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Education Committee
February 24, 2009

[LB392 LB534 LB597]

The Committee on Education met at 1:30 p.m. on Tuesday, February 24, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB534, LB597, and LB392. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Brad Ashford; Bill Avery; Abbie Cornett; Robert Giese; Ken Haar; and Kate Sullivan. Senators absent: None. []

SENATOR ADAMS: We're going to begin this hearing of the Education Committee. And today we're going to be hearing three bills: LB534, LB597, and LB392. And before we get started with that, I would ask that you turn your cell phones off if they aren't already off, and I'd like to introduce the members of the committee that are present. First of all, our committee clerk, Becki Collins. And I would ask that if you choose to testify in whatever capacity, that you please fill out the form and hand it to Becki, and if you're going to testify on more than one bill I'd ask you to fill the form out each time you want to testify. When you do come to the microphone, state your name and spell it for the record, so that Becki is clear about that. Next to her will be Senator Ashford from Omaha; Senator Giese from South Sioux City; Senator Cornett from Bellevue; Tammy Barry, the legal counsel for the Education Committee. I'm Greg Adams from York. Next to me, the Vice Chair, Gwen Howard from Omaha; Kate Sullivan from Cedar Rapids; Senator Bill Avery from Lincoln; Senator Ken Haar from Malcolm; and later on we'll have a research analyst here with us. We've got Sarah McCallister and Brennen Miller are our pages today, and if you have things that you want to hand out, I would ask that you give them to the pages and they will see to it that they're distributed to the committee. With that, we will begin the first hearing which is on LB534. Senator Price, you're up. []

SENATOR PRICE: Good afternoon, Senator Adams and members of the Education Committee. My name is Scott Price, P-r-i-c-e, and I represent the 3rd Legislative District. It is a pleasure to be here with you today and to introduce LB534. As you know, I was not a member of this body when it considered and passed the legislation that created the learning community. However, I have learned of a few specific issues with the law that I believe LB534 will clarify. The intent of this bill is to promote diversity, preserve local control, and apply the law uniformly across the districts. LB534 proposes to allow school districts in a learning community to assign open enrollment students to a building or a choice of buildings using the district policy for assigning resident students or option enrollment students. To ensure that districts are working toward the goal of diversity required by statute, the bill would require districts to maintain records with supporting data showing the efforts made to improve socioeconomic diversity of enrollment within the buildings in the district. Districts would be required to make such information available to the Learning Community Coordinating Council upon request within 45 days. As you know, one of the goals of the learning community is to increase diversity in schools across Douglas and Sarpy Counties. Subject to the capacity of a school, students are allowed to enroll in another school in the learning community with

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priority given to those students who enhance the socioeconomic diversity of the school. And while the goal of this requirement is laudable, it creates a situation where out-of-district students are given options that are not available to in-district students. School districts like Papillion-La Vista and Omaha Public Schools have implemented placement policies for in-district students to determine what school a student will attend based on their place of residence. In the case of Papillion-La Vista, a student who lives north of the Papio Creek attends Papillion-La Vista High School, and a student who lives south of Papio Creek attends Papillion-La Vista South. As the statute is currently written, there is some question of whether or not the placement policies for in-district students would be valid. It could be argued that students north of Papio Creek could use open enrollment as a way to attend Papillion-La Vista South or vice versa. A more realistic situation is that students and parents will question the district's placement policy when out-of-district students are given choices that in-district students are not. Next, I believe the bill will ensure that school districts across the learning community are treated equally. As I read the statute that LB534 proposes to amend, it is my impression that the zone system used by the Omaha Public Schools would be maintained. The only difference is that OPS uses the term "zone" and the other districts use the term "attendance areas." If I'm correct, OPS would maintain its system zones. I think it's only fair that other districts in the learning community be able to maintain or enact similar placement policies. Finally, I believe that LB534 would help promote diversity as intended by the learning community. By allowing school districts to offer open enrollment students the choice of building or buildings, districts can ensure that they are working toward the goal of socioeconomic diversity in the learning community across school districts and within buildings in the district. And as I stated at the beginning of my testimony, LB534 would also require districts to maintain evidence of the efforts made to improve socioeconomic diversity of enrollment within the buildings in the district. One last point and then I'll close. With regards to the requirement that districts maintain records and supporting data, the last thing I want to do is create another administrative and reporting requirement for schools. I was assured that districts already maintain this information, so this will not be a new administrative burden. My intent was to make it clear that by enacting this legislation, districts would not be allowed to skirt the diversity requirements in statute. Should the committee decide to move forward on this bill, I would like to work with you to ensure that we strike the right balance of transparency without burdening school districts. I appreciate your consideration of this bill and I would be happy to answer your questions, but I assure you the people to follow me will be able to answer the technical nature of your questions. [LB534]

SENATOR ADAMS: Thank you, Senator Price. Are there questions for the Senator? Seeing none, are you going to stay around and close? [LB534]

SENATOR PRICE: No, I'll waive. [LB534]

SENATOR ADAMS: All right. Senator Price waives closing, and we will begin with

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proponent testimony. [LB534]

STEVE COLEMAN: Senator Adams, members of the Education Committee, my name is Steve, S-t-e-v-e, Coleman, C-o-l-e-m-a-n, and I represent the Papillion-La Vista Schools. We thank Senator Price for introducing LB534 on our behalf. Many of the elements of the learning community statutes we support, believe it or not. Creating improved socioeconomic diversity is certainly--within the metropolitan area--is certainly one of those elements that we are supportive of. However, a district's requirement to show improved diversity goes beyond simply allowing students to open enroll into buildings within the learning community. We must be able to locally assist in those efforts. Under current law, open enrollment is available to all students in the learning community, with priority given to certain students. As a school district, we are required to show improved diversity, but we have no power to ensure that it occurs. We are subject to the requests of students and parents to attend particular schools which may improve diversity, or conversely may make it less diverse. This is the concern of the Papillion-La Vista Schools. Because of requests we have already received within our school district, we anticipate that the diversity among our secondary schools will actually widen if we do not maintain a local assignment plan that prevents this from happening. I would point out that LB62 that was passed earlier by the body and moved on has provisions relative to this in that bill, and it did extend allowing this to exist for one more year. Basically, with this bill, it would make that extension more permanent in nature. Our board of education recently went through a change in our internal attendance boundaries that improved the diversity in our secondary schools. Many families were extremely upset by this change. The meetings were not warm and friendly. The board, however, made this change, recognizing that this was necessary although a difficult part of their duties. When open enrollment takes effect, these families will simply open enroll their children back to their previously assigned school buildings, if capacity allows, and it would undo everything that our board of education just attempted to do in the action that they took earlier. In fact, that action, as you look at our high school attendance centers and you look at the elementaries that feed into each building, that change...prior to that change...had that change not been made, the diversity would have been 25 percent in one district, 15 percent in one building, 15 in the other. With the change, it's 22 and 18. So that diversity effort does show that it was done in the proper context. There must be a means by which locally elected boards can influence enrollment to see that diversity has improved. They can't sit back and hope that the right mix of students request enrollment into the right schools. These local boards are responsible for improved diversity but currently have no authority to see that it occurs. I thank you for your attention and your consideration to LB534. [LB534]

SENATOR ADAMS: Thank you, Steve. Are there questions of the committee? Senator Haar. [LB534]

SENATOR HAAR: Thank you. This education, for me, how is it under the current law?

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With open enrollment, can students go anywhere they want or is there somebody who's watching that? [LB534]

STEVE COLEMAN: Let me test here, Senator Haar, and make sure I'm answering the right question. Stop me quickly if I am not. There will be two provisions for students to move within districts in the state upon the enactment of the open enrollment portion of the learning community. There's option enrollment that occurs throughout the state of Nebraska between school districts, and there's open enrollment that refers to the districts that are part of the learning community. So if one learning community student from one district in the learning community wants to go to another learning community district, they would open enroll. If a district from outside of the learning community wants to come into a district in the learning community, they would option enroll. The differences are basically requirements in transportation, who's required to transport and who is not. Option enrollment students are not qualified for transportation. However, if qualifying for free and reduced, they are reimbursed. Does that answer your question? There's two different components. [LB534]

SENATOR HAAR: That's the first part of it. But then within the learning community, if a student wants to simply, let's say from OPS, wants to attend a La Vista school, can they choose that school? [LB534]

STEVE COLEMAN: Yes. Currently? [LB534]

SENATOR HAAR: Yes, currently. [LB534]

STEVE COLEMAN: Not until open enrollment comes into place. Currently, under the option enrollment where they would be coming in under the previous, they could make an application to go to a particular building but they would be assigned based on our district policies, and that's what we'd want to maintain. [LB534]

SENATOR HAAR: Okay. And when is open enrollment scheduled to start to happen? [LB534]

STEVE COLEMAN: The next school year it was scheduled to start, and so it would be the 2009-10 school year. [LB534]

SENATOR HAAR: Okay. And then when open enrollment is in place, then that student could go anywhere? Or there have to be openings, or what's the deal on that? [LB534]

STEVE COLEMAN: There has to be capacity in the building that they're requesting to attend. And then they are simply subject to the prioritization that if there's 10 seats available and there's 12 applicants for that building, the first applicants to fill that would be that of students that have siblings that are already attending that building. The next

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would be if they improve the socioeconomic diversity. And then anybody else that applies, if there is still capacity, must be admitted. [LB534]

SENATOR HAAR: Gotcha. Thank you. [LB534]

SENATOR ADAMS: Other questions? Senator Cornett. [LB534]

SENATOR CORNETT: I just...this relates to a constituent call that I had this afternoon. If, under open enrollment, you're going...you live in OPS and you want to go to Bellevue Public Schools, then the way the law is drafted now, not what Senator Price is proposing, then the student can pick the school they want to go to. [LB534]

STEVE COLEMAN: That is correct. [LB534]

SENATOR CORNETT: Okay, thank you. [LB534]

SENATOR ADAMS: Other questions? Steve, I have to ask the obvious philosophic question. When we created this environment, we were trying to create choice, we were trying to stimulate competition. And we knew that it was not just an issue of which school district is better, but we had differentiation in performance within school buildings; hence, we went with the open enrollment to allow a student at OPS or wherever to say that's the building I want to go to, if there is room, and if there isn't we have this priority that you described. So if we were to move on this legislation, tell me how this conforms with our philosophy of wanting to let students pick that building where there is performance. [LB534]

STEVE COLEMAN: And maybe, Senator Adams, there might be a philosophical difference about better buildings and how that's judged, how that's perceived. I think what our attempt here is, you heard the example in my testimony that what could actually happen internally. We're concerned about our internal diversity, as well as we are the diversity of--we have to be for our constituents--as we are of the learning community. But we are in a situation that without some local elements, practices that allow us to do some directives, we risk running out of balance within our own district. That concerns us. That scares us. We may choose eventually to do nothing and let open enrollment work without district policy because we may not have to. That would be the easiest course of action for our board. But until that happens, I think we need somebody closer to the situation to be able to throw in some elements that do not divert from what we're trying to achieve in diversity in the learning community. [LB534]

SENATOR ADAMS: Okay. Fair enough. Other questions for Steve? Thank you, sir. [LB534]

STEVE COLEMAN: Thank you. [LB534]

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SENATOR ADAMS: Next proponent. [LB534]

TRENT NOWKA: Chairman Adams and members of the Education Committee, I am Trent Nowka, T-r-e-n-t N-o-w-k-a. I am the registered lobbyist for the Elkhorn Public Schools. I got to tell you, up front, I feel like a fish out of water here a little bit, not knowing the particulars of the situation. But Dr. Breed, the superintendent of Elkhorn Schools, called me over the noonhour and was unable to make it to Lincoln for this hearing, so he asked me to come in and register his support and Elkhorn Public Schools' support of LB534. Understanding the situations of trying to develop diversity within the learning community system, we recognize that, applaud it, and want to achieve that. But Elkhorn is somewhat of a unique situation from the standpoint of our rapid enrollment growth and from the standpoint of some of the open enrollment options we think are necessary in order that we get the kids within our district, within a school space that we have because of our rapid growth and trying to meet up with that. We fully understand accepting students from outside of the Elkhorn Public School District, but want to make sure we have the option to direct somewhat from within ourselves, within our own district, to meet our own space needs. Now, like I said, I'm a fish out of water on this. That was the general comments that Dr. Breed wanted me to make on the record. So with that, I'll open up for questions or I'll...I've already shown my ignorance on the issue, but I'll go from there, Chairman Adams. [LB534]

SENATOR ADAMS: Well, you set yourself up, so. Not that this would ever happen, but hypothetically, so I have two high schools and one of them is just not a very good place to be and the other is really a class act. Now let me add, first of all, I don't believe that we would run schools that way within a district, but. And I've got a student coming from a different district within the learning community and they have an eye out on that high school that kids are performing well and they have all these activities and things are going great. And under the current plan, if there's an opening, that's where they get to go. What's to keep us from saying, yeah, but we're going to...they're outside of our district and we're going to send them to the other place. [LB534]

TRENT NOWKA: Again, the situation with regards to Elkhorn is there might be that space, but internally as a school district, we understand that space may be necessary for our own resident student or someone coming in within the Elkhorn public system. And that may not be the best excuse in the world, or rationale in the world from the standpoint of our situation, but we're trying to direct within our own to make the proper space to allow those kids to come in. And location, as well as to where our schools are located, is problematic just from the standpoint of trying to meet that diversity needs. Maybe in 15, 20 years, when we don't have to worry about constructing additional buildings and we know where our capacity is or isn't, that may be a more flexible option for us. From what I understand and that's the way Dr. Breed explained it to me--and I wish he was here so you could hear it directly from him, and I should probably ask him

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to send you an e-mail--but that's the challenge that Elkhorn has, understanding that if there's capacity, that student should be able to come in. But from our standpoint, this being a new concept and how it's going to impact particularly the Elkhorn School System, and all their enrollment growth options and making sure they have the capacity for their own students is the challenge. Putting this on top of it is...and I think as the previous testifier explained, it is a little scary. [LB534]

SENATOR ADAMS: Okay. Senator Haar. [LB534]

SENATOR HAAR: Thank you. I would think the scary part is--I'm just listening to this--would be somebody from Elkhorn that wanted to go into the Omaha Public School District, because then if OPS could decide where to go it could be almost anywhere. That would seem the scary part. [LB534]

TRENT NOWKA: That probably, and that...but that would be the question isn't to...I wish Dr. Breed was here so I apologize to all of you. [LB534]

SENATOR HAAR: Yeah, thank you. [LB534]

SENATOR ADAMS: For the record, he wishes Dr. Breed was here. (Laughter) Are there other questions? Senator Avery. [LB534]

SENATOR AVERY: One of the things that is going to make that learning community concept work is for all the 11 school districts participating in it to keep their eye on the overall objectives: closing the achievement gap, primarily. And that requires, to some extent, a de-emphasis on what's this mean for my district or my school and how can I contribute to this larger goal for the learning community. Yesterday, we sat through two hours of hearings on the common levy. And I think that there are some districts that are losing sight of the larger objective, and they're pressing their narrow interests. Do you see this as part of that? [LB534]

TRENT NOWKA: I would be lying to you if I...let me back up before I answer that. I have been representing Elkhorn for the last five years, particularly since the learning community issue and the OPS challenges arrived. At the outset, there was a great deal of parochialism within all the school districts in the Sarpy, Douglas County. And as each year has gone by, some of that parochialism has gone by the wayside. Now I'm not going to sit up here and tell you that it's not all been taken to the aside, but I've been surprised and very pleased from the standpoint of all the school districts starting to work together. There is still some insecurity. There is still some paranoia. But I think from the standpoint of what's happened so far, as...through all the bills and forcing the school districts to talk to each other. And Senator Howard and Senator Ashford remember when we...LB1024 or whatever the number was, which was so problematic and challenging, it forced the school districts finally to break down some of those barriers

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and talk to each other. They're not there where they should be, Senator Avery, but we've made a great deal of progress in the last four years of getting them to work together and to focus on that bigger goal of them working as a community educationally. And five years ago, I don't know if you could have got all those people in the same room together, just to sit in the same room, but now they're sitting there and talking to each other and they've made some tremendous progress. And there's still a great deal of progress to go, but they should be lauded for what's been accomplished so far. [LB534]

SENATOR AVERY: Well, I appreciate what you say and you're in a better position to evaluate that movement than I am. But you didn't answer my question. [LB534]

TRENT NOWKA: No. Say it again. [LB534]

SENATOR AVERY: The question is, do you see this as another example of...you know, I don't want to make a sacrifice, you know, what's in this for me? And if there's nothing in it for me, I don't want to do it. Are you really making that case? [LB534]

TRENT NOWKA: I don't think we are from the standpoint of the Elkhorn standpoint and the way Dr. Breed explained it to us. Elkhorn is going through tremendous challenges itself of having adequate space for their own kids that are coming into the district that they have there. They're kind of behind the building curve of having enough spots available for their own growth. Now you might say that's parochial from the standpoint of Elkhorn's own perspective of having seats available for their own students, and then trying to accept or willing to accept other children. It shouldn't be seen that they don't want those other children. They're just trying to make sure they have the adequate space for the kids that they have now and are planning to have come into their school district to begin with, based on where the school buildings are going to be located, particularly the elementary and middle schools. And that may be seen as parochial in nature, but it's also from the standpoint of parochial in nature of making sure that they're providing the educational needs for their particular area and what their patrons are paying for. And you may say that it may be parochial. It might be, but that's not the intentions of why Elkhorn is supporting Senator Price's bill. [LB534]

SENATOR AVERY: Yeah. I appreciate your candor. Thank you. [LB534]

SENATOR ADAMS: Are there other questions? Seeing none. [LB534]

TRENT NOWKA: Whew. All right, thanks. [LB534]

SENATOR ADAMS: Next proponent? Then we'll move on to opponent testimony. [LB534]

JOHN MACKIEL: Senator Adams and members of the Education Committee, my name

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is John Mackiel, it's M-a-c-k-i-e-l. I serve as the superintendent of the Omaha Public Schools. The learning community has two critical elements: one, the common levy that was under attack yesterday; the second, the diversity plan and that's under attack today. You recognize the gaping inequity that results from separation, and you've addressed that in the learning community statutes. However, LB534 would defeat the most critical elements of the learning community's diversity plan. While the learning community's diversity plan is not fully established, there are critical statutory pillars in place to guide it along the way. LB534 would knock down the central pillar, taking away student's choice on a school building basis, and barring the learning community diversity plan from being established on a building-by-building basis. You saw the "segregatory" effects of option enrollment in the metropolitan area and across this state. This legislative body had explicit discourse about integration, and you set in law your expectations and your goals. LB534 trumps those goals and those expectations and replaces them with a diversity plan that stops at the district boundaries. Senators, that's not a diversity plan that you envisioned. A diversity plan is one that seeks to ensure integration at each building by encouraging students who will integrate the building that they choose, based on the educational programs and opportunities that meet their individual needs. You've worked too hard and you've come too far. Hold fast to the unparalleled opportunities the learning community can offer if it isn't diluted or disassembled before it has a chance to operate. I'm going to close with a quick quote by a former Supreme Court Justice Edgerton and I quote: Education required for living in a cosmopolitan community and especially for living in a humane and a democratic country in promoting its ideals cannot be obtained on either side of a fence, end quote. The goal of diversity has to be a goal for each building. I would urge you to let the learning community operate, and I would urge you not to advance LB534 and not to allow the establishment of any fences within the learning community. Thank you. [LB534]

SENATOR ADAMS: Thank you, Dr. Mackiel. Are there questions? Yes, Senator Sullivan. [LB534]

SENATOR SULLIVAN: Thank you, Senator Adams. I think, Dr. Mackiel, I talked about the diversity yesterday, and I'm still trying to...as a new senator, new to trying to understand this learning community, can you even give me some examples of how you anticipate this attempt to integrate and have diversity play out. [LB534]

JOHN MACKIEL: Sure. Senator, if I could cite two examples, one in the Omaha Public Schools and one outside the Omaha Public Schools. If you were to attend North High School today; North is located in a racially identifiable African-American community in the city of Omaha. Today when you walk in North High School, it looks like the Omaha Public Schools. Young people from all across the school district make choices to attend. The state's only preengineering program is located at North High School. So young people who would otherwise reside in the Burke attendance area, the South attendance area, are making choices that have a natural integrative effect. Every one of our high

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schools in the school district has at its heart the movement of youngsters based on programs that are specific for integrative purposes, and I would cite that as an example. If you could imagine a school district and you'll hear, I believe, later this afternoon, that sits in the Westside Community School District and up for, I believe, the last 24 months, housed a variety of programs, some educationally related, others were community based. That school was converted into a focus school and a focus school is an established means in the learning community integrative plan. And basically, the Elkhorn Public Schools, the Omaha Public Schools, and the Westside Community School District collaborated, marketed, identified areas of the community, asked parents to consider the possibility of sending youngsters. That would be a racially identifiable school given its residential attendance pattern. If you walked into the focus school, what you would see is the Omaha community--kids from all backgrounds, all walks of life, all gifts, all needs, assembled. Over a thousand, approximately a thousand applications the first year, for 125 seats, because of a leadership program grounded in technology and communication. Parents were making choices that had at its heart an integrative intent. And so the vehicle that has been put in place in this law provides ample opportunity for school districts to collaborate. Agencies. You're going to begin to see the presence of the Med Center, you're going to see the presence of Gallup, all coming together with the intent and purpose of providing an integrated, high quality educational experience that youngsters and their families are choosing to become involved in. [LB534]

SENATOR SULLIVAN: Thank you. [LB534]

SENATOR ADAMS: Senator Howard. [LB534]

SENATOR HOWARD: Thank you, Mr. Chairman. Well, Dr. Mackiel, I appreciate you coming down here two days in a row. Makes me sorry we don't have Education Committee tomorrow; you could be back again. [LB534]

JOHN MACKIEL: I would be here, Senator Howard. [LB534]

SENATOR HOWARD: Thank you. Thank you. I just wanted to comment on how much I appreciate...as an Omaha senator, how much I appreciate your creativity and you're willing to look at what sort of focus schools we can develop from this learning community concepts to really draw the students in and make it desirable to attend a school not based on any sort of racial interest or, but based purely on what your academic interests and what you see ahead for yourself, for the future. I think that's the way that the educational system is going to have to move if it wants to be productive for our students in the future. [LB534]

JOHN MACKIEL: You bet. Thanks, Senator. I think it's a real tribute to the education community within the metropolitan area and then you add to that the good fortune of the corporations, the businesses, the industry that are so involved. And when you think

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about an ag-based economy and you think about the potential that a Valmont or a ConAgra and a presence it could have within the learning community, offering the opportunities and programs that otherwise no single school district could begin to afford to offer for its young people. But collectively, good things can happen. [LB534]

SENATOR HOWARD: Well, I think we began that when we formed partnerships with the schools and some of the businesses But this really is a collaboration of resources and ideas, and I think it's just so exciting for the future. Thank you. [LB534]

JOHN MACKIEL: Yeah, lots of opportunities. [LB534]

SENATOR ADAMS: Senator Haar. [LB534]

SENATOR HAAR: Thank you. Do you see some of the districts that maybe only have, for example, one high school right now, that those schools would become focus or magnet schools, or will OPS have most of those magnet schools? [LB534]

JOHN MACKIEL: Yeah, Senator Haar, absolutely. There are a variety of...take, for instance, the leadership focus school. In one year, that program moves from an elementary to a middle school. Those youngsters and those families who have committed to that have an expectation. Just the sheer numbers of youngsters alone would not fill a middle school. So what happens is it becomes a program within a middle school. And when you think for a moment, the programs that already exist throughout the metropolitan area, whether it's an international baccalaureate program in a Millard High School, whether it's a preengineering program within Omaha Public Schools' North High School, there are a variety of ways that that can be delivered. And it's a combination of whether it's a freestanding school as has been talked about by the Med Center, or a program, an ag-based program that could exist within a high school. So it runs a variety of approaches. The current plan, so you're well aware, is that the elementary focus school currently located in Westside, the middle school youngsters would move to the Omaha Public Schools and they would move to Elkhorn for their high school experience. In each case, you have three school districts, then, realizing the results of that integrative program and youngsters then experiencing, in this case, would amount to three school districts. So. [LB534]

SENATOR HAAR: Thank you. [LB534]

JOHN MACKIEL: You bet. [LB534]

SENATOR ADAMS: Other questions? Senator Giese. [LB534]

SENATOR GIESE: Thank you, Senator Adams. Dr. Mackiel, one of the things that we...one of the words that we continue to hear over and over again as far as the

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learning community as we go forward from today is about diversity, and I think line 2 and 3 on the bill actually deal with that, and that is to change provisions relating to diversity plans. So one of the good things is the diversity, and then this bill would, the way I see it, change that diversity plan as we go forward. So one of my questions for you are, is this an issue specific to the district that we've heard from and are there other, where are the other proponents of this? Or do you see this as a step back? [LB534]

JOHN MACKIEL: Senator, let me answer the first...the last question first, and that is I believe it's a step back. I believe that all of the tools that are needed are in the current statute. If there's a capacity issue, the law addresses capacity. Everyone understood that capacity is an issue in a growing school district, but we also need to have a conversation about the expectation that this committee and the Legislature had about marketing. Capacity at School A, what a tremendous opportunity to partner with another school district. To simply say is there a program that could exist for a period of time. My point is the tools that are needed to make the vision and the intent of the Legislature work are in place. To suggest for a moment that all of a sudden, before we get underway, let's stop the movement of youngsters at the district door and not allow a consideration of programs that may exist within a building. If a family is interested in a Montessori program and there isn't capacity in Millard, everyone recognized by way of the law there simply isn't room for that diversity plan this particular year. That should give reason for schools to collaborate and say if we have that much interest in a Montessori program, what might we do collectively to offer it in another location, to offer that program. So Senator, the point was that I honestly cannot envision the hesitancy if the school is at capacity, the school is at capacity, if in fact the youngster makes a decision to move from Point A to Point B and there's room and there's an integrative effect of that, that was the intent of the current statutes. And I do believe modification before implementation is indeed a step back. [LB534]

SENATOR GIESE: Thank you. [LB534]

SENATOR ADAMS: Other questions? Dr. Mackiel, in Senator Price's introduction he referred to OPS zones. Can you give me a little background on that. And then under the new open enrollment legislation, the zones as I understood them, they go away. Am I correct? [LB534]

JOHN MACKIEL: Senator, the zone concept, if you can imagine, was simply a convenience that took a look at transportation, took a look at the diversity. We are a very racially isolated school district. We're very racially identifiable depending on where in the city you might be addressing. The zone simply said on the west end of the city we have youngsters who do not qualify for free and reduced lunch; on the east end of the city we have youngsters who do qualify. What we're doing is establishing a choice pattern where youngsters can go east to west. And I want to stress that it works both ways. That the assumption is because we're at capacity and the reference that's been

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made to students who currently reside, it's assuming there isn't going to be an interest or there isn't going to be a program that would motivate; there isn't going to be something that a learning community could offer that impacts that capacity. Senator, your point is absolutely right. The bottom line is to provide choices for youngsters. We call them zones for convenience and transportation purposes. There are four zones, but again we have magnet school that youngsters from all across the city are involved in. Case in point, North High School. There are elementary schools that are racially, socioeconomically identifiable, where we specifically market another area of town to see if there's an interest in that area, and I would point Springlake Elementary School is a classic example. Youngsters coming from west Omaha. South High School, a classic example. Youngsters coming from west Omaha to integrate on a voluntary basis. And so again, there are no zones at the high school. There are modified zones at the middle level. There are four zones at the elementary level, but again, all for internal integrative purposes. It has no bearing on youngsters who would be interested in coming into North High School. If there is capacity, we would stand ready to receive. [LB534]

SENATOR ADAMS: Do you see...let me ask you to project for just a moment. The law is what the law is. Do you...could you potentially see down the road where the Learning Community Coordinating Council, as they develop the diversity plans and review all of this, might be the vehicle for making some adjustments...the kinds of things we're talking about here? [LB534]

JOHN MACKIEL: It is indeed, Senator, the responsibility, the communication that we all have going forward is directly to the Learning Community Coordinating Council. In my opinion, this usurps that responsibility that was intended by this Legislature, places it back at the district level. I think it's very appropriate, if in fact there is a capacity issue, we review that with the Learning Community Coordinating Council, and say it looks like the projections over the next 36 months, and therefore, that's the rationale that we're using to develop the diversity plan more immediate that doesn't include this school. And again, I believe it's the responsibility of the Learning Community Coordinating Council to weigh in on that very, very important aspect of their responsibility. [LB534]

SENATOR ADAMS: Thank you. Are there other questions for Dr. Mackiel? Thank you. [LB534]

SENATOR ADAMS: Is there other opponent testimony? What about neutral testimony then? Anyone in a neutral capacity? All right, Senator Price has chosen to waive his closing so that will end the hearing on LB534. And Senator Ashford, your timing is perfect. You're up on LB597. [LB534]

SENATOR ASHFORD: Thanks, Mr. Chairman and colleagues. I'm Brad Ashford, Legislative District 20, introducing LB597. And a little background. I hope I'm right in this history, I think I am. After, in the process of passing the learning community legislation

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and in anticipation of getting the focus school part of it as part of the bill, Elkhorn, OPS, and Westside kind of took it upon themselves to show that this could work, in effect, by developing a focus school at Underwood Hills Elementary which is in District 66. And we've talked about the success of the Underwood Hills project. But it's a grade school in the District 66 system, and it...with...and there will be some other testifiers, I'm sure, who will talk about the program there. But it's an advanced program, the longer day school days, all sorts of neat deals for kids--and I'm not supposed to say kids--young people, young students, grade school students. And when this focus school was announced to the students or the parents in the three districts, I believe there were 1,100 applicants for this focus school program at Underwood Hills, and I believe for 90, or 80 or 90 spaces. So I think it showed the...it was really...we certainly didn't tell them to do this or suggest they do this, but it became sort of a prototype of how to do a focus school before the Legislature really gave them the portfolio to do it. I think what this bill is designed to do is to allow, legislatively, by statute, allow that particular...and it is...it's written more broadly than that, but certainly would allow for that focus school, I believe, to be part of the learning community focus school idea. It would allow districts to go together, more than two districts, I believe. It would allow for--in this case it's three districts--by interlocal agreement to create a focus school. And I believe I'm correct in saying that it would sort of grandfather in the focus school that has already been created at Underwood Hills. And I could stand corrected there. Again, the focus school idea is a very powerful idea. It is like the magnet school concept that OPS has very successfully run and operated for some time. It's inner-district, in that it provides the incentive and the impetus for all the districts in the learning community to really look at the focus school concept, to provide educational opportunity for all the students of the metro area. And it's just a very powerful part of the learning community legislation. Hopefully, I've cast it in the right light. I think that's what they're asking here. [LB597]

SENATOR ADAMS: Thank you, Senator Ashford. Are there questions for the Senator? Senator Sullivan. [LB597]

SENATOR SULLIVAN: Senator Ashford, you'll have to excuse some of our newbies because we're still trying to kind of wrap our arms around this learning community concept, and I can see the impetus and the motivation behind working for diversity and also the focus schools. I mean, obviously, there's a lot of interest. But one thing that's kind of in the back of my mind is, being a farm girl, cream rises to the top, you know, and the focus schools, the magnet schools become really the shining stars. Do we risk losing some of the schools, leaving some of the schools behind? [LB597]

SENATOR ASHFORD: Yeah, I mean, I think that's, I think, I think there is that risk. But I...it's a balance. The more focus schools we develop within the metro area, the more opportunity for the more children there is. And I also...it's also my understanding that OPS, Elkhorn, and Westside--and maybe that really is the motivation for this bill--are looking at a continuum of this into seventh and eighth grade, I believe, into the middle

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school for these children to be able to progress. But then again, not everybody gets in. And that, I think, in my view, the focus school does raise the bar for the districts in the metro area when they look at issues like scheduling and advanced degree teachers to try to make sure that we don't, that it doesn't happen, that we aren't creating some sort of, you know, some sort level or standard that applies only to a few, because that's...I'm sure that's not the intent of the districts, but it could happen if it's not carefully watched. [LB597]

SENATOR SULLIVAN: So then is it possible that every single school in this whole learning community would identify themselves as featuring a particular program or a particular focus? [LB597]

SENATOR ASHFORD: Yeah, that's right. And I think that's exactly...it's very perceptive. That is what I think is the key. Millard, for example, has a program in international--it's not relations--international something. Baccalaureate. Sorry. But it's very advanced and it's an extremely good program. And North High has the same, a very high standard program at North High in engineering and that sort of thing, math. I think it...in order for this learning community to work effectively, there must be collaboration and competition. They work together on those things where they converge, where their interests converge, and then the competition, it seems to me, encourages the districts to always be better. To find...to be...for example, in Chuck Chevalier's area out in South Sarpy, we talked kind of around it a little bit yesterday, but they have an opportunity to work with Bellevue, for example, even though they're a small district, to do a focus school that could be...I don't know what the topic would be. And then the Medical Center is talking about a focus school in healthcare for high schoolers to attend a program at UNMC. I mean, I can't even...that's such a huge advancement over where we were five years ago, so it's exciting, yeah. [LB597]

SENATOR SULLIVAN: Thank you. [LB597]

SENATOR ADAMS: Other questions for Senator Ashford? Senator Avery. [LB597]

SENATOR AVERY: Senator Ashford, how would this be funded. Would the interlocal agreement define the financial terms? Would there be independent taxing authority? [LB597]

SENATOR ASHFORD: There wouldn't be independent taxing authority, but there would be...Tammy is sitting there with the answer and so I hesitate to say it and I'm going to let someone talk to it. My sense is that the funding for the focus school or the continuum of this focus school would fall under the learning community provisions under this bill. At least that's how I read it. Now maybe....I'm looking...I'm begging for Tammy to tell me if that's right or wrong, but I know that's not her role. But I think it would allow for the districts, not to subvert the learning community funding but to maybe design another

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way to do it through interlocal agreement and to finance it. But I'm going to defer on that a little bit, Senator Avery, if I could. [LB597]

SENATOR AVERY: Okay. [LB597]

SENATOR ADAMS: Other questions? Thank you, Senator Ashford. Proponents to the bill? [LB597]

JACQUIE ESTEE: (Exhibit 1) Good afternoon. My name is Jacquie Estee, E-s-t-e-e, and I'm the superintendent of the Westside Community Schools in Omaha, Nebraska. Senator Adams and members of the committee, as you may know, Underwood Hills is a collaborative focus school launched last fall by the Elkhorn Public Schools, the Omaha Public Schools, and the Westside Community Schools in Omaha. The focus school is presently funded by the three districts involved. Underwood currently serves 120 students from across the metro area at grades three, four, and five, with a sixth grade being added next fall. On top of the high standards provided at the school, the curricular, an additional focus of the school is leadership through technology and communication. The advantages offered by the focus school are extensive and far-reaching. We are realizing those every day. Research tells us that longer school days and an extended calendar can help close the achievement gap, particularly with low socioeconomic students. The focus school offers an 8 a.m. to 5 p.m. school day with a calendar that is longer than other elementary buildings in the metro area. We also know that having high quality teachers and small class sizes are critical to student success. To achieve that goal, the focus school administration hired a staff filled with highly educated, award winning teachers, with classes limited to 20 students. Voluntary student integration through school choice remains one of the central themes of the learning community. To that end, a diverse student population was purposefully selected from a pool of over 800 applications from across the metro area, a student population that now includes approximately 37 percent poverty with students from numerous cultures and representing many ethnicities. In addition to a high quality curriculum, students are exposed to value-added standards in the area of leadership, communication, and technology. Furthermore, students have the opportunity to participate in optional enrichment activities such as public speaking, Web page design, and peer ambassador leadership. Lastly, all students and staff have access to cutting-edge technology, including extensive use of flat panel LCDs, an inhouse closed circuit TV studio, and laptop computers for all students and staff. The collaborative efforts of the Elkhorn Public Schools, Omaha Public Schools, and Westside Community Schools have resulted in a quality focus school that has the potential to serve as a model for future focus schools in the two-county area. LB597 recognizes such collaborative efforts, as well as individual district-run focus schools. We feel both of these alternatives are viable for districts within the learning community. Providing financial support to the establishment of focus schools is critical to their development and maintenance. Encouraging voluntary integration across the two-county area stands

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as one of the central goals of the learning community. LB597 helps advance the school by recognizing a proven model of educational collaboration. In consultation with Elkhorn, with Roger Breed and John Mackiel, I would like to say on behalf of Elkhorn, Omaha Public Schools, and Westside, we thank you for responding to this important concept to meet the needs of students in the learning community. We have had a very interesting, collaborative, productive experience developing the focus school. I would invite all of you to visit the focus school. We would be happy to set up a tour for you. It is...to see it, is to know it, so we would invite that. And we would ask for your support to add the collaborative focus schools and advance LB597 to General File. Thank you. [LB597]

SENATOR ADAMS: Thank you, Jacquie. Are there questions? Senator Haar. [LB597]

SENATOR HAAR: Thank you. Lincoln has a couple focus schools, as well, and not only do the students seem excited, but the teachers. And having been a former teacher, I didn't see a single bored teacher or one that didn't feel challenged and really anxious to come to work when I visited that school. [LB597]

JACQUIE ESTEE: I think you would see the same, Senator, at the Underwood focus school. Staff work beyond hours because they want to. They're...you know, all three districts have different pay scales and benefits, and, you know, we have said nothing is going to stand in our way to have this work. So we invited folks that were interested in that to come forward and apply to be teachers at the focus school. So we have some real...some highly motivated individuals there. [LB597]

SENATOR HAAR: Yeah, I'm really jealous that I didn't have that kind of opportunity, as a teacher and as a student too. [LB597]

JACQUIE ESTEE: For sure. Presently, we have a little over 300 applications. We're starting sixth grade. There will be two classes of sixth grade of 20 students each; and we'll need to replenish the third grade. And about 15 or more of those applications are siblings of students already in the school. [LB597]

SENATOR ADAMS: Senator Sullivan. [LB597]

SENATOR SULLIVAN: Thank you, Senator Adams. As a follow-up to that, what is your selection process, because obviously you have more applicants than you have spaces. [LB597]

JACQUIE ESTEE: It is a lottery system, and so we do have to have the applicants indicate their economic level. And our goal is to represent the city of Omaha in diversity, and so it absolutely does. And so we just keep taking from the lottery until we get that balance. You know, we were going, how will this work? But it really, it really...it was a

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public activity and it just really mirrors the city, and that was a primary goal of the school. [LB597]

SENATOR ADAMS: Senator Ashford. [LB597]

SENATOR ASHFORD: And just for clarification, Jacquie, you take students from all over the metro area? [LB597]

JACQUIE ESTEE: We take...thank you, Senator Ashford. Yes, we do. This is open to all 11 school districts in the learning community, and I think Chuck mentioned yesterday he has one of his students... [LB597]

SENATOR ASHFORD: Right. And it is spread out amongst the (inaudible). [LB597]

JACQUIE ESTEE: Yeah. It is. [LB597]

SENATOR ASHFORD: And I know Senator Avery asked and I hope I'm right, you're simply asking that you be allowed to continue with these interlocal agreements, and finance them a third, a third, a third, is that...without taking ownership of it? Is that the...that's what you're asking here? [LB597]

JACQUIE ESTEE: Yeah, we're asking that, yes, that it's supported and that there...we add...the statute now says that it is a single district that owns that. [LB597]

SENATOR ASHFORD: Right. And the idea, I think when we did the bill, was that we would have one district be the responsible district, the home district or whatever, for the focus schools that were developed in the learning community. What you're suggesting is that an interlocal agreement amongst more than one district is another way to do it. [LB597]

JACQUIE ESTEE: Is a viable option, yes. And has been successful. We have not...we have an interlocal agreement. Each district has different responsibilities in that and we've not had a problem with that at all. [LB597]

SENATOR ASHFORD: And the teachers come from all over, correct? [LB597]

JACQUIE ESTEE: Yes. [LB597]

SENATOR ASHFORD: And the building is located at Westside and continues to be a District 66 building, but the expenses are shared. [LB597]

JACQUIE ESTEE: And the split is about 60-20-20. [LB597]

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SENATOR ASHFORD: So Westside has 60 percent? [LB597]

JACQUIE ESTEE: Twenty percent. Elkhorn has 20 percent, and Omaha Public has 60 percent. Right. [LB597]

SENATOR ASHFORD: Okay. And then one last point. I see Sue Evanich is here and I remember about 18...from Westside, and I remember 18 months ago or so or two years ago or whatever, when she came and said, well, we're going to start a focus school with OPS and Elkhorn. And those were still tense days in this learning community journey, and I suggested to her that that would be an amazing accomplishment. And, by golly, she did it with OPS and Elkhorn's help. So congratulations. [LB597]

JACQUIE ESTEE: That's right. And departments from all three districts have worked together to staff the building, to work on the lottery, to work on the building. It's totally cooperative. [LB597]

SENATOR ASHFORD: Right. Well, it's an historic accomplishment, and so. [LB597]

SENATOR ADAMS: Other questions? Jacquie, I have a couple if you might. I think I already know the answer, but for the record, two overriding questions to me, and I haven't directed these to you personally but through your staff through the interim. You're dividing the expense of this building between three school districts, is that correct? [LB597]

JACQUIE ESTEE: Yes. [LB597]

SENATOR ADAMS: And equally between the three? [LB597]

JACQUIE ESTEE: Sixty percent through Omaha Public, 20 percent through Westside, and 20 percent through Elkhorn, because that's the number of student...that's the student split. So we had to figure out how much per square foot. [LB597]

SENATOR ADAMS: Okay. What are we spending per student right now to send a student to...? [LB597]

JACQUIE ESTEE: About \$11,500. [LB597]

SENATOR ADAMS: Okay. As you think about this interlocal agreement, has it concerned you from a legal standpoint that if something happens to my student who goes to this program and I intend to take somebody to court over it, who do I take? [LB597]

JACQUIE ESTEE: (Laugh) That isn't on top of our worry list. But being...it's a program,

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so there are other programs that exist that students attend that might not be in their own school district, physically, so there's responsibility for all three school districts in this endeavor. [LB597]

SENATOR ADAMS: Okay. Well, it is an interesting program. I did visit. Thank you for that opportunity. Are there other questions for Jacquie? Seeing none, thank you. [LB597]

JACQUIE ESTEE: Um-hum, thank you. [LB597]

SENATOR ADAMS: Other proponents? [LB597]

JAY SEARS: Good afternoon, Senators. For the record, I'm Jay Sears, J-a-y S-e-a-r-s, representing the Nebraska State Education Association and the three employee groups that are in the focus school. Senator Ashford, thank you for bringing the bill to us to give the learning community an option to look at how do we plan focus schools, pathways, magnet schools, all kinds of programs that will flourish throughout the whole learning community. The thing that I want to impress upon you is, through this interlocal agreement you took three different faculties, three different school districts, three different communities--actually 11 different communities--to come into a program where people felt that their children would prosper and move on and learn. Our members appreciated the opportunity to be involved in the development of the program, sitting at the table talking about how do you deal with the fact that you have three different employee groups from three different school districts with three different contracts--and make that all work? And again, I come back to the focus was on how do we make this a great experience for children. And so I think this gives the learning community an option. It's a great option. It may even actually help some of the finance pieces in this as you look at who gets money back from the common levy and who has the money to do those things. In the current plan, if just one district comes up with it, is it all their expense? So I see some options. I see some opportunities in this legislation, and so again we encourage you to get it out on the floor. So that concludes my testimony. [LB597]

SENATOR ADAMS: Thank you, Jay. Are there questions for Jay? [LB597]

SENATOR ASHFORD: It can be done, Jay. [LB597]

JAY SEARS: It can be. That's great. [LB597]

SENATOR ADAMS: Yes, Senator Sullivan. [LB597]

SENATOR SULLIVAN: Thank you, Senator Adams. With respect to the finances, and in the previous question from Senator Adams he asked what the cost per pupil was at

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Underwood. How does that compare with other, do you have any idea? [LB597]

JAY SEARS: You are talking to a social studies teacher that doesn't do numbers. You'll have to ask some of the superintendents about that process. I'm sorry. [LB597]

SENATOR SULLIVAN: Okay. [LB597]

SENATOR ADAMS: But Jay, I do have to ask you about this number. [LB597]

JAY SEARS: Okay. [LB597]

SENATOR ADAMS: Conceptually, it's great to me that we can take three different faculties, put them together in the same building, all with the same motive and the same goal, but three different collective bargaining agreements. [LB597]

JAY SEARS: Yes. And what they did was they were able to work out how their districts took care of the fact that it was going to be an extended day and an extended time, and came up with remuneration for those faculty and that's what they agreed to. So I see some real opportunities to work among 11 different bargaining contracts out there and still fit that together. We've had discussions, our 11 local leaders, about does this ultimately mean one contract to be bargained? And I don't think so. There is still the importance of keeping the integrity of the 11 school districts and the communities from which they come and the philosophies from which they are teaching. What you got were some unique people who wanted to try something with third, fourth, and fifth graders, and now sixth graders, connected to a concept about how you deliver instruction. Those same teachers are teaching all the content standards that every school district teaches. They're just doing a different type of program to do that and they're excited about it. You know, maybe someday I'll retire and go back and try to get in a learning community focus school. Sounds like fun. [LB597]

SENATOR ADAMS: But if you are teaching social studies, Jay, and the teacher in the room right next to you is working equally as hard, and they're making, I don't know, pick a number...\$3,000 a year more than you. First year, we're having fun. Second year, still okay. You see where I'm going? [LB597]

JAY SEARS: I know where you're going. And those are things we'll have to deal with as we look at the learning community. You're bringing three different...11 different salary schedules, ranges of salaries, but you're also bringing together 11 different communities and needs. And who knows where it's going to go? But I think it's exciting that it might go someplace a lot different than we have right now. For some of my social studies buddies, they don't want to see that change. Well, they don't have to take part in it. They can stay in their school district and teach wherever it is that they want to teach. [LB597]

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SENATOR ADAMS: Surely, you're not implying that social studies teachers are reluctant to change, are you? [LB597]

JAY SEARS: Not this one. And I'm sure not that one sitting in front of me, so. [LB597]

SENATOR ADAMS: All right. Good. Thank you. Are there other questions for Jay? Senator Ashford. [LB597]

SENATOR ASHFORD: And I just...and we've had discussions in this committee about ways of compensating teachers for things like advanced degrees and encouraging teachers to, you know, follow that path. And this could be another avenue, could it not? [LB597]

JAY SEARS: Yes. I think there's...Senator Ashford, there's some great opportunities to look at incentives, whether they come from the state or new federal dollars or whatever. I think there's a number of different programs out there for us to look at as we look at focus school programs. [LB597]

SENATOR ASHFORD: And as the President talks about funding No Child Left Behind, the idea of looking at new innovative programs for teaching our young students, you can't teach students without teachers, normally. [LB597]

JAY SEARS: That's correct. Normally. [LB597]

SENATOR ASHFORD: And so, you know, if we can...and Senator Adams has got a great bill that I think we've advanced or at least maybe are going to advance, that has to do with incentives for teachers to get advanced degrees. And this might be, you know, kind of that...another avenue for looking at something like that. [LB597]

JAY SEARS: I think you're right, Senator. When you open the lid to the box, the box changes. [LB597]

SENATOR ASHFORD: Yeah, it does. It changes. And sometimes for the really...for positive results. Thank you. [LB597]

JAY SEARS: Thank you. [LB597]

SENATOR ADAMS: Thank you, Jay. Is there other proponent testimony? Is there opponent testimony? How about neutral testimony? Senator Ashford, do you want to close? [LB597]

SENATOR ASHFORD: It's a great bill. [LB597]

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SENATOR ADAMS: Just that simple. Senator Ashford waives closing and that ends the hearing on LB597. And we now will proceed on to LB392. [LB597]

SENATOR ADAMS: Good afternoon. Senator Howard and members of the Education Committee, my name is Greg Adams, representing the 24th District. Yesterday I had introduced a bill with two components, and one of those components was in response to the metro superintendents, some of the concerns that they had about implementing the learning community. And that particular piece within the bill, if you will recall what it did, was to say that the Learning Community Coordinating Council, of course, sets the common levy, but the county treasurers will send the money directly to the school districts. That was one of the things that the superintendents asked for. LB392 is designed to go after some of the other things that they were asking for. LB392 basically has four components. The first one has to do with electing members of the Learning Community Council. We've been through one election cycle and we learned. And one of the things that we learned is we probably ought to have a primary election that would be in conjunction with the regular Nebraska primary that would lead into a November general election for members of a learning community. If you remember, we have 18 members, 12 of whom are elected from those six districts. And so what we'd be doing here would be creating a primary election. Specifically, a voter would go in and still vote for just one--just one. Now, remember, we're still electing two people from each of the districts, but you will vote for one and the top four vote getters would move over to the general election. The second component...and by the way, it would be nonpartisan. The second component would have to do with focus schools and focus programs. We have in LB988, the TEEOSA formulation, a new school adjustment. And what this would do is for the learning community environment, say that the creation of the focus schools and the focus programs would be eligible for state dollars under the new school adjustment. And it sets the mechanism for determining how many students would be in that and we would base it on a yearly...we would look at the yearly average over two years in order to determine how many students we're going to have in that program and how that would affect the adjustment, the new school adjustment. Which is a little bit different than the way we would do, the way that the law currently reads for other schools to determine whether or not they qualify for that new school adjustment. Remember, an adjustment is an add-on or a correction to aid depending on if certain qualifications are met. The third component would move the deadline for the creation of the elementary learning centers from July 1 of this year to June 1, 2010. And I know that there are those amongst you who have some reservation about that, partly because the elementary resource centers are a key component. And it's because they're a key component that I have agreed with the superintendents to introduce this legislation to postpone their actual creation and implementation for 11 months. And here's my concern, and I would hope that you'd share this with me. My concern is that these elementary learning centers are so critical, particularly in the high poverty areas. They have got to be done right. They need to be done right. And we have a Learning Community Council that is just now newly formulated, just getting their feet under them

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and they're working hard. I have every confidence in that, and I have spoken to superintendents that have been to their meetings. But my concern is, like the superintendents, is for that newly born group who just this week decided who their chairperson and their treasurer was going to be, to create these elementary learning centers by July 1 is maybe asking a bit too much. Now knowing full well that there were those amongst you that would have some reservation about delaying this, then in the bill we have set some benchmarks for completion. For instance, one of those benchmarks would be June 1, 2009. And at that point in time, the Learning Community Council would have to come forward with the identified areas within the learning community where the elementary learning centers could go, need to go, where we need to have them. All right, so that's one thing. The other benchmark would be that we would have to have, by January 1, 2010, a plan submitted for how these things are going to be created and put into work. So it isn't just a matter of, well, we're going to give you another year. We're going to give the Learning Community Council 11 months, and in that 11-month period of time they have two benchmarks to reach. And again, the rationale is to make sure that these things are done and done right, and not just thrown together. Finally, in further response to school districts that don't have representation on the Learning Community Council, if you remember. One of the things that we did last year was to say that a school district that is part of one of the election areas, but doesn't have a representative on the council, we would allow someone from that school district to be there as a voting member. And I believe Secretary Gale worked through all of that and so we have those people. The fourth component of this bill would allow for any school district that's within one of those election districts that did not get to have one of their school board members elected, could have a nonvoting member serve on the achievement council within that area. Now, they're nonvoting, but they're a participant. They're there representing the school district just like the voting member. And all four of these concerns, again, are designed to address those things that the superintendents brought forward to us in December, and there may be some of those folks that would like to speak to...I'll try to answer questions for you. [LB392]

SENATOR HOWARD: Does the committee have questions? Oh yes, we do. Senator Haar. [LB392]

SENATOR HAAR: Thank you. I noticed there's an A bill for \$4 million. Is that new money on top of...or does it come out of the...? [LB392]

SENATOR ADAMS: You know what? I haven't looked at the A bill, so I can't answer that right now, Senator Haar. I apologize. [LB392]

SENATOR HAAR: Okay. But did you anticipate new money for this, or is it money that's already appropriated under the formula? [LB392]

SENATOR ADAMS: I...I don't have a response to that right now. [LB392]

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SENATOR HAAR: Okay. Well, we can talk about that. Thank you. [LB392]

SENATOR HOWARD: Other questions? Yes, Senator Avery. [LB392]

SENATOR AVERY: Senator Adams, do you remember why the original bill specifically read that no primary elections for the office of the Learning Community Coordinating Council shall be held? [LB392]

SENATOR ADAMS: I don't, but I bet you do. [LB392]

SENATOR AVERY: No, I really don't. [LB392]

SENATOR ADAMS: I don't remember. I really don't. I don't remember, and maybe--and I'm going to speculate--maybe someone who can come up and testify can better explain. I think that one of the things we found out was there were a whole lot of people that ran for these positions. [LB392]

SENATOR AVERY: Oh, in some cases you had...well, I think eight...38 total candidates. [LB392]

SENATOR ADAMS: Maybe we had more people running than what we had anticipated that we would, which brings us to this point. [LB392]

SENATOR ASHFORD: Sixty-some, wasn't it? Sixty-some. I mean, it was an amazing...and all darn good, really good candidates. [LB392]

SENATOR AVERY: I presume that what you're trying to do with the primary is to narrow that down? [LB392]

SENATOR ADAMS: Exactly. [LB392]

SENATOR AVERY: Do you see this in any way affecting the likelihood of a minority making it through the primary process to the general election? Because that limited voting formula that we came up with was designed to enhance the prospects of minorities getting on this council. [LB392]

SENATOR ADAMS: And the limited voting is still there, Senator. [LB392]

SENATOR AVERY: I know. [LB392]

SENATOR ADAMS: And so I think that we can still achieve what we were after. [LB392]

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SENATOR AVERY: So you would still have limited voting in the primary and limited voting in the general. [LB392]

SENATOR ADAMS: Yes. And the general, correct. [LB392]

SENATOR AVERY: But you have no idea why we added language that did not include primary? [LB392]

SENATOR ADAMS: I think it's just because...I just...I'm going to make an assumption, and probably incorrect, that we didn't anticipate this many people running for the positions. [LB392]

SENATOR AVERY: So the only thing that's changed then, that might argue for adding a primary, would be the number of people that expressed an interest. I believe it was 58. [LB392]

SENATOR ADAMS: I think so. [LB392]

SENATOR AVERY: That's really quite a large number for...but these were new elections. You didn't have incumbents running. The opportunities here for people who wanted to serve were great. [LB392]

SENATOR ADAMS: Pretty lengthy ballot. [LB392]

SENATOR AVERY: Yeah. Thank you. [LB392]

SENATOR HOWARD: Yes, Senator Sullivan. [LB392]

SENATOR SULLIVAN: Thank you, Senator Howard. Thank you, Senator Adams. A couple of things. With respect to this primary you said that four top candidates go forward to the general? [LB392]

SENATOR ADAMS: Correct. [LB392]

SENATOR SULLIVAN: And one gets elected, or there's two? [LB392]

SENATOR ADAMS: No, there will be two elected. It's just that as a voter you get to vote for one. That's the idea of limited voting. [LB392]

SENATOR SULLIVAN: Oh, okay. All right. And then you mentioned the...I think it's the elementary learning centers being eligible for the new school adjustment? [LB392]

SENATOR ADAMS: The focus schools and focus programs would be eligible for the

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new school adjustment. [LB392]

SENATOR SULLIVAN: Okay. So I don't know if that... [LB392]

SENATOR ADAMS: New student adjustment. Is it school? Okay. [LB392]

SENATOR SULLIVAN: New student...if that impacts on the fiscal note or if that...it's just going to be melded into the TEEOSA formula? Or, you know, what's going... [LB392]

SENATOR ADAMS: Well, that's...yes. I mean, that does become part of TEEOSA. I mean there's no question about that. Here, I've got the fiscal note now. Yeah, the fiscal note is because the new school adjustment is estimated to be \$3.9 million. [LB392]

SENATOR SULLIVAN: Um-hum. Okay. And then with respect to the elementary learning centers, is the division for those, brick and mortar, or more collaboration, or do we know at this point? [LB392]

SENATOR ADAMS: Well, I can tell you in my opinion what this committee believed that they would be; what we envisioned that they would be. And certainly...and I'm going to speak only for myself as a member of the committee at the time that we created them. Obviously, they have to have a place to exist, and whether that's new or using the existing neighborhood library or community center. It could be a host of different things. But in my opinion, our focus in the creation was not on bricks and mortar. It was on the services that would be provided to students, parents, grandparents, within that learning center. Now, I don't know that that answers your question, but that certainly was my intention. [LB392]

SENATOR HOWARD: Other questions? Yes. [LB392]

SENATOR ASHFORD: Oh, I was just...just to reiterate. On the elementary learning centers, the...no, I think the benchmarks make it fine. Just for the...just to go back over it again. Those learning centers are located in high poverty areas, obviously, and I believe there are three of them, I believe, but maybe it isn't three but I think it's three. And each one of those learning centers is basically governed by the elected learning community representatives. [LB392]

SENATOR ADAMS: They're responsible for them, correct. [LB392]

SENATOR ASHFORD: In the area where that... [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR ASHFORD: Okay. So, all right. And they would...nothing there changes.

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They would put together...those two representatives, or maybe it's...well, two or three representatives would then submit a plan to the Learning Community Council for approval for that particular elementary learning center. That hasn't changed. [LB392]

SENATOR ADAMS: No. That is one of their responsibilities, yes. [LB392]

SENATOR ASHFORD: Okay, but it still emanates up from that district? [LB392]

SENATOR ADAMS: Yes. [LB392]

SENATOR ASHFORD: Okay. [LB392]

SENATOR HOWARD: Do we have any other questions? Looks good. Proponents. [LB392]

RICK BLACK: Senator Howard, members of the committee, my name is Rick Black; Rick, R-i-c-k, Black, B-l-a-c-k. I'm superintendent of the Papillion-La Vista Public Schools. Senator Adams, I testify today in support with sincere hopes that my support here today doesn't doom your bill. I've been asked to represent the members of the learning community superintendents. And I won't be so bold to speak for all those that are here today, but I can speak for those who are not here today, just mainly on the basis that if they have other opinions they can sure come up and state them. But we certainly appreciate the work that's been done. As I mentioned yesterday in my testimony by Senator Adams to listen to concerns, to make adjustments where appropriate and where able to make this piece of legislation work. The additional primary, the discussion that you just had was exactly right. We had some of the subdistricts there. There are six districts in the learning community, and then there were as many as 13 candidates in single districts, for a one vote, with the top two proceeding. You can see how that might end up with an imbalance of someone getting a lot of votes and the second place vote getter only getting a few, but yet they get one more than the person who finished third. So I think that the primary does bring it down to four. The limited voting is certainly consistent with what was done this year. The delay on the elementary attendance center makes a lot of sense. There's a lot of work. And while the learning community governing board is making progress, progress is slow. After four meetings, they have a bylaws and officers. So I think that they can have a...to challenge them with a quality elementary attendance center by July 1, it's just probably being unrealistic. But we can't back off the fact that it does need to exist. But the benchmarks are good and it wouldn't bother me if you put July 1 or sooner, because we do need to get it up and running. The focus school's eligibility for new school adjustment we think is consistent with the law and we would certainly support that, as well as the permitting of the nonvoting members. District 6 represents seven different school districts. There's three representatives on that board: two elected, one appointed by board members. So as a result of that, we have three districts that have an appointed nonvoting member.

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That first subcouncil meeting was somewhat uncomfortable. You have people, six people that sit on the board, but you have three that are...you're going to hold a meeting with the subcouncil that can vote. And what do you do with those three that sit on the main board as nonvoting members and they're invited to a meeting? So they did allow them for that subcommittee at that first time, to sit in the front of the room, at least, to hear the discussion. We would certainly support the fact to allow them to be a part of that council. Continue the nonvoting membership makes some sense. It provides some input. That way, again, all members are allowed to provide input when it comes time for those subcouncils to meet. So with that, we'd definitely provide our support. And again, for the superintendents that are not here today, those being Bennington, DC West, Gretna, South Sarpy, Papillion-La Vista, and Ralston, I would express theirs. And again, you see others that are represented here. If they don't support, I'm sure they'll come up and let you know. With that, I thank you for your time. [LB392]

SENATOR HOWARD: Thank you, Rick. Do we have questions, committee? I don't see any. Thank you. [LB392]

RICK BLACK: Thank you. [LB392]

SENATOR HOWARD: Other proponents? Welcome. [LB392]

ANGELO PASSARELLI: Good afternoon, Senator Howard, Senator Adams, members of the Education Committee, my name is Angelo Passarelli; that's P-a-s-s-a-r-e-l-l-i, representing the Millard Public Schools, and again in support of LB392. For the reasons Senator Adams stated and Rick Black concurred, we concur also. I just want the committee to know that we in the Millard Public Schools stand prepared to help and support the learning community and implement this plan. We are going to work within the system to make changes that we think are necessary. We appreciate Senator Adams listening to our concerns earlier and talking about making some substantive changes in this law that will make it smoother, easier for all of us to move into this plan. We think these four changes that he outlined are very good and positive. And again, we did see some pretty wild elections and we think this will help settle some of that down. New school adjustments are great. The \$4 million that they're proposing in the fiscal note for that, I'm sure will help us implement some of those programs that we are expected to do. So with that, I would certainly answer any questions you might have, but I just wanted you to know that we are in support of LB392 and urge you to advance that legislation. [LB392]

SENATOR HOWARD: Committee, do we have any questions for Mr. Passarelli? You've answered it. [LB392]

ANGELO PASSARELLI: Thank you. [LB392]

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SENATOR HOWARD: Welcome. [LB392]

ANDREW RIKLI: (Exhibit 2) Thank you, Vice Chair Howard, members of the committee. My name is Andrew Rikli, R-i-k-l-i. I'm an administrator with the Westside Community Schools in Omaha, Nebraska. First and foremost, we would like to thank Senator Adams for introducing this legislation. We certainly won't belabor any of the previous commentary that we've heard from the previous testifiers. Suffice it to say that when you look at LB1024 and its various iterations since it was initially passed approximately three years ago, it was a rather audacious bill, to say the least. I know it's important that you know that we fully support it, and we're highly appreciative of the fact that the committee is willing to periodically review and revise the bill as needs arise. So as previous testifiers noted, when we take a step back and look at the four separate components contained in LB392, we are fully in support of them. We would also like to leave the committee knowing that if there are things that the Westside Community School District can do to help as you continue to look to review and revise the learning community statute, we stand ready and willing to help in any matters that we may. And again, I'd like to thank Senator Adams for his support of this bill, and I'd be happy to entertain any questions. [LB392]

SENATOR HOWARD: Questions, committee? Let you off easy. [LB392]

ANDREW RIKLI: Thank you, Vice Chair. [LB392]

JAY SEARS: Senator Howard and members of the committee, I'm Jay Sears, J-a-y S-e-a-r-s, representing the Nebraska State Education Association. We too come to support LB392. It's been my great pleasure to go and observe the Learning Community Coordinating Council in its last few meetings, as it's been facilitated by the Secretary of State. I've also been privileged to attend some of the achievement subcouncils as they're sitting down and talking about what should these elementary learning centers look like and what should they be doing. And I can tell you now, if...and I know you're very busy, but if you had opportunities to come and listen to the Learning Community Coordinating Council and their achievement subcouncils, they're doing the right business. They're talking about the right things. They're very concerned and they want to make sure that the programs they put in place serve young children, all the way through twelfth grade, I'm sure. But it's not an easy task. Just think if you as a legislator had to re-form yourselves. That's what they're going through right now with no rules, regulations, or whatever other than what has come from statute. And so they've been working through that process. It's the second largest elected body in this state. They get paid the same as you. They have a tremendous obligation to the community in the Omaha area, in the two-county area. They're, I think, all committed to the service of children in that two-county area, and so they want to do the right things. And so the things that Senator Adams has brought to you, thanks to sitting down and talking with the superintendents in those 11 school districts, are things that will tweak the law, make

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things right for kids, make things right for school districts out there. So we urge you to get this one out on the floor, too, and when we get toward June we'll see all those things in one bill, right? That concludes my testimony. Thank you. [LB392]

SENATOR HOWARD: Thank you, Jay, and thank you for attending those meetings and bringing us back a report. We appreciate that. Committee, do we have questions? I guess not. Thank you. Other proponents? Opponents. No opponents? Neutral. Well, it looks like it's up to you, Senator. [LB392]

SENATOR ADAMS: I will take very little time, but I feel compelled to make a statement on the record that I have made at every opportunity possible, in Omaha as well as outside. Personally, it would not be my intention to take any steps backwards on the learning community. But what I have said--and this is an example of it--we did pass a very substantial piece of legislation in LB641, creating the learning community. And there are things that need to get fixed along the way. And we're implementing something brand new here and we need to keep attuned to what we can do to smooth this path out. But there is a difference in my mind between going backwards and simply making this model more effective, and I believe this is a step in that direction. Thank you. [LB392]

SENATOR HOWARD: Any questions? None. Thank you. [LB392]

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Disposition of Bills:

LB392 - Placed on General File with amendments.

LB534 - Indefinitely postponed.

LB597 - Held in committee.

Chairperson

Committee Clerk