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Education Committee
February 22, 2011

[LB548 LB558 LB615 LB636]

The Committee on Education met at 1:30 p.m. on Tuesday, February 22, 2011, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB548, LB558, LB615, and LB636. Senators present: Greg Adams, Chairperson; Gwen Howard, Vice Chairperson; Bill Avery; Abbie Cornett; Brenda Council; Ken Haar; Kate Sullivan; and Ken Schilz. Senators absent: None. []

SENATOR ADAMS: Well, it is past 1:30, and our hearings are to begin at 1:30, so we'll get started with this hearing of the Education Committee. We welcome you all here today, and certainly given the number of people that we've got here, we want everyone to be able to hear not only the committee, but for you to hear what the testifiers are saying. I would ask that, if you have laptops with you, that you turn them off, and your cell phones, if you need to text message, you're going to have to go outside the room to do that, so you might want to just turn those off, too, to help us out. The first thing I'd like to do today is to introduce you to the committee, those that are here. The rest will eventually be here, but, first of all, to my far right is Becki Collins. She's the committee clerk, and if you decide that you want to testify today, one of the things that you'll need to do is to fill out the registration form for testifiers. They're back by each door. Have it completed before you come up here to testify and hand it over to Becki. And that way, we will have that for the record. I also ask that when you come to the mike, the very first thing you do is to introduce yourself and state your name and spell it for the record, so we have that very clear. We will use the light system as we always do, and we will go with three minutes today. So, you'll see the yellow light which tells you you've got about 60 seconds left, and when the red comes on, you need to be concluding. I won't let you drag out, particularly given the number of people we may have on any one particular bill, who wish to testify today. Next to her will be Senator Schilz. He's from Ogallala, one of the new members to the committee this year. In comes Senator Council from Omaha, another new member to the committee. Next to her, Senator Cornett from Bellevue. To my immediate right is the legal counsel for the Education Committee, Tammy Barry. I'm Greg Adams, representing the 24th Legislative District. The Vice Chair of the committee is Senator Howard from Omaha. Next to her we will soon have Senator Sullivan; she's from Cedar Rapids, Nebraska; and Senator Avery from Lincoln, and Senator Haar from Malcolm make up our committee today. With that, I've done this so many times, I think that I've run through everything, all the preliminaries that we need. We are, first of all, going to begin on LB548 that Senator McCoy has brought to us today. Senator, you are recognized to open. []

SENATOR McCOY: Thank you, Chairman Adams and members of the committee. For the record, I am Beau McCoy, B-e-a-u M-c-C-o-y, and I represent the 39th district in the Legislature, and I am here to introduce to you LB548 which seeks to amend the governance structure and learning community. The objective of LB548 is to increase communication between the learning community coordinating council and the member

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school districts. I believe this would enhance both the efficiency and effectiveness of the learning community. I was not a member of the Legislature when the learning community was created, but like many in the Omaha area, I followed the progress closely. From news coverage at the time and reading transcripts, it's clear that the intent of the learning community was to have a mechanism in place where metro area school districts could work together to address issues across boundaries such as poverty, student achievement, and diversity; the goals to strike a balance between cooperation and allowing school districts to keep their autonomy and to do what they do best--educate children. Currently, the learning community coordinating council has 18 voting members and three nonvoting members, making it the second largest governing body in the state of Nebraska. LB548 would change this total to nine. One member would come from each of the learning community six subdistricts with the three remaining seats being chosen at-large from the school districts not represented by the six subdistrict members. All nine learning community coordinating council members would be current school board members from the learning community member school districts. I believe these changes are necessary for the learning community coordinating council to coordinate most effectively between school districts, their existing school programs, and to reduce duplication of efforts. School board members come with knowledge of the position, and they understand their role in making policy decisions, and they know the needs of their districts, students, and the area at large. They already work with their superintendents and educators and have relationships with them. Let me read to you the learning community mission statement which says, "Bringing together the strengths within our communities, we will create a collaborative environment that promotes the development of educational opportunity, resource equity, and academic excellence that maximizes the potential of every child." I believe LB548 would help the learning community reach this goal more efficiently. Following me will be those who will go into more depth and share the challenges they face in trying to work with the learning community coordinating council as it is currently constituted. You should have also received AM356 which I would ask the committee to adopt if you see fit to advance this legislation. AM356 instructs the president of the member school board with the largest enrollment to schedule and host the first meeting in the Learning Community Coordinating Council and subsequent necessary meetings until the council elects officers. In the green copy of LB548, the task was given to the Secretary of State which was originally how the council was constituted when the learning committee was created. AM1258 in 2007 became the learning community as we know it. During debate, the question was asked if this new governmental body might need to sunset or needed to be around forever. It was acknowledged that taking a look and seeing how things were going down the road may be appropriate. And taking a look and seeing how things were going are what brought us here today with this piece of legislation. Do I think LB548, if implemented, would be easy for everyone to adjust to? No, but when it comes to our children, we must be willing to continually evaluate, improve, and refine. We cannot afford to sit back and wait. One year of missed opportunities can affect a child for a lifetime as we know. And thank you for your time, and I'd be happy to answer

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any questions, if there are any. [LB548]

SENATOR ADAMS: Thank you, Senator. Let's begin with questions for Senator McCoy. Are there any? Senator...yes, Senator Council. [LB548]

SENATOR COUNCIL: Yes, thank you, Chairman Adams, and thank you, Senator McCoy. I have a couple of questions. Like you, I was not here when LB1024 was originally presented to the Legislature or its subsequent amendments to the bill that is currently the law. But in reviewing LB1024 in its original form before amended, the governing body looked similar to what's proposed in LB548 with one exception, and that was proportional voting. Why doesn't LB548 call for proportional voting? [LB548]

SENATOR McCOY: Well, the way we constituted this with the...how we put this together in LB548 with using the six subdistricts and choosing it from that way appeared to be, to us, as we worked on this, maybe a more manageable number and not only that, but fostered some greater communication, you know, as I think, Senator Council, probably you...well, I'll speak for myself, but I would assume you probably found the same thing to be true. When we deal, in our case, with a legislative body that's only 49 members, the closer communication between all of us sure seems to foster better discussion and ability when it comes to decision making. And that was the thought that went into this, was to put this together in a mechanism that provided for representation, but in a smaller number that perhaps may be more efficient. [LB548]

SENATOR COUNCIL: Okay. So your objective is just manageability as opposed to proportionality, because the original version of the bill provided that in order for any action to be taken, it had to be by a majority vote, and that majority vote had to represent at least one-third of the total student population within the learning community, taking into account the numbers of students being taught in the respective school districts, and so there was proportionality. I was going to say, that's the number one concern about the proposal reflected in LB548. The second is, looking at all of the discussion that occurred after the initial introduction of LB1024 and all of the varying amendments and the creation of the subcouncils and the overriding concern being expressed that if we're talking about improving academic achievement, narrowing the achievement gaps, that there had to be more involvement at a grass-roots level, more opportunity for parents and other concerned citizens to have input and involvement in developing the policy around what was going to be going on in the schools in their respective areas, particularly northeast and southeast Omaha. Under LB548, you eliminate the subcouncils, and the opportunity for, I guess, the essence of local control. What is the...other than the management issue or the manageability issue, how do you think this smaller body that could conceivably consist of board members who don't even represent the districts that are...or the areas of the learning community where the children are experiencing the poorest achievement levels wouldn't even be represented in the governing body? [LB548]

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SENATOR McCOY: Well, Senator, actually that would be correct, because you have a member under LB548, you would have a member to the Learning Community Council from each of the six subdistricts, and then three at-large members for any of those that may not have a representative. So there would be coverage and representation from all parts of the learning community. [LB548]

SENATOR COUNCIL: So the subdistricts that are proposed in LB548 are parallel to the subcouncils. [LB548]

SENATOR McCOY: Correct. [LB548]

SENATOR COUNCIL: And so that the board member from each of the subdistricts. Okay, but again, it eliminates that parental concern community person, nonboard member involvement in development of particularly elementary learning centers which is a key component of the learning community law. [LB548]

SENATOR McCOY: Well, I would, I guess I would disagree with that, Senator, in that, you know, I believe that this would foster the ability to have more clear understanding of relationships between educators and Learning Community Council members, administrators from each of the individual school districts that are part learning community, and really provide a clear understanding of what it is that we're after, because that's what LB548 does not do. It does not take away from the mission of what the learning community has set out to do which, I believe, personally, to be very important, vitally important. This is merely a way to look at, can we be more efficient? Can we educate our kids better? Can we represent them better? Can we find a way in the budget constraints that we are in...can we find a way to do this more efficiently? And I think that's what we're seeking to do in this legislation rather than to take away from that, it's to create more open lines of communication, so that the children in the learning community, the students in the learning community are better represented and do have, perhaps, a more efficient voice. [LB548]

SENATOR COUNCIL: Well, we can respectfully disagree on those issues. If I'm a member of the 2nd subdistrict, I would believe that my interests were better represented by three people from that district as opposed to potentially only one. I mean, any time you talk about at-large elections, we all know how at-large elections can result in...and just a final comment, as someone who served 11 years on a 12-member board, I don't think that that's an unreasonable size, and that 18 is not an unreasonable size. That's all, Mr. Chairman. [LB548]

SENATOR AVERY: Thank you. Senator Avery. [LB548]

SENATOR AVERY: Thank you, Mr. Chair. Welcome, Senator McCoy. [LB548]

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SENATOR McCOY: Thank you. [LB548]

SENATOR AVERY: I don't know if you know or not, but I was there for the creation of the learning community, and we worked very hard on it. But, am I right, that this undoes the entire governing structure that we put in place in '07? [LB548]

SENATOR McCOY: It would certainly streamline it, yes. [LB548]

SENATOR AVERY: That...as I recall, was an important part of the compromise that allowed us to advance the main bill, because we got stuck on the governing structure, and we couldn't get off that, and we were about to...the bill was about to die without a compromise that would allow us to deal with the Governor's problem. And one of the things that we did...I don't see in this bill was to include, and as I think Senator Council alluded to this, include in the bill a limited voting formula. That's not in here, is it? [LB548]

SENATOR McCOY: No, it's not. [LB548]

SENATOR AVERY: The reason why we put the limited voting formula in was to enhance the prospects that minority representatives would be on the governing council, and that was an important part of what allowed us to strike the compromise that allowed the bill to advance. What mechanism do you have in this proposal that would enhance the prospects that minority representatives would be on the governing council? [LB548]

SENATOR McCOY: Well, I think that what's outlined is in the dialogue between Senator Council and I, an opportunity whereby existing board members would be eligible for election to Learning Community Council. I don't know that we specifically address the issue which you raise. Be happy to look into that further. If the committee saw fit that that needed to be in there, be happy to take a look at that. [LB548]

SENATOR AVERY: Would these nine members--any of them be elected or would they all be appointed? [LB548]

SENATOR McCOY: Well, they would all be elected as individual school...members of their individual school boards, first and foremost, and then would be elected amongst themselves to serve on the Learning Community Council. [LB548]

SENATOR AVERY: But no...they would not be elected by a popular vote specifically to serve on the Learning Community Council. [LB548]

SENATOR McCOY: Not specifically, the Learning Community... [LB548]

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SENATOR AVERY: Yeah. [LB548]

SENATOR McCOY: They would be, obviously, elected by popular vote to their individual school boards first. [LB548]

SENATOR AVERY: And then, from there, they would be appointed to the council. [LB548]

SENATOR McCOY: Correct. [LB548]

SENATOR AVERY: So, then, that's why we have language in here that refers to elected members and to appointed members, right? [LB548]

SENATOR McCOY: Correct. [LB548]

SENATOR AVERY: Okay. Thank you. [LB548]

SENATOR ADAMS: Other questions? Senator Howard. [LB548]

SENATOR HOWARD: Thank you, Mr. Chairman. I just have a general comment, and I also was there from the beginning when we worked on this issue, and it was a very tough go. There were...I don't remember any easy moments involved with it. But I do want to say, I think it's important that you brought this bill. One of the things that I remember most about Senator Raikes was, he stressed that...it was not a perfect bill, that it was a work in progress, and it was important for all of us to be diligent and review it as time went along to see the progress that was being made or the things we needed to address with the learning community. And so, I think he would say it was the right thing to do to ring this in and look at it again. So, thank you. [LB548]

SENATOR McCOY: Thank you, Senator. [LB548]

SENATOR ADAMS: Are there other questions for Senator McCoy? Thank you, Senator. You going to stay around and close? [LB548]

SENATOR McCOY: Thank you, Chairman. I will. I do have another bill, but I'll certainly stick around. If need be, I'll close. Thank you. [LB548]

SENATOR ADAMS: All right. Thank you. We will begin with proponent testimony, and then when that's concluded, we'll move to opponent, and then to neutral testimony. And I'd remind you, we'll use the three-minute light, Becki, so we would take the first proponent. Welcome. [LB548]

MIKE PATE: Good afternoon. Senator Adams, thank you, members of the Education

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Committee, thank you as well. For the record, my name is Mike Pate. You spell that last name P-a-t-e. My occupation is, I'm president and CEO of a local Omaha bank, but my volunteer role is I serve on the Millard school board, and I am also a member of the Learning Community Coordinating Council Board. I was elected by our subdistrict 4 which consists of Millard and Elkhorn to serve as their elected rep on that board, so I come at it with a couple of different perspectives. I'm here today on behalf of Millard Public Schools and not the Learning Community, in support of LB548. And I think it's important, so you understand a little bit of the genesis of this. This is a board-driven bill. This bill was conceived as a result of several school board members last year, about this time, getting together, actually at National School Boards conference discussing educational issues which we do. We're very collaborative in that respect. And what came out of that was some concerns that were raised across the districts about some of the elements within the current bill as it exists. So I want to make sure that you understand the genesis of this is truly board-driven and not administration-driven. And several school districts have passed resolutions which you'll hear from today as well in support of this. I've heard some comments and some questions here, and I think, you know, one of the biggest concerns that we've got, of course, and Senator McCoy read the mission statement, and that's collaboration. Collaboration is so important. You know that; you work with it every day. I work with it every day; it's so important. And the collaboration that needs to exist, particularly when we're talking about the education of our children, needs to be present in every decision that we make. That is the one thing that I see missing quite a bit in this current environment. And what we're attempting to do with LB548 is bring all of the school districts together, somewhat removing another layer in there that doesn't need to exist, so that we can talk about the real issues. Now, I am in full agreement. The number one issue that we should always be talking about is student achievement. That should be paramount. We talk about it all the time, and we need to have the dialogue with regards to student achievement. Right now what you've got is you've got a we versus them mentality, and you're creating...that has created a little bit of division between the Learning Community Coordinating Council and the local school districts. That doesn't need to happen. We don't need to have that happen, so what we're trying to do is bring it back all together through this legislation, force us to the table to talk about the real issues as they exist and solve the problem, because at the end of the day, really what we want to do is focus on student achievement. How we're going to do that, I don't know. It's not part of this bill, but we certainly have...and we bring all of the individuals together that are close to it. This is something we live and talk about and breathe every day of our lives as volunteers, as school board members in each of our school districts. So, with that, I am here in support of LB548. I would really like you to consider it, because I'm afraid if we wait longer than the present day, we're going to have problems down the road that are going to be more problematic to deal with unless we address the issue. And as Senator Howard had mentioned, you know, one of the elements, initially, was there's always going to be a way to improve legislation, and this is our attempt to improve this legislation today. [LB548]

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SENATOR ADAMS: All right. Thank you. Senator Council. [LB548]

SENATOR COUNCIL: And thank you, again, Chairman Adams. Welcome, Mr. Pate. [LB548]

MIKE PATE: Thank you. [LB548]

SENATOR COUNCIL: First of all, just a comment for the record, because this review of LB548, Senator McCoy's response to my question about the configuration of the districts isn't quite accurate. All LB548 requires is the creation of six districts. It doesn't say that they are...they shall have the same lines as any existing subcouncil lines which adds to my concern and relates to a point that Senator Avery was making, because conceivably, those districts can be drawn such that one of the districts could comprise east Omaha running north and south where east Omaha running north and south has six representatives on the Learning Council that three subcouncil members from each of those subcouncil districts could potentially be reduced to one. [LB548]

MIKE PATE: May I address that? [LB548]

SENATOR COUNCIL: Sure. [LB548]

MIKE PATE: The intent of the legislation is to use the existing boundaries, so if that's not in that bill, that is the intent of the legislation is to use those existing boundaries. [LB548]

SENATOR COUNCIL: Okay. No, it just says that the election commissioner shall draw six boundaries that have substantially equal in population, be compact, and contiguous, and that could be configured in any manner, and I have a real concern about that. I maintain my concern about the proportionality in terms of voting, and then, I guess, I'm having difficulty understanding how LB548 eliminates a we versus them. [LB548]

MIKE PATE: Well, what it does is it brings those of us that are involved in the educational process...us being the school board members, administrators from across districts, between districts, together at the table with a better understanding of the real issues affecting each of our school...not just one school district...each of our school districts. And you talk about those issues. That's the only way we're going to be able to solve the real issue is if you're at the table talking about them and trying to solve the problem. And to give you an example of the we versus them, you've got a legislative community coordinating council, and now who's got their own legislative agenda without any input whatsoever from the school districts or the superintendents. You've got some issues dealing with data collection, and how they want to use the data that they're trying to collect on individual student by student basis as well without any input. What do you think about that school district's, that idea? And the fear is, quite honestly, as you know,

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in creating a governmental entity like this, the larger it becomes and the more powers that they ask for over time and more money they want, it makes them more and more difficult to manage. You know, all we're trying to do is manage it. [LB548]

SENATOR COUNCIL: Yeah, but the school districts have representation through the appointed board members. [LB548]

MIKE PATE: That is true. That is true. [LB548]

SENATOR COUNCIL: And so...implicit in your comment, is that the board members who sit on the coordinating council can't use their expertise and their knowledge of the "inner workings of the districts" to work collaboratively with those who may or may not have that kind of background and experience, but you lose from that discussion the view from the outside looking in. And, you know, we all know that we can have different views of the same picture. [LB548]

MIKE PATE: Sure. [LB548]

SENATOR COUNCIL: And that is a real concern of mine. Whether others consider it legitimate or not, it's a real concern of mine, and I think it was a real concern of the legislators who crafted what ultimately became the law that is being sought to be amended right now. And I appreciate the fact that successive legislatures can amend policy, create new policy. I understand that. But when you...but looking at how this piece of legislation evolved, and the amount of angst that went in to creating the governing structure that exists now, balancing those interests, balancing the interests of the general public, and parents, in particular, wanting to have more involvement in what was going on in the schools charged with educating their young people. And, I guess, when I look at better communication of coordination, I'm thinking that that's something that can be addressed internally. And I know that we'll get to these data collection issues with regard to some other bills. And I guess I'll peep my trump card for lack of a better term. I have some concerns about, you know, the need to have personally identifiable data being required to be held by the council in order to carry out its mission. I don't think that's necessary. Now, that's where I believe that the districts can work collaboratively. They understand and appreciate the sensitivity of student specific data and exchanging that, and how best to utilize it. And I think that there are areas within the mission that are certainly...fall within the purview of the neighborhood professionals, the educators, but I think there's an absolute and vital and essential role for community involvement. And LB548, in my opinion, eliminates that community involvement. [LB548]

MIKE PATE: And I...and I appreciate that, because I totally agree with you. [LB548]

SENATOR COUNCIL: And you can respond. [LB548]

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MIKE PATE: Community involvement is extremely important, and if we need to bring a community involvement component within this, that's something I think that Senator McCoy would welcome a dialogue about. I get it all the time. You served on the board; you understand. I get it all the time; you get it all the time. Community involvement is extremely important, and that's how you're going to solve the issues. Now, in saying that, when you ask the general public, have you ever heard of the Learning Community Coordinating Council? Heard of them...what do you do? They don't know, you know. We know, and that's all we're trying to do is help it. We're trying to improve it. [LB548]

SENATOR COUNCIL: Thank you. [LB548]

SENATOR ADAMS: Senator Sullivan. [LB548]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you, Mr. Pate. [LB548]

MIKE PATE: You're welcome. [LB548]

SENATOR SULLIVAN: Under the present circumstances and structure, why don't you think collaboration is taking place? [LB548]

MIKE PATE: You know, I don't know. I can speculate, I guess, you know, being in the position that I'm in on two...both boards. I can speculate a little bit, but it's a very authoritarian style of leadership, and you'll find that, that I just speak the truth. And when that happens, and you take a look at the organizational structure, and this came up the other night in our Learning Community Board meeting, we hired a new CEO. And that CEO reports to one person, the chair; doesn't report to the board. Now, the board...he works for the board, but when you have one person then that has to disseminate the information of two people, the Chief Executive Officer and the Chair, that may become somewhat problematic in the articulation of what the intent is. So, I don't know where it all is, but the structure just doesn't seem to be perfect. [LB548]

SENATOR SULLIVAN: Thank you. [LB548]

SENATOR ADAMS: Senator Avery. [LB548]

SENATOR AVERY: Thank you, Mr. Chair. Thank you for appearing, Mr. Pate. [LB548]

MIKE PATE: You're welcome. [LB548]

SENATOR AVERY: You said collaboration is missing, and you also said there's no input whatsoever from superintendents and school boards. I don't understand, and I know that Senator Sullivan addressed this, and so did Senator Council. But if you have

elected members of the current governing council, and you have also school board members that are appointed, and you also have something we added a couple of years ago which is a superintendent advisory committee. Why is there no collaboration? You got...the elected members, that's the public represented; you have the school boards which, presumably, represent school boards, and you have the superintendents...three different entities there, and there's no collaboration, and that no input whatsoever from the superintendents and the school boards. Are they silent at these meetings? [LB548]

MIKE PATE: No, they're not silent, and, if I said no collaboration whatsoever, that wasn't my intent. There's little collaboration involved. And, you know, there was a superintendent's advisory committee, and they meet periodically. But when it comes down to the key decisions, as to really...what's the objective of the Learning Community Coordinating...what are we trying to accomplish with this? There's no engagement of dialogue or very little engagement of dialogue of really what we're trying to do with regards to the objective. The objective should be, I think, the central focal point--student achievement. How do you improve student achievement? We need to have that dialogue. And, they've got to reach out. You'll have to ask the opponents, if they're here to talk about that as to why there is no...I think the superintendents are ready to have those discussions. But, you know, just like we talked about with the data collection and the application for open enrollment and the legislation. There was no discussion between the superintendents, the school board members, except of us that are on the board and the Learning Community Coordinating Council, so I don't know. [LB548]

SENATOR AVERY: Well, it seems to me that there's ample opportunity for collaboration. I mean, you have all these different opportunities from three different groups of people with the elected members and the school board members and the superintendents. Is this really a question about who controls the learning community? Are the school boards unhappy because they don't have as much control as they would like to have? Are the superintendents unhappy because they don't have the control they want? [LB548]

MIKE PATE: It's not about control. It's not about control, you know, quite honestly, if you let this thing continue to grow and expand, then you might be talking about control issues, and that's my fear, because we live it in each of our school districts. We understand what the issues are that are unique to each one of our school districts, and we all have unique differences. We do; there's no question about it. So I don't think it's a control issue. It's just, what is the role of the learning community? And what are the roles of the school districts that they represent as well? The learning community was not created to be a super board. It's not. You know, we're the policy makers in each one of our local school districts. We understand it. We hear from our constituents. We know what they want. The learning community is there to, as you know, you've read the legislation...improve diversity, address the student achievement issue, identify focus schools or learning centers, early learning centers as well, and try and make that work.

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[LB548]

SENATOR AVERY: My conception of the learning community was that we were trying to create the functional equivalent of one district, one city. And I know a lot of people didn't like the idea that that's what we were trying to do, but that's what I perceived, because years and years ago, Omaha lost the opportunity to have one school district in one city. So what happened was, you get all these school districts around OPS developing with resources. OPS is starved of resources. You got a huge achievement gap there, and our objective, at least that's what I thought I was doing was to create the functional equivalent of one district, one city. And the learning community wants to be that overarching mechanism for administering this one district functional entity. Now, a lot of people don't like the idea that that's what we were trying to do, but that's what I thought I was voting for. [LB548]

MIKE PATE: Well, and if that's the case, I would have...personally, I would have fairly high grade fever with that, because bigger isn't better. You lose a lot of efficiencies when you grow and expand and become so large that the left hand doesn't know what the right hand does. If the idea was to create one city, one school district, or a management vehicle to manage that, it's not addressing the underlying issues, and with all due respect, I think that that would be bad public policy as some of this is as well, because there are a lot of efficiencies to be gained or lost, I should say, if you create a much larger entity. That would be my fear with that. And, again, when you talk about student achievement, and I think that's what we're all interested in hearing about. I don't know that that would solve that problem. [LB548]

SENATOR AVERY: But efficiency itself cannot be the only objective,... [LB548]

MIKE PATE: It's not... [LB548]

SENATOR AVERY: ...because it may not be an efficient business to close the achievement gap, which is the overall objective of the learning community. And to pool resources from the various school districts, the 11 school districts, to make that possible. [LB548]

MIKE PATE: Then I would ask the question, what in this law right now, really, is going to really address the issue of student achievement, creating early learning centers? That's not going to do it on its own. Creating focus schools? That will help, those are good, but it takes money and resources to do that. So what is it that's going to address that issue? [LB548]

SENATOR AVERY: Well, that's what we were doing was creating opportunities to create learning those focus programs and learning centers in order to help do this and using the common levy to pool resources to make that possible. [LB548]

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MIKE PATE: And we're not talking about eliminating... [LB548]

SENATOR AVERY: It's a very creative structure that we... [LB548]

MIKE PATE: Sure. [LB548]

SENATOR AVERY: ...erected here. And I think, personally, from what I see in LB548, some very significant opportunities to damage that, if not destroy it altogether. [LB548]

MIKE PATE: I would respectfully disagree with you on that. Thank you. [LB548]

SENATOR HAAR: Just a quick question... [LB548]

MIKE PATE: Sure. [LB548]

SENATOR HAAR: ...to follow up. You said that part of the reason for the missing collaboration is that there's somebody hired, and I don't know what the correct term is, but superintendent for this whole group just talks to the chair of the board. Is that in your rules or is that in statute? [LB548]

MIKE PATE: It's in the bylaws of the Learning Community Coordinating Council, and the person's title is chief executive officer. And I think that's an important distinction, because a lot of people want to consider the Learning Community Coordinating Council an educational institution. It's not. It's a political subdivision. Okay, so...I'm not a superintendent, but I think that's maybe some of the misperception that's out there is that it is some sort of an educational institution, but it's not. Okay. So the title is chief executive officer, but in the contract, the chief executive officer reports directly to the chair of the Learning Community Coordinating Council. [LB548]

SENATOR HAAR: And only did that...I mean, is that your bylaws that says they only talk to that...? [LB548]

MIKE PATE: Not to only talk to them. No, I mean, I could pick up the phone and talk to the CEO if I wanted to. [LB548]

SENATOR HAAR: Yeah. Okay. [LB548]

MIKE PATE: But communication is primarily through the chair, and then it's articulated back through the rest of the body of the Learning Community Coordinating Council. [LB548]

SENATOR HAAR: Some changes in the bylaws are needed for sure, it sounds like.

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[LB548]

MIKE PATE: It could be, absolutely. [LB548]

SENATOR ADAMS: Other questions for this testifier? Mr. Pate, before you get away, first of all, thank you for bringing the issue early on with Senator McCoy, so I had an opportunity to hear what it was that you were thinking. Here's one of the things I struggle with, and you may not be able to answer. If we were to adopt the structure that is advocated in this bill or some hybrid of it, and I don't mean to disparage any superintendent or board member, because I think their hearts are all in the right place, but what I'm wondering is, do we just go back to the way things were, in effect? I mean, prior to the passage of LB641 and the creation of the learning community, we had 11 school districts that looked out for number one only. Now we recreate this structure, which, to me, I could sit back and say, all right, we've been through three years of this; everybody has kind of learned their lesson now. We can take this structure and get going and look at the metro community as a whole, or do we just go back to business as usual? [LB548]

MIKE PATE: No, we don't. We don't go back to business as usual. [LB548]

SENATOR ADAMS: Because we can't afford to go back to business as usual... [LB548]

MIKE PATE: And I agree with you, Senator. I totally agree with you. We don't go back to business as usual. And I've said this almost the entire time I've been on the school board which has been 15 years. School districts are very territorial. They are. They're very territorial. What we need to do, if we're really serious about this, is have serious discussions about the issues affecting the metro Omaha educational environment, and I'm going to come back to the student achievement issue. We need to have that element embedded within the policy in everything that we do, regardless of...if it's through the learning community or the local school districts. We have to have that discussion. It has to be. To go back to business as usual, where we all go back to our own little kingdoms and say, okay, you know, we're just going to do our own thing. That's not the answer, and I wouldn't advocate that. We need to be brought to the table to have open, honest discussions about all of the issues addressing the metro Omaha schools. [LB548]

SENATOR ADAMS: Other question? Senator. [LB548]

SENATOR HAAR: Well, I wanted to thank you, by the way, for obviously, all the time you've put into community service on the school board and also the learning council. Thank you. [LB548]

MIKE PATE: Thank you. Thank you. I appreciate that. [LB548]

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SENATOR ADAMS: Are there any questions for Mr. Pate? Yes, Senator. [LB548]

SENATOR COUNCIL: Thank you, Chairman Adams, and I apologize. I don't want to belabor this. I know we've got a lot of testimony here. But, Mr. Pate, I can't help but return to the issue of dilution of representation, and, you know, help me, and correct me if I've got this wrong. Okay. Under LB548, and it doesn't read that it'll be corresponding to the existing subcouncil districts. But let's assume for the sake of this discussion that it does. As I understand LB548, each of those districts would have candidates advanced that all 72 school board members would cast a vote on, but the only requirement is that the candidates reside in that district. Am I correct? [LB548]

MIKE PATE: Within that school district. Now the...in that subcouncil district. [LB548]

SENATOR COUNCIL: Or in that subdistrict. Okay? So, the candidates would have to reside, but the selection would be made by...there's a total of 72 school board members? [LB548]

MIKE PATE: No. That would only be on the three at-large seats. [LB548]

SENATOR COUNCIL: Okay, so the election of the district seats would come from board members within the district. [LB548]

MIKE PATE: Within that subcouncil district. [LB548]

SENATOR COUNCIL: Okay. But then it goes... [LB548]

MIKE PATE: So District 1 would have their representation just within District 1. [LB548]

SENATOR COUNCIL: ...and it would only be school board members who... [LB548]

MIKE PATE: Yeah, live... [LB548]

SENATOR COUNCIL: ...what, live in that district? [LB548]

MIKE PATE: Right. Just as it is now. [LB548]

SENATOR COUNCIL: Well, it's not quite like that now. The school board members are appointed from the boards. [LB548]

MIKE PATE: But they have to reside within... [LB548]

SENATOR COUNCIL: But they have to reside within the district. [LB548]

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MIKE PATE: Within that subdistrict. For example,... [LB548]

SENATOR COUNCIL: Okay, within the... [LB548]

MIKE PATE: ...there is one school board member that represents District 6 that actually lives in Elkhorn, but who residences outside of...the boundaries that existed in the subcouncil districts, so she's elected to represent District 6. [LB548]

SENATOR COUNCIL: Now, under LB548, those six come in, and those six have some connection to the district. And if only one of those six is from...and I'm going to be parochial...from the district in OPS that has the largest minority population...if only one of them is, and, according to LB548, the other three who are at-large must come from a school board other than those six school boards that are represented. [LB548]

MIKE PATE: That is correct, Senator Council. And the reason that that was developed that way was to try and create a representation that better represented all 11 school districts, and, you know, short of getting 11, we settled on 9, because 11 actually gets to be a little bit large as well. But it was trying to get as much representation from all school districts as possible. You know, I don't know that anybody would not entertain some sort of a dialogue to talk about that a little bit, but to try and bring it back to a manageable...more manageable level of nine. Okay. [LB548]

SENATOR COUNCIL: Well, again, and I respect your manageability concern. My concern is representational, and LB548 does damage to representation. It dilutes...and that's one of the things you have to be very careful about. The existing governing structure as it currently exists has representation, and I'm giving...it's like a direct example...three African American representatives. Under LB548, the distinct,--the distinct possibility arises that that would be reduced to one. That is dilution, and I'm going to tell you why. If, according to the structure, if one of the six is an African American board member, OPS is the only school district of the 11 that has African American board members, so if the three at-large cannot come from OPS, then there can be no other African American membership. So, by statute, we have diluted minority representation which is questionable as being constitutional under the Voting Rights Act. And I just think that the Coordinating Council needs to be aware of that, because this would...you can't get around it. It would dilute representation that existed. [LB548]

MIKE PATE: Slightly, and thank you. And I appreciate those comments, and I would only respond with the fact that when you look at the structure, most of the work that gets done, gets done at the subcouncil district level, not through the whole board. I mean, we do all the work in our diversity task force, in our budget committees, and the different subcouncil districts that exist, and a lot of the work gets done there, and then the general board has to approve the work. So, there is very much work done through

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subdistrict 1, subcouncil 1, 2, 3, 4, 5, and 6 as well as the different committees that exist as well. That's where the work gets done. [LB548]

SENATOR COUNCIL: Thank you. [LB548]

MIKE PATE: Thank you. [LB548]

SENATOR ADAMS: Are there other questions? Seeing none, thank you, Mr. Pate. [LB548]

MIKE PATE: Thank you. [LB548]

SENATOR ADAMS: Next proponent? Hi, Rick. [LB548]

RICK BLACK: (Exhibit 1) Senator Adams, members of the Education Committee, my name is Rick Black. I currently serve as superintendent of the Papillion-La Vista school district. I appear today at the direction of my board of education in support of LB548, a bill initiated directly by the board members of the Millard, Douglas County west, Elkhorn, and Papillion-La Vista school districts. I appreciate Senator McCoy's effort and willingness to put forth this bill to make what I consider to be needed changes to the learning community governance structure. When LB1024 created the learning community, the Education Committee and its chair at that time did so with the self-admitted caveat of a need for tweaks, adjustments, and changes as the concept evolved. It was admitted to be a work in progress, not a finished product. Regardless of differing philosophical beliefs related to the learning community concept, there should be no confusion that when the opportunity has been given, the Papillion-La Vista schools have been at the table with the other districts, various task forces, and committees sharing thoughts and suggestions on ways to implement components of the law. In the interests of cost effectiveness and efficiency of effort, we have never believed that an added layer of governance, consisting of an additional board of elected officials, is necessary. Under the present structure, decisions are made by the Learning Community Coordinating Council with little input from elected board of education members serving 11 districts. Only 6 of the 11 boards currently have voting representation on the 18-member council. The law created a superintendent advisory committee. Statute requires that in order for more than five superintendents to meet when issues related to the learning community are being discussed, we must properly and publicly advertise the gathering. This seems odd since the superintendents have no vote or ability to make any decisions, and the Learning Community Coordinating Council usually seeks little advice from the superintendents prior to making decisions. The proposed structure in LB548 will provide direct input from boards and districts into the process and proposed implementation strategies. It places the responsibility for development of interventions and strategies toward accomplishing the goals outlined in the learning community statutes directly upon the superintendents and elected board of

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education members. With the responsibility upon local boards and superintendents, the removal of the current added layer of governance will accomplish direct cost reductions to the taxpayers. A cursory glance of the learning community budget would suggest a possible savings between \$350,000 and \$400,000 annually could come. These savings come in the form of \$200,000 from the Coordinating Council budget from fixed costs and reduction of at least two administrative staff positions, and legal and lobbying costs of over \$63,000. The revised governance plan would eliminate the costs associated with general elections needed under the present Coordinating Council configuration. In closing, I would encourage you to consider LB548 as a revision being proposed to you in the spirit of cooperation and compromise. It's a concept offered to improve existing inefficiencies, duplication of costs, and to potentially increase the effectiveness of the governing component of the learning community. Thank you. [LB548]

SENATOR ADAMS: Thank you, Rick. Are there questions for Superintendent Black? Yes, Senator. [LB548]

SENATOR COUNCIL: Thank you, Superintendent Black, for appearing this afternoon. And reasonable minds will differ on what a tweak is, (laughter) because, in my opinion, LB548 does not represent a tweak. And I'll ask this question first. You say, these savings come in the form of \$200,000 from such fixed cost as office space rental, so what will happen? Where would this new nine-member body be housed? [LB548]

RICK BLACK: I think, again, that needs to evolve from the process, Senator. As I look at the \$4.5 million budget for the learning community, 25 percent of that comes from expenses related to the Coordinating Council and administration. I don't know there's any district in the state that operates with 25 percent coming in fixed costs related to billing occupancy and administration. And so (inaudible) we believe there's some cost savings in there. We believe that we certainly need to continue with the level of the elementary learning coordinator. We certainly need to continue with some secretarial staff, but I think, again, with that, where the districts can work together to decide how best to distribute, if taxes are collected in full for support for focus schools, focus programs, along the way, how you best disburse those, whether it's through existing business managers, fiscal agent, could even look at a service unit to take over that responsibility. [LB548]

SENATOR COUNCIL: Well, forgive me for not following how, in the changing governance affects office space rental, energy costs. I can understand administrative staff positions. I don't understand legal and lobbying costs, but maybe that's because there will be less bills introduced. Oh, happy day (laughter). But I'm curious. One of the points that you stressed was the fact that under the current law, it prohibits superintendents who have no vote from getting together, and previous testifiers have talked about the lack of collaboration and coordination. Why didn't Papillion-La Vista and the other districts that you're speaking on behalf of, urge enactment of an

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amendment that would remove the open meeting law requirements and allow superintendents to get together and meet? [LB548]

RICK BLACK: You know, Senator, we've had those discussions. I know it's a comment that I've shared...a concern I share with Senator Adams on the side since the law has been in place. When the law was put into place, it was an issue that was raised at that point in time. I guess it's one of those...of choosing your strategies or picking your battles, whatever you might look at. Again, what LB548 offers is a suggestion, an alternative, because under the current structure, the concept is effective as it could be. We're not introducing the bill to do away with. We're introducing a way to correct what we believe are inefficiencies in effectiveness. [LB548]

SENATOR COUNCIL: And that I respect what your position is...don't agree with it, but I respect what your position is. And looking at changing the restrictions on superintendents, in my humble opinion, conforms more to my definition of a tweak. That's all, Senator Adams. [LB548]

RICK BLACK: I know we would appreciate that. [LB548]

SENATOR COUNCIL: Thank you. [LB548]

SENATOR ADAMS: Senator Avery. [LB548]

SENATOR AVERY: Thank you, Mr. Chair. You're superintendent, right? [LB548]

RICK BLACK: Yes, sir. [LB548]

SENATOR AVERY: So you have an appreciation for the need to educate all children and give everybody an equal chance to achieve. [LB548]

RICK BLACK: Yes, sir. [LB548]

SENATOR AVERY: Isn't the overarching purpose of the learning community and the structures set up in that law to close the achievement gap in the Omaha area? [LB548]

RICK BLACK: Senator, I'm not sure if that's true in the case. I know that that's...that was in the people's hearts, but currently, outside the elementary learning centers, the only way that we're really addressing the (inaudible) of achievement throughout the learning community is the encouragement of students to go someplace than their home school. Hence, the concerns related to transportation, open enrollment was meant to even out the distribution of low socioeconomic issues with students and families which has been credited for truly recognizes as a hindrance as far as achievement is concerned along the way. But in the bill, currently, leaving your home school for a different place is the

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way that we're approaching some, I think, dissatisfaction with what's happening in neighborhood schools. [LB548]

SENATOR AVERY: Well, isn't it true that many of the schools in the 11-member learning community didn't actually open up very many spots for kids to option in? [LB548]

RICK BLACK: Senator, I can't tell you what other schools did. Papillion-La Vista accepted 240 students under open enrollment. I think we participated. [LB548]

SENATOR AVERY: And I would agree with that, but there are a lot of others that did not, as I recall. [LB548]

RICK BLACK: And if I could respond to that, and I think the reason for that was truly an understanding by one of the Coordinating Council's subcommittee's diversity task force. And I will give you an example. I'll just...I'll pick one elementary school that was opening up when the open enrollment came into place. It was Bell Elementary in Papillion-La Vista schools. Papillion-La Vista has buildings for a capacity of about 450 elementary students. We built that into a subdivision that was planned for 775 to 800 homes, newly developing. When we opened up that building of 450 capacity, we had 300 students in the first year into that building with the full intention of that neighborhood being able to grow into that building. When we first met for the diversity task force, the understanding by some was that you have to accept then up to the capacity of that building which means you'd accept 150 students into that elementary school to fill it to capacity immediately, because you had space for it, but you had given no account the building that was going to happen around and the development around the neighborhood that was going to occur. You have several districts in the metropolitan Omaha area that are growing, and as they build, they have capacity space, so I want to compliment the diversity task force and the Learning Community Coordinating Council, who recognize the fact that capacity is an issue, and allows us to look at it year upon year. And I guess I would say to you, that was a collaborative effort from superintendents and the Coordinating Council as far as that advisory committee was concerned. [LB548]

SENATOR AVERY: So it is not entirely true that no collaboration whatsoever takes place. [LB548]

RICK BLACK: I would say to you, correct, and I would say to you, the diversity task force is an example of probably the task force, in my opinion, that has been the most effective and probably heard superintendent input the most. [LB548]

SENATOR AVERY: If we return control...this is really a control issue here, I believe. If we return it back to the local school boards, do you really think that we're going to do anything to close that achievement gap? [LB548]

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RICK BLACK: I would hope so. And, again, I think people get real nervous when folks say, that's not going to happen overnight, because people want things to happen immediately. It took us a long time to get to where the gaps are right now...various achievement levels for all populations. There's an achievement gap within the Papillion-La Vista schools. This structure, hopefully, can help us eventually address that as well, Senator. I would say what we're proposing is less a control issue and more of a who's responsible? And so, we can mince words over whether control and responsibility mean the same thing. I don't need to be in control. I guess superintendents would like to have a voice, would like to have an active participation in the decisions that are made. [LB548]

SENATOR AVERY: Well, you have the advisory council. That's a voice. [LB548]

RICK BLACK: It's a voice, sir. I think it could be done a lot more effectively. We've tried to express concerns on how that participation could happen. I can say to you, there's been multiple times over this last two years, 18 months, if you will, when superintendent advisory meetings will meet at 4:00 on the day of a board meeting. There are items brought to that superintend advisory that are first time in front of the superintendents that are acted upon in their final form at the meeting that night. That's not input; that's not advice. At the very first advisory meeting of the Learning Community Coordinating Council, one of the Coordinating Council members stated clearly, this is not a board of education. We don't listen to boards of education, and we don't need to listen to the superintendents. There were a lot of superintendents in the audience that night at that meeting. They had questions related to the budget and the budget process and the budget deadlines. Not one person turned around and asked any of the 11 superintendents who could have easily answered that question that evening, what that deadline was for submitting school budgets. Instead, it was referred to their legal counsel, who said they would look into it, again chalking up more legal fees. The advisory piece has not worked, Senator. [LB548]

SENATOR AVERY: Well, advisory means advisory, and I know what we're really talking about here. You don't like advisory; you want more control. [LB548]

RICK BLACK: Responsibility. [LB548]

SENATOR AVERY: That's really the issue; that's really the issue. Let me ask you one more question, then I'll stop, Mr. Chair. What happens to the focus schools...let's say Underwood Hills focus school. What happens if we adopt LB548? What happens to a school like that? [LB548]

RICK BLACK: Senator, currently, and I know this is testimony coming with the next bill, if you will. But, currently, the Underwood Hills focus school is an interlocal agreement.

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It's not being (inaudible) as a focus school at this point in time. For years, across the state, across the metro area, within my own district, we've had interlocal agreements. For 20 years, we've been in interlocal agreement with the Ralston Public Schools and offering services for English learning language students. That's simply districts coming together to contract in a most efficient and most effective way to deliver special services to kids and... [LB548]

SENATOR AVERY: Through an ESU? [LB548]

RICK BLACK: Pardon me? [LB548]

RICK BLACK: Through the ESU? [LB548]

RICK BLACK: No, we operate...ESUs could do that, Senator, but districts can also enter into cooperative and local agreements with district to district. Happens all across the state in its ongoing basis. That's what the Underwood Hills focus school is currently. It's an interlocal agreement. Three school districts came together to offer a program. They're not a focus school. [LB548]

SENATOR AVERY: They're not a focus school. [LB548]

RICK BLACK: No, sir. They do not receive funding under the law as a focus school. [LB548]

SENATOR AVERY: I bet that's a surprise to the parents (laughter). Thank you. [LB548]

SENATOR ADAMS: Senator Haar. [LB548]

SENATOR HAAR: You're saying here that the Coordinating Council has sought little advice from superintendents, and then you say, under LB548 that superintendents and elected board of education members would accomplish the goals. I didn't see in LB548 where superintendents were written in. [LB548]

RICK BLACK: They are written in as an advisory committee to the board of education. Boards of education would operate that the superintendents, I guess, become the soldiers or the implementers and the recommenders of opportunities or initiatives implement to meet the needs. [LB548]

SENATOR HAAR: And so, your feeling is that being an advisory board to the board of education members would give you more input. [LB548]

RICK BLACK: Yes, sir, we report directly to those folks currently. We would continue to report directly to those folks. [LB548]

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SENATOR HAAR: Okay. Thank you. [LB548]

SENATOR ADAMS: Other questions? Rick, let me ask you. Aside from the proportionality argument which is a legitimate one...aside from the open meetings language and superintendents which it is worthy of consideration, you've always been very straight up with me. Cut right to the quick, what is the problem? [LB548]

RICK BLACK: You have a layer above...it would be no different than a board that would serve above the Unicameral, making some decisions, and then telling you...or asking you, trying to implement those kinds of actions. There's a level that doesn't go too...and I guarantee, I'm not advocating this, but Senator Avery mentioned, the two counties and one school concept. But it basically...it's trying to operate to bring the school districts together, but those districts really don't have any input to what's going on, but we're expected to implement whatever happens. And so, not having much of a voice into that implementation. There are things that we've been forced to do, and I know, you're addressing a couple of those things later on as far as the sharing of information. There's been requests from the learning community that we truly believe that they do not have...they don't have privy to under FERPA and under HIPAA and all those kinds of things, protecting the, you know, the privacy of parents and kids. I know they are frustrated, at times, to try to implement things along that line that they believe are their charge. But I think, directly, Senator, it's the fact that you have a layer up here, that is trying to accomplish some things regarding to achievement where achievement, there's not the steps that are implemented what their charge is about. Their charge is about open enrollments, about elementary learning centers, but to take a look at the overall concept of achievement across the metro area. I'm not real sure that that's written into what their charge is right now. And I think the school districts are the ones that are charged with that issue and need the opportunity to deal with it. [LB548]

SENATOR ADAMS: Okay. Fair enough. Thank you. [LB548]

SENATOR COUNCIL: Quickly, Senator Adams, your... [LB548]

SENATOR ADAMS: Please. [LB548]

SENATOR COUNCIL: Your question prompted a question, and Mr. Black just talked about that. You just stated that one of the charges of the Coordinating Council is the elementary learning centers. Did I hear your statement right? [LB548]

RICK BLACK: Yes. [LB548]

SENATOR COUNCIL: So, help me understand why under LB548, authority is given to the superintendents to administer elementary learning centers. I mean, what is the

advantage of having the superintendents administer the elementary learning centers when one of the reasons was for the creation of the subcouncils was to have the elementary learning center administration have more parental and community involvement? What makes superintendents better at administering elementary learning centers than the communities that they are designed to serve? [LB548]

RICK BLACK: I appreciate the question, Senator. And, Senator Adams, you've been the recipient of my lengthy e-mails, so I'll try to be centric, concise in this. But I think that once you have...when we have the school districts who are responsible for the students, who are responsible for the achievement of the students, who are responsible for information directly related to those students, in charge of helping design specific interventions for individual students that are attending those elementary learning centers. I think you have a better opportunity for sharing of information, for involvement and direct opportunity to be prescriptive in what needs to be offered educationally. The things that are being done also in elementary learning centers, as it relates to the social needs of our parents, our families, our communities are admirable. It's difficult for the superintendents without direct involvement in that process to have much of an influence on that piece of...and that becomes true of the bigger picture of all agencies throughout the state, but certainly, throughout the metro area to try to meet those needs. If we're talking about achievement directly, it ought to be the folks that have access to the records, that know those students, that can design specific interventions that occur during the summer, that concentrate the use of that money that's coming from elementary learning centers on the achievement piece. The things...the field trips and the social interaction that was accomplished the last summer for elementary (inaudible) was admirable. But if the school districts are going to be held accountable for the achievement piece of it, we have to have a voice. We have to be a part, an integral part of shaping what happens in those interventions to meet the achievement gap to reduce it. [LB548]

SENATOR COUNCIL: Well, I don't want to drone on and on, but that's why the subcouncils were designed the way they were designed to have a school board member, and then two elected members from the community, because the school board members also have that knowledge of what's needed for children, and it was never my understanding and someone who was here...I wasn't. It was never my understanding that the elementary learning centers were to be mere extensions of the schools, that it was intended more to address some of the wraparound service issues, and, quite frankly, community folks sometimes have better knowledge and connection with those than the school officials. And my final point is, the community involvement component of LB548 boils down to this: That this newly constructed governing council may hold public hearings at its discretion in response to issues raised by residents regarding the learning community, a member school district, and academic achievement. Again, I think that diminishes greatly the opportunity that the community has now, because the elected members of the subcouncil have to respond to that electorate. So, that's all,

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Senator Adams. [LB548]

SENATOR ADAMS: All right. Other questions for the superintendent? Thank you, Rick. [LB548]

RICK BLACK: Yeah. [LB548]

SENATOR ADAMS: Next proponent. [LB548]

STEVE BAKER: (Exhibit 2) Good afternoon, Senator Adams, members of the Education Committee, my name is Steve Baker, S-t-e-v-e B-a-k-e-r. I'm the superintendent for the Elkhorn Public School District. LB548 is not about dismantling the learning community. If we are serious about improving student learning, there must be a willingness to evaluate, adjust, and move forward. This bill is about beginning to make those adjustments and improvements. We're not here to attack any individual. In 2008, when Senator Raikes was drafting LB988, he acknowledged that this would be a work in progress. LB548 is a step towards improving student learning for all students in the learning community. Senator McCoy has explained how this legislation...I'm sorry I used the word...tweaks the governing structure of the learning community and places the primary responsibility of conducting learning community business in the hands of the elected school board members and superintendents. During the past two years, much of the business conducted by the Learning Community Coordinating Council has been absent of any meaningful input from the elected school boards and superintendents. During the preliminary organizational phase of the learning community, the superintendents were not asked for any input in the development of a job description for the COO, any of the office staff, and any of the contracted services including legal and financial. As time progressed, there was no input requested to aid in the selection of an Elementary Learning Center Coordinator or an architect. There is valuable experience and expertise readily available through the local school boards, their 11 superintendents and staff, yet the council has chosen not to take advantage of those resources. Currently, legislation calls for the superintendents to serve as an advisory group to the council. At several of these meetings, information has not been provided to the superintendents in a timely manner. There are numerous examples, but one included the important Learning Community's Baseline Evaluation Report that was sent to superintendents at 10:00 p.m. on November 17, prior to a 5:00 p.m. public meeting on the very next day. The first year's report to the Education Committee was prepared at the last minute with little time for review and meaningful input by the superintendents. Over the past two years, even in the best subcommittee environments, there have been times where a committee requires the superintendents or district representatives to leave, so they can continue conducting business behind closed doors. And to be clear, this is not a one-time example that I'm citing. The current governance model has shut out the expertise of the locally elected school boards, their superintendents and staff, and as a result, we are not improving student learning for all students. If the learning

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community in Douglas and Sarpy Counties is here to say, then let's find a way to improve it when we know there's a problem. Thank you, Senators, for your time, your willingness to tackle the challenges in improving the education for all Nebraska students. [LB548]

SENATOR ADAMS: Thank you, Dr. Baker. Are there questions? [LB548]

STEVE BAKER: Oh, Senator Council, you're going to let me off (laugh). [LB548]

SENATOR ADAMS: I guess they are going to let you off the hook. Thank you. [LB548]

SENATOR COUNCIL: You used the word "tweak", but I'm going to let you go. [LB548]

STEVE BAKER: You know what? I almost erased it, but it was on all those copies (laughter). [LB548]

SENATOR ADAMS: Next proponent. [LB548]

GEORGE CONRAD: (Exhibit 3) I am glad I took "tweak" out of my written document (laughter). Senator Adams, committee members, my name is George Conrad. I'm the superintendent at Douglas County West Community Schools, and I'm here to testify not only on my own behalf, but on the behalf of my board of education, who took the action of proposing a resolution to change the ordinance which I've included in my written testimony for you as well. I had the fortune in 2006, spring of 2006, to be in a very classy boardroom at Werner Trucking where Senator Raikes spoke to us about the fact that he was excited about the vision of LB1024, but knew that only with the tweaking, but with the revision of that bill, things could change, and I was excited about that at the time even though I didn't see a tremendous amount of benefit for the students at DC West. The reason I'm here today is to suggest to you that I believe that the streamlining of the Learning Community Coordinating Council would, indeed, include people who are close to educational issues, and, due to that closeness, understand the potential issues and the potential consequences of decisions made which are best for all students. I'm not here to put down some of my great colleagues, who actually serve on the Learning Community Coordinating Council, and have no doubt in their intentions for helping students, so I would never question that on any part. But I would say to you that I would suggest that these members, as we're recommending...these board members are, indeed, elected by the public. And from my perspective, I believe that an election of a super board, if you will, is a redundancy in that whole process. Unfortunately, being the last to speak, of course, I'm taking notes in the back row, so I've got all of these things I want to say in three minutes, and I don't know I can get there. But one of the things I want to point out is that as I recall our discussions, we talked about diversity within the learning community, not as a race issue, but as a socioeconomic issue. Students who deal with poverty every day, and as a representative of the school district with the third

highest poverty level, I would suggest to you that I feel I have very little representation with no voting member on the 18-council board in a subcouncil that represents seven school districts...not one, but seven, and proposedly, support my views along with my fellow district members. And I would like to suggest to you, that while I understand the concept of one person, one vote, I suggest to you that that, in fact, does not help representation for a large number of poverty students who live and work under my direction. The last thing I'd like to say is that while I think the Superintendent Advisory Council needs to have more opportunity for input, if you're counting on us to give you the decisions, wrong way to go. The reality is, it's the staff members who work with us that make a difference. It's not George Conrad. It's the great knowledge of those teachers and staff that work with me that propose great things. And I'm red. Sorry. [LB548]

SENATOR ADAMS: Thank you, George. Are there questions? Senator. [LB548]

SENATOR COUNCIL: Thank you, Superintendent Conrad, and I'm having trouble dealing with what appears to me to be a contradiction. I'm reading your printed statement, and the contradiction is between the support for LB548, and the changes reflected in that bill, and what's stated in your written statement. You say, and I quote, "The effective work being done is not at the council level, but at the subcommittee level" and then "Groups of school district staff have been responsible for shaping the plans for everything from the diversity plan to the elementary learning center programs and designs." So who...who comprises the subcommittee level? [LB548]

GEORGE CONRAD: Subcommittee level basically is made up of members of the Learning Community Council, staff members of the elementary...or of the learning community, and representatives from each one of the districts. A great example would be, elementary learning centers. We were one of the people granted through subcouncil six as being one of the school districts to receive additional funding with the pilot dollars for a summer program. The entire design, structure, evaluation, and the entire process of that learning center opportunity for kids over summer program, was designed completely within the confines of my own school district with no input from or support...I don't want to say support...with no input or explanation of expectation from Learning Community Coordinating Council members. I don't know if that's answering your question. [LB548]

SENATOR COUNCIL: No, it didn't, because you're talking about what went on in your particular district. I'm talking about the statement that all of the work is being done at the subcommittee level. [LB548]

GEORGE CONRAD: What I'm saying is that we're not hashing anything out in an 18-member open meeting council. What I'm trying to suggest to you is that it would be my perception that by reducing the number of personalities and groups of people on

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that learning community council by streamlining, what we really do is we have an opportunity to be more directly involved with what happens at the subcouncil level to make those decisions. At the subcouncil level, when I have, for example, on the elementary learning center, when I had three members of the council or four members of the council present during that meeting, then my perspective is, that's not a full representation of the council of 18 members. What I would suggest to you is that if we had a council of nine, and two of those nine were on the elementary learning center subcommittee, then there is a more direct contact between two to nine than there would be three to eighteen. [LB548]

SENATOR COUNCIL: Ah, so your argument is based on a numbers game as opposed to being based on the ability to develop and advocate your program. I mean, it's quite conceivable if four people put together a gang buster proposal that they could come and convince 18; they could come and convince 49... [LB548]

GEORGE CONRAD: I wouldn't disagree with that. I wouldn't disagree with that. [LB548]

SENATOR COUNCIL: As my predecessor would say, one could convince 48 others. I mean, you know, if it's good and it's achieving the mission, I don't think the numbers involved in putting it together are essential, and this is no disrespect to you, and you've mentioned that you're the last proponent, and if that's the case,... [LB548]

GEORGE CONRAD: Why they picked me for cleanup, I don't know, but...(laughter) [LB548]

SENATOR COUNCIL: You're the cleanup batter (laughter). But very early on in the testimony, there was the comment made, we want to get away from a "we" versus "them." Please appreciate my perspective. When I look at the proponents, I'm wondering, aren't we perhaps getting into a bigger "we" versus "them" which has existed in metropolitan Omaha for far too long, and that's west versus east? And that's troubling... [LB548]

GEORGE CONRAD: Senator, I would... [LB548]

SENATOR COUNCIL: ...and it should be troubling to you. [LB548]

GEORGE CONRAD: Senator, I would suggest to you that the metro community did not even consider Valley and then DC West, did not even consider us a part of the metro community until it was time to create the common levy, at which time my taxpayers began to provide additional revenue to fund the learning community concept. Not until that time, was DC West considered a viable member of MOEC...the Metropolitan Omaha Educational Consortium. Not until that time, did DC West have the opportunity to participate in a number of educational opportunities for students; not until we were

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placed in that community, were we recognized as having an issue for having almost 50 percent free and reduced lunch at our elementary level and receiving no support from the metro whatsoever. So I would suggest to you that I would not disagree with what you're saying, but I would also suggest to you that to think that I wasn't interested or my school district was not interested in providing answers to the problem. The reality is, we were never considered a part of the problem until it was time to create a learning community which promoted a common levy, frankly. I mean, I'm just being honest about it. That's my perception. [LB548]

SENATOR COUNCIL: Well, and, again, I mean, as I understood it, it's countywide, so it'd be...you know, it's Douglas County, Sarpy County...two county...Douglas County West is in Douglas County. [LB548]

GEORGE CONRAD: Yep. [LB548]

SENATOR COUNCIL: You know, and if the Legislature had dealt with it in any other fashion, it could not have escaped, in my humble opinion, getting away from what Senator Avery mentioned several minutes ago about one city, one school district. And so, to move away from that and broaden...that's why you get Douglas County, Sarpy County. But, you know, again, when, you know, recognize and appreciating where we've come from, where we are, and where we're headed, you know, this "we" versus "them" can be construed in a variety of fashions. [LB548]

GEORGE CONRAD: I would not disagree with that. And I don't think that helps anybody. [LB548]

SENATOR COUNCIL: Right. Thank you. [LB548]

GEORGE CONRAD: I would suggest that if it's good public policy for the state of Nebraska, then I'm surprised that the Legislature has not created a learning community of Lancaster County. I don't know why that hasn't happened. But I would suggest that if, indeed, that's good public policy, then I'm surprised we don't have a number of learning communities established by the Legislature to promote the student achievement of students across the entire state of Nebraska. [LB548]

SENATOR COUNCIL: Now, my fellow Education Committee, longer serving than I...I think that the statute does allow for the creation of other Learning Community Councils, so (laugh) so... [LB548]

GEORGE CONRAD: The difference is allow versus require. [LB548]

SENATOR COUNCIL: Right, right. [LB548]

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GEORGE CONRAD: That's the true difference for the constituents of DC West, and please, please understand a respectable debate. [LB548]

SENATOR COUNCIL: And...oh, no, and I do. And you...but we know how we got to require (laugh), so, okay. [LB548]

GEORGE CONRAD: I understand that as well. And I...and I do appreciate your...I'm not...I do appreciate your efforts here so. [LB548]

SENATOR COUNCIL: Well, and I appreciate your input. Thank you. [LB548]

GEORGE CONRAD: I do believe that we want to move forward in a positive manner, not to destroy or eliminate. [LB548]

SENATOR ADAMS: Other questions? Thank you, sir. [LB548]

GEORGE CONRAD: Thank you. [LB548]

SENATOR ADAMS: Any other proponent testimony? If not, we'll go to opponent testimony. Excuse me for one moment, Rick, before...how much opposition testimony are we anticipating? Okay. Fair enough. Thank you. [LB548]

RICK KOLOWSKI: Chairman Adams, members of the committee, thank you very much for this opportunity to be here. I'm Rick Kolowski. That's K-o-l-o-w-s-k-i, Learning Community Chair. The Learning Community of Douglas and Sarpy County owes its creation to legislators willing to look, in particular, at the Omaha metropolitan area as one community and to develop a system that acknowledges the interconnectedness of educational efforts within our shared region and how student achievement in all school districts impacts the health and welfare of the entire metropolitan area. Learning community is unique in that its creation recognizes that to fulfill the legislative vision, an independent political subdivision was needed with its primary focus being to foster, encourage, and implement efforts that close the achievement gap that exists amongst the approximately 110,000 students across the entire learning community region. The learning community pursues this focus on behalf of all students often in collaboration, but sometimes in tension with its member school districts. To fulfill the legislative vision, this effort cannot be a part-time initiative or assigned solely to elected school board members and superintendents. The Legislature considered those approaches, allowed creating a learning community law, and discarded them. The Legislature considered appointment of council members rather than elected by the general public and initially adopted this approach with LB1024. However, with the passage of LB641 in 2007, the Legislature chose to have the majority of the council members elected by the general public with some appointed members from school boards, rejecting the council appointed entirely by member school districts. A quote from Einstein would be

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appropriate at this time: "No problem is solved by the same consciousness that created it." The learning community of Douglas and Sarpy Counties has been in existence less than two years, and fully operational less than 18 months, issuing its first report to the Education Committee in December 2010. It is too early to make sweeping changes to its structure. Finally, and it is important to note, that to date, it is our understanding that only four of the eleven member school districts have officially supported this bill. Thank you. [LB548]

SENATOR ADAMS: Thank you, Rick. Are there questions? Senator Avery. [LB548]

SENATOR AVERY: Thank you, Mr. Chair. Mr. Kolowski,... [LB548]

RICK KOLOWSKI: Yes, sir. [LB548]

SENATOR AVERY: Thank you, Mr. Chair. Mr. Kolowski, I'm looking at the list of people who testified against this bill, Millard, DC West, Papillion, Elkhorn. I might have missed one, but I think that was it. [LB548]

RICK KOLOWSKI: Those four, yes. [LB548]

SENATOR AVERY: Am I right, that these...these school districts had to be dragged, kicked, and screaming in to the learning community in the first place? And maybe you wouldn't want to use that language. [LB548]

RICK KOLOWSKI: (Laughter) Yes, I can address the physical posturing, but I would simply say... [LB548]

SENATOR AVERY: They were not in support of the learning community at the time we created it. [LB548]

RICK KOLOWSKI: That could be...summarize it by some, depending on their reactions to certain things, yes. [LB548]

SENATOR AVERY: All right. Would it be accurate to say that LB548 would be a major step backwards? [LB548]

RICK KOLOWSKI: We would agree with that, yes, sir. [LB548]

SENATOR AVERY: And when people talk about a work in progress, progress suggests to me or at least implies that you're moving towards something better. [LB548]

RICK KOLOWSKI: Yes, sir. [LB548]

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SENATOR AVERY: Do you see LB548 as a work in progress? [LB548]

RICK KOLOWSKI: No, we think that would be retarding our work. Thank you. [LB548]

SENATOR ADAMS: Other questions? Senator Council. [LB548]

SENATOR COUNCIL: Thank you. Thank you for appearing today, Mr. Kolowski. There has been a concern stated about the administration or the day-to-day operations of the Learning Community Council and, specifically, there was a concern expressed about who the chief executive officer reports to. Were your bylaws approved by the current membership of the Learning Community Council? [LB548]

RICK KOLOWSKI: Yes. [LB548]

SENATOR COUNCIL: And this provision was set forth in the bylaws? [LB548]

RICK KOLOWSKI: We moved from COO which is Mrs. Brewer at one time, to our current CEO that will be appointed in mid-March. He'll arrive and begin his work on the 15th of March, Ted Stilwill, and with the redefining of the role as a CEO, and simply for efficiency as who to report to within our structure of an 18 voting member body, we made that to the Chair, but that doesn't eliminate his talking to anyone else or anyone else talking to him. It's simply a functionary reporting status in structure more than anything else. [LB548]

SENATOR COUNCIL: Do you remember the vote on that? [LB548]

RICK KOLOWSKI: Within our subcommittee, it came up through the work with Mrs. Gray, and we recommended that to the council as a whole, and that outline form was okayed last Thursday night, and voted on last Thursday night. And the final vote was unanimous, I believe. Yes, it was. [LB548]

SENATOR COUNCIL: Okay. So you had a unanimous vote of this 18-member body to have a management reporting structure that has your CEO reporting to you as chairman of the board. [LB548]

RICK KOLOWSKI: Correct. [LB548]

SENATOR COUNCIL: So if there was any real problem with that, there should have been some dissenting votes, you would assume. [LB548]

RICK KOLOWSKI: Potentially, yes. You would hope. [LB548]

SENATOR COUNCIL: Okay. The issue about the superintendents, and their inability to

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meet...like I said, I wasn't here when the Learning Community Council bill was first introduced, discussed, amended, and approved in its current version. But do you as chairman of the board, and I assume your chairmanship is a result of a vote of the members of the council, correct? [LB548]

RICK KOLOWSKI: Yes. [LB548]

SENATOR COUNCIL: Okay. [LB548]

RICK KOLOWSKI: For the past three years. That's correct. [LB548]

SENATOR COUNCIL: As chairman of the board, what, if any, problem would you see with the superintendents being able to meet and not be subject to an open meetings type of requirement? [LB548]

RICK KOLOWSKI: Well, I don't feel that they should be restricted in that particular fashion. I think they need to meet as often as they need to. They've done that with MOEC and other situations within the metropolitan area, and as they have enlarged the MOEC representation to include all the learning community districts, that it's...I think that was a good move. It wasn't all the districts at one time, and I think the less restriction we have on them meeting, the more productive the discussions to be. I don't...I think that would be an impediment for our progress to move ahead if they had to be so cautious as to the gathering of six or more of them at one time. [LB548]

SENATOR COUNCIL: Okay. And I suspect that the reason for the restriction is that the current law puts them in an advisory position, and having that kind of advisory level authority as compared to a common citizens group, I think that's what's the concern that's reflected in having those discussions be open. But there would be certainly opportunity to look at that if it would benefit the council in achieving its objective and... [LB548]

RICK KOLOWSKI: Please, I would appreciate that. [LB548]

SENATOR COUNCIL: ...okay. And I will withhold my comments on the...although it's mentioned in LB548, there's a whole another bill that talks about data collections, and I will forewarn you, I won't be so kind on the Learning Community Council when we get to that subject. That's all, Mr. Chairman. [LB548]

SENATOR ADAMS: Other questions? Rick before you get away,... [LB548]

RICK KOLOWSKI: Yes, sir. [LB548]

SENATOR ADAMS: As I listened to all of this and I have tried to listen to both sides in

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my tenure in this spot, I may be oversimplifying, and if I am, correct me. It would seem to me that what we're about here is a lack of communication on the side of both. And I'm not so sure that how we structure this deal is going to resolve that. You've heard what the superintendents have had to say today. How would you respond to that? [LB548]

RICK KOLOWSKI: Well, I disagree with the premise, that there's been a lack of communication: The structure that we have with the learning community, the representation of 6 of those 18 members coming from school districts; the role of the advisory committee and chaired by Superintendent Riley from Gretna; the six achievement subcouncils that we work with, each of the superintendents are represented in those subcouncils which we think are very important as far as the mainline contact with the community in that particular area. The subcommittees within our structure that school board members sit on, and the two task forces. As Dr. Conrad has mentioned, others have mentioned, they have attendance on those task forces of both diversity in elementary learning centers as well. So they've had input all along the way on so many issues. The work in the diversity aspect of the diversity task force, I think the structure and production of our open enrollment forms, all the things that went into capacity in buildings. There was tremendous communication and involvement of the superintendents to bring that about and to bring that into reality. As the elementary learning center structure was fleshed out, you heard Dr. Conrad also mention the grants to the districts, and the specifications of the grants being structured by the districts to a particular need within their identified school district itself. All that has led to money going directly to a process or a problem they wanted to address in their building and in their district. So I think we've...so some of the things might have been mentioned that are very old since the beginning of our existence in 2009. I think we've made great strides in improving all communication, and the important thing is that communication is also a two-way street. The phone goes both ways, and picking up that phone and talking about the things that are important to all of us besides our meetings and our subcouncil meetings are very important. It's very important that we take the time and make those connections. We have a structure. We have an office staff. We have the mandate in the legislation to do the things that we are structured to do. That is not the same as every school district. You built us and are requiring us to try to do things differently and better than they've been done before. Senator Adams, your own question, if it went away, what would be different? What would fill the gap, and what would be done? One last comment I'd make on this to the committee is to be aware that proponents of this bill, as stated, that the passage of the LC...learning community law was bad public policy. You've heard that mentioned at different times. When pressed for an explanation, none has been forthcoming as to what that means. To defame this law that was passed to assist our students who struggle with the issues of poverty, mobility, and English language learning seems to reflect both what could be called a bunker mentality as well as an incomplete education. We've got to think larger and broader than our single district into the whole metropolitan area in dealing with the issues that are paramount with so much of our population. And every district, as the superintendents have stated,

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have these issues. It's not just in OPS, but it's a very high percentage of what we're dealing with in OPS at this time. And we're here to help to open those doors to bring together programs with the cooperation and communication with the superintendents to make a difference in every one of those venues. And we are structuring ourselves to be responsive and responsible to the districts and to this Legislature for all that. [LB548]

SENATOR ADAMS: Thank you. Senator Howard. [LB548]

SENATOR HOWARD: Thank you. Thank you, Mr. Chairman. I'm going to...Senator Adams makes a great point, and I think that can...we didn't put the learning community in place to create another bureaucratic structure. That was one thing that we really, really looked at, and that was a big concern that we'd had. I have to tell you, that as long as there isn't a working communication, I don't see much chance for success. And an additional concern of mine, and I haven't known how to say this, is after Friday's article in the newspaper, I've gotten nothing but calls, saying, what are they doing? [LB548]

SENATOR ADAMS: Senator Sullivan. [LB548]

SENATOR SULLIVAN: Thank you, Mr. Kolowski. Is there any time aside from the superintendents that serve on the advisory committee...is there any time that you bring all the superintendents together? [LB548]

RICK KOLOWSKI: The advisory function is the main function that we have with them. They have other meetings outside of our structure... [LB548]

SENATOR SULLIVAN: No, that's not my question. [LB548]

RICK KOLOWSKI: I'm sorry. [LB548]

SENATOR SULLIVAN: I mean, is there any time when you bring all the superintendents together to meet with you? [LB548]

RICK KOLOWSKI: Only if the advisory structure is available. [LB548]

SENATOR SULLIVAN: So, there's never a time when they're all together? [LB548]

RICK KOLOWSKI: All of them? No, unless we're all at the same meeting together someplace for some other function. But I, again, I would say that I don't agree with the lack of communication or coordination of information to them. I think we have...the vast majority of all that we've done, we've tried to communicate early and ahead of time as much as possible. [LB548]

SENATOR ADAMS: Other questions? Thank you, Rick. [LB548]

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RICK KOLOWSKI: I'll be followed by Mr. Hartnett and... [LB548]

SENATOR ADAMS: Next opponent. [LB548]

RICK KOLOWSKI: Yes, and then two others, please. [LB548]

SENATOR ADAMS: Welcome. [LB548]

PAUL HARTNETT: (Exhibit 4) Senator Adams, for the record, I'm Paul Hartnett, representing District 5 of the learning center. As elected council member of Learning Community Coordinating Council from District 5, I'm one of the three council members that have served the governing body of achievement councils 5. One of the key elements of LB548 is elimination of the achievement subcouncils and their governing subcouncils. I believe that would be a serious error, eliminating one of the truly valuable elements of the learning community structure. I've been involved in education all of my adult life, and have seen the achievement subcouncils provide a unique opportunity for parents and educators to work together to improve the quality of education for their children through the subdistricts. My district, achievement council 5, serves Bellevue and south Omaha, and is one of the two subcouncils that are developing an elementary learning center for our students coping with poverty and language problems. Developing that ELC has given me a whole new perspective on our educational system. Parents are concerned about their children's education and their ideas, good ideas about what is needed. But the options they have for getting through the system to the policy makers and decision makers are a problem. The subcommittee are not the school district or part of the school. They stand apart, being part of the system, but closer to the local community. We are quite literally their elected representatives to help them. We come from outside the local school district system to listen to their concerns and carry forward their ideas of dealing with them. Our subdistrict held four community forums as part of our development of our ELC plan. I learned more about the community and its educational needs than I ever could have imagined. At each forum, we saw anywhere from 80 to more than 100 individuals come to participate. They didn't just listen; they spoke up and contributed their ideas. Most of the adults were there as couples, mothers and fathers concerned about their children, and thrilled to have a place to learn and contribute to the education of their children...of their kids. Many of them have brought their children, and we saw almost as many children as adults in packed gymnasiums and cafeterias. People came and talked and when time ran out, they filled out cards to pass along their ideas. I have never in my 40 years of elected service seen anything like it. These people, through their community groups, provided their own translator to make sure they understand what is being said, and to make sure that we understand them. I want to digress from my comments. I thought, after the first meeting, and we had this big crowd, that will be the end of it (laugh), but it kept...every one of the places we went, we had people. We have begun something unique and special with the learning

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community achievement subcouncil. To eliminate them now would be a tragic waste. We would lose a major element, linking our educational system to the people it serves and some of the broad control that we value so much. Any questions? [LB548]

SENATOR ADAMS: Are there questions for this testifier? Senator Sullivan. [LB548]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you, Senator Hartnett. Obviously, there's concern on the part of the families involved, so can you bring me up to speed a little bit on what you're doing as a follow-up? [LB548]

PAUL HARTNETT: We got lots of comments, and we had, I think, one of the...I think person. We did have a summer school program, and we've got some programs going on now. But what we found was, that there was help at the schools, but not enough help. There are more students that needed help than the districts could provide, so we're doing that. And we did hear...we did is we developed our plans for our District 5. We did have representatives from Bellevue and OPS helping us. We used both the districts themselves, and we used outside providers in our district. So I'll read you some of the things that (laugh)...I got it when... Where will the learning center be located, relocating existing buildings or separate facilities? We're still in that process of getting one in south Omaha. That's where my...I live in Bellevue, but the biggest part is in south Omaha. After school literacy and reading programs are needed, so we need to do more, because we have in...I think that's true in District 2. There are school districts that are over 75 percent poverty as the Legislature has defined this. Programs need to teach music and musical instruction--instruments should be provided at no charge. Dual language programs should be brought into all parts of the city, currently offered in some schools. So some...we have a whole bunch of things, and we're still working with the, you know, with the...because my district is represented...two school districts, Bellevue and Omaha, and so, we're working to put together a plan to solve the kids' needs. [LB548]

SENATOR SULLIVAN: Have you set some time lines to some of these efforts like, particularly, when the early learning center might be actually in place? [LB548]

PAUL HARTNETT: I think we should be done...let's see, what (laugh)...what day is it? Was it February? I think we should have one done by this summer. I have...I'm only one member of the three. I have my idea where it should be, but I'm only one vote of the thing. In my mind, it should be the...it's an empty building...it's an empty...it's a library, south Omaha library. It's a very centrally located, good facility. It's not by used...by the city, but I think we can get a lease on it and so forth, so. [LB548]

SENATOR SULLIVAN: Thank you. [LB548]

SENATOR ADAMS: Are there other questions? Senator. [LB548]

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SENATOR COUNCIL: Yes, thank you, Chairman Adams, and thank you, Mr. Hartnett, for appearing today. The proponents of LB548 raise concerns about manageability, and I'm not unmindful of the issues that can arise from having an unmanageable governing body. But I'm asking, from your experience on the council, have you seen the size of the council, served to impede any of the progress that's been made to date? [LB548]

PAUL HARTNETT: Not in my, you know, years of experience, no, I have not. [LB548]

SENATOR COUNCIL: Do you see, not being a board member representative of your subcouncil, do you see board member input being discounted or otherwise dismissed or? [LB548]

PAUL HARTNETT: In our...well, I can only speak if I...you know, subcouncil, and I also serve on some of the other task forces. But in our subcouncil, the representative from the school district was the chairman of our committee in the subcouncil. [LB548]

SENATOR COUNCIL: So you view that as the avenue for the district to have its input on the issues that your subcouncil is addressing? [LB548]

PAUL HARTNETT: Yeah, yeah, yeah. [LB548]

SENATOR COUNCIL: And in terms of the community involvement...I know you've testified as to the forums, the whole cost issue about office space and...I guess, I still don't see how we could reduce those costs going from the existing governance structure to a nine-member... [LB548]

PAUL HARTNETT: Yeah. You need so much staff if you're going to, you know, if you're going to do a, you know, do the job. And, you know, the cost, you know, somebody else can respond maybe to the costs better than I. But we, you know, we tried to keep the number of people that we have in our office, main office, down so. [LB548]

SENATOR COUNCIL: Okay. Well, and I'm looking at that. And I can appreciate...like I said, I have no disrespect at all of the positions that have been advanced by the proponents. But I don't see how you necessarily reduce administrative costs, because the last time I checked, school board members were still volunteer positions. Many of them have other, you know, full-time employment, and they give graciously and selflessly of their time, but, I mean, there's only so much that, I mean, they're responding to the needs of their individual school district, responding to the needs of the Learning Community Council. I mean, there has to be...I would think you would see an increase in administrative costs if the composition of the governing body was reduced and limited to school board members as opposed to the variety of individuals such as yourself, who...I'm not going to put you in retirement, but (laughter)... [LB548]

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PAUL HARTNETT: Thank you (laugh). [LB548]

SENATOR COUNCIL: ...but darn close (laugh), so, I mean, do you...I mean, is that... [LB548]

PAUL HARTNETT: Yeah, you know, if you're going to have...you have to have an office, I think, even if we went with this. And I guess, the thing is, I thought about it this morning after my testimony, so right now, the people in District 5 get to vote for me, that they voted for me the last time and my other counterpart, John Synowiecki, you know. But what we're proposing here with LB548 is taking that right away...a direct vote is not going to happen under LB548. You're going to elect a school board member, and he may get on the learning council, but he may not. So that is a...bothers me, too, is being in elected office for a number of years (laugh). [LB548]

SENATOR COUNCIL: Thank you, Chairman Adams. [LB548]

SENATOR ADAMS: Are there other questions? Thank you, Senator. Next opponent. Welcome. [LB548]

FREDDIE GRAY: Good afternoon, Senator Adams. Been awhile...and the rest of the members of the Education Committee. My name is Freddie Gray, and I am a subcouncil 2 representative of the Learning Community Coordinating Council. I wear various hats with organizations dealing with education, but today, I am here representing my Learning Community Coordinating position. Although most of the member school districts that we're talking about fall entirely into one subcouncil district, we have a couple that fall into more than one subcouncil district. Even within the same school district, we have found that different communities and different geographic areas have their own unique issues, even if they're seen in the same subcouncil or school district, that can happen. LB548 completely eliminates the achievement subcouncils which were included in the governing structure, specifically to provide intensely local authority oversight and community involvement. Throughout its consideration of the metro school issue, the Legislature reviewed the need for local accountability and oversight on the part of low-income, minority, and English language learner communities as a crucial part of the legislative solution during the creation of the learning community. As council member Hartnett noted, achievement subcouncils have been fulfilling the legislative intent of providing an opportunity for residents to give voice to their needs both in and out of the classroom around efforts to close the achievement gap. Achievement subcouncil 2 is part of the largest, the third largest poverty area in the country, not just in the learning community, and we are certainly the only public body in Nebraska with all African-American members, who are directly...and this is directly reflective of the makeup of the geographic area that we represent. Now, as you know, the coordinating council members are elected on a subcouncil basis, and because minority voters in the

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Omaha metropolitan area tend to reside in the same geographic areas, LB548 would specifically eliminate the ability of minority voters within the Omaha metropolitan area to choose a representative body with the ability to assert accountability and oversight authority over specific aspects of education policy. LB641 passed in 2007 adopted the achievement subcouncils as a means to enhance local accountability and oversight. LB548 seeks to eliminate the achievement subcouncils, but offers no alternative means to bring about the accountability and oversight goals originally sought by the Legislature. And my light is red (laughter). [LB548]

SENATOR ADAMS: Are there questions? Senator. [LB548]

SENATOR COUNCIL: Thank you, again, Chairman Adams, and thank you, Ms. Gray, for appearing and I'm...so I'm going to ask you, based upon your last statement, that you don't believe that the provision in LB548 for holding public hearings at the discretion of this new governance body meets the spirit of the Learning Community Council as originally enacted. [LB548]

FREDDIE GRAY: Absolutely not. By not having elections by subcouncil and by having them at-large, that is almost a way to guarantee that it would not be minority representatives. If those of you who have been around a couple of weeks, like I have, you remember that those laws needed were changed, so we could have minority representation, not only on the learning community, but in Omaha, on the school board, and also on our city council. So, no, I don't believe that they would...that it would take care of what we're doing now with local authority. [LB548]

SENATOR COUNCIL: Let me ask you real quickly about the communication and collaboration concerns that have been expressed by the proponents. Now, as a school board member, an appointed school board member of the Learning Community Council, do you believe that your school board has adequate input into what's occurring at the Learning Community Council? [LB548]

FREDDIE GRAY: I believe that...I can tell you that I know OPS does. I can't speak for other school districts, what their board members do. But I chair the finance committee this year, and since the learning community's inception, we have had, as an information item on that agenda, biweekly or twice a month, that we do talk about the learning community. It is expected of me and required of me to come back to the school board and to present a report on any actions that have gone on. I can also say that as a member of the diversity task force, we have done nothing more than continued to invite school districts in. The majority of the districts do participate in those meetings where the capacity worksheets and work forms and rules of how we would do diversity...they have been at the table; they have been invited. Those who do not send anyone or don't come, it's because that is what they have chosen to do. So, I see plenty of collaboration. I see collaboration in subdistrict 2 as well, where we talk with the residents in our

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community, just the same as Mr. Hartnett talked about, asking them for their information. What do you need for your children to be successful? This is not about, for me, talking about what does the OPS school board need from the learning community to be successful? But it is a way to talk to the community as well, and my job, on the other hand, is to make sure that I'm sharing information, not only from the learning community back to the school board, but from the school board with the learning community. It's not an easy dance every time, but I participate, and I participate willingly. [LB548]

SENATOR COUNCIL: And not to put you in a corner, but have there been occasions, you know, and you don't have to be specific, where the...maybe the direction that the Learning Community Council is looking to go is at odds with what your board of education would like to see occur? [LB548]

FREDDIE GRAY: Oh, absolutely. And it depends on the issue of what it is, where I will take that. When I'm a learning community member, I am...I'm sitting there as a learning community member, working with 11 school districts, and doing what is best for all children in those 11 districts. I changed one of my votes early on, because I had voted in a way...and it wasn't anything I was asked to do, but I voted for something, and I...my conscience would not leave me alone. I voted as a way of just seeing...and not just OPS. I was voting for the African-American constituency which is pretty much who are in my district. I had to come back to the learning community and to say...and I did it very publicly from the school board, and I did it at that meeting. I said it, that I was here to represent children in 11 districts, and to ensure that they were getting everything they needed. And I needed to change my vote, and when the vote came again, I did change my vote. So no, we...you know, there are times when things happen. You may not hear about them, but most of the things that I've heard today have been things that have been handled. They've been dealt with. We have people who don't necessarily agree on how we need to get to where we're going, but we're all looking for the betterment of the children that we all serve. We just have different ways of wanting to go about it, and I do believe it is an issue of control. [LB548]

SENATOR COUNCIL: Thank you. [LB548]

SENATOR ADAMS: Senator Haar. [LB548]

SENATOR HAAR: How do you dance with the superintendents? [LB548]

FREDDIE GRAY: I dance very well with superintendents (laughter). I dance very well with state senators (laughter). I am a born dancer, you know that, Senator Haar. You know, and I hear somebody over there laughing now. I know, George, it was you. That's...I knew that. Those of you who...and there's not many of you who don't know me. Ha, I don't think anybody doesn't know me. Oh, you may not. Okay. I'm a straight

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shooter. I'm going to tell you what I like, and what I don't like. I try to do it in the same way when I don't agree with you. But it is a dance, and I recognize that the issues of one district may not be the same issues in my district. And so I need to listen, and I need to hear what they have to say. What I have found is that when you do that, I generally,...let's see if George does anything. He winked. Okay, I generally get the same respect back. If you're going to dance, you got to hear. You got to hear the music in order to dance, and I think sometimes what's happened between the Learning Community Coordinating Council, superintendents, subcouncils, and whomever else may be involved is that we don't listen to each other. It's not about the dance. It's about who gets to pick the music, and I don't think that we need to do that here. I think we need to all be dancing to the same tune. Any other questions, Senator? [LB548]

SENATOR HAAR: No, (inaudible)... [LB548]

SENATOR ADAMS: Senator Howard. [LB548]

SENATOR HOWARD: Thank you, Mr. Chairman. I just have a quick question, Freddie. Did you have the opportunity to attend the recent open house over at UNO that provided information on learning community opportunities? [LB548]

FREDDIE GRAY: I was out of town, but I helped with it last year. Is there... [LB548]

SENATOR HOWARD: I know it wasn't real well attended last year. I'm wondering if there was more of an interest this year. [LB548]

FREDDIE GRAY: This year, it wasn't as well attended. It was on a Sunday? [LB548]

SENATOR HOWARD: It was on a Sunday. [LB548]

FREDDIE GRAY: And it was that snow weekend. I remember being in Lincoln for a State Board of Education meeting. And it was terrible weather, so I know there weren't that many people. [LB548]

SENATOR HOWARD: It wasn't too much of a turnout. Okay. [LB548]

FREDDIE GRAY: No, but we are looking at...because we looked at the outcomes from that, and the one that we held the year before...if there is a different, maybe venue that we need to use. Maybe UNO is not as friendly as...for people to get there as we thought. We are also looking at the possibility of, you know, is it something that maybe we could do in the quadrants of the city? Is it something we could do as an on-line, have a virtual school fair, but those are things that after the fair, we are looking at to see how we can increase attendance. But we do... [LB548]

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SENATOR HOWARD: Was it at UNO the first year? [LB548]

FREDDIE GRAY: Yes. But there was a band competition, I believe, going on, and there was nothing this time, so we thought we'd have a better shot at parking (laughter). [LB548]

SENATOR HOWARD: (Laugh) Well, I just...I'm concerned that there's not the attendance that we'd like to see, the interest that we'd like to see. Thank you. [LB548]

FREDDIE GRAY: That's the same thing with us as well, Senator Howard, that we didn't have enough people there that we really wanted to. I have to tell you, our Learning Community Coordinating Council members volunteered their time for that whole day and staffed it. And so they were there and it didn't have a lot of people coming through, so they were disappointed as well. [LB548]

SENATOR HOWARD: Yeah. That's what I had heard. Thank you. [LB548]

FREDDIE GRAY: Yes. [LB548]

SENATOR ADAMS: Other questions. Guess not. Thank you, Freddie. [LB548]

FREDDIE GRAY: Thank you. [LB548]

SENATOR ADAMS: Other opposition testimony? [LB548]

KENT ROBERT: It's getting dark outside. Okay. Good afternoon. I'm Kent Robert, R-o-g-e-r-t, and I'm here today on behalf of the Learning Community Council of Douglas and Sarpy County in opposition to LB548. I want to just briefly talk about a few of the legal issues that we see with the bill, and I think it comes to mind that I'm not a lawyer, but I play one on TV, so just follow along. LB548, we believe, has an impact on low-income and minority voters. We've gone over that a little bit. Council would be selected by a vote of the 72 board members from the 11 districts of the learning community. The majority of those low-income minority voters within the learning community are concentrated within OPS. Approximately 83 percent of African-American students, 78 percent of Hispanic and Latino students, and 71 percent of all the free and reduced lunch students attend OPS, which is 44,000 of the 110,000 students. While the selection of the six members on a proposed nine-member coordinating council on a district basis might generally conform to the one person, one vote principles, LB548's limitations on the at-large members should raise some concerns. Obviously, we're not here to defend OPS, but they're students, and that's what we're concerned about. Since probably, at least, one of the six coordinating council members would be...from the original election would be an OPS board member. According to the bill, the three at-large members would be prohibited from being an OPS member, so it could be

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literally having one OPS board member of the nine, which would be 15 percent of the board, representing 44 percent of the students. Voice of low-income minority voters would almost be completely muted in the proposed selection process. The dilution of such voters is in sharp contrast to the current governing structure which was carefully constructed to provide opportunities for such voters to assert their voice in education policy. We also believe the proposal violates the Voting Rights Act. Section 2 of the Voting Rights Act prohibits any voting structure that results in the abridgement of the right to vote on account of race and color. The Voting Rights Act can apply to any means that employee diminishment minority voting power including shifting elected positions to appointed ones. Case law, if you would like it, at any point, I can provide it. In legislative history from the Voting Rights Act, make it clear that the application is possible where such a change has the effect of abridging the right to vote on the account of race and color. We also believe, as we mentioned in the past, LB548 would dilute the impact of minority voters to select those coordinating council members. And that would be just an indirect or tangential influence. And then, finally, we think LB548 removes tax and budget-setting authority from an elected body and turns the same over to an appointed body. We believe there are, obviously, political and maybe illegal issues...or not...just legal issues involved with delegating taxing authority of this magnitude to an appointed body. [LB548]

SENATOR ADAMS: Are there questions for Mr. Rogert? Senator Schilz. [LB548]

SENATOR SCHILZ: Thank you. Senator Rogert, thanks for coming here today, Kent. [LB548]

KENT ROGERT: Um-hum. [LB548]

SENATOR SCHILZ: Just one question, and I guess, you were talking about the Voting Rights Act and how that works. And, I guess, it just...and, excuse me, if I'm not understanding correctly. But don't we see some of the same issues with OPS and their ESU unit to where they're elected as school board members and then serve on the same board for the ESU where much of those other ESUs are elected? I just wonder, is that...is there a problem there, too, or is that okay? [LB548]

KENT ROGERT: Well, I guess I can't speak to that very directly. Since that ESU oversees just that area, it does take a little different precedent to a certain area that's being such a large constituency being voted on a body that's covering a more geographic area with a less specific constituency into each of those areas. I mean, the Voting Rights Act issues that we have are the one person, one vote issues that if...where there are limitations placed on certain of those, folks that will be on the body that that brings a little rise to the concern. I think with the ESUs, there's still the ability for everybody to vote equally. [LB548]

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SENATOR SCHILZ: Okay. [LB548]

KENT ROBERT: If that makes sense. [LB548]

SENATOR SCHILZ: Okay. Yeah, it does. Thank you. [LB548]

KENT ROBERT: Okay. [LB548]

SENATOR ADAMS: Senator Council. [LB548]

SENATOR COUNCIL: Yeah, thank you, Chairman Adams and thank you, Mr. Robert, for appearing this afternoon. I, too, play an attorney on television (laughter). And just in response to my colleague, Senator Schilz's question, with ESU 19, the elected membership of the Omaha Board of Education, becomes the board of ESU 19, so there's no issue of the diminution, because it's just still the one person, one vote. So if there are currently two African-American members on OPS's, there are two African-American members on ESU 19. But the question about the diminution in the vote is of serious concern to me, and people have had...and made mention to their conversations with Senator Raikes. And I had an occasion to have a two-hour conversation with Senator Raikes about LB1024 when there were varying amendments being considered,... [LB548]

KENT ROBERT: Many. [LB548]

SENATOR COUNCIL: ...and he was asking for some assistance in understanding what the issues were around certain of those amending proposals, because he made it pretty clear to me, at least, that one of his concerns was representation. And local authority...community authority, and that's what I find disturbing about LB548, because it eliminates that, and when you're talking about the voting rights issue to change bylaw representation where you had two elected members of this 18-member body, being people of color to the potential, as you so aptly pointed out. And that's the concern I have. If there is one person from OPS selected to any one of those six districts, then none of the three at-large members can be from OPS. [LB548]

KENT ROBERT: Correct. [LB548]

SENATOR COUNCIL: Or if one of them was from Millard, none of the three at-large could be from... [LB548]

KENT ROBERT: Yes, it goes both ways. Absolutely. [LB548]

SENATOR COUNCIL: So, it goes both ways. And that's problematic, and the proportionality issue is even more problematic, because if you look at the original

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version of the bill, Senator Raikes recognized that in the two-county area, there was going to be a couple of school districts that had the...combined, would have the overwhelming majority of the students enrolled in schools in those two counties. [LB548]

KENT ROBERT: Two, yes. [LB548]

SENATOR COUNCIL: And so there was a proportionality provision in the original bill before the subcouncils were added. And that's a...I guess, and, again, that's another problem that I have. If you want to go back to the governance structure that was a part of the original proposal that did limit it to school board members, the vote was proportional, so that a couple of districts that only represented 15 percent of the total students couldn't determine the outcome... [LB548]

KENT ROBERT: Couldn't stack the board, in other words, right. [LB548]

SENATOR COUNCIL: Couldn't stack. Right. So, I just...I think that's extremely problematic that...that there's no recognition of the potential impact that that could have if you didn't do that. And the Learning Community Council hadn't given any thought to the superintendents meeting without public notice issue. [LB548]

KENT ROBERT: Not to my knowledge, but it's not...it wasn't the learning community. That's in statute. That's a requirement that was put into place by the Legislature, and I think we'd, obviously, be willing to discuss removing that, lifting that restriction. [LB548]

SENATOR COUNCIL: Okay. I guess the final question, too, are there operational policies and procedures governing the Learning Community Council? [LB548]

KENT ROBERT: Yes. [LB548]

SENATOR COUNCIL: And how are they developed? [LB548]

KENT ROBERT: By the council when it was first appointed. [LB548]

SENATOR COUNCIL: Okay. So, by a vote of the membership, the governance body. [LB548]

KENT ROBERT: Correct. Yes. [LB548]

SENATOR COUNCIL: And are you aware of anything that prevents them from altering that? [LB548]

KENT ROBERT: No. In fact, they're public documents. [LB548]

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SENATOR COUNCIL: Thank you. [LB548]

SENATOR ADAMS: Other questions? Senator Avery. [LB548]

SENATOR AVERY: Thank you, Mr. Chair. Mr. Rogert, you remember back in '07 when we were doing this learning community... [LB548]

KENT ROGERT: Well into the night, many nights in a row, yes. [LB548]

SENATOR AVERY: And I remember then that we deliberately devised a voting formula that would enhance the possibility of minorities being represented on that learning community. It was called limited voting. And I personally worked with Senator Chambers to figure out how it would work, and that was a big part of the compromise that we came up with, that allowed the bill to move forward. So I think you've raised an issue of some concern and perhaps a legal obstacle that LB548 would have to overcome, and that is the possible implications this has for the Voting Rights Act, because you're diluting the impact of minority voters. [LB548]

KENT ROGERT: Right. [LB548]

SENATOR AVERY: Diluting the impact of minority voters from what they now have, which is in direct violation of the Voting Rights Act. Wouldn't that be true? You raised another legal issue about the possibility that delegating a taxing authority to an imported board might be a legal issue. [LB548]

KENT ROGERT: It might be. It's definitely a political issue. [LB548]

SENATOR AVERY: Political, yeah, but I believe we have Public Building Commissions in Omaha and Lincoln that are appointed, but have voting...or have taxing authority, so there's some precedent there. [LB548]

KENT ROGERT: Some, but not...this is a pretty broad...it'd be a different scale, I think. [LB548]

SENATOR AVERY: Yeah. Yeah, it would certainly be on a different scale. But it would be a political issue more than perhaps legal. Thank you. [LB548]

KENT ROGERT: Yeah. [LB548]

SENATOR ADAMS: Other questions? Thank you, Senator. [LB548]

KENT ROGERT: Thank you. [LB548]

SENATOR ADAMS: Other opposition testimony? [LB548]

JEFF RIPPE: Senator Adams, the rest of the senators, thank you for the opportunity to be here. My name is Jeff Rippe, R-i-p-p-e. I'm the acting superintendent for Bellevue Public Schools, and I'm here on behalf of the school board and the school district of Bellevue. We oppose LB548 in changing the current structure. The current structure does work for Bellevue Public Schools and subcouncil 5, and I can only speak to subcouncil 5, but we have a great relationship with subcouncil 5. And I know today, collaboration has been mentioned several times. We do not have a problem with collaboration with subcouncil 5. We have great opportunities to share our input, and I can give you three quick examples. Last summer, there was an opportunity for a pilot project, and so we collaborated with subcouncil 5. They took our input, and we started a jump-start program, which is basically a summer school program for students in Bellevue. That was very successful. Another example is currently, a program that's taking place after school and extended day, and that's what we hear from our parents. They want more summer school opportunities and more extended day opportunities. And so we've put a proposal together, shared it with subcouncil 5, and they approved it, took it to the larger council which was approved as well. And then the elementary learning centers, which are currently being put together, we've had, again, a lot of input into the elementary learning center. And we feel it's important that there are some aspects of that elementary learning center that takes place in Bellevue, and they've been very open to that as well. So, again, the current structure has worked for the Bellevue Public Schools. It hasn't been perfect. Again, this whole process is very young. We've learned a lot from the process. I think the learning community has probably learned from the process, but the current structure does work. Because of these programs, we truly believe that achievement is being addressed, and we are making a difference with the students in Bellevue in subcouncil 5. And so, again, on behalf of the Bellevue Public Schools, we would oppose LB548. [LB548]

SENATOR ADAMS: Thank you, sir. Senator Sullivan. [LB548]

SENATOR SULLIVAN: Thank you, Senator Adams. Thank you for your comments. You indicated that even though things are going well for you, that it's not a perfect situation. What have been some of the hurdles that you feel your (inaudible)...? [LB548]

JEFF RIPPE: Well, the data collection, which I know is going to be addressed later is definitely a hurdle that needs to be addressed. Just the agreements as well, making sure that, you know, because it's learning community money being used in the public school setting, there's been some issues with contracts and agreements. But, again, I think, for the most part, those have been ironed out as well. And then, again, I would also support the structure of the superintendents advisory committee being changed, so that we could meet without the open meetings, lobbying violated. [LB548]

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SENATOR SULLIVAN: Okay. Thank you. [LB548]

JEFF RIPPE: You bet. [LB548]

SENATOR ADAMS: Other questions? Anyone? Thank you for the time today. Appreciate it. [LB548]

JEFF RIPPE: Thank you. [LB548]

SENATOR ADAMS: Is there any more opposition testimony? If not, we'll move to neutral testimony. Is there any? [LB548]

BOB TWISS: Good afternoon, Chairman Adams and other members of the committee. My name is Bob Twiss. That's B-o-b T-w-i-s-s. Certainly appreciate the opportunity to talk today in a neutral capacity. I changed my mind a little bit. I think this bill does have some merit in it to improve communications and efficiency. As some of you may know, there were, I think, three members of this committee were on the original committee that passed the multitude of bills and amendments that comprised the learning community, more specifically, LB1024 and LB641. This was over, at least, a two-three year period, and then I might use that word "tweak" that you don't like, and it's been tweaked around the edges since then. But I was opposed to the original voting structure in the original bill, and I've got to tell you, I'm speaking today as an ordinary citizen, and I think I'm the first one on this bill to speak that way. I came down here at my own time, my own expense, my own business, and when I'm not running my business, I don't make any money. But the original voting, and I've never gotten an answer yet on how that governance structure was compromised and decided upon. And I was in the hallways, as some of you know, I was in some of the senator's offices, those who would be kind enough to see me, and I was in the Rotunda as well. And I was here the night that that bill moved, but yet never got an answer on the governance structure. My objection to the governance structure is on proportionality and the limited voting. As an ordinary citizen, I can only have direct impact on one member of the Learning Community Council, and that would comprise, basically, a third of the members of that council. And I know it's going to be short. Hopefully, I'm still on the three-minute portion here. But I only have that input, and any voter has an input, because of limited voting. You can only vote for one. The other one is voted on by someone else, who came in second, so to speak. The other one from the subcouncil is appointed. So I am in favor of direct election, and that's the thing that bothers me about this bill is the indirectness of it. I'll touch on proportionality. Proportionality--I do believe in proportionality on voting. I also believe in proportionality on the dollar distribution. There was a comment by Dr. Kolowski earlier that some people said this is bad public policy. But he didn't get any answers on it. Well, hopefully, if someone asks questions and I'm willing to go into the bad public policy. I don't think it's good for the entire state at all when you have that kind of concentration of power in one area. And I'm amazed, too, that there haven't been

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other learning communities generated in the state of Nebraska. This one is about 40 percent of the entire student population. And I know you're getting anxious to go with the light. [LB548]

SENATOR ADAMS: The red light is there, sir. I would open it up for questions for this testifier, though. Seeing none, thank you. [LB548]

BOB TWISS: As normal, everybody is tired. Thank you. [LB548]

SENATOR ADAMS: Any other neutral testimony? If not, Senator McCoy, yours to close. [LB548]

SENATOR McCOY: Thank you, Chairman Adams, and thank you, members. In the spirit of brevity and knowing you have yet a long afternoon ahead of you, I won't be long. I think we've had a very healthy discussion on this legislation this afternoon. For that, I appreciate your thoughts and comments. I know you deal with many issues in front of your committee, not the least of which are issues such as these. And I might offer up to the committee that OPS actually is in five different subdistricts as a district, so depending on where membership would reside, has the potential to have five members of the proposed nine under LB548. I kept thinking that may come up in the course of our discussion, and it did not, so I feel it necessary to make sure that I mention that to you. I stand ready, if the committee would desire to work on this legislation, I would stand ready to work with Senator Council and others on the issues that were presented as it relates to Voting Rights Act and proportionality of minority representation, among others. Clearly, we're all here, because we're trying to do what I said in my opening--the best possible, and that is to educate our children. So, certainly, the nature of improvements, if there are such that can be reached, are what we're after. And with that, I'll close. [LB548]

SENATOR ADAMS: Thank you, Senator. Are there any final questions? Senator Council. [LB548]

SENATOR COUNCIL: Just a comment, and thank you, Senator McCoy. I just want to make it clear that my concern about the current structure, I mean, it...you're absolutely correct. I mean, if the Omaha school board members are able to persuade the other board members from the district to vote for them, they have the potential of having a representative in more than one of those districts. My concern is not with OPS. It's with community representation, so I just want to make sure that that, you know, there's no misunderstanding going away from here. I'm concerned about community representation, and, particularly, minority representation which was specifically provided for under the current learning community governance structure. Thank you. [LB548]

SENATOR McCOY: Thank you for your time. Appreciate it. [LB548]

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SENATOR ADAMS: That will close the hearing on LB548, and we will move on to LB558. I understand that Senator Nordquist will have a stand-in that we can drill (laughter). Before we initiate this hearing, I want to...you've all been very patient, and I realize the afternoon is late, and we probably have yet a long way to go. May I see how many proponents there are to this bill, who wish to testify? How many opponents to the bill? Okay. We're going to go with the three minutes again, and I will try to get as many of you in as I can, but if the hour gets too late, and we get too many add-ons, I may have to end the testimony and move on. Okay? Fire away. [LB548]

TIFFANY SEIBERT: Good afternoon, Chairman Adams, members of the committee, my name is Tiffany Seibert, T-i-f-f-a-n-y S-e-i-b-e-r-t, and I'm legislative aide to state Senator Jeremy Nordquist. Senator Nordquist represents District 7, downtown in south Omaha. He would like me to provide his apologies for being unable to be with you this afternoon. He is spending this afternoon in the Memphis airport, so I can assure you, he'd rather be here. So with that, I'll provide opening remarks on LB558 on his behalf. LB558 eliminates the provision requiring a single primary school district for a focus school. The provision that would be eliminated has a negative effect of allowing only focused schools that are competitive instead of collaborative. The evidence we have seen, however, is that districts tend not to promote programs in which they have no interest. Furthermore, collaboration brings a breadth of experience and knowledge that benefit students and teachers alike across multiple districts. Finally, the goal of focus schools in Nebraska is to promote diversity. In order to be successfully integrated, focus schools need the promotion of multiple districts, so that families are comfortable embracing change. Under LB558, two or more school districts could come together on a collaborative basis to develop focus schools or programs which would promote the continuation and expansion of focus schools across the learning community. Underwood Hills is a model focus school. The integrative experience at Underwood shows and the research around the nation confirms that in such situations students from all socioeconomic backgrounds do better. These schools are clear examples that a rising tide lifts all boats. Currently, there are other collaborative projects perfectly positioned to become focus schools or programs that currently exist across the metro if the collaborative approach were validated by this legislature. Students from several districts can currently study medicine at UNMC and science at the Henry Doorly Zoo. There are Fortune 500 companies in Omaha that have expressed interest in collaborative projects to create focus schools. However, these projects will never develop into focus schools without the availability of the collaborative model, because collaboration, not competition, is at their core. Collaboration is held up as one of the most critical skills children must learn to be productive in the world of work. I would ask the committee to allow that collaboration among school districts be provided as an example to children. And on behalf of Senator Nordquist, I would request of the committee to please advance LB588 (sic). I'd be happy to attempt to entertain any questions, but I will certainly take careful notes and provide any concerns and questions

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that I'm unable to respond to, to the senator. [LB558]

SENATOR ADAMS: All right. I bet you would not be happy to entertain questions really (laughter), would you? [LB558]

TIFFANY SEIBERT: (Laugh) You're right. I was slightly stretching the truth. [LB558]

SENATOR AVERY: Could I make one correction? [LB558]

SENATOR ADAMS: Please. [LB558]

SENATOR AVERY: You didn't mean LB588, did you? [LB558]

TIFFANY SEIBERT: Excuse me, I did not. I meant LB558. Thank you. [LB558]

SENATOR AVERY: Okay. [LB558]

SENATOR ADAMS: Are there any questions? Get out of here while you can. [LB558]

TIFFANY SEIBERT: Thank you (laughter). [LB558]

SENATOR ADAMS: First proponent? Let me remind those of you that do want to testify for or against that you need to fill out the registration sheets and hand them to the committee clerk as you come up. [LB558]

JOHN LINDSAY: Thank you, Senator Adams, members of the committee, my name is John Lindsay, L-i-n-d-s-a-y, appearing on behalf of Omaha Public Schools, and using my glasses so I can focus. Under current law, there is a focus school allowance. That focus school allowance, which constitutes a .10 of statewide average GFOE per student at a focus school is already in existence, that allowance is already in existence. The problem or what this bill addresses is that the definition of focus school. Focus school right now under current law...that definition only includes a competitive model, requiring one school district to have primary...be the primary school district responsible for financial, legal, etcetera. This bill would add the collaborative model to that definition of focus school, so that is at the core of what the bill tries to do. As Ms. Seibert mentioned, there are no competitive models right now within the learning community, so you're not going to hear from anybody about competitive models, because they exist only in theory. What exists in practical or in reality is the collaborative model, and you will hear from some of the folks who have participated in the Underwood Hills focus school program which, I might add, you heard some...in the prior bill, you heard some reference to that not being a focus school. It is a focus school, but it is not a focus school within the definition of the focus school allowance within the TEEOSA formula. But that is a, I believe, a successful...an example of a successful collaborative model of

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a focus school, and I think the folks whose children attend could better speak to that. I would reiterate that there are other possibilities out there. I think really exciting opportunities for kids out there with the potential at the zoo, with the potential at the Med Center, again, for collaborative focus schools, with the potential for one or more Fortune 500 companies hosting focus schools on their campus. I think there's the potential for some really exciting things, and we'd ask that that focus school allowance which offsets a bit of the additional costs that a focus school has, be considered by the committee. I'd be happy to answer any questions. Maybe not happy, Senator Adams, but (laugh). [LB558]

SENATOR ADAMS: All right. Yeah. Are there questions for John? Senator Avery. [LB558]

SENATOR AVERY: Thank you, Mr. Chair. Do you think that if we were to approve this, that it might open up the prospect that we would have to approve all other such programs in the learning community area? [LB558]

JOHN LINDSAY: All other...do you mean focus programs or? [LB558]

SENATOR AVERY: Yeah. No, what you want to do is allow multidistrict, right? [LB558]

JOHN LINDSAY: Multischool, yeah, multischool district, right. [LB558]

SENATOR AVERY: Multischool. But wouldn't that...if we do this, would that have any implications for other programs in the metro area? [LB558]

JOHN LINDSAY: I don't think it would go beyond a focus school, focus program that... [LB558]

SENATOR AVERY: Are there other focus programs? [LB558]

JOHN LINDSAY: There are some programs not, again, within the definition of...that's utilized in statute. There are some individual school districts which have programs, for example, at the zoo, but not something that would be collaborative among school districts. [LB558]

SENATOR AVERY: Well, this could actually have an impact outside the metro area, too, couldn't it? [LB558]

JOHN LINDSAY: No, not unless the Legislature decided to change the policy which, by the way, if those opportunities are available for kids throughout the state, I think it'd be great. But the definition, again, if we looked at the definition for that focus school allowance, it refers to those that are...that programs that are furthering the full...the...

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[LB558]

SENATOR AVERY: Learning community. [LB558]

JOHN LINDSAY: ...the learning community diversity plan. [LB558]

SENATOR AVERY: Thank you. [LB558]

SENATOR ADAMS: Other questions? John, I'm going to ask you, because I don't want to take this line of questioning out on a parent. Currently, it is possible, is it not, to have a focus school that is collaborative? [LB558]

JOHN LINDSAY: Yes. [LB558]

SENATOR ADAMS: It's just that the allowance within TEEOSA is not there. [LB558]

JOHN LINDSAY: Correct. [LB558]

SENATOR ADAMS: Okay. Does it concern you that if we were to change this language and to allow collaborative focus schools, that we might find ourselves or these parents and students might find themselves in this place again when one of the participating schools says, for whatever reason, we don't want to participate, so we're out of here...hanging that cost on the remaining districts and the remaining districts say that even with the allowance, it's too expensive, we don't want to go here, and now we've left the students and the parents hanging in the middle like we've got right now? [LB558]

JOHN LINDSAY: Well, I think that that can...that that scenario that you're talking about...certainly, it could happen in the future, could happen with a competitive model, could happen with a collaborative model. It becomes a question of costs and whether those costs have been accurately projected, whether there's cutbacks, whether there's been a host of issues that could lead to that. I can't say that that couldn't happen, no, but I don't think it's a function of whether it's a collaborative or competitive model. [LB558]

SENATOR ADAMS: Do you see, from a liability standpoint, and maybe this can be overcome, but from a liability standpoint, if we have a collaborative model and something goes awry, a teacher, a situation...it happens in schools every day. And the parent wants to know, who to hold legally responsible, and we have a collaborative agreement, who do we hold responsible? [LB558]

JOHN LINDSAY: That's...my understanding is that that's all laid out in the interlocal agreement, creating the focus school or focus program, that liability issues are set forth in that so that anyone looking at that agreement would know where that liability would

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land. [LB558]

SENATOR ADAMS: Okay. Are there other questions? I guess not. Thank you, John, appreciate it. First proponent or next proponent, I should say. Good afternoon. [LB558]

WILLIE BARNEY: Good afternoon. Willie Barney, 12333 Cuming Street, Omaha, Nebraska. We want to thank you for this opportunity to speak to you. We did make a request of your office, Senator Adams, to...we have over 175 parents plus students that have signed on to a letter, and we're asking for additional time to be able to read that to you and get more information on the school, so we could limit the number of people who came up. So I'd ask that there would be some patience on that, but I just wanted to, again, speak on behalf of 175 parents at Underwood Hills focus school, but beyond that, speak for a lot of the parents who are looking for the best opportunity for their young people, not only in our county area, but I believe across the state and across this country. I've heard three consistent words today...or three specific messages: student achievement, collaboration, and closing the gap. We are standing here before you, and I should say, if you are here from Underwood Hills as parents and students, would you stand for a minute just to be recognized? We stand with this message: Help us save the school, but even more importantly, help us take this message and this model and expand it across our state and potentially across our nation. [LB558]

SENATOR ADAMS: Could I ask you to be seated now for the decorum of the committee meeting, please? [LB558]

WILLIE BARNEY: Be seated, yes. Thank you. With the passage of LB558, collaborative school districts would not only be recognized as a way and a method, but it would share in the legal and financial and academic responsibilities that this school has taken on, and it has been extremely successful its first 2.5 years. The Underwood Hills focus school is truly a cutting edge school, and we see it by the academic results; we see it by the excellence that's put in place by best practices, and we see it as a model as we compare ourselves to other schools across this country. Many times we're referring to, again, achievement; we're talking about excellence; we're talking about best practices, and the best way for best practices and achievement to be done has been proven through research is through extended year and extended day opportunities. That is exactly what this school has done. When Westside, Elkhorn, and Omaha Public Schools and now south Sarpy came together, they focus on academic achievement, and they've been able to do that with a collaborative focus, and the achievement is there. The closing the gap is there. The gender gap has been closed at this school. The socioeconomic gap has been closed at this school, and the racial economic gap or racial gap is on its way to being closed. This is a model where we hear a lot about what we hope the learning community would be able to do, but right now, in our school and in this city, and in this state, we have a model that has actually closed those gaps right now here in front of us. All we're asking right now is for the opportunity. We have other

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districts that have now given us the opportunity to sit down and explore all options to keep this school open. The academic results are there. There's a booklet that we'll give you that show the charts on the SAT, on the statewide reading, the statewide writing; 98 percent of the students pass the statewide writing; 73 percent meet and exceed on reading; 75 percent of the free and reduced, 75 percent of the free and reduced students are meeting the state's standards on reading. You would be hard pressed in any school in the two-county area to see that number matched, so, again, we have asked for additional time to be able to speak. There's a lot more that we can speak to this. We have a booklet that's prepared for you. The other thing that we hear a lot about cost. We have been working with Westside, with Omaha Public Schools, and looking financially at this model. It costs between \$300 to \$1,800 more per pupil, but if you look at those costs on the front end of investing in our kids and the children, not only in this area, not only in this school, but across the state...those costs will close the gap. We've seen it. We have an example of collaboration...now four districts working together. We have an example of academic achievement which is what this learning committee was for...in the first place for. Now, we have an example of excellence in practice...educational excellence where best practices a great outstanding building leader, high quality teachers, three of them...one has won a Milliken Award; others have won national awards, all at the same school. We see, again, enrichment classes where our young people are learning Chinese; they learning different languages. They're doing physical exercise, nutrition, science, math, and most importantly, leadership. Some of the young people behind me are simply expressing and showing that they want to be an active part of the solution as well as the parents. I really want to thank you for the time. Hopefully, we'll have additional time to speak in dialogue, and I am open to any questions that you may have, and 175 parents have asked me to represent them as best I could, and that's why we're here today. Thank you for the time, Senator. [LB558]

SENATOR ADAMS: Thank you, sir. Are there questions? Senator Council. [LB558]

SENATOR COUNCIL: Yes, thank you, Chairman Adams, and welcome, Mr. Barney to the Education Committee. I appreciate you coming and speaking to this issue, and I have a couple of questions, probably more than a couple. You were present during the hearing on LB548, were you not? [LB558]

WILLIE BARNEY: Yes, absolutely. [LB558]

SENATOR COUNCIL: And you heard some of the concerns about the current governing structure preventing or impeding collaboration. And during your comments, you spoke about the collaboration, and so I would assume it's your opinion that...to have collaborative focus schools under the auspices of the learning community coordinating council could work to improve collaboration among the member districts. [LB558]

WILLIE BARNEY: Absolutely. I think out of the last three years, and I followed the

learning community formation. I've been involved in the Building Bright Futures initiative, have partnered with many of the districts, many of the superintendents that speak on both sides over the last four years on a professional side. This school has proven to me, beyond my greatest expectation, that collaboration is possible in our community. You have parents and students and teachers from four different districts that are working together and have proven...this is not vaporware, this is not an idea or a concept that somebody just came up with that might work. It is literally working. The achievement is there. The growth...year over year measurable growth on SATs is there. It is a collaborative model, and I believe with the support from the learning community, with the support from the state senators who designed this in the first place, that we could truly be sitting on top of a model that could be a national model. It's proven. [LB558]

SENATOR COUNCIL: Okay. Now, there's no doubt about the parental involvement that's evidenced by the representation on the issue of closing Underwood Hills. Does that same level of parental involvement permeate the school during...under normal school circumstances? [LB558]

WILLIE BARNEY: Absolutely. My understanding is that the parent-teacher conference attendance is well over 90 percent, probably closer to 95 percent. The school attendance of the students which also relies heavily on parents as well--98.6 percent school attendance for the kids, but you see the group, and you heard from one of the parent leaders, that they raise funds for snack programs during enrichment. They raise additional funds to help with various efforts for the school. There are parent nights where the gym is literally packed of parents and kids on a Friday night, and even as this issue arose, the first meeting we had, we had close to 100 parents that came out, but even outside of this issue, the parents are actively engaged--it is the model for what we're looking for. The fact that you have 90 parents that took the time to come down today, again, to speak on behalf of the students and experience that they're having--the personal testimonies, Senator Council, they're personal testimonies I've never heard before. Students that were not doing well and not...due to a point where they didn't want to go to school. Now to a point where they're achieving academically; they love the environment; they feel like they're supported by the teachers; they're supported by the principal. This is an environment, again, why it's so important that...and it's not just about Underwood Hills and Lewis and Clark. This is a model that could be expanded and really expanded across a two-county area as the model, a model for public education. [LB558]

SENATOR COUNCIL: Okay. And that gets me to my next question...replication and as a former board member, who was there when we first began the introduction of magnet schools, and the concern being that...about exclusivity. But the sense that I'm getting from the correspondence I receive, your testimony that the expectation is that the learning community, coordinating council would see the successes that Underwood Hills is having and develop more of these collaborations throughout the two-county area. Is

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that...? [LB558]

WILLIE BARNEY: Absolutely. The parents are not only concerned about Underwood Hills and Lewis and Clark, but the more that we've looked at it and have actually seen the results, we knew through personal testimony that there was something special going on at this school. But being able to replicate it, even in our sitting down with the school boards at Westside and OPS and going to a meeting with Elkhorn, it was really to understand what the model...what are the true costs? And it's to a point where parents are so committed to this model and making sure that it can be replicated, parents have even said, what are the points that we take on whether it be transportation, whether it be raising additional funds to help with the enrichment program? Are there other ways, and for us to collectively, collaboratively with the state senators, the learning community, with the superintendents, and with parents at the table as well, to look at this model really critically and how are we achieving this success where we're closing the gap on these where most people think it can't be done? Then how do we replicate it in a way that is not so totally dependent on parents having to go out and raise funds every year, but maximizing what we have within the school district and the state aid, maximizing what's available through the learning community. And I believe the people just in this room alone, if we put our heads together we could create ways for this to be replicated not only in Douglas County but Sarpy County and other parts of the state. [LB558]

SENATOR COUNCIL: Okay. In terms of you cited the statistics about the percentage of free and reduced lunch students who attend Underwood Hills, and I don't have that breakdown. But geographically, is it fairly representative of the entire learning community council, or at least the three schools that were partners in the focus school? [LB558]

WILLIE BARNEY: Correct. As I look at it now, there are 34 students from Westside that are part of the school; 21 from Elkhorn; 1 from south Sarpy, and the rest remaining are from Omaha Public Schools. And even on behalf of this effort, we do have representation from all of those school districts that parents have signed on and are supportive of this. And you speak...one other thing, Senator Council, I didn't say this number specifically, but one of the goals of the learning community was a 35 percent free and reduced target. This school is 41 percent free and reduced, and it's 42 percent racial, ethnic minority, so within that is the scope of when I talk about the academic performance that the school is closing the gap, and is well on the way of closing the racial academic gap as well. [LB558]

SENATOR COUNCIL: Thank you and thank you, Chairman Adams. [LB558]

SENATOR ADAMS: Are there other questions from the committee members? I guess not. Thank you, sir. [LB558]

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WILLIE BARNEY: Thank you for your time. [LB558]

SENATOR ADAMS: Next proponent. [LB558]

ANDREW RIKLI: (Exhibit 5) Senator Adams and members of the committee, thank you for making time for us today. My name is Andrew Rikli, R-i-k-l-i. I'm the assistant superintendent for the Omaha Westside School District, and I sat on the original committee that gave birth to the focus school several years ago. As was previously stated, the focus school at Underwood Hills is not a recognized focus program, not in its aim, not in its purpose, but by a formality within the learning community statute as was previously noted. That fact aside, I think we can say with certainty that the focus school at Underwood Hills has been a rousing success by virtually any measure. When it opened in the spring of 2008, we had over 820 applications for 120 student spots in grades three through five. When we opened it up for the sixth grade, the fall of 2009, we had another additional 120 applications. So clearly, the demand for our program is there. As Mr. Barney had noted, the population was purposely stratified, so that we do look like the two-county area, both socioeconomic as well as racially. Our socioeconomic breakdown is 41 percent poverty, and over 40 percent color. That is by design, and we're very proud of that fact. There's much to model from Underwood Hills. When you look at our staff, as Mr. Barney noted, it has several award winning staff. When you look at the extended day, the extended calendar, we run 190 student days, and when you look at the research base, that is one of the compelling factors that directly leads to student achievement. As a one to one laptop initiative, it's a wireless computing environment. It is, by virtue of any definition, the school that all of us would want our children to attend. It does come at a fairly reasonable cost. This committee's initial concern had to do with a Cadillac price for lack of a better way of describing it. The initial cost was admittedly high. I'm sure the committee can understand any time you start up a program, not only buildings need to be renovated, textbooks needed to be bought, laptop computers had to be purchased. This did lead, in the initial year, of a relatively high per pupil expenditure of \$12,500. State average, as you know, hovers around \$10,500. Each subsequent year, the per pupil expenditure has dropped to the point now with transportation costs, it's about \$10,700. Again, state average is about \$10,500, so we're getting a tremendous amount of bang for our buck in the program. What I would like to conclude my comments with is this: We certainly have great support and respect for the parents sitting behind us. We are with them professionally, morally, philosophically. I will say, very clearly, that even if this focus school bill were advanced...LB558 were advanced, it's not going to be enough. Unfortunately, we can't sustain the program. OPS understands that and Elkhorn understands that also. But we do want the committee to understand is philosophically we do believe the collaborative model works. Underwood Hills is certainly illustrative of that fact. With that, I'd like to conclude my testimony and happily answer any questions the committee has. [LB558]

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SENATOR ADAMS: Are there questions for Dr. Rikli? Sir, and if I hear you correctly, you have driven the cost down from where this started out, because you recognize that that has been a concern. [LB558]

ANDREW RIKLI: Correct. [LB558]

SENATOR ADAMS: And now you're...believe you're around the average? [LB558]

ANDREW RIKLI: Correct. Slightly above the state average. [LB558]

SENATOR ADAMS: But from a Westside school perspective, can you restate again your position now? [LB558]

ANDREW RIKLI: It's a wonderful point. Thank you, Senator. When you look at the per pupil expenditure at the focus school at Underwood Hills, it is slightly higher than what it costs to educate a Westside child, not substantially, but a few hundred dollars. Now, the bigger issue facing all public school districts in Nebraska is the cliff, and the fact of the matter is, we have eight staff currently at the focus school. When you combine those salaries, it equates to approximately \$400,000. So the reason we don't believe it's sustainable even with the additional state funding, is because those are dollars we have to fight to save. Those are eight teacher jobs we would otherwise reduce through layoffs. So while we believe in it conceptually, we think it's a fantastic model; the results are there. We have to circle the wagons, so to speak, as other districts do, in terms of saving every bit of money that we can. [LB558]

SENATOR ADAMS: All right, fair enough. Thank you. [LB558]

ANDREW RIKLI: Thank you. [LB558]

SENATOR ADAMS: Are there any other last questions? Oh, yes, please, Kate. [LB558]

SENATOR SULLIVAN: Thank you, Senator Adams, and thank you for your comments. You know, one thing that always runs through my mind when we start to talk about success stories like this, you like every school to be that way. [LB558]

ANDREW RIKLI: Correct. [LB558]

SENATOR SULLIVAN: So what's the tipping point? What...you mentioned quality teachers, longer school day. If you were to pull out one thing that could be applied to a lot of our schools, what would be maybe the most important thing to apply to every school district? [LB558]

ANDREW RIKLI: I would answer you, Senator, the research...this is one area in which

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the research matches common sense, and that is quality of teacher. All other factors being equal, what we know...not what we suspect, but what we know is a highly qualified teacher in front of a group of students every day has the single largest impact on that student's education outside her or his family and upbringing, of course. [LB558]

SENATOR SULLIVAN: Thank you. [LB558]

SENATOR ADAMS: It looks like parental involvement has something to do with success, too. [LB558]

ANDREW RIKLI: It certainly does. It certainly does, Senator. [LB558]

SENATOR ADAMS: Yeah. Are there any other questions for Dr. Rikli? Thank you, Andy. [LB558]

ANDREW RIKLI: Thank you, Senator. [LB558]

SENATOR ADAMS: Next proponent? Good afternoon. [LB558]

MICHELLE DURAN: Good afternoon. My name is Michelle Duran. Spelling is D-u-r-a-n. I am a Westside parent. I have a ten-year-old that attends the fifth grade at the Underwood Hills School. We've been there for three years. We opened the school 2.5 years ago with the hopes of finding my son a better education. I moved into the Westside district when he was a kindergartner, thinking that was the best move for him. That was, what I heard was, the best education in town, and he didn't really enjoy Westside schools. He is a very, very shy, very, very high functioning child, and Westside schools honestly couldn't keep up with him. When he was done with his work, they didn't have anything to keep him challenged, and he ended up becoming a troublemaker. He was distracting the other children and getting in trouble a lot, and that kind of dug him into a hole. So when this school came available, we applied for it, and luckily, we were accepted, and he is 180 degree change from three years ago. He has developed academically in ways I couldn't have imagined. This is the first school that really could keep him challenged and keep up with his abilities. He's one of those kids in school that would rather go to chess night at Pizza Hut than go to CoCo Keys. That's just his personality. He's in the chess club now. They've traveled all over to Lincoln and all over Omaha to compete in their chess club. In most schools, he's the type of kid that might have been picked on or bullied, and that's another point I want to bring up about our schools. They're no place for a hate campaign. We have almost no bullying at school. Our kids, from every background, every neighborhood in the city, they get along. And they don't pick on the differences; they celebrate the differences in each other and know that the different communities they come from can come together and work in one school in a good way. The school promotes good grades and makes kids want to go to school and learn. I went from a kid that would fight me every morning in tears about

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going to school every day, and now he's disappointed when we have a snow day, because he's ready to go to school. You know, every kid deserves a school like this. Whatever the secret is to education that everyone is always trying to figure out, whatever it is the school has figured it out, and instead of shutting the school down and not giving it a chance, I think we need to spread it and give every kid in the city, every kid in the state the opportunity to have an education like my son is getting. I just think it would be a shame to stop now instead of growing the ideas and the possibilities that the school has presented. I believe that this program should be implemented all over the city. So, yeah, I'm just respectfully asking you, don't give up on our kids now. This school has really demonstrated that we can make it work, and we can educate kids from all over, and I'm just asking you for your support to help save our school and keep the focus. [LB558]

SENATOR ADAMS: Your timing was good (laughter). Now take a deep breath and relax. [LB558]

MICHELLE DURAN: Thank you (laugh), I try. All right. I'm sorry, I'm not a public speaker. [LB558]

SENATOR ADAMS: Senator Howard. [LB558]

SENATOR HOWARD: Thank you, Mr. Chairman. He's not nearly as stern as he looks (laughter). He puts his teacher face on and scares everyone. But thank you so much for coming in and thank you for waiting so patiently. I know it's been a while. [LB558]

MICHELLE DURAN: Oh, of course. [LB558]

SENATOR HOWARD: And thank you for raising a really great kid. I just have...there's a question that crosses my mind. How far do you live from the school? Just approximately. [LB558]

MICHELLE DURAN: I live about 40 blocks. [LB558]

SENATOR HOWARD: Okay. So how does he get there every day? [LB558]

MICHELLE DURAN: As of now, when we first started the school, we lived in the Westside districts, and I transported him back and forth. Since then, we have moved to the OPS district, and he is on the school bus, although me, along with a lot of the parents are willing to give up the busing. It's very convenient, but if that's the difference between keeping our school and losing it, we will transport our kids. We've already started carpool lists, getting rid of bus stops, you know, doing whatever we can to keep the school. [LB558]

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SENATOR HOWARD: So you can work without the transportation if that's the cost factor? [LB558]

MICHELLE DURAN: We will make it work...in my family. I can't speak for others, but for us it's worth it to keep the school. We will transport our kids. [LB558]

SENATOR HOWARD: Thank you. [LB558]

SENATOR ADAMS: Are there other questions? Good job. Thank you. [LB558]

MICHELLE DURAN: All right. Thank you. [LB558]

SENATOR ADAMS: Next proponent? [LB558]

SANDI DeWITT: My name is Sandi DeWitt, S-a-n-d-i D-e-W-i-t-t. Thank you for hearing my voice. I'm a mother of six. Two of my children have graduated from high school in District 66 and are currently in college. Two of my children are attending the focus school, and my two youngest are attending elementary and preschool in District 66. Regarding my children at the focus school, they are thrilled to be there, and I couldn't be more satisfied with the education they are receiving. The two children that are going there are on opposite ends of the learning scale. One is a high achiever, and one requires special attention to remain in mainstream education. The focus school meets both their needs. We pursued the focus school because of the needs of our sons. Before this collaborative school, we employed speech therapists, neuropsychologists, and educational behaviorists just so our epileptic son could cope with school. As the side effect of his disorder and the medication he's on, he struggles with learning. Before the focus school, he would beg me not to send him to school. He also found it difficult to make friends. He was pulled from the classroom to have special tutoring sessions, always had to bring home an excessive amount of homework which he was unable to do without help. He was generally unhappy. Since being at the focus school, my son is thriving. He enjoys school, learning, achieving, and being as successful as he can. His reading scores have improved; his math has excelled; he makes friends; he has become a normal social boy. These are all 180 degree differences for my boy. This is not unique to him only. Ask any parent that has a child at the focus school as you'll hear today. The atmosphere is calm, friendly, and highly motivating for all types of learners, culture of kids and ages. Our other son was underchallenged in his ability to learn and his hunger for it. He is now being challenged and is excelling well beyond his grade level. He is not bored or getting into trouble. Other aspects of the focus school that work well for us are the extended day and year around calendar, the atmosphere created by the teachers and staff, and the cutting edge curriculum make all the children feel accepted and safe. Underwood Hills Focus School has been an exceptional educational experience for my children and myself. I'm asking you to partner with us to do whatever it takes to keep this school open and eventually start others. This would be the

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beginning of an educational revival for all children, not only in Omaha, Nebraska, but the United States of America. Thank you. [LB558]

SENATOR ADAMS: Thank you. Are there questions? Well, you're going to get off easy (laughter). Thank you. Next proponent. [LB558]

ANN LONG: (Exhibit 6) Hello. My name is Ann Long, L-o-n-g. I thank you for the opportunity to speak today, and I'm here speaking as the chair of the diversity task force for the learning community of Douglas and Sarpy Counties in favor of LB558. I'm testifying solely on LB558 and not in any other elected capacity that I hold. Since its formation in 2009, the diversity task force of the learning community has supported a collaborative focus and magnet school and pathway model. For ease of the rest of my discussion, I'll refer to all of these entities simply as focus schools. Language addressing this is included in our diversity plan. It states, as a recommendation to the learning community coordinating council, in furtherance of the diversity plan, to support legislation, to permit learning community and member school districts to establish collaborative focus schools. This is the reason I'm testifying today. Current learning community legislation allows districts to apply for proceeds from the learning community capital funds levy to cover up to 50 percent of costs for the building of a focus school or for renovation of an existing school to enable its use as a focus school. Current learning community legislation also requires that one school district shall maintain physical, legal, financial, and academic responsibility for a focus school. Should such focus school fail within ten years, the school district must repay the funds received from the learning community with interest. This is a large burden, financial and otherwise, to place on a single district, especially in these hard times. Allowing multiple school districts to form their local agreements to share this burden, would encourage the formation of more focus schools and risk to a single district would be greatly reduced. A side benefit of collaboration, of course, would be sharing of best practices and innovation and education between the districts. These new ideas might filter back for use in each individual district. If focus schools are to be a force in increasing the socioeconomic diversity across the learning community, which they were intended to be in the legislation, we need to make their formation more attainable and attractive for districts. A learning community sponsored research survey conducted this fall by Wiese Research Associates to explore what interest the Douglas and Sarpy County Learning Community public school patrons have in sending their children to focus schools demonstrated strong interest in focus schools. If you refer to your handouts, 90 to 95 percent of parents who identified themselves as free and reduced lunch, and 70 to 80 percent of nonfree and reduced lunch eligible parents would consider sending their children to focus schools across grades K-12. And the three pages you have just separate these findings into elementary, middle, and high school level. So, again, as you can see, the Douglas and Sarpy County Learning Community parents are interested in sending their children to focus schools. And I encourage the passage of this bill and thank you for your attention. [LB558]

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SENATOR ADAMS: Thank you. Yes, Senator Council. [LB558]

SENATOR COUNCIL: Yes. Thank you and welcome, Ms. Long. My question for you, and you emphasized it during your testimony as describing the focal schools that you're looking to be permitted under the learning community collaborative. So I'm going to ask you, if you can, to respond to those who may be opposed to LB558 on the basis of the argument that there's nothing that prevents multiple school districts from coming together under interlocal agreements. [LB558]

ANN LONG: There is nothing that prevents it, but there is also a little bit of money attached to being recognized as a learning community focus school. There is a state aid bump, and there is, of course, the building of the school. You can get 50 percent of your capital expenditure to build a school or renovate, for example,...I'm sure there was renovation done. I know there was renovation done, for example, at the Underwood Hills School; 50 percent of those costs could have been regrouped if the learning community chose to accept your proposal as a council. And those are important start-up costs and ongoing costs to help with operating...in the case of the bump-up in state aid. [LB558]

SENATOR COUNCIL: Now, you also mentioned that under existing Learning Community Coordinating Council law, that if a focus school is approved as such and it fails in ten years...within ten years, that there has to be a primary school district...I mean, how do you understand that working? [LB558]

ANN LONG: Yes. It would be one district who comes...in the current legislation, one district would come forward with the proposal only. There would be no collaborate model even...we can't even be approached at this point with a collaborative model. It is not in law. We could not accept it. We wouldn't even hear it. [LB558]

SENATOR COUNCIL: Okay. So, under current law, school district A could come in on their own and say, I want to designate building B as a focus school. And said they wouldn't have to collaborate with...or enter into any interlocal agreement with any other... [LB558]

ANN LONG: Correct. [LB558]

SENATOR COUNCIL: ...school district, and it would basically be open to students enrolled within that particular school district or any...would they be open to open enrollment students under... [LB558]

ANN LONG: Sure. [LB558]

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SENATOR COUNCIL: ...the learning community council would be open in that...? Okay, so the benefit of LB558 is that it allows joint application for the creation of a focus school... [LB558]

ANN LONG: Yes. [LB558]

SENATOR COUNCIL: ...and it doesn't put one individual school district, for lack of a better descriptor, on the hook for the cost associated with making sure that that school continues to operate for the entire ten-year period. [LB558]

ANN LONG: Yes. [LB558]

SENATOR COUNCIL: Thank you. [LB558]

SENATOR ADAMS: Other questions? Thank you. [LB558]

ANN LONG: Thank you. [LB558]

SENATOR ADAMS: Next proponent. How many more proponents do we have? I'm trying to watch the time. How many more? Get them up high, so I can see. Are they going to keep going up? Okay, go ahead. [LB558]

JULIE BREWER: I am Julie Brewer, B-r-e-w-e-r, former chief operating officer of the Learning Community, now working for them in a consulting capacity. I thank you for your time today and certainly, I'll try not to repeat anything that council member Long has already stated. I will note that learning communities are intended to be a collaborative effort to address academic achievement on a community-wide basis, so certainly collaborative focus schools and programs are consistent with the learning community approach. And I am, of course, speaking in favor of LB558. Council member Long has already mentioned that in statute, if a collaborative model were to happen, it would be through an interlocal agreement. Currently, it would have to be one school district that maintains the sole responsibility for legal, financial, academic responsibility. A collaborative approach can be accomplished currently through interlocal agreements. Other incentives that are in place is not only the incentive around, if you had renovation or physical improvement or building costs, you could come to the learning community for up to 50 percent of those costs. Of course, if you do not operate the focus school as such for at least a decade, you would be responsible for reimbursing the learning community for those costs. There's certainly, currently in statute another incentive is open enrollment transportation as focus schools are looked at as a tool in creating socioeconomic diversity. And there is a three years phase-in of additional state aid for focus school program students at a rate of an average general funding operating expenditure per formula student multiplied by .1. These incentives are not currently in place for a collaborative model. They're only in place for a primary model. It is felt the

operating cost associated with operating a focus school outweigh the incentive for a single school model. It is also felt that there would be no incentive for other collaborators through the current interlocal agreement set up to collaborate with a single school that would receive any of the benefits that are currently in place through the Learning Community statutes. At the same time, because focus schools and programs, if approved by a learning community, must be open to all students throughout the learning community. A single district has limited incentive to operate a school and would be the primary promoter of such school. We indicated that there was a high level of interest in our focus school community survey. However, to date, only one school district has come forward through the learning community focus school approval process. And in considering the district's request, concern regarding the district's ability to support the ongoing annual operating costs was the primary factor in the Learning Community Coordinating Council's decision not to approve funding. Without permitting school districts to collaborate on a focus school and program, and allowing participating districts to receive financial incentives, it seems unlikely that we will get potentially more requests to create focus schools through the current statutes permitting such through the learning community. At this time, I'd be more than happy to take any questions. [LB558]

SENATOR ADAMS: Senator Council. [LB558]

SENATOR COUNCIL: Just a question, and thank you, Ms. Brewer, for appearing today. Following up on your last comment about the recent application, I know of the school district of which you speak. And are you suggesting that had that been presented as a collaborative with one or two other school districts involved, that it may have been given different consideration? Or was it just that that...under the current law, if that district was the applicant, they would be primarily responsible financially, and the coordinating council didn't view them as having that sustainability? But... [LB558]

JULIE BREWER: I would say it's a little bit of both. If you look at that particular application, they would need to generate \$13 million to construct the addition in order to do the focus school that they proposed. There was never anything but admiration and support for the type of focus school that was being recommended, and even our communitywide research demonstrated that the focus of that focus school had interest in supporting the community. Of the \$13 million that they would need to generate to build the addition to run this focus school, they were coming to the learning community for \$6 million for 50 percent. They needed the learning community to be able to fully fund up to the 50 percent. Now, I know it still leaves \$7 million, but about \$1 million of that bond issue they weren't counting in to the focus school. It was some other improvements outside of the focus school, so they needed the full 50 percent. Once they achieved the four-year ramp-up to the focus school, their average operating cost they were predicting to be about \$1.8 million a year, so certainly did not take too many years into operating the focus school where the amount of annual operation had it

together, outweighed any benefit they got from the initial \$6 million support of the learning community. Certainly, if they had an opportunity to share that \$1.8 million in operating cost, that would decrease the burden on their district, not only to find the resources for the \$1.8 million in additional operating, but certainly to assure the learning community that they had the viability to support that increase in operating year to year over the course of at least a decade as per statute currently. [LB558]

SENATOR COUNCIL: Okay. Now the Learning Community Coordinating Council, one of the statutory requirements is the development of a diversity plan on a councilwide basis. Has it been your experience that the diversity plans rely, in part, on special focus curriculum as a means of achieving the plan objectives? [LB558]

JULIE BREWER: Focus schools in relationship to the diversity plan were really looked at as a tool just as open enrollment is, that if the goal of the diversity plan is that every classroom in every building in the learning community eventually reflects the socioeconomic diversity of our entire community as measured by free and reduced lunch, then a tool would be to create a focus school where there is no defined attendance area, and in statute, in order to populate that focus school, you would need to consciously work on creating a lottery system in which 40 percent...in which the applicants accepted were accepted at the rate that reflect the current socioeconomic diversity free and reduced lunch rate of our community. So it allows you to have more control in making sure that the school opens reflective of the socioeconomic diversity of our community. [LB558]

SENATOR COUNCIL: Okay. As compared to just open enrollment. [LB558]

JULIE BREWER: As compared to open enrollment, both...in both situations the final decision maker, quite frankly, is the family, because they have to first make that decision that they want to attend that focus school or they want to attend that school in which they would add to socioeconomic diversity. So the first decision lies with the parents. Once that decision is made, in a purely open enrollment environment, as was shared in previous testimony around capacity, if you have a building that has limited capacity, although you may have the great intent to increase socioeconomic diversity in your building, if you only have eight seats available at the table, your ability to do so will be greatly diminished. If you open a focus program or school in which all seats are intentionally populated to reflect the socioeconomic diversity of your community, you have a greater ability to achieve your means in a much shorter time frame. [LB558]

SENATOR COUNCIL: Thank you. [LB558]

JULIE BREWER: Um-hum. [LB558]

SENATOR ADAMS: Other questions? Seeing none, thank you. Next proponent. Now

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here's a guy we're going to ask some questions (laughter). [LB558]

OMER BILAL: Hello. My name is Omer... [LB558]

SENATOR ADAMS: Why don't you pull that microphone down just a little and be sure you talk right into it? [LB558]

OMER BILAL: My name is Omer Bilal, O-m-e-r B-i-l-a-l. I am a fifth grader at the Underwood Hills Focus School. I am here today to save the school. This school is really wonderful, that our districts and my principal, Mr. Anderson, have put so much effort to make possible. If you shut it down, then it is your loss that you here have taken away a worthy place for generations to come to this school. It is bully-free and no place for hate and, last but not least, I am a lion, and I am proud to be, and I will not give up. [LB558]

SENATOR ADAMS: All right. Good job. Are there questions for this young man? You know, I think when I spoke to your class, I remember you (laughter). Huh? [LB558]

OMER BILAL: Yes. [LB558]

SENATOR ADAMS: Yes. You were a trouble causer (laughter). [LB558]

SENATOR HOWARD: That is not... [LB558]

SENATOR ADAMS: No, you weren't. Thank you. [LB558]

SENATOR COUNCIL: Could I ask a question real quick? [LB558]

SENATOR ADAMS: Yes, please. [LB558]

SENATOR COUNCIL: Thank you all. You did a great job. Have you always attended Underwood Hills? [LB558]

OMER BILAL: Yes. [LB558]

SENATOR COUNCIL: So you've been there for kindergarten through fifth grade. [LB558]

OMER BILAL: Three years. [LB558]

SENATOR COUNCIL: Okay. Thank you. Third. Second? [LB558]

OMER BILAL: Third to fifth grade. [LB558]

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SENATOR COUNCIL: Okay. Third grade. Okay. Thank you. [LB558]

SENATOR ADAMS: Next proponent? [LB558]

ARTHUR BROWN: My name is Arthur Brown... [LB558]

SENATOR ADAMS: There you go. [LB558]

ARTHUR BROWN: A-r-t-h-u-r B-r-o-w-n. I am a fourth grade student at the Underwood Hills Focus School. I have been a student here for almost two years now. I really like this school, because I get a lot more opportunities than I got at my old school. A few examples are enrichment. My favorite one is chess club. I learned how to play chess here, and since I have such good chess teachers, I zoomed up to the title of 17th best chess player in the state. Another example is morning news. Morning news is when we get assigned positions such as audio, newscaster, camera, and keynote. The first time I did morning news I was energized and I couldn't wait to start. Here I learned how to do an MLA citation, so now in high school or college when we are learning how to do a MLA citation, I will already know how to do one. The teachers have also taught us the importance of being a leader. I know I've benefited for myself from it, because my teacher, Mr. Mitchell, says that whenever he needs help with something, I am always the first person to be willing to help. Keep the focus school and other kids can benefit from it like I did. [LB558]

SENATOR ADAMS: Good job. Are there questions for this young man? Yes, Senator Howard. [LB558]

SENATOR HOWARD: Thank you, Mr. Chairman. I was watching you sit in the front row, and you were so patient and so diligent. Did you learn that at school, how to be so patient and pay attention? [LB558]

ARTHUR BROWN: Yes. [LB558]

SENATOR HOWARD: Well, that certainly is a good thing (laughter). Thank you. [LB558]

SENATOR ADAMS: I thought I saw his eyes get heavy about (inaudible)(laughter). [LB558]

SENATOR HOWARD: That was mine; that was me. [LB558]

SENATOR ADAMS: Oh. Senator Sullivan. [LB558]

SENATOR SULLIVAN: Thank you. Thank you. You did an excellent job. I really appreciate it. I have a question about chess playing. When do you play chess, in a

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classroom or over the noonhour or after school? [LB558]

ARTHUR BROWN: It's an enrichment class, and I do it like we get to go to different tournaments. They're all around the state. My favorite...I just like it because it's really fun. It helps you become smarter. [LB558]

SENATOR SULLIVAN: Well, and you, I know, are smarter than I am. What is this citation that...MLS citation. What's that? [LB558]

ARTHUR BROWN: MLA citation is when you read a book, and you want to show other people where to get the book and the author and the publishing company. So you would have the title of the book, the publishing company, and the year it was published and other stuff. [LB558]

SENATOR SULLIVAN: Well, you're going to be my go-to person. Thank you. [LB558]

SENATOR ADAMS: Senator Avery. [LB558]

SENATOR AVERY: Young man, I know some college students that couldn't have explained it better (laughter). Good job. [LB558]

SENATOR ADAMS: Anyone else have a question? All right. Thank you. Next proponent. I remember about seven hands. Where are we at now? How many more proponents? One? Two, three, four. There's more hands going up than what I originally counted. All right, we're going to go for about another ten minutes. All right, go ahead. [LB558]

JOURDAN BOWLES: My name is Jourdan Bowles, J-o-u-r-d-a-n B-o-w-l-e-s. My outlook on learning has really changed since being in the focus program. I have been in the focus program since fifth grade and have since moved on to the focus middle school at Lewis and Clark. In my opinion, I think if I was at any other school, I would still be struggling with my subjects that I did. And now that I'm at Lewis and Clark, and since I was at Underwood, it's really changed and I really think it was a good program to be in. The teachers work with you one on one if you don't get it, and they always treat you like family, and you always feel welcome. I think the school is very interesting, and you can learn many things. I think if you take the school away from us, there would be no possibility for us to learn more than we do now. That's basically all. [LB558]

SENATOR ADAMS: All right. Thank you. Are there questions, committee members? We're going to let you off easy. Thank you. Next proponent. [LB558]

TREVAN BILLINGS: Hi. My name is Trevan, T-r-e-v-a-n. I'm from Elkhorn. I've been at the focus school for now two years. I learn a lot there. I learned how to use my

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computer for all of my classes. At home, I show my parents how to use the computer (laughter). I apply everything I learn to my life. Thank you. [LB558]

SENATOR ADAMS: Thank you. Are there questions for this young man? Guess not. Thank you. Next proponent. [LB558]

SHERI COHEN VOLLMER: Hello. My name is Sheri Cohen Vollmer, C-o-h-e-n V-o-l-l-m-e-r. I am actually reading a letter on behalf of the faculty and staff at Underwood Hills Focus School. I am a parent of a fourth-grader. Dear Senators, Have you ever walked into a school building where everyone was working at their dream job, a place where the staff willingly comes an hour earlier and stays more than an hour later than the fellow teachers at other schools? Have you ever been in a school where every child loved it so much they were willing to get up early and give up summers and afternoon video games to come to school? Have you ever attended a meeting of a parent organization where they put a priority on planning activities that help develop relationships among families? If you would like this experience, come visit Underwood Hills Focus School. However, don't put off making the arrangements; we won't be here much longer. The most extraordinary thing about our school is not the fact that we all love it so much. It is that the school follows the best practices more closely and more thoroughly than any school I have ever seen. I'm willing to bet there are very few schools within several states that do as good a job at applying current research to classroom instruction and assessment. And now Nebraska is losing it. We had a chance to be a model for quality instruction, to show that elementary children can use computers as effective tools, that extended learning programs can enrich a child's life, and that teachers who bring a wealth of knowledge and experience to a collaborative environment can blossom into master teachers soon will fade into distant memory. If anyone thinks of us at all, it will be as that school that cost too much. Only the families of 160 students, eight classroom teachers, and the rest of relatively small staff will know what the dissolution of the school has cost the student of Nebraska. We all know that we could have shown the schools and teachers that there are ways to solve problems, ways to overcome the burdens of poverty, and ways to create future leaders ready for the future. I understand the financial crisis, and we know that tough decisions must be made. I am just very sorry that it had to be the closing of Underwood Hills Focus School before we could make the impact I know is possible. It's written on behalf of Jean LaGrone, the facilitator of Underwood Hills Focus School. [LB558]

SENATOR ADAMS: All right. Thank you. Are there questions for this testifier? Senator Howard. [LB558]

SENATOR HOWARD: Thank you, Mr. Chairman. Not a question, but I just want to say thank you for addressing the bullying problem, and for doing such a good job at your school. I think that's just critical for students to be able to learn that that's handled. [LB558]

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SHERI COHEN VOLLMER: Great. I'll relay that message (laugh). [LB558]

SENATOR HOWARD: Thank you. [LB558]

SENATOR ADAMS: Thank you. Any other proponents? [LB558]

WENDY DUERFELDT SCHUTTE: My name is Wendy Duerfeldt Schutte. That's D-u-e-r-f-e-l-d-t S-c-h-u-t-t-e. Just want to thank you all for the opportunity to be here this afternoon. I am the mother of a fourth grader at Underwood Hills Focus School. This is his first year at this unique, innovative school. His life has changed, and our family life has changed also. My son was diagnosed with ADHD and sensory processing disorders. He's also been identified as a high ability learner. As you may know, these often conflict each other inside a classroom. He has struggled with peer relationships and feelings of being in trouble all the time with teachers. The challenging curriculum and high quality teachers at Underwood Hills have all but eliminated his difficulties. He feels like somebody there with friends and peers and people to play with. He felt like a nobody at his previous school. He stays engaged and on-task. He competed in the fourth grade science competition this last fall, and his teacher even referred to him as a model student at parent-teacher conferences less than two weeks ago, words that I never thought I would ever hear about him. My son is not the exception at Underwood Hills. Nearly every student is excelling in this exciting environment. LB558 must be supported, so this school can continue. Measurable results are proving academic success within this environment. Educational excellence with best practices, high quality teachers, extended day, extended year programming is all demonstrated at Underwood Hills. This school is a model for the future. LB558 will not only help this program continue, but it will encourage additional collaborations between multiple school districts. As Governor Heineman stated in his State of the State address January 13, 2011, the best opportunity to reduce poverty and to provide every young person hope is a good education. This is happening at Underwood Hills through its collaborative model. This can be encouraged further through the passage of LB558. Every child deserves a quality education. Thank you for your time. [LB558]

SENATOR ADAMS: Thank you. Questions? Thank you. [LB558]

WENDY DUERFELDT SCHUTTE: Thanks. [LB558]

SENATOR ADAMS: And we have one more proponent? And I'm going to bring it to an end. [LB558]

EVELYN ACOSTA: My name is Evelyn Acosta, A-c-o-s-t-a, 6931 Wright Plaza, Apartment P2, Omaha, Nebraska. My daughter is a fourth grader at Underwood Hills. She started in third grade. My daughter's first language was Spanish, so...and plus like

when she first started talking, and then there was a bunch of family issues that went on, so she shut down. She kind of stopped talking for a while. So there was a lot of issues with her learning and comprehension. You know, she kind of, you know, did a little better, a little better every year since kindergarten, but when she started at Underwood Hills Focus School, like she just skyrocketed. I was flabbergasted, and I've been hearing a lot of parents saying that, you know, they never thought that they would see this from their child. And I just couldn't think...I mean, over the summer even, like whatever it is that they were teaching her, it stuck through the summer, and she just started reading to me like just fluently. And I was just floored and amazed. And in this year, also with all of that stuff, you could imagine that my child...her confidence level went way down, and just this last...very last conference, my daughter's teacher said that she is beginning to be that child that speaks up for herself now, and she's not afraid to say anything anymore in front of other people, and that's amazing to me. And to have this taken away from her, I don't know. We're just going to take three steps back again. But she's a trouper; she'll come through, you know, she always does. Another thing I wanted to say is I'm also a school bus driver. I've been hearing a lot about the bullying issue. I work for Chief School Bus, and I drive the Elkhorn route for the Underwood Hills Focus School in the p.m., and I can testify to the bullying issue; it's not there. I mean, it's normal, you know, to have one kid kind of pick on another one, but it's just a simple, hey, will you please, you know, not say this to this child? I don't have any extreme behavior problems with these children. So whatever is going on at school, whatever is going on at home, it's all cumulating, and the school bus is a casual environment, and these children are (inaudible). I mean, I've driven kids from all over the city, and, trust me, when I lose this route at the end of this year, these kids have ruined me (laugh). I am going to be just...they've spoiled me, and I'm going to have to learn how to deal with the rest of the population now. So another thing that I wanted to address was collaboration. When I saw at the Elkhorn school board meeting a week or so ago, it was brought to my attention that the school boards knew about this a year ago. And so, if there was like true collaboration, I think that involves us parents. We could have known about this a year ago and did something and pulled together a year ago to prevent this since then. So I think something needs to change there too. Thank you. [LB558]

SENATOR ADAMS: Thank you. Are there questions? All right. If not, thank you, ma'am. And that will end the proponent testimony. Hold on. [LB558]

EVELYN ACOSTA: We just have books for you guys. [LB558]

SENATOR ADAMS: Hold on, hold on. This is not...why don't you...hand them to the pages, if you would, please. That's great of you that you brought them. Would you just hand them to the pages, and they'll make sure that we all get a copy of them? Thank you. That will end proponent testimony. How about opponent testimony? Is this opponent testimony? [LB558]

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BOB TWISS: It is. [LB558]

SENATOR ADAMS: All right. [LB558]

BOB TWISS: Good afternoon again. My name is Bob Twiss, B-o-b T-w-i-s-s, and I am testifying in opposition to LB558. There are a lot of...this is a hard act to follow, I can tell you that. But I'll go ahead anyway. There's something special happening at this school. There's no doubt about it. And it comes back, and I'm glad, Senator Sullivan, that you asked the question as well. As I testified a year ago, two years ago, it comes down...not to brick and mortar but to personnel, and the effort that is put forward, and it's great to see these students and to see the parents who are involved with the educational process as well as the staff at that school. However, I think we must have competitive models, and there are different ways to do that. There's a bill in another committee. We need to stick with the Constitution of the state of Nebraska as it relates to what truly is education. I know that's being looked at right now in terms of defining it and the priorities and what we need in terms of education. Dollars are tight...we know that. There's parental involvement which is just super. However, the measurement tool, generally speaking, that I hear about, doesn't seem to be accurate, and that is primarily free and reduced lunch. There is a State Auditor's report which I'll call to your attention. I think you've had the report before in 2007. Auditor Foley stated that there's troubling inaccuracies in the number of students qualified for the federal free school lunch program, and it may be defeating the Nebraska Legislature's intent of properly disbursing millions of education state aid dollars. About \$21.5 million at the time this was written of the total state aid funding is allocated to school districts based on what is known as the poverty factor. The auditor goes on to say that the study results will be turned over to the Legislature they were for their analysis. Legislature may want to review whether or not its policy goals of awarding poverty dollars in the education and state aid formula are being achieved as intended, and this does relate to the focus school demands. There is a distinct possibility that other measures of poverty such as tax return data might provide a better measure of how to allocate the dollars across the state in a more equitable manner. And just a highlight, 20 largest school districts in the state of Nebraska whose eligibility for free lunch was denied following verification testing for 2006-2007 school year...that's the latest available...46 percent of OPS was denied; 63 percent denied in Lincoln; 77 percent denied in Millard; 13 percent denied in Bellevue; 67 percent denied in Elkhorn; 56 percent denied in Ralston. And I just highlight a few of those, because it's very, very important that you have a firm, solid foundation to go forward to the goal that I think all of us have in mind, and that is increase student achievement. [LB558]

SENATOR ADAMS: Thank you, sir. Are there questions? Senator Avery. [LB558]

SENATOR AVERY: Help me out here, Mr. Twiss. Are you accusing Underwood Hills of overreporting the free and reduced lunch community in their school? [LB558]

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BOB TWISS: I don't think I mentioned Underwood Hills. [LB558]

SENATOR AVERY: But you're testifying on that bill. [LB558]

BOB TWISS: I'm testifying as it relates to focus schools and, I might add, magnet schools in there. And magnet schools are not necessarily magnet schools, either. They may be magnet classrooms such as at Omaha South, but not a total magnet school. At one time, when individuals spoke at one of my service clubs, it was less than 25 percent of those students at that school who were involved with the magnet process. [LB558]

SENATOR AVERY: So wait. I don't want...you're off the point now. Let's go back to the free and reduced lunch. You gave statistics here for a reason. Right? What was your purpose? [LB558]

BOB TWISS: Purpose is so that the Legislature has a good, solid foundation upon which to make decisions when they are allocating the dollars. And I might add that previous testifiers today testified as to free and reduced lunch as well, but I'm not focusing on "the focus school" Underwood Hills. [LB558]

SENATOR AVERY: So then your testimony is frivolous and irrelevant. [LB558]

BOB TWISS: I don't happen to agree with you, and I do take exception to it, and I want that on the record. [LB558]

SENATOR ADAMS: Are there other questions for this testifier? Seeing none, thank you, sir. Is there any...that's it. [LB558]

BOB TWISS: Thank you. [LB558]

SENATOR ADAMS: Is there any other opposition testimony? Is there any neutral testimony? And I'll bet Senator Nordquist doesn't want to close, does she? (Laughter) All right. Then that will end the hearing on LB558. And folks, we still have a ways to go, so if you're going to clear the room, if you could do so very quietly and quickly, so we can proceed on. [LB558]

SENATOR HOWARD: Senator Krist, welcome to the Education Committee. [LB615 LB636]

SENATOR KRIST: (Exhibit 7) I would only say that if you really wanted to clear this room, you should have invited me first (laughter). [LB615 LB636]

SENATOR HOWARD: Duly noted. [LB615 LB636]

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SENATOR KRIST: Next time. [LB615 LB636]

SENATOR HOWARD: Next time. [LB615 LB636]

SENATOR KRIST: Next time. Good afternoon, Vice Chairwoman and members of the Education Committee. For the record, my name is Bob Krist, K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha. I appear before you today in introduction and support of LB615, a bill introduced on behalf of the learning community of Douglas and Sarpy Counties. LB615 along with LB636, introduced by Senator Adams, are attempts to address some technical issues surrounding some of the statutory data collection and reporting requirements of the learning community. The original (inaudible) responsibility of the learning community is to address the achievement gap that exists across 11 member school districts, more specifically, the tie that seems to exist between the achievement gap and the lack of socioeconomic diversity across the Omaha metropolitan area. Through open enrollment focus schools and programs and truancy initiatives, there are many opportunities for the learning community to achieve its major goals. The only way, however, to tell which of these actions is most appropriate and most successful is through analysis of certain data that needs to be collected concerning these problems. This bill provides adjustments in statutes to allow for the data to be collected, analyzed, and reported upon in an appropriate and confidential manner. Lastly, the amendment that is being distributed to you addresses a drafting error in the original bill. The learning community does not...does not..wish to be designated as an agency...rather, a local education authority. That was a mistake in the original drafting that we wish to correct. I would ask that you direct most of your questions towards the people behind me. There aren't very many (laughter), but I do have answers if you care to give them to me, and I think, just as a personal note, the Legislature put the learning community in place to do a job. And they need some tools in order to do that job. This addresses that particular issue, as I know you're all aware. [LB615 LB636]

SENATOR HOWARD: Thank you, Senator Krist. Do we have any questions? Senator Council. [LB615 LB636]

SENATOR COUNCIL: Yes, thank you, Senator Howard. And thank you, Senator Krist. The issue certainly needs to be addressed, but my question has been and will continue to be, why does the Learning Community Council need to have personally identifiable data? I don't understand that. And let me take you back to my educational experience and background. One of the fears that...at least, the district I represent has always had is how students are tracked. And personally identifiable data is one of the ways that that occurs. And for the Learning Community Council, I just...I can't seem to get my head around why aggregate data isn't sufficient for them to determine. I mean, if school district A in the Learning Community Council had six open enrollment applications, four

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of which would have improved their socioeconomic diversity, and they only accepted two. Why do they need to know who those two were, or who those four were? The data will provide the Learning Community Council as well as the Department of Education with the information they need in terms of seeing what impact open enrollment or focus schools or whatever other of the initiatives under the Learning Community Council are affecting student academic achievement. I would think that that data in aggregate form is sufficient. [LB615 LB636]

SENATOR KRIST: If I can respond in general, I would say that, at present, I don't believe that the learning community as a board has the ability to request the data that it feels that it needs. Now, in negotiation for where we draw the line between that personal data or not, there's no...I have no argument with you. [LB615 LB636]

SENATOR COUNCIL: Okay, okay, because that's what I understood the issue was. That...I understood the issue was the districts have no problem sharing aggregate data, and if I'm wrong about that, then that needs to be addressed... [LB615 LB636]

SENATOR KRIST: And, again, it... [LB615 LB636]

SENATOR COUNCIL: ...but I would share their concern with personally identifiable information, because I just don't understand why the Learning Community Coordinating Council would need it...that student specific. [LB615 LB636]

SENATOR KRIST: To that detail. [LB615 LB636]

SENATOR COUNCIL: Yeah. [LB615 LB636]

SENATOR KRIST: And I'm sure that I'm not the authority, but I will say that I think the pushback at this point is not asking for and receiving the data that they do need to make those decisions. And, clearly, there's a line to be drawn between that, so thank you for your question. [LB615 LB636]

SENATOR COUNCIL: Thank you. [LB615 LB636]

SENATOR HOWARD: Do we have any other questions? I hope you'll be able to stay for closing. [LB615 LB636]

SENATOR KRIST: Oh, I'm here for the duration. You bet. [LB615 LB636]

SENATOR HOWARD: Thank you. Thank you. That's the spirit. [LB615 LB636]

SENATOR AVERY: What else can you do at this hour? [LB615 LB636]

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SENATOR HOWARD: Senator Adams, welcome. [LB615 LB636]

SENATOR ADAMS: Thank you. I'm introducing LB636, and let me give you just a little bit of background. I was made aware of the issue, the data issue, by the Learning Community Council early December, whenever it was, and so I was apprised of it, and then was under the understanding that there were or was a bill in the works to deal with it. And in the last hours, I wasn't sure that that bill was coming forward. Hence, (laugh) with legal counsel, worked to put something together, so as a result, LB636, the word "collaborative" has been used over and over again today. I can't use it here (laughter). There was no collaboration (laughter). Instead, it was drafting...drafting, so that there would be a bill in place, so that we could deal with this issue of the sharing of information. Now, quite simply, and there are representatives of the learning community here that can maybe answer more specifically any questions, particularly yours, Senator Council, I might give it a shot. But what LB636 generally does, very simply, although it does that simply, that doesn't mean that there aren't inherent questions and obstacles, is to simply say that the Learning Community Coordinating Council is an educational authority. And if it is, it can receive data, and use the data, and some of it can have identifiers attached to it, and, of course, all of the requirements of FERPA would have to be respected by the Learning Community Council as with the Department of Education or the individual school districts or anyone else. I'm probably not the best person to try to answer your question about why the learning community would need personal identifier data there here. But one thought that I had when you asked the question, I would think that most of what they need would come in the form of aggregate data which we don't have that much of a problem with. However, if I were on the learning community, and I look at the statutes of what we have asked of them to do. Let's take, for instance, the elementary learning centers, and they create one, and they're providing services to students in that environment, and they're contracting for those services to be provided. I suspect that one of the things that I'd want to know is, did that student benefit down the road from the services that were provided by Boys and Girls Club or whoever it may be within that elementary learning center. Now, that may be one example, and it may be off the mark, Senator, from what the learning community is really looking at. But that may be an example, so with that, that's the essence of the bill. [LB615 LB636]

SENATOR HOWARD: Thank you, Senator Adams. Do we have questions? Senator Council. [LB615 LB636]

SENATOR COUNCIL: Thank you, again, Senator Howard. And I guess that's where my question goes to. A youngster who would receive services through an elementary learning center,... [LB615 LB636]

SENATOR ADAMS: Um-hum. [LB615 LB636]

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SENATOR COUNCIL: ...that elementary learning center is operated by the Learning Community Coordinating Council. They would have that data. I mean, so...but what they want is... [LB615 LB636]

SENATOR ADAMS: Down the road. [LB615 LB636]

SENATOR COUNCIL: ...what happens to him or her in the school setting. [LB615 LB636]

SENATOR ADAMS: That would be my thought. That would be my thought. So that you can see if you're...the program that you provided, the check that you wrote, the whole concept may be that an elementary learning center, was really paying off. [LB615 LB636]

SENATOR COUNCIL: Well, I appreciate that. I mean, and we've talked about that on other education initiatives, whether we are doing longitudinal...but a lot of the educational, longitudinal studies still aren't based on personally identifiable data, so, I mean, how do major researchers who conduct longitudinal studies do that without the benefit of personally identifiable data? So, I mean, maybe that's something we need to... [LB615 LB636]

SENATOR ADAMS: Maybe somebody will answer that yet this afternoon. [LB615 LB636]

SENATOR COUNCIL: ...maybe we need to explore that. And I guess the other question I have is, is it the ability to receive personally identifiable data that requires the Learning Community Coordinating Council to be a local educational authority? Is it the personally identifiable aspect of the data that would require them to be a local educational authority? [LB615 LB636]

SENATOR ADAMS: Yes, yes. That would be my understanding. [LB615 LB636]

SENATOR COUNCIL: Because, otherwise, if it's aggregate data, FERPA doesn't really come into play, because there's no potential for a breach of privacy. [LB615 LB636]

SENATOR ADAMS: Right, right. If you wanted to know how many students were in elementary learning center A,... [LB615 LB636]

SENATOR COUNCIL: Right, you would know that. [LB615 LB636]

SENATOR ADAMS: ...there's no privacy issues there. Right. [LB615 LB636]

SENATOR COUNCIL: Privacy...no privacy issues. [LB615 LB636]

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SENATOR ADAMS: Although... [LB615 LB636]

SENATOR COUNCIL: Or except there's a potential for privacy issue if you're in a...size of the group. [LB615 LB636]

SENATOR ADAMS: Depending on the size of the group, too, you know, if you only have four kids, all of a sudden, now, there's the potential to be able to identify, so it becomes an issue. [LB615 LB636]

SENATOR COUNCIL: Yeah, I mean, it's...and I know that's on some of the STD reporting in some of our counties. They don't report it, because it's easily...the population is so small. But I guess the other issue I have about it, and I don't know what the Learning Community Coordinating Council's thoughts or plans, but as a local educational authority,... [LB615 LB636]

SENATOR ADAMS: Um-hum. [LB615 LB636]

SENATOR COUNCIL: ...they would then be eligible for federal education grants, wouldn't they? [LB615 LB636]

SENATOR ADAMS: I don't know. I don't have an answer to that one. [LB615 LB636]

SENATOR COUNCIL: Okay, okay, okay. That's all, Senator Howard. [LB615 LB636]

SENATOR HOWARD: Thank you, Senator Adams. I hope you'll be staying around (laugh). [LB615 LB636]

SENATOR HOWARD: I thought I could slip away. [LB615 LB636]

SENATOR HOWARD: Thank you. First proponent. And when you testify, if you could specify which bill number you're testifying to. This will tell us if you've been paying attention to these numbers (laugh) or both, yes. [LB615 LB636]

JULIE BREWER: (Exhibit 8) Good afternoon, once again. Julie Brewer, B-r... [LB615 LB636]

SENATOR HOWARD: If you could just wait. All right, you've got the green. There you go. [LB615 LB636]

JULIE BREWER: Oh, I'm sorry. B-r-e-w-e-r, former CEO over the learning community and now doing some consulting for them. I'm actually testifying as a proponent in favor of both LB615 and LB636, and I would like to thank Senator Krist for introducing LB615,

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and Senator Adams for introducing LB636. Last month, our chair, Rick Kolowski and I, met with you to provide our annual report to the Education Committee in compliance with statute. At that time, a number of questions raised by many of you highlighted the limited information we were able to provide based upon limitations in the existing data collection statutes. Both LB615 and LB636 are aimed at enabling consistent, complete compliance with the learning community reporting obligations to the Education Committee. Both bills recognize the learning community as a local education authority. This language acknowledges, in keeping with FERPA, that a local educational authority, which has been established in state law and uses public dollars to support programs, has the ability to obtain the data for program evaluation purposes. Discussion occurred at an August 2010 advisory committee of superintendents meeting, requesting that the learning community obtain a ruling from NDE regarding the learning community status as an educational authority. Subsequent meetings with NDE and the chair of the Education committee resulted in the learning community seeking that language as a part of our bill around data. Additionally, based upon consistency issues and open enrollment data collection, experienced in our first reporting cycle, the learning community has identified language reflected in both bills that would allow a more consistent and accurate understanding of the data to be collected. For member school districts, which, in turn, would result in a more comprehensive, complete report to the Education Committee. Senator Howard provided some very direct guidance on her data expectations in this area, which the learning community would like to be able to meet in future reports. Between October 2010 and today, almost \$2 million has been approved for appropriation for elementary learning center and pilot programs and services. As a part of this approval process, the learning community is currently working with local school district and agency recipients on agreements around data collection associated with the use of these dollars. The changes proposed in the bills would give the statutory guidance needed to pursue agreements that reflect consistent and clear understanding with each member school district in order to collect the same level of data from everyone and successfully meet the annual reporting expectations of the Education Committee. In accordance to the changes made last year in LB1070, the learning community is utilizing third party evaluators to collect and analyze data associated with the efforts by the learning community to close the achievement gap. Finally, the learning community appreciates and supports the directive of the Education Committee to provide a clear, accurate, and complete compliance report to perform your annual analysis of a learning community as a new and innovative way for an educational region to collectively work together to close the achievement gap. We ask your assistance in making sure we can meet your reporting expectations. Thank you, and I certainly welcome detailed questions at this point. [LB615 LB636]

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SENATOR HOWARD: All right. Do we have questions? Senator Sullivan. [LB615 LB636]

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SENATOR SULLIVAN: Thank you, Senator Howard. Okay. So, I need a couple of clarifications. You have been collecting data from participating school districts, but haven't gotten all that you want from all the participating districts. Is that correct? [LB615 LB636]

JULIE BREWER: Correct. To kind of give you the Cliff Notes, of the half a dozen compliance reporting statutes that we have, I would say, to date, we haven't had consistent compliance with any of them. In 79-201, which compels us to collect data annually, on a case by case basis, around truancy issues, noting the case, the steps that were taken to address the truancy issue and the district's truancy policy, we have the majority of districts provide us name identifier by case, the grade level of the school, the truancy issue, the actions that we're taking, and their truancy policy. We had a couple give us the random ten-digit identifier for the student without the student name. We had some just do their own numbering, and we had one send us a legal attorney letter, indicating that they could not comply because of FERPA. For the collection of open enrollment data, we had the majority give us the actual enrollment form per directive in our open enrollment plan. The entire form, with the approval status denoted on the form, we had one district just give us the section that noted whether or not they approved it, but we had no idea what grade level, what building any other information. Then on the September 1 report, we had a template of collection data that would align with reporting around 79-2118, and we had probably 8 of the 11 districts comply with the majority. I'd say 7 of the 11 districts complied with the majority, 2 to 3 with some portion, and about 1 just providing summary data. So, when we have that inconsistency, unfortunately, that results in a baseline report that we...and just to clarify a couple of points. The need to receive...there's three types of data. There's aggregated data which, by FERPA, means that if a certain characteristic of your data has less than ten members having that characteristic, it's masked. So if it's less than ten, I get an asterisk, so I don't know if it's nine kids, eight kids, seven kids down to zero. I also don't know if it could be 100 percent, because if 100 percent of the children in grade 4 at ABC Elementary share the same characteristic, you have to mask that as well, because 100 percent would identify everyone. So that's aggregate data. Then there's disaggregate data which is primarily what the learning community needs, and most of it is reporting responsibility which simply allows us to see that if the number is below ten for this characteristic, we see what that number is--if it's six kids, if it's five kids--not the names associated, but just the number. And then, finally, there's the name identifiable information, that there are very few instances where that's compelling, one of which is, unfortunately, open enrollment, because if, as the conversation went in January, if you want a definitive report that demonstrates this many people went out of a building, and this many people came into a building, we have to know who those people are, because, first of all, if we receive 4,200 applications, how many of those represented duplicate applications to multiple school districts from the same individual? If we need to know definitively that at Lewis and Clark Central, this many six-graders went out, we need to know where they went out, and where they went out to, and then we need to

count the kids that moved around at the buildings they went to, and we need to know their socioeconomic status, because you may have ten move into a fourth grade class that add to the free and reduced lunch status, but you may have eight move out that were already in there that were free and reduced lunch, so your net difference no longer makes a huge socioeconomic diversity difference. So, some of the devil is in the detail to get back into the answer. To clarify, any type of data that we would need at a disaggregated or name identifiable level is not information that would be shared with the Learning Community Coordinating Council. It's not shared with the State Board of Education when NDE collects data at that level. It's not shared with an individual school board of education when data is obtained at that level. It would not be shared with our elected body. That would not be in compliance with FERPA. Where we look at the data, is we have to take the data in through our third party evaluators. We have to manage through one of our professional staff people. They need to manage the multiple third party evaluator contracts that we have or had for that baseline, and would continue to have for future data needs to make sure, are we asking the questions correctly? Are we complying in data...in compliance with statute? Is there integrity and information that...how it's been collected, how it's been vetted, how it's been compiled? We need to find those errors and correct those errors before we reaggregate the data. In our world, we are reagggregating the data, so it's all masked, not by individual school districts, but by the six geographical areas that comprise our subcouncils since much of our decision making is made at the achievement subcouncil level. They need to know, what does their geographic area look like, not on a disaggregated or name identifiable basis, but on an aggregated basis. And probably the most compelling example is in that baseline report. Only one of the six achievement subcouncils, when we were looking at the baseline statewide performance comparison, by achievement subcouncil, only one of them could we show ELL results, and that's not even in all grade levels, because there was only...we only had access to aggregate information data that was unmasked if ten or more fit that characteristic in each school building. And we could only reaggregate and demonstrate the integrity of the ELL results if we had enough aggregated data to actually look at. And we only had that in subcouncil 5. We know we have ELL students in five other subcouncils, but they're at such a low number, they're asterisked, so we can only presuppose how many that really represented. I know that's a lot of detail. I'm sorry (laughter), I'm sorry. [LB615 LB636]

SENATOR SULLIVAN: Okay, but I do have two additional questions. Based on what you said in the first part of your comments, what's your level of comfort that this bill, the way we're changing it and making you an authority rather than an agency, will allow you to achieve the consistency in data collection they are hoping for? [LB615 LB636]

JULIE BREWER: It gets us closer. FERPA statute 99.31 allows for the dissemination of disaggregated information without prior parental permission to a certain category, one of which is local educational authorities. Now, this does not eliminate a school district to still determine whether or not it chooses to release the data. The school district really

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holds that ultimate authority. Earlier in conversation, one of the questions you had is, (inaudible) university have access to that information? They do, but it's through an IRB process primarily and internal review board. And it's typically to...they are to have a researcher evaluation project that has very strict parameters around exactly what you're asking for. And then they request voluntarily of a school district to provide the data to inform that evaluation or research. Ultimately, a school district can still determine whether or not it will comply. Part of our hope through this is that we have a better framework in which to sit down and make these agreements, a better framework and understanding, both at the Nebraska Department of Education level, the Unicameral level, and the local level of what is appropriate, accessible data, and there's a better understanding of the process at which the data will be collected, handled, and disseminated. And having us as a local education authority, right now in statute, we look like one; we smell like one; we sound like one, but we are not specifically called one. We've been created in government; we've been given certain powers in state statute, of which is to create and to fund programs to help close the achievement gap, funded with public dollars. That all fits into a local educational authority description, but yet we're not called that in statute. And so, this closes the loop on that. We have other things in statute that close the loop on 79-201. One of the reasons we weren't receiving the data in the format we needed it, and the district that gave us the attorney letter, one of the reasons they shared with us, is there's nothing in that statute that specifically said what you're going to do with that data. And in order to determine whether or not I'm going to conflict with FERPA, as a school district, I need to know specifically, what are you going to do with the data? Then I can determine whether or not I can release the data. So we're trying to close all those little questionable areas. [LB615 LB636]

SENATOR SULLIVAN: And with respect to the personally identifiable data, are you going to give parents the opportunity to say whether they want that divulged or not? [LB615 LB636]

JULIE BREWER: What we did this year with the open enrollment form that was released for the 2011-12 school year, it was released in October, is where the signature...and it's a shaded box area and it's, "I certify this information is accurate to the best of my knowledge." Where the parent has to sign on the form before it's sent in, we included in the language in that signature area that "I understand that a copy of this form will be shared with the learning community," and then they sign on it. So we give them, you know, that little graph of understanding and certification of the accuracy of the information that they are obligated to sign and verify. So we hope...and, you know, it's interesting, because we sat, as a diversity committee...we have participation from a number of our school districts, and it was actually one of our school districts that said, somehow we need to have the parent giving that permission. So we moved that language from a different part of the form, specifically, to the signature box, so that there is that identification of parent permission for the release of that...a copy of that form to us. [LB615 LB636]

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SENATOR SULLIVAN: So if they don't sign it, then they aren't...you aren't allowed to get the information. [LB615 LB636]

JULIE BREWER: I would presume, yeah. [LB615 LB636]

SENATOR HOWARD: Any other questions? Senator Council. [LB615 LB636]

SENATOR COUNCIL: Thank you. And that gets to one of the points. I mean, there are ways to obtain the data with parental consent... [LB615 LB636]

JULIE BREWER: Um-hum, um-hum. [LB615 LB636]

SENATOR COUNCIL: ...that answers all FERPA concerns. Just like no different than HIPAA, if the patient... [LB615 LB636]

JULIE BREWER: Correct. [LB615 LB636]

SENATOR COUNCIL: ...if the patient consents, the information is available. And I would think that the same could hold true for individuals who signed up to participate in programs or services at an elementary learning center. [LB615 LB636]

JULIE BREWER: To a certain extent. We have tried, initially, when we were creating the RFP to stipulate in the RFP that if you're going to respond to this, one of the things you have to understand is, you will use a registration form developed by the learning community, and we would receive a copy of it. Our trouble there is to construct a consistent registration form that is usable by 11 different school districts and other third party agencies. We ran into a cumbersome of the form getting so unwieldy, because an agency might need a certain level of information that a school district already has on that family. We are working with high mobility, ELL high poverty population as our primary target. There's already a lot of roadblocks to them even getting to the point of participating in a program. An eight-page registration form was not one of those roadblocks we wanted to create, so we, instead, try to embed in the agreements with those entities awarded dollars, that this is the type of data that we're going to need. And we, in that case, you're absolutely right. We do feel that for elementary and learning centers programs, participants, we don't definitively need to know their name. But we need to know if three third-graders at Liberty Elementary participated in an after-school math recovery program funded by the learning community--did it make a difference? But today, I could not get information on three third-graders at Liberty Elementary, because it falls below the aggregate threshold of ten. So I would get an asterisk, and an asterisk tells me nothing. [LB615 LB636]

SENATOR COUNCIL: So, I mean, that's what I'm saying. You could get the information,

but the way it would come to you would be the math... [LB615 LB636]

JULIE BREWER: So if I could get it at least in the...yeah, I couldn't...I would get an asterisk. I wouldn't know anything about those three students, because there weren't enough of them who fit that Liberty Elementary third grade. If there were only three ELL students participating in a program, I wouldn't know that there were three ELL students, because that's disaggregate information that's below that threshold. Keep in mind that our third party evaluator and our professional staff person, who would work with those third-party evaluators, are the only ones that see the number at three, because I would take Liberty Elementary, and I would take all the other elementary schools and all the other third-graders that I have program dollars around for ELC services, and I would roll that up into my subcouncil. And so, now maybe I had 26 third-grades take a math recovery program at their various elementary schools, and this is what it looks like as far as how well that math recovery program made a difference in how they performed on their next NeSA math test. [LB615 LB636]

SENATOR COUNCIL: But in terms of what you would get...what the Learning Community Coordinating Council would get would be still, it would be aggregated data. [LB615 LB636]

JULIE BREWER: They would get an aggregated data, but the advantage is, is today my researchers...my third-party researchers, who did the work around the baseline evaluation report, had so little data because they could only get aggregated. So if it was mask, they knew nothing about the mask data, so they had...they were working with crumbs to analyze, to come with some conclusions or guide...and we can't even say conclusions, because it was the first year. So they weren't making any conclusions, but they needed to start looking at where a trend may lead, what may be happening? What does the playing field look like today? And it was...they were working with crumbs. I mean, there's no other way to put it. They only had the very top level view of the data that you or I or any citizen in this state could go out on the NDE Web site and learn for themselves. By them going deeper, and it's your professional researchers going deeper and looking at the disaggregated data, that allows them to reflect and to provide narrative around trends that they notice. But the actual data that the learning community and the...because when I release it to the council, I'm releasing it to the public. And if I'm releasing anything to the public, I'm beholden to make sure that it is appropriately masked, so that disaggregated data...if there are only three ELL students at Abbott Elementary in third grade, and I reported that, it would not be very hard for anyone to visit Abbott Elementary and determine who those three ELL students were. So that's why it has to be masked. So, I mean, we would still have to mask it for public report, but the critical analysis...which is really what you're looking at is, what is the data telling me? Well, right now, my evaluators and researchers cannot tell you, because they don't see enough of the data deep enough to make any assumptions, conclusions, predictions, or recommendations. [LB615 LB636]

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SENATOR COUNCIL: One more question and then a comment. During your tenure as CEO... [LB615 LB636]

JULIE BREWER: COO. [LB615 LB636]

SENATOR COUNCIL: ...COO...now you'd have a CEO. [LB615 LB636]

JULIE BREWER: Now there's a CEO (laugh). [LB615 LB636]

SENATOR COUNCIL: Okay, as COO, this data issue was discussed and the FERPA restrictions were discussed, and the possibility of becoming a local education authority was discussed. Was there any discussion of any other use of that status? [LB615 LB636]

JULIE BREWER: Of the educational authority status. [LB615 LB636]

SENATOR COUNCIL: The LEA status. [LB615 LB636]

JULIE BREWER: Yeah, the Local Educational Authority status in federal...from a federal perspective to my understanding does allow some category of federal grant qualification. But the limited arena that that was discussed was really around race to the top. We sat around the statewide strategic team that the Governor and Senator Adams and Commissioner Breed chaired, there were some Innovation 3 grants that we went to a MOEC specific math initiative meeting around, so from that perspective, Building Bright Futures tried to pull together some collaborative partners around that, and so the question being is, if the learning communities around that table would...could they even be a receiver of any dollars in a collaborative grant, because what's our status? And at that time, we did contact the federal Department of Education, explained...I mean, this is like in the first six months of our existence...explained what we were, had some preliminary legal ruling that, once again, you look like a local educational authority, you sound like one, you smell like one. We would probably consider you one. So that's as far as that has ever gone. As far as the primary compelling, you know, you say, look at my tenure. The day before I officially began my job with the learning community, I met with NDE, and we started the data conversation there, and it's continued. And the Nebraska Department of Education is somewhat limited in...without some technical language that opens that door, is somewhat limited in what they can provide us, because they're not the originator of the data. They're a second-tier recipient, and so, then they have to say, can I redisclose this information? Well, not without the language that allows them to redisclose the information. Then it goes back to individual agreements with school districts which goes back to individual interpretations which goes back to inconsistent data. I would say another large issue around this data issue is, school districts' concern of the administrative and, rightfully so, the additional

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administrative work that they would have to do to get us the data that we need. Earlier today, you heard testimony around collaboration or lack thereof. I will say that an earlier version of LB615 that we shared with the evaluation collaborative committee of the learning community made up of the 11 school districts and all our major university researchers gave us some input that had us remove some of the language out of the bill, because we were asking for some additional quarterly reporting that would be new data that's not typically generated. We've tried to align most of our data needs closely in conformity with data that's already collected through the NSSRS system. A number of the smaller districts would like us to be able just to pull that information off the NSS, go through NDE to get that information, so they're not generating multiple reports. But you have to have the ability for the learning community, and NDE, to have that type of relationship before we can even start to access the data from NDE at a disaggregated level. So that's the other...so there's two issues. What information do you want, and how you're going to use it? And what's the additional burden that you're going to create for me in trying to get you that information. And so, we're hoping through these bills to address both of those concerns. LB615 does include a memorandum of understanding as the last page of the bill. That is to vet out some of those details. LB636 does not. There's some hope, LB636 does an excellent language of, more specifically, talking about the local educational authority status, and what that means. So we really like the language in LB636 around that issue. We wonder if it would help balance out maybe what may not happen if we don't get the memorandum of understanding language. It's also the school district's input that has in both of those bills reflected saying, September 1 is too early to ask a school district for its final numbers on open enrollment. Let's push that back to October 1 that falls in line with the deadline for the fall membership report to NDE. Superintendent Baker expressed earlier today his frustration on November 17, getting information at 10:00 at night which was our first public draft or draft we could share with the superintendents before we had to release the draft to the public meeting the next day. We share that frustration, and we ask to push back the report to the Education Committee to December 31. Why? Primarily, so we can work backwards. The vetted information that we use comes out in the State of the Schools Report mid-October. We had from mid-October to December 1, so less than six weeks when you count a holiday in there, to vet the information, analyze the information, proof the information, get it in a draft see-what-you-think format that we did on November 15 with the evaluation collaborative committee made up of the 11 school districts and researchers. Then get a proof out with their changes to the superintendents before we presented it at a public meeting in the draft form, which we needed to do before we could present it to you on December 1. If we pushed it back to December 31, we bought ourselves another month. We'd have more of that time available to work with the school districts in the manner that we really want to. [LB615 LB636]

SENATOR COUNCIL: And my comment was, despite what may have been stated by superintendents in 548 hearing, your letter suggests that the advisory committee of superintendents is heard by the Learning Community Council of this. [LB615 LB636]

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JULIE BREWER: Oh, my goodness, yes. I could go in a very long, (laugh) detail, but yes. [LB615 LB636]

SENATOR COUNCIL: I just wanted to know that...thank you very much. [LB615 LB636]

SENATOR HOWARD: Thank you. I don't think we have any other questions. Thank you. Other proponents for either bill. Any opponents? Welcome to the Education Committee, and if you could specify which of the two bills you may be addressing or? [LB615 LB636]

ANGELO PASSARELLI: (Exhibit 9) Yes, my name is Angelo Passarelli, P-a-s-s-a-r-e-l-l-i. [LB615 LB636]

SENATOR HOWARD: If you can wait...oh, we've got the green. That's good. [LB615 LB636]

ANGELO PASSARELLI: (Exhibit 9) (Laugh) Okay. And I'm opposed to LB615 and LB636. And I know Julie very thoroughly illustrated a lot of the problems that we have with the FERPA legislation. It's very cumbersome; it requires a lot of the school districts, before that information is released. Basically, if we get parents to sign off, we can release that information. That's the attitude we take when they do that. We're a school district that did not provide that individually identifiable information to the learning community when they requested that. We were advised by our attorney not to provide that information further. He says after reviewing these bills, there are issues that remain unsolved by either of these bills. I'm not an attorney. I don't profess to be one. I know that this issue will end up being decided by attorneys and courts and everything else with that. Again, I say Julie illustrated all the problems that we have with the data. We did provide aggregate data to the learning community. We had no problem with that. But any time it was individually identifiable, we did not. We think there are other ways to work with that. Most of that data is in the Department of Education. Maybe the Memorandum of Understanding there can solve that problem, so that they can provide that information to the learning community. I'm not sure. But, again, we think there are issues remaining even if these bills pass. With that, I'd see if you had any questions. [LB615 LB636]

SENATOR HOWARD: Yes, Senator Avery. [LB615 LB636]

SENATOR AVERY: What did you say your position is? [LB615 LB636]

ANGELO PASSARELLI: I'm an administrator director with the Millard Public Schools. [LB615 LB636]

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SENATOR AVERY: What is that? [LB615 LB636]

ANGELO PASSARELLI: I'm a director of administrative affairs. I work directly with the superintendent. [LB615 LB636]

SENATOR AVERY: And your duties are? [LB615 LB636]

ANGELO PASSARELLI: My duties--I supervise elementary and high schools. I work with strategic planning of the district, and I'm a government relations officer for the district. [LB615 LB636]

SENATOR AVERY: And that would be lobbyist? [LB615 LB636]

ANGELO PASSARELLI: Yes, that's part of my duties. [LB615 LB636]

SENATOR AVERY: You have now appeared on three bills? [LB615 LB636]

ANGELO PASSARELLI: Yes. [LB615 LB636]

SENATOR AVERY: And you...is it possible that we could assume that you don't support a lot of what is going on in the learning community? [LB615 LB636]

ANGELO PASSARELLI: I think...I wouldn't characterize it that way. I'd say that...would like to be a team player. We don't always feel like there's been a spirit of collaboration both ways. We feel like we have a lot to give. We've benefitted by the learning community, honestly. We would say that. Financially, we've benefitted by the learning community. So we have no desire to see it go away. We are interested in improving it. [LB615 LB636]

SENATOR AVERY: Okay. Thank you. [LB615 LB636]

ANGELO PASSARELLI: Um-hum. [LB615 LB636]

SENATOR HOWARD: Any questions? Any other questions? Thank you. (See also Exhibit 10.) [LB615 LB636]

ANGELO PASSARELLI: Um-hum. [LB615 LB636]

SENATOR HOWARD: Are there any other opponents? Are there any neutral testifiers? Senator Krist. [LB615 LB636]

SENATOR KRIST: Senator Adams... [LB615 LB636]

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SENATOR HOWARD: So it's all you. [LB615 LB636]

SENATOR KRIST: I only have one...God, love you, long day (laughter). I am a supporter of the learning community. I think we need to make sure that they have the tools to succeed, and I thank you for listening to me today. [LB615 LB636]

SENATOR HOWARD: Thank you so much for coming. Wait, wait. Are there any questions? [LB615 LB636]

SENATOR KRIST: Oh, sorry. [LB615 LB636]

SENATOR HOWARD: Almost let you get away. Are there any questions? I think you've wrapped it up. Thank you. [LB615 LB636]

SENATOR KRIST: Thank you, ma'am. [LB615 LB636]

SENATOR ADAMS: Committee, given the hour, our agenda for exec session just went... [LB615 LB636]