On April 13, 2006, Governor David Heineman signed Nebraska Legislative Bill 1024,1 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 The new law would have become effective July 1, 2008 unless repealed, superseded, or modified by lawmakers before that date.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Since the Commission’s visit to Omaha, LB 1024 has been repealed and superseded.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 6412 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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1 B. 1024, 99th Leg., 2d Sess. (Neb. 2006).
2 B. 641, 100th Leg., 1st Sess. (Neb. 2007)
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.”
I want to express my thanks to Chairman Reynolds and fellow members of the USCCCR 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 were 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.
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 20th 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 **did**
not **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 his 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.
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.
OPS has the lowest property value per child of all of the Omaha school districts.

<table>
<thead>
<tr>
<th>District</th>
<th>Total</th>
<th>Per Pupil Enrollment (2004-05)</th>
</tr>
</thead>
<tbody>
<tr>
<td>OPS</td>
<td>$15,674,302,551</td>
<td>$335,727</td>
</tr>
<tr>
<td>Elkhorn</td>
<td>1,840,624,221</td>
<td>501,117</td>
</tr>
<tr>
<td>Millard</td>
<td>7,212,226,116</td>
<td>354,044</td>
</tr>
<tr>
<td>Ralston</td>
<td>1,345,890,114</td>
<td>432,484</td>
</tr>
<tr>
<td>Westside</td>
<td>2,823,076,272</td>
<td>479,544</td>
</tr>
<tr>
<td>Total</td>
<td>$26,905,119,274</td>
<td>$363,084</td>
</tr>
</tbody>
</table>

*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 students 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**

- F/R lunch: 21%
- Minority: 17%

**Enrollment with Magnet Students**

- F/R lunch: 41%
- Minority: 43%
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 up of distinct racial, ethnic and religious groups. If America is to survive well into the 21st 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.³

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.⁴ 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?

³ 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

⁴ 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 14th 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.
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 classroom as a 4th 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 classroom 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 75th 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
COMMISSIONERS ASSISTANTS PRESENT:

RICHARD SCHMECHEL
KIMBERLY SCHULD
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Nebraska State Senator

Hon. Patrick Bourne
Nebraska State Senator

Christopher Todd Rodgers
Douglas County Board of Commissioners

Panel 2
Walter Brooks
Media Specialist, University of Nebraska Medical Center

Brenda Council
Board of Directors, Urban League of Nebraska

Marian Fey
Artistic Director, the ARTery

Carol Krejci
President, Omaha Education Association

Prof. Josephine Potuto
University of Nebraska – Lincoln

Rev./Dr. Everett S. Reynolds
Former President of the Omaha NAACP

Ben Salazar
Publisher, Nuestro Mundo Newspaper

III. Questions by Commissioners and Staff Director
PROCEEDINGS

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

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

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

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

I welcome all of you on behalf of the Commission, and I will introduce everyone describe your activities, and then we will call on you according to the order you have been given for the record.
What we would like to do is have each member provide us with comments for ten minutes and with no questions, and then we will circle back around and open up the floor with questions.

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

COMMISSIONER KIRSANOW: I am.

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

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

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

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

In a New York Times article of April 15th, 2006, Senator Chambers is quoted as saying, “Several years ago I
began discussing in my community the possibility of carving out our area of Omaha Public Schools and establishing a district over which we would have some control. My intent is not to have an exclusionary system, but we, meaning black people, whose children make up the vast majority of the student population, would indeed control."

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

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

SENATOR CHAMBERS: Thank you and members of the Commission.

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

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

In fact, many years ago when, as Billy Joel sang, I wore a younger man's clothes, I was actually on
the state committee for the Civil Rights Commission.

Obviously, we did not succeed in carrying out the mission of the Commission or you all wouldn't be here today.

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

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

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

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

Mr. Taylor mentioned the New York Times article, which caused the Commission to be here, which was misleading in its headline and that's all some people
read. The headline was, “Law to Segregate Omaha Schools Divides Nebraska.”

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

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

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

“On or before July 1st, 2007, each Learning Community coordinating council shall submit a plan to the state committee to divide school districts organized around the attendance areas of existing high school
buildings with two or three such high school buildings in each new Class V school district.”

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

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

“If the state committee disapproves such plan, the state committee shall revise the plan and shall hold one or more hearings on the revised plan.”

“The state committee may further revise the plan and hold one or more additional hearings.”

“If a Learning Community council fails to submit a plan as required pursuant to subsection (1) of this section on or before July 1st, 2007, the state committee shall develop a plan to divide any Class V school districts in the Learning Community into new Class V school districts organized around the attendance areas of the existing high school buildings with two or three such high school buildings in each new Class V school district.”
“The state committee shall hold a hearing and may revise the plan and may hold one or more additional hearings.”

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

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

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

My provision deals with administration and control of public education. It has nothing to do with student attendance. It will bring local control to the communities where the schools are located, provide more input and influence to the parents whose children attend those schools.
There is one other thing that I want to add to what was quoted by Mr. Ashley from the New York Times.

After that ending of that -- oh, my time is up?

I see -- the red light

COMMISSIONER TAYLOR: Go ahead and finish up.

We have 13 seconds.

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

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

SENATOR CHAMBERS: Okay.

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

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

Welcome and I look forward to hearing from you.
SENATOR BOURNE: Thank you very much welcome to Omaha.

There are several components of LB 1024 that, in my opinion, divide by race. It's critical to understand that the Legislature did not just create three districts divided by race, they created several districts divided 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 districts in the fastest growing and wealthiest parts of Omaha have permanent boundaries. These districts are over 90 percent white, as compared to the whole district of Omaha which is over 50 percent minority. Therefore, 1024 creates racially isolated districts throughout the city, minority districts in the former OPS districts and white districts everywhere else.

As if segregating these districts were not enough, LB 1024, in Section 16, also destroys the current integration plan in OPS and prohibits most of the common tools used across the country to intentionally integrate. Section 16 puts the 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 the district who
comes in. In other words, the receiving school district
can determine if they're at capacity without any
justification for doing so.

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 does not 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 school --
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's 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.
Section 41 of the bill, which I consider to be the most infamous component of it, 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 Amendment 3142, the Ernie Chambers/Raikes amendment, which requires the division of OPS, was stated succinctly on the floor by Senator Chambers, sponsor of the amendment. Since he is appearing as a member of the panel, I would encourage the members to review the transcripts of the floor debate on this amendment with particular regard to his introductory and closing statements.

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

As a legislature, we took action knowing full well what was included in the language of Amendment 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 shall be created. Limited by those rules, in the absence of
some intervening change, it is simply impossible to create districts that are not racially segregated.

I challenge the 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 Omaha Public School Board. AM 3142 clearly sought to exclude any input from OPS by specifically providing that the new district's boundaries not be subject to approval of any school board.

As originally introduced, AM 3142 required that the districts share a, quote, community of interest, end quote, 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 Amendment 3167 which
would have reduced the size of Millard Public Schools and the Lincoln Public School system.

The Legislature knew what it was doing when it adopted AM 3142 and approved the subsequent bill, 1024. The Legislature was aware of the effect of AM 3142 and they knew the racial composition of the 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 law, and there is no doubt that LB 1024 does this, the courts must apply what's called strict scrutiny. Nebraska will be required to show that it is a compelling interest to accomplish that which cannot be achieved other than by using race. This has been the test required by our Supreme Court for years; it has not changed, and there is no compelling reason to use race to divide Omaha Public School system.

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 high poverty areas. We will deny children an equal opportunity to the education they
deserve in direct contradiction to the principles in Brown versus Board of Education.

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

COMMISSIONER TAYLOR: Thank you, Senator Bourne.

Mr. Rodgers, welcome.

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

COMMISSIONER YAKI: Creighton.

COMMISSIONER TAYLOR: Creighton. I apologize.

He later received --

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

COMMISSIONER TAYLOR: I have not. He was sworn into office as Douglas County -- Douglas County Commissioner in January of 2005, and he focuses on increasing public health resources, strengthening
community corrections programs through controlling
spending through a better use of the taxpayers' dollars.

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

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

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

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

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

I grew up for 13 years in District 189 in East
St. Louis. I came here in '87 on a basketball scholarship
to Creighton and stayed because I love the city. I spent
13 years in an all-black school district. I know
personally, have experienced the pros and the cons of that experience.

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

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

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

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

For instance, if they use 50 cents of the tax levy, the remaining districts have the authority to use 52 cents. It cannot be equal because the housing values in
the parts of the district are unequal. The eastern part of the city's housing values may be somewhere between 60- and $80,000, while the outer parts range from 150- to $300,000. There's no way, when the split up happens, that the financing can be done equally.

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

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

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

One part is, as was stated, there is a piece of school law that said there was option enrollment. Option enrollment is when the kid went to another school
district, that money followed it. From reading that, my understanding is that is gone, that is no longer there. Plus, the district that the kids go to when they need transportation has to pick up that cost. I don't know what the incentive is for people to come here to that degree.

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

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

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

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

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

Also, like I just explained to you, you don't have the true levy authority because the Learning
Community gets first dibs on it, and depending on how they choose to do it, it could be unequal.

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

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

COMMISSIONER TAYLOR: Thank you, Mr. Rodgers.

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

Commissioner Yaki.
COMMISSIONER YAKI: Thank you very much, Commissioner Taylor.

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

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

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

We were formed to, essentially, be the body that would go out and be, essentially, the watchdog for the federal government, to go out and find out what discrimination is out there, what can be done, what can we do to recommend, what changes can be -- can be made in federal law that would help better heal a divided nation.
So when someone asks why are we here, in many ways we are here precisely because, you know, what we have read in the newspapers, not just in the New York Times, but, you know, articles from Ohio, Mississippi, Missouri, Kansas, Colorado, California, comments of all kind about what is happening in Omaha. It strikes at the very core of who we as the Commission are when anyone talks about the possibility, and I don't think anyone is concluding anything right now. We are here to hear, to listen, and make findings later.

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

I just want to say that we are here with pen minds and open hearts. In just with the brief time that I have been here in Omaha, I found a very welcoming presence. When I'm eating dinner at Gorat's last night -- I'm just trying to do the thing. Luckily, I had all of my stat drugs with me so that helped with all of the meat I was getting.
But I just want to say that I want to thank the panelists for being here. This is going to be an open and fair and free exchange of ideas and discussion today. But make no mistake, we are here because of what has been written and what has been said, and it is -- it is our job and our solemn duty to investigate and to determine what is going on and report back. And we look forward to hearing and we have looked forward to hearing from what has been said now and what will be said in the coming hours.

COMMISSIONER TAYLOR: Commissioner Melendez.

COMMISSIONER MELENDEZ: Thank you, Mr. Chairman.

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

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

We are here to listen to both sides of the issue and, hopefully, you know, come to some recommendations
later. But I just want to thank you for extending the
invitation for us to come here, so thank you.

COMMISSIONER TAYLOR: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Thank you, Commissioner
Taylor.

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

COMMISSIONER TAYLOR: Very well.

Questions?

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

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

In the mid to late '60s, I ran for the school
board. It was an election at large. Black people could
not get anybody on the school board in that at large
election. South Omaha could get nobody. So when I got
into the Legislature, I persuaded my colleagues to adopt a
district form of election, so, currently, school board
members are elected by district.
There are two black people on the 12-member board. Brenda Council, who will speak later from what I saw in the paper, got on the school board by virtue of my legislative work.

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

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

COMMISSIONER YAKI: I understand.

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

COMMISSIONER YAKI: If I could just follow up, in addition to the two black members of the school board, are there any from the Latino or Hispanic community as well?
SENATOR CHAMBERS: There might be one from the Latino community.

SENATOR BOURNE: One.

COMMISSIONER YAKI: So three out of the 12.

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

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

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

SENATOR CHAMBERS: My goal is quality education. In Omaha in OPS, whether you are talking about the ACT,
SAT, CAT, reading and other tests, the scores for Latino and African American students are extremely low, criminally so. So when I talk about local control in this proposal, I'm talking about reducing the size of the student population.

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

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

COMMISSIONER MELENDEZ: But --

COMMISSIONER YAKI: But --

SENATOR CHAMBERS: But you will have in each one of those districts which is smaller a 12- member school board.
COMMISSIONER YAKI: I understand what -- I understand what it was -- what it is you're saying and why -- why you rationalize what it is that you did.

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

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

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

If it was a violation of the constitutionally mandated methods for legislation, it could be attacked on the basis of violating the Constitution. There was nothing irregular about it, nothing. It was a matter of political timing as everything in the legislature is.
But to get -- I'll get back to that. But I want to get to this local control. We're making a record here.

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

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

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

I'm probably the most potent individual senator there. There are 48 of them and one of me. It's an unfair fight. I think they need more help.
But in any case, I can stop all of this, anything. This bill came because there was a dispute between the white superintendent at OPS and the white superintendents in the suburban areas. They were snarling and sniping at each other and would not sit down and talk. And I sat back and watched them.

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

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

SENATOR CHAMBERS: Yes.

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

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

I apologize, Senator Chambers.

SENATOR CHAMBERS: Was that what that - I thought those were the angelic harps.
COMMISSIONER YAKI: I realize -- I realize that perhaps background music is part of the --

SENATOR CHAMBERS: Thank you.

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

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

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

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

COMMISSIONER YAKI: I understand. I understand.

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

COMMISSIONER YAKI: Well, actually, there's one point of your question that I really wanted -- that you said before that I really wanted an answer from Senator Bourne because he seemed to have a reaction to it, and that was --
SENATOR CHAMBERS: So you want him to answer the question you asked me?

COMMISSIONER YAKI: No. I'm asking --

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

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

SENATOR CHAMBERS: Okay.

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

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

If you look at the map of the Omaha Public Schools and plot out where the high schools are, you cannot draw the map in any way other than there being a black district in the north, a Hispanic district in the
south, and a white district to the west. It cannot be done.

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

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

COMMISSIONER KIRSANOW: Yes, I am.

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

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

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

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

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

COMMISSIONER TAYLOR: Okay.

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

COMMISSIONER TAYLOR: Mr. Rodgers.

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

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

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

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

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

COMMISSIONER TAYLOR: And it sounds like, if we are at that second level of analysis, that we all agree -- you all agree that something should be done and now we're discussing methods. And with respect to Senator Chambers, it sounds as if he has identified a possible method.
Your opposition that I have heard, at least what I have heard today, was not grounded in the sense that you thought it would not lead to a better education, it was grounded in something else.

COMMISSIONER YAKI: Well, I -

COMMISSIONER TAYLOR: Is it, to answer the question?

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

So I would just say flat-out that I don't believe that it should be a choice between quality education and integration. I believe that the principles of this country and the principles of Brown say that those two are inexorably intertwined. If we are failing on one, it doesn't mean we abandon the other. It means that we have to continue on -- continue on that path that Brown set forth over 60 years ago.
COMMISSIONER MELENDEZ: Mr. Chairman, may I comment.

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

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

You put black kids among white kids and they would have access to what is considered an enriched educational environment. You bring white kids into the black community and the facilities would be upgraded, better teachers would be sent there to take care of the white kids, but through it all, the aim supposedly was quality education.
Now the quality education has not happened, busing is over, integration has become an end in itself, and nobody can say how it will occur, not the federal courts, not this Commission, not the Legislature.

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

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

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

One point and then I'll stop at this point, the 19- -- last year's California Achievement Test, 2005, for eighth grade students in English, white children tested -- tested out in the 85 percentile, Latino students 47
percentile, African American students 33 percentile which is ten points worse than it was five years before.

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

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

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

I feel like I should have gone on to the Congressional Black Caucus gathering. You know why?
Because they are politicians who can do something. A report will be produced and it will go to that repository where there is so much dust you would think it's a cemetery where we all revert to when we go ashes to ashes, dust to dust from once we came. And I'm not trying to be disrespectful. It's not my intent. But when I'm speaking for the welfare of our children, I'm going to let you all talk about integration.

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

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

And if you want figures, you don't have to take them from me. You can get them from the State Department of Education. So all of this opinionating by Mr. Rodgers,
Senator Bourne, and even myself, doesn't have to be the final word. You can go get the facts.

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

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

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

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

SENATOR CHAMBERS: Yes.

COMMISSIONER TAYLOR: That's actually a question I wanted to raise.
SENATOR CHAMBERS: Then let me stop. Maybe I'm anticipating.

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

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

Senator Bourne.

SENATOR BOURNE: You know -- thank you.

Senator Chambers talks a lot about integration of Omaha Public Schools. The reality of this is that 56 percent of OPS's elementary schools are more racially diverse than the neighborhood in which they are located, 64 percent of the middle schools are more racially diverse than the neighborhoods in which they are located, and it's close to 80 percent of the high schools are more racially diverse than the neighborhoods in which they are located.

That was before the passage of 1024.
Part of the reason -- and Senator Chambers is right that an amendment in our legislature can be brought forth at any time, but in my opinion, part of the reason -- or part of the problem with the Chambers' amendment and why I feel that the enormity of that amendment will come back and haunt us is that we weren't provided the opportunity to fully ventilate these issues.

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

I want to go back to the -- when he talks about funding for schools and quality education. I can't dispute that everybody that's involved in this issue wants quality education for every one of our children. But how do you take a district that is already struggling to provide quality education to everybody because the financial resources aren't what they should be and divide it into three separate districts when -- when you look at how our education is funded here, half through property tax and half through income tax, state aid, and you divide up the areas east of 72nd Street into two separate districts and one district is out west, when the property...
values east of 72nd Street are dramatically less than that in west Omaha, so what you are going to have is at least two of the three districts that are going to be inadequately funded. I don't understand how breaking the one district up into three is going to enhance quality education for any of our kids.

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

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

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

For instance, the priority in the integration plan is that it goes to low-, moderate-, and high-income kids, and they get first choice. So how the plan is set
up, all of the transportation is going west, nothing is coming in. Those incomes are higher so they don't get first priority coming here. The transition would go from boggy income to income the way the law is set up. There is no incentive to encourage that. OPS has that today with some degree.

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

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

Now, my personal opinion with what Senator Chambers said, and I agree on the spirit of the fact that
this society is not perfect, there is still a lot of things that I'm not thinking I should be here battling today when I thought my mother battled those 40 years ago. And in that spirit, if you have a kid, and I'm speaking personally, that is in one of those black or Latino districts, they would have to be above and beyond par to get over the stigma that would come from coming out of that district.

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

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

MISSIONER KIRSANOW: Yes, I do. Thank you very much.

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

Commissioner Taylor, can you hear me okay?

COMMISSIONER TAYLOR: Yes I can.

COMMISSIONER KIRSANOW: Okay.

Senator Chambers, I think I'm - everybody is sensitive to the fact that black students (inaudible) are performing at high school levels. The average black high
school graduate nationwide has the academic skills of an average white eighth grader, and according to the National Assessment of Education Progress, 90 percent of black 17 year olds score below the average white 17 year old in math, more than 90 percent of black 17 year olds score below the average white 17 year old in science, and the same type of scores are present in reading.

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

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

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

If they know that they are going to be respected and well paid and the community is watching them, they will do a better job, and the parents will watch to make
sure that what is going on in those classrooms is aimed at teaching their children.

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

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

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

Then there is what's called revenue sharing similar to what happens in the professional leagues. The wealthy teams subsidize the poorer teams to ensure the health of each individual team and stabilize the financial well-being of the league. So all of these districts will contribute according to their means which means the wealthier ones will put more into the pot.
Then it is allocated based on need which means that when you weight things, such as poverty, English as a second language, those districts where those children are located will take more money out of that pot and it will go directly to those children. When it comes to the state aid formula, the same weighting occurs.

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

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

They say that they have this voluntary integration plan in Omaha. There is more segregation now than before. There are more minority dominant schools with higher concentrations of minority students than there has ever been before. The test scores are not improving. So
despite what Mr. Rodgers says, I do think you have to
have some objective indicia or criteria for getting an
idea of what is happening in these schools.

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

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

But if you look at the funny papers, you will
see that it's a traumatic experience for the students, for
the teachers, for the parents; going back to the school is
a terrible thing.
We, if I have anything to say about it, in a district where we have some influence, would create an environment where the children would see that they count and they would want to learn.

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

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

I'm originally from Cleveland, Ohio, although I'm based right now in Washington, D.C. In Cleveland, Ohio, there is a suburb of Cleveland known as East Cleveland, but there a number of other metropolitan districts -- Baltimore, District of Columbia in Washington, Chicago, and others, Newark, you name it -- a number of metropolitan districts where the environment that you just described has either existed in practice or by law. There's local controlled schools, improved
funding, black teachers in many of the classrooms, if not most, where a learning environment is one where there is the considerable stress on (inaudible), for example, and yet in the school districts that I mentioned, the performance of black children still is abysmal.

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

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

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

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

My activity made these white superintendents sit down and talk to each other which nothing and nobody else could do, not editorials, not criticism by organizations, none of that but I made the difference.
I was the senator who made Nebraska the first legislature to take formal action to divest public funds from South Africa, so my presence is going to make a world of difference in how this whole thing goes. I don't just want a piece of legislation with my name on it. I have lived in the black community all of my life, all of my children went through OPS, I have two grandchildren there now.

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

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

When children can read, when they understand principles of math, not just how to pass a math
examination, when they understand geography, history, social studies, civics, and can relate those things to what's going on in the world around them, you and everybody else will see what this is and what it will do. That's the confidence that I have and that's the only answer really that I can offer.

COMMISSIONER YAKI: But at what --

SENATOR BOURNE: If I may --

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

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

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

SENATOR CHAMBERS: Yes.

COMMISSIONER YAKI: I mean, if -- if under a hypothetical --
SENATOR CHAMBERS: Yes.

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

SENATOR CHAMBERS: It means nothing.

COMMISSIONER YAKI: It means nothing to you?

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

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

SENATOR CHAMBERS: I'm going to answer.

COMMISSIONER YAKI: But I'm asking a hypothetical.

SENATOR CHAMBERS: And I'm --

COMMISSIONER YAKI: Would that be a good thing?

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

COMMISSIONER YAKI: Do you see that it's good or bad?
SENATOR CHAMBERS: I'm not going to answer the way you want me to answer. I'm going to answer it in accordance with my understanding of the question.

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

COMMISSIONER YAKI: How is it constitutionally neutral?

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

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

COMMISSIONER YAKI: Let me --

SENATOR CHAMBERS: -- no matter what.

COMMISSIONER YAKI: Let me -- just indulge me, Senator Chambers. Let me just indulge further my hypothetical.
SENATOR CHAMBERS: Then why don't you just ask me directly. Do I think that there have to be white children in a classroom before black and Latino children can learn? No, I don't think that and --

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

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

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

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

COMMISSIONER YAKI: Yeah, I do.

SENATOR CHAMBERS: Well, ask me directly.

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

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

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

The problem in the south is that they didn't have as much residential segregation so black kids had to
walk past white schools to go to these ramshackle, black schools.

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

SENATOR CHAMBERS: And the Supreme Court has said --

COMMISSIONER YAKI: -- but I know --

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

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

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

COMMISSIONER YAKI: Well, if it -- if it's insignificant and has no consequence, it, therefore, has no value in any school system that you would devise.
SENATOR CHAMBERS: No, that's what you're saying.

COMMISSIONER YAKI: No. I'm saying --

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

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

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

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

The segregation exists in America and in Omaha right now, rather than spend all of this time contriving these artificial means of bringing about what they call integration. You heard Senator Bourne and Mr. Rodgers condemn the proposal for transferring students. Everybody is against everything. So I'm saying let's concentrate on how to improve what the children learn in school.
COMMISSIONER YAKI: Senator Chambers, I think that seems --

SENATOR CHAMBERS: That's all schools are for.

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

But my problem continues to be, and I'll just state my own -- as evidence my own biases out here, and -- and I apologize for the fact that it is, but I just have a very difficult time comprehending the fact that someone of your stature and background and what you have done with your life can say that I don't mind a one-race school, I don't think that putting kids of different races together has any -- has any educational social benefit when, in fact, you know, we can -- we can go through -- I have a stack of studies. We just did a briefing about diversing in the elementary and secondary school education, because,
as a broader issue, the issue of integration is very much under debate and under attack throughout this country.

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

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

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

SENATOR CHAMBERS: But, Mr. Commissioner --

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

SENATOR CHAMBERS: You hit -- you hit the nail on the --
COMMISSIONER YAKI: -- regarding how we design it.

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

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

I would like to see people --

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

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

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

SENATOR CHAMBERS: Yes.

COMMISSIONER TAYLOR: I think they want to address Commissioner Kirsanow's questions and a couple of things that he's said.
SENATOR BOURNE: Commissioner, I wanted to go back just for a minute. The question the gentleman on the phone asked was did we contemplate solving the problem in the low test scores and with Senator Chambers amendment and the answer to that is no, we did not.

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

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

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

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

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

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

Now, in the practicality of how this law is laid out with the local control piece -- let's take OPS. OPS knows it has a trouble with, one, recruiting black teachers. They also have trouble with getting them here because the state doesn't pay high enough.
What OPS can do is take teachers and move them around, and to their credit, they have. They have tried to mix them with years of experience and try to mix them with color in schools. But you can't get black kids to get into education nowadays.

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

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

So the practicalness of it functioning is you're going to have this district, you will not have enough black teachers coming in; and the realness of it, like I just said, when you come out of this district, you are going to have to be that above and beyond par, you are
going to have to have some people in there dealing with them who understand what they are going through and go through.

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

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

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

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

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

COMMISSIONER TAYLOR: Senator Bourne?

COMMISSIONER YAKI: Yes, he is.

COMMISSIONER KIRSANOW: Yes.
COMMISSIONER TAYLOR: Senator Bourne is still here, yes.

SENATOR BOURNE: Go ahead.

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

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

Now given that you've got a legislative record that talks about race is one of the primary reasons for doing this and then that the effect of this is to have districts that are predominantly white, Hispanic or black, how does one defend this on Fourteenth Amendment grounds?
SENATOR BOURNE: I don't think it's defensible, and I -- sir, I think your question probably should be directed to Senator Chambers because he brought the amendment and I tried to stop it and I could not get it done. Senator Chambers is formidable in the Legislature and I think the question is more suited for him.

I don't think it's defensible. I think it's clear that it is creating separate segregated districts.

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

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

If they are not integrated today and there is a mechanism to move kids west into east, east into west via specialized magnet schools -- and I would argue that OPS
is successful in integrating those schools, contrary to what Senator Chambers says -- but if that's the case today and there's not sufficient integration, then how do you think there's going to be integration in the future if the receiving school district can say we are at capacity and there is a disincentive for them to say we have room, because if they say we have room, they have to pay the transportation costs, and they don't get reimbursed for those transportation costs until the next year under our formula.

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

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

SENATOR CHAMBERS: The reason I won't keep arguing about constitutionality, it's before the court. What we say is piffle; it means nothing. The federal court will make that determination, so Senator Bourne can say what he pleases.
But to the gentleman who was calling, there is not reference throughout the transcript about black teachers, black administrators unless it's by those who oppose this because what I emphasized is that what we're interested in is quality education for all children. And if among the pool of teachers available the most competent ones all are white, every classroom would be presided over by a white teacher, and what we mean by competency is to have knowledge of the subject and the ability to impart that knowledge and that information. And I did emphasize over and over and over that quality education is what I'm interested in.

My mantra was I don't care about separation or integration but quality education. So when people say they have read the transcript, they say they've read the law, they haven't read well. They recite as though they are victims of OPS' education because if you look at the language that I read this morning, the contiguousness of attendance areas is required when the coordinating council makes the initial drawing. But when it comes to the state committee, which has the final say-so and the final approval, it is authorized to revise or substitute a plan, and there is no contiguous attendance area requirement when it comes to the state committee.
So you looked at the authority of the final arbiter, which is the state committee, and it is not bound by that contiguous word which means the number of possible configurations is virtually finite.

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

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

So, again, since the courts are going to take care of all of that, I don't even need to keep going through it. I'm trying to give the Commissioners the rationale I have for what I did.
That bill would have been dead in the water had I not removed my opposition. The reason it came up late is because the bill was late getting to the floor of the Legislature.

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

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

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

Senator Bourne made his arguments that it's unconstitutional. OPS and their lobbyists made the same
arguments. The senators took the amendment, it became law, and now is before the court, but that's why it was late in coming.

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

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

COMMISSIONER TAYLOR: Senator Bourne (inaudible)

COMMISSIONER KIRSANOW: If I could ask a question, Mr. Chairman.
COMMISSIONER TAYLOR: Commissioner Kirsanow, Senator Bourne wanted to follow up on comments Senator Chambers made. Then let's go back to your next question.

COMMISSIONER KIRSANOW: Sure.

SENATOR BOURNE: Thank you.

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

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

Senator Chambers forgets the fact that in a lot of legislatures there's a Democrat versus a Republican bent. In Nebraska I think it's fair to say that there's an urban versus rural, a rural versus urban bent rather than Democrat versus Republican.
People in greater Nebraska resent the City of Omaha, so it's real easy to pass a bill that hurts Omaha and/or its inhabitants.

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

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

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

But the bottom line is, the original iteration of the amendment said communities of interest. I don't know how you define that in any way other than black, Hispanic, or white. And ultimately that's what was passed.
COMMISSIONER TAYLOR: Commissioner Kirsanow, you are next on the line and then I think Commissioner Melendez is next in the cue of questions.

COMMISSIONER KIRSANOW: Thank you very much.

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

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

I guess the question is what empirical evidence is there that a district could control -- by the way, I think everybody wants to have a district that improves the schools black kids, black, white, Hispanic, whatever. But
what evidence is there for having such a district would, in fact, improve the performance of black students or Hispanic students or anybody?

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

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

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

“When approaches are made to individual teachers and principals, parents are often treated rudely and dismissively. Going to the school board is even less helpful.”

“We will create a system where anybody interested in having their children treated like human
beings, with respect and concern and, above all, properly
educated, they would be welcome to let their children
come. And any teachers who are competent, meaning they
know their subject, they know how to teach or impart that
information to the children, have respect for the
students, would be welcome. It is not exclusionary but it
would no longer be one of those areas where people who are
not qualified can be dumped to the detriment of the
children."

I always included the poor white children,
always.

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

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

COMMISSIONER KIRSANOW: It's been done in other
places, though, maybe not specifically with this
legislation. But where I live -- and by the way, I'm
black. Where I live, Cleveland, Ohio, you've got a black
superintendent, we've had a black superintendent for
decades. You've got black principals, black teachers,
majority black city and you've got, you know, local
attendance in all of these things, yet those things, in
and of themselves, haven't done anything. In fact, scores
and dropout rates and everything else has gotten worse.

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

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

SENATOR BOURNE: The reason -- the reason -- the
reason they would write these articles is because we're
the first state in 25 years that sanctioned segregation.
What Senator Chambers forgets, and he leaves out some of
the elements of his testimony on the floor, he says,
Several years ago I began discussing in my community the
possibility of carving our area of OPS and establishing a
district over which we would have control. We, meaning
black people, whose children make up the vast majority of
the student population.
He goes on to say, in response to a question from another senator, Oh, there will be an interrelationship between school districts because in competitions of an athletic nature, ours will win all of the championships, because right now the black athletes are very welcome in white schools but the black student at large is not welcome. So when we get those kids back in our district, football, baseball, basketball, you can all forget it.

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

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

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

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

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

SENATOR CHAMBERS: Do you know what the word was in the statement that followed that he read about the
athletes? Facetious. And some people don't know what facetious means. But that statement on its face is obviously facetious.

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

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

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

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

SENATOR CHAMBERS: Say it again.

COMMISSIONER YAKI: But you have to do it in separate barrels.
SENATOR CHAMBERS: No, that's -- here's what you keep not hearing.

COMMISSIONER YAKI: I --

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

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

SENATOR CHAMBERS: Yes.

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

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

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

SENATOR CHAMBERS: What I said --
COMMISSIONER YAKI: I'm going to read from the transcript of the floor debate 1282 -- I mean, you spoke many times --

SENATOR CHAMBERS: Many times.

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

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

SENATOR CHAMBERS: No, they still -- they go -- they are isolated now. They will keep -- if you think it's
so terrible under my plan, why don't you speak against
the segregated schools now where they go? I'm saying I
recognize what the problem is --

COMMISSIONER YAKI: Senator Chambers, when I --

SENATOR CHAMBERS: -- (inaudible) into those
schools.

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

SENATOR CHAMBERS: Well, I have to function --

COMMISSIONER YAKI: Like I said --

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

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

The background of it, and that is what you
brought up, which is how -- whether or not OPS has done
its job, and I think we've heard from people here that it
hasn't done it's job as well as it should or can or
anywhere where it should be, I understand that there is
that background going on behind you. I understand that's
behind your rage. I understand that's behind your concern
and your passion. None of that is to be denigrated by --
by what we say here today. It is just the means to
achieve that, that at least I have a slight problem with
and others might have as well.

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

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

COMMISSIONER YAKI: Senator Chambers --

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

COMMISSIONER YAKI: I'm not going to argue.

SENATOR CHAMBERS: Then how are we going to
correct it? If my way is not the way and nothing OPS has
done to date and they have nothing else on the table,
you're saying leave everything as it is because as long
as white people control it, it's okay.

COMMISSIONER YAKI: I would never -- I would never
say -- I would never say leave everything the way it is.
I never --

SENATOR CHAMBERS: Then what is the change?

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

SENATOR CHAMBERS: Then how do we change it?

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

The question --

SENATOR BOURNE: If the --

COMMISSIONER YAKI: -- though, is that in
attempting to jump over that bar or raise it even further
are we doing something that however unintentionally -- and
I take you as a person of good motives and good intent,
but however unintentionally in attempting to do something
we accidentally go to a place that we left 40 years ago, I
don't know if that's the way to do it.
There have got to be -- there must be - I saw on the debate on reconsideration people pleading to bring people to the table and redo -- and rethink this and redo it in response to your passion and your concerns. That did not win and it should have won. To avoid -- to avoid our presence here today, that should have happened.

SENATOR CHAMBERS: Well, if that --.

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

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

SENATOR BOURNE: It's not only - this amendment won't only freeze segregation, it's going to make it worse because, as I indicated, the receiving school district
gets to determine capacity, so segregation will be more prevalent under the passage of this bill.

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

COMMISSIONER TAYLOR: Commissioner Melendez.

COMMISSIONER MELENDEZ: Just a comment I had read, Mr. Chambers, that the NAACP had become involved in this, and they basically represent people of color and African Americans in best interest and they've actually entered this, so there must be a concern on race and
segregation on all of this. And what's your feeling, as far as them, involvement in this whole lawsuit situation?

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

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

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

They have not taken a position on the white district that has been cut out of the heart of OPS. When they filed the lawsuit against my proposal, they did not address the white district, not only racially
identifiable, but drawn for that purpose; they didn't touch that.

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

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

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

COMMISSIONER TAYLOR: Gentlemen, I would ask you all to compare Senator Chambers amendment to District 66, and in doing so -- I can guess Senator Chambers' description of District 66. I wanted, Senator Bourne, you to educate us on that and if it is comparable to Senator Chambers' amendment, describe the comparison points, what's different, how is it different, and address, I
think, his overarching point of that potentially being a segregated district just segregated for a different race.

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

COMMISSIONER TAYLOR: Uh-huh.

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

It is a -- it is a district within the Omaha Public School District. It is -- it's probably the wealthiest school district in the state. It's probably the most white school district in the state.

Historically, I cannot tell you why it was put in the statute but it clearly is.

The law as it -- as it was written prior to 1024, with the exception of districts District 66, would
allow OPS to take over school districts as the city expands.

COMMISSIONER TAYLOR: Uh-huh.

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

COMMISSIONER TAYLOR: Uh-huh.

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

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

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

COMMISSIONER TAYLOR: Remain.

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

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

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

COMMISSIONER TAYLOR: Senator Chambers, is District 66 part of, if you know, an issue raised in the lawsuit or has it been an issue raised with you in terms
of that being what appears to be a segregated district that exists today?

SENATOR CHAMBERS: I think during the debate, and I could be mistaken, Senator Pam Redfield I think made reference to District 66; and after so much criticism was launched against my proposal after it became law, then I mentioned District 66 every time I had an opportunity to show that if the people were really concerned about integration, which I was not, should look at District 66.

And when OPS talked about filing a lawsuit and others talked about OPS filing a lawsuit, it was always only against my proposal but never was District 66 mentioned.

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

So, here's the argument I had made. Whyever District 66 came into existence or continues, whyever all of these white districts in the suburban areas exist, they all give an overriding reason: local control.
There are districts in the State of Nebraska, the whole district, with as few as 120 students because they want local control. So if white people want to administer and control their schools, it's called local control. If non-white people want the same thing, it's called segregation. So that's how they defeat us.

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

Had this headline in the New York Times said, “A Bill Calling for Local Control, Equalizing School Funding, and Improving Quality of Education,” people may not have even read it. But when you get a screaming, misleading headline that's false, “Law to Segregate Omaha Schools
Divides Nebraska," that is what brought everybody out of the woodwork.

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

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

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

Quality education.

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

I don't want him to show me how you turn a screw clockwise or counterclockwise or how you tighten a wrench. All of that is fine. But education is the most important function that a government carries out.
The budget for education at the state level in Nebraska, and this won't seem like a lot to other places, $900 million, 720 million if you don't include special education. The largest part of a lot of budgets will go for education.

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

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

And as I suggested to Commissioner Yaki, it's still -- sub rosa -- is based on the notion that black
people, non-white people, are inferior. When we talk
about integration, it's always in conjunction with making
the black children bear the onus of it, and I don't think
that's right.

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

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

So since I can look at myself and know what I
have to fight against to get an education and those
grades, coping with things those other white kids didn't
have to cope with, I'm not going to let people treat
children of any race, but because if they are not black,
they are poor, that somehow they are genetically
inferior, they are of less value, that because their
parents can't buy them a certain type of clothing, they
are not entitled to fair treatment. So here's how it is
going to be corrected. We are going to take these poor
children of any race and cart them out to white schools
where attire is very important.

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

That's why, with all due respect to everybody in
here and in the Legislature and everywhere else, I don't
care what they say. As long as I see these children
failing, I have a job to do. I have not a bit of religion
in me, but there's one thing that Jesus said that I think
everybody ought to listen to talking about the children:
If one offends against one of these little ones, it were
better that a millstone be hanged around his neck and he
be drowned in the sea.
The children are the ones Jesus said, bring to me because they're what Heaven is about, not all of these adults, not all of these religious people, not the teachers. So the children are the cash cows whom we have school people and teachers come to the Legislature for more money.

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

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

I can know how to get along with white people without living in a white neighborhood, which I've never
done; without sitting next to them in a classroom. Let me --

COMMISSIONER TAYLOR: Senator Chambers --

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

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

SENATOR CHAMBERS: Sure.

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

STAFF DIRECTOR MARCUS: Thank you.

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

SENATOR BOURNE: I don't recall saying that one of the purposes was to create a black district other than Senator Chambers' comments on the floor saying that's what's going to happen.
So I -- the reason that I keep talking about integration in the bill is because if you read Brown versus Board of Education and then the string of cases subsequent to that, it is clear that if a state takes an action that deliberately segregates it's unconstitutional.

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

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

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

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

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

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

STAFF DIRECTOR MARCUS: Senator Chambers --
SENATOR CHAMBERS: Yes.

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

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

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

And when the districts are drawn, it doesn't matter who lives in them because whoever lives there, if
the population changes entirely, they should have local
control of those schools located in their area. That was
my point.

STAFF DIRECTOR MARCUS: Thank you.

And let me follow that up by asking this:

Senator Chambers, your colleague Senator Bourne indicated
earlier that the only way that the public school system
could comply with the amendment and divide schools up to
meet the continuity requirement and the other requirements
of the legislation would be to divide the district up into
a predominantly white, predominantly Hispanic, and
predominantly black school district. Would you agree with
that assessment and was that your view at the time the
legislation was passed?

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

So the coordinating committee is like
preliminary work, and no matter what it presents or if it
fails to present something, the state committee has the
last word; the state committee will approve of the final
plan, and it is not limited in the same way as the coordinating committee council.

COMMISSIONER YAKI: I have a follow-up to that.

So, Senator Chambers --

SENATOR CHAMBERS: Yes.

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

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

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

Let me say this. If it did, remember, there is a 12-member school board. If you have a mixture of white people and black people, then black people are going to
have people on that school board and the white people are. Since they now are a part of the same district, instead of this creating a division, it has brought these two elements together, and now to be sure that all of their children have an opportunity, they will cooperate to be sure that every school in that district provides quality education. Then it doesn't matter which building the child attends school in.

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

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

STAFF DIRECTOR MARCUS: Thank you.

Any another questions? Senator Bourne, in your written statement you said the following: "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."

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

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

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

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

SENATOR CHAMBERS: No, because this bill does not require any child to cease going to the school he or she attends. In fact, they are called continuing students. There is an absolute guarantee that every child
will continue to go to the school that he or she is
attending after the reorganization if that's the desire.

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

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

STAFF DIRECTOR MARCUS: Thank you.

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

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

Before we all break up, let me say one more
thing. There have been a number of individuals from
Nebraska and Omaha that have said it's unfortunate that
the national spotlight is shining on this issue for the
state and the city in that some people have ridiculed the
state and the city for passing this amendment. While that may be true, in the context of some folks ridiculing Nebraska, I want to say that, in my view, what you have all done is important in one respect and that is that you're discussing critical issues and considering quality education in the context of integration and putting those issues on the table, because, in my view, it's only with discussions like this that we'll get to the nub of the issue which, frankly, I think we will continue to nibble at.

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

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

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PROCEEDINGS

(Continued)

(1:04 p.m.)

COMMISSIONER TAYLOR: For phase two of our briefing, we are going to hear from a number of community activists and others representing a broad segment of the -- of the community, and we're going to go from left to right on our panel here.
I'm going to ask each of you all to limit your comments to ten minutes. And we'll go through everyone's comments, and I will then turn to the Commissioners and ask them if they have any statements to make, and then we will move on to questions, essentially the same format we used for the first half.

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

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

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

COMMISSIONER YAKI: She's here.

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

COMMISSIONER TAYLOR: We're going to first hear from Walter Brooks who is a contributing writer to the Omaha Star newspaper. I understand that's Nebraska's only black newspaper, and Mr. Brooks has been associated with the newspaper for 28 years.
Mr. Brooks is a U.S. Marine Corps combat veteran of the Vietnam War, and has a history of community activism in Seattle, Denver, and Omaha.

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

So Mr. Brooks.

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

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

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

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

In part two, I told the history of a very significant moment in African American history in 1968.
when a black community of Brooklyn, New York, had an
opportunity to acquire the kind of legislation that this
bill represents.

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

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

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

I do want to also make note, I'm grateful that
your Commission has chose to seek Ben Salazar, even though
he wasn't originally to be a part of this panel, so that
the Latino community could be represented. I think he was very right to come down and draw your attention to that, and I would be more than happy, you know, to give up any time that I may have coming to account his being on this panel. I have no idea what position he's taking; that doesn't matter. The Latino population needs to be sitting at this table.

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

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

This brings me to an interesting observation.
Have you ever 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 predominantly black college is somehow
stunting the growth of these students.

In fact, increasingly, HCBU students are highly
sought after for immediate employment, in 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
court ministries, the ones with 10,000, 20,000, or even
30,000 members. I don't hear Bishop T.D. Jakes, Bishop
Eddie Long or their peers talking about how they need more
Caucasians in their churches. Or 100 Black Men or
National Council of Negro Women, Delta Sigma Theta
International or Omega Psi Phi National Fraternity; all of
these organizations and associations have worldwide
affiliations, and no one seems to mind that there may not
be any Caucasian people with them when they show up.

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

White children in west Omaha can 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
momentarily celebration of ethnic history week, day,
month, you name the group, or a cultural foods day in
the cafeteria or an annual entertainment assembly.

    Whites run around worrying about – 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 America struggled 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 his best seller, 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 people.

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

    And as I near to the end of my ten minutes, I
want to jump to something.
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 whites, the federal government sold out that great opportunity to uplift all of America. The racist state's rightists took over.

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 included 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 these kids, too, need a fresh perspective LB 1024 could bring to public school education in Omaha.

And Senator Chambers was quite poignant consistently saying we're just offering a change in Omaha. The fact that this has become earthshaking and national and drawing your Commission and drawing the New York
Times, that was never the intent. It was to look at
some options that had not been considered.

And I put at the end of my prepared statement:

In closing, there is so much more to be
addressed, as we had this morning and we will this
afternoon. 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 called, All-Car Transmission. They
had a unique marketing promotion. They'd say, "We're not
nationwide, 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.

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
to show for it in 2006? Isn't it time that just this once we
try it ourselves?

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

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

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

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

MS. COUNCIL: Thank you. I appreciate the
opportunity to be here this afternoon and I really mean
that this afternoon. I was advised that the panel started
this morning and I, unfortunately, had to be in court
representing a client and so I appreciate the fact that
the Commission held the hearings over to allow me an
opportunity to speak this afternoon.

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

I appear here this afternoon in opposition to LB
1024.

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

First and foremost, I view this bill as being
segregated in nature. I don't see any way that you can
read Section 16 of this bill as providing and resulting in
anything other than racially segregated school districts.
Dividing Omaha Public Schools into three will invariably
result in the creation of minority school districts.
And when you put it in the context of freezing the boundaries of all of the school districts and not allowing Omaha Public School District to grow, you, in fact, cement the segregatory effects of this bill.

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

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

The only time a school district has choice is once the school reaches capacity, then they are in a position where they can choose to allow students who have
applied to move to those schools on the basis of their social or economic status. But prior to that, there's no -- there's no involvement or real opportunity to provide for integrative efforts.

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

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

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

And I believe that this bill flies squarely of the face of Brown versus Board of Education in terms of providing, legislatively, for separate and, quite frankly, in terms of operation would ultimately be unequal schools
which gets me to the second point, the concern about local control.

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

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

At worst case, you end up with two minority districts out of OPS. That means they have two votes out of 13 on how the money is to be distributed. I don't know how that improves the position of the children or the parents in those districts.
When you look at the amount of money available and that vote -- and I think I should point out the fact that there would be two of 13 votes on the Learning Community, but if you divide up Omaha Public Schools into three, you would have three 15,000 student school districts.

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

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

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

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

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

From 2010 to 2012 half of the school board would
be appointed and the constituents in those districts would
have an opportunity to vote. It wouldn't be until 2012
that those districts would have boards of educations
elected from those districts.
So if -- at the totality of this bill, it becomes at least obvious and clear to me that we don't gain any educational benefit from this legislation.

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

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

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

What we should be focusing our attention on is what will it take to provide the kind of educational programs that will ensure that all of our children receive a quality education.
COMMISSIONER TAYLOR: Thank you.

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

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

MS. FEY: Thank you.

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

As you said, I'm a professional educator with a degree in elementary education. I thank you for coming today and for inviting me to speak and looking into what I feel is a violation of civil rights, as I understand them,
and a dangerous situation that presents a serious injustice to the children of Omaha.

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

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

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

MS. FEY: Absolutely.

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

And until approximately 40 years ago, as Omaha grew, so did 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 when the City of Omaha annexed Millard in 1971 the Millard Public Schools were not taken in by OPS.
And there's a chart here that just shows,
again you will get a copy, but the difference in the
population of minorities in 1974 was approximately 11,000
and in 2004 about 25,000 minority students versus the
Caucasian population in 1974 was at about 45,000 students
versus 2004 where it had dropped to about 20,000 students.
And that's consistent with what happened around the
country when there was court-ordered busing,
desegregation.

I'm certain that the current school board has
questioned that decision, or the indecision of the
previous school board, many times.

I also have a census map. This map expresses
the racial breakdown of the Douglas County school
districts, and the vast majority of minority students live
in the Omaha school district, which is right here.

If the map could be broken down further, you
would see that, in general, the Omaha Public Schools is
primarily white here, African American here, Hispanic down
here. This is OPS, this section.

Because of the large numbers of minority
families and where they live, as has been stated before, 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.

So now let me tell you a little bit about my family, why I'm here.

We live about right here. There's my house.

We chose our neighborhood and our children's schools for their diversity. We were aware of the academic excellence of all of 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 found is that not all of Omaha agrees with that philosophy. We've had to speak up to defend our schools and the children who attend them.

My children perform just fine in school, and, honestly, they'd probably do okay wherever we'd send them. They have two college-educated parents at home, a comfortable house, and all their basic needs are 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 percent 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 myself before the Legislature's education committee on two occasions, and my son, who is a sophomore at Omaha Central High School, has even testified against 1024, when it was still in committee, articulating something that was clear even to a teenager, that many people in Omaha want the perks of Omaha -- the city, the zoo, Memorial Park, Rosenblatt Stadium, Qwest Center across the street -- and then they want to turn their backs on the problems of the people who live and work in these areas.

OPS has had a place -- has had in place an integration plan that works. It is natural that parents of elementary school-aged children, particularly those in primary grades, prefer to attend their neighborhood schools. And that was something that Senator Chambers brought up, that OPS is segregated.
Well, in voting to approve the 1999 bond issue, parents confirmed their support of the idea that mandatory -- 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 socioeconomic integration could be upset, parents chose community, convenient access and/or local control over court-mandated integration.

In response, OPS created a magnet program that continues to grow and attract students across racial lines. Consistently, elementary schools are more diverse than the neighborhoods in which they stand.

And so to my pie chart. Just to show you, this is Catlin Performing Arts Magnet. Without magnet students, because of 21 percent of the students receive free or reduced lunch, 17 percent of them are minority. With the magnet students, 41 percent are free or reduced lunch, 43 percent are minority. This is a west Omaha magnet school.

I think it's probably one of the most successful of the magnet schools, but I think, again, as Senator Bourne stated and as I just said, of all of the magnet
schools and, in fact, I think most of the elementary
schools are more racially diverse in the neighborhoods in
which they are located.

There is no way that in one morning of listening
to testimony you can fully understand the ideas and the
culture of a city, but I'm trying to give you a glimpse of
the history and the attitudes that define Omaha.
Segregationist ideologies, no matter how subtle or overt,
no matter how – no matter if they come from whites or
blacks, if they are demonstrated through hate crimes or
perpetuated through legal channels, are wrong, wrong for
this country and its global economy, wrong for the 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 and that is that last -- he's growing up in
the Omaha Public Schools in racially diverse schools.

We were at a Central High basketball last year,
and our whole family, and I was sitting off a little ways
from some African American boy students at Central who
were wearing the baggy pants, sunglasses inside, the
logos, the gear. And I made a comment, just sort of under
my breath, that just hated that. I just hate the baggy
pants and I hate the –
And my son, who has blonde hair and blue eyes, and who was at the time wearing a pink polo shirt, looked at me and said, Mom, it's their culture. Their mom is probably over there going, I hate that kid in the pink polo shirt.

FEMALE AUDIENCE PARTICIPANT: You do not represent Omaha. I am sorry, I cannot take any more of this -

COMMISSIONER TAYLOR: Please. Please, show some respect.

FEMALE AUDIENCE PARTICIPANT: (Inaudible) -- by a parent in OPS. That is not my experience.

COMMISSIONER TAYLOR: Will you please step outside. Please, show some respect. I apologize.

FEMALE AUDIENCE PARTICIPANT: Shame on you.

MS. FEY: So my son turns to me and said, Mom, their mom is probably over there saying, I hate the pink polo shirt. He said, Mom, it's all good.

And for him to have had grown up in that and witnessed that and thought -- he doesn't see that.

He -- my children have succeeded academically in OPS, and I'm grateful that their education includes seeing people for who they really are, not the clothes they wear or the color of their skin.
As I said before, my children will do fine in school, but it's the lessons of life that I'm afraid will suffer if OPS is divided into three racially identifiable school districts.

Thank you.

COMMISSIONER TAYLOR: Thank you. Our next speaker is Carol Krejci --

MS. KREJCI: Krejci.

COMMISSIONER TAYLOR: -- Krejci who has been --

been a professional educator for 35 years, the last 20 years teaching American history and government at Omaha Central High School. In August of this year, she became president of the Omaha Education Association which represents nearly 3,000 professionals in the Omaha Public School system.

She has served in various positions on the Board of Directors of the Omaha Education Association for 15 years and recently completed six years on the Board of Directors for the Nebraska State Education Association.

Thank for you coming, look forward to hearing from you.

MS. KREJCI: Thank you.

I am Carol Krejci, president of the Omaha Education Association. I appreciate the opportunity to
appear today on behalf of the nearly 3,000 professional educators in the OEA.

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 modern American society.

Today, more than ever, American society is a diverse society made up of distinct racial, ethnic, and religious groups. If America is to survive well into the twenty-first 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 the American public school system.

It is here, in our public schools, that our students, regardless of their national origin or their 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 racial or ethnic enclaves. On the contrary, as history shows, if we are to educate our children to live in a diverse society, 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 a 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 any other single schooling practice. This teaching strategy involves organizing learners into culturally heterogeneous groups -- 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 towards school, specific classes, subject areas, and teachers; and a greater ability to appreciate the strengths that diverse people bring to a learning table. 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.

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 in each school.

Unfortunately, while our school-aged population is becoming increasingly multicultural, the teaching profession is becoming increasing 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 percent. 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 does 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 me 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 families members from
family members?

If a parent wants his child to attend an
integrated school, how does he find such a school?

And what if a current -- a student is currently
attending 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 the special needs of their children, are not convinced that dividing 25 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, et cetera. What guarantees are there that the faculty will be treated equitably by the three new districts, each with separately elected school boards?

How will funding affect the negotiations within districts, both 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 benefits be handled and how will retirement funds be allocated to the three new districts to guarantee equity?

How do the Nebraska school reorganization statutes apply to the breakup of OPS?

And will this division ultimately require other districts to restructure?

One last concern is the makeup of the governing body for the new Learning Community that is created in LB 1024.

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 the ethnic minorities and 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.

COMMISSIONER TAYLOR: Thank you very much.

Our next speaker is Professor Potuto. Professor Potuto is currently the Richard H. Larson Professor of Constitutional Law at the College Of Law, University of Nebraska at Lincoln. She received her journalism degree from Rutgers and her J.D. from -- from Rutgers as well.

PROFESSOR POTUTO: Yes.

COMMISSIONER TAYLOR: Welcome.
COMMISSIONER YAKI: Wait, wait. Commissioner Taylor --

COMMISSIONER TAYLOR: Yes, sir.

COMMISSIONER YAKI: -- you left out the most important of her biography, the NCAA infractions official is what she's also.

PROFESSOR POTUTO: That's right, with all of this private information.

COMMISSIONER TAYLOR: That's right.

PROFESSOR POTUTO: I don't want to -- my comments are probably -- probably sound somewhat disjointed because I've been editing and editing as the day has gone on, and I've heard some of the things I might have said and probably said more eloquently than I would have said them. I also rely on and will not repeat my written submission.

I think, listening to everyone today and thinking about this issue over the last many months now in -- I guess in focused detail, and certainly thinking about education for my whole adult career, everybody here wants to enhance the educational opportunity and performance of students and, in this case in particular, the students in the Omaha schools, and I think everyone here wants to do it in a way that's constitutional.
But we differ some on the policy issues. What is the best way to do it or maybe it would be more accurate to say the best way to get a good jump-start to do it.

My own bias is that diversity is of critical importance in education, both K through 12 and in college and in post college, because if for nothing else the world we live in and also because I think it enhances the educational experience in the schools to see and hear and interact with people who don't look and sound and think maybe the same way we do.

But I think of more importance is to be sure that kids K through 8, K through 12 can read and write and do those basic tasks at least that we expect of all people coming out of the schools and who are going to be functioning performers in our society and citizens.

And I think part of what I heard today is really a disagreement as to how fast you can do the latter and also do the former at the same time and whether getting them up to speed and keeping them in school and performing well on what we would have called the three Rs should be the primary goal right now.
Now, the constitutional -- and that's what I'm here about, but, you know, the constitutional principles are not all that difficult.

The equal protection clause, as I know you all Commissioners know and I'm sure everybody on the panel does and probably everybody in the audience knows, the equal protection clause requires a purpose to discriminate, an effect to discriminate, and a state actor. And that with regard to the old notion of separate but equal, the context out of which that -- well, the context from which that -- that notion came was one in which the reason for the separate was not to try to enhance educational goals or performance of underperforming kids or minorities but it came out of white supremist notions that the white majority should not be interacting with minorities.

Now, that goal is abhorrent, but it is not the one that's reflected -- and I think everybody would agree it's not the one reflected in the Nebraska statute, whether that statute is constitutional or not.

It makes it a little difficult -- and I think that's why at least from my perspective some of what I heard came from so many different directions. It's pretty hard to take a paradigm that says separate but equal is
abhorrent because of why we have separateness and try to place it in a context in which those advocating the separateness, assuming that the result of the -- of the statute in operation would be three very racially distinct districts, to try to put it in a context in which the reason for doing it is so different.

The clear -- I mean, there are some things in the constitutional tests that are pretty clear here, and one is clearly you've got state actors, whether it's the unicameral or it's OPD or it's the whatever they are calling them -- I read the statute but I guess I can't remember right now - the coordinating commissions, the state commission or anybody who's assigned under the statute to have authority with regard to what happens here, are all going to be state actors.

The difference that I heard this morning between Senators Bourne and Chambers is with regard to whether LB 1024 simply acknowledges what already is the status quo or is going to freeze and make worse the racial disparity in the schools. I'm not sure it makes all that much difference constitutionally, at least under the tests we're under right now.

If Senator Bourne is correct, then I think he is also correct that the statute would be unconstitutional.
If Senator Chambers is correct in describing the way the system will, in fact, operate, I still think there's a very good chance under the way that current -- the court has dealt with racial districting or segregation, at least in the schools, I still think there's a very good chance it will be unconstitutional.

That is independent of the policy question as to whether what might work best right now, at least in a jump-start situation.

The additional component to this, and Ms. Krejci in some ways reflected it when she was describing all of the questions that will exist, is even if the courts were to find the plan in theory constitutional, you still have the second component which is going to be whether that which is separate but equal in theory will turn out to be separate but equal in fact; and that's an entirely different and probably a continuing issue that will come up under this plan.

And I, frankly, don't see how it wouldn't come up. I've heard the discussion earlier today about how the -- how the distribution of resources would be made, and if there is a differential - if there are differential resources in the districts, that will show in differences in terms of what the schools and the districts are able to
do. I think what may come out of this is continuing litigation, which I guess given that I teach in the law school will keep our people very happy, but I doubt it's going to keep anybody else very happy.

I'm going to end here. I have a lot more that I might have said but I think people here have said it all day and I don't want to take any more time of the Commission or anybody else who's here.

COMMISSIONER TAYLOR: Thank you very much. We will now hear from Dr. Everett Reynolds who is immediate past president of the Omaha NAACP and is also the pastor of the United Methodist Church here in Omaha.

Welcome, Dr. Reynolds, and we look forward to hearing from you.

REV. REYNOLDS: Thank you, Mr. Taylor. Yes, let me affirm that I am a United Methodist pastor with over 55 years serving the church and people. And I'll read, under the Matthew 25:40, Inasmuch as ye have done it unto one of the least of these my brethren, you have done it unto me.

I should say that I've been looking for a lady, but I don't see any ladies on the Commission and so my heart is a little bit low, but that's alright I know you've got some up there, but they didn't show up and so -
COMMISSIONER TAYLOR: They had family obligations. They are active on the Commission, very active.

REV. REYNOLDS: I know. I know. I share mothers support but I like to see the ladies.

All right. The second piece is that when you talk about the Omaha School District, I want to just be sure before I make my formal statement, in District 2 we are raising question as to how long will it be minority because of population shifts. If there's a forgone conclusion that we have a black neighborhood, there is very few, if any, blocks in Omaha, Nebraska, that are all black.

Now, to my statement which you have and let me go through it, if I might, please.

I want to thank those who are part of the team, Ms. Butler, Ms. MacDougall, and Mr. Marcus, for their part in bringing us on board and the information that they shared and we'll try to go with that.

Education is the number one issue in the world today. It must necessarily, then, be the number one issue in Nebraska and yes, in Omaha.

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 condition of Negroes is deplorable but needing change from within. The change should be gradual and its wakes should not disturb the rest of American society."

For a moment, let's set aside former U.S. Ambassador Andrew Young and former U.S. Secretary of State Colin Powell and our current Secretary of State Condoleezza Rice. Let's look at what Booker T. Washington calls gradualism.

It took 58 years, 1869 (sic) to 1954, from Plessy versus Ferguson to Brown versus Board of Education, and now it's 52 years, '55 to '06, from Brown versus Board of Education to LB 1024. Over 100 years and still we're talking about yesterday's issues.

One moment of change in American education came when Homer Plessy stood up for what he believed and the court ruled in 1896, Plessy versus 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 versus Board of Education declared that separate 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've 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 player, OnStar tracking, an alarm system, new suspension, on any make. And make -- and ours -- 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 forward 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 versus Ferguson was good in its day; it was a stepping stone to Brown versus Board of Education.

When I talk to legal minds here in Omaha, Nebraska, they tell me that Brown versus Board of Education was about ending -- was about integration and not, and I repeat, and not quality education.

When I sat in the classroom as a fourth grader in a Nebraska public school, I would hear my teacher tell jokes, the "N" word jokes. I finished high school in the Nebraska school system and never finished reading an English book. Yes, I graduated.

As president of the Omaha branch 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
the hallway, 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's a school that sold slaves as a money-making project.

No, OEA support in any case, at any time for any student, they cannot help OEA supports teachers and not students in my ten years as NAACP president.

No integrated education is not the end of the journey in education. Integration is not the end of the journey. It's another jumping-off point on the journey to a quality education, integrated quality education.
COMMISSIONER TAYLOR: Thank you, Dr. Reynolds, and we're going to have some time to hear more from you in a moment.

Would you answer one question: Do you support 1024 in its current form?

REV. REYNOLDS: Absolutely, as amended and signed by the governor.

COMMISSIONER TAYLOR: All right. Thank you.

Next we have Mr. Salazar who is the publisher of the Mundo newspaper. And thank you for joining us, sir, and I would ask that you at some point submit written statements so we can have that in the record, whenever you get a chance following this hearing, but I'm glad you're able to join us and we want to hear from you.

MR. SALAZAR: Thank you. For the record, the name of the paper is the Nuestro Mundo newspaper.

COMMISSIONER TAYLOR: All right.

MR. SALAZAR: It's Omaha's oldest bilingual, Spanish/English, newspaper. We're finishing up 17 years next year.

And by the way, I might add that I, first of all, would like to thank Marguerita Washington from the Omaha Star I think without whose help Nuestro Mundo
probably wouldn't be here today. And thank you for the 
brother at the end of the table for giving me his support. 

I know that my invitation was late coming and I 
didn't anticipate being here today, but given the quick 
work and quick thinking and help of Mr. Yaki, I'm here to 
speak on behalf of and given the privilege of speaking on 
behalf of Omaha's Latino community. 

I might add, first of all, upfront, that I do 
support Ernie Chambers and the efforts that he's 
undertaken to give us in urban Omaha more local support -- 
local control, rather, over the schools where so many of 
our children go to school, struggle, and try to achieve 
higher education. So he has my support 100 percent. And 
I say that upfront because I know the person who would 
have been here ordinarily, who as I understand it had been 
invited, to speak on behalf of the Hispanic community 
could not attend or did not -- did not attend because her 
agency is involved in one of the lawsuits. 

Which brings up the point that I wanted to make 
upfront, demographically, the growth of the Hispanic 
community in Omaha has been unprecedented. At this point, 
as I speak here today, the numbers of Hispanics in Omaha 
proper range anywhere from between 80- to 100,000 people.
There are approximately 10,000 Latino kids in the Omaha Public School system.

The thing that makes it so difficult to speak on behalf of the Latino community here, and I'm sure elsewhere in these United States, is that we're really speaking of a bifurcated community, a divided community, not just on this particular issue but, rather, from our backgrounds.

I am a Mexican American, a Chicano; I am second generation. My grandparents all migrated from Mexico to here in the last century.

I am not an elected official. However, everything that I stand for, everything that I write in my publication, things that I advocate for the Hispanic community have to have a sense of credibility, have to have some sense of validity, otherwise neither my Mexican American community nor the Hispanic immigrant community would allow me the privilege of remaining, living, working and earning a living off of them, which is what I do. I am given the privilege of making a living off of the blood and sweat, hard work of the Latino community. So for that, I am truly privileged to be here today.

I am not originally from Omaha. I am a native son of Scottsbluff, Nebraska, which is in extreme west
Nebraska and a part of the original migrant trail. I've been in Omaha for about 18 years now and I'm glad to say that I feel as if I'm an accepted and adopted son of the great City of Omaha.

If you take a quick scan across the room here today, you'll see that there are very few Hispanics present, and the main reason that I'm here today is because of that very reason, is that I'm cognizant of the fact that so many of our people are in a situation where they are working, oftentimes two jobs, sometimes three jobs, they have children in school, they are busy attending to life's needs instead of being able to come here today.

Many of them are unfamiliar with the system, with the process, the very issues that we're laying on the table this afternoon.

If you were to ask almost any Latino immigrant in south Omaha what are the complexity of issues that are embedded in this particular legislation, what does busing mean to you, what does immigration mean to you, what does assimilation mean to you, I'm speculating but I would guess that the majority would know very little of the social and legal consequences that flow from these issues.
This is one of the complexities of having to deal with these two types of separate yet distinctly unified communities that I represent here today.

Racially, ethnically, we are, to a large extent, monolithic, but to a lesser degree, we don't concern ourselves very often, thankfully, with the issue of color in our society because Latinos come in all colors.

In my own family when I go to visit my mother on weekends and have dinner with her on Sunday, our kitchen looks like a small mini United Nations, literally. We have African Americans in my family, we have Japanese Americans in my family, white Americans, and, obviously, Native Americans and Latinos, us being primarily mestizos. In fact, when a white person has married into our family, 99 percent of the time their children do not become more white people, they become Latinos.

There are some things that unify us, however, and I've heard earlier someone making a comment about shared values. In the Latino community, we have shared values. And since I have been on this earth for a little over 60 years, sometimes the shared values that we Latinos have seem to be in conflict with the shared values that so-called Americans have, white Americans.
So I'm coming from an angle of these complexities, these layers, these bits of assimilation, the myth of integration in our community.

Latinos can be a very cynical, sarcastic people. You may not see that; it's not very obvious and, more often than not, it's not very visible, mainly because we're speaking in our own tongue, oftentimes in private, oftentimes in our homes, expressing ourselves more openly than we would normally out in public.

I'm unique, to some degree, in that regard. I'm more willing to lay out my feelings on the table. A lot of Latinos aren't. Again, a reflection of who is and who isn't here today.

I believe in local control because of my own personal experiences, and I heard this morning Senator Chambers, Mr. Rodgers, and others speak about their own experiences in the educational system here in Omaha.

We Latinos have also suffered from discrimination in our own respective school systems. The same remains true today. I deal with immigrants and their children on a day-to-day basis. They express to me their feelings, their experiences, the hurt, the pain that they go through in trying to make the adaptation from where --
from whence they come to this society, to the school, to the work environment.

I'm proud to come from a racially identifiable community. What Senator Chambers said this morning is true. There is no re-segregation of the school districts here in Omaha. It's the acceptance of reality.

Someone also mentioned, I think it was the professor, made reference to the advocacy of separateness and I'm not so sure that that's accurate. I don't think anyone here who in support of this legislation advocates separateness. I think what it is, rather, is that there is a growing realization that forced integration ain't always the best thing.

Those of us who feel that way obviously have come from a legacy of experiences where we are somewhat still embittered by those experiences. That's the reality. And, oftentimes, in order to ensure that our children are more secure, more sure of themselves as they move forward, we don't want them to suffer through the same kind of pain and suffering that we went through. And forced integration oftentimes is not the best way to go.

And just briefly, let me finish up, by saying this. There's a question here of constitutionality. I recognize that. But the Constitution, as we all know, is
a live and living document. It ebbs and flows. It's something that was constitutional 50 years ago, may not necessarily be constitutional today, and, in fact, may not be the best way to approach an issue today.

So I hope that you all keep this in mind. The Constitution is not set in stone. As society evolves and changes, then I think that that's the best way to approach the Constitution.

Thank you for your time.

COMMISSIONER TAYLOR: First, I would like to thank all of you all. It's been very informative.

And at this point I would like to offer the Commissioners an opportunity to make a statement concerning anything they have heard this afternoon and to ask questions.

I'll begin with Commissioner Yaki.

COMMISSIONER YAKI: Nothing right now.

COMMISSIONER TAYLOR: Nothing right now?

Commissioner Melendez.

COMMISSIONER MELENDEZ: Yes, just going back to integration in general.

Before LB 1024, was the voluntary integration program working? From anybody.
MS. KREJCI: I believe so. Especially at the middle school and high school level. We have -- you know, at OPS, any student in the city can choose any high school in the city, and almost every school is more diverse than the neighborhoods that they exist in. And I teach just up the street at Central High School which is probably the oldest high school in Nebraska, probably the largest and probably the most diverse.

COMMISSIONER MELENDEZ: Anybody else?

MS. COUNCIL: Yeah, Commissioner Melendez, I concur.

At the elementary school level -- and I think you've heard, and I wasn't here this morning, but at the elementary school level, particularly in the primary grades, parents are more inclined to have their children go to the neighborhood school because of the proximity, concerns about safety.

But even at the elementary school level, the school district's student assignment plan allows youngsters at the elementary school level to attend magnet elementary schools. You see it working, and I think Ms. Fey had an example of one of the magnet elementary schools, if not for the magnet program there, what the racial composition would be.
And at the middle schools and the senior highs, again, where parents are more inclined to give their children more freedom, their concerns begin to diminish about the distance to school, you see the student assignment plan in OPS working in terms of providing diverse educational environments at the middle school and high school level.

REV. REYNOLDS: If I could respond to that, also.

If you're using the Brown versus Topeka concept of integration as numbers, then I think that the conversation in response is correct. But if you're talking about quality, integrated education, meaning that they are without racial incidence, that very few weeks went by when I served as the president of the NAACP that I was not in the elementary or high school and middle school because of racial incidents. And certainly the test scores will show that over the past few years that the disparity is still there.

So we have a dual concept. If we talk about integrating education based on numbers, why, then we can all agree that we do have black and white, Hispanic students in the schools, but if you're asking the question...
about the ability to learn and achieve at an equal level, then I think we have another answer.

MR. SALAZAR: Can I offer maybe a little anecdotal information on sort of this broad issue of integration and quality of education.

One of the things that -- that I'm particularly encouraged by is that OPS in the last several years has undertaken to establish bilingual programs across the spectrum of primarily schools in the elementary level, and this approach, I think, is doing wonderful things in the Hispanic community because it gives the children a sense of self-worth.

They are able to use their native language in schools, where people of my generation were punished, spanked, hit on the hand, demeaned, for using their native language; and that's why so many Mexican Americans of my generation rarely use the Spanish language anymore. Thankfully, things have changed where now people are more -- are more enlightened to see the value of having or being able to speak more than one language.

But the additional benefit, and I wouldn't suggest that this is possible not only among Latinos but African Americans as well, is that there are quite a few -- a growing number of white parents who also see the value
in a bilingual education in the Hispanic culture, that
the values that Latinos bring into these elementary
schools, and so they deliberately bring their children and
enroll them down at Marrs and Castelar and other schools
in south Omaha, so that their children can benefit. This
is voluntarily done.

And I think that potentially that when you're
talking about emphasizing the benefits that people of
color bring to this society, instead of trying to force us
into a box and allow us and our families to bring our
culture and our -- I'll call it shared values to this
society. Many of us will tell you that we revere our
values, those from our ancestors and those who came before
us, because we think that they are special values that we
never want to lose, and we're quite willing to share those
with white America if they will allow us.

So in other words, don't put us into your square
box, expand that box and come with us because we can be of
great benefit to you.

COMMISSIONER YAKI: But, Mr. Salazar, just
following up on that eloquent point, what you -- what you
do by supporting 1024, as I understand it, is you start to
close that box.

MR. SALAZAR: No.
COMMISSIONER YAKI: Because what you're talking about is the establishment of schools bilingual from which -- which I presume would serve the mostly Hispanic population within the third district in south Omaha, but as I've heard from testimony from several people already here today, the bill -- the criteria for transferring into that district and, therefore, to avail themselves of that program is severely constrained by the way 1024 is currently written.

MR. SALAZAR: Well, that may be something that I'm not prepared to rebut, but I think a lot of these issues are malleable, and I'm not certain, and correct me if I'm wrong, Ernie, but I think many of these points are still being ironed out. But I'm not the expert on that provision or that part of the statute.

COMMISSIONER YAKI: But if there were a provision in 1024 that constrained the transfer of students from west Omaha into south Omaha to avail themselves of those programs, that would concern you?

MR. SALAZAR: I think that that would be some concern, obviously, if I'm addressing the point correctly.

MS. FEY: If I may, the way the magnet school -- the way the magnet program works in OPS right now, you have a magnet school in a certain part of town that can --
that draws from that neighborhood. If you are in the
attendance area of the magnet school, you are guaranteed a
spot in that school. Additional spots in that school are
on a first come, first serve or, if you're over capacity
with the first come, first serve, on a lottery basis based
on where you live in another zone in the district so that
that intent is that if the magnet school is here, the zone
it draws from maybe is over here so that you have
intentional voluntary --

COMMISSIONER YAKI: Right.

MS. FEY: -- desegregation. And that 1024, even
with its focus schools piece, doesn't provide -- there's
no such language in there to provide for that type of
incentive.

COMMISSIONER TAYLOR: Dr. Reynolds.

REV. REYNOLDS: But I believe that in that same
concept one of the issues that was raised initially with
the transfer program for magnet schools is that there are
cases where if you want to go, you have to get special
permission, individual permission to make the transfer, so
it's not just a given fact that your application to a
school will be automatically granted.

MS. COUNCIL: Well, if I can comment on that,
under 1024, each school gets to establish their capacity,
and it has not been pointed out and I haven't found who has the opportunity to challenge those capacity determinations, but if a particular school wished to prevent people from outside of that school's attendance area from attending and facilitating integration, they could do so by setting their capacities at so low of a level that they couldn't accept any other students.

COMMISSIONER TAYLOR: I want to follow up. You made a number of comments, Ms. Council, concerning the mechanical aspects of 1024 relative to funding and school selection within the district.

Do you have a philosophical opposition to 1024 as a vehicle in addition to the mechanical opposition you have, with the opposition to the mechanics you have raised here, or is it limited to the mechanical operation of 1024?

MS. COUNCIL: And if I didn't make it clear, I thought I had indicated at the beginning of my comments that I am opposed to it philosophically. I believe that it flies in the face of Brown versus Board of Education. I think its intent is segretory.

But, in addition, in terms of addressing some of the concerns of others who are supportive of the legislation for various reasons, it's just trying to
direct your attention to the fact that while there may
be appearances that the legislation can address particular
issues to their satisfaction, it's not there. And in
particular, the funding, you know, the resource.

I mean, it's fine to say that you can elect your
school board from a smaller area, which the expectation is
that there would be more representation from the people
within that district, but if the ultimate result is they
are limited in the authority that they have by virtue of
the fact they don't have control over what money is
available to them, then to me, that's shallow in terms of
-- and hollow local control.

If you tell me that I have control over $10 and
I will always have control over $10, I'm still going to be
challenged on how I'm going to utilize that $10 to address
the needs of the children in the district and -- the needs
of the children in the district. And there's enough data
that establishes that meeting the needs of special needs
students requires greater resources.

COMMISSIONER TAYLOR: Uh-huh.

MS. COUNCIL: There's nothing in this
legislation that provides or assures that there are
greater resources directed to those districts.
COMMISSIONER TAYLOR: Let me -- let me try to break this out, if I may, for one moment. I have heard and read a good bit of material before this briefing and have found, in my mind at least, that the opposition to 1024 falls into three general categories: First, the mechanical; the second is pointing back to Brown v. Board; and the third is more of a global philosophical opposition.

So I'm wondering if -- I understand you believe it violates Brown v. Board, but putting aside the narrow constitutional question, do you oppose it philosophically the way I break it out? Most lay people don't go back to Brown v. Board and say they oppose it. So I'm just trying to get a sense of philosophically are you in opposition of it or is it a constitutional concern?

MS. COUNCIL: And I think, to answer your question, Commissioner, it would be fair to say that my opposition is philosophical --

COMMISSIONER TAYLOR: Okay.

MS. COUNCIL: -- because it also goes -- and this is where the lines get blurred because so many characterize what I'm getting ready to say as mechanical. But, you know, I'm happy to go on record and I've been on
record in supporting the "one city, one school district" concept. And under 1024, 1024 freezes the boundaries –

COMMISSIONER TAYLOR: Uh-huh.

MS. COUNCIL: -- of the school districts. So if you have -- take Omaha Public Schools and carve it into three, those districts boundaries are going to be frozen like that.

And in terms of its ability in terms of its property base increasing, the likelihood of that occurring is not greater, just looking at history. And one of the reasons that the whole "one city, one school district" was vacated was because of the inequities in property tax.

And I don't need to tell the Commissioners the debate that has gone on in education for the last 40 years about relying on property taxes as a source of funding public education. And as long as we fund public education on the basis of property tax, we're going to have these kinds of inequities and these equity issues being presented.

And when we -- when we look at -- at least when I look at 1024, I don't see anything in 1024 that addresses those financial equity issues. In fact, I see it creating more problems than it sounds in terms of ensuring that the adequate resources are available to meet
the needs of the -- of the children in the greater Omaha area.

So I guess if you -- if -- the longer answer to the short question, mechanically, philosophically, constitutionally, I'm opposed to 1024. What I'm in favor of is legislation that is designed to provide the kinds of resources and the kinds of controls on those resources that ensure that our children receive a quality education.

That's why I said (inaudible).

COMMISSIONER TAYLOR: Thank you.

MR. BROOKS: That really kind of gets us to, you know, almost like full circle, again, from this morning because -- without it.

The arguments continue to be were it for 1024 we are just going to be slipping so much further. There doesn't seem to be much disagreement that we are behind, minority children in particular, African American. We seem to agree that there's a lot of disparities in this city. The references to integration this morning, the very vociferous, you know, back and forth about integration providing quality education or not.

It seems to me, historically since 1954, the number one focus on integration has always been about the minority people having to kind of go towards the Caucasian
community, Caucasian power, Caucasian education, the whole one Omaha, one school system, that I don't know how familiar you are with that, that created this fire storm a summer ago. The suburbs -- the suburban schools don't want to be a part of the Omaha Public School system. And whether that would have essentially evolved into a big legal battle and court battle like 1024 is now set to be taken into court, we don't know.

But, ultimately, it still seems that we're dealing with the minority, the lesser economic population and demographics having to somehow get, sign off, and the Caucasian population, the upper income population to say we want to deal with you, we want to help alter the reality for your children. And as long as we're faced with that, we're going to have this.

As far as your question about whether it's mechanical, philosophical or constitutional, well, certainly the courts are going to -- will be the decisive factor as to whether or not this bill is constitutional. As I have said consistently, I have not known Senator Chambers yet to introduce something that is unconstitutional. He is a fighter for the U.S. Constitution.
On the other hand, he's a realist, and when I hear the head of the teachers association talk about the Bill of Rights and the Declaration of Independence, you know, I just remind her that, you know, when I look back at the history books, African Americans weren't included in that, Native Americans were not included in that, Hispanic Americans were not included in that, or women. And all of these entities have had to spend the last 30, 50 years fighting for inclusion. It has never been granted, it has never come easy. And if we're going to throw this –

        Just, okay, let's just drop it, let's drop 1024 right now, status quo, status quo. Where is the Omaha Public School system? We've got majority minority children, majority Caucasian teachers; we still have that clash. Yes, there are good programs, there are some programs, we've mentioned this morning, Brenda has mentioned it, the African American Achievement program is a good program. But it's a program. We are still fighting for programs.

        Now, forgive me, but a program is an adjunct. It's not -- it's not a fundamentally reshuffling of the deck. It's maybe we're going to add a couple of cards. It doesn't mean that it's not a good thing, but it means
we're still consistently dealing with not fundamentally altering the relationship between these communities and the school system. And until that has been tested and battle tested, we will just have to wait to go into court, as Senator Chambers said, and let it shake out there.

Philosophically, absolutely I am for this because of that change, because you reach that point. In my bio I made reference to Vietnam, and somebody said, Well, boy that's pretty heavy of all of the credentials that I could have listed, but the reason that I say that is because my experiences there taught me a lesson that I have continued to push for 40 years. You learn there are some things you don't want to have to learn when your life is at stake. The lives of our children, it's really what's at stake here.

And I'm not saying anyone who is against this bill does not like our children at all. But when we look at the results, we're just trying to say, things ain't working so good right now and we'd like this opportunity to try a fix.

Now, all of the mechanics, and as Brenda has laid out -- I never want to have to go to court and go up against her in the court of law. She knows that. But my point is if we're going to put it down because we can't
answer all of those questions right now, then let's let this thing play out, let's let it go to court. But somebody is --

COMMISSIONER YAKI: Mr. Brooks --

MR. BROOKS: -- going to say, Well, you're -- boy there was an awful lot of questions asked about that. I don't think so. I don't think so.

I'll just break this down and let this go to somebody else and as personal as I can make it. I have two children in the Omaha Public School system, one is a fourth grader and one has just started the ninth grade. I actually attended my fourth grader's first parent/teacher conference yesterday. She goes to Lothrop school. In west Omaha, that would be considered a ghetto school. In north Omaha, it would be considered one of the oldest, most traditional schools in the African American community.

Her teacher is a young Caucasian woman, roughly probably between 25 and 30 years old. She's been teaching for five years. A wonderful person, wonderful. I liked her, my wife liked her.

We sat there talking with her about, you know, our daughter and asking her questions and so forth, and she made at least three to four references. Now, here's
the thing. That school, her class started with a
substitute who was a, actually, African American retiree
who has continued to do substitute work just to stay
active.

We had conversations with her and, actually, we
were hoping that that would be her teacher, not just
because she was African American but because she was a
veteran teacher.

This woman -- and then one of the first things I
asked her was, You know, the kids are so much different.
And we do know, I'm -- I'll be 60 years old. I know that
generationally teachers are dealing with some new issues
in the classroom.

And I said, How was it for you, particularly
being an older woman? She said, Oh, yeah, you know, they
wanted to get in my face for a minute. And she put the
hammer down and calmed that class in one day, okay. And
she was doing fine, because our daughter was telling us,
Oh, yeah, yeah. They were trying to do stuff to her, and
boom. And then for the next four days that she was there,
she was teaching and down to her business.

Now the teacher that is there and is going to be
their teacher, she's been there two weeks, and in the
course of our conversation, she made at least four
references to, I'm really going to get my curriculum going when I get my classroom under control. And so she was talking like, you know, it's probably going to take me a week to two weeks to really get my classroom under control. And I'm like, wow, you've lost a month already.

Now, my point is not that being Caucasian, being female, being young makes her responsible, she can't hack it, but we have a situation in which too many of our children are in those kinds of situations.

Now, my wife and I have volunteered to be what they call classroom parents. That means we will be dropping in and out of that classroom to let them know not only that we have a child in that classroom but to give them an African American presence.

So what is my point? My point is that LB 1024, from where we look at it, is designed to try to reinvigorate the community to get back in. It's not -- it's not just all of the mechanics and where is the money going to come from and how are the teacher contracts going to be and all of that. Senator Chambers said this morning to a lot of persons he could care less on those kinds of issues.

When you look at what happened in Brooklyn in 1968, it wasn't the teachers' union that destroyed that...
effort because they were not willing to grant an African American community-based board the right to hire and fire white teachers. That's what that was about. But because they controlled the entire city's union, they put 1 million students in the street in order to break that.

My point is simply this. All of these details that we keep going over, ultimately this thing is going to come into court and the judge is going to have the final say; we all understand that. But let's not forget that integration has still consistently -- even the magnet school. The magnet school concept was great, but what was it designed for? It was designed to create a basis to get more middle class and/or Caucasian students to want to come to this part of town or to the south and so forth. It is still about the ability to draw a certain class, if not race, of students. It is still an adjunct program.

And 1024 is saying if the magnet school is so good, then maybe -- maybe is there a possibility that we can turn the whole thing or at least this -- these group of schools into that level of quality, not just one to draw, and that's really what I'm looking at.

That old saying -- what's the joke about the recorder boxes in the airplanes, you know, no matter what happens when they crash, those things are always intact,
why don't you make the whole plane out of those things?

You know, people say it. Of course we know
technologically that's not possible, but, again, that's
where we're at, and I don't want that lost.

And I know that this other lady over here,
excuse me, Marian Fey, is great. There are Caucasians
that are really going out of their way to relate, to
diversify, but it's not a mass movement.

And I'm not willing to bet the next generation
of black children on how many more Marian Fey - excuse me, Brenda -- on how many more Marian Feys there are out there. There are not that many.

It was mentioned that when Omaha incorporated
Millard schools, the Millard district, the school system
didn't come in. I don't know why. I'm going to find out
why they didn't take the school system when they -- when
they annexed the area, the suburb. But I know last summer
when they went back to say one school -- one Omaha, one
school system, Millard was front and center, We don't want
anything to do with Omaha.

And maybe we're just tired of people not wanting
to do anything with our kids because they are too black,
they are too poor, they are too non-English speaking, they
are too whatever. And we'd like that shot to say maybe
this -- right now on paper it looks like a disaster, but so did the Montgomery bus boycott.

When Martin Luther King came out against the Vietnam War, half of the civil rights movement swore that was the death of the civil rights movement. No, no, no, you can't come out against the war. That's -- that's separate from civil rights.

We're always dealing with these major issues and people going, wow, no, no, no, no, no, you can't go there. Well, LB 1024 is going there. I'm going there with it and there's enough of us.

COMMISSIONER TAYLOR: Mr. Brooks --

MR. BROOKS: (Inaudible.)

COMMISSIONER YAKI: Mr. Brooks, I mean, everything -- I don't disagree with a word that you've said; I don't disagree, as I said before, to Senator Chambers; I don't disagree with anything, any of the sentiments on the line with what you're talking about, about how as a nation we haven't done enough to close or, I should say, open the minds of people to the potentialities of all people of all races of all colors and creeds.

But, unfortunately -- and, you know, you can hate me for this or Professor Potuto can say, All right --
I'm a lawyer and I read 1024 and read what has been said, and in listening to what you say, I just can't help but feel there's some kind of disconnect going on, because when you talk about how you are tired of having the fact that you always have to go to the white community, you have to go to -- go to them for this or for that, well, the fact is that under the Learning Community council they put together, the African American school district is one vote of about 12- to 20,000 students against seeking the vote of a white district with about 600 students.

Now, how in the name of everything with Baker versus Carr and Reynolds versus Sims and everything that we've talked about in terms of one person, one vote is that the kind of equity that you would want to support? Why should -- why should a school districts with 12- to 20,000 kids have to -- have the same vote as one with 700 kids? The same kind of control over the money, the same kind of control over curriculum, the same kind of control over -- over resources or allocation of the tax rolls? How does that say to you that is an equitable way to take control of the destiny that I believe should be done but may not be done in this way?

If this is a debate topic, if 1024 is a debate topic, that's one issue, but if it's something real and
practical that's supposed to go into being, you know,
what do you have to say to that?

MR. BROOKS: What I have to say to that is
simple. First of all, I certainly don't hate you because
you're a lawyer. Brenda is a lawyer. I'm all right with
lawyers.

Number two, you probably don't ever want to make
a speech in the United Nations, okay, about why should
some little country with 50,000 people have the same votes
as some country with 50 million.

COMMISSIONER YAKI: Actually, that gets done at
the Security Council every day, Mr. Brooks --

MR. BROOKS: Yeah, okay.

COMMISSIONER YAKI: -- in terms of whether or
not -- because the question here is about the United
States.

MR. BROOKS: No, no.

COMMISSIONER YAKI: We're not talking about the
United Nations. We're talking about one person, one vote.
We're talking about --

MR. BROOKS: May I answer your question?

COMMISSIONER YAKI: Then don't go off on the
United Nations to me.

MR. BROOKS: No, no, no, no.
COMMISSIONER YAKI: I mean --

MR. BROOKS: I'm not going off.

COMMISSIONER YAKI: -- that is so off this conversation.

MR. BROOKS: What I'm saying is you brought up what would change, okay, as I just started my entire conversation to lead to your question. I said let's drop 1024. Let's status quo.

COMMISSIONER YAKI: I don't think you should.

MR. BROOKS: No.

COMMISSIONER YAKI: I don't think you should.

MR. BROOKS: No.

COMMISSIONER YAKI: I never said – I never said you -- I never said you should --

MR. BROOKS: No, but I'm saying -- -- I'm saying -- but I'm saying if it were dropped right now, that's what it would be.

COMMISSIONER YAKI: No. Why should -- why should it be?

MR. BROOKS: No, I'm saying that's what it is.

COMMISSIONER YAKI: With all of this passion, why shouldn't --

MR. BROOKS: No.
COMMISSIONER YAKI: -- why should -- why should the end of 1024 be the status quo?

MR. BROOKS: No. What I'm saying to you, Mr. Yaki, is that OPS and all of the people who are against this bill, they are standing up for the system for the way that it is right now. They are saying yes, it has got some problems, but this is going to make it all a lot worse.

COMMISSIONER YAKI: Well, I'm not -- sir, I'm not --

MS. COUNCIL: May I interject.

I don't want my opposition to be mischaracterized by anyone.

I'm not suggesting that the world is all right with status quo. I would -- I would challenge Mr. Brooks to point to me in 1024 -- he made a statement that this would fundamentally alter a situation that he described with the situation with his youngster at Lothrop. Point to me in this bill where there would be a fundamental alteration, point to me where it mandates that every school will have veteran teachers, point to me where it mandates that there will be diversity or, for that matter, that the staff will be one-to-one reflective of the children.
COMMISSIONER YAKI: Well, as I --

MS. COUNCIL: There's no fundamental alteration occurring about the issue that he was expressing and concerned about.

COMMISSIONER YAKI: And that --

MS. COUNCIL: This bill is not going to accomplish that.

COMMISSIONER YAKI: The point -- the point I was trying to make is that -- and has been made by other speakers in other -- in other situations here is that, for example, there aren't enough African American teachers right now --

MR. BROOKS: That's right.

COMMISSIONER YAKI: (Inaudible.)

MR. BROOKS: That's right.

COMMISSIONER YAKI: There aren't even enough African American administrators to support -- I mean, there are -- I'm not saying that -- I'm not saying that there is a status -- that status quo is where it should be. I mean, if anyone here misstates -- mistakes me for thinking that, then, like you, they don't know -- they don't know me very well and what my background is.

MR. BROOKS: Okay.
COMMISSIONER YAKI: What I am saying, though, is that I am concerned about this particular mechanism to do it and how it is, in some sense; and I think this is a perfect example of it, A, creating wedges; B, creating division; and C, diverting the issue that you really want to bring up and that Senator Chambers wants to bring up and that we all care about and that we all should care about and that -- and that -- and that nine people on the Supreme Court should be caring more about and haven't been for the last 10 or 20 years. You know, we can go into that kind of -- that kind of --

MR. SALAZAR: Mr. Yaki, may I for a second.

I think you're being a little bit unfair with Mr. Brooks, both you and Brenda, because you are expecting him to come up with ironclad legal solutions to issues that present before the federal court.

COMMISSIONER YAKI: I'm not --

MR. SALAZAR: And we all know, none of us here are experts and we're not here --

COMMISSIONER YAKI: I'm not -- I'm not --

(Inaudible.)

MS. COUNCIL: And you're not --

MR. SALAZAR: And let me finish. Let me finish.
MS. COUNCIL: And you're not going to mischaracterize me either.

MR. SALAZAR: What I would like to say, though, is I think -- first of all, I agree with Mr. Brooks that his -- first of all, his message, the one he just spoke to, was the most poignant one that I've heard all day, the most profound statement that he's made all day because it's a philosophical approach that's he's taking. And most of us -- and many of us agree with that philosophy. There's a frustration level, not just here in Omaha, Nebraska, but across this country.

Brown kids, black kids are being left out of the system; they are being pushed out of the system. The dropout rate of Latino kids, African American kids, especially young men, is horrendous. It's horrendous. So there's a great and embedded frustration.

And what we're trying to do here today is to offer up a philosophy that grows out of that frustration which is, look, we have the status quo, this is the way to be maybe a little more creative, and maybe it goes against the grain of the Constitution, but so what.

COMMISSIONER YAKI: So the philosophy of separate but equal is okay; is that what you said?
MR. SALAZAR: You know, in some minds that may be the case.

COMMISSIONER YAKI: Well, I think that's absolutely 100 percent wrong.

MR. SALAZAR: And we may disagree.

COMMISSIONER YAKI: 100 percent wrong.

MR. SALAZAR: We may disagree.

COMMISSIONER YAKI: That's where we disagree.

MR. SALAZAR: I think I just --

COMMISSIONER TAYLOR: Dr. Reynolds.

REV. REYNOLDS: I didn't get a chance to finish my statement. I can do that in a brief - a brief statement. One, we cannot be satisfied with what we have now, not only for Omaha but for America. How many cities have you witnessed where the African Americans are two, three grade levels behind? And after we listen to that, we become satisfied with that. That's the concept of integration, that's what this brought about.

We're saying a radical change, a radical change. How many of us are willing to step out and be radical about what it is we are trying to do, not get along with the system because the system will say, Look, don't rock the boat. That's why I introduced the thing about the gradualism. There needs to be change, but it's like but
we are afraid and don’t want to upset the apple cart.

There has got to be an upsetting of the apple cart. There has got to be a change.

When you talk about the funding, how much of the funds what is being allocated on what basis -- we haven't even talked about special. What happens if, in fact, the west schools are reduced, they don't get any special money at all. It all comes into the other schools. Another piece of radical change. There has got to be a radical change. And that's what happened, when I started off with the Plessy v. Ferguson, Brown v. Board of Education. That was unheard of to grant a separate but equal. That was a big step for America.

Then came the Brown versus Board of Education, a big step for America.

I'm saying it's time for another form to be clear-cut integration that says quality integrated education must be a part of every educational system and not a program as some have said. We think about the African American Achievement Council and the Latino Achievement Council. Go back and read their history. See how they changed. Well, if that can change and now be a positive force, why, then, are we saying this bill will not work?
I am not a lawyer, I'm not professing to be one, I'm not trying to be one. I'm trying to be a preacher. A preacher says that we must rise to the highest moral level, and that level say if you know that you've got black students who are failing within the system and, yet, we approve of the system, somebody has got to do something. And I'm saying that to do something, it must be a radical change.

So if you look at that aspect, then, it says that at one time it was against the law for us to read and write. A radical change came about. It as, okay, we're going to let those color folk read and write now but in separate institutions. And that was a big step for America.

Then they said, well, now, listen, that's not right, so we're going to get them integrated because there is something going to happen magical, that those black students are going to learn better and those white students are going to learn better because now they are together.

I remember when I first went to an integrated school and I was shocked when the student beside me was white made an F and I made a C. It stopped my mentality
because I had grown up to believe that all white folk were smart and all black folk were dumb.

That's funny, isn't it. But talk to some of our black students now who are seeing their group fail and white groups succeed in a system that says we're doing our best for you color folks.

Now, I'm just saying that the time has come for us to make a radical change. If LB 1024 as amended and signed by the governor says we must now recognize that there needs to be a different format that is going to guarantee integrated quality education. If there are some things in that bill that need to be changed, granted, change them, but let's not keep the same system where we know that according to the World Herald in just this past week we have got the test scores. All the schools are reporting little change if any and as said yes, the same old, same old. This says a radical change must take place.

COMMISSIONER TAYLOR: Before Commissioner Yaki presents his question -- I sense a question coming.

COMMISSIONER YAKI: No, I don't.

COMMISSIONER TAYLOR: Professor Potuto, you had something to say.
PROFESSOR POTUTO: Yeah, and I regret that I'm going to move to incrementalism, but I did want to at least respond.

I said I don't think we're doing paradigm, that the -- that the -- that LB 1024 will be found constitutional and I think that's true, but I will also say that to the extent that I'm wrong and that the program is found constitutional in theory, then I do think some of the issues about, you know, there's not enough funding, that quality of the teachers isn't as good in this district as compared to that district will be taken care of. It's going to be taken care of in court, but it will be taken care of because then the issue as to equal in fact will be on the table.

COMMISSIONER TAYLOR: I want to make one quick statement about that point and that's why I was trying to break this down in my mind, at least, as I hear discussion unfolding to three separate parts, because if you are opposed to a new radical structure, as proposed by 1024, that I can get my mind around, but if the opposition is one of a mechanical opposition, then those are issues that, assuming the courts find it to be constitutional, you must grapple with.
And then I think you're getting to the real issue, that is whether or not it's worth grappling with those mechanical issues within the context of 1024, or whether there is a better road that will and can be traveled as a practical political matter. And that is a question that while -- only you all here in Omaha and the State of Nebraska can and will address.

Frankly, I think it's a good discussion for America to witness because that is what we really should be talking about and that is why, for me at least, I hope this discussion continues. I hope people really think about the paradigms of Brown v. Board in putting in 1024 versus what's been said here today and whether or not we ever really can get to those mechanical issues of funding.

But at bottom, I'm going to -- what I want to reflect is the frustration on the lack of control that folks sense in terms of controlling ones own destiny; that should be a concern to everyone because if you don't sense you're in control of your own destiny, you're simply -- you're not going to be empowered, I don't care who you are. So those are the issues I hope can be addressed before folks start arguing within the confines of some structure, whether 1024 or not.
Do we have any other questions, Commissioner Melendez?

COMMISSIONER MELENDEZ: Just a comment. I think many times when you have diverse opinions, even within a minority community itself, even the African American community, I think that with the bill itself I think you want to, hopefully, build I as many options as you can for people to opt into it, but I'm not sure, it seemed to me that with this new bill even the -- even the integration or whatever those difference -- attending different schools seem to be closing.

So I'm just saying that if you can build as many options there for people that may not agree with the way we're going, but because I think part of this is educating a whole community as to what this issue is here on this bill. And I think that there's a lot of work that's going to be done, so I think that -- you know, that's what I'm hearing from people is people want to see options that they're afforded, not an agreement.

Thank you.

COMMISSIONER TAYLOR: Commissioner Yaki.

COMMISSIONER YAKI: I just want to - I just want to thank all of the panelists who are here for all of their points of view. I think that I enjoyed the passion,
I enjoyed the arguments, I enjoyed the -- most importantly, I enjoyed the sense of feeling that there's a need for participation, and whenever we do these, watching this is -- is important.

I want to say one thing, though, and that is -- and it goes to the point I was trying to make to Mr. Brooks. And that is I would -- I would hate that the fortunes of education in Omaha have to hang upon resolution of 1024 in the court system. I think that that would be, I think, a mistake by all parties.

I think -- I sense that there has been -- what Senator Chambers has done has created a great debate that, as my co-Commissioner -- as my fellow Commissioner Mr. Taylor has said, needs to be -- needs to be had as a debate that we see in every large city or every medium-sized city in this country regarding African American graduation rates, test scores, et cetera, that, quite frankly, as we all know, is appalling, unacceptable and should not be the standard by which we measure ourselves as a country.

So I would hope that in addition to whatever is going on in the courts on 1024 there are efforts made by legislative leaders who will understand what Senator Chambers is really talking about, to come together and say
this is -- these are the kinds of reforms that we need,
this is the kind of controls and responsibilities that we
need to put in place.

If we need to create programs to incentivize
more African Americans going into teaching at K through
12, what are we going to do to do that? If we need -- if
we need to create a different kind of property or tax
basis for our school system, this is what we need to do.

Incrementalism, I think, is not acceptable in
this debate, just minor tweaks or changes. As you said, a
program is not a school, a program is not a school
district, a program is not -- is not a county or a state.
I think that is really -- really the kind of reform that we
support.

Certainly all of us understand the passion
behind 1024 for being here today. You've been welcome,
and I just want to thank all of you for being here today
and being a part of this discussion.

COMMISSIONER TAYLOR: I want to thank the
panelists and, again, I want to thank everyone involved
because I really think you all may not appreciate this,
since you've sort of had the national spotlight put on
you, but I really think you all are contributing to the
national debate in a real and meaningful way to -- it's an important issue.

I also want to take the opportunity to thank the staff. They did a great job in putting this together. I know it was a lot of hard work, as evidenced by the fact it was pulled off without a single flaw.

And you know how those things are, when things go smoothly, that means someone did a lot of hard work behind the scenes. So I want to thank all of the staff members for all of their hard work because they did a yeoman's work and did a great job.

I also want the public to know --

I want the public to know that this record will remain open for 30 days after this hearing for purposes of allowing folks from the public to consider what has been said today and submit to the Commission any material they would like us to consider as we compose our final report relative to this briefing, which will also be done at a public meeting that is a vote on the report, a discussion of the report at a public meaning. And once it's adopted, I know it can be pulled from our website.

And with that --

COMMISSIONER YAKI: Thank you all.
COMMISSIONER TAYLOR: -- we'll call the briefing to a close. Thank you all again.

(Whereupon, the above-entitled Commission briefing was concluded at 3:05 p.m.)