in other  
19 | places, though, maybe not specifically with this  
20 | legislation. But where I live -- and by the way, I'm  
21 | black. Where I live, Cleveland, Ohio, you've got a black  
22 | superintendent, we've had a black superintendent for  
23 | decades. You've got black principals, black teachers,  
24 | majority black city and you've got, you know, local

1 attendance in all of these things, yet those things, in  
2 and of themselves, haven't done anything. In fact, scores  
3 and dropout rates and everything else has gotten worse.

4           SENATOR CHAMBERS: This is not a national piece  
5 of legislation. This relates to Omaha where I live. I  
6 challenge you or anybody else to find any legislator at  
7 any level, federal or state, who has done the things I  
8 have done while I've been in the Legislature. I am a  
9 force to be reckoned with. I'm not boasting; I'm telling  
10 the truth.

11           Why would the New York Times write articles  
12 about me and these other national papers when there is not  
13 that much in Nebraska that's of interest to anybody other  
14 than Senator Chambers.

15           SENATOR BOURNE: The reason - the reason -- the  
16 reason they would write these articles is because we're  
17 the first state in 25 years that sanctioned segregation.  
18 What Senator Chambers forgets, and he leaves out some of  
19 the elements of his testimony on the floor, he says,  
20 Several years ago I began discussing in my community the  
21 possibility of carving our area of OPS and establishing a  
22 district over which we would have control. We, meaning  
23 black people, whose children make up the vast majority of  
24 the student population.

1           He goes on to say, in response to a question  
2 from another senator, Oh, there will be an  
3 interrelationship between school districts because in  
4 competitions of an athletic nature, ours will win all of  
5 the championships, because right now the black athletes  
6 are very welcome in white schools but the black student at  
7 large is not welcome. So when we get those kids back in  
8 our district, football, baseball, basketball, you can all  
9 forget it.

10           This shows so clearly a race-based segregative  
11 act, it's crystal clear.

12           SENATOR CHAMBERS: Read the next statement that  
13 followed that that I made.

14           SENATOR BOURNE: I don't have that in my record  
15 here.

16           SENATOR CHAMBERS: You're reading from a lawsuit  
17 that was filed?

18           SENATOR BOURNE: Nope, I'm reading from  
19 transcripts that I looked at -- or quotes that I looked at  
20 in the transcripts from the debate on the floor over that  
21 period of time that demonstrate that the reason the  
22 amendment was brought was because of race.

23           SENATOR CHAMBERS: Do you know what the word was  
24 in the statement that followed that he read about the

1 | athletes? Facetious. And some people don't know what  
2 | facetious means. But that statement on its face is  
3 | obviously facetious.

4 |           Senator Bourne knows what my main thrust was.  
5 | When I'm discussing an issue, I'm going to discuss it in  
6 | terms of the people that I represent. represent black  
7 | people and poor white people. I'm familiar with how they  
8 | are being cheated.

9 |           Why am I going to talk about west Omaha or south  
10 | Omaha? I want to be able to speak with as much authority  
11 | and knowledge as possible. So when I talk about black  
12 | children and poor white children, I'm talking about those  
13 | who have been victimized and how this plan is going to  
14 | impact on them.

15 |           It will actually help everybody, because when  
16 | you raise the bottom of the barrel, which non-white  
17 | children are perceived to be, you raise everything in it.  
18 | And we can improve the quality of education through this  
19 | plan.

20 |           COMMISSIONER YAKI: But you have to do it in  
21 | separate -- have to do it in separate barrels.

22 |           SENATOR CHAMBERS: Say it again.

23 |           COMMISSIONER YAKI: But you have to do it in  
24 | separate barrels.

1           SENATOR CHAMBERS: No, that's -- here's what  
2 you keep not hearing.

3           COMMISSIONER YAKI: I --

4           SENATOR CHAMBERS: This does not go to student  
5 attendance. It does not change the - it doesn't change  
6 anything from what exists now except who administers those  
7 schools.

8           COMMISSIONER YAKI: I know, but, Senator  
9 Chambers, you say, and you've said on more than one  
10 occasion here, in your writings, on the floor of the  
11 senate, that the Omaha School District is -- OPS is  
12 segregated.

13          SENATOR CHAMBERS: Yes.

14          COMMISSIONER YAKI: And then you say I'm not  
15 going to change a thing about that, I'm just going to  
16 change who runs -- who runs it. So you're essentially  
17 saying I'm just going to change the actors who are running  
18 the segregation because my folks are better than any other  
19 folks at doing that. I mean, read --

20          SENATOR CHAMBERS: No, that's not what I said.

21          COMMISSIONER YAKI: I'm going to read -- I'm  
22 going to read --

23          SENATOR CHAMBERS: What I said --



1           COMMISSIONER YAKI: I'm going to read from the  
2 transcript of the floor debate 1282 -- I mean, you spoke  
3 many times --

4           SENATOR CHAMBERS: Many times.

5           COMMISSIONER YAKI: -- and very eloquently, but  
6 the point that's clear is this one statement where you  
7 say, Black people simply want to say it's going to be a  
8 different sheriff in town, and you're talking about  
9 administrators and how the school board works.

10           I mean, you're basically saying that this -- and  
11 in principle -- the principles of this, I think, are fine.  
12 The idea of having more diversity, of having African  
13 Americans be leaders in the education community, at the  
14 school board, those are all good and sound principles.  
15 What - the concern is that we talk -- we keep on talking  
16 about the children, we keep on talking about their quality  
17 of education and their -- and their hopes and aspirations  
18 for the future. How are we doing that by saying that in  
19 order to effectuate control by adults over education for  
20 kids, the compound - the necessary consequence of that is  
21 going to be those kids are going to be isolated by race in  
22 these schools districts?

23           SENATOR CHAMBERS: No, they still - they go --  
24 they are isolated now. They will keep - if you think it's

1 | so terrible under my plan, why don't you speak against  
2 | the segregated schools now where they go? I'm saying I  
3 | recognize what the problem is --

4 |           COMMISSIONER YAKI: Senator Chambers, when I --

5 |           SENATOR CHAMBERS: -- (inaudible) into those  
6 | schools.

7 |           COMMISSIONER YAKI: I had said before I agree  
8 | with you about -- outside of this artificial hearing, 99  
9 | percent of the time I would probably agree with you.

10 |           SENATOR CHAMBERS: Well, I have to function --

11 |           COMMISSIONER YAKI: Like I said --

12 |           SENATOR CHAMBERS: -- in the real world where  
13 | the children are.

14 |           COMMISSIONER YAKI: -- I would -- and I would  
15 | say -- and I would say the scope of this hearing is  
16 | predicated on 1024 and what it intends to do.

17 |           The background of it, and that is what you  
18 | brought up, which is how -- whether or not OPS has done  
19 | its job, and I think we've heard from people here that it  
20 | hasn't done it's job as well as it should or can or  
21 | anywhere where it should be, I understand that there is  
22 | that background going on behind you. I understand that's  
23 | behind your rage. I understand that's behind your concern  
24 | and your passion. None of that is to be denigrated by -

1 | by what we say here today. It is just the means to  
2 | achieve that, that at least I have a slight problem with  
3 | and others might have as well.

4 |           SENATOR CHAMBERS: But, Commissioner, so you  
5 | really understand me, I have lived in Omaha 69 years.  
6 | I've been in the Legislature 36 years. I have watched  
7 | OPS. What Senator Bourne doesn't pay attention to, is  
8 | what I say in my debates, to the extent I do, because I  
9 | know what I say.

10 |           When there have been bills that OPS brought that  
11 | I opposed, I said, you will not show me that you are going  
12 | to do anything to improve education, and until you show me  
13 | that, I will stop every bill you bring. Well, I told them  
14 | how they can get me on their side, improve education, and  
15 | that's what they are supposed to do. But they have not  
16 | done it. Don't take my word for it. Read the test  
17 | scores, read the local newspaper which has pointed it out.

18 |           COMMISSIONER YAKI: Senator Chambers --

19 |           SENATOR CHAMBERS: So here's -- here's the  
20 | question I would ask you.

21 |           COMMISSIONER YAKI: I'm not going to argue.

22 |           SENATOR CHAMBERS: Then how are we going to  
23 | correct it? If my way is not the way and nothing OPS has  
24 | done to date and they have nothing else on the table,

1 | you're saying leave everything as it is because as long  
2 | as white people control it, it's okay.

3 |           COMMISSIONER YAKI: I would never -I would never  
4 | say -- I would never say leave everything the way it is.  
5 | I never --

6 |           SENATOR CHAMBERS: Then what is the change?

7 |           COMMISSIONER YAKI: I never -- I don't believe  
8 | in status quo. I will say -- I will say --

9 |           SENATOR CHAMBERS: Then how do we change it?

10 |           COMMISSIONER YAKI: I'm not -- I can't -- I'm  
11 | not from Omaha. I can't speak for the people of Omaha,  
12 | but I can say this. What you have done, certainly, is  
13 | raise the issue and raised the bar and raised the debate.  
14 | That is to your absolute credit, to you and to the  
15 | communities that you represent.

16 |           The question --

17 |           SENATOR BOURNE: If the --

18 |           COMMISSIONER YAKI: -- though, is that in  
19 | attempting to jump over that bar or raise it even further  
20 | are we doing something that however unintentionally -- and  
21 | I take you as a person of good motives and good intent,  
22 | but however unintentionally in attempting to do something  
23 | we accidentally go to a place that we left 40 years ago, I  
24 | don't know if that's the way to do it.

1           There have got to be -- there must be - I saw  
2 on the debate on reconsideration people pleading to bring  
3 people to the table and redo -- and rethink this and redo  
4 it in response to your passion and your concerns. That  
5 did not win and it should have won. To avoid -- to avoid  
6 our presence here today, that should have happened.

7           SENATOR CHAMBERS: Well, if that --.

8           COMMISSIONER YAKI: I have a feeling that part  
9 of what you did you did because you wanted to get that  
10 reaction and get people to the table. That is to your  
11 credit. But the concern is the way -- the way -- the  
12 means that have been chosen, the freezing of the  
13 segregation and, therefore, institutionalizing it is not  
14 where I want to be. I don't think in reality you want to  
15 be either.

16           COMMISSIONER TAYLOR: Senator Bourne, I ant to  
17 hear you respond to what's been said. And I am going to  
18 make sure that Commissioner Melendez gets his questions  
19 and then I want to state my concern which is slightly  
20 different than Commissioner Yaki's position.

21           SENATOR BOURNE: It's not only - this amendment  
22 won't only freeze segregation, it's going to make it worse  
23 because, as I indicated, the receiving school district

1 gets to determine capacity, so segregation will be more  
2 prevalent under the passage of this bill.

3           You know what I find is really unfortunate,  
4 because I think Commissioner Yaki hit the nail on the  
5 head, that Senator Chambers is trying to make a point with  
6 his amendment in 1024. I don't know that if he really  
7 believes it's unconstitutional or not. I know that he is  
8 about trying to provide quality education for the kids. I  
9 don't know, again, if what he has done is passed or tried  
10 to pass an amendment or got an amendment adopted that he  
11 knows is unconstitutional, but the reality is that we're  
12 moving backwards in that we already have a school district  
13 that, in my opinion, is underfunded and we are spending  
14 millions and millions of dollars on legal fees when we  
15 could be buying books for some of these kids and solving  
16 some of the problems, and instead, we're letting lawyers  
17 get rich and all of that to make a point, and that's  
18 unfortunate.

19           COMMISSIONER TAYLOR: Commissioner Melendez.

20           COMMISSIONER MELENDEZ: Just a comment I had  
21 read, Mr. Chambers, that the NAACP had become involved in  
22 this, and they basically represent people of color and  
23 African Americans in best interest and they've actually  
24 entered this, so there must be a concern on race and

1 segregation on all of this. And what's your feeling, as  
2 far as them, involvement in this whole lawsuit situation?

3 SENATOR CHAMBERS: Not every- -- not everybody  
4 agrees that the new direction of the NAACP under their new  
5 CEO, who was an official with Verizon, is moving in a  
6 direction of its black people. They are now trying to  
7 plug into the corporate community to get contributions and  
8 donations from them, because at the grassroots level,  
9 their membership is falling off.

10 One thing the new CEO said was that they keep  
11 saying they have a 500,000 membership in the country.  
12 That's false. It's closer to 200,000. They are losing  
13 members.

14 So the NAACP read the New York Times article.  
15 They saw where these wealthy businessmen, including Mr.  
16 Warren Buffett, second behind Bill Gates, are opposed to  
17 it, so that was enough to draw them into it, the scent of  
18 money. And this isn't the first time or first place I've  
19 said this.

20 They have not taken a position on the white  
21 district that has been cut out of the heart of OPS. When  
22 they filed the lawsuit against my proposal, they did not  
23 address the white district, not only racially

1 identifiable, but drawn for that purpose; they didn't  
2 touch that.

3           So the presence of the NAACP in this lawsuit  
4 indicates to me only that they have lost their way.

5           The former positions that they have taken, the  
6 work that was done under Thurgood Marshall and others, is  
7 being defamed by some of the things the NAACP is now doing  
8 and some of the issues they are refraining from being  
9 drawn into. So that's how I would answer your question as  
10 far as the NAACP's involvement.

11           But not all of the local members of the NAACP  
12 agree with what the national is doing. The president of  
13 the local chapter was ordered by the national office to  
14 read at a press conference a statement against this bill.  
15 The local chapter had not met and taken a position against  
16 it, but the office of the NAACP nationally compelled them  
17 to read that statement.

18           COMMISSIONER TAYLOR: Gentlemen, I would ask you  
19 all to compare Senator Chambers amendment to District 66,  
20 and in doing so -- I can guess Senator Chambers'  
21 description of District 66. I wanted, Senator Bourne, you  
22 to educate us on that and if it is comparable to Senator  
23 Chambers' amendment, describe the comparison points,  
24 what's different, how is it different, and address, I



1 think, his overarching point of that potentially being a  
2 segregated district just segregated for a different race.

3 SENATOR BOURNE: I -- I'll be honest with you,  
4 because of the nature of the amendment that Senator  
5 Chambers ran, District 66 was never discussed in the  
6 Legislature where I'm confident it would have been had  
7 Senator Chambers' amendment been introduced as a bill. In  
8 Nebraska, every bill that's introduced has to have a  
9 hearing but not every amendment that is run on the floor.

10 COMMISSIONER TAYLOR: Uh-huh.

11 SENATOR BOURNE: So the point that I'm trying to  
12 make is that I don't know the history of District 66 and  
13 why it was put in the statute in the way it is. I know  
14 that it was done. I believe it was done in the '40s. I  
15 believe Senator Chambers probably would know more than I.

16 It is a -- it is a district within the Omaha  
17 Public School District. It is -- it's probably the  
18 wealthiest school district in the state. It's probably  
19 the most white school district in the state.  
20 Historically, I cannot tell you why it was put in the  
21 statute but it clearly is.

22 The law as it -- as it was written prior to  
23 1024, with the exception of districts District 66, would

1 allow OPS to take over school districts as the city  
2 expands.

3 COMMISSIONER TAYLOR: Uh-huh.

4 SENATOR CHAMBERS: So Omaha Public Schools under  
5 the law could have taken over Millard, it could have --  
6 again, as the city expanded, it could have taken over  
7 Ralston and it could have taken over Elkhorn as the city  
8 grows. Under 1024, the taking over of those districts is  
9 prohibited.

10 COMMISSIONER TAYLOR: Uh-huh.

11 SENATOR BOURNE: So historically, I can't tell  
12 you why District 66 --

13 Excuse me. (Brief interruption.) Senator  
14 Chambers. Don't die up here.

15 SENATOR BOURNE: Senator Chambers said, don't  
16 die up here. I can't tell you historically why District  
17 66 is the way it is, but I can say that had we had Senator  
18 Chambers' amendment as a bill, that issue would have been  
19 discussed, it would have been vetted and would have  
20 determined whether or not that was -- you know, what the  
21 Legislature passed in the '40s should still apply today.  
22 But with the passage of 1024, really the point is moot  
23 because we've created -- not only have we allowed District

1 66 to remain, we have allowed the other districts that  
2 are --

3 COMMISSIONER TAYLOR: Remain.

4 SENATOR BOURNE: -- predominantly white to  
5 remain as well as.

6 COMMISSIONER TAYLOR: And expected. And I  
7 apologize, I'm from Virginia so I -- this may be a topic  
8 that is being discussed now throughout the state and  
9 intensely discussed in Omaha, but is there any concern  
10 about District 66 in its current composition? Is there  
11 any concerns that it lacks sufficient integration? Are  
12 those all issues that are being widely debated as this  
13 amendment is being debated?

14 SENATOR BOURNE: I don't believe during the  
15 debate that it was really discussed extensively. I don't  
16 recall that discussion. I don't recall there ever being  
17 any discussion in years past, in the eight years I've been  
18 in the Legislature, about somehow repealing the  
19 legislation that allowed for District 66. I'm just  
20 unaware of it.

21 COMMISSIONER TAYLOR: Senator Chambers, is  
22 District 66 part of, if you know, an issue raised in the  
23 lawsuit or has it been an issue raised with you in terms

1 of that being what appears to be a segregated district  
2 that exists today?

3           SENATOR CHAMBERS: I think during the debate,  
4 and I could be mistaken, Senator Pam Redfield I think made  
5 reference to District 66; and after so much criticism was  
6 launched against my proposal after it became law, then I  
7 mentioned District 66 every time I had an opportunity to  
8 show that if the people were really concerned about  
9 integration, which I was not, should look at District 66.  
10 And when OPS talked about filing a lawsuit and others  
11 talked about OPS filing a lawsuit, it was always only  
12 against my proposal but never was District 66 mentioned.

13           When the rich white men got together to speak  
14 against my bill and a reporter asked about this other  
15 dispute about the suburban schools, those white men said  
16 specifically, we cannot reach a consensus on that. We're  
17 not going to take a position on that because we don't all  
18 agree; but we all agree on being against what Chambers had  
19 done.

20           So, here's the argument I had made. Whyever  
21 District 66 came into existence or continues, whyever all  
22 of these white districts in the suburban areas exist, they  
23 all give an overriding reason: local control.

1           There are districts in the State of Nebraska,  
2 the whole district, with as few as 120 students because  
3 they want local control. So if white people want to  
4 administer and control their schools, it's called local  
5 control. If non-white people want the same thing, it's  
6 called segregation. So that's how they defeat us.

7           The residential -- the residential segregation  
8 creates a set of circumstances where, if we want to  
9 administer the schools where we live- and -- we are  
10 restricted residentially.-- they can say, well, -you can't  
11 do that because that's segregation, so not only are you  
12 going to be segregated residentially, you can never  
13 exercise local control because we'll call that  
14 segregation. And although white people 12 have always had  
15 it -- local control is considered one of the mainstays of  
16 conservative Republican philosophy. It suddenly becomes  
17 sinister, un-American and unthinkable when the groups who  
18 traditionally have not been able to exercise that control,  
19 get in a position to do so.

20           Had this headline in the New York Times said, "A  
21 Bill Calling for Local Control, Equalizing School Funding,  
22 and Improving Quality of Education," people may not have  
23 even read it. But when you get a screaming, misleading  
24 headline that's false, "Law to Segregate Omaha Schools

1 Divides Nebraska," that is what brought everybody out of  
2 the woodwork.

3 No group that I have ever discussed this with,  
4 left with the same view that they had which had been based  
5 on what the New York Times wrote.

6 So when you talk about these other articles,  
7 without my reading them and seeing what you've got, I  
8 venture to say that they parallel and parrot what was in  
9 the New York Times.

10 But here's how I'm going to sum up everything  
11 I've said. I think it got lost, although I'll repeat it:  
12 Quality education.

13 I don't want to have a school system where they  
14 are going to say, your son can learn auto mechanics; we'll  
15 give him a wrench, a pair of pliers and a screwdriver. I  
16 say, no, give him a book. And I want him to be able to  
17 read the book. I want him to understand what's in the  
18 book, and I want him to be able to explain to me what he  
19 read based on his understanding.

20 I don't want him to show me how you turn a screw  
21 clockwise or counterclockwise or how you tighten a wrench.  
22 All of that is fine. But education is the most important  
23 function that a government carries out.

1           The budget for education at the state level in  
2 Nebraska, and this won't seem like a lot to other places,  
3 \$900 million, 720 million if you don't include special  
4 education. The largest part of a lot of budgets will go  
5 for education.

6           If we have a situation where black children are  
7 not achieving well in segregated schools, what is the  
8 first thing people say? "It starts with the home. Go  
9 into the home."

10           When we can show that white children, compared  
11 to what's happening in other countries, are not doing well  
12 -- but they do well because the tests are geared to let  
13 them do well, you know what they say? They don't say, "go  
14 into white homes." They say: "The system has failed; the  
15 teachers are not adequately trained; we have too much  
16 bureaucracy; the textbooks are not suitable; there are not  
17 enough months that they have to go to school; they should  
18 have to go to school on Saturday." But never do they say,  
19 "Johnny White cannot read because of his home. Sally-  
20 stay-at-home's daughter is not doing well because of  
21 something in her home." So there's always the double  
22 standard.

23           And as I suggested to Commissioner Yaki, it's  
24 still -- sub rosa -- is based on the notion that black

1 | people, non-white people, are inferior. When we talk  
2 | about integration, it's always in conjunction with making  
3 | the black children bear the onus of it, and I don't think  
4 | that's right.

5 |           I never did poorer than the white kids with whom  
6 | I went to school, and I was under pressure because of the  
7 | way the teachers would belittle me. So I had things to  
8 | deal with in my mind that they didn't, and yet, I still  
9 | excelled.

10 |           Then I read books and see studies that suggest  
11 | that I'm inferior, but I haven't been around white people  
12 | who made me feel that way. And as I told them on the  
13 | floor of the Legislature, I didn't encounter those  
14 | superior white people at Lothrop. I didn't encounter them  
15 | at Tech High. I didn't encounter them at Creighton  
16 | undergraduate school. I didn't encounter them at  
17 | Creighton Law School. And I didn't encounter them in the  
18 | Army and I certainly don't encounter them on the floor of  
19 | this Legislature.

20 |           So since I can look at myself and know what I  
21 | have to fight against to get an education and those  
22 | grades, coping with things those other white kids didn't  
23 | have to cope with, I'm not going to let people treat  
24 | children of any race, but because if they are not black,



1 they are poor, that somehow they are genetically  
2 inferior, they are of less value, that because their  
3 parents can't buy them a certain type of clothing, they  
4 are not entitled to fair treatment. So here's how it is  
5 going to be corrected. We are going to take these poor  
6 children of any race and cart them out to white schools  
7 where attire is very important.

8           White people don't think about these things.  
9 They don't live what we live. You've got children whose  
10 parents cannot buy them the kind of clothes that will keep  
11 them from sticking out and being embarrassed. So going to  
12 school every day is traumatic. It is hard. It's  
13 depressing. It's stressful. And we are talking about  
14 children.

15           That's why, with all due respect to everybody in  
16 here and in the Legislature and everywhere else, I don't  
17 care what they say. As long as I see these children  
18 failing, I have a job to do. I have not a bit of religion  
19 in me, but there's one thing that Jesus said that I think  
20 everybody ought to listen to talking about the children:  
21 If one offends against one of these little ones, it were  
22 better that a millstone be hanged around his neck and he  
23 be drowned in the sea.

1           The children are the ones Jesus said, bring to  
2 me because they're what Heaven is about, not all of these  
3 adults, not all of these religious people, not the  
4 teachers. So the children are the cash cows whom we have  
5 school people and teachers come to the Legislature for  
6 more money.

7           They don't say, so we can teach the children; so  
8 that we can make sure that the curriculum is meeting their  
9 needs. The only time they talk about education is when  
10 they say, we've got to educate them so that businessmen  
11 can hire them and they will fit into a businessman's  
12 scheme.

13           But those of us who look beyond that know that  
14 businesses don't have loyalty to workers anymore. You're  
15 not going to stay there long enough to retire. So, we  
16 have to deal with the real world that these children will  
17 confront. And we who feel the way that I do, who would  
18 have some input that would be taken seriously -- can help  
19 mold the curriculum, hire the teachers who will do these  
20 kind of things so when the child leaves that classroom, he  
21 or she can function anywhere.

22           I can know how to get along with white people  
23 without living in a white neighborhood, which I've never

1 done; without sitting next to them in a classroom. Let  
2 me --

3 COMMISSIONER TAYLOR: Senator Chambers --

4 SENATOR CHAMBERS: -- learn those things there  
5 and then I can socialize on my own afterwards.

6 COMMISSIONER TAYLOR: Senator Chambers, I think  
7 we have one -- just one or two questions from a staff  
8 director and I want to make sure I get those in.

9 SENATOR CHAMBERS: Sure.

10 COMMISSIONER TAYLOR: And then I have a few more  
11 comments from the Commission. Staff Director.

12 STAFF DIRECTOR MARCUS: Thank you.

13 Senator Bourne, you (inaudible) stated earlier  
14 that one of the purposes for dividing the Omaha Public  
15 School system was to create a black district, and your  
16 colleague Senator Chambers has indicated that the  
17 amendment was not about attendance. When you say that one  
18 of the purposes was to create a black district, are you  
19 referring only to administrative control of the district  
20 or also to student composition?

21 SENATOR BOURNE: I don't recall saying that one  
22 of the purposes was to create a black district other than  
23 Senator Chambers' comments on the floor saying that's  
24 what's going to happen.

1           So I -- the reason that I keep talking about  
2 integration in the bill is because if you read Brown  
3 versus Board of Education and then the string of cases  
4 subsequent to that, it is clear that if a state takes an  
5 action that deliberately segregates it's unconstitutional.

6           So I never really said the purpose of the bill  
7 was to do that. I do think the purpose of Senator  
8 Chambers' amendment, if you read his comments on the  
9 floor, is to allow black people to control or have control  
10 over their districts.

11           And I'm not saying that local control is bad. I  
12 am saying that if you read the whole string of cases  
13 starting with Brown it's unconstitutional.

14           STAFF DIRECTOR MARCUS: Just to clarify, I  
15 believe your statement in (inaudible) is referring only to  
16 Section 41 and that --

17           SENATOR BOURNE: The dividing of Omaha Public  
18 Schools I believe in Senator's -- in Senator Chambers'  
19 mind the purpose was to segregate.

20           STAFF DIRECTOR MARCUS: Do you believe that  
21 other senators share that intent?

22           SENATOR BOURNE: That's a good question. I  
23 don't know the answer to that.

24           STAFF DIRECTOR MARCUS: Senator Chambers --

1           SENATOR CHAMBERS: Yes.

2           STAFF DIRECTOR MARCUS: -- was it your intent to  
3 create three separate districts, one of which would have a  
4 predominantly African American student composition, one of  
5 which would have a predominantly Spanish-speaking  
6 composition, and one which would have a predominantly  
7 white student composition?

8           SENATOR CHAMBERS: Here's the way I've dealt  
9 with that issue. Omaha is segregated residentially where  
10 most of the black people live in northeast Omaha, most of  
11 the Latinos in southeast Omaha, most of the white people  
12 in west Omaha. So depending on how the district  
13 boundaries are drawn, there would be a concentration, or  
14 could be, of one race predominating in the student body  
15 more so than another.

16           But since we did not allow the Legislature to be  
17 the one to draw the districts, what I said is not that  
18 relevant because one of the things I did say, if when they  
19 draw the boundaries an attempt is made to draw them so  
20 they reach out and include all black people and exclude  
21 white people, I'll fight against that because that's not  
22 what I want.

23           And when the districts are drawn, it doesn't  
24 matter who lives in them because whoever lives there, if

1 the population changes entirely, they should have local  
2 control of those schools located in their area. That was  
3 my point.

4 STAFF DIRECTOR MARCUS: Thank you.

5 And let me follow that up by asking this:  
6 Senator Chambers, your colleague Senator Bourne indicated  
7 earlier that the only way that the public school system  
8 could comply with the amendment and divide schools up to  
9 meet the continuity requirement and the other requirements  
10 of the legislation would be to divide the district up into  
11 a predominantly white, predominantly Hispanic, and  
12 predominantly black school district. Would you agree with  
13 that assessment and was that your view at the time the  
14 legislation was passed?

15 SENATOR CHAMBERS: If the contiguous requirement  
16 would change throughout the process, what they have said  
17 would be valid. But when it comes to the activity by the  
18 state committee, that contiguous requirement is dropped.  
19 The state committee is not bound by that.

20 So the coordinating committee is like  
21 preliminary work, and no matter what it presents or if it  
22 fails to present something, the state committee has the  
23 last word; the state committee will approve of the final

1 plan, and it is not limited in the same way as the  
2 coordinating committee council.

3 COMMISSIONER YAKI: I have a follow-up to that.  
4 So, Senator Chambers --

5 SENATOR CHAMBERS: Yes.

6 COMMISSIONER YAKI: -- if the state committee  
7 were to gerrymander northwest Omaha in a way that the  
8 representative for the Learning Community for that  
9 district were white, what would your reaction be?

10 SENATOR CHAMBERS: Let me answer it this way. A  
11 guy was asked, What would you be if you were great and  
12 rich? Here's what he said: "What would I be if great and  
13 rich? That is the kind of question which I cannot  
14 prophesy on. Apply it to yourself and see what kind of  
15 lion would you be if you could be a lion?"

16 There are all kinds of speculative notions that  
17 can be presented, but some of them are so unlikely to  
18 occur that they are not even worthy of discussion. And  
19 I'm not saying that the point you were trying to make is  
20 not worthy of discussion, but I can't see how what you're  
21 suggesting would occur.

22 Let me say this. If it did, remember, there is  
23 a 12-member school board. If you have a mixture of white  
24 people and black people, then black people are going to

1 have people on that school board and the white people  
2 are. Since they now are a part of the same district,  
3 instead of this creating a division, it has brought these  
4 two elements together, and now to be sure that all of  
5 their children have an opportunity, they will cooperate to  
6 be sure that every school in that district provides  
7 quality education. Then it doesn't matter which building  
8 the child attends school in.

9           So if what you pose would happen, it would  
10 actually bring the two groups together rather than divide  
11 them.

12           SENATOR BOURNE: I just want to point one thing  
13 out. When Senator Chambers says that there's the ability  
14 to change what the original committee draws as it relates  
15 to the districts, they still have to work within the  
16 parameters of three districts with two to three high  
17 schools in each. So they may be able to change some areas  
18 of the original map, they cannot subvert the statute that  
19 states it's two to three high schools in each contiguously  
20 drawn. That's the parameters.

21           STAFF DIRECTOR MARCUS: Thank you.

22           Any another questions? Senator Bourne, in your  
23 written statement you said the following: "As if  
24 segregating the districts was not enough, LB 1024, Section



1 16, also destroys the current integration in OPS and  
2 prohibits most of the common tools used across the country  
3 to intentionally integrate."

4           Senator Bourne, would you tell us some of those  
5 tools that you had in mind, and then I want to hear from  
6 Senator Chambers, whether he agrees that those tools would  
7 no longer be available.

8           SENATOR BOURNE: The magnet schools, schools of  
9 interest. OPS has done a fantastic job of creating, let's  
10 say, Central High School; it's a magnet school. It's in -  
11 - it's in an area that is predominantly black and, yet, I  
12 believe it's 56 percent of the high school there is -- or,  
13 actually, it's 46 percent is minority.

14           OPS has done a good job of attracting students  
15 to the eastern part of the city, and those tools, as I  
16 understand it, in 1024 would be gone.

17           STAFF DIRECTOR MARCUS: And, Senator Chambers,  
18 would you agree that those tools would no longer be  
19 available?

20           SENATOR CHAMBERS: No, because this bill does  
21 not require any child to cease going to the school he or  
22 she attends. In fact, they are called continuing  
23 students. There is an absolute guarantee that every child

1 will continue to go to the school that he or she is  
2 attending after the reorganization if that's the desire.

3           So if OPS had said that somehow these children  
4 who go to Central can't go there, that's -- that's totally  
5 false.

6           SENATOR BOURNE: He's accurate to the extent  
7 that if I'm a freshman and the bill passes I can continue  
8 on as a sophomore and a junior and a senior, but no new  
9 freshmen are going to come in. So he's true; for four  
10 years what Senator Chambers says is accurate, but after  
11 that, they have taken away the tools that OPS has used and  
12 relied on to integrate the schools in accordance with the  
13 court order that was in place earlier.

14           STAFF DIRECTOR MARCUS: Thank you.

15           COMMISSIONER TAYLOR: We're going to close this  
16 portion of the briefing. We're going to break until about  
17 1 o'clock. We're going to break for lunch.

18           I want to thank Senator Bourne and Senator  
19 Chambers for giving of your time.

20           Before we all break up, let me say one more  
21 thing. There have been a number of individuals from  
22 Nebraska and Omaha that have said it's unfortunate that  
23 the national spotlight is shining on this issue for the  
24 state and the city in that some people have ridiculed the

1 state and the city for passing this amendment. While  
2 that may be true, in the context of some folks ridiculing  
3 Nebraska, I want to say that, in my view, what you have  
4 all done is important in one respect and that is that  
5 you're discussing critical issues and considering quality  
6 education in the context of integration and putting those  
7 issues on the table, because, in my view, it's only with  
8 discussions like this that we'll get to the nub of the  
9 issue which, frankly, I think we will continue to nibble  
10 at.

11 And so with that, we are going to -- 1 o'clock  
12 we will be back. Thanks.

13 (Whereupon, the above-entitled Commission  
14 briefing was adjourned at 11:19 a.m.)

15 \*\* \*\* \*\* \*\*

16 P R O C E E D I N G S

17 (Continued)

18 (1:04 p.m.)

19 COMMISSIONER TAYLOR: For phase two of our  
20 briefing, we are going to hear from a number of community  
21 activists and others representing a broad segment of the -  
22 - of the community, and we're going to go from left to  
23 right on our panel here.

1 I'm going to ask each of you all to limit your  
2 comments to ten minutes. And we'll go through everyone's  
3 comments, and I will then turn to the Commissioners and  
4 ask them if they have any statements to make, and then we  
5 will move on to questions, essentially the same format we  
6 used for the first half.

7 Before we get started, I wanted to give  
8 Commissioner Melendez a moment to introduce someone.

9 COMMISSIONER MELENDEZ: I just wanted to  
10 introduce one to our staff assistants, Richard Schmechel.  
11 I'm not sure if he's -- he might have stepped out.

12 Richard, he's actually from the Omaha area here,  
13 so he gave us a tour of the area; and his mother is  
14 actually with him today, to be here, so I just wanted to  
15 recognize them. I think he may have stepped out, or is he  
16 here?

17 COMMISSIONER YAKI: She's here.

18 COMMISSIONER MELENDEZ: Would you please stand  
19 up. And give her a hand.

20 COMMISSIONER TAYLOR: We're going to first hear  
21 from Walter Brooks who is a contributing writer to the  
22 Omaha Star newspaper. I understand that's Nebraska's only  
23 black newspaper, and Mr. Brooks has been associated with  
24 the newspaper for 28 years.

1           Mr. Brooks is a U.S. Marine Corps combat  
2 veteran of the Vietnam War, and has a history of community  
3 activism in Seattle, Denver, and Omaha.

4           And I'm not going to go on and on with his  
5 background, or any other person's background too long,  
6 because I want to get right into it.

7           So Mr. Brooks.

8           MR. BROOKS: Thank you very much. I'm glad to  
9 be here.

10           And this morning's presentation was very lively  
11 and very interesting. And part of me says I'm not really  
12 sure that I have all that much more to contribute at this  
13 point, but I thought this morning was very extensive.

14           I submitted a written testimony, and if anyone  
15 has read this, it pretty much has my position on this  
16 legislation. Of course, I'm for it.

17           In the three-part article that I wrote in May  
18 addressing my support for this bill, I focused on  
19 basically three things: The general disparities for --  
20 between the majority Caucasian population in Omaha and  
21 between the minorities, in particular the African American  
22 community.

23           In part two, I told the history of a very  
24 significant moment in African American history in 1968

1 when a black community of Brooklyn, New York, had an  
2 opportunity to acquire the kind of legislation that this  
3 bill represents.

4           And then the third part was to really take a  
5 look at the long-term effects of having such a consistent  
6 generational issue of dropout in the African American  
7 community and, particularly, looking at it with relation  
8 to the American prison system. We have the data now that  
9 shows in most state prison populations, the federal,  
10 anywhere from 45 to over 60 percent of the inmates are  
11 school dropouts.

12           So when we look at the issue of the schools, the  
13 neighborhood schools, we see that these individuals, there  
14 is a tremendously long-term effect of what is taking  
15 place, particularly in our elementary and secondary  
16 schools.

17           I'm just going to draw a couple of points here  
18 and use my own ten minutes up to make some references to  
19 what I had previously written, and then I expect that I'll  
20 have an opportunity to speak again during question and  
21 answer.

22           I do want to also make note, I'm grateful that  
23 your Commission has chose to seek Ben Salazar, even though  
24 he wasn't originally to be a part of this panel, so that

1 the Latino community could be represented. I think he  
2 was very right to come down and draw your attention to  
3 that, and I would be more than happy, you know, to give up  
4 any time that I may have coming to account his being on  
5 this panel. I have no idea what position he's taking;  
6 that doesn't matter. The Latino population needs to be  
7 sitting at this table.

8           This morning there were so many different things  
9 brought up, but I think, among other things, that issue --  
10 the issue of disparities, of widespread disparities  
11 economically -- I know that both Senator Bourne and  
12 Commissioner Rodgers, you know, talked about their  
13 feelings that there will not be the kind of tax base  
14 behind this legislation with -- with the economic  
15 disparities of home ownership and taxes and things like  
16 that. And as I sit and listen to those, I think, well,  
17 you know, maybe at some point that's what we ought to be  
18 talking about, because, as Senator Chambers made mention  
19 and has been mentioned over and over again, the moment  
20 that his legislation or this particular aspect of the  
21 legislation was made public, literally the richest, most  
22 powerful people in the city of Omaha, which means in the  
23 State of Nebraska, chose to meet and discuss this as  
24 something that was going to be a mark, a mark on the City

1 of Omaha and, as we -- we keep going back and forth, is  
2 going to legalize segregation in this country and -- or,  
3 excuse me, in the city of Omaha.

4           And in my testimony, my written statement,  
5 there's a portion and I'll just make reference to that for  
6 now.

7           This brings me to an interesting observation.  
8 Have you ever wondered why, after over 140 years since  
9 black emancipation from slavery, historically black  
10 colleges and universities still account for the lion's  
11 share of all black college graduates? Yet, I never hear  
12 black college administrators crying to the media about how  
13 they need to have more white students on their campuses,  
14 that attending a predominantly black college is somehow  
15 stunting the growth of these students.

16           In fact, increasingly, HCBU students are highly  
17 sought after for immediate employment, in graduate studies  
18 by major corporations and majority academic institutions.

19           Black colleges and universities need more  
20 endowment money, they need more research grants. They  
21 need facilities upgrades, but I never hear anybody say  
22 those students didn't get a good, if not outstanding,  
23 education because there were no white students in their  
24 classrooms.



1           Or look at the astonishing growth of black  
2 church ministries, the ones with 10,000, 20,000, or even  
3 30,000 members. I don't hear Bishop T.D. Jakes, Bishop  
4 Eddie Long or their peers talking about how they need more  
5 Caucasians in their churches. Or 100 Black Men or  
6 National Council of Negro Women, Delta Sigma Theta  
7 International or Omega Psi Phi National Fraternity; all of  
8 these organizations and associations have worldwide  
9 affiliations, and no one seems to mind that there may not  
10 be any Caucasian people with them when they show up.

11           Why is there such a refrain that LB 1024 is  
12 going to segregate black children and they won't be going  
13 to school with Caucasian children or other children from  
14 other cultures and, therefore, they will receive a stunted  
15 upbringing in education? Isn't it interesting that this  
16 argument is never successfully made when the children in  
17 question are white?

18           White children in west Omaha can go all 12  
19 grades of public school without any meaningful interaction  
20 with students of color. And if there are students of  
21 color in those schools, their histories and cultures have  
22 no prevailing credibility and authority that extends past  
23 momentarily celebration of ethnic history week, day,

1 month, you name the group, or a cultural foods day in  
2 the cafeteria or an annual entertainment assembly.

3 Whites run around worrying about - white people  
4 don't run around worrying about any of their children  
5 missing something because they didn't have black people in  
6 their lives during their formative years. Since when?

7 One of the biggest reasons America struggled so  
8 hard today with developing a true diversity mentality,  
9 especially in today's changing flat world, as outlined so  
10 vividly by Thomas L. Friedman in his best seller, The  
11 World is Flat: A Brief History of the Twenty-First  
12 Century, is that Caucasians have consistently failed to  
13 embrace and empower the very cultures that have been in  
14 America the longest and done the most for white progress  
15 in this nation: African Americans, Native Americans and  
16 Hispanic people.

17 All of our peoples have been in America since  
18 before the Mayflower, and after almost 500 years, whites  
19 are still struggling with the (inaudible) true parity and  
20 inclusion for even its longest-serving, longest-suffering  
21 and most faithful brotherin of color.

22 And as I near to the end of my ten minutes, I  
23 want to jump to something.

1           Black slaves created the first public  
2 education system for school children in the south after  
3 the Civil War. Are you saying poor white people didn't  
4 send their kids to those schools? Of course they did.  
5 But unfortunately for black people and those racially  
6 misunderstanding whites, the federal government sold out  
7 that great opportunity to uplift all of America. The  
8 racist state's rightists took over.

9           But we had done it. The cat was out of the bag.  
10 We showed how everybody benefits when black people get  
11 some leeway to develop our own community and creativity.  
12 We included everybody. We have never shut anybody out of  
13 our progressiveness.

14           Today, there are thousands of white kids  
15 dropping out of the American education system every year  
16 and they are doing it without any help whatsoever from  
17 African Americans. Maybe some of these kids, too, need a  
18 fresh perspective LB 1024 could bring to public school  
19 education in Omaha.

20           And Senator Chambers was quite poignant  
21 consistently saying we're just offering a change in Omaha.  
22 The fact that this has become earthshaking and national  
23 and drawing your Commission and drawing the New York

1 Times, that was never the intent. It was to look at  
2 some options that had not been considered.

3 And I put at the end of my prepared statement:

4 In closing, there is so much more to be  
5 addressed, as we had this morning and we will this  
6 afternoon. LB 1024 is not trying to save the entire  
7 public school education for the entire African American  
8 people in the United States.

9 There was an excellent automobile transmission  
10 repair shop in Omaha called, All-Car Transmission. They  
11 had a unique marketing promotion. They'd say, "We're not  
12 nationwide, but we're one of the best in Omaha."

13 That's what LB 1024 is. If it succeeds, then  
14 maybe, just maybe, somehow tiny little Omaha may have  
15 uncovered a Rosetta Stone for how common community people  
16 can take back the education of their children and change  
17 the course of so many thousands of black children,  
18 especially boys, who really only have a prison cell  
19 waiting for them at the end of their failed trial by  
20 education.

21 If LB 1024 fails, then America really needn't  
22 worry about anybody else coming this way anytime soon.

23 We've bet the lives of our children for 52 years  
24 on everything the white race has foisted upon us in the

1 name of public school education. And what do we have to  
2 show for it in 2006? Isn't it time that just this once we  
3 try it ourselves?

4 COMMISSIONER TAYLOR: Thank you. Thank you, Mr.  
5 Brooks.

6 We will next hear from Brenda Council. Ms.  
7 Council was elected to the Omaha Board of Education in  
8 1982 and has served two terms as vice president and four  
9 terms as the board's president.

10 She's also chaired the Governor's Task Force on  
11 Excellence in Education in 1983 and was Western Regional  
12 President of the National Caucus of Black School Board  
13 Members. In 1993 she was elected to the Omaha City  
14 Council and has also been in private practice with a  
15 number of the state's leading law firms and is also on the  
16 Board of Directors of the Urban League of Nebraska.

17 Thank you for coming and we look forward to  
18 hearing your comments.

19 MS. COUNCIL: Thank you. I appreciate the  
20 opportunity to be here this afternoon and I really mean  
21 that this afternoon. I was advised that the panel started  
22 this morning and I, unfortunately, had to be in court  
23 representing a client and so I appreciate the fact that

1 the Commission held the hearings over to allow me an  
2 opportunity to speak this afternoon.

3 One thing that I want to state for the record  
4 that while I am a member of the Board of Directors of the  
5 Urban League of Nebraska, my comments this afternoon are  
6 mine and mine solely. I am not speaking on behalf of the  
7 Urban League. I'm speaking as an individual member of  
8 this community.

9 I appear here this afternoon in opposition to LB  
10 1024.

11 I regret the fact that I did not have an  
12 opportunity to hear this morning's discussion. I  
13 appreciate the comments provided by my friend, Mr. Brooks,  
14 and I agree in many respects with the concerns he  
15 addresses and raises in his commentary, but I do not  
16 believe that this bill provides the means of addressing  
17 this.

18 First and foremost, I view this bill as being  
19 segretory in nature. I don't see any way that you can  
20 read Section 16 of this bill as providing and resulting in  
21 anything other than racially segregated school districts.  
22 Dividing Omaha Public Schools into three will invariably  
23 result in the creation of minority school districts.

1           And when you put it in the context of freezing  
2 the boundaries of all of the school districts and not  
3 allowing Omaha Public School District to grow, you, in  
4 fact, cement the segretory effects of this bill.

5           I've heard the discussion about, Well, the bill  
6 was designed to provide a means by which integrated  
7 efforts would be encouraged. But I think if you look  
8 closely, particularly at Section 16 of the bill, I don't  
9 know how you accomplish creating integrated educational  
10 environments. In fact, if you look at Section 16 and how  
11 it would operate, it would operate, quite frankly, to  
12 dismantle the integrated efforts that have been achieved,  
13 particularly in the Omaha Public Schools, particularly  
14 with regard to the middle school and high school program.

15           The bill provides for the establishment of focus  
16 schools but those focus schools have no attendance areas,  
17 and as a result, the legislation provides that any person  
18 who would want to attend the focus schools are on a first-  
19 come-first-serve basis. So I have problems understanding  
20 how you can achieve diversity when you have no choice with  
21 regard to who is the first to apply.

22           The only time a school district has choice is  
23 once the school reaches capacity, then they are in a  
24 position where they can choose to allow students who have

1 applied to move to those schools on the basis of their  
2 social or economic status. But prior to that, there's no  
3 -- there's no involvement or real opportunity to provide  
4 for integrative efforts.

5 It also places a tremendous burden on the  
6 receiving school districts because the receiving school  
7 district is required to provide transportation, regardless  
8 of whether or not that student's attendance at that school  
9 will have any effect on the diversity of that school.

10 So when I look at Section 16 and I don't -- and  
11 I know there has been discussion as to whether or not the  
12 boundaries of the three districts that would be created  
13 out of the Omaha Public Schools would have to be  
14 contiguous, whether they are contiguous or not, the result  
15 would still be segretory.

16 And I don't think that this community -- and I'm  
17 speaking about this community. Quite frankly, you know,  
18 what the nation thinks about Omaha is not my concern. I  
19 live in Omaha and I'm concerned about the educational  
20 opportunities for children in Omaha.

21 And I believe that this bill flies squarely of  
22 the face of Brown versus Board of Education in terms of  
23 providing, legislatively, for separate and, quite frankly,  
24 in terms of operation would ultimately be unequal schools



1 | which gets me to the second point, the concern about  
2 | local control.

3 |           And I certainly appreciate the concern that's  
4 | been expressed about local control. I -- I'm an advocate  
5 | for parental involvement in the education of young people.  
6 | I'm an advocate. I mean, I am the benefactor of the  
7 | district elections that Senator Chambers was responsible  
8 | for. That's how I was elected to the Omaha Board of  
9 | Education. So I appreciate that. But this bill does not  
10 | provide the level of involvement that I think people have  
11 | been led to believe.

12 |           First of all, with regard to the issue of  
13 | finances, which is critical when we're talking about  
14 | providing quality educational opportunities, under this  
15 | bill, the decisions about how money is distributed rests  
16 | at the Learning Community level where, quite frankly,  
17 | you're going to have a delusion, in my opinion, of the  
18 | voice of the people who I hear some of the proponents of  
19 | the bill wanting to represent.

20 |           At worst case, you end up with two minority  
21 | districts out of OPS. That means they have two votes out  
22 | of 13 on how the money is to be distributed. I don't know  
23 | how that improves the position of the children or the  
24 | parents in those districts.

1           When you look at the amount of money available  
2 and that vote -- and I think I should point out the fact  
3 that there would be two of 13 votes on the Learning  
4 Community, but if you divide up Omaha Public Schools into  
5 three, you would have three 15,000 student school  
6 districts.

7           What you also, as a part of the Learning  
8 Community, have are some 500 and 600 student school  
9 districts, and those individuals with 500 students would  
10 have just as much vote and just as much say as a district  
11 with 15,000 students.

12           I don't think that's fair, I don't think that's  
13 just, I don't think that results in equity.

14           Also, the bill allows for the individual school  
15 districts by a vote of the public to exceed the limits  
16 that have been set by the Learning Community in terms of  
17 dollars for students. Well, if we're talking about  
18 looking at the districts, the three districts that would  
19 be created out of the Omaha Public Schools, we're talking  
20 about school districts where the tax base is not as high,  
21 is not as strong as the tax bases in some of the suburban  
22 districts, and then the expectation would be that those  
23 individuals, many of whom are low income, would be in a  
24 position to self-impose additional taxes in order to

1 provide the quality of education that their young people  
2 deserve.

3           There's no new money under this bill, no new  
4 money. So in terms of what would be the resulting school  
5 districts, you would have these majority minority school  
6 districts who would have the overwhelming percentage of  
7 youngsters who would have English as a second language, an  
8 overwhelming percentage of youngsters who are on free and  
9 reduced lunch and no additional money to provide the kinds  
10 of educational resources that those young people need.

11           Finally, with regard to the local control issue,  
12 if this bill is allowed to remain in effect and Omaha  
13 Public Schools is divided into three separate school  
14 districts, when we talk about the voices of the  
15 individuals in those districts, those voices won't even be  
16 heard until 2012 under the current legislation. And from  
17 2008 to 2010, the school boards for those districts would  
18 be appointed; the entire school board would be appointed.  
19 No -- no representation, no voice of the constituency.

20           From 2010 to 2012 half of the school board would  
21 be appointed and the constituents in those districts would  
22 have an opportunity to vote. It wouldn't be until 2012  
23 that those districts would have boards of educations  
24 elected from those districts.

1           So if -- at the totality of this bill, it  
2 becomes at least obvious and clear to me that we don't  
3 gain any educational benefit from this legislation.

4           I know there have been discussions about test  
5 scores and performance in Omaha Public Schools, and I will  
6 be the first to tell you that Omaha Public Schools has a  
7 long way to go in terms of closing the gap in educational  
8 achievement between minority and majority students, but  
9 that's not to say they haven't come some way in addressing  
10 that gap, that they haven't taken steps to ensure that we  
11 address these educational deficiencies.

12           And I reference the African American Achievement  
13 Council and the work that that council has done in terms  
14 of being a conscience of the Omaha Board of Education in  
15 terms of addressing these educational achievement issues.

16           I challenge someone to point to any specific  
17 provision in this bill that they can say definitively,  
18 definitively, will result in increasing test scores or  
19 increasing academic achievement for African American or  
20 any children in this school district, for that matter.

21           What we should be focusing our attention on is  
22 what will it take to provide the kind of educational  
23 programs that will ensure that all of our children receive  
24 a quality education.

1 COMMISSIONER TAYLOR: Thank you.

2 Our next speaker is Marian Fey. Ms. Fey is the  
3 mother of four children in the Omaha Public School system,  
4 and she has served on a number of posts within the school  
5 system, including president for the Alliance for Omaha's  
6 Future, is serving as a member of the board of the Omaha  
7 School Foundation, PTA president of the Harrison  
8 Elementary School, and on the Omaha Council PTA.

9 Ms. Fey has a degree in elementary education and  
10 has also served as a substitute teacher in the Millard and  
11 Ralston school districts. Thank you, and we look forward  
12 to hearing from you.

13 MS. FEY: Thank you.

14 And I just -- in answer to a question that was  
15 raised by Senator Chambers and Mr. Brooks, I am actually a  
16 white parent who does not think it is okay for children to  
17 go to all -- white children to go to all-white schools and  
18 that's what I want to talk to you a little bit about  
19 today.

20 As you said, I'm a professional educator with a  
21 degree in elementary education. I thank you for coming  
22 today and for inviting me to speak and looking into what I  
23 feel is a violation of civil rights, as I understand them,

1 and a dangerous situation that presents a serious  
2 injustice to the children of Omaha.

3 First of all, I want to tell you about Omaha,  
4 who we are, and where we live. I have visual aids that  
5 you will get when we're all done. It's the elementary  
6 teacher thing.

7 In Douglas and Sarpy County, there's 11 school  
8 districts.

9 COMMISSIONER YAKI: If we get unruly, just send  
10 us to nap time.

11 MS. FEY: Absolutely.

12 So here's the 11 school districts. That's 11 in  
13 the greater Omaha Metro.

14 And until approximately 40 years ago, as Omaha  
15 grew, so did the Omaha Public Schools. City annexations  
16 were made and OPS, with very little fuss, absorbed the  
17 previously independent school districts.

18 I won't go into the history of court-ordered  
19 desegregation in the Metro, which, by the way, applied  
20 only to OPS, or the political climate at the time, or  
21 white flight, but you do need to know when the City of  
22 Omaha annexed Millard in 1971 the Millard Public Schools  
23 were not taken in by OPS.

1           And there's a chart here that just shows,  
2 again you will get a copy, but the difference in the  
3 population of minorities in 1974 was approximately 11,000  
4 and in 2004 about 25,000 minority students versus the  
5 Caucasian population in 1974 was at about 45,000 students  
6 versus 2004 where it had dropped to about 20,000 students.  
7 And that's consistent with what happened around the  
8 country when there was court-ordered busing,  
9 desegregation.

10           I'm certain that the current school board has  
11 questioned that decision, or the indecision of the  
12 previous school board, many times.

13           I also have a census map. This map expresses  
14 the racial breakdown of the Douglas County school  
15 districts, and the vast majority of minority students live  
16 in the Omaha school district, which is right here.

17           If the map could be broken down further, you  
18 would see that, in general, the Omaha Public Schools is  
19 primarily white here, African American here, Hispanic down  
20 here. This is OPS, this section.

21           Because of the large numbers of minority  
22 families and where they live, as has been stated before, I  
23 don't envision a situation where OPS could be divided into

1 three districts in a way that doesn't create a racially  
2 identifiable district.

3           So now let me tell you a little bit about my  
4 family, why I'm here.

5           We live about right here. There's my house.

6           We chose our neighborhood and our children's  
7 schools for their diversity. We were aware of the  
8 academic excellence of all of the Omaha school districts,  
9 but viewing academics as something more than test scores,  
10 my husband and I chose the district that would best  
11 prepare our children for life outside of school.

12           What I found is that not all of Omaha agrees  
13 with that philosophy. We've had to speak up to defend our  
14 schools and the children who attend them.

15           My children perform just fine in school, and,  
16 honestly, they'd probably do okay wherever we'd send them.  
17 They have two college-educated parents at home, a  
18 comfortable house, and all their basic needs are met.  
19 They are ready to learn when they enter the school  
20 building.

21           The same can't be said for every OPS student.  
22 In fact, many OPS students face challenges that I can  
23 hardly comprehend.



1           One out of every eight OPS students is an  
2 English language learner, and over 60 percent of OPS  
3 elementary students live in poverty.

4           As OPS parents, neighbors, community members and  
5 citizens of Omaha, we stand up for the rights of those  
6 children and work to ensure that the Omaha Public Schools  
7 are treated fairly in the Legislature, within the state's  
8 school finance formula, and by other local districts.

9           I have testified myself before the Legislature's  
10 education committee on two occasions, and my son, who is a  
11 sophomore at Omaha Central High School, has even testified  
12 against 1024, when it was still in committee, articulating  
13 something that was clear even to a teenager, that many  
14 people in Omaha want the perks of Omaha -- the city, the  
15 zoo, Memorial Park, Rosenblatt Stadium, Qwest Center  
16 across the street -- and then they want to turn their  
17 backs on the problems of the people who live and work in  
18 these areas.

19           OPS has had a place -- has had in place an  
20 integration plan that works. It is natural that parents  
21 of elementary school-aged children, particularly those in  
22 primary grades, prefer to attend their neighborhood  
23 schools. And that was something that Senator Chambers  
24 brought up, that OPS is segregated.

1 Well, in voting to approve the 1999 bond  
2 issue, parents confirmed their support of the idea that  
3 mandatory -- and mandatory busing based on race was ended.  
4 Before choosing to restructure the student assignment  
5 plan, OPS interviewed, polled, and met with parents across  
6 the district and a return to neighborhood schools was the  
7 overwhelming response. Knowing that the balance of racial  
8 and socioeconomic integration could be upset, parents  
9 chose community, convenient access and/or local control  
10 over court-mandated integration.

11 In response, OPS created a magnet program that  
12 continues to grow and attract students across racial  
13 lines. Consistently, elementary schools are more diverse  
14 than the neighborhoods in which they stand.

15 And so to my pie chart. Just to show you, this  
16 is Catlin Performing Arts Magnet. Without magnet  
17 students, because of 21 percent of the students receive  
18 free or reduced lunch, 17 percent of them are minority.  
19 With the magnet students, 41 percent are free or reduced  
20 lunch, 43 percent are minority. This is a west Omaha  
21 magnet school.

22 I think it's probably one of the most successful  
23 of the magnet schools, but I think, again, as Senator  
24 Bourne stated and as I just said, of all of the magnet

1 schools and, in fact, I think most of the elementary  
2 schools are more racially diverse in the neighborhoods in  
3 which they are located.

4           There is no way that in one morning of listening  
5 to testimony you can fully understand the ideas and the  
6 culture of a city, but I'm trying to give you a glimpse of  
7 the history and the attitudes that define Omaha.  
8 Segregationist ideologies, no matter how subtle or overt,  
9 no matter how - no matter if they come from whites or  
10 blacks, if they are demonstrated through hate crimes or  
11 perpetuated through legal channels, are wrong, wrong for  
12 this country and its global economy, wrong for the city  
13 and its sustained growth and development, and wrong for  
14 children and their futures.

15           I want to close with a lesson I learned from my  
16 15 year old and that is that last -- he's growing up in  
17 the Omaha Public Schools in racially diverse schools.

18           We were at a Central High basketball last year,  
19 and our whole family, and I was sitting off a little ways  
20 from some African American boy students at Central who  
21 were wearing the baggy pants, sunglasses inside, the  
22 logos, the gear. And I made a comment, just sort of under  
23 my breath, that just hated that. I just hate the baggy  
24 pants and I hate the -

1           And my son, who has blonde hair and blue eyes,  
2 and who was at the time wearing a pink polo shirt, looked  
3 at me and said, Mom, it's their culture. Their mom is  
4 probably over there going, I hate that kid in the pink  
5 polo shirt.

6           FEMALE AUDIENCE PARTICIPANT: You do not  
7 represent Omaha. I am sorry, I cannot take any more of  
8 this -

9           COMMISSIONER TAYLOR: Please. Please, show some  
10 respect.

11          FEMALE AUDIENCE PARTICIPANT: (Inaudible) -- by  
12 a parent in OPS. That is not my experience.

13          COMMISSIONER TAYLOR: Will you please step  
14 outside. Please, show some respect. I apologize.

15          FEMALE AUDIENCE PARTICIPANT: Shame on you.

16          MS. FEY: So my son turns to me and said, Mom,  
17 their mom is probably over there saying, I hate the pink  
18 polo shirt. He said, Mom, it's all good.

19               And for him to have had grown up in that and  
20 witnessed that and thought -- he doesn't see that.

21               He -- my children have succeeded academically in  
22 OPS, and I'm grateful that their education includes seeing  
23 people for who they really are, not the clothes they wear  
24 or the color of their skin.

1           As I said before, my children will do fine in  
2 school, but it's the lessons of life that I'm afraid will  
3 suffer if OPS is divided into three racially identifiable  
4 school districts.

5           Thank you.

6           COMMISSIONER TAYLOR: Thank you. Our next  
7 speaker is Carol Krejci --

8           MS. KREJCI: Krejci.

9           COMMISSIONER TAYLOR: -- Krejci who has been --  
10 been a professional educator for 35 years, the last 20  
11 years teaching American history and government at Omaha  
12 Central High School. In August of this year, she became  
13 president of the Omaha Education Association which  
14 represents nearly 3,000 professionals in the Omaha Public  
15 School system.

16           She has served in various positions on the Board  
17 of Directors of the Omaha Education Association for 15  
18 years and recently completed six years on the Board of  
19 Directors for the Nebraska State Education Association.

20           Thank for you coming, look forward to hearing  
21 from you.

22           MS. KREJCI: Thank you.

23           I am Carol Krejci, president of the Omaha  
24 Education Association. I appreciate the opportunity to

1 appear today on behalf of the nearly 3,000 professional  
2 educators in the OEA.

3           As I begin, I am reminded of the first motto of  
4 the United States and adopted as part of our Great Seal in  
5 1775. This Latin phrase E pluribus unum translated means,  
6 "From many, one" or "Out of many, one." It refers to the  
7 integration of the 13 independent colonies into one united  
8 country. But since 1776, it has taken on an additional  
9 meaning, given the pluralistic nature of modern American  
10 society.

11           Today, more than ever, American society is a  
12 diverse society made up of distinct racial, ethnic, and  
13 religious groups. If America is to survive well into the  
14 twenty-first century, it must accommodate this diversity  
15 through assimilation and the teaching of shared values.  
16 For more than 200 years of our history, that assimilation  
17 has occurred in America's public schools, and so E  
18 pluribus unum could very well be the motto of the American  
19 public school system.

20           It is here, in our public schools, that our  
21 students, regardless of their national origin or their  
22 mother tongue, become true Americans with shared values  
23 and a shared sense of national purpose. Public education

1 is the glue that binds American society together and  
2 preserves our nation 17 as a functioning democracy.

3 We know of no research that suggests that the  
4 best way to assimilate our children into American society  
5 is to isolate them in racial or ethnic enclaves. On the  
6 contrary, as history shows, if we are to educate our  
7 children to live in a diverse society, multicultural  
8 society, this is best accomplished through integrated  
9 classrooms where students learn to respect each other, to  
10 appreciate the strength of diversity, and to share the  
11 common values that bind our nation together.

12 LB 1024 seems to be a direct conflict with our  
13 public school mission, and while the ultimate consequences  
14 of LB 1024 are yet to be determined, the statutory  
15 framework leaves many questions unanswered, both for the  
16 students and teachers of the Omaha Public Schools.

17 Researchers and reviewers have investigated the  
18 ways that knowledge, attitudes, and behavior are affected  
19 by a host of issues, including school desegregation, other  
20 forms of increased intergroup contact, multicultural  
21 education, self-esteem building activities and many  
22 others.

23 For example, the use of cooperative learning as  
24 a means to improving intercultural relationships is

1 supported by more well-designed research than any other  
2 single schooling practice. This teaching strategy  
3 involves organizing learners into culturally heterogeneous  
4 groups -- teams giving them tasks requiring group  
5 cooperation and interdependence, and structuring the  
6 activity so that the teams can experience success.

7           This technique has been shown to be an extremely  
8 powerful means of enhancing intergroup relations. The  
9 research also shows that heterogeneously grouped learners  
10 experience other positive outcomes, such as increased  
11 self-esteem; improved attitudes towards school, specific  
12 classes, subject areas, and teachers; and a greater  
13 ability to appreciate the strengths that diverse people  
14 bring to a learning table. In other words, if our goal is  
15 to prepare students to live and work in a diverse society,  
16 then it is critical that our schools mirror that society.

17           We agree that it is important for students to  
18 have teachers and administrators of one's cultural group  
19 in one's school, but we also believe that it is important  
20 to expose children to a diverse teaching staff in each  
21 school.

22           Unfortunately, while our school-aged population  
23 is becoming increasingly multicultural, the teaching  
24 profession is becoming increasing monocultural. The



1 recruitment and retention of significant numbers of  
2 ethnic minority teachers is a problem that is not unique  
3 to Omaha. In 1985, approximately 88 percent of the U.S.  
4 teaching force was white. Today that number is probably  
5 closer to percent. Clearly, if this trend is to be  
6 reversed, it will require a very concerted effort of  
7 public school administrators and teacher training  
8 institutions.

9           One of the major concerns we have with LB 1024  
10 is that it does very little to address the antiquated  
11 state system for financing public education. The breakup  
12 of the Omaha Public Schools and the addition of the  
13 Learning Community governing council will only add to the  
14 bureaucratic overhead costs, thus making the inadequacy of  
15 current funding levels even more critical. We cannot  
16 adequately staff or equip high poverty schools until we  
17 adequately fund them. Simple common sense should tell us  
18 that to tackle the greater challenges they face schools  
19 serving large disadvantaged populations should receive  
20 additional resources on top of an adequate and equitable  
21 base funding.

22           LB 1024 is a 172-page document that generates  
23 far more questions than it does answers. These questions  
24 come in two broad categories: Questions being asked by

1 students and parents, and questions that the teachers  
2 and staff are asking.

3 Let me start with the unanswered questions of  
4 parents and students:

5 Will each of the three new districts have the  
6 same curriculum?

7 Will they provide equal opportunity? If  
8 students wish to integrate themselves, will opportunities  
9 be afforded to move across new district boundary lines and  
10 attend schools in other parts of the former district?

11 Will students have equal access to centers of  
12 academic excellence, for example attendance centers that  
13 concentrate on math and science instruction?

14 If students live with extended families, will  
15 arbitrary boundary lines divide families members from  
16 family members?

17 If a parent wants his child to attend an  
18 integrated school, how does he find such a school?

19 And what if a current -- a student is currently  
20 attending school that is not in his home district; will he  
21 have to apply to continue there?

22 It is clear that LB 1024 has created morale  
23 problems for both parents and students. This is evidenced  
24 by the fact that both African American and Hispanic

1 | parents have filed separate lawsuits challenging the  
2 | constitutionality of LB 1024. Evidently these parents,  
3 | who know the special needs of their children, are not  
4 | convinced that dividing 25 OPS along racial lines into  
5 | three separate districts will be in the best interests of  
6 | their children.

7 |           The list of teacher questions and concerns is  
8 | even longer:

9 |           How will the current Omaha Public School faculty  
10 | be reallocated to three new independent school districts?

11 |           Will the allocation be along racial lines?  
12 | Currently all faculty are part of a single bargaining unit  
13 | with commonly determined salaries, fringe benefits, leave  
14 | policies, professional growth policies, et cetera. What  
15 | guarantees are there that the faculty will be treated  
16 | equitably by the three new districts, each with separately  
17 | elected school boards?

18 |           How will funding affect the negotiations within  
19 | districts, both separately and collectively?

20 |           How will this affect teacher compensation?

21 |           How will it affect the number of educator jobs?

22 |           Will the Learning Community become one contract  
23 | for all?

1           Currently OPS employees are all included in a  
2 single retirement system with pooled funds and common  
3 benefits. How will future benefits be handled and how  
4 will retirement funds be allocated to the three new  
5 districts to guarantee equity?

6           How do the Nebraska school reorganization  
7 statutes apply to the breakup of OPS?

8           And will this division ultimately require other  
9 districts to restructure?

10           One last concern is the makeup of the governing  
11 body for the new Learning Community that is created in LB  
12 1024.

13           Each of the 11 school districts that are to be  
14 part of the new Learning Community are to have equal  
15 representation on this board, yet the 11 districts are not  
16 remotely equal in size. Bennington, with 800 students,  
17 will have the same vote as Omaha, with 45,000 students.  
18 This is not proportional representation and clearly  
19 violates the principle of "one man, one vote" as  
20 established by the Supreme Court nearly 50 years ago.

21           Making this situation even more nefarious is that  
22 it is the ethnic minorities and economically disadvantaged  
23 that are being the most underrepresented in this system.

1 I want you to know that the Omaha Education  
2 Association, the Nebraska State Education Association, and  
3 the National Education Association have a long history of  
4 opposing segregation and protecting the rights of  
5 teachers. No matter what direction this new law takes, we  
6 will be there on the front line of this important  
7 political, educational, and social justice issue. But  
8 more importantly, we will be where we've always been, in  
9 the classroom, looking into the bright eyes, teaching the  
10 eager minds, compassionately caring for the frightened and  
11 neglected, and celebrating the milestones of our students'  
12 success.

13 We, the professional educators of the Omaha  
14 Public Schools, believe that strong public schools are the  
15 foundation of our democratic society and that every child  
16 deserves a great public school.

17 COMMISSIONER TAYLOR: Thank you very much.

18 Our next speaker is Professor Potuto. Professor  
19 Potuto is currently the Richard H. Larson Professor of  
20 Constitutional Law at the College Of Law, University of  
21 Nebraska at Lincoln. She received her journalism degree  
22 from Rutgers and her J.D. from -- from Rutgers as well.

23 PROFESSOR POTUTO: Yes.

24 COMMISSIONER TAYLOR: Welcome.

1                   COMMISSIONER YAKI: Wait, wait. Commissioner  
2 Taylor --

3                   COMMISSIONER TAYLOR: Yes, sir.

4                   COMMISSIONER YAKI: -- you left out the most  
5 important of her biography, the NCAA infractions official  
6 is what she's also.

7                   PROFESSOR POTUTO: That's right, with all of  
8 this private information.

9                   COMMISSIONER TAYLOR: That's right.

10                  PROFESSOR POTUTO: I don't want to - my comments  
11 are probably -- probably sound somewhat disjointed because  
12 I've been editing and editing as the day has gone on, and  
13 I've heard some of the things I might have said and  
14 probably said more eloquently than I would have said them.  
15 I also rely on and will not repeat my written submission.

16                  I think, listening to everyone today and  
17 thinking about this issue over the last many months now in  
18 -- I guess in focused detail, and certainly thinking about  
19 education for my whole adult career, everybody here wants  
20 to enhance the educational opportunity and performance of  
21 students and, in this case in particular, the students in  
22 the Omaha schools, and I think everyone here wants to do  
23 it in a way that's constitutional.

1           But we differ some on the policy issues. What  
2 is the best way to do it or maybe it would be more  
3 accurate to say the best way to get a good jump-start to  
4 do it.

5           My own bias is that diversity is of critical  
6 importance in education, both K through 12 and in college  
7 and in post college, because if for nothing else the world  
8 we live in and also because I think it enhances the  
9 educational experience in the schools to see and hear and  
10 interact with people who don't look and sound and think  
11 maybe the same way we do.

12           But I think of more importance is to be sure  
13 that kids K through 8, K through 12 can read and write and  
14 do those basic tasks at least that we expect of all people  
15 coming out of the schools and who are going to be  
16 functioning performers in our society and citizens.

17           And I think part of what I heard today is really  
18 a disagreement as to how fast you can do the latter and  
19 also do the former at the same time and whether getting  
20 them up to speed and keeping them in school and performing  
21 well on what we would have called the three Rs should be  
22 the primary goal right now.

1           Now, the constitutional -- and that's what I'm  
2 here about, but, you know, the constitutional principles  
3 are not all that difficult.

4           The equal protection clause, as I know you all  
5 Commissioners know and I'm sure everybody on the panel  
6 does and probably everybody in the audience knows, the  
7 equal protection clause requires a purpose to  
8 discriminate, an effect to discriminate, and a state  
9 actor. And that with regard to the old notion of separate  
10 but equal, the context out of which that -- well, the  
11 context from which that -- that notion came was one in  
12 which the reason for the separate was not to try to  
13 enhance educational goals or performance of  
14 underperforming kids or minorities but it came out of  
15 white supremacist notions that the white majority should not  
16 be interacting with minorities.

17           Now, that goal is abhorrent, but it is not the  
18 one that's reflected -- and I think everybody would agree  
19 it's not the one reflected in the Nebraska statute,  
20 whether that statute is constitutional or not.

21           It makes it a little difficult -- and I think  
22 that's why at least from my perspective some of what I  
23 heard came from so many different directions. It's pretty  
24 hard to take a paradigm that says separate but equal is



1 | abhorrent because of why we have separateness and try to  
2 | place it in a context in which those advocating the  
3 | separateness, assuming that the result of the -- of the  
4 | statute in operation would be three very racially distinct  
5 | districts, to try to put it in a context in which the  
6 | reason for doing it is so different.

7 |           The clear -- I mean, there are some things in  
8 | the constitutional tests that are pretty clear here, and  
9 | one is clearly you've got state actors, whether it's the  
10 | unicameral or it's OPD or it's the whatever they are  
11 | calling them -- I read the statute but I guess I can't  
12 | remember right now - the coordinating commissions, the  
13 | state commission or anybody who's assigned under the  
14 | statute to have authority with regard to what happens  
15 | here, are all going to be state actors.

16 |           The difference that I heard this morning between  
17 | Senators Bourne and Chambers is with regard to whether LB  
18 | 1024 simply acknowledges what already is the status quo or  
19 | is going to freeze and make worse the racial disparity in  
20 | the schools. I'm not sure it makes all that much  
21 | difference constitutionally, at least under the tests  
22 | we're under right now.

23 |           If Senator Bourne is correct, then I think he is  
24 | also correct that the statute would be unconstitutional.

1 If Senator Chambers is correct in describing the way the  
2 system will, in fact, operate, I still think there's a  
3 very good chance under the way that current -- the court  
4 has dealt with racial districting or segregation, at least  
5 in the schools, I still think there's a very good chance  
6 it will be unconstitutional.

7 That is independent of the policy question as to  
8 whether what might work best right now, at least in a  
9 jump-start situation.

10 The additional component to this, and Ms. Krejci  
11 in some ways reflected it when she was describing all of  
12 the questions that will exist, is even if the courts were  
13 to find the plan in theory constitutional, you still have  
14 the second component which is going to be whether that  
15 which is separate but equal in theory will turn out to be  
16 separate but equal in fact; and that's an entirely  
17 different and probably a continuing issue that will come  
18 up under this plan.

19 And I, frankly, don't see how it wouldn't come  
20 up. I've heard the discussion earlier today about how the  
21 -- how the distribution of resources would be made, and if  
22 there is a differential - if there are differential  
23 resources in the districts, that will show in differences  
24 in terms of what the schools and the districts are able to

1 do. I think what may come out of this is continuing  
2 litigation, which I guess given that I teach in the law  
3 school will keep our people very happy, but I doubt it's  
4 going to keep anybody else very happy.

5 I'm going to end here. I have a lot more that I  
6 might have said but I think people here have said it all  
7 day and I don't want to take any more time of the  
8 Commission or anybody else who's here.

9 COMMISSIONER TAYLOR: Thank you very much. We  
10 will now hear from Dr. Everett Reynolds who is immediate  
11 past president of the Omaha NAACP and is also the pastor  
12 of the United Methodist Church here in Omaha.

13 Welcome, Dr. Reynolds, and we look forward to  
14 hearing from you.

15 REV. REYNOLDS: Thank you, Mr. Taylor. Yes, let  
16 me affirm that I am a United Methodist pastor with over 55  
17 years serving the church and people. And I'll read, under  
18 the Matthew 25:40, Inasmuch as ye have done it unto one of  
19 the least of these my brethren, you have done it unto me.

20 I should say that I've been looking for a lady,  
21 but I don't see any ladies on the Commission and so my  
22 heart is a little bit low, but that's alright I know  
23 you've got some up there, but they didn't show up and so -  
24 -

1           COMMISSIONER TAYLOR: They had family  
2 obligations. They are active on the Commission, very  
3 active.

4           REV. REYNOLDS: I know. I know. I share  
5 mothers support but I like to see the ladies.

6           All right. The second piece is that when you  
7 talk about the Omaha School District, I want to just be  
8 sure before I make my formal statement, in District 2 we  
9 are raising question as to how long will it be minority  
10 because of population shifts. If there's a forgone  
11 conclusion that we have a black neighborhood, there is  
12 very few, if any, blocks in Omaha, Nebraska, that are all  
13 black.

14           Now, to my statement which you have and let me  
15 go through it, if I might, please.

16           I want to thank those who are part of the team,  
17 Ms. Butler, Ms. MacDougall, and Mr. Marcus, for their part  
18 in bringing us on board and the information that they  
19 shared and we'll try to go with that.

20           Education is the number one issue in the world  
21 today. It must necessarily, then, be the number one issue  
22 in Nebraska and yes, in Omaha.

23           We all know that at one time in America it was  
24 against the law for slaves, black people, to learn or to

1 be taught to read and write. The struggle for equality  
2 and justice began when the first slaves were brought to  
3 America in 1619 and continues even as we speak.

4 Booker T. Washington, the first Negro to receive  
5 an honorary degree from Harvard University, is quoted as  
6 having said, "The condition of Negroes is deplorable but  
7 needing change from within. The change should be gradual  
8 and its wakes should not disturb the rest of American  
9 society."

10 For a moment, let's set aside former U.S.  
11 Ambassador Andrew Young and former U.S. Secretary of State  
12 Colin Powell and our current Secretary of State  
13 Condoleezza Rice. Let's look at what Booker T. Washington  
14 calls gradualism.

15 It took 58 years, 1869 (sic) to 1954, from  
16 Plessy versus Ferguson to Brown versus Board of Education,  
17 and now it's 52 years, '55 to '06, from Brown versus Board  
18 of Education to LB 1024. Over 100 years and still we're  
19 talking about yesterday's issues.

20 One moment of change in American education came  
21 when Homer Plessy stood up for what he believed and the  
22 court ruled in 1896, Plessy versus Ferguson, that  
23 segregation could be practiced if the facilities were

1 separate but equal. Really, everybody knew even then  
2 what that really meant: Separate and unequal.

3           It was not until 1955 that Brown versus Board of  
4 Education declared that separate but equal was inherently  
5 unequal and violated the Constitution of the United States  
6 of America. That was in 1955.

7           Let me ask: Which one of us would go out today  
8 and buy an 1896 automobile? You would say, You've got to  
9 be joking. Well, what about buying a 1955 automobile?  
10 And, again, you would say that we must be joking.

11           The 2006 automobile comes from the factory  
12 equipped with air conditioning, heat, cassette and DVD  
13 player, OnStar tracking, an alarm system, new suspension,  
14 on any make. And make -- and ours - and as standard  
15 equipment on most. We buy these modern automobiles and  
16 expect such features, look for such features, and demand  
17 such features when they come from the factory.

18           Ladies and gentlemen -- everything has changed.  
19 The way we fight wars has changed, health and medical  
20 technology has changed, and lastly, computers have changed  
21 the world.

22           I come before you today to let you know, and to  
23 declare, that quality education, quality integrated

1 education must be the order of the day in 2006 and  
2 forward into the future.

3           Quality integrated education and nothing less.

4           Integrated education was good back then, for it  
5 was the stepping stone to quality education. Plessy  
6 versus Ferguson was good in its day; it was a stepping  
7 stone to Brown versus Board of Education.

8           When I talk to legal minds here in Omaha,  
9 Nebraska, 14 they tell me that Brown versus Board of  
10 Education was about ending -- was about integration and  
11 not, and I repeat, and not quality education.

12           When I sat in the classroom as a fourth grader  
13 in a Nebraska public school, I would hear my teacher tell  
14 jokes, the "N" word jokes. I finished high school in the  
15 Nebraska school system and never finished reading an  
16 English book. Yes, I graduated.

17           As president of the Omaha branch NAACP, I was  
18 called to many schools. Let me share a few experiences.

19           I remember when I was called to assist a 1  
20 black family where the son had been suspended from school  
21 for kicking a student. The young man was wearing white  
22 tennis shoes and socks, white pants and shirt. The young  
23 man who was kicked was white Caucasian, kicked in the  
24 face. There was blood on the floor and on the steps and

1 the hallway, but no blood anywhere on the young black  
2 student. With white shoes, socks and pants, he had no  
3 blood on him at all, and yet, he was suspended for kicking  
4 the white student in the face.

5 Or take the case of the teacher who grabbed a  
6 young black girl by the arm so hard that her nails broke  
7 the skin, and when the young black girl pushed the teacher  
8 away, because she was hurting her, the girl was suspended.

9 You might ask, What was the girl doing? It was  
10 reported that she and two of her friends were making too  
11 much noise going down the hall.

12 Also, consider the case of the teacher who held  
13 a picture of an ape next to a little black girl's face and  
14 told her that she looked just like the picture. And  
15 finally, there's a school that sold slaves as a money-  
16 making project.

17 No, OEA support in any case, at any time for any  
18 student, they cannot help OEA supports teachers and not  
19 students in my ten years as NAACP president.

20 No integrated education is not the end of the  
21 journey in education. Integration is not the end of the  
22 journey. It's another jumping-off point on the journey to  
23 a quality education, integrated quality education.



1           COMMISSIONER TAYLOR: Thank you, Dr. Reynolds,  
2 and we're going to have some time to hear more from you in  
3 a moment.

4           Would you answer one question: Do you support  
5 1024 in its current form?

6           REV. REYNOLDS: Absolutely, as amended and  
7 signed by the governor.

8           COMMISSIONER TAYLOR: All right. Thank you.

9           Next we have Mr. Salazar who is the publisher of  
10 the Mundo newspaper. And thank you for joining us, sir,  
11 and I would ask that you at some point submit written  
12 statements so we can have that in the record, whenever you  
13 get a chance following this hearing, but I'm glad you're  
14 able to join us and we want to hear from you.

15           MR. SALAZAR: Thank you. For the record, the  
16 name of the paper is the Nuestro Mundo newspaper.

17           COMMISSIONER TAYLOR: All right.

18           MR. SALAZAR: It's Omaha's oldest bilingual,  
19 Spanish/English, newspaper. We're finishing up 17 years  
20 next year.

21           And by the way, I might add that I, first of  
22 all, would like to thank Marguerita Washington from the  
23 Omaha Star I think without whose help Nuestro Mundo

1 probably wouldn't be here today. And thank you for the  
2 brother at the end of the table for giving me his support.

3 I know that my invitation was late coming and I  
4 didn't anticipate being here today, but given the quick  
5 work and quick thinking and help of Mr. Yaki, I'm here to  
6 speak on behalf of and given the privilege of speaking on  
7 behalf of Omaha's Latino community.

8 I might add, first of all, upfront, that I do  
9 support Ernie Chambers and the efforts that he's  
10 undertaken to give us in urban Omaha more local support --  
11 local control, rather, over the schools where so many of  
12 our children go to school, struggle, and try to achieve  
13 higher education. So he has my support 100 percent. And  
14 I say that upfront because I know the person who would  
15 have been here ordinarily, who as I understand it had been  
16 invited, to speak on behalf of the Hispanic community  
17 could not attend or did not -- did not attend because her  
18 agency is involved in one of the lawsuits.

19 Which brings up the point that I wanted to make  
20 upfront, demographically, the growth of the Hispanic  
21 community in Omaha has been unprecedented. At this point,  
22 as I speak here today, the numbers of Hispanics in Omaha  
23 proper range anywhere from between 80- to 100,000 people.

1 There are approximately 10,000 Latino kids in the Omaha  
2 Public School system.

3 The thing that makes it so difficult to speak on  
4 behalf of the Latino community here, and I'm sure  
5 elsewhere in these United States, is that we're really  
6 speaking of a bifurcated community, a divided community,  
7 not just on this particular issue but, rather, from our  
8 backgrounds.

9 I am a Mexican American, a Chicano; I am second  
10 generation. My grandparents all migrated from Mexico to  
11 here in the last century.

12 I am not an elected official. However,  
13 everything that I stand for, everything that I write in my  
14 publication, things that I advocate for the Hispanic  
15 community have to have a sense of credibility, have to  
16 have some sense of validity, otherwise neither my Mexican  
17 American community nor the Hispanic immigrant community  
18 would allow me the privilege of remaining, living, working  
19 and earning a living off of them, which is what I do. I  
20 am given the privilege of making a living off of the blood  
21 and sweat, hard work of the Latino community. So for  
22 that, I am truly privileged to be here today.

23 I am not originally from Omaha. I am a native  
24 son of Scottsbluff, Nebraska, which is in extreme west

1 Nebraska and a part of the original migrant trail. I've  
2 been in Omaha for about 18 years now and I'm glad to say  
3 that I feel as if I'm an accepted and adopted son of the  
4 great City of Omaha.

5           If you take a quick scan across the room here  
6 today, you'll see that there are very few Hispanics  
7 present, and the main reason that I'm here today is  
8 because of that very reason, is that I'm cognizant of the  
9 fact that so many of our people are in a situation where  
10 they are working, oftentimes two jobs, sometimes three  
11 jobs, they have children in school, they are busy  
12 attending to life's needs instead of being able to come  
13 here today.

14           Many of them are unfamiliar with the system,  
15 with the process, the very issues that we're laying on the  
16 table this afternoon.

17           If you were to ask almost any Latino immigrant  
18 in south Omaha what are the complexity of issues that are  
19 embedded in this particular legislation, what does busing  
20 mean to you, what does immigration mean to you, what does  
21 assimilation mean to you, I'm speculating but I would  
22 guess that the majority would know very little of the  
23 social and legal consequences that flow from these issues.

1           This is one of the complexities of having to  
2 deal with these two types of separate yet distinctly  
3 unified communities that I represent here today.

4           Racially, ethnically, we are, to a large extent,  
5 monolithic, but to a lesser degree, we don't concern  
6 ourselves very often, thankfully, with the issue of color  
7 in our society because Latinos come in all colors.

8           In my own family when I go to visit my mother on  
9 weekends and have dinner with her on Sunday, our kitchen  
10 looks like a small mini United Nations, literally. We  
11 have African Americans in my family, we have Japanese  
12 Americans in my family, white Americans, and, obviously,  
13 Native Americans and Latinos, us being primarily mestizos.  
14 In fact, when a white person has married into our family,  
15 99 percent of the time their children do not become more  
16 white people, they become Latinos.

17           There are some things that unify us, however,  
18 and I've heard earlier someone making a comment about  
19 shared values. In the Latino community, we have shared  
20 values. And since I have been on this earth for a little  
21 over 60 years, sometimes the shared values that we Latinos  
22 have seem to be in conflict with the shared values that  
23 so-called Americans have, white Americans.

1           So I'm coming from an angle of these  
2 complexities, these layers, these bits of assimilation,  
3 the myth of integration in our community.

4           Latinos can be a very cynical, sarcastic people.  
5 You may not see that; it's not very obvious and, more  
6 often than not, it's not very visible, mainly because  
7 we're speaking in our own tongue, oftentimes in private,  
8 oftentimes in our homes, expressing ourselves more openly  
9 than we would normally out in public.

10           m unique, to some degree, in that regard. I'm  
11 more willing to lay out my feelings on the table. A lot  
12 of Latinos aren't. Again, a flection of who is and who  
13 isn't here today.

14           I believe in local control because of my own  
15 personal experiences, and I heard this morning Senator  
16 Chambers, Mr. Rodgers, and others speak about their own  
17 experiences in the educational system here in Omaha.

18           We Latinos have also suffered from  
19 discrimination in our own respective school systems. The  
20 same remains true today. I deal with immigrants and their  
21 children on a day-to-day basis. They express to me their  
22 feelings, their experiences, the hurt, the pain that they  
23 go through in trying to make the adaptation from where --

1 from whence they come to this society, to the school, to  
2 the work environment.

3 I'm proud to come from a racially identifiable  
4 community. What Senator Chambers said this morning is  
5 true. There is no re-segregation of the school districts  
6 here in Omaha. It's the acceptance of reality.

7 Someone also mentioned, I think it was the  
8 professor, made reference to the advocacy of separateness  
9 and I'm not so sure that that's accurate. I don't think  
10 anyone here who in support of this legislation advocates  
11 separateness. I think what it is, rather, is that there  
12 is a growing realization that forced integration ain't  
13 always the best thing.

14 Those of us who feel that way obviously have  
15 come from a legacy of experiences where we are somewhat  
16 still embittered by those experiences. That's the  
17 reality. And, oftentimes, in order to ensure that our  
18 children are more secure, more sure of themselves as they  
19 move forward, we don't want them to suffer through the  
20 same kind of pain and suffering that we went through. And  
21 forced integration oftentimes is not the best way to go.

22 And just briefly, let me finish up, by saying  
23 this. There's a question here of constitutionality. I  
24 recognize that. But the Constitution, as we all know, is

1 a live and living document. It ebbs and flows. It's  
2 something that was constitutional 50 years ago, may not  
3 necessarily be constitutional today, and, in fact, may not  
4 be the best way to approach an issue today.

5 So I hope that you all keep this in mind. The  
6 Constitution is not set in stone. As society evolves and  
7 changes, then I think that that's the best way to approach  
8 the Constitution.

9 Thank you for your time.

10 COMMISSIONER TAYLOR: First, I would like to  
11 thank all of you all. It's been very informative.

12 And at this point I would like to offer the  
13 Commissioners an opportunity to make a statement  
14 concerning anything they have heard this afternoon and to  
15 ask questions.

16 I'll begin with Commissioner Yaki.

17 COMMISSIONER YAKI: Nothing right now.

18 COMMISSIONER TAYLOR: Nothing right now?  
19 Commissioner Melendez.

20 COMMISSIONER MELENDEZ: Yes, just going back to  
21 integration in general.

22 Before LB 1024, was the voluntary integration  
23 program working? From anybody.



1 MS. KREJCI: I believe so. Especially at  
2 the middle school and high school level. We have -- you  
3 know, at OPS, any student in the city can choose any high  
4 school in the city, and almost 21 every school is more  
5 diverse than the neighborhoods that they exist in. And I  
6 teach just up the street at Central High School which is  
7 probably the oldest high school in Nebraska, probably the  
8 largest and probably the most diverse.

9 COMMISSIONER MELENDEZ: Anybody else?

10 MS. COUNCIL: Yeah, Commissioner Melendez, I  
11 concur.

12 At the elementary school level -- and I think  
13 you've heard, and I wasn't here this morning, but at the  
14 elementary school level, particularly in the primary  
15 grades, parents are more inclined to have their children  
16 go to the neighborhood school because of the proximity,  
17 concerns about safety.

18 But even at the elementary school level, the  
19 school district's student assignment plan allows  
20 youngsters at the elementary school level to attend magnet  
21 elementary schools. You see it working, and I think Ms.  
22 Fey had an example of one of the magnet elementary  
23 schools, if not for the magnet program there, what the  
24 racial composition would be.

1           And at the middle schools and the senior  
2 highs, again, where parents are more inclined to give  
3 their children more freedom, their concerns begin to  
4 diminish about the distance to school, you see the student  
5 assignment plan in OPS working in terms of providing  
6 diverse educational environments at the middle school and  
7 high school level.

8           REV. REYNOLDS: If I could respond to that,  
9 also.

10           If you're using the Brown versus Topeka concept  
11 of integration as numbers, then I think that the  
12 conversation in response is correct. But if you're  
13 talking about quality, integrated education, meaning that  
14 they are without racial incidence, that very few weeks  
15 went by when I served as the president of the NAACP that I  
16 was not in the elementary or high school and middle school  
17 because of racial incidents. And certainly the test  
18 scores will show that over the past few years that the  
19 disparity is still there.

20           So we have a dual concept. If we talk about  
21 integrating education based on numbers, why, then we can  
22 all agree that we do have black and white, Hispanic  
23 students in the schools, but if you're asking the question

1 | about the ability to learn and achieve at an equal  
2 | level, then I think we have another answer.

3 |           MR. SALAZAR: Can I offer maybe a little  
4 | anecdotal information on sort of this broad issue of  
5 | integration and quality of education.

6 |           One of the things that -- that I'm particularly  
7 | encouraged by is that OPS in the last several years has  
8 | undertaken to establish bilingual programs across the  
9 | spectrum of primarily schools in the elementary level, and  
10 | this approach, I think, is doing wonderful things in the  
11 | Hispanic community because it gives the children a sense  
12 | of self-worth.

13 |           They are able to use their native language in  
14 | schools, where people of my generation were punished,  
15 | spanked, hit on the hand, demeaned, for using their native  
16 | language; and that's why so many Mexican Americans of my  
17 | generation rarely use the Spanish language anymore.  
18 | Thankfully, things have changed where now people are more  
19 | -- are more enlightened to see the value of having or  
20 | being able to speak more than one language.

21 |           But the additional benefit, and I wouldn't  
22 | suggest that this is possible not only among Latinos but  
23 | African Americans as well, is that there are quite a few -  
24 | - a growing number of white parents who also see the value

1 in a bilingual education in the Hispanic culture, that  
2 the values that Latinos bring into these elementary  
3 schools, and so they deliberately bring their children and  
4 enroll them down at Marrs and Castelar and other schools  
5 in south Omaha, so that their children can benefit. This  
6 is voluntarily done.

7           And I think that potentially that when you're  
8 talking about emphasizing the benefits that people of  
9 color bring to this society, instead of trying to force us  
10 into a box and allow us and our families to bring our  
11 culture and our -- I'll call it shared values to this  
12 society. Many of us will tell you that we revere our  
13 values, those from our ancestors and those who came before  
14 us, because we think that they are special values that we  
15 never want to lose, and we're quite willing to share those  
16 with white America if they will allow us.

17           So in other words, don't put us into your square  
18 box, expand that box and come with us because we can be of  
19 great benefit to you.

20           COMMISSIONER YAKI: But, Mr. Salazar, just  
21 following up on that eloquent point, what you -- what you  
22 do by supporting 1024, as I understand it, is you start to  
23 close that box.

24           MR. SALAZAR: No.

1           COMMISSIONER YAKI: Because what you're  
2 talking about is the establishment of schools bilingual  
3 from which -- which I presume would serve the mostly  
4 Hispanic population within the third district in south  
5 Omaha, but as I've heard from testimony from several  
6 people already here today, the bill -- the criteria for  
7 transferring into that district and, therefore, to avail  
8 themselves of that program is severely constrained by the  
9 way 1024 is currently written.

10           MR. SALAZAR: Well, that may be something that I'm  
11 not prepared to rebut, but I think a lot of these issues  
12 are malleable, and I'm not certain, and correct me if I'm  
13 wrong, Ernie, but I think many of these points are still  
14 being ironed out. But I'm not the expert on that  
15 provision or that part of the statute.

16           COMMISSIONER YAKI: But if there were a  
17 provision in 1024 that constrained the transfer of  
18 students from west Omaha into south Omaha to avail  
19 themselves of those programs, that would concern you?

20           MR. SALAZAR: I think that that would be some  
21 concern, obviously, if I'm addressing the point correctly.

22           MS. FEY: If I may, the way the magnet school --  
23 the way the magnet program works in OPS right now, you  
24 have a magnet school in a certain part of town that can --

1 that draws from that neighborhood. If you are in the  
2 attendance area of the magnet school, you are guaranteed a  
3 spot in that school. Additional spots in that school are  
4 on a first come, first serve or, if you're over capacity  
5 with the first come, first serve, on a lottery basis based  
6 on where you live in another zone in the district so that  
7 that intent is that if the magnet school is here, the zone  
8 it draws from maybe is over here so that you have  
9 intentional voluntary --

10 COMMISSIONER YAKI: Right.

11 MS. FEY: -- desegregation. And that 1024, even  
12 with its focus schools piece, doesn't provide -- there's  
13 no such language in there to provide for that type of  
14 incentive.

15 COMMISSIONER TAYLOR: Dr. Reynolds.

16 REV. REYNOLDS: But I believe that in that same  
17 concept one of the issues that was raised initially with  
18 the transfer program for magnet schools is that there are  
19 cases where if you want to go, you have to get special  
20 permission, individual permission to make the transfer, so  
21 it's not just a given fact that your application to a  
22 school will be automatically granted.

23 MS. COUNCIL: Well, if I can comment on that,  
24 under 1024, each school gets to establish their capacity,

1 and it has not been pointed out and I haven't found who  
2 has the opportunity to challenge those capacity  
3 determinations, but if a particular school wished to  
4 prevent people from outside of that school's attendance  
5 area from attending and facilitating integration, they  
6 could do so by setting their capacities at so low of a  
7 level that they couldn't accept any other students.

8           COMMISSIONER TAYLOR: I want to follow up. You  
9 made a number of comments, Ms. Council, concerning the  
10 mechanical aspects of 1024 relative to funding and school  
11 selection within the district.

12           Do you have a philosophical opposition to 1024  
13 as a vehicle in addition to the mechanical opposition you  
14 have, with the opposition to the mechanics you have raised  
15 here, or is it limited to the mechanical operation of  
16 1024?

17           MS. COUNCIL: And if I didn't make it clear, I  
18 thought I had indicated at the beginning of my comments  
19 that I am opposed to it philosophically. I believe that  
20 it flies in the face of Brown versus Board of Education.  
21 I think its intent is segretory.

22           But, in addition, in terms of addressing some of  
23 the concerns of others who are supportive of the  
24 legislation for various reasons, it's just trying to

1 | direct your attention to the fact that while there may  
2 | be appearances that the legislation can address particular  
3 | issues to their satisfaction, it's not there. And in  
4 | particular, the funding, you know, the resource.

5 |           I mean, it's fine to say that you can elect your  
6 | school board from a smaller area, which the expectation is  
7 | that there would be more representation from the people  
8 | within that district, but if the ultimate result is they  
9 | are limited in the authority that they have by virtue of  
10 | the fact they don't have control over what money is  
11 | available to them, then to me, that's shallow in terms of  
12 | -- and hollow local control.

13 |           If you tell me that I have control over \$10 and  
14 | I will always have control over \$10, I'm still going to be  
15 | challenged on how I'm going to utilize that \$10 to address  
16 | the needs of the children in the district and -- the needs  
17 | of the children in the district. And there's enough data  
18 | that establishes that meeting the needs of special needs  
19 | students requires greater resources.

20 |           COMMISSIONER TAYLOR: Uh-huh.

21 |           MS. COUNCIL: There's nothing in this  
22 | legislation that provides or assures that there are  
23 | greater resources directed to those districts.



1           COMMISSIONER TAYLOR: Let me -- let me try to  
2 break this out, if I may, for one moment. I have heard  
3 and read a good bit of material before this briefing and  
4 have found, in my mind at least, that the opposition to  
5 1024 falls into three general categories: First, the  
6 mechanical; the second is pointing back to Brown v. Board;  
7 and the third is more of a global philosophical  
8 opposition.

9           So I'm wondering if -- I understand you believe  
10 it violates Brown v. Board, but putting aside the narrow  
11 constitutional question, do you oppose it philosophically  
12 the way I break it out? Most lay people don't go back to  
13 Brown v. Board and say they oppose it. So I'm just trying  
14 to get a sense of philosophically are you in opposition of  
15 it or is it a constitutional concern?

16           MS. COUNCIL: And I think, to answer your  
17 question, Commissioner, it would be fair to say that my  
18 opposition is philosophical --

19           COMMISSIONER TAYLOR: Okay.

20           MS. COUNCIL: -- because it also goes -- and  
21 this is where the lines get blurred because so many  
22 characterize what I'm getting ready to say as mechanical.  
23 But, you know, I'm happy to go on record and I've been on

1 record in supporting the "one city, one school district"  
2 concept. And under 1024, 1024 freezes the boundaries -

3 COMMISSIONER TAYLOR: Uh-huh.

4 MS. COUNCIL: -- of the school districts. So if  
5 you have -- take Omaha Public Schools and carve it into  
6 three, those districts boundaries are going to be frozen  
7 like that.

8 And in terms of its ability in terms of its  
9 property base increasing, the likelihood of that occurring  
10 is not greater, just looking at history. And one of the  
11 reasons that the whole "one city, one school district" was  
12 vacated was because of the inequities in property tax.

13 And I don't need to tell the Commissioners the  
14 debate that has gone on in education for the last 40 years  
15 about relying on property taxes as a source of funding  
16 public education. And as long as we fund public education  
17 on the basis of property tax, we're going to have these  
18 kinds of inequities and these equity issues being  
19 presented.

20 And when we -- when we look at -- at least when  
21 I look at 1024, I don't see anything in 1024 21 that  
22 addresses those financial equity issues. In fact, I see  
23 it creating more problems than it sounds in terms of  
24 ensuring that the adequate resources are available to meet

1 the needs of the -- of the children in the greater Omaha  
2 area.

3           So I guess if you -- if -- the longer answer to  
4 the short question, mechanically, philosophically,  
5 constitutionally, I'm opposed to 1024. What I'm in favor  
6 of is legislation that is designed to provide the kinds of  
7 resources and the kinds of controls on those resources  
8 that ensure that our children receive a quality education.  
9 That's why I said (inaudible).

10           COMMISSIONER TAYLOR: Thank you.

11           MR. BROOKS: That really kind of gets us to, you  
12 know, almost like full circle, again, from this morning  
13 because -- without it.

14           The arguments continue to be were it for 1024 we  
15 are just going to be slipping so much further. There  
16 doesn't seem to be much disagreement that we are behind,  
17 minority children in particular, African American. We  
18 seem to agree that there's a lot of disparities in this  
19 city. The references to integration this morning, the  
20 very vociferous, you know, back and forth about  
21 integration providing quality education or not.

22           It seems to me, historically since 1954, the  
23 number one focus on integration has always been about the  
24 minority people having to kind of go towards the Caucasian

1 community, Caucasian power, Caucasian education, the  
2 whole one Omaha, one school system, that I don't know how  
3 familiar you are with that, that created this fire storm a  
4 summer ago. The suburbans -- the suburban schools don't  
5 want to be a part of the Omaha Public School system. And  
6 whether that would have essentially evolved into a big  
7 legal battle and court battle like 1024 is now set to be  
8 taken into court, we don't know.

9           But, ultimately, it still seems that we're  
10 dealing with the minority, the lesser economic population  
11 and demographics having to somehow get, sign off, and the  
12 Caucasian population, the upper income population to say  
13 we want to deal with you, we want to help alter the  
14 reality for your children. And as long as we're faced  
15 with that, we're going to have this.

16           As far as your question about whether it's  
17 mechanical, philosophical or constitutional, well,  
18 certainly the courts are going to -- will be the decisive  
19 factor as to whether or not this bill is constitutional.  
20 As I have said consistently, I have not known Senator  
21 Chambers yet to introduce something that is  
22 unconstitutional. He is a fighter for the U.S.  
23 Constitution.

1           On the other hand, he's a realist, and when I  
2 hear the head of the teachers association talk about the  
3 Bill of Rights and the Declaration of Independence, you  
4 know, I just remind her that, you know, when I look back  
5 at the history books, African Americans weren't included  
6 in that, Native Americans were not included in that,  
7 Hispanic Americans were not included in that, or women.  
8 And all of these entities have had to spend the last 30,  
9 50 years fighting for inclusion. It has never been  
10 granted, it has never come easy. And if we're going to  
11 throw this -

12           Just, okay, let's just drop it, let's drop 1024  
13 right now, status quo, status quo. Where is the Omaha  
14 Public School system? We've got majority minority  
15 children, majority Caucasian teachers; we still have that  
16 clash. Yes, there are good programs, there are some  
17 programs, we've mentioned this morning, Brenda has  
18 mentioned it, the African American Achievement program is  
19 a good program. But it's a program. We are still  
20 fighting for programs.

21           Now, forgive me, but a program is an adjunct.  
22 It's not -- it's not a fundamentally reshuffling of the  
23 deck. It's maybe we're going to add a couple of cards.  
24 It doesn't mean that it's not a good thing, but it means

1 we're still consistently dealing with not fundamentally  
2 altering the relationship between these communities and  
3 the school system. And until that has been tested and  
4 battle tested, we will just have to wait to go into court,  
5 as Senator Chambers said, and let it shake out there.

6           Philosophically, absolutely I am for this  
7 because of that change, because you reach that point. In  
8 my bio I made reference to Vietnam, and somebody said,  
9 Well, boy that's pretty heavy of all of the credentials  
10 that I could have listed, but the reason that I say that  
11 is because my experiences there taught me a lesson that I  
12 have continued to push for 40 years. You learn there are  
13 some things you don't want to have to learn when your life  
14 is at stake. The lives of our children, it's really  
15 what's at stake here.

16           And I'm not saying anyone who is against this  
17 bill does not like our children at all. But when we look  
18 at the results, we're just trying to say, things ain't  
19 working so good right now and we'd like this opportunity  
20 to try a fix.

21           Now, all of the mechanics, and as Brenda has  
22 laid out -- I never want to have to go to court and go up  
23 against her in the court of law. She knows that. But my  
24 point is if we're going to put it down because we can't

1 answer all of those questions right now, then let's let  
2 this thing play out, let's let it go to court. But  
3 somebody is --

4 COMMISSIONER YAKI: Mr. Brooks --

5 MR. BROOKS: -- going to say, Well, you're --  
6 boy there was an awful lot of questions asked about that.  
7 I don't think so. I don't think so.

8 I'll just break this down and let this go to  
9 somebody else and as personal as I can make it. I have  
10 two children in the Omaha Public School system, one is a  
11 fourth grader and one has just started the ninth grade. I  
12 actually attended my fourth grader's first parent/teacher  
13 conference yesterday. She goes to Lothrop school. In  
14 west Omaha, that would be considered a ghetto school. In  
15 north Omaha, it would be considered one of the oldest,  
16 most traditional schools in the African American  
17 community.

18 Her teacher is a young Caucasian woman, roughly  
19 probably between 25 and 30 years old. She's been teaching  
20 for five years. A wonderful person, wonderful. I liked  
21 her, my wife liked her.

22 We sat there talking with her about, you know,  
23 our daughter and asking her questions and so forth, and  
24 she made at least three to four references. Now, here's

1 the thing. That school, her class started with a  
2 substitute who was a, actually, African American retiree  
3 who has continued to do substitute work just to stay  
4 active.

5 We had conversations with her and, actually, we  
6 were hoping that that would be her teacher, not just  
7 because she was African American but because she was a  
8 veteran teacher.

9 This woman -- and then one of the first things I  
10 asked her was, You know, the kids are so much different.  
11 And we do know, I'm -- I'll be 60 years old. I know that  
12 generationally teachers are dealing with some new issues  
13 in the classroom.

14 And I said, How was it for you, particularly  
15 being an older woman? She said, Oh, yeah, you know, they  
16 wanted to get in my face for a minute. And she put the  
17 hammer down and calmed that class in one day, okay. And  
18 she was doing fine, because our daughter was telling us,  
19 Oh, yeah, yeah. They were trying to do stuff to her, and  
20 boom. And then for the next four days that she was there,  
21 she was teaching and down to her business.

22 Now the teacher that is there and is going to be  
23 their teacher, she's been there two weeks, and in the  
24 course of our conversation, she made at least four



1 references to, I'm really going to get my curriculum  
2 going when I get my classroom under control. And so she  
3 was talking like, you know, it's probably going to take me  
4 a week to two weeks to really get my classroom under  
5 control. And I'm like, wow, you've lost a month already.

6 Now, my point is not that being Caucasian, being  
7 female, being young makes her responsible, she can't hack  
8 it, but we have a situation in which too many of our  
9 children are in those kinds of situations.

10 Now, my wife and I have volunteered to be what  
11 they call classroom parents. That means we will be  
12 dropping in and out of that classroom to let them know not  
13 only that we have a child in that classroom but to give  
14 them an African American presence.

15 So what is my point? My point is that LB 1024,  
16 from where we look at it, is designed to try to  
17 reinvigorate the community to get back in. It's not --  
18 it's not just all of the mechanics and where is the money  
19 going to come from and how are the teacher contracts going  
20 to be and all of that. Senator Chambers said this morning  
21 to a lot of persons he could care less on those kinds of  
22 issues.

23 When you look at what happened in Brooklyn in  
24 1968, it wasn't the teachers' union that destroyed that

1 effort because they were not willing to grant an African  
2 American community-based board the right to hire and fire  
3 white teachers. That's what that was about. But because  
4 they controlled the entire city's union, they put 1  
5 million students in the street in order to break that.

6 My point is simply this. All of these details  
7 that we keep going over, ultimately this thing is going to  
8 come into court and the judge is going to have the final  
9 say; we all understand that. But let's not forget that  
10 integration has still consistently -- even the magnet  
11 school. The magnet school concept was great, but what was  
12 it designed for? It was designed to create a basis to get  
13 more middle class and/or Caucasian students to want to  
14 come to this part of town or to the south and so forth.  
15 It is still about the ability to draw a certain class, if  
16 not race, of students. It is still an adjunct program.

17 And 1024 is saying if the magnet school is so  
18 good, then maybe -- maybe is there a possibility that we  
19 can turn the whole thing or at least this -- these group  
20 of schools into that level of quality, not just one to  
21 draw, and that's really what I'm looking at.

22 That old saying -- what's the joke about the  
23 recorder boxes in the airplanes, you know, no matter what  
24 happens when they crash, those things are always intact,

1 | why don't you make the whole plane out of those things?  
2 | You know, people say it. Of course we know  
3 | technologically that's not possible, but, again, that's  
4 | where we're at, and I don't want that lost.

5 |           And I know that this other lady over here,  
6 | excuse me, Marian Fey, is great. There are Caucasians  
7 | that are really going out of their way to relate, to  
8 | diversify, but it's not a mass movement.

9 |           And I'm not willing to bet the next generation  
10 | of black children on how many more Marian Fey - excuse me,  
11 | Brenda -- on how many more Marian Feys there are out  
12 | there. There are not that many.

13 |           It was mentioned that when Omaha incorporated  
14 | Millard schools, the Millard district, the school system  
15 | didn't come in. I don't know why. I'm going to find out  
16 | why they didn't take the school system when they -- when  
17 | they annexed the area, the suburb. But I know last summer  
18 | when they went back to say one school -- one Omaha, one  
19 | school system, Millard was front and center, We don't want  
20 | anything to do with Omaha.

21 |           And maybe we're just tired of people not wanting  
22 | to do anything with our kids because they are too black,  
23 | they are too poor, they are too non-English speaking, they  
24 | are too whatever. And we'd like that shot to say maybe

1 | this -- right now on paper it looks like a disaster, but  
2 | so did the Montgomery bus boycott.

3 |           When Martin Luther King came out against the  
4 | Vietnam War, half of the civil rights movement swore that  
5 | was the death of the civil rights movement. No, no, no,  
6 | you can't come out against the war. That's -- that's  
7 | separate from civil rights.

8 |           We're always dealing with these major issues and  
9 | people going, wow, no, no, no, no, no, you can't go there.  
10 | Well, LB 1024 is going there. I'm going there with it and  
11 | there's enough of us.

12 |           COMMISSIONER TAYLOR: Mr. Brooks --

13 |           MR. BROOKS: (Inaudible.)

14 |           COMMISSIONER YAKI: Mr. Brooks, I mean,  
15 | everything -- I don't disagree with a word that you've  
16 | said; I don't disagree, as I said before, to Senator  
17 | Chambers; I don't disagree with anything, any of the  
18 | sentiments on the line with what you're talking about,  
19 | about how as a nation we haven't done enough to close or,  
20 | I should say, open the minds of people to the  
21 | potentialities of all people of all races of all colors  
22 | and creeds.

23 |           But, unfortunately -- and, you know, you can  
24 | hate me for this or Professor Potuto can say, All right --

1 I'm a lawyer and I read 1024 and read what has been  
2 said, and in listening to what you say, I just can't help  
3 but feel there's some kind of disconnect going on, because  
4 when you talk about how you are tired of having the fact  
5 that you always have to go to the white community, you  
6 have to go to -- go to them for this or for that, well,  
7 the fact is that under the Learning Community council they  
8 put together, the African American school district is one  
9 vote of about 12- to 20,000 students against seeking the  
10 vote of a white district with about 600 students.

11 Now, how in the name of everything with Baker  
12 versus Carr and Reynolds versus Sims and everything that  
13 we've talked about in terms of one person, one vote is  
14 that the kind of equity that you would want to support?  
15 Why should -- why should a school districts with 12- to  
16 20,000 kids have to -- have the same vote as one with 700  
17 kids? The same kind of control over the money, the same  
18 kind of control over curriculum, the same kind of control  
19 over -- over resources or allocation of the tax rolls?  
20 How does that say to you that is an equitable way to take  
21 control of the destiny that I believe should be done but  
22 may not be done in this way?

23 If this is a debate topic, if 1024 is a debate  
24 topic, that's one issue, but if it's something real and

1 practical that's supposed to go into being, you know,  
2 what do you have to say to that?

3 MR. BROOKS: What I have to say to that is  
4 simple. First of all, I certainly don't hate you because  
5 you're a lawyer. Brenda is a lawyer. I'm all right with  
6 lawyers.

7 Number two, you probably don't ever want to make  
8 a speech in the United Nations, okay, about why should  
9 some little country with 50,000 people have the same votes  
10 as some country with 50 million.

11 COMMISSIONER YAKI: Actually, that gets done at  
12 the Security Council every day, Mr. Brooks --

13 MR. BROOKS: Yeah, okay.

14 COMMISSIONER YAKI: -- in terms of whether or  
15 not -- because the question here is about the United  
16 States.

17 MR. BROOKS: No, no.

18 COMMISSIONER YAKI: We're not talking about the  
19 United Nations. We're talking about one person, one vote.  
20 We're talking about --

21 MR. BROOKS: May I answer your question?

22 COMMISSIONER YAKI: Then don't go off on the  
23 United Nations to me.

24 MR. BROOKS: No, no, no, no.

1 COMMISSIONER YAKI: I mean --

2 MR. BROOKS: I'm not going off.

3 COMMISSIONER YAKI: -- that is so off this  
4 conversation.

5 MR. BROOKS: What I'm saying is you brought up  
6 what would change, okay, as I just started my entire  
7 conversation to lead to your question. I said let's drop  
8 1024. Let's status quo.

9 COMMISSIONER YAKI: I don't think you should.

10 MR. BROOKS: No.

11 COMMISSIONER YAKI: I don't think you should.

12 MR. BROOKS: No.

13 COMMISSIONER YAKI: I never said - I never said  
14 you -- I never said you should --

15 MR. BROOKS: No, but I'm saying -- -- I'm saying  
16 -- but I'm saying if it were dropped right now, that's  
17 what it would be.

18 COMMISSIONER YAKI: No. Why should - why should  
19 it be?

20 MR. BROOKS: No, I'm saying that's what it is.

21 COMMISSIONER YAKI: With all of this passion,  
22 why shouldn't --

23 MR. BROOKS: No.

1           COMMISSIONER YAKI:  -- why should - why should  
2 the end of 1024 be the status quo?

3           MR. BROOKS:  No.  What I'm saying to you, Mr.  
4 Yaki, is that OPS and all of the people who are against  
5 this bill, they are standing up for the system for the way  
6 that it is right now.  They are saying yes, it has got  
7 some problems, but this is going to make it all a lot  
8 worse.

9           COMMISSIONER YAKI:  Well, I'm not -- sir, I'm  
10 not -

11          MS. COUNCIL:  May I interject.

12                 I don't want my opposition to be  
13 mischaracterized by anyone.

14                 I'm not suggesting that the world is all right  
15 with status quo.  I would -- I would challenge Mr. Brooks  
16 to point to me in 1024 -- he made a statement that this  
17 would fundamentally alter a situation that he described  
18 with the situation with his youngster at Lothrop.  Point  
19 to me in this bill where there would be a fundamental  
20 alterization, point to me where it mandates that every  
21 school will have veteran teachers, point to me where it  
22 mandates that there will be diversity or, for that matter,  
23 that the staff will be one-to-one reflective of the  
24 children.



1 COMMISSIONER YAKI: Well, as I --

2 MS. COUNCIL: There's no fundamental alteration  
3 occurring about the issue that he was expressing and  
4 concerned about.

5 COMMISSIONER YAKI: And that --

6 MS. COUNCIL: This bill is not going to  
7 accomplish that.

8 COMMISSIONER YAKI: The point -- the point I was  
9 trying to make is that -- and has been made by other  
10 speakers in other -- in other situations here is that, for  
11 example, there aren't enough African American teachers  
12 right now --

13 MR. BROOKS: That's right.

14 COMMISSIONER YAKI: (Inaudible.)

15 MR. BROOKS: That's right.

16 COMMISSIONER YAKI: There aren't even enough  
17 African American administrators to support -- I mean,  
18 there are -- I'm not saying that -- I'm not saying that  
19 there is a status -- that status quo is where it should  
20 be. I mean, if anyone here misstates -- mistakes me for  
21 thinking that, then, like you, they don't know -- they  
22 don't know me very well and what my background is.

23 MR. BROOKS: Okay.

1                   COMMISSIONER YAKI:  What I am saying, though,  
2 is that I am concerned about this particular mechanism to  
3 do it and how it is, in some sense; and I think this is a  
4 perfect example of it, A, creating wedges; B, creating  
5 division; and C, diverting the issue that you really want  
6 to bring up and that Senator Chambers wants to bring up  
7 and that we all care about and that we all should care  
8 about and that -- and that -- and that nine people on the  
9 Supreme Court should be caring more about and haven't been  
10 for the last 10 or 20 years.  You know, we can go into  
11 that kind of -- that kind of --

12                   MR. SALAZAR:  Mr. Yaki, may I for a second.

13                   I think you're being a little bit unfair with  
14 Mr. Brooks, both you and Brenda, because you are expecting  
15 him to come up with ironclad legal solutions to issues  
16 that present before the federal court.

17                   COMMISSIONER YAKI:  I'm not --

18                   MR. SALAZAR:  And we all know, none of us here  
19 are experts and we're not here --

20                   COMMISSIONER YAKI:  I'm not -- I'm not --  
21 (Inaudible.)

22                   MS. COUNCIL:  And you're not --

23                   MR. SALAZAR:  And let me finish.  Let me finish.

1 MS. COUNCIL: And you're not going to  
2 mischaracterize me either.

3 MR. SALAZAR: What I would like to say, though,  
4 is I think -- first of all, I agree with Mr. Brooks that  
5 his -- first of all, his message, the one he just spoke  
6 to, was the most poignant one that I've heard all day, the  
7 most profound statement that he's made all day because  
8 it's a philosophical approach that's he's taking. And  
9 most of us - and many of us agree with that philosophy.  
10 There's a frustration level, not just here in Omaha,  
11 Nebraska, but across this country.

12 Brown kids, black kids are being left out of the  
13 system; they are being pushed out of the system. The  
14 dropout rate of Latino kids, African American kids,  
15 especially young men, is horrendous. It's horrendous. So  
16 there's a great and embedded frustration.

17 And what we're trying to do here today is to  
18 offer up a philosophy that grows out of that frustration  
19 which is, look, we have the status quo, this is the way to  
20 be maybe a little more creative, and maybe it goes against  
21 the grain of the Constitution, but so what.

22 COMMISSIONER YAKI: So the philosophy of  
23 separate but equal is okay; is that what you said?

1 MR. SALAZAR: You know, in some minds that may  
2 be the case.

3 COMMISSIONER YAKI: Well, I think that's  
4 absolutely 100 percent wrong.

5 MR. SALAZAR: And we may disagree.

6 COMMISSIONER YAKI: 100 percent wrong.

7 MR. SALAZAR: We may disagree.

8 COMMISSIONER YAKI: That's where we disagree.

9 MR. SALAZAR: I think I just --

10 COMMISSIONER TAYLOR: Dr. Reynolds.

11 REV. REYNOLDS: I didn't get a chance to finish  
12 my statement. I can do that in a brief - a brief  
13 statement. One, we cannot be satisfied with what we have  
14 now, not only for Omaha but for America. How many cities  
15 have you witnessed where the African Americans are two,  
16 three grade levels behind? And after we listen to that,  
17 we become satisfied with that. That's the concept of  
18 integration, that's what this brought about.

19 We're saying a radical change, a radical change.  
20 How many of us are willing to step out and be radical  
21 about what it is we are trying to do, not get along with  
22 the system because the system will say, Look, don't rock  
23 the boat. That's why I introduced the thing about the  
24 gradualism. There needs to be change, but it's like but

1 we are afraid and don't want to upset the apple cart.

2 There has got to be an upsetting of the apple cart. There  
3 has got to be a change.

4           When you talk about the funding, how much of the  
5 funds what is being allocated on what basis -- we haven't  
6 even talked about special. What happens if, in fact, the  
7 west schools are reduced, they don't get any special money  
8 at all. It all comes into the other schools. Another  
9 piece of radical change. There has got to be a radical  
10 change. And that's what happened, when I started off with  
11 the Plessy v. Ferguson, Brown v. Board of Education. That  
12 was unheard of to grant a separate but equal. That was a  
13 big step for America.

14           Then came the Brown versus Board of Education, a  
15 big step for America.

16           I'm saying it's time for another form to be  
17 clear-cut integration that says quality integrated  
18 education must be a part of every educational system and  
19 not a program as some have said. We think about the  
20 African American Achievement Council and the Latino  
21 Achievement Council. Go back and read their history. See  
22 how they changed. Well, if that can change and now be a  
23 positive force, why, then, are we saying this bill will  
24 not work?

1 I am not a lawyer, I'm not professing to be  
2 one, I'm not trying to be one. I'm trying to be a  
3 preacher. A preacher says that we must rise to the  
4 highest moral level, and that level say if you know that  
5 you've got black students who are failing within the  
6 system and, yet, we approve of the system, somebody has  
7 got to do something. And I'm saying that to do something,  
8 it must be a radical change.

9 So if you look at that aspect, then, it says  
10 that at one time it was against the law for us to read and  
11 write. A radical change came about. It as, okay, we're  
12 going to let those color folk read and write now but in  
13 separate institutions. And that was a big step for  
14 America.

15 Then they said, well, now, listen, that's not  
16 right, so we're going to get them integrated because there  
17 is something going to happen magical, that those black  
18 students are going to learn better and those white  
19 students are going to learn better because now they are  
20 together.

21 I remember when I first went to an integrated  
22 school and I was shocked when the student beside me was  
23 white made an F and I made a C. It stopped my mentality

1 | because I had grown up to believe that all white folk  
2 | were smart and all black folk were dumb.

3 |           That's funny, isn't it. But talk to some of our  
4 | black students now who are seeing their group fail and  
5 | white groups succeed in a system that says we're doing our  
6 | best for you color folks.

7 |           Now, I'm just saying that the time has come for  
8 | us to make a radical change. If LB 1024 as amended and  
9 | signed by the governor says we must now recognize that  
10 | there needs to be a different format that is going to  
11 | guarantee integrated quality education. If there are some  
12 | things in that bill that need to be changed, granted,  
13 | change them, but let's not keep the same system where we  
14 | know that according to the World Herald in just this past  
15 | week we have got the test scores. All the schools are  
16 | reporting little change if any and as said yes, the same  
17 | old, same old. This says a radical change must take  
18 | place.

19 |           COMMISSIONER TAYLOR: Before Commissioner Yaki  
20 | presents his question -- I sense a question coming.

21 |           COMMISSIONER YAKI: No, I don't.

22 |           COMMISSIONER TAYLOR: Professor Potuto, you had  
23 | something to say.

1           PROFESSOR POTUTO: Yeah, and I regret that I'm  
2 going to move to incrementalism, but I did want to at  
3 least respond.

4           I said I don't think we're doing paradigm, that  
5 the -- that the -- that LB 1024 will be found  
6 constitutional and I think that's true, but I will also  
7 say that to the extent that I'm wrong and that the program  
8 is found constitutional in theory, then I do think some of  
9 the issues about, you know, there's not enough funding,  
10 that quality of the teachers isn't as good in this  
11 district as compared to that district will be taken care  
12 of. It's going to be taken care of in court, but it will  
13 be taken care of because then the issue as to equal in  
14 fact will be on the table.

15           COMMISSIONER TAYLOR: I want to make one quick  
16 statement about that point and that's why I was trying to  
17 break this down in my mind, at least, as I hear discussion  
18 unfolding to three separate parts, because if you are  
19 opposed to a new radical structure, as proposed by 1024,  
20 that I can get my mind around, but if the opposition is  
21 one of a mechanical opposition, then those are issues  
22 that, assuming the courts find it to be constitutional,  
23 you must grapple with.



1           And then I think you're getting to the real  
2 issue, that is whether or not it's worth grappling with  
3 those mechanical issues within the context of 1024, or  
4 whether there is a better road that will and can be  
5 traveled as a practical political matter. And that is a  
6 question that while -- only you all here in Omaha and the  
7 State of Nebraska can and will address.

8           Frankly, I think it's a good discussion for  
9 America to witness because that is what we really should  
10 be talking about and that is why, for me at least, I hope  
11 this discussion continues. I hope people really think  
12 about the paradigms of Brown v. Board in putting in 1024  
13 versus what's been said here today and whether or not we  
14 ever really can get to those mechanical issues of funding.

15           But at bottom, I'm going to -- what I want to  
16 reflect is the frustration on the lack of control that  
17 folks sense in terms of controlling ones own destiny; that  
18 should be a concern to everyone because if you don't sense  
19 you're in control of your own destiny, you're simply --  
20 you're not going to be empowered, I don't care who you  
21 are. So those are the issues I hope can be addressed  
22 before folks start arguing within the confines of some  
23 structure, whether 1024 or not.

1 Do we have any other questions? Commissioner  
2 Melendez?

3 COMMISSIONER MELENDEZ: Just a comment. I think  
4 many times when you have diverse opinions, even within a  
5 minority community itself, even the African American  
6 community, I think that with the bill itself I think you  
7 want to, hopefully, build I as many options as you can for  
8 people to opt into it, but I'm not sure, it seemed to me  
9 that with this new bill even the -- even the integration  
10 or whatever those difference -- attending different  
11 schools seem to be closing.

12 So I'm just saying that if you can build as many  
13 options there for people that may not agree with the way  
14 we're going, but because I think part of this is educating  
15 a whole community as to what this issue is here on this  
16 bill. And I think that there's a lot of work that's going  
17 to be done, so I think that -- you know, that's what I'm  
18 hearing from people is people want to see options that  
19 they're afforded, not an agreement.

20 Thank you.

21 COMMISSIONER TAYLOR: Commissioner Yaki.

22 COMMISSIONER YAKI: I just want to - I just want  
23 to thank all of the panelists who are here for all of  
24 their points of view. I think that I enjoyed the passion,

1 I enjoyed the arguments, I enjoyed the -- most  
2 importantly, I enjoyed the sense of feeling that there's a  
3 need for participation, and whenever we do these, watching  
4 this is - is important.

5 I want to say one thing, though, and that is --  
6 and it goes to the point I was trying to make to Mr.  
7 Brooks. And that is I would -- I would hate that the  
8 fortunes of education in Omaha have to hang upon  
9 resolution of 1024 in the court system. I think that that  
10 would be, I think, a mistake by all parties.

11 I think -- I sense that there has been -- what  
12 Senator Chambers has done has created a great debate that,  
13 as my co-Commissioner -- as my fellow Commissioner Mr.  
14 Taylor has said, needs to be -- needs to be had as a  
15 debate that we see in every large city or every medium-  
16 sized city in this country regarding African American  
17 graduation rates, test scores, et cetera, that, quite  
18 frankly, as we all know, is appalling, unacceptable and  
19 should not be the standard by which we measure ourselves  
20 as a country.

21 So I would hope that in addition to whatever is  
22 going on in the courts on 1024 there are efforts made by  
23 legislative leaders who will understand what Senator  
24 Chambers is really talking about, to come together and say

1 | this is -- these are the kinds of reforms that we need,  
2 | this is the kind of controls and responsibilities that we  
3 | need to put in place.

4 |           If we need to create programs to incentivize  
5 | more African Americans going into teaching at K through  
6 | 12, what are we going to do to do that? If we need -- if  
7 | we need to create a different kind of property or tax  
8 | basis for our school system, this is what we need to do.

9 |           Incrementalism, I think, is not acceptable in  
10 | this debate, just minor tweaks or changes. As you said, a  
11 | program is not a school, a program is not a school  
12 | district, a program is not -- is not a county or a state.  
13 | I think that is really - really the kind of reform that we  
14 | support.

15 |           Certainly all of us understand the passion  
16 | behind 1024 for being here today. You've been welcome,  
17 | and I just want to thank all of you for being here today  
18 | and being a part of this discussion.

19 |           COMMISSIONER TAYLOR: I want to thank the  
20 | panelists and, again, I want to thank everyone involved  
21 | because I really think you all may not appreciate this,  
22 | since you've sort of had the national spotlight put on  
23 | you, but I really think you all are contributing to the

1 national debate in a real and meaningful way to -- it's  
2 an important issue.

3 I also want to take the opportunity to thank the  
4 staff. They did a great job in putting this together. I  
5 know it was a lot of hard work, as evidenced by the fact  
6 it was pulled off without a single flaw.

7 And you know how those things are, when things  
8 go smoothly, that means someone did a lot of hard work  
9 behind the scenes. So I want to thank all of the staff  
10 members for all of their hard work because they did a  
11 yeoman's work and did a great job.

12 I also want the public to know -

13 I want the public to know that this record will  
14 remain open for 30 days after this hearing for purposes of  
15 allowing folks from the public to consider what has been  
16 said today and submit to the Commission any material they  
17 would like us to consider as we compose our final report  
18 relative to this briefing, which will also be done at a  
19 public meeting that is a vote on the report, a discussion  
20 of the report at a public meaning. And once it's adopted,  
21 I know it can be pulled from our website.

22 And with that --

23 COMMISSIONER YAKI: Thank you all.

1                   COMMISSIONER TAYLOR:  -- we'll call the  
2 briefing to a close.  Thank you all again.

3                   (Whereupon, the above-entitled Commission  
4 briefing was concluded at 3:05 p.m.)