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U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION BRIEFING **Unedited**

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FRIDAY, SEPTEMBER 8, 2006

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HILTON OMAHA HOTEL

1001 CASS STREET

OMAHA, NEBRASKA 68102

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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
- RICHARD SCHMECHEL
- KIMBERELY SCHULD

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I. Introductory Remarks by Ashley L. Taylor

II. Speakers' Presentations

Panel 1

Hon. Ernest Chambers  
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

P R O C E E D I N G S

(9:07 a.m.)

COMMISSIONER TAYLOR: Good morning.

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

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

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

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

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

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

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

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

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

23           I welcome all of you on behalf of the  
24 Commission, and I will introduce everyone and  
25 describe your activities, and then we will call on

1 you according to the order you have been given for  
2 the record.

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

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

9 COMMISSIONER KIRSANOW: I am.

10 COMMISSIONER TAYLOR: Great.

11 A community activist -- this is to give  
12 you all a sense of the background of Senator  
13 Chambers.

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

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

24 Even though the districts are encouraged  
25 to act voluntarily, pursuant to the integration

1 plans, a number of court battles are expected and  
2 believed -- and I believe to be a number have  
3 already been initiated.

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

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

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

18 SENATOR CHAMBERS: Thank you and members  
19 of the Commission.

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

1 made it must be kept.

2           The Commissioners are going to take  
3 information, a report will be written, and I have  
4 read some Civil Rights Commission report's.

5           In fact, many years ago when, as Billy  
6 Joel sang, I wore a younger man's clothes, I was  
7 actually on the state committee for the Civil Rights  
8 Commission. Obviously, we did not succeed in  
9 carrying out the mission of the Commission or you  
10 all wouldn't be here today.

11           Racism is as virulent as it ever was.  
12 Discrimination continues to tromp across the country  
13 in seven-league boots. Political appointments are  
14 made to various agencies and entities which ought to  
15 be nonpartisan. But we have to deal with reality.

16           I am a practical politician. I'm a  
17 pragmatist and a realist. I deal with things as  
18 they are.

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

24           It continues to have not only a segregated  
25 system, but it is more segregated now than it has

1 ever been. And throughout the country, there is  
2 more racial segregation in public school systems  
3 than was the case prior to Brown.

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

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

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

22 Well, when I ask people have they read the  
23 provision, they say No, but I did read the New York  
24 Times. The New York Times is not the bill -- the  
25 Bible, as some people say; and rather than read just



1 a quote in the New York Times, it would have been  
2 good to read the language of the provision. So in  
3 order that that would be in the record, that's how  
4 I'm going to start.

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

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

15 Sanctioning Class V districts shall  
16 consist of school buildings having attendance areas  
17 which are contiguous. The effective date for  
18 reorganization pursuant to this section shall be  
19 July 1<sup>st</sup>, 2008.

20 If the state committee disapproves such  
21 plan, the state committee shall revise the plan and  
22 shall hold one or more hearings on the revised plan.

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

25 If a Learning Community coordinating

1 council fails to submit a plan as required pursuant  
2 to subsection (1) of this section on or before  
3 July 1<sup>st</sup>, 2007, the state committee shall develop  
4 a plan to divide any Class V school districts in the  
5 Learning Community into new Class V school districts  
6 organized around the attendance areas of the  
7 existing high school buildings with two or three  
8 such high school buildings in each new Class V  
9 school district.

10 The state committee shall hold a hearing  
11 and may revise the plan and may hold one or more  
12 additional hearings.

13 On or before December 31<sup>st</sup>, 2007, the  
14 state committee shall approve plans to divide all  
15 Class V school districts in learning communities  
16 into new Class V school districts organized around  
17 the attendance areas of existing high school  
18 buildings with two or three such high school  
19 buildings in each new Class V school district.

20 No mention of race. The criteria for  
21 joining boundaries are neutral. The Legislature  
22 does not draw the boundaries. The attendance areas  
23 referenced are drawn by OPS.

24 If those attendance areas are segregated,  
25 they constitute formal state action by OPS in

1 violation of Brown versus Board of Education.

2 My provision deals with administration and  
3 control of public education. It has nothing to do  
4 with student attendance. It will bring local  
5 control to the communities where the schools are  
6 located, provide more input and influence to the  
7 parents whose children attend those schools.

8 There is one other thing that I want to  
9 touch on. I want to add to what was quoted by  
10 Mr. Ashley from the New York Times.

11 After that ending of that -- oh, my time  
12 is up? I see my --

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

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

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

19 SENATOR CHAMBERS: Okay.

20 COMMISSIONER TAYLOR: Senator Bourne.

21 Senator Bourne graduated from Southeast  
22 Community College in 1994 (sic) and Creighton  
23 University School of Law in 1997. He was elected in  
24 1998 to represent the 8<sup>th</sup> Nebraska Legislative  
25 District and reelected in 2002. He currently sits

1 on the Education and the Nebraska Retirement Systems  
2 Committee as well as the Committee on Committees and  
3 chairperson of the Judiciary Committee.

4           Senator Bourne voted against Sénate  
5 Bill 1024. And I will allow you to characterize the  
6 bill and the basis of your opposition to the bill,  
7 sir.

8           Welcome and I look forward to hearing from  
9 you.

10           SENATOR BOURNE: Thank you very much and  
11 welcome to Omaha.

12           There are several components of LB 1024  
13 that, in my opinion, divide by race. It's critical  
14 to understand that the Legislature did not just  
15 create three districts divided by race, they created  
16 several districts divided by race. What we did was  
17 make permanent the boundaries for the other school  
18 districts inside Omaha who, prior to this law, would  
19 have been absorbed by the city school district as  
20 the city itself grew.

21           The law now guarantees that all districts  
22 in the fastest growing and wealthiest parts of Omaha  
23 have permanent boundaries. These districts are over  
24 90 percent white, as compared to the whole district  
25 of Omaha which is over 50 percent minority.

1 Therefore, 1024 creates racially isolated districts  
2 throughout the city, minority districts in the  
3 former OPS districts and white districts everywhere  
4 else.

5 As if segregating these districts were not  
6 enough, LB 1024, in Section 16, also destroys the  
7 current integration plan in OPS and prohibits most  
8 of the common tools used across the country to  
9 intentionally integrate. Section 16 puts the  
10 concept of choice before intentional integration,  
11 but the choice is controlled by the segregated  
12 school districts who are authorized to cap their own  
13 enrollment and who have to pay for the  
14 transportation of any student outside the district  
15 who comes in. In other words, the receiving school  
16 district can determine if they're at capacity  
17 without any justification for doing so.

18 Worse, it requires transportation for  
19 every student who attends a school other than the  
20 one in his or her neighborhood, regardless of  
21 whether such movement fosters integration. It also  
22 does not permit, internally, school districts to  
23 control the access to magnet schools.

24 In other words, the law prohibits  
25 mandatory assignment to anything but a home

1 attendance school -- home attendance area school,  
2 prohibits using magnet schools as an intentional  
3 incentive to integrate, prohibits using  
4 transportation as an intentional incentive to  
5 integrate and creates an enormous incentive on  
6 school districts to try to keep everyone at home to  
7 control what otherwise would be huge transportation  
8 costs.

9           There's no exception to the spending lid.  
10 for the transportation funds to be paid, in arrears,  
11 by the state, so it eats into what a district can  
12 spend on everything else.

13           Section 41 of the bill, which I consider  
14 to be the most infamous component of it, is being  
15 litigated because the legislative record plainly  
16 reflects that at least one of the purposes for  
17 dividing OPS was to create a black district.

18           The intent of Amendment 3142, the Ernie  
19 Chambers/Raikes amendment, which requires the  
20 division of OPS, was stated succinctly on the floor  
21 by Senator Chambers, sponsor of the amendment.  
22 Since he is appearing as a member of the panel, I  
23 would encourage the members to review the  
24 transcripts of the floor debate on this amendment  
25 with particular regard to his introductory and

1 closing statements.

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

6 As a legislature, we took action knowing  
7 full well what was included in the language of  
8 Amendment 3142. That amendment requires that OPS be  
9 divided using attendance areas of existing high  
10 schools. It also requires that the new districts be  
11 comprised of contiguous attendance areas and that  
12 two or three new districts shall be created.  
13 Limited by those rules, in the absence of some  
14 intervening change, it is simply impossible to  
15 create districts that are not racially segregated.

16 I challenge the Commissioners to create  
17 non-segregated districts using the rules the  
18 Legislature set forth. It cannot be done.

19 Some would argue that integrated districts  
20 can be created if OPS were to change attendance  
21 areas. No one in the Legislature suggested that  
22 course during debate on the bill. In fact, every  
23 effort was made to prevent intervention by the Omaha  
24 Public School Board. AM 3142 clearly sought to  
25 exclude any input from OPS by specifically providing

1 that the new district's boundaries not be subject to  
2 approval of any school board.

3 As originally introduced, AM 3142 required  
4 that the districts share a, quote, community of  
5 interest, end quote, thus guaranteeing segregated  
6 districts. While a later amendment eliminated the  
7 community of interest language, that occurred only  
8 after it was apparent that no non-segregated  
9 division of the school district could take place  
10 under the language of the amendment.

11 While argument may be made that the intent  
12 was not to segregate but, rather, to simply divide  
13 an overgrown district, that was not the intent on  
14 the floor. Had it been, we would have adopted  
15 Amendment 3167 which would have reduced the size of  
16 Millard Public Schools and the Lincoln Public School  
17 system.

18 The Legislature knew what it was doing  
19 when it adopted AM 3142 and approved the subsequent  
20 bill, 1024. The Legislature was aware of the effect  
21 of AM 3142 and they knew the racial composition of  
22 the districts and that they would remain intact.

23 Without going into great detail, what we  
24 do know about our Federal Constitution is that if a  
25 government -- governmental entity takes race into



1 account when it makes law, and there is no doubt  
2 that LB 1024 does this, the courts must apply what's  
3 called strict scrutiny. Nebraska will be required  
4 to show that it is a compelling interest to  
5 accomplish that which cannot be achieved other than  
6 by using race. This has been the test required by  
7 our Supreme Court for years; it has not changed, and  
8 there is no compelling reason to use race to divide  
9 Omaha Public School system.

10 In a nutshell, the end result of LB 1024  
11 will be exactly as intended: Schools segregated by  
12 race, the districts themselves segregated, continued  
13 underfunding for what are and will be high poverty  
14 areas. We will deny children an equal opportunity  
15 to the education they deserve in direct  
16 contradiction to the principles in Brown versus  
17 Board of Education.

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

1 inherently unequal."

2 COMMISSIONER TAYLOR: Thank you, Senator  
3 Bourne.

4 Mr. Rodgers, welcome.

5 Mr. Rodgers is a graduate of Creighton, a  
6 1992 graduate, with a degree in journalism who later  
7 attended Creighton and received his --

8 COMMISSIONER YAKI: Creighton.

9 COMMISSIONER TAYLOR: Creighton. I  
10 apologize. He later received --

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

13 COMMISSIONER TAYLOR: I have not.

14 He was sworn into office as Douglas  
15 County -- Douglas County Commissioner in January of  
16 2005, and he focuses on increasing public health  
17 resources, strengthening community corrections  
18 programs through controlling spending through a  
19 better use of the taxpayers' dollars.

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

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

25 My watch will be briefer because Senator

1 Bourne touched on some of those things, but I  
2 would -- I have a couple of things I want -- might  
3 want to highlight for you.

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

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

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

22           I think the law, the section of the law  
23 that breaks OPS into three districts is a  
24 disadvantage to the kids of color because of three  
25 reasons in the law, when they're practically

1 applied, they don't set the vantage out for kids of  
2 color.

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

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

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

19 For instance, if they use 50 cents of the  
20 tax levy, the remaining districts have the authority  
21 to use 52 cents. It cannot be equal because the  
22 housing values in the parts of the district are  
23 unequal. The eastern part of the city's housing  
24 values may be somewhere between 60- and \$80,000,  
25 while the outer parts range from 150- to \$300,000.

1 There's no way, when the split up happens, that the  
2 financing can be done equally.

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

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

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

20 One part is, as was stated, there is a  
21 piece of school law that said there was option  
22 enrollment. Option enrollment is when the kid went  
23 to another school district, that money followed it.  
24 From reading that, my understanding is that is gone,  
25 that is no longer there. Plus, the district that

1 the kids go to when they need transportation has to  
2 pick up that cost. I don't know what the incentive  
3 is for people to come here to that degree.

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

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

25 There's nothing that's equal in that

1 regards to me in that law. It just has too many  
2 flaws in that regard to when the school districts  
3 are separated.

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

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

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

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

10           I don't know if you will get a district  
11 where you have a lot of elderly and low income and  
12 override their tax levy and you add more taxes on to  
13 that, so the question is will the money come.

14           Those are my thoughts in that respect.  
15 Again, I don't have direct involvement in it, but I  
16 do feel that the benefits of the law when OPS is  
17 split will not be beneficial to those kids in the  
18 eastern part of the city.

19           COMMISSIONER TAYLOR: Thank you,  
20 Mr. Rodgers.

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

25           Commissioner Yaki.



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

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

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

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

21           We were formed to, essentially, be the  
22 body that would go out and be, essentially, the  
23 watchdog for the federal government, to go out and  
24 find out what discrimination is out there, what can  
25 be done, what can we do to recommend, what changes

1 can be -- can be made in federal law that would help  
2 better heal a divided nation.

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

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

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

1 so that helped with all of the meat I was getting.

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

13 COMMISSIONER TAYLOR: Commissioner  
14 Melendez.

15 COMMISSIONER MELENDEZ: Thank you,  
16 Mr. Chairman.

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

21 I was actually appointed on the Commission  
22 about ten months ago, so I'm relatively a new  
23 Commissioner, but I'm really glad to be out here.  
24 Most of our meetings are actually held in  
25 Washington, D.C., so it's a breath of fresh air to

1 actually come out to a field hearing, to your  
2 beautiful city here in Omaha and your hospitality.  
3 So I just wanted to just say that.

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

9 COMMISSIONER TAYLOR: Commissioner  
10 Kirsanow.

11 COMMISSIONER KIRSANOW: Thank you,  
12 Commissioner Taylor.

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

15 COMMISSIONER TAYLOR: Very well.  
16 Questions?

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

22 SENATOR CHAMBERS: I have brung -- this is  
23 Chambers speaking.

24 In the mid to late '60s, I ran for the  
25 school board. It was an election at large. Black

1 people could not get anybody on the school board in  
2 that at large election. South Omaha could get  
3 nobody. So when I got into the Legislature, I  
4 persuaded my colleagues to adopt a district form of  
5 election, so, currently, school board members are  
6 elected by district.

7           There are two black people on the  
8 12-member board. Brenda Council, who will speak  
9 later from what I saw in the paper, got on the  
10 school board by virtue of my legislative work.

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

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

1 COMMISSIONER YAKI: I understand.

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

4 COMMISSIONER YAKI: If I could just follow  
5 up, in addition to the two black members of the  
6 school board, are there any from the Latino or  
7 Hispanic community as well?

8 SENATOR CHAMBERS: There might be one from  
9 the Latino community.

10 SENATOR BOURNE: One.

11 COMMISSIONER YAKI: So three out of the  
12 12.

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

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

24 But given the fact that you have districts  
25 currently, why -- why, then, do you believe that

1 what you are doing is better than -- than having  
2 school district -- school board members elected by  
3 district who do represent the interest of African  
4 Americans or Latinos, or what have you; why -- why  
5 is this particular scheme that you put up better  
6 than -- than that current system?

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

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

25           And since you have seven high schools, two

1 in two of the districts each and one district having  
2 three, the combination is almost infinite of how the  
3 district boundaries could appear.

4 COMMISSIONER MELENDEZ: But --

5 COMMISSIONER YAKI: But --

6 SENATOR CHAMBERS: But you will have in  
7 each one of those districts which is smaller a 12-  
8 member school board.

9 COMMISSIONER YAKI: I understand what -- I  
10 understand what it was -- what it is you're saying  
11 and why -- why you rationalize what it is that you  
12 did.

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

24 SENATOR CHAMBERS: First of all, in a  
25 legislature, those kinds of things happen all of the



1 time, in Congress, in every state in the union.

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

5 If it was a violation of the  
6 constitutionally mandated methods for legislation,  
7 it could be attacked on the basis of violating the  
8 Constitution. There was nothing irregular about it,  
9 nothing. It was a matter of political timing as  
10 everything in the legislature is.

11 But to get -- I'll get back to that. But  
12 I want to get to this local control. We're making a  
13 record here.

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

24 But right now, it doesn't matter what  
25 Senator Bourne says, what Mr. Rodgers says, or what

1 anybody of those other panels will say. The issue  
2 is in federal court now. That's where the  
3 constitutional issues will be resolved.

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

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

10 But in any case, I can stop all of this,  
11 anything. This bill came because there was a  
12 dispute between the white superintendent at OPS and  
13 the white superintendents in the suburban areas.  
14 They were snarling and sniping at each other and  
15 would not sit down and talk. And I sat back and  
16 watched them.

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

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

1 SENATOR CHAMBERS: Yes.

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

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

8 I apologize, Senator Chambers.

9 SENATOR CHAMBERS: Was that what that -- I  
10 thought those were the angelic harps.

11 COMMISSIONER YAKI: I realize -- I realize  
12 that -- I realize that perhaps background music is  
13 part of the --

14 SENATOR CHAMBERS: Thank you.

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

18 SENATOR CHAMBERS: Okay. The only reason  
19 I'm giving you a little background is so you can see  
20 the political content --

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

25 SENATOR CHAMBERS: Well, you asked why it

1 came up late because it's my amendment.

2 COMMISSIONER YAKI: I understand. I  
3 understand.

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

6 COMMISSIONER YAKI: Well, actually,  
7 there's one point of your question that I really  
8 wanted -- that you said before that I really wanted  
9 an answer from Senator Bourne because he seemed to  
10 have a reaction to it, and that was --

11 SENATOR CHAMBERS: So you want him to  
12 answer the question you asked me?

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

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

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

18 SENATOR CHAMBERS: Okay.

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

25 SENATOR BOURNE: Well, the law says that

1 they have to be -- they have to be contiguous. Now,  
2 keep in mind that the first iteration of the law --  
3 or of the amendment said they had to have  
4 communities of interest with two to thrée high  
5 schools in each one of them. Then that was changed  
6 so that it said contiguous with two to three high  
7 schools in it.

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

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

25           COMMISSIONER TAYLOR: I have a question.

1 And Commissioner Kirsanow, are you still on the  
2 line?

3 COMMISSIONER KIRSANOW: Yes, I am.

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

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

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

25 So to Senator Bourne and Mr. Rodgers, I

1 would ask you all: In your view, are the kids that  
2 Senator Chambers is concerned about today receiving  
3 a quality education in the current system?

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

6 COMMISSIONER TAYLOR: Okay.

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

10 COMMISSIONER TAYLOR: Mr. Rodgers.

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

13 COMMISSIONER TAYLOR: Okay.

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

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

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

23 MR. RODGERS: I agree in the general  
24 spirit of the statement that we have to address the  
25 gap between kids of color and in schools; that's

1 general. But I want to say in defense, in being  
2 involved in some of the parts, that the school  
3 district has taken steps with African American  
4 Achievement Councils and things of that sort to try  
5 to increase the grades. So I agree there is a  
6 crisis we need to address in that respect but  
7 efforts are being made.

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

14 Your opposition that I have heard, at  
15 least what I have heard today, was not grounded in  
16 the sense that you thought it would not lead to a  
17 better education, it was grounded in something else.

18 COMMISSIONER YAKI: Well, I --

19 COMMISSIONER TAYLOR: Is it, to answer the  
20 question?

21 COMMISSIONER YAKI: I would just -- I  
22 mean, just before anyone answers, I would slight --  
23 my own opinion on this, not that of Commissioner  
24 Taylor's, is that I hope that we're not seen  
25 creating the dichotomy, that we're saying that there



1 must be a choice between quality education and  
2 integration at the same time. I think that's a  
3 false choice. I think that's -- that's the kind of  
4 choice that people would want to try and lead down  
5 to a path that none of us would want to see, I  
6 think.

7           So I would just say flat-out that I don't  
8 believe that it should be a choice between quality  
9 education and integration. I believe that the  
10 principles of this country and the principles of  
11 Brown say that those two are inexorably intertwined.  
12 If we are failing on one, it doesn't mean we abandon  
13 the other. It means that we have to continue on --  
14 continue on that path that Brown set forth over 60  
15 years ago.

16           COMMISSIONER MELENDEZ: Mr. Chairman, may  
17 I comment.

18           One of my concerns, and I had read through  
19 some of the history that said that we had -- Omaha  
20 had stopped the busing program a number of years  
21 ago, and when you think about integration, you think  
22 that busing used to be a big component to do that,  
23 in, you know, creating magnet schools and all of  
24 those different things. I just wonder any of your  
25 opinions as to -- as to trying -- and we hear the

1 quality of education is the main concern, but what  
2 is the plan as far as integration in either  
3 scenario, if anybody could just comment on that?

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

8 You put black kids among white kids and  
9 they would have access to what is considered an  
10 enriched educational environment. You bring white  
11 kids into the black community and the facilities  
12 would be upgraded, better teachers would be sent  
13 there to take care of the white kids, but through it  
14 all, the aim supposedly was quality education.

15 Now the quality education has not  
16 happened, busing is over, integration has become an  
17 end in itself, and nobody can say how it will occur,  
18 not the federal courts, not this Commission, not the  
19 Legislature.

20 You are not going to have busing  
21 mandatory. You are not going to transplant the  
22 homes of black people from their neighborhood into  
23 the homes -- into the neighborhoods of white people.  
24 Since you are not going to have housing transplants,  
25 you are not going to have busing. I'm the only one

1 willing to say honestly and forthrightly there is no  
2 practical way to integrate the schools in Omaha or  
3 any other city.

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

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

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

19 I don't care what people here say, I don't  
20 care what the Commission says, with all due respect  
21 of the individuals here. I'm not going to continue  
22 watching the grades plummet for these black children  
23 and have people talking to me about integration.  
24 They don't live in integrated neighborhoods. Their  
25 spouse is not of another race. They are not

1 bringing up their children to marry somebody of  
2 another race. The corporations run by these rich  
3 white men who spoke against my bill do not have  
4 diversity and integration in their businesses. So  
5 it's been a distraction. Why can't we focus on  
6 quality education.

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

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

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

1 integration.

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

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

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

21           And if Senator Bourne and those who  
22 supported OPS had the evidence, why didn't they show  
23 the test scores to shut me up? Why didn't they show  
24 that they were not -- why didn't -- why did they not  
25 show with the figures that I have that segregation

1 is not worsening? That would have been the best  
2 argument of everything I said against it, but they  
3 didn't produce it.

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

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

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

16           SENATOR CHAMBERS: Yes.

17           COMMISSIONER TAYLOR: That's actually a  
18 question I wanted to raise.

19           SENATOR CHAMBERS: Then let me stop.  
20 Maybe I'm anticipating.

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

23           And I would ask folks in the audience to  
24 please keep your applause to a minimum because we  
25 are trying to create a record here, and in order to

1 do our job well and hopefully provide policymakers  
2 with the information they need to make informed  
3 decisions, I want to get as much information into  
4 this record as possible. And so for that reason, I  
5 would ask you to keep your applause to a minimum,  
6 please.

7 Senator Bourne.

8 SENATOR BOURNE: You know -- thank you.

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

20 Part of the reason -- and Senator Chambers  
21 is right that an amendment in our legislature can be  
22 brought forth at any time, but in my opinion, part  
23 of the reason -- or part of the problem with the  
24 Chambers' amendment and why I feel that the enormity  
25 of that amendment will come back and haunt us is

1 that we weren't provided the opportunity to fully  
2 vent these issues.

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

8           I want to go back to the -- when he talks  
9 about funding for schools and quality education. I  
10 can't dispute that everybody that's involved in this  
11 issue wants quality education for every one of our  
12 children. But how do you take a district that is  
13 already struggling to provide quality education to  
14 everybody because the financial resources aren't  
15 what they should be and divide it into three  
16 separate districts when -- when you look at how our  
17 education is funded here, half through property tax  
18 and half through income tax, state aid, and you  
19 divide up the areas east of 72<sup>nd</sup> Street into two  
20 separate districts and one district is out west,  
21 when the property values east of 72<sup>nd</sup> Street are  
22 dramatically less than that in west Omaha, so what  
23 you are going to have is at least two of the three  
24 districts that are going to be inadequately funded.  
25 So I don't understand how breaking the one district



1 up into three is going to enhance quality education  
2 for any of our kids.

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

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

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

19 For instance, the priority in the  
20 integration plan is that it goes to low-, moderate-,  
21 and high-income kids, and they get first choice. So  
22 how the plan is set up, all of the transportation is  
23 going west, nothing is coming in. Those incomes are  
24 higher so they don't get first priority coming here.  
25 The transition would go from boggy income to income

1 the way the law is set up. There is no incentive to  
2 encourage that. OPS has that today with some  
3 degree.

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

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

22 Now, my personal opinion with what Senator  
23 Chambers said, and I agree on the spirit of the fact  
24 that this society is not perfect, there is still a  
25 lot of things that I'm not thinking I should be here

1 battling today when I thought my mother battled  
2 those 40 years ago. And in that spirit, if you have  
3 a kid, and I'm speaking personally, that is in one  
4 of those black or Latino districts, they would have  
5 to be above and beyond par to get over the stigma  
6 that would come from coming out of that district.

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

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

13 COMMISSIONER KIRSANOW: Yes, I do. Thank  
14 you very much.

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

18 Commissioner Taylor, can you hear me okay?

19 COMMISSIONER TAYLOR: I can.

20 COMMISSIONER KIRSANOW: Okay.

21 Senator Chambers, I think I'm -- everybody  
22 is sensitive to the fact that blacks students  
23 (inaudible) are performing in high school levels.  
24 The average black high school graduate nationwide  
25 has the academic skills of an average white eighth

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

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

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

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

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

1 on in those classrooms is aimed at teaching their  
2 children.

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

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

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

21           Then there is what's called revenue  
22 sharing similar to what happens in the professional  
23 leagues. The wealthy teams subsidize the poorer  
24 teams to ensure the health of each individual team  
25 and stabilize the financial well-being of the

1 league. So all of these districts will contribute  
2 according to their means which means the wealthier  
3 ones will put more into the pot.

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

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

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

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

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

19           I developed no ongoing friendships from  
20 elementary school where I went to school with white  
21 kids, from high school where I went with white kids,  
22 from Creighton University from which I graduated and  
23 most of them white, or Creighton Law School from  
24 which I graduated. And at Creighton University in  
25 the law school I seldom attended a class. I didn't

1 want to be in those classes. I hated school, and  
2 school should not be a place where children hate it.

3 But if you look at the funny papers, you  
4 will see that it's a traumatic experience for the  
5 students, for the teachers, for the parents; going  
6 back to the school is a terrible thing.

7 We, if I have anything to say about it, in  
8 a district where we have some influence, would  
9 create an environment where the children would see  
10 that they count and they would want to learn.

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

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

24 I'm originally from Cleveland, Ohio,  
25 although I'm based right now in Washington, D.C. In



1 Cleveland, Ohio, there is a suburb of Cleveland  
2 known as East Cleveland, but there a number of other  
3 metropolitan districts -- Baltimore, District of  
4 Columbia in Washington, Chicago, and others, Newark,  
5 you name it -- a number of metropolitan districts  
6 where the environment that you just described has  
7 either existed in practice or by law. There's local  
8 controlled schools, improved funding, black teachers  
9 in many of the classrooms, if not most, where a  
10 learning environment is one where there is the  
11 considerable stress on (inaudible), for example, and  
12 yet in the school districts that I mentioned, the  
13 performance of black children still is abysmal.

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

19           SENATOR CHAMBERS: Was -- to whom -- was  
20 your question addressed to me as a follow-up,  
21 Chairman?

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

24           SENATOR CHAMBERS: Well, first of all,  
25 Nebraska and the Legislature are unique because I'm

1 there. I make things happen that don't happen other  
2 places. I brought this Commission here. I'm  
3 causing the congressional black congress -- the  
4 Congressional Black Caucus to have a seminar on  
5 this. There are law schools having seminars on it.  
6 It's being debated around the world.

7 My activity made these white  
8 superintendents sit down and talk to each other  
9 which nothing and nobody else could do, not the  
10 editorials, not criticism by organizations, none of  
11 that but I made the difference.

12 I was the senator who made Nebraska the  
13 first legislature to take formal action to divest  
14 public funds from South Africa, so my presence is  
15 going to make a world of difference in how this  
16 whole thing goes. I don't just want a piece of  
17 legislation with my name on it. I have lived in the  
18 black community all of my life, all of my children  
19 went through OPS, I have two grandchildren there  
20 now.

21 Most children are going to attend public  
22 school, so I want to improve the education in every  
23 school building wherever located. And because of my  
24 interest, my ability, the driving force that I can  
25 provide, what happens in other cities and states

1 will be rendered totally irrelevant. This is a  
2 different, this is a unique, this is a rare hours.  
3 It is a one-of-a-kind activity. You will not find  
4 any piece of legislation anywhere in the country  
5 like this one.

6 So it's going to be an experiment in the  
7 minds of some people, and either we're going to  
8 deliver or we're not. When we deliver, it's going  
9 to give a lot to all of this focus on integration,  
10 beside or tertiary issues that don't go to the  
11 quality of education.

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

21 COMMISSIONER YAKI: But at what --

22 SENATOR BOURNE: If I may --

23 COMMISSIONER YAKI: But at what -- but at  
24 what cost? I guess the question is at what cost in  
25 terms of -- in terms of the fact that under the

1 districts that have been drawn, if we were to  
2 believe what is -- what has been stated by Senator  
3 Bourne and others --

4 SENATOR CHAMBERS: That's not correct.  
5 You keep operating me on a false premise. I'm not  
6 going to answer a question like have you stopped  
7 beating your wife. I'm going to frame the question  
8 based on the facts and then I'll answer that, but  
9 you can ask it however way you want to and then I  
10 will rephrase the question.

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

14 SENATOR CHAMBERS: Yes.

15 COMMISSIONER YAKI: I mean, if -- if under  
16 a hypothetical --

17 SENATOR CHAMBERS: Yes.

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

24 SENATOR CHAMBERS: It means nothing.

25 COMMISSIONER YAKI: It means nothing to

1 you?

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

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

8 SENATOR CHAMBERS: I'm going to answer.

9 COMMISSIONER YAKI: But I'm asking a  
10 hypothetical.

11 SENATOR CHAMBERS: And I'm --

12 COMMISSIONER YAKI: Would that be a good  
13 thing?

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

16 COMMISSIONER YAKI: Do you see that it's  
17 good or bad?

18 SENATOR CHAMBERS: I'm not going to answer  
19 the way you want me to answer. I'm going to answer  
20 it in accordance with my understanding of the  
21 question.

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

1 concentrations.

2 COMMISSIONER YAKI: How is it  
3 constitutionally neutral?

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

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

15 COMMISSIONER YAKI: Let me --

16 SENATOR CHAMBERS: -- no matter what.

17 COMMISSIONER YAKI: Let me -- just indulge  
18 me, Senator Chambers. Let me just indulge further  
19 my hypothetical.

20 SENATOR CHAMBERS: Then why don't you just  
21 ask me directly. Do I think that there ought to be  
22 white children in a classroom before black and  
23 Latino children can learn? No, I don't think that  
24 and --

25 COMMISSIONER YAKI: I'm not saying that at

1 all.

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

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

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

10 COMMISSIONER YAKI: Yeah, I do.

11 SENATOR CHAMBERS: Then ask me --

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

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

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

23 The problem in the south is that they  
24 didn't have as much residential segregation so black  
25 kids had to walk past high-priced schools to go to

1 these ransack high schools.

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

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

12           COMMISSIONER YAKI: -- but I know --

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

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

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

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



1 devise.

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

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

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

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

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

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

20 The segregation exists in America and in  
21 Omaha right now, rather than spend all of this time  
22 contriving these artificial means of bringing about  
23 what they call integration. You heard Senator  
24 Bourne and Mr. Rodgers condemn the proposal for  
25 transferring students. Everybody is against

1 everything. So I'm saying let's concentrate on how  
2 to improve --

3 COMMISSIONER YAKI: Senator Chambers, I  
4 think that seems --

5 SENATOR CHAMBERS: -- on children in our  
6 schools. That's all schools are for.

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

17 But my problem continues to be, and I'll  
18 just state my own -- as evidence my own biases out  
19 here, and -- and I apologize for the fact that it  
20 is, but I just have a very difficult time  
21 comprehending the fact that someone of your stature  
22 and background and what you have done with your life  
23 can say that I don't mind a one-race school, I don't  
24 think that putting kids of different races together  
25 has any -- has any educational social benefit when,

1 in fact, you know, we can -- we can go through -- I  
2 have a stack of studies. We just did a briefing  
3 about diversing in the elementary and secondary  
4 school education, because, as a broader issue, the  
5 issue of integration is very much under debate and  
6 under attack throughout this country.

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

13           I mean, whether we want to say it -- say  
14 it or not, education has not been education.  
15 Education has always been a form of socialization  
16 for -- for this country. And back in the '30s and  
17 '40s, it was a socialization that said that African  
18 Americans were inferior to whites and we were going  
19 to change that and Brown v. Board did that. And now  
20 it's 2000, things are a lot more complicated, we  
21 don't know that, forget it. I understand your  
22 frustration.

23           But I -- but I don't know if I can go to  
24 where you are, and that's what I'm having trouble  
25 understanding to the point where integration has

1 no --

2 SENATOR CHAMBERS: Commissioner --

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

5 SENATOR CHAMBERS: You hit -- you hit the  
6 nail on the --

7 COMMISSIONER YAKI: -- regarding how we  
8 design it.

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

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

17 I would like to see people --

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

20 SENATOR CHAMBERS: -- of all groups work  
21 together but it's not leading to quality education  
22 in the schools, but we're spending a lot of time  
23 arguing it, and, apparently, people say if we  
24 have -- if we have integration, it doesn't matter if  
25 children fail.

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

3           SENATOR CHAMBERS:  Yes.

4           COMMISSIONER TAYLOR:  I think they want to  
5 address Commissioner Kirsanow's questions and a  
6 couple of things that he's said.

7           SENATOR BOURNE:  Commissioner, I wanted to  
8 go back just for a minute.  The question the  
9 gentleman on the phone asked was did we contemplate  
10 solving the problem in the low test scores and with  
11 Senator Chambers amendment and the answer to that is  
12 no, we did not.

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

19           The reason integration keeps coming up in  
20 this argument is because what Senator Chambers has  
21 done to that amendment is -- is encouraged or  
22 convinced the Legislature to pass an  
23 unconstitutional law because it does segregate.  
24 That's the law.  So when we keep talking about  
25 integration, that's why it's relevant here because

1 the entire law on its face is unconstitutional.

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

9           COMMISSIONER TAYLOR: Mr. Rodgers.

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

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

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

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

12           What OPS can do is take teachers and move  
13 them around, and to their credit, they have. They  
14 have tried to mix them with years of experience and  
15 try to mix them with color in schools. But you  
16 can't get black kids to get into education nowadays.

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

20           So you have an all-black and all-Latino  
21 district. You don't have enough Latinos going into  
22 education, you don't have enough black people. And  
23 to the people that support local control, it would  
24 be a slap in their face if they walked their kids  
25 into a school and 90 percent of them were young

1 black females -- I mean young white females. They  
2 are going to want to see black teachers, and right  
3 now you don't have enough going into the field, and  
4 to make that happen, the state would have to pay at  
5 least \$50,000 a teacher. They are not ready to do  
6 that.

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

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

24           COMMISSIONER TAYLOR: Commissioner  
25 Kirsanow, do you have a follow-up question?



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

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

5           COMMISSIONER KIRSANOW: Commissioner  
6 Taylor, I don't have a lot but I just have one --  
7 one additional one.

8           This is to anyone who wishes to respond.  
9 Is Senator Bourne still there, though?

10          COMMISSIONER TAYLOR: Senator Bourne?

11          COMMISSIONER YAKI: Yes, he is.

12          COMMISSIONER KIRSANOW: Yes.

13          COMMISSIONER TAYLOR: Senator Bourne is  
14 still here, yes.

15          SENATOR BOURNE: Go ahead.

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

19                 When I looked through the legislative  
20 record, and this bill was being considered by the  
21 Nebraska Legislature, there was repeated reference  
22 to not only local control but black districts having  
23 control of black students by black parents and black  
24 teachers and black administrators, et cetera. And  
25 it also appears, based at least on the limited

1 amount of information that I have -- and anyone can  
2 correct me if I'm wrong. Obviously, you know more  
3 than I do about this. But we -- we have hundreds of  
4 pages of information which I have gone through and  
5 it appears on my best assessment that if you look  
6 under Section 41, there's only four ways of dividing  
7 this up so that contiguous attendance areas would  
8 satisfy the mandates of the statute.

9           Now given that you've got a legislative  
10 record that talks about race is one of the primary  
11 reasons for doing this and then that the effect of  
12 this is to have districts that are predominantly  
13 white, Hispanic or black, how does one defend this  
14 on Fourteenth Amendment grounds?

15           SENATOR BOURNE: I don't think it's  
16 defensible, and I -- sir, I think your question  
17 probably should be directed to Senator Chambers  
18 because he brought the amendment and I tried to stop  
19 it and I could not get it done. Senator Chambers is  
20 formidable in the Legislature and I think the  
21 question is more suited for him.

22           I don't think it's defensible. I think  
23 it's clear that it is creating separate segregated  
24 districts. I don't think anyone would dispute that.

25           If you looked at the fact that in 1024 if

1 a student from the Omaha Public School District,  
2 say -- let's say a student from the newly created  
3 black district wants to go on Millard. The  
4 superintendent in Millard gets to decide whether or  
5 not they are at capacity. If they are at capacity,  
6 nobody comes into that district. They could have  
7 ten empty classrooms, 20 empty classrooms, an empty  
8 school building and they get to solely determine  
9 whether or not they are at capacity.

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

13 If they are not integrated today and there  
14 is a mechanism to move kids west into east, east  
15 into west via specialized magnet schools -- and I  
16 would argue that OPS is successful in integrating  
17 those schools, contrary to what Senator Chambers  
18 says -- but if that's the case today and there's not  
19 sufficient integration, then how do you think  
20 there's going to be integration in the future if the  
21 receiving school district can say we are at capacity  
22 and there is a disincentive for them to say we have  
23 room, because if they say we have room, they have to  
24 pay the transportation costs, and they don't get  
25 reimbursed for those transportation costs until the

1 next year under our formula.

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

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

13           SENATOR CHAMBERS: The reason I'm going to  
14 keep arguing about constitutionality, it's before  
15 the court. What we say is pitiful; it means  
16 nothing. The federal court will make that  
17 determination, so Senator Bourne can say what we  
18 pleases.

19           But to the gentleman who was calling,  
20 there is not reference throughout the transcript  
21 about black teachers, black administrators unless  
22 it's by those who oppose this because what I  
23 emphasized is that what we're interested is in  
24 quality education for all children. And if among  
25 the pool of teachers available the most competent

1 ones all are white, every classroom would be  
2 presided over by a white teacher, and what we mean  
3 by competency is to have knowledge of the subject  
4 and the ability to impart that knowledge and that  
5 information. And I did emphasize over and over and  
6 over that quality education is what I'm interested  
7 in.

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

22 So if you looked at the authority of the  
23 final arbiter, which is the state committee, and it  
24 is not bound by that contiguous word which means the  
25 number of possible configurations is virtually

1 infinite.

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

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

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

24           That bill would have been dead in the  
25 water had I not removed my opposition. The reason

1 it came up late is because the bill was late getting  
2 to the floor of the Legislature.

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

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

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

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

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

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

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

21           COMMISSIONER TAYLOR: Senator Bourne  
22 (inaudible) --

23           COMMISSIONER KIRSANOW: If I could ask a  
24 question, Mr. Chairman.

25           COMMISSIONER TAYLOR: Commissioner



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

4 COMMISSIONER KIRSANOW: Sure.

5 SENATOR BOURNE: Thank you.

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

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

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

25 People in greater Nebraska resent the City

1 of Omaha, so it's real easy to pass a bill that  
2 hurts Omaha and/or its inhabitants.

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

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

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

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

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

5           COMMISSIONER KIRSANOW: Thank you very  
6 much.

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

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

25           I guess the question is what empirical

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

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

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

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

24 When approaches are made to individual  
25 teachers and principals, parents are often treated

1 rudely and dismissively. Going to the school board  
2 is even less helpful.

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

15 I always included the poor white children,  
16 always.

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

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

23 COMMISSIONER KIRSANOW: It's been done in  
24 other places, though, maybe not specifically with  
25 this legislation. But where I live -- and by the

1 way, I'm black. Where I live, Cleveland, Ohio,  
2 you've got a black superintendent, we've had a black  
3 superintendent for decades. You've got black  
4 principals, black teachers, majority black city and  
5 you've got, you know, local attendance in all of  
6 these things, yet those things, in and of  
7 themselves, haven't done anything. In fact, scores  
8 and dropout rates and everything else has gotten  
9 worse.

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

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

21 SENATOR BOURNE: The reason -- the  
22 reason -- the reason they would write these articles  
23 is because we're the first state in 25 years that  
24 sanctioned segregation. What Senator Chambers  
25 forgets, and he leaves out some of the elements of

1 his testimony on the floor, he says, Several years  
2 ago I began discussing in my community the  
3 possibility of carving our area of OPS and  
4 establishing a district over which we would have  
5 control. We, meaning black people, whose children  
6 make up the vast majority of the student population.

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

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

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

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

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

24 SENATOR BOURNE: I'm reading from  
25 transcripts that I looked at -- or quotes that I

1 looked at in the transcripts from the debate on the  
2 floor over that period of time that demonstrate that  
3 the reason the amendment was brought was because of  
4 race.

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

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

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

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



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

3           -- SENATOR CHAMBERS: Say it again.

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

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

8           COMMISSIONER YAKI: I --

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

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

18           SENATOR CHAMBERS: Yes.

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

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

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

5           SENATOR CHAMBERS: What I said --

6           COMMISSIONER YAKI: I'm going to read from  
7 the transcript of the floor debate 1282 -- I mean,  
8 you spoke many times --

9           SENATOR CHAMBERS: Many times.

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

16                 I mean, you're basically saying that  
17 this -- and in principle -- the principles of this,  
18 I think, are fine. The idea of having more  
19 diversity, of having African Americans be leaders in  
20 the education community, at the school board, those  
21 are all good and sound principles. What -- the  
22 concern is that we talk -- we keep on talking about  
23 the children, we keep on talking about their quality  
24 of education and their -- and their hopes and  
25 aspirations for the future. How are we doing that

1 by saying that in order to effectuate control by  
2 adults over education for kids, the compound -- the  
3 necessary consequence of that is going to be those  
4 kids are going to be isolated by race in these  
5 schools districts?

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

12           COMMISSIONER YAKI: Senator Chambers, when  
13 I --

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

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

20           SENATOR CHAMBERS: Well, I have to  
21 function --

22           COMMISSIONER YAKI: Like I said --

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

25           COMMISSIONER YAKI: -- I would -- and I

1 would say -- and I would say the scope of this  
2 hearing is predicated on 1024 and what it intends to  
3 do.

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

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

22           When there have been bills that OPS  
23 brought that I opposed, I said you will not show me  
24 that you are going to do anything to improve  
25 education, and until you show me that, I will stop

1 every bill you bring. Well, I told them how they  
2 can get me on their side, improve education, and  
3 that's what they are supposed to do. But they have  
4 not done it. Don't take my word for it. Read the  
5 test scores, read the local newspapers just pointed  
6 it out.

7 COMMISSIONER YAKI: Senator Chambers --

8 SENATOR CHAMBERS: So here's -- here's  
9 what I'm going to ask you.

10 COMMISSIONER YAKI: I'm not going to  
11 argue.

12 SENATOR CHAMBERS: Then how are we going  
13 to correct it if my way is not the way and nothing  
14 OPS has done today and they have nothing else on the  
15 table? You're saying leave everything as it is  
16 because as long as white people control it, it's  
17 okay.

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

21 SENATOR CHAMBERS: Then what is the  
22 change?

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

25 SENATOR CHAMBERS: Then how will they

1 change?

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

8 The question --

9 SENATOR BOURNE: If the --

10 COMMISSIONER YAKI: -- though, is that in  
11 attempting to jump over that bar or raise it even  
12 further are we doing something that however  
13 unintentionally -- and I take you as a person of  
14 good motives and good intent, but however  
15 unintentionally in attempting to do something we  
16 accidentally go to a place that we left 40 years  
17 ago, I don't know if that's the way to do it.

18 There have got to be -- there must be -- I  
19 saw on the debate on reconsideration people pleading  
20 to bring people to the table and redo -- and rethink  
21 this and redo it in response to your passion and  
22 your concerns. That did not win and it should have  
23 won. To avoid -- to avoid our presence here today,  
24 that should have happened.

25 I have a feeling that part of what you did

1 you did because you wanted to get that reaction and  
2 get people to the table. That is to your credit.  
3 But the concern is the way -- the way -- the means  
4 that have been chosen, the freezing of the  
5 segregation and, therefore, institutionalizing it is  
6 not where I want to be. I don't think in reality  
7 you want to be either.

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

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

20           You know what I find is really  
21 unfortunate, because I think Commissioner Yaki hit  
22 the nail on the head, that Senator Chambers is  
23 trying to make a point with his amendment in 1024.  
24 I don't know that if he really believes it's  
25 unconstitutional or not. I know that he is about

1 trying to provide quality education for the kids. I  
2 don't know, again, if what he has done is passed or  
3 tried to pass an amendment or got an amendment  
4 adopted that he knows is unconstitutional, but the  
5 reality is is that we're moving backwards in that we  
6 already have a school district that, in my opinion,  
7 is underfunded and we are spending millions and  
8 millions of dollars on legal fees when we could be  
9 buying books for some of these kids and solving some  
10 of the problems, and instead, we're letting lawyers  
11 get rich and all of that to make a point, and that's  
12 unfortunate.

13 COMMISSIONER TAYLOR: Commissioner  
14 Melendez.

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

23 SENATOR CHAMBERS: Not every- -- not  
24 everybody agrees that the new direction of the NAACP  
25 under their new CEO, who was an official of Verizon,



1 is moving in the direction of its black people.  
2 They are now trying to plug into the corporate  
3 community to get contributions and donations from  
4 them, because at the grassroots level, their  
5 membership is following off.

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

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

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

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

25 The former positions that they have taken,

1 the work that was done under Thurgood Marshall and  
2 others, is being defamed by some of the things the  
3 NAACP is now doing and some of the issues they are  
4 refraining from being drawn into. So that's how I  
5 would answer your question as far as the NAACP's  
6 involvement.

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

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

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

9           COMMISSIONER TAYLOR: Uh-huh.

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

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

22                 The law as it -- as it was written prior  
23 to 1024, with the exception of districts -- District  
24 66, would allow OPS to take over school districts as  
25 the city expands.

1 COMMISSIONER TAYLOR: Uh-huh.

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

8 COMMISSIONER TAYLOR: Uh-huh.

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

11 Excuse me. (Brief interruption.) Senator  
12 Chambers (inaudible).

13 I can't tell you historically why District  
14 66 is the way it is, but I can say that had we had  
15 Senator Chambers' amendment as a bill, that issue  
16 would have been discussed, it would have been bedded  
17 and would have determined whether or not that  
18 would -- you know, what the Legislature passed in  
19 the '40s should still apply today. But with the  
20 passage of 1024, really the point is moot because  
21 we've created -- not only have we allowed District  
22 66 to remain, we have allowed the other districts  
23 that are --

24 COMMISSIONER TAYLOR: Remain.

25 SENATOR BOURNE: -- predominantly white to

1 remain as well as.

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

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

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

23           SENATOR CHAMBERS: I think during the  
24 debate, and I could be mistaken, Senator Pam  
25 Redfield I think made reference to District 66; and

1 after so much criticism was launched against my  
2 proposal after it became law, then I mentioned  
3 District 66 every time I had an opportunity to show  
4 that if the people were really concerned about  
5 integration, which I was not, should look at  
6 District 66. And when OPS talked about filing a  
7 lawsuit and others talked about OPS filing a  
8 lawsuit, it was always only against my proposal but  
9 never was District 66 mentioned.

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

17           So here's the argument I had made. Why  
18 ever District 66 came into existence or continues,  
19 why ever all of these white districts in the  
20 suburban areas exist, they all give an overriding  
21 reason, local control.

22           There are districts in the State of  
23 Nebraska, the whole district, with as few as 120  
24 students because they want local control. So if  
25 white people want to administer and control their

1 schools, it's called local control. If non-white  
2 people want the same thing, it's called segregation.  
3 So that's how they defeat us.

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

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

25           No group that I have ever discussed this

1 with left with the same view that they had which had  
2 been based on what the New York Times wrote.

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

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

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

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

23 The budget for education at the state  
24 level in Nebraska, and this won't seem like a lot to  
25 other places, \$900 million, 720 million if you don't



1 include special education. The largest part of a  
2 lot of budgets will go for education.

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

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

21           And as I suggested to Commissioner Yaki,  
22 it's still -- sub rosa is based on the notion that  
23 black people, non-white people, are inferior. When  
24 we talk about integration, it's always in  
25 conjunction with making the black children bear the

1 onus of it, and I don't think that's right.

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

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

18 So since I can look at myself and know  
19 what I have to fight against to get an education and  
20 those grades, coping with things those other white  
21 kids didn't have to cope with, I'm not going to let  
22 people treat children of any race, but because if  
23 they are not black, they are poor, that somehow they  
24 are genetically inferior, they are of less value,  
25 that because their parents can't buy them a certain

1 type of clothing, they are not entitled to fair  
2 treatment, so here's how it is going to be  
3 corrected. We are going to take these poor children  
4 of any race and cart them out to white schools where  
5 attire is very important.

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

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

23 The children are the ones Jesus said bring  
24 to me because they're what Heaven is about, not all  
25 of these adults, not all of these religious people,

1 not the teachers. So the children are the cash cows  
2 whom we have 'school people and teachers come to the  
3 Legislature for more money.

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

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

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

24 COMMISSIONER TAYLOR: Senator Chambers --

25 SENATOR CHAMBERS: -- learn those things

1 there and then I could social on my own afterwards.

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

6 SENATOR CHAMBERS: Sure.

7 COMMISSIONER TAYLOR: And then I have a  
8 few more comments from the Commission.

9 Staff Director.

10 STAFF DIRECTOR MARCUS: Thank you.

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

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

24 So I -- the reason that I keep talking  
25 about integration in the bill is because if you read

1 Brown versus Board of Education and then the string  
2 of cases subsequent to that, it is clear that if a  
3 state takes an action that deliberately segregates  
4 it's unconstitutional.

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

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

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

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

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

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

23 STAFF DIRECTOR MARCUS: Senator  
24 Chambers --

25 SENATOR CHAMBERS: Yes.

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

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

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

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

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

4 STAFF DIRECTOR MARCUS: Thank you.

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

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

22 So the coordinating committee is like  
23 preliminary work, and no matter what it presents or  
24 if it fails to present something, the state  
25 committee has the last word; the state committee



1 will approve on the final plan, and it is not  
2 limited in the same way as the coordinating  
3 committee council.

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

6 SENATOR CHAMBERS: Yes.

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

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

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

25 Let me say this. If it did, remember,

1 there is a 12 member school board. If you have a  
2 mixture of white people and black people, then black  
3 people are going to have people on that school board  
4 and the white people are. Since they now are a part  
5 of the same district, instead of this creating a  
6 division, it has brought these two elements  
7 together, and now to be sure that all of their  
8 children have an opportunity, they will cooperate to  
9 be sure that every school in that district provides  
10 quality education. Then it doesn't matter which  
11 building the child attends school in.

12 So if what you propose would happen, it  
13 would actually bring the two groups together rather  
14 than divide them.

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

25 STAFF DIRECTOR MARCUS: Thank you.

1           And another question. Senator Bourne, in  
2 your written statement you said the following: "As  
3 if segregating the districts was not enough, LB 24,  
4 Section 16, also destroys the current integration in  
5 OPS and prohibits most of the common tools used  
6 across the country to intentionally integrate."

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

11           SENATOR BOURNE: The magnet schools,  
12 schools of interest. OPS has done a fantastic job  
13 of creating, let's say, Central High School; it's a  
14 magnet school. It's in -- it's in an area that is  
15 predominantly black and, yet, I believe it's  
16 56 percent of the high school there is -- or,  
17 actually, it's 46 percent is minority.

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

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

24           SENATOR CHAMBERS: No, because this bill  
25 does not require any child to cease going to the

1 school he or she attends. In fact, they are called  
2 continuing students. There is an absolute guarantee  
3 that every child will continue to go to the school  
4 that he or she is attending after the réorganization  
5 if that's the desire.

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

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

18 STAFF DIRECTOR MARCUS: Thank you.

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

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

25 Before we all break up, let me say one

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

16 And so with that, we are going to --  
17 1 o'clock we will be back. Thanks.

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

20 \*\* \*\* \*\* \*\*

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

22 (Continued)

23 (1:04 p.m.)

24 COMMISSIONER TAYLOR: For phase two of our  
25 briefing, we are going to hear from a number of

1 community activists and others representing a broad  
2 segment of the -- of the community, and we're going  
3 to go from left to right on our panel here.

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

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

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

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

22 COMMISSIONER YAKI: She's here.

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

25 COMMISSIONER TAYLOR: We're going to first

1 hear from Walter Brooks who is a contributing writer  
2 to the Omaha Star newspaper. I understand that's  
3 Nebraska's only black newspaper, and Mr. Brooks has  
4 been associated with the newspaper for 28 years.

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

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

11 So Mr. Brooks.

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

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

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

22 In the three-part article that I wrote in  
23 May addressing my support for this bill, I focused  
24 on basically three things: The general disparities  
25 for -- between the majority Caucasian population in

1 Omaha and between the minorities, in particular the  
2 African American community.

3 In part two, I told the history of a very  
4 significant moment in African American history in  
5 1968 when a black community of Brooklyn, New York,  
6 had an opportunity to acquire the kind of  
7 legislation that this bill represents.

8 And then the third part was to really take  
9 a look at the long-term effects of having such a  
10 consistent generational issue of dropout in the  
11 African American community and, particularly,  
12 looking at it with relation to the American prison  
13 system. We have the data now that shows in most  
14 state prison populations, the federal, anywhere from  
15 45 to over 60 percent of the inmates are school  
16 dropouts.

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

22 I'm just going to draw a couple of points  
23 here and use my own ten minutes up to make some  
24 references to what I had previously written, and  
25 then I expect that I'll have an opportunity to speak



1 again during question and answer.

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

13 This morning there were so many different  
14 things brought up, but I think, among other things,  
15 that issue -- the issue of disparities, of  
16 widespread disparities economically -- I know that  
17 both Senator Bourne and Commissioner Rodgers, you  
18 know, talked about their feelings that there will  
19 not be the kind of tax base behind this legislation  
20 with -- with the economic disparities of home  
21 ownership and taxes and things like that. And as I  
22 sit and listen to those, I think, well, you know,  
23 maybe at some point that's what we ought to be  
24 talking about, because, as Senator Chambers made  
25 mention and has been mentioned over and over again,

1 the moment that his legislation or this particular  
2 aspect of the legislation was made public, literally  
3 the richest, most powerful people in the city of  
4 Omaha, which means in the State of Nebrá'ska, chose  
5 to meet and discuss this as something that was going  
6 to be a mar, a mark on the City of Omaha and, as  
7 we -- we keep going back and forth, is going to  
8 legalize segregation in this country and -- or,  
9 excuse me, in the city of Omaha.

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

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

23 In fact, increasingly, HCBU students are  
24 highly sought after for immediate employment, in  
25 graduate studies by major corporations and majority

1 academic institutions.

2           Black colleges and universities need more  
3 endowment money, they need more research grants.  
4 They need facilities upgrades, but I never hear  
5 anybody say those students didn't get a good, if not  
6 outstanding, education because there were no white  
7 students in their classrooms.

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

20           Why is there such a refrain that LB 1024  
21 is going to segregate black children and they won't  
22 be going to school with Caucasian children or other  
23 children from other cultures and, therefore, they  
24 will receive a stunted upbringing in education?  
25 Isn't it interesting that this argument is never

1 successfully made when the children in question are  
2 white?

3           White children in west Omaha can go all 12  
4 grades of public school without any meaningful  
5 interaction with students of color. And if there  
6 are students of color in those schools, their  
7 histories and cultures have no prevailing  
8 credibility and authority that extends past  
9 momentarily celebration of ethnic history week, day,  
10 month, you name the group, or a cultural foods day  
11 in the cafeteria or an annual entertainment  
12 assembly.

13           Whites run around worrying about -- white  
14 people don't run around worrying about any of their  
15 children missing something because they didn't have  
16 black people in their lives during their formative  
17 years. Since when?

18           One of the biggest reasons America  
19 struggled so hard today with developing a true  
20 diversity mentality, especially in today's changing  
21 flat world, as outlined so vividly by Thomas L.  
22 Friedman in his best seller, The World is Flat: A  
23 Brief History of the Twenty-First Century, is that  
24 Caucasians have consistently failed to embrace and  
25 empower the very cultures that have been in America

1 the longest and done the most for white progress in  
2 this nation: African Americans, Native Americans  
3 and Hispanic people.

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

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

12 Black slaves created the first public  
13 education system for school children in the south  
14 after the Civil War. Are you saying poor white  
15 people didn't send their kids to those schools? Of  
16 course they did. But unfortunately for black people  
17 and those racially misunderstanding whites, the  
18 federal government sold out that great opportunity  
19 to uplift all of America. The racist state's  
20 rightists took over.

21 But we had done it. The cat was out of  
22 the bag. We showed how everybody benefits when  
23 black people get some leeway to develop our own  
24 community and creativity. We included everybody.  
25 We have never shut anybody out of our

1 progressiveness.

2 Today, there are thousands of white kids  
3 dropping out of the American education system every  
4 year and they are doing it without any help  
5 whatsoever from African Americans. Maybe some of  
6 these kids, too, need a fresh perspective LB 1024  
7 could bring to public school education in Omaha.

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

15 And I put at the end of my prepared  
16 statement:

17 In closing, there is so much more to be  
18 addressed, as we had this morning and we will this  
19 afternoon. LB 1024 is not trying to save the entire  
20 public school education for the entire African  
21 American people in the United States.

22 There was an excellent automobile  
23 transmission repair shop in Omaha called, All-Car  
24 Transmission. They had a unique marketing  
25 promotion. They'd say, "We're not nationwide, but

1 we're one of the best in Omaha."

2           That's what LB 1024 is. If it succeeds,  
3 then maybe, just maybe, somehow tiny little Omaha  
4 may have uncovered a Rosetta Stone for how common  
5 community people can take back the education of  
6 their children and change the course of so many  
7 thousands of black children, especially boys, who  
8 really only have a prison cell waiting for them at  
9 the end of their failed trial by education.

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

13           We've bet the lives of our children for 52  
14 years on everything the white race has foisted upon  
15 us in the name of public school education. And what  
16 do we have to show for it in 2006? Isn't it time  
17 that just this once we try it ourselves?

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

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

24           She's also chaired the Governor's Task  
25 Force on Excellence in Education in 1983 and was

1 Western Regional President of the National Caucus of  
2 Black School Board Members. In 1993 she was elected  
3 to the Omaha City Council and has also been in  
4 private practice with a number of the state's  
5 leading law firms and is also on the Board of  
6 Directors of the Urban League of Nebraska.

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

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

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

23 I appear here this afternoon in opposition  
24 to LB 1024.

25 I regret the fact that I did not have an



1 opportunity to hear this morning's discussion. I  
2 appreciate the comments provided by my friend,  
3 Mr. Brooks, and I agree in many respects with the  
4 concerns he addresses and raises in his commentary,  
5 but I do not believe that this bill provides the  
6 means of addressing this.

7 First and foremost, I view this bill as  
8 being segretory in nature. I don't see any way that  
9 you can read Section 16 of this bill as providing  
10 and resulting in anything other than racially  
11 segregated school districts. Dividing Omaha Public  
12 Schools into three will invariably result in the  
13 creation of minority school districts.

14 And when you put it in the context of  
15 freezing the boundaries of all of the school  
16 districts and not allowing Omaha Public School  
17 District to grow, you, in fact, cement the segretory  
18 effects of this bill.

19 I've heard the discussion about, Well, the  
20 bill was designed to provide a means by which  
21 integrated efforts would be encouraged. But I think  
22 if you look closely, particularly at Section 16 of  
23 the bill, I don't know how you accomplish creating  
24 integrated educational environments. In fact, if  
25 you look at Section 16 and how it would operate, it

1 would operate, quite frankly, to dismantle the  
2 integrated efforts that have been achieved,  
3 particularly in the Omaha Public Schools,  
4 particularly with regard to the middle school and  
5 high school program.

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

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

22           It also places a tremendous burden on the  
23 receiving school districts because the receiving  
24 school district is required to provide  
25 transportation, regardless of whether or not that

1 student's attendance at that school will have any  
2 effect on the diversity of that school.

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

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

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

22           And I certainly appreciate the concern  
23 that's been expressed about local control. I -- I'm  
24 an advocate for parental involvement in the  
25 education of young people. I'm an advocate. I

1 mean, I am the benefactor of the district elections  
2 that Senator Chambers was responsible for. That's  
3 how I was elected to the Omaha Board of Education.  
4 So I appreciate that. But this bill does not  
5 provide the level of involvement that I think people  
6 have been led to believe.

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

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

22 When you look at the amount of money  
23 available and that vote -- and I think I should  
24 point out the fact that there would be two of 13  
25 votes on the Learning Community, but if you divide

1 up Omaha Public Schools into three, you would have  
2 three 15,000 student school districts.

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

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

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

24           There's no new money under this bill, no  
25 new money. So in terms of what would be the

1 resulting school districts, you would have these  
2 majority minority school districts who would have  
3 the overwhelming percentage of youngsters who would  
4 have English as a second language, an overwhelming  
5 percentage of youngsters who are on free and reduced  
6 lunch and no additional money to provide the kinds  
7 of educational resources that those young people  
8 need.

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

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

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

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

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

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

25           What we should be focusing our attention

1 on is what will it take to provide the kind of  
2 educational programs that will ensure that all of  
3 our children receive a quality education.

4 COMMISSIONER TAYLOR: Thank you.

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

13 Ms. Fey has a degree in elementary  
14 education and has also served as a substitute  
15 teacher in the Millard and Ralston school districts.

16 Thank you, and we look forward to hearing  
17 from you.

18 MS. FEY: Thank you.

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

25 As you said, I'm a professional educator



1 with a degree in elementary education. I thank you  
2 for coming today and for inviting me to speak and  
3 looking into what I feel is a violation of civil  
4 rights, as I understand them, and a dangerous  
5 situation that presents a serious injustice to the  
6 children of Omaha.

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

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

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

15 MS. FEY: Absolutely.

16 So here's the 11 school districts. That's  
17 11 in the greater Omaha Metro.

18 And until approximately 40 years ago, as  
19 Omaha grew, so did the Omaha Public Schools. City  
20 annexations were made and OPS, with very little  
21 fuss, absorbed the previously independent school  
22 districts.

23 I won't go into the history of  
24 court-ordered desegregation in the Metro, which, by  
25 the way, applied only to OPS, or the political

1 climate at the time, or white flight, but you do  
2 need to know when the City of Omaha annexed Millard  
3 in 1971 the Millard Public Schools were not taken in  
4 by OPS.

5           And there's a chart here that just shows,  
6 again you will get a copy, but the difference in the  
7 population of minorities in 1974 was approximately  
8 11,000 and in 2004 about 25,000 minority students  
9 versus the Caucasian population in 1974 was at about  
10 45,000 students versus 2004 where it had dropped to  
11 about 20,000 students. And that's consistent with  
12 what happened around the country when there was  
13 court-ordered busing, desegregation.

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

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

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

1 section.

2           Because of the large numbers of minority  
3 families and where they live, as has been stated  
4 before, I don't envision a situation where OPS could  
5 be divided into three districts in a way that  
6 doesn't create a racially identifiable district.

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

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

11           We chose our neighborhood and our  
12 children's schools for their diversity. We were  
13 aware of the academic excellence of all of the Omaha  
14 school districts, but viewing academics as something  
15 more than test scores, my husband and I chose the  
16 district that would best prepare our children for  
17 life outside of school.

18           What I found is that not all of Omaha  
19 agrees with that philosophy. We've had to speak up  
20 to defend our schools and the children who attend  
21 them.

22           My children perform just fine in school,  
23 and, honestly, they'd probably do okay wherever we'd  
24 send them. They have two college-educated parents  
25 at home, a comfortable house, and all their basic

1 needs are met. They are ready to learn when they  
2 enter the school building.

3 The same can't be said for every OPS  
4 student. In fact, many OPS students face challenges  
5 that I can hardly comprehend.

6 One out of every eight OPS students is an  
7 English language learner, and over 60 percent of OPS  
8 elementary students live in poverty.

9 As OPS parents, neighbors, community  
10 members and citizens of Omaha, we stand up for the  
11 rights of those children and work to ensure that the  
12 Omaha Public Schools are treated fairly in the  
13 Legislature, within the state's school finance  
14 formula, and by other local districts.

15 I have testified myself before the  
16 Legislature's education committee on two occasions,  
17 and my son, who is a sophomore at Omaha Central High  
18 School, has even testified against 1024, when it was  
19 still in committee, articulating something that was  
20 clear even to a teenager, that many people in Omaha  
21 want the perks of Omaha -- the city, the zoo,  
22 Memorial Park, Rosenblatt Stadium, Qwest Center  
23 across the street -- and then they want to turn  
24 their backs on the problems of the people who live  
25 and work in these areas.

1 OPS has had a place -- has had in place an  
2 integration plan that works. It is natural that  
3 parents of elementary school-aged children,  
4 particularly those in primary grades, prefer to  
5 attend their neighborhood schools. And that was  
6 something that Senator Chambers brought up, that OPS  
7 is segregated.

8 Well, in voting to approve the 1999 bond  
9 issue, parents confirmed their support of the idea  
10 that mandatory -- and mandatory busing based on race  
11 was ended. Before choosing to restructure the  
12 student assignment plan, OPS interviewed, polled,  
13 and met with parents across the district and a  
14 return to neighborhood schools was the overwhelming  
15 response. Knowing that the balance of racial and  
16 socioeconomic integration could be upset, parents  
17 chose community, convenient access and/or local  
18 control over court-mandated integration.

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

24 And so to my pie chart. Just to show you,  
25 this is Catlin Performing Arts Magnet. Without

1 magnet students, because of 21 percent of the  
2 students receive free or reduced lunch, 17 percent  
3 of them are minority. With the magnet students,  
4 41 percent are free or reduced lunch, 43 percent are  
5 minority. This is a west Omaha magnet school.

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

13 There is no way that in one morning of  
14 listening to testimony you can fully understand the  
15 ideas and the culture of a city; but I'm trying to  
16 give you a glimpse of the history and the attitudes  
17 that define Omaha. Segregationist ideologies, no  
18 matter how subtle or overt, no matter how -- no  
19 matter if they come from whites or blacks, if they  
20 are demonstrated through hate crimes or perpetuated  
21 through legal channels, are wrong, wrong for this  
22 country and its global economy, wrong for the city  
23 and its sustained growth and development, and wrong  
24 for children and their futures.

25 I want to close with a lesson I learned

1 from my 15 year old and that is that last -- he's  
2 growing up in the Omaha Public Schools in racially  
3 diverse schools.

4           We were at a Central High basketball game  
5 last year, and our whole family, and I was sitting  
6 off a little ways from some African American boy  
7 students at Central who were wearing the baggy  
8 pants, sunglasses inside, the logos, the gear. And  
9 I made a comment, just sort of under my breath, that  
10 I just hated that. I just hate the baggy pants and  
11 I hate the --

12           And my son, who has blonde hair and blue  
13 eyes, and who was at the time wearing a pink polo  
14 shirt, looked at me and said, Mom, it's their  
15 culture. Their mom is probably over there going, I  
16 hate that kid in the pink polo shirt.

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

20           COMMISSIONER TAYLOR: Please. Please,  
21 show some respect.

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

24           COMMISSIONER TAYLOR: Will you please step  
25 outside. Please, show some respect.

1 I apologize.

2 FEMALE AUDIENCE PARTICIPANT: Shame on  
3 you.

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

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

10 He -- my children have succeeded  
11 academically in OPS, and I'm grateful that their  
12 education includes seeing people for who they really  
13 are, not the clothes they wear or the color of their  
14 skin.

15 As I said before, my children will do fine  
16 in school, but it's the lessons of life that I'm  
17 afraid will suffer if OPS is divided into three  
18 racially identifiable school districts.

19 Thank you.

20 COMMISSIONER TAYLOR: Thank you.

21 Our next speaker is Carol Krejci --

22 MS. KREJCI: Krejci.

23 COMMISSIONER TAYLOR: -- Krejci who has  
24 been -- been a professional educator for 35 years,  
25 the last 20 years teaching American history and



1 government at Omaha Central High School. In August  
2 of this year, she became president of the Omaha  
3 Education Association which represents nearly 3,000  
4 professionals in the Omaha Public School system.

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

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

12 MS. KREJCI: Thank you.

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

17 As I begin, I am reminded of the first  
18 motto of the United States and adopted as part of  
19 our Great Seal in 1775. This Latin phrase E  
20 pluribus unum translated means, "From many, one" or  
21 "Out of many, one." It refers to the integration of  
22 the 13 independent colonies into one united country.  
23 But since 1776, it has taken on an additional  
24 meaning, given the pluralistic nature of modern  
25 American society.

1           Today, more than ever, American society is  
2 a diverse society made up of distinct racial,  
3 ethnic, and religious groups. If America is to  
4 survive well into the twenty-first century, it must  
5 accommodate this diversity through assimilation and  
6 the teaching of shared values. For more than 200  
7 years of our history, that assimilation has occurred  
8 in America's public schools, and so E pluribus unum  
9 could very well be the motto of the American public  
10 school system.

11           It is here, in our public schools, that  
12 our students, regardless of their national origin or  
13 their mother tongue, become true Americans with  
14 shared values and a shared sense of national  
15 purpose. Public education is the glue that binds  
16 American society together and preserves our nation  
17 as a functioning democracy.

18           We know of no research that suggests that  
19 the best way to assimilate our children into  
20 American society is to isolate them in racial or  
21 ethnic enclaves. On the contrary, as history shows,  
22 if we are to educate our children to live in a  
23 diverse society, multicultural society, this is best  
24 accomplished through integrated classrooms where  
25 students learn to respect each other, to appreciate

1 the strength of diversity, and to share the common  
2 values that bind our nation together.

3 LB 1024 seems to be a direct conflict with  
4 our public school mission, and while the ultimate  
5 consequences of LB 1024 are yet to be determined,  
6 the statutory framework leaves many questions  
7 unanswered, both for the students and teachers of  
8 the Omaha Public Schools.

9 Researchers and reviewers have  
10 investigated the ways that knowledge, attitudes, and  
11 behavior are affected by a host of issues, including  
12 school desegregation, other forms of increased  
13 intergroup contact, multicultural education,  
14 self-esteem building activities and many others.

15 For example, the use of cooperative  
16 learning as a means to improving intercultural  
17 relationships is supported by more well-designed  
18 research than any other single schooling practice.  
19 This teaching strategy involves organizing learners  
20 into culturally heterogeneous groups -- teams giving  
21 them tasks requiring group cooperation and  
22 interdependence, and structuring the activity so  
23 that the teams can experience success.

24 This technique has been shown to be an  
25 extremely powerful means of enhancing intergroup

1 relations. The research also shows that  
2 heterogeneously grouped learners experience other  
3 positive outcomes, such as increased self-esteem;  
4 improved attitudes towards school, specific classes,  
5 subject areas, and teachers; and a greater ability  
6 to appreciate the strengths that diverse people  
7 bring to a learning table. In other words, if our  
8 goal is to prepare students to live and work in a  
9 diverse society, then it is critical that our  
10 schools mirror that society.

11 We agree that it is important for students  
12 to have teachers and administrators of one's  
13 cultural group in one's school, but we also believe  
14 that it is important to expose children to a diverse  
15 teaching staff in each school.

16 Unfortunately, while our school-aged  
17 population is becoming increasingly multicultural,  
18 the teaching profession is becoming increasing  
19 monocultural. The recruitment and retention of  
20 significant numbers of ethnic minority teachers is a  
21 problem that is not unique to Omaha. In 1985,  
22 approximately 88 percent of the U.S. teaching force  
23 was white. Today that number is probably closer to  
24 95 percent. Clearly, if this trend is to be  
25 reversed, it will require a very concerted effort of

1 public school administrators and teacher training  
2 institutions.

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

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

22           Let me start with the unanswered questions  
23 of parents and students:

24           Will each of the three new districts have  
25 the same curriculum?

1 Will they provide equal opportunity?

2 If students wish to integrate themselves,  
3 will opportunities be afforded to move across new  
4 district boundary lines and attend schools in other  
5 parts of the former district?

6 Will students have equal access to centers  
7 of academic excellence, for example attendance  
8 centers that concentrate on math and science  
9 instruction?

10 If students live with extended families,  
11 will arbitrary boundary lines divide families  
12 members from family members?

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

15 And what if a current -- a student is  
16 currently attending school that is not in his home  
17 district; will he have to apply to continue there?

18 It is clear that LB 1024 has created  
19 morale problems for both parents and students. This  
20 is evidenced by the fact that both African American  
21 and Hispanic parents have filed separate lawsuits  
22 challenging the constitutionality of LB 1024.  
23 Evidently these parents, who know the special needs  
24 of their children, are not convinced that dividing  
25 OPS along racial lines into three separate districts

1 will be in the best interests of their children.

2           The list of teacher questions and concerns  
3 is even longer:

4           How will the current Omaha Public School  
5 faculty be reallocated to three new independent  
6 school districts?

7           Will the allocation be along racial lines?

8           Currently all faculty are part of a single  
9 bargaining unit with commonly determined salaries,  
10 fringe benefits, leave policies, professional growth  
11 policies, et cetera. What guarantees are there that  
12 the faculty will be treated equitably by the three  
13 new districts, each with separately elected school  
14 boards?

15           How will funding affect the negotiations  
16 within districts, both separately and collectively?

17           How will this affect teacher compensation?

18           How will it affect the number of educator  
19 jobs?

20           Will the Learning Community become one  
21 contract for all?

22           Currently OPS employees are all included  
23 in a single retirement system with pooled funds and  
24 common benefits. How will future benefits be  
25 handled and how will retirement funds be allocated

1 to the three new districts to guarantee equity?

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

4 And will this division ultimately require  
5 other districts to restructure?

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

9 Each of the 11 school districts that are  
10 to be part of the new Learning Community are to have  
11 equal representation on this board, yet the 11  
12 districts are not remotely equal in size.

13 Bennington, with 800 students, will have the same  
14 vote as Omaha, with 45,000 students. This is not  
15 proportional representation and clearly violates the  
16 principle of "one man, one vote" as established by  
17 the Supreme Court nearly 50 years ago.

18 Making this situation even more nefarious  
19 is that it is the ethnic minorities and economically  
20 disadvantaged that are being the most  
21 underrepresented in this system.

22 I want you to know that the Omaha  
23 Education Association, the Nebraska State Education  
24 Association, and the National Education Association  
25 have a long history of opposing segregation and



1 protecting the rights of teachers. No matter what  
2 direction this new law takes, we will be there on  
3 the front line of this important political,  
4 educational, and social justice issue. But more  
5 importantly, we will be where we've always been, in  
6 the classroom, looking into the bright eyes,  
7 teaching the eager minds, compassionately caring for  
8 the frightened and neglected, and celebrating the  
9 milestones of our students' success.

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

14 COMMISSIONER TAYLOR: Thank you very much.

15 Our next speaker is Professor Potuto.

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

21 PROFESSOR POTUTO: Yes.

22 COMMISSIONER TAYLOR: Welcome.

23 COMMISSIONER YAKI: Wait, wait.

24 Commissioner Taylor --

25 COMMISSIONER TAYLOR: Yes, sir.

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

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

6           COMMISSIONER TAYLOR:  That's right.

7           PROFESSOR POTUTO:  I don't want to -- my  
8 comments are probably -- probably sound somewhat  
9 disjointed because I've been editing and editing as  
10 the day has gone on, and I've heard some of the  
11 things I might have said said and probably said more  
12 eloquently than I would have said them.

13           I think, listening to everyone today and  
14 thinking about this issue over the last many months  
15 now in -- I guess in focused detail, and certainly  
16 thinking about education for my whole adult career,  
17 everybody here wants to enhance the educational  
18 opportunity and performance of students and, in this  
19 case in particular, the students in the Omaha  
20 schools, and I think everyone here wants to do it in  
21 a way that's constitutional.

22           But we differ some on the policy issues  
23 that is the best way to do it or maybe more  
24 accurately to say the best way to get a good  
25 jump-start to do it.

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

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

15 And I think part of what I heard today is  
16 really a disagreement as to how fast you can do the  
17 latter and also do the former at the same time and  
18 whether getting them up to speed and keeping them in  
19 school and performing well on what we would have  
20 called the three Rs should be the primary goal right  
21 now.

22 Now, the constitutional -- and that's what  
23 I'm here about, but, you know, the constitutional  
24 principles are not all that difficult.

25 The equal protection clause, as I know you

1 all Commissioners know and I'm sure everybody on the  
2 panel does and probably everybody in the audience  
3 knows, the equal protection clause requires a  
4 purpose to discriminate, an effect to discriminate,  
5 and a state actor. And that with regard to the old  
6 notion of separate but equal, the context out of  
7 which that -- well, the context from which that --  
8 that notion came was one in which the reason for the  
9 separate was not to try to enhance educational goals  
10 or performance of underperforming kids or minorities  
11 but it came out of white supremacist notions that the  
12 white majority should not be interacting with  
13 minorities.

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

19 It makes it a little difficult -- and I  
20 think that's why at least from my perspective some  
21 of what I heard came from so many different  
22 directions. It's pretty hard to take a paradigm  
23 that says separate but equal is abhorrent because of  
24 why we have separateness and try to place it in a  
25 context in which those advocating the separateness,

1 assuming that the result of the -- of the statute in  
2 operation would be three very racially distinct  
3 districts, to try to put it in a context in which  
4 the reason for doing it is so different.

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

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

22           If Senator Bourne is correct, then I think  
23 he is also correct that the statute would be  
24 unconstitutional. If Senator Chambers is correct in  
25 describing the way the system will, in fact,

1 operate, I still think there's a very good chance  
2 under the way that current -- the court has dealt  
3 with racial districting or segregation, at least in  
4 the schools, I still think there's a very good  
5 chance it will be unconstitutional.

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

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

19 And I, frankly, don't see how it wouldn't  
20 come up. I've heard the discussion earlier today  
21 about how the -- how the distribution of resources  
22 would be made, and if there is a differential -- if  
23 there are differential resources in the districts,  
24 that will show in differences in terms of what the  
25 schools and the districts are able to do. I think

1 what may come out of this is continuing litigation,  
2 which I guess given that I teach in the law school  
3 will keep our people very happy, but I doubt it's  
4 going to keep anybody else very happy.

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

9 COMMISSIONER TAYLOR: Thank you very much.

10 We will now hear from Dr. Everett Reynolds  
11 who is immediate past president of the Omaha NAACP  
12 and is also the paster of the United Methodist  
13 Church here in Omaha.

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

16 REV. REYNOLDS: Thank you, Mr. Taylor.

17 Yes, let me affirm that I am a United  
18 Methodist pastor with over 55 years serving the  
19 church and people. And I'll read, under the Matthew  
20 25:40, Inasmuch as ye have done it unto one of the  
21 least of these my brethren, (inaudible) you have  
22 done it unto me.

23 I should say that I've been looking for a  
24 lady, but I don't see any ladies on the Commission  
25 and so my heart is a little bit low, but that's -- I

1 know you've got some up there, but they didn't show  
2 up and so --

3 COMMISSIONER TAYLOR: They had family  
4 obligations. They are active on the Commission,  
5 very active.

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

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

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

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

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



1           We all know that at one time in America it  
2 was against the law for slaves, black people, to  
3 learn or to be taught to read and write. The  
4 struggle for equality and justice began when the  
5 first slaves were brought to America in 1619 and  
6 continues even as we speak.

7           Booker T. Washington, the first Negro to  
8 receive an honorary degree from Harvard University,  
9 is quoted as having said, The condition of Negroes  
10 is deplorable but needing change from within. The  
11 change should be gradual and its wakes should not  
12 disturb the rest of American society.

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

18           It took 58 years, 1869 (sic) to 1954, from  
19 Plessy versus Ferguson to Brown versus Board of  
20 Education, and now it's 52 years, '55 to '06, from  
21 Brown versus Board of Education to LB 1024. Over  
22 100 years and still we're talking about yesterday's  
23 issues.

24           One moment of change in American education  
25 came when Homer Plessy stood up for what he believed

1 and the court ruled in 186- -- 1996 (sic), Plessy  
2 versus Ferguson, that segregation could be practiced  
3 if the facilities were separate but equal. Really,  
4 everybody knew even then what that really meant:  
5 Separate and unequal.

6           It was not until 1955 that Brown versus  
7 Board of Education declared that separate but equal  
8 was inherently unequal and violated the Constitution  
9 of the United States of America. That was in 1955.

10           Let me ask: Which one of us would go out  
11 today and buy an 1896 automobile? You would say,  
12 You've got to be joking. Well, what about buying a  
13 1955 automobile? And, again, you would say that we  
14 must be joking.

15           The 2006 automobile comes from a factory  
16 equipped with air conditioning, heat, cassette and  
17 DVD player, OnStar tracking, an alarm system, new  
18 suspension, on and on. And make -- and ours -- and  
19 as we stand -- and as standard equipment on most.  
20 We buy these modern automobiles and expect such  
21 features, look for such features, demand such  
22 features when they come from the factory.

23           Ladies and gentlemen -- (inaudible) going  
24 to be here -- everything has changed. The way we  
25 fight wars has changed, health and medical

1 technology has changed, and lastly, computers have  
2 changed the world.

3 I come before you today to let you know,  
4 and to declare, that quality education, 'quality  
5 integrated education must be the order of the day in  
6 2006 and forward into the future.

7 Quality integrated education and nothing  
8 less.

9 Integrated education was good back then,  
10 for it was the stepping stone to quality education.  
11 Plessy versus Ferguson was good in its day; it was a  
12 stepping stone to Brown versus Board of Education.  
13 When I talk to legal minds here in Omaha, Nebraska,  
14 they tell me that Brown versus Board of Education  
15 was not about ending -- was about integration and  
16 not, I repeat, and not quality education.

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

22 As president of the Omaha branch NAACP, I  
23 was called to many schools. Let me share a few  
24 experiences.

25 I remember when I was called to assist a

1 black family where the son had been suspended from  
2 school for kicking a student. The young man was  
3 wearing white tennis shoes and socks, white pants  
4 and shirt. The young man who was kicked was white  
5 Caucasian, kicked in the face. There was blood on  
6 the floor and on the steps and the hallway, but no  
7 blood anywhere on the young black student. With  
8 white shoes, socks and pants, he had no blood on him  
9 at all, and yet, he was suspended for kicking the  
10 white student in the face.

11 Or take the case of the teacher who  
12 grabbed a young black girl by the arm so hard that  
13 her nails broke the skin, and when the young black  
14 girl pushed the teacher away, she was -- because she  
15 was hurting her, the girl was suspended.

16 You might ask, What was the girl doing?  
17 It was reported that she and two of her friends were  
18 making too much noise going down the hall.

19 Also, consider the case of the teacher who  
20 held a picture of an ape next to a little girl's  
21 face and told her that she looked just like the  
22 picture. And finally, there's a school that sold  
23 slaves as a money-making project.

24 No, no EA support, (inaudible), they  
25 cannot help.

1 Integrated education is not the end of the  
2 journey. Integration is not the end of the  
3 journey. It's another jumping-off point on the  
4 journey to a quality education, integrated quality  
5 education.

6 COMMISSIONER TAYLOR: Thank you,  
7 Dr. Reynolds, and we're going to have some time to  
8 hear more from you in a moment.

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

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

13 COMMISSIONER TAYLOR: All right. Thank  
14 you.

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

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

25 COMMISSIONER TAYLOR: All right.

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

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

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

16 I might add, first of all, upfront, that I  
17 do support Ernie Chambers and the efforts that he's  
18 undertaken to give us in urban Omaha more local  
19 support -- local control, rather, over the schools  
20 where so many of our children go to school,  
21 struggle, and try to achieve higher education. So  
22 he has my support 100 percent. And I say that  
23 upfront because I know the person who would have  
24 been here ordinarily, who as I understand it had  
25 been invited, to speak on behalf of the Hispanic

1 community could not attend or did not -- did not  
2 attend because her agency is involved in one of the  
3 lawsuits.

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

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

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

21           I am not an elected official. However,  
22 everything that I stand for, everything that I write  
23 in my publication, things that I advocate for the  
24 Hispanic community have to have a sense of  
25 credibility, have to have some sense of validity,

1 otherwise neither my Mexican American community nor  
2 the Hispanic immigrant community would allow me the  
3 privilege of remaining, living, working and earning  
4 a living off of them, which is what I do. I am  
5 given the privilege of making a living off of the  
6 blood and sweat, hard work of the Latino community.  
7 So for that, I am truly privileged to be here today.

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

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

24 Many of them are unfamiliar with the  
25 system, with the process, the very issues that we're



1 laying on the table this afternoon.

2           If you were to ask almost any Latino  
3 immigrant in south Omaha what are the complexity of  
4 issues that are embedded in this particular  
5 legislation, what does busing mean to you, what does  
6 immigration mean to you, what does assimilation mean  
7 to you, I'm speculating but I would guess that the  
8 majority would know very little of the social and  
9 legal consequences that flow from these issues.

10           This is one of the complexities of having  
11 to deal with these two types of separate yet  
12 distinctly unified communities that I represent here  
13 today.

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

19           In my own family when I go to visit my  
20 mother on weekends and have dinner with her on  
21 Sunday, our kitchen looks like a small mini United  
22 Nations, literally. We have African Americans in my  
23 family, we have Japanese Americans in my family,  
24 white Americans, and, obviously, Native Americans  
25 and Latinos, us being primarily mestizos.

1           In fact, when a white person has married  
2 into our family, 99 percent of the time their  
3 children do not become more white people, they  
4 become Latinos.

5           There are some things that unify us,  
6 however, and I've heard earlier someone making a  
7 comment about shared values. In the Latino  
8 community, we have shared values. And since I have  
9 been on this earth for a little over 60 years,  
10 sometimes the shared values that we Latinos have  
11 seem to be in conflict with the shared values that  
12 so-called Americans have, white Americans.

13           So I'm coming from an angle of these  
14 complexities, these layers, these bits of  
15 assimilation, the myth of integration in our  
16 community.

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

24           I'm unique, to some degree, in that  
25 regard. I'm more willing to lay out my feelings on

1 the table. A lot of Latinos aren't. Again, a  
2 reflection of who is and who isn't here today.

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

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

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

22 Someone also mentioned, I think it was the  
23 professor, made reference to the advocacy of  
24 separateness and I'm not so sure that that's  
25 accurate. I don't think anyone here who in support

1 of this legislation advocates separateness. I think  
2 what it is, rather, is that there is a growing  
3 realization that forced integration ain't always the  
4 best thing.

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

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

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

1 Thank you for your time.

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

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

9 I'll begin with Commissioner Yaki.

10 COMMISSIONER YAKI: Nothing right now.

11 COMMISSIONER TAYLOR: Nothing right now?  
12 Commissioner Melendez.

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

15 Before LB 1024, was the voluntary  
16 integration program working? From anybody.

17 MS. KREJCI: I believe so. Especially  
18 at the middle school and high school level. We  
19 have -- you know, at OPS, any student in the city  
20 can choose any high school in the city, and almost  
21 every school is more diverse than the neighborhoods  
22 that they exist in. And I teach just up the street  
23 at Central High School which is probably the oldest  
24 high school in Nebraska, probably the largest and  
25 probably the most diverse.

1 COMMISSIONER MELENDEZ: Anybody else?

2 MS. COUNCIL: Yeah, Commissioner

3 Melendez, I concur.

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

10 But even at the elementary school level,  
11 the school district's student assignment plan allows  
12 youngsters at the elementary school level to attend  
13 magnet elementary schools. You see it working, and  
14 I think Ms. Fey had an example of one of the magnet  
15 elementary schools, if not for the magnet program  
16 there, what the racial composition would be.

17 And at the middle schools and the senior  
18 highs, again, where parents are more inclined to  
19 give their children more freedom, their concerns  
20 begin to diminish about the distance to school, you  
21 see the student assignment plan in OPS working in  
22 terms of providing diverse educational environments  
23 at the middle school and high school level.

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

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

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

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

22           One of the things that -- that I'm  
23 particularly encouraged by is that OPS in the last  
24 several years has undertaken to establish bilingual  
25 programs across the spectrum of primarily schools in

1 the elementary level, and this approach, I think, is  
2 doing wonderful things in the Hispanic community  
3 because it gives the children a sense of self-worth.

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

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

24           And I think that potentially that when  
25 you're talking about emphasizing the benefits that



1 people of color bring to this society, instead of  
2 trying to force us into a box and allow us and our  
3 families to bring our culture and our -- I'll call  
4 it shared values to this society. Many of us will  
5 tell you that we revere our values, those from our  
6 ancestors and those who came before us, because we  
7 think that they are special values that we never  
8 want to lose, and we're quite willing to share those  
9 with white America if they will allow us.

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

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

17 MR. SALAZAR: No.

18 COMMISSIONER YAKI: Because what you're  
19 talking about is the establishment of schools  
20 bilingual from which -- which I presume would serve  
21 the mostly Hispanic population within the third  
22 district in south Omaha, but as I've heard from  
23 testimony from several people already here today,  
24 the bill -- the criteria for transferring into that  
25 district and, therefore, to avail themselves of that

1 program is severely constrained by the way 1024 is  
2 currently written.

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

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

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

18 MS. FEY: If I may, the way the magnet  
19 school -- the way the magnet program works in OPS  
20 right now, you have a magnet school in a certain  
21 part of town that can -- that draws from that  
22 neighborhood. If you are in the attendance area of  
23 the magnet school, you are guaranteed a spot in that  
24 school. Additional spots in that school are on a  
25 first come, first serve or, if you're over capacity

1 with the first come, first serve, on a lottery basis  
2 based on where you live in another zone in the  
3 district so that that intent is that' if the magnet  
4 school is here, the zone it draws from maybe is over  
5 here so that you have intentional voluntary --

6 COMMISSIONER YAKI: Right.

7 MS. FEY: -- desegregation. And that  
8 1024, even with its focus schools piece, doesn't  
9 provide -- there's no such language in there to  
10 provide for that type of incentive.

11 COMMISSIONER TAYLOR: Dr. Reynolds.

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

20 MS. COUNCIL: Well, if I can comment on  
21 that, under 1024, each school gets to establish  
22 their capacity, and it has not been pointed out and  
23 I haven't found who has the opportunity to challenge  
24 those capacity determinations, but if a particular  
25 school wished to prevent people from outside of that

1 school's attendance area from attending and  
2 facilitating integration, they could do so by  
3 setting their capacities at so low of a level that  
4 they couldn't accept any other students.

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

9 Do you have a philosophical opposition to  
10 1024 as a vehicle in addition to the mechanical  
11 opposition you have, with the opposition to the  
12 mechanics you have raised here, or is it limited to  
13 the mechanical operation of 1024?

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

20 But, in addition, in terms of addressing  
21 some of the concerns of others who are supportive of  
22 the legislation for various reasons, it's just  
23 trying to direct your attention to the fact that  
24 while there may be appearances that the legislation  
25 can address particular issues to their satisfaction,

1 it's not there. And in particular, the funding, you  
2 know, the resource.

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

12 If you tell me that I have control over  
13 \$10 and I will always have control over \$10, I'm  
14 still going to be challenged on how I'm going to  
15 utilize that \$10 to address the needs of the  
16 children in the district and -- the needs of the  
17 children in the district. And there's enough data  
18 that establishes that meeting the needs of special  
19 needs students requires greater resources.

20 COMMISSIONER TAYLOR: Uh-huh.

21 MS. COUNCIL: There's nothing in this  
22 legislation that provides or assures that there are  
23 greater resources directed to those districts.

24 COMMISSIONER TAYLOR: Let me -- let me try  
25 to break this out, if I may, for one moment. I have

1 heard and read a good bit of material before this  
2 briefing and have found, in my mind at least, that  
3 the opposition to 1024 falls into three general  
4 categories: First, the mechanical; the second is  
5 pointing back to Brown v. Board; and the third is  
6 more of a global philosophical opposition.

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

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

18           COMMISSIONER TAYLOR: Okay.

19           MS. COUNCIL: -- because it also goes --  
20 and this is where the lines get blurred because so  
21 many characterize what I'm getting ready to say as  
22 mechanical. But, you know, I'm happy to go on  
23 record and I've been on record in supporting the  
24 "one city, one school district" concept. And under  
25 1024, 1024 freezes the boundaries --

1 COMMISSIONER TAYLOR: Uh-huh.

2 MS. COUNCIL: -- of the school districts.

3 So if you have -- take Omaha Public Schools and  
4 carve it into three, those districts boundaries are  
5 going to be frozen like that.

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

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

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

1           So I guess if you -- if -- the longer  
2 answer to the short question, mechanically,  
3 philosophically, constitutionally, I'm opposed to  
4 1024. What I'm in favor of is legislation that is  
5 designed to provide the kinds of resources and the  
6 kinds of controls on those resources that ensure  
7 that our children receive a quality education.  
8 That's why I said (inaudible).

9           COMMISSIONER TAYLOR: Thank you.

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

13          The arguments continue to be were it for  
14 1024 we are just going to be slipping so much  
15 further. There doesn't seem to be much disagreement  
16 that we are behind, minority children in particular,  
17 African American. We seem to agree that there's a  
18 lot of disparities in this city. The references to  
19 integration this morning, the very vociferous, you  
20 know, back and forth about integration providing  
21 quality education or not.

22          It seems to me, historically since 1954,  
23 the number one focus on integration has always been  
24 about the minority people having to kind of go  
25 towards the Caucasian community, Caucasian power,



1 Caucasian education, the whole one Omaha, one school  
2 system, that I don't know how familiar you are with  
3 that, that created this fire storm a summer ago.  
4 The suburbans -- the suburban schools don't want to  
5 be a part of the Omaha Public School system. And  
6 whether that would have essentially evolved into a  
7 big legal battle and court battle like 1024 is now  
8 set to be taken into court, we don't know.

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

17 As far as your question about whether it's  
18 mechanical, philosophical or constitutional, well,  
19 certainly the courts are going to -- will be the  
20 decisive factor as to whether or not this bill is  
21 constitutional. As I have said consistently, I have  
22 not known Senator Chambers yet to introduce  
23 something that is unconstitutional. He is a fighter  
24 for the U.S. Constitution.

25 On the other hand, he's a realist, and

1 when I hear the head of the teachers association  
2 talk about the Bill of Rights and the Declaration of  
3 Independence, you know, I just remind her that, you  
4 know, when I look back at the history books, African  
5 Americans weren't included in that, Native Americans  
6 were not included in that, Hispanic Americans were  
7 not included in that, or women. And all of these  
8 entities have had to spend the last 30, 50 years  
9 fighting for inclusion. It has never been granted,  
10 it has never come easy. And if we're going to throw  
11 this --

12           Just, okay, let's just drop it, let's drop  
13 1024 right now, status quo, status quo. Where is  
14 the Omaha Public School system? We've got majority  
15 minority children, majority Caucasian teachers; we  
16 still have that clash. Yes, there are good  
17 programs, there are some programs, we've mentioned  
18 this morning, Brenda has mentioned it, the African  
19 American Achievement program is a good program. But  
20 it's a program. We are still fighting for programs.

21           Now, forgive me, but a program is an  
22 adjunct. It's not -- it's not a fundamentally  
23 reshuffling of the deck. It's maybe we're going to  
24 add a couple of cards. It doesn't mean that it's  
25 not a good thing, but it means we're still

1 consistently dealing with not fundamentally altering  
2 the relationship between these communities and the  
3 school system. And until that has been tested and  
4 battle tested, we will just have to wait to go into  
5 court, as Senator Chambers said, and let it shake  
6 out there.

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

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

23           Now, all of the mechanics, and as Brenda  
24 has laid out -- I never want to have to go to court  
25 and go up against her in the court of law. She

1 knows that. But my point is if we're going to put  
2 it down because we can't answer all of those  
3 questions right now, then let's let this thing play  
4 out, let's let it go to court. But somebody is --

5 COMMISSIONER YAKI: Mr. Brooks --

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

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

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

25 We sat there talking with her about, you

1 know, our daughter and asking her questions and so  
2 forth, and she made at least three to four  
3 references. Now, here's the thing. That school,  
4 her class started with a substitute who was a,  
5 actually, African American retiree who has continued  
6 to do substitute work just to stay active.

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

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

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

25 Now the teacher that is there and is going

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

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

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

20           So what is my point? My point is that  
21 LB 1024, from where we look at it, is designed to  
22 try to reinvigorate the community to get back in.  
23 It's not -- it's not just all of the mechanics and  
24 where is the money going to come from and how are  
25 the teacher contracts going to be and all of that.

1 Senator Chambers said this morning to a lot of  
2 persons he could care less on those kinds of issues.

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

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

24           And 1024 is saying if the magnet school is  
25 so good, then maybe -- maybe is there a possibility

1 that we can turn the whole thing or at least this --  
2 these group of schools into that level of quality,  
3 not just one to draw, and that's really what I'm  
4 looking at.

5 That old saying -- what's the joke about  
6 the recorder boxes in the airplanes, you know, no  
7 matter what happens when they crash, those things  
8 are always intact, why don't you make the whole  
9 plane out of those things? You know, people say it.  
10 Of course we know technologically that's not  
11 possible, but, again, that's where we're at, and I  
12 don't want that lost.

13 And I know that this other lady over here,  
14 excuse me, Marian Fey, is great. There are  
15 Caucasians that are really going out of their way to  
16 relate, to diversify, but it's not a mass movement.  
17 And I'm not willing to bet the next generation of  
18 black children on how many more Marian Fey -- excuse  
19 me, Brenda -- on how many more Marian Feys there are  
20 out there. There are not that many.

21 It was mentioned that when Omaha  
22 incorporated Millard schools, the Millard district,  
23 the school system didn't come in. I don't know why.  
24 I'm going to find out why they didn't take the  
25 school system when they -- when they annexed the



1 area, the suburb. But I know last summer when they  
2 went back to say one school -- one Omaha, one school  
3 system, Millard was front and center, We don't want  
4 anything to do with Omaha.

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

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

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

22           COMMISSIONER TAYLOR: Mr. Brooks --

23           MR. BROOKS: (Inaudible.)

24           COMMISSIONER YAKI: Mr. Brooks, I mean,  
25 everything -- I don't disagree with a word that

1 you've said; I don't disagree, as I said before, to  
2 Senator Chambers; I don't disagree with anything,  
3 any of the sentiments on the line with what you're  
4 talking about, about how as a nation we haven't done  
5 enough to close or, I should say, open the minds of  
6 people to the potentialities of all people of all  
7 races of all colors and creeds.

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

22           Now, how in the name of everything with  
23 Baker versus Carr and Reynolds versus Sims and  
24 everything that we've talked about in terms of one  
25 person, one vote is that the kind of equity that you

1 would want to support? Why should -- why should a  
2 school districts with 12- to 20,000 kids have to --  
3 have the same vote as one with 700 kids? The same  
4 kind of control over the money, the same kind of  
5 control over curriculum, the same kind of control  
6 over -- over resources or allocation of the tax  
7 rolls? How does that say to you that is an  
8 equitable way to take control of the destiny that I  
9 believe should be done but may not be done in this  
10 way?

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

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

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

24           COMMISSIONER YAKI: Actually, that gets  
25 done at the Security Council every day,

1 Mr. Brooks --

2 MR. BROOKS: Yeah, okay.

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

6 MR. BROOKS: No, no.

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

10 MR. BROOKS: May I answer your question?

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

13 MR. BROOKS: No, no, no, no.

14 COMMISSIONER YAKI: I mean --

15 MR. BROOKS: I'm not going off.

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

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

23 COMMISSIONER YAKI: I don't think you  
24 should.

25 MR. BROOKS: No.

1 COMMISSIONER YAKI: I don't think you  
2 should.

3 MR. BROOKS: No.

4 COMMISSIONER YAKI: I never said -- I  
5 never said you -- I never said you should --

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

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

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

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

15 MR. BROOKS: No.

16 COMMISSIONER YAKI: -- why should -- why  
17 should the end of 1024 be the status quo?

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

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

1 MS. COUNCIL: May I interject.

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

4 I'm not suggesting that the world is all  
5 right with status quo. I would -- I would challenge  
6 Mr. Brooks to point to me in 1024 -- he made a  
7 statement that this would fundamentally alter a  
8 situation that he described with the situation with  
9 his youngster at Lothrop. Point to me in this bill  
10 where there would be a fundamental alteration,  
11 point to me where it mandates that every school will  
12 have veteran teachers, point to me where it mandates  
13 that there will be diversity or, for that matter,  
14 that the staff will be one-to-one reflective of the  
15 children.

16 COMMISSIONER YAKI: Well, as I --

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

20 COMMISSIONER YAKI: And that --

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

23 COMMISSIONER YAKI: The point -- the point  
24 I was trying to make is that -- and has been made by  
25 other speakers in other -- in other situations here

1 is that, for example, there aren't enough African  
2 American teachers right now --

3 MR. BROOKS: That's right.

4 COMMISSIONER YAKI: (Inaudible.)

5 MR. BROOKS: That's right.

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

14 MR. BROOKS: Okay.

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

1 we can go into that kind of -- that kind of --

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

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

9 COMMISSIONER YAKI: I'm not --

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

12 COMMISSIONER YAKI: I'm not -- I'm not --  
13 (Inaudible.)

14 MS. COUNCIL: And you're not --

15 MR. SALAZAR: And let me finish. Let me  
16 finish.

17 MS. COUNCIL: And you're not going to  
18 mischaracterize me either.

19 MR. SALAZAR: What I would like to say,  
20 though, is I think -- first of all, I agree with  
21 Mr. Brooks that his -- first of all, his message,  
22 the one he just spoke to, was the most poignant one  
23 that I've heard all day, the most profound statement  
24 that he's made all day because it's a philosophical  
25 approach that's he's taking. And most of us -- and



1 many of us agree with that philosophy. There's a  
2 frustration level, not just here in Omaha, Nebraska,  
3 but across this country.

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

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

16 COMMISSIONER YAKI: So the philosophy of  
17 separate but equal is okay; is that what you said?

18 MR. SALAZAR: You know, in some minds that  
19 may be the case.

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

22 MR. SALAZAR: And we may disagree.

23 COMMISSIONER YAKI: 100 percent wrong.

24 MR. SALAZAR: We may disagree.

25 COMMISSIONER YAKI: That's where we

1 disagree.

2 MR. SALAZAR: I think I just --

3 COMMISSIONER TAYLOR: Dr. Reynolds.

4 REV. REYNOLDS: I didn't get a chance to  
5 finish my statement. I can do that in a brief -- a  
6 brief statement.

7 One, we cannot be satisfied with what we  
8 have now, not only for Omaha but for America. How  
9 many cities have you witnessed where the African  
10 Americans are two, three grade levels behind? And  
11 after we listen to that, we become satisfied with  
12 that. That's the concept of integration, that's  
13 what it brought about.

14 We're saying a radical change, a radical  
15 change. How many of us are willing to step out and  
16 be radical about what it is we are trying to do, not  
17 get along with the system because the system will  
18 say, Look, don't rock the boat. That's why I  
19 introduced the thing about the gradualism. There  
20 needs to be change, but it's like but don't upset  
21 the apple cart. There has got to be an upsetting of  
22 the apple cart. There has got to be a change.

23 When you talk about the funding, how much  
24 of the funds -- we haven't even talked about special  
25 ed. What happens if, in fact, the west schools are

1 reduced, they don't get any special money at all.  
2 It all comes into the other schools. Another piece  
3 of radical change. There has got to be a radical  
4 change. And that's what happened, when I started  
5 off with the Plessy, Ferguson, versus Board of  
6 Education. That was unheard of to grant a separate  
7 but equal. That was a big step for America.

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

10 I'm saying it's time for another form to  
11 be clear-cut integration that says quality education  
12 must be a part of it, not a program as some have  
13 said. We think about the African Achievement  
14 Council and the (inaudible) council. Go back and  
15 read the history of that. See how it's changed.  
16 Well, if that can change and now be a positive  
17 thing, why, then, are we saying this bill will not  
18 work?

19 I am not a lawyer, I'm not professed to be  
20 one, I'm not trying to be one. I'm trying to be a  
21 preacher. A preacher says that we must raise the  
22 highest moral level, and that level say if you know  
23 that you've got black students who are failing  
24 within the system and, yet, we approve of the  
25 system, somebody has got to do something. And I'm

1 saying that to do something, it must be a radical  
2 change.

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

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

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

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

25 Now, I'm just saying that the time has

1 come for us to make a radical change. If LB 24 as  
2 amended and signed by the governor says we must now  
3 recognize that there needs to be a different format  
4 that is going to guarantee integrated quality  
5 education, if there are some things in that bill  
6 need to be changed, granted, change them, but let's  
7 not keep the same system where we know that  
8 according to the World Herald in just this past week  
9 we have got the test scores. All (inaudible) said  
10 yup, the same old, same old. This says a radical  
11 change must take place.

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

15 COMMISSIONER YAKI: No, I don't.

16 COMMISSIONER TAYLOR: Professor Potuto,  
17 you had something to say.

18 PROFESSOR POTUTO: Yeah, and I regret that  
19 I'm going to move to incrementalism, but I did want  
20 to at least respond.

21 I said I don't think we're doing paradigm,  
22 that the -- that the -- that LB 1024 will be found  
23 constitutional and I think that's true, but I will  
24 also say that to the extent that I'm wrong and that  
25 the program is found constitutional in theory, then

1 I do think some of the issues about, you know,  
2 there's not enough funding, that quality of the  
3 teachers isn't as good in this district as compared  
4 to that district will be taken care of.' It's going  
5 to be taken care of in court, but it will be taken  
6 care of because then the issue as to equal in fact  
7 will be on the table.

8           COMMISSIONER TAYLOR: I want to make one  
9 quick statement about that point and that's why I  
10 was trying to break this down in my mind, at least,  
11 as I hear discussion unfolding to three separate  
12 parts, because if you are opposed to a new radical  
13 structure, as proposed by 1024, that I can get my  
14 mind around, but if the opposition is one of a  
15 mechanical opposition, then those are issues that,  
16 assuming the courts find it to be constitutional,  
17 you must grapple with.

18           And then I think you're getting to the  
19 real issue, that is whether or not it's worth  
20 grappling with those mechanical issues within the  
21 context of 1024, or whether there is a better road  
22 that will and can be traveled as a practical  
23 political matter. And that is a question that  
24 while -- only you all here in Omaha and the State of  
25 Nebraska can and will address.

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

9 But at bottom, I'm going to -- what I want  
10 to reflect is the frustration on the lack of control  
11 that folks sense in terms of controlling ones own  
12 destiny; that should be a concern to everyone  
13 because if you don't sense you're in control of your  
14 own destiny, you're simply -- you're not going to be  
15 empowered, I don't care who you are. So those are  
16 the issues I hope can be addressed before folks  
17 start arguing within the confines of some structure,  
18 whether 1024 or not.

19 Do we have any other questions?

20 Commissioner Melendez?

21 COMMISSIONER MELENDEZ: Just a comment. I  
22 think many times when you have diverse opinions,  
23 even within a minority community itself, even the  
24 African American community, I think that with the  
25 bill itself I think you want to, hopefully, build in

1 as many options as you can for people to opt into  
2 it, but I'm not sure, it seemed to me that with this  
3 new bill even the -- even the integration or  
4 whatever those difference -- attending different  
5 schools seem to be closing.

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

15           Thank you.

16           COMMISSIONER TAYLOR: Commissioner Yaki.

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

25           I want to say one thing, though, and that



1 is -- and it goes to the point I was trying to make  
2 to Mr. Brooks. And that is I would -- I would hate  
3 that the fortunes of education in Omaha have to hang  
4 upon resolution of 1024 in the court system. I  
5 think that that would be, I think, a mistake by all  
6 parties.

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

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

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

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

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

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

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

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

12 I also want the public to know --

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

23 And with that --

24 COMMISSIONER YAKI: Thank you all.

25 COMMISSIONER TAYLOR: -- we'll call the

1 briefing to a close. Thank you all again.

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

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