

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
January 31, 2013

[LB32 LB49 LB65 LB67 LB72 LB87 LB111 LB112 LB113 LB125 LB145 LB147 LB155
LB164 LB207 LB209 LB213 LB214 LB250 LB274 LB336 LB641]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixteenth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Davis. Please rise.

SENATOR DAVIS: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Davis. I call to order the sixteenth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

SENATOR GLOOR: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

SENATOR GLOOR: Are there any messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB87, LB111, LB112, and LB113 to Select File. Committee reports: the Banking, Commerce and Insurance Committee, chaired by Senator Gloor, reports LB147, LB209, LB213, LB214, and LB336 to General File. Your Committee on Transportation and Telecommunications, chaired by Senator Dubas, reports LB32, LB207 to General File, and LB250 to General File with amendments. And Senator Schilz, as Chair of the Agriculture Committee, reports LB67 to General File with committee amendments attached. I have confirmation hearing reports from the Transportation and Telecommunications Committee, two reports, both signed by Senator Dubas. Hearing notices from Health and Human Services and from the Executive Board, signed by their respective Chairs. And that's all that I have, Mr. President. (Legislative Journal pages 327-330.) [LB87 LB111 LB112 LB113 LB147 LB209 LB213 LB214 LB336 LB32 LB207 LB250 LB67]

SENATOR GLOOR: Thank you, Mr. Clerk. (Doctor of the day introduced.) We now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, Senator Sullivan would move to withdraw LB641. [LB641]

SENATOR GLOOR: Senator Sullivan, you're recognized to open on your motion to withdraw. [LB641]

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SENATOR SULLIVAN: Thank you, Mr. President. And, members, I'd like to withdraw LB641 before a committee hearing is scheduled. LB641 is no longer needed. Thank you. [LB641]

SENATOR GLOOR: Thank you, Senator Sullivan. Members, you've heard the opening. Are there members wishing to be recognized? Senator Chambers, you are recognized. [LB641]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm not rising to argue about this. Senator Sullivan, I'm not aware of exactly what is in the bill but I'm very much in favor of assisting the Historical Society wherever I can, so could you tell why the bill is no longer needed? [LB641]

SENATOR GLOOR: Senator Sullivan, would you yield? [LB641]

SENATOR SULLIVAN: Yes, thank you. Certainly, Senator Chambers, I'd be glad to. This actually goes back to the floods of 2010 when the Elkhorn River had some flooding and there was a lot of damage in the area where the Neligh Mills is located in Neligh, Nebraska, which is in my district. And over the last several years the Historical Society, which is responsible for the mill, and the city of Neligh and Antelope County have worked together to try to resolve this. And at the point that I introduced the bill, we thought perhaps the Historical Society was going to have to expend some dollars to deal with it. It's since been discovered that it's probably not going to be necessary, so that's why I'm withdrawing the bill. [LB641]

SENATOR CHAMBERS: Thank you very much. And, Senator Sullivan, I had no idea of what all was involved, so now the record makes it clear that it's not a slam at the Historical Society or a bone of contention that arose that caused the bill to be withdrawn. And I thank you for giving that clarification. [LB641]

SENATOR GLOOR: Thank you, Senator Sullivan. Thank you, Senator Chambers. Seeing no other senators wishing to be recognized, Senator Sullivan, you're recognized to close. Senator Sullivan waives. Members, the question is, shall LB641 be withdrawn? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB641]

CLERK: 32 ayes, 0 nays, Mr. President, on the motion to withdraw the bill. [LB641]

SENATOR GLOOR: LB641 is withdrawn. Continuing with our agenda, General File. Mr. Clerk. [LB641]

CLERK: Mr. President, LB49, a bill by Senator Ashford. (Read title.) Introduced on January 10, referred to the Urban Affairs Committee, advanced to General File. There

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are committee amendments pending, Mr. President. (AM31, Legislative Journal page 297.) [LB49]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Ashford, you're recognized to open. [LB49]

SENATOR ASHFORD: Thank you, Mr. President. Good morning. Many years ago I was asked to serve on the board of the Omaha Housing Authority, and then some years after that I was asked to serve as the executive director of the Omaha Housing Authority, which I did for three or three and a half years. And the primary role that I had as executive director was to put on-line approximately 300 units of affordable housing that were to replace the older project-type units that had been torn down, primarily in north Omaha, Logan, Fontanelle, and others. The issue was made more challenging or...by the fact that we were, the city of Omaha and the Housing Authority and HUD had been defendants, were defendants in a federal case, in federal court in Omaha before Judge Strom, which required that all of these replacement units be placed in the entire city of Omaha area. So each council district, each of the seven council districts within the Omaha area were required to have some of these replacement houses, which was a good concept in theory but made the project exceedingly more expensive to complete. And as an aside, one of the projects that we did complete was in Senator Chambers' district. It was on...is on 16th and Grace Streets and it is named now after our good friend, Senator Chambers, Ernie Chambers Court. That particular project was the rehab of one of the first luxury apartment complexes in Omaha. It was called the Strehlow Terrace. Absolutely beautiful, it was designed by the architect that had designed the Trans-Mississippi Exposition in Omaha in the late 1890s. But it had become a terrible place, infested with drugs and crime. And so it was very gratifying to us that we were able to complete that project and to eventually name it after our colleague, Senator Chambers. In any event, the challenge of completing the 300 units was significant. The funding was not adequate to complete the project and because we were required to build out the units throughout the city, the cost of the land was greater than it would have been had we built out the units in north and south Omaha where land values were less. The Douglas County Housing Authority is...has jurisdiction, really, throughout the entire county, but primarily provides affordable housing in the western part of the city of Omaha and in the outlying areas of the county. It is a very well-run housing authority. Joan Bertolini is the executive director. She has been for a number of years. She has done a terrific job and they have a first-class board, as does the Omaha Housing Authority. There is a new executive director of the Omaha Housing Authority from...his name is Clifford Scott. He came here from Buffalo, New York, and Youngstown, Ohio. He's also an extremely accomplished executive director. The challenge of doing the...what was called the Hawkins replacement housing when I was at the housing authority would have been much, much easier had we had one regional housing authority in Douglas County, because we could have...not only could we have had a broader jurisdictional base to build these units and gone out into the county and built

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some replacement units, which would have been beneficial, but we would have had the combined expertise of the county housing authority and the city of Omaha housing authority. It would have been a much more efficient process. So I learned from that example that the best way to go in Douglas County is to bring the two housing authorities together and create, as the amendments will show, create a new board that will be made up of...there's another bill coming across in, hopefully, a few weeks that will talk about the competency of board members and education of board members and so certification of board members. This issue of affordable housing in Omaha has been and continues to be of great challenge. Affordable housing is, for the most part, isolated in the older parts of town. The need for affordable housing throughout the county is critical, not only for young families but also for retired citizens. And in addition to that, the housing authorities throughout the country are in sort of an odd situation. They are 100 percent funded by the federal government but they are run locally. So it oftentimes is very difficult to deal with those sorts of issues because you're constantly running up against HUD rules, which change quite frequently, and funding issues. As the years have gone on since I was executive director, the subsidies for each individual tenant of an OHA or Douglas County Housing Authority unit receives less and less subsidy from the federal government. So the housing authorities are constantly trying to make up that difference. The amount of rent that someone pays in a public housing unit depends on their income, but it can be as little as \$25. So trying to make those numbers work is very difficult. The efficiencies that would be created, in my view, by the combination of these two housing authorities and the...will create...go a long way toward creating those efficiencies, not only in the maintenance side but on all the other financial challenges that these housing authorities face. Lastly, housing authorities do have the ability to partner with private investors to complete projects. And, in fact, Ernie Chambers Court was a low-income housing tax credit project and some of the units at that...at Ernie Chambers are, in fact, market rate affordable, or not...market rate affordable, meaning they're not public housing units. And the ability to do that throughout the county more effectively is also incredibly important to providing affordable housing. And then as we try to find jobs for people who are in poverty, the ability to live near jobs is critical. And though, of course, it's important that we create jobs throughout the city, many of the new jobs, whether they're in technology or manufacturing, are outside of the city in the county. So the ability to work with Douglas County Housing Authority and Omaha Housing Authority as one unit, as one board, will help provide housing for individuals who wish to live near these newly created jobs in the western part of the city and in the county and in Sarpy County, quite frankly. And the farther west they go, the more jobs there are. So I would strongly urge that this body move forward. There is an amendment which explains that the purpose of this bill is not to mandate a particular one housing authority merging into the other, or vice versa. The idea is to create a working group that will report back to the Legislature on January 1, 2014, to put forward a plan for this newly created board. Douglas County is the only housing authority that I know of that has this sort of county housing authority and city housing authority. It was...we created this by statute in the early '80s. Dan Lynch was the introducer of the bill that created the

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Douglas County Housing Authority. I'm not certain exactly why we did it. It doesn't make any sense to me that we have it this way, and it makes a whole lot of sense that we bring them together. So with that, Senator McGill can introduce the committee amendment and we can move on. [LB49]

SENATOR GLOOR: Thank you, Senator Ashford. As the Clerk and Senator Ashford stated, there are amendments from the Urban Affairs Committee. Senator McGill, as Chair of that committee, you're recognized to open on the committee amendments. [LB49]

SENATOR MCGILL: Thank you, Mr. President, members of the body. This amendment replaces the original bill. It now requires that a county housing authority in a county containing a city of the metropolitan class, and a city of the metropolitan class housing authority in that county, that they create a joint committee to develop a plan for the creation of a single housing agency or authority within that county. The committee they create must consist of two members from the board of each existing housing authority or agency, and three independent members selected by those four authority board members. The committee is required to report its findings and recommendations to the Urban Affairs Committee by January 1, 2014. In the hearing, there were no opponents at the time, although some people have crept up and talked to Senator Ashford and myself. Clifford Scott was indeed there, and then Philip Wayne, and they suggested...you know, they talked about whether to create a new agency or which one gets merged into which. Ultimately, we decided that it would be best just to have them come up with this plan right now instead of forcing anything to happen within the next year in terms of actual structural change. I think this is a good compromise. It still pushes us in the right direction and encourages that debate to take place. Thank you, Mr. President. [LB49]

SENATOR GLOOR: Thank you, Senator McGill. Members, you've heard the opening on LB49 and the committee amendments. Are there senators wishing to be recognized? Seeing none, Senator McGill...pardon me, Senator Chambers, you're recognized. [LB49]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'd had a partial discussion with Senator Ashford about the green copy of the bill. He gave me a copy of the amendment that Senator McGill just discussed, and I believe that it covers any of the issues that were troubling to me. But should any arise during the discussion from this point onward, I don't want Senator Ashford to think that I've blindsided him. I believe from reading it, it takes care of them. First of all, I think it's very good that the bill itself will not mandate a merger, and secondly, the language in this amendment makes it clear that the metropolitan-class city that is mentioned must be within the county that is being considered. Under the green copy, it said that a county which includes a metropolitan-class city and a metropolitan-class city may collaborate to have such a

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merger. But if you take that language literally, there could be a metropolitan city within the county you're talking about that would have to be there in order to qualify as far as the county's participation. But conceivably, there could develop another metropolitan-class city which is not in that county. That county would not necessarily, under the language of the bill, have to put together an agreement with the metropolitan-class city within its boundaries. It could have entered an agreement with a metropolitan-class city in another county. And because of the way the language is drafted now, it makes it clear that the city of the metropolitan-class size must be within the county that is being considered. And I think these are very important issues that need to be discussed, need to be made a matter of record; because although there's only one metropolitan-class city now, another could come into existence. And as the people who have been here for a while know, we could not constitutionally name Omaha. You cannot have special legislation. You must have a class, if you're creating it, that's open, meaning that the law will apply to any entity which reaches the point of qualifying or meeting the standards set in that bill. So if a city of the first-class comes up with enough people to qualify as a city of the metropolitan-class, then everything that was put in the law governing metropolitan size cities would then cover that newly, coming into existence metropolitan-class city, and there wouldn't necessarily have to be any new legislation to cover it. So by drafting the bill in the way they've done it now, I think they've covered the waterfront. But I would like to ask Senator Ashford a question in view of what the bill becomes with this amendment. [LB49]

SENATOR GLOOR: Senator Ashford, would you yield? [LB49]

SENATOR ASHFORD: Yes. [LB49]

SENATOR CHAMBERS: Senator Ashford, would you rather I asked...this hasn't been adopted yet, has it? [LB49]

SENATOR ASHFORD: No. [LB49]

SENATOR CHAMBERS: Then I'll let that vote be taken, then I will talk to you. Thank you, Mr. President. [LB49]

SENATOR GLOOR: Thank you, Senator Ashford. Thank you, Senator Chambers. Seeing no further senators wishing to be recognized, Senator McGill waives. The question is, shall the committee amendments to LB49 be adopted? Those in favor vote aye; those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB49]

CLERK: 41 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB49]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB49 to E&R Initial. Senator Chambers, you're recognized. [LB49]

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SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to have a brief discussion with Senator Ashford. And, Senator Ashford, the area that I want to talk to you about relates to the membership. There will be by statute two members from each of the agencies. Then those four people will select three...they're referred to as "independent members." Senator Ashford, if a problem arises and there's a deadlock, two to two, and they cannot resolve it on selecting these three members, how would that be resolved? [LB49]

SENATOR GLOOR: Senator Ashford, would you yield? [LB49]

SENATOR ASHFORD: And that happens, of course, from time to time. I...my sense is...two answers. One is that I think we need to think about that issue on Select File as to how best to break that deadlock. And it may be, Senator Chambers, it wouldn't...we may want to be more clear in our definition of these three other members as to what their, you know, backgrounds are and so forth and so on. So I think we'd still need to work on that. The other piece is that...maybe it's somewhat flippant, but to say if they can't agree on the three, then they're not going to agree on the entire thing, but that's really a flippant answer. But I think we need to think about it. [LB49]

SENATOR CHAMBERS: Thank you, Senator Ashford. And I will talk to you between now and Select File and see what can be arrived at. I know that this kind of situation can arise and it's not out of the realm of possibility. Will this matter when it's referred to the Urban Affairs Committee, I guess it would be open to them to make whatever recommendations they think ought to be made and this bill is not the final word. All it really does is give a blueprint to the Urban Affairs Committee to go forward, is that correct? [LB49]

SENATOR ASHFORD: That's correct, Senator Chambers. [LB49]

SENATOR CHAMBERS: So if they don't come back with anything, nothing happens as a result of this bill. [LB49]

SENATOR ASHFORD: Correct. The Urban Affairs Committee would...theoretically, could take it up again in the next session of the Legislature and would then either take some more directive action or retire from the field, one way or the other. [LB49]

SENATOR CHAMBERS: Well, thank you, Senator Ashford. Since nothing is going to automatically happen because of this bill, it really wouldn't matter what it says, because the Urban Affairs Committee has carte blanche to look at this issue and then decide what they're going to do. They can decide to do nothing. Senator Ashford or anybody else could bring a bill which would be designed to accomplish something concrete. But with that explanation, I don't think I'll even discuss the bill any further or some of the

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questions that I may have had. But Senator Ashford is too modest. I want to give a little bit of background on naming that structure Ernie Chambers Court. By the way, people think that it's mine, that I own it, that I'm the landlord, and I get numerous calls asking me why they cannot move into the facility, and they don't think that they're being treated fairly by those who are making the determination as to whether they're eligible. And I have to explain that my name adorns the building, but I have nothing to do with it whatsoever, that they would have to call the OHA. [LB49]

SENATOR GLOOR: One minute, Senator. [LB49]

SENATOR CHAMBERS: Say it again. [LB49]

SENATOR GLOOR: One minute, Senator. [LB49]

SENATOR CHAMBERS: And I'm putting on my light again so I can finish this. A committee group...I mean, a neighborhood group in my community wanted to take a small park. It may not have been quite two blocks square. It took up about a quarter of a block in size. If I could hit a tennis ball as hard as Serena Williams, I could have hit that ball from where I live to the park. It had to be approved by the Omaha City Council. The planning board agreed, the mayor was not against it, even the World-Herald was in favor of it. A former federal judge got involved. John Cavanaugh got involved because the Omaha City Council decided that despite the fact that this group had crossed every t, dotted every i, and met every requirement under the law, rule and regulation, some of the city council members had such great distaste for me that they rejected the request of this community group. That is what led to these various other people making public statements, and I say again, even the World-Herald editorialized it, knowing that the city council had given the backhand to my community. And by the way, I had told the people who wanted to do this, I'm not asking you to do this and you make it clear--I do not want to subject myself to the people on that council whom I deem to be racist, and it would give them an opportunity to do something not only toward me but insult all of you all, and that's exactly what they did. And one of the ring leaders is now running for mayor, Welch. One of the things he was upset about and criticized me publicly for was I condemn the rape and assault of little boys by Catholic priests. He felt I shouldn't say anything about that and I was wrong to do so, and that was one of his reasons for voting against it. While that apocalypse in a teacup was going forward, Senator Ashford talked to the board of the OHA and they agreed that because of the things that I had done with reference to trying to get housing and other things, they would name that court after me, that building, if I would accept it. And I said, under the circumstances, because it's something designed to help people who need the assistance, I will let my name be used. And there were luminaries who came to the gathering, and I had a little puppy dog with me. She was not a puppy but she looked the part because she was so small. It was done and I expressed my appreciation to Senator Ashford and the board for what they had done. But there is a certain toxic environment and atmosphere in Omaha which

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allows the personal animosities of one or two people to affect and influence the conduct of an entire elected board, in this case, the city council. From time to time as issues come up, I will make reference to this attitude in Omaha. But while I'm on the subject, the comments will be limited to those whom I designate. If there were a group of donkeys gathered or assembled or whatever they call a herd...I know a pride of lions designates a group of lions. A flock could designate a group of sheep. And maybe herd would designate a group of jackass...uh, donkeys. So if I took a rock and threw it among the donkeys, the only one that would go heehaw, heehaw, is the one that was hit. So if I make a comment and it doesn't apply to you, don't give yourself away by saying, if I haven't named you, heehaw. If I give a description and you apply it to yourself, then you are the one who has made the application. And with that, I am through at this point. Thank you, Mr. President. [LB49]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Carlson, you are recognized. [LB49]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. I would like to address a question to Senator Ashford, if he would yield. [LB49]

SENATOR GLOOR: Senator Ashford, would you yield? [LB49]

SENATOR ASHFORD: Yes. [LB49]

SENATOR CARLSON: Senator Ashford, if I have a bill that's in the arena of water or agriculture and you didn't understand it, I'd want you to ask me a question so that I could get you on my side. On this bill, I've got two things that come to mind. But you used the term "efficiency." And as I think of efficiency, that could have something to do with procedures that are followed once something is put together, or it could have to do with money. And how does this address efficiency? [LB49]

SENATOR ASHFORD: And, Senator Carlson, I do ask you lots of questions about water and you do have the answers, so I appreciate that and your comments. There are two housing authorities with two separate administrations that essentially...much of the...actually the Douglas County Housing Authority has jurisdiction over the entire county. The Omaha Housing Authority has jurisdiction just within the city. So in effect, they cross a lot...quite a bit of territory, though the Douglas County Housing Authority primarily is engaged in housing outside...in the western part of the city and in the county. All the things that you do to maintain public housing units...public housing units are owned by these housing authorities so they have the responsibility to maintain the buildings and to meet the HUD requirements on...making certain that each one of these buildings that they maintain and administer and manage are profitable. They actually, interestingly enough, the housing authorities across the country are under some pretty strict rules about how they operate; and one of the rules is that they have to at least

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break even. So they can't run at a loss. And that's...it's called asset base management. It's a new concept about...maybe it started when I was...just left there or during the time I was there. It is extremely challenging. So the subsidies from HUD keep going down. The appropriation basically into the housing authorities through HUD goes down, has gone down quite a bit over the years. And the amount of rent that a qualified tenant would pay is relatively small. I can't...I can't even remember a situation where someone paid more than \$50, \$75, or maybe \$100 for a public housing unit. So it's a very low number. It's about a third of the income, I think, is what they base it on. So there's a tremendous revenue problem. The revenues are somewhat...are flat to going down. So the only way to keep those housing authorities viable really is to be on the efficiency side, to find some ways to cut their costs. It's a problem for them. [LB49]

SENATOR CARLSON: Is...under this proposal then, as far as efficiency is concerned, the things that have to be done in these housing districts for maintenance and so forth, is that going to be done by fewer people? Is there some efficiency in that or wouldn't that be...? [LB49]

SENATOR ASHFORD: Yeah, you probably...first of all, you'd have one executive director, not two. [LB49]

SENATOR CARLSON: Okay. [LB49]

SENATOR ASHFORD: And you'd have one staff instead of two. You'd have one maintenance crew. There's also a public safety element to this. Certainly at OHA there's a Department of Public Safety that actually acts like its own...quite frankly, like its own police force in a way. So not needed as much in the western part of the city or in the county, but you would have...you would have a reduction of staff, I think, on the financial side, because the compliance side, where you could combine those offices. As far as the maintenance side, I'm sure you can find some efficiencies there because you could share the machinery and all the equipment that's used. So I think in all areas you can find savings, hopefully, but definitely in compliance. [LB49]

SENATOR GLOOR: One minute, Senators. [LB49]

SENATOR CARLSON: Would it be fair to say then, the overall result of this would be a lower administrative cost freeing up some dollars that are there to actually use on the housing? [LB49]

SENATOR ASHFORD: Yeah, that is exactly the point, Senator Carlson. You got it exactly right. Housing authorities are always on the bubble as far as their financial...the big ones, the big urban ones, because of the factors I've mentioned. So if you do this alliance with the two housing authorities, you're going to free up more money. It's going to be more financially sound. [LB49]

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SENATOR CARLSON: Okay. Thank you, Senator Ashford. I do support LB49. Thank you. [LB49]

SENATOR GLOOR: Thank you, Senators Ashford and Carlson. Seeing no additional requests to speak, Senator Ashford, you're recognized to close on LB49. [LB49]

SENATOR ASHFORD: Thank you, Mr. President. And I must say the day that we...the ceremony we had to name the building Ernie Chambers Court on 16th and Grace was a proud day for all of us. And there was a huge crowd there. The building...the buildings, actually it's several apartment buildings that were...where the wealthy lived in the days of the 1890s or the 1910s and so forth, and it has now been reborn, and we were very proud of that day. I think this, that sort of...it's a four-legged stool when you're dealing with poverty, in my view: discrimination, housing, jobs, and education. One of the visions that we had at Ernie Chambers Court was to convince educators to build a school across the street from Ernie Chambers Court so that children could...a grade school, so that children could go to grade school across the street from there, from their home, and return in the evening, and that never happened or hasn't happened yet. But the vision of bringing schools and housing and jobs together, it must be the guiding light for affordable housing. In order to do it effectively, in order to bring people out of poverty, housing is critical, as is education and jobs. So the more flexibility that a housing authority has to collaborate with educators and to collaborate with employers to...and I will say the Lincoln Housing Authority, my good friends from Lancaster County and in Lincoln, have done a tremendous job over the years with their housing authority. So I see an opportunity here that will not only create more efficiency, will create more flexibility, will provide for our dream when I was there of a holistic response to the issues of poverty: discrimination, jobs, education, and housing. So I thank you for the debate and the questions. I would urge the adoption of the bill and its advancement. Thank you. [LB49]

SENATOR GLOOR: Thank you, Senator Ashford. The question is the advancement of LB49 to E&R Initial. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB49]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB49. [LB49]

SENATOR GLOOR: The bill advances. Mr. Clerk. [LB49]

CLERK: Mr. President, some items, thank you. A hearing notice from the Agriculture Committee signed by Senator Schilz. I have a Reference report referring a gubernatorial appointee to standing committee for confirmation hearing. The Committee on Transportation, chaired by Senator Dubas, reports LB164 to General File. And Senator McCoy would like to print an amendment to LB72. That's all that I have, Mr. President.

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(Legislative Journal pages 331-332.) [LB164 LB72]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with General File. Mr. Clerk.

CLERK: LB125 was a bill originally introduced by Senator Lautenbaugh. (Read title.) The bill was introduced on January 11, referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File. Mr. President, I do have committee amendments pending. (AM47, Legislative Journal page 298.) [LB125]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Lautenbaugh, you're recognized to open on LB125. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I had a lengthy opening prepared but I'm not going to give that. You all mask your disappointment well. We've had this discussion. We just had it last year on a different bill that sought to accomplish largely the same thing. And as I've pointed out previously, my children do attend OPS. I have no...obviously, no reason to wish them ill. I want success throughout the district. What this bill does, in a nutshell, is move the board size from 12 to 9, and would provide for elections this spring for a new board throughout the district. And I think this was described in a editorial in a local paper as a drastic but necessary step. And I can explain why that is. There have been issues, multiple issues with OPS over the past few years. And I have at times been critical of the board, others have been more critical, but it's been fairly widespread and fairly well known and I'm not going to stand here and go through a litany of issues now. I have a concern. And some have asked, why is this a statewide issue? Why are we bothering with this? Well, as those of you on the Education Committee should know or do know and the rest of us should know, the school districts are what we tell them to be basically. We set the size, we set the boundaries. They are creatures of the Legislature. We are the only ones who can effectuate a change in school board size. And as you look around the state, there is one OPS with 12 members. If you look around the nation for comparable school boards, sort of urban areas, more student population, you can't compare the performance of a 12-member board district to others because they really don't exist. There's a reason that we see throughout Nebraska, throughout the nation, throughout different subdivisions of government basically, odd-numbered, smaller boards, around five, seven, or nine, that kind of thing. And that's what this bill would bring about. And the reason we are involved is because we're the only ones who can make this change. And I believe it's necessary. I believe at some point you have to look at the reality as it exists everywhere else and ask, is there a reason why in Douglas County we've got seven county board members and seven city councilmen, seven, five on some of the local school boards. I think 7 down here in Lancaster on the school board in Lincoln, excuse me, but 12. So this is an adjustment that I've been advocating for quite some time. Now, it's been added...there's been a little extra impetus added to it lately that I think has really taken away a lot of the opposition and pointed out that this actually has to happen now for the good of the

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district, for the good of everyone, because there's an issue with the board doing its swearing-in this year that has probably resulted in half of the board not being validly seated and not leaving enough valid members to replace them. They don't have a quorum anymore. And arguably, I believe, since they did it wrong two years ago as well, there probably is no OPS board right now. So I can't stress enough that this is a huge problem right now that we have to deal with. And to underline the magnitude of the problem, look at our budget, look at TEEOSA. Understand the level of involvement we have in funding operations at OPS and the interest we have in making sure that we do everything we can to make it succeed. You have to understand that OPS has a budget that is larger than the city of Omaha's. It is huge. I mean, I've talked to you, I made the point last year that, you know, some of you have districts of 500 kids. OPS has 500 administrators. I mean, it's a completely unique animal in this state. And the time is now to actually do something about this. And I think I can claim, without fear of much contradiction, that we have fairly broad agreement on that topic that something must be done now, otherwise what we're going to have is special elections anyway to at least replace the half that weren't validly seated this year and maybe replace all of them. So, this is a way to do it, make it coincide with the city elections to save costs, because Omaha has its city elections in April or May of this year, and we move on. This will be a chance, I hope, for the whole city...at least the part that's in OPS to look very hard at OPS, look at the people running for OPS, focus, because the only other game in town is the city council election and the mayoral race this time, and understand the importance of the choice we're making here, and elect a board that reflects our aspirations and what we want out of OPS. And I'm not going to stand here and say everybody on the OPS board now is somehow bad or shouldn't be there. That's not the case. But this district needs a shock to the system. This district needs our focus, our attention, and our concern; and this is a chance to bring all that to bear, get a board in place that's validly seated, and move on. I'm not going to stand here and tell you that test scores will go up the day after the election. That's crazy. I am here to tell you that it isn't functioning right, right now, and this is something we can do at the upper echelons that hopefully will...well, I don't want to say, trickle down as some of you will be offended by that, but will hopefully spread through the organization and help make it better. There's more to do, but this is an important first step. I would ask for your support. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. As the Clerk stated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chair of that committee, you're recognized to open on the committee amendments. [LB125]

SENATOR AVERY: Thank you, Mr. President. Good morning, colleagues. AM47 is the committee amendment that strikes the original sections of the bill and replaces it with the following provisions. Like the original bill, the committee amendment reduces the Class V Board of Education from 12 to 9 members. It also eliminates term limits for board members. The election for members of the Class V Board of Education will be

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held on the same date as the Omaha City Council elections. These elections will occur every four years. The primary election is held on the first Tuesday of April preceding the date of the general city election. The general election is held on the first Tuesday after the second Monday in May and the next election then will be held in 2013. Class V Board of Education members will serve four-year terms. The term of office for each member currently serving on the board expires on the fourth Monday after the election in 2013. The Legislature will divide the school district into nine numbered districts of compact and contiguous territory and of as nearly equal population as may be practical. The numbers and boundaries of the districts are designated and established by a map identified and labeled as OPS 13-001. You have a copy of it on your desk. If you want to see a larger, more detailed copy, they are under each balcony on the table, and I believe we have one in the Senate Lounge as well. That map was filed with the Clerk of the Legislature when the committee reported the bill to the full Legislature. The map will be filed with the election commissioner and the Secretary of State and incorporated by reference as part of the legislative bill. After the next decennial census, the election commissioner of the county, in which the greater part of the Class V school district, will divide the school district. The vacancy provisions for Class V school district board members are also changed. With this amendment, a vacancy will be filled by appointment for the remainder of the unexpired term. The amendment eliminates the nonvoting student member from the board of Class V school districts. The amendment also includes an emergency clause. The committee advanced the bill with the amendment on a 5-2 vote with 1 member absent. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Avery. Mr. Clerk, there is an amendment to the committee amendments. [LB125]

CLERK: There is, Mr. President. I have two actually. The first is Senator Avery, AM75 as an amendment to the committee amendments. (Legislative Journal page 325.) [LB125]

SENATOR GLOOR: Senator Avery, you're recognized to open on your amendment to the committee amendments. [LB125]

SENATOR AVERY: Thank you, Mr. President. This is a clarifying amendment that Speaker Adams asked me to bring to you. It provides greater specificity to the process of how the map of the OPS school district is filed and transferred. With the amendment, the map will be filed with the Clerk of the Legislature and incorporated by reference. This is similar to the procedure we used during the redistricting process. The Clerk will then transfer possession of the map to the Secretary of State and the election commissioner of Douglas County. As you remember, the committee amendment already includes language requiring the Secretary of State and the Douglas County Election Commissioner to receive copies of the map. This simply makes it explicitly clear as to what the process is so the public will know, without doubt, what...where the

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maps can be found. I urge your support for this amendment. [LB125]

SENATOR GLOOR: Thank you, Senator Avery. Members, you've heard the opening on LB125, the committee amendments, and the amendment to the committee amendments. We now move to discussion. Senators in the queue: Cook, Chambers, Nordquist, and Lautenbaugh. Senator Cook, you're recognized. [LB125]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise in philosophical opposition to the original bill proposal. I am very aware that there are amendments and agreements and new maps and conversations in the works about the proposal that are agreed upon. I've yet to make my decision about whether or not I will vote to advance these amendments or the underlying bill. And here are just a couple of reasons behind my thinking. I remember when this bill was proposed last year, and some of the conversation that my colleague, Senator Lautenbaugh, had us engage in regarding accountability and the achievement gap in the Omaha Public School District. I am not standing here to offer the fact that that achievement gap has been addressed in any way, in a way that we as a Legislature or we as educators, parents, taxpayers could be proud of. I'm not saying that that has been achieved. The question in my mind, and it has been the question in my mind since last year, was the correlation or the causal relationship that might exist or not exist between the size of the board of the school district and the achievement gap. Once again, I understand that this is something that we as Nebraskans should be occupied with and preoccupied with, the fact that children speaking more than 100 languages, disproportionately living in poverty, coming from all over the world, coming to school with all sorts of things on their minds and things going on in their families and neighborhoods, the idea that we would not invest all that we could to ensure that these children were successful and could someday enter the work force and the world well prepared. The question that I have in my mind that I would like the rest of the body to consider, and perhaps you have already considered it, is how the size of the board is going to impact those achievement outcomes. I don't see a causal relationship, and I just wonder at times what the true motivation might be for redrawing maps and reintroducing this bill at this time. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Cook. Senator Chambers, you're recognized. [LB125]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm the one who brought a bill to require the district election of members of the Omaha Public School Board. That board was totally unresponsive. There were parts of Omaha who never were able to get enough support in an at-large election to put anybody on the board. Senator Lautenbaugh pointed out that you're not going to see test scores rise because this bill passes. I think it is facetious to say that the motivation behind this bill is in and of itself to raise test scores. It's not going to do anything other than reduce the size of an unwieldy board. I would like us to focus on what the bill does. A school board need not

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have 12 members. That is too large a board even in cities larger than Omaha. I don't know why the number 12 was originally settled upon, but there is no city council, no county board, none of these governing entities that have 12 members. You reduce the number to nine, you still have the wherewithal as far as districting to ensure that all constituencies within the city will have an opportunity to put representation on that board. So I'm not going to waste my time or the committee's time, when I was talking there, or the Legislature's time now, with a red herring. This bill is not going to raise test scores and nobody says it does. It does not relate to curriculum, teacher qualification, administrator's assignment, selection of a superintendent, textbooks, none of that. So if somebody was laboring under the misconception that we are supporting this bill because it's going to raise test scores, then perhaps the educational system that OPS is giving now can be reflected in the inability of people to understand what the language of a piece of legislation is. The bill reduces the number from 12 to 9. It sets an election date that will be applicable to those who may be incumbents. I say may be, because under the legal problems that have developed, we don't know if there are any legal incumbents. But presuming there are some, those incumbents will not have to file earlier than anybody else. All of the nine members will stand for election in March. The incumbents will also stand for election in March. They're not going to have to file earlier. Then the election, the final, will occur in the regular course of events. If what I've said is not clear and somebody is still laboring under the misapprehension that this bill is supposed to raise test scores, then I'm prepared to clarify what I've said. But here's one thing I can say. There's a former senator who spoke against the idea of reducing the number to nine. I opposed the last bill because they said, pay people \$20,000 and have a two-term term limit. [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR CHAMBERS: I don't support term limits for anything. I don't support it in this bill and it's not going to be in this bill. But I made it clear that I wanted the number reduced. That senator came here and said no. Without having an election...I mean, without having a campaign manager, without having a campaign committee, without raising money, I won the election by better than two to one. So I think I'm in a position to say that the voters in my district, which will be heavily impacted by these kind of considerations, have confidence in my judgment and they know what my judgment is and knew what it was before they voted for me. That wasn't the only reason. They had numerous good reasons to vote for me, but that was one in the basket. And I will have more to say as my other opportunities arise. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. Members in the queue: Nordquist, Lautenbaugh, Pirsch, Wallman, Scheer, and Chambers. Senator Nordquist, you are recognized. [LB125]

SENATOR NORDQUIST: Thank you, Mr. President and members. I appreciate the

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acknowledgement that this bill likely will have little impact on academic achievement. I stood in strong opposition to the similar legislation that was introduced...there was...we debated last year on this floor, and since that time, certainly my concerns of the accountability over Omaha Public Schools has grown. One of the issues that I brought forward this year, LB274, is to create greater transparency when it comes to the compensation of superintendents around the state. There was a large outcry in Omaha, certainly among my constituents, about retirement packages that were given and the lack of transparency and even a lack of understanding among the board members of what was in that package and what that amount amounted to. So, hopefully, we can add transparency there. You know, I think Senator Lautenbaugh comes with genuine concern for Omaha Public School students. Certainly his students serve there and I think he comes with a concern to create greater accountability. And I stand this year in support of an agreement to move to nine members and to work out a map that fairly represents everyone within OPS because I share those concerns about accountability. Will this solve it? I don't know. Hopefully, but I can't guarantee that. The one issue though, I think we've heard a lot from...maybe not necessarily people in this body but other elected leaders in our state going after Omaha Public Schools about their academic achievement, pointing fingers. And I handed out a chart I think that very much makes a powerful statement comparing free and reduced lunch population of many of the schools in the metro area compared to their 3rd and 11th grade NeSA reading results. And you can see the very clear indirect correlation between that. And I don't point that out to try to justify the achievement gap or to say that we should create lower expectations for high poverty schools, but rather to point out the fact and to bring awareness to this body that we need to have a firm understanding that kids in high poverty areas need greater supports and we need to quit pointing fingers, quit waiting for Superman, and actually take action. What impact do you think it has on a child when they live in substandard housing or in a very unstable housing situation where they have multiple moves, where their parents are working long hours at low-wage jobs, who can't access healthcare, to have lack of safe places, to have recreation, have exercise, when they don't feel safe in their neighborhoods, when they don't know where their next meal will come? That all has an impact on academic achievement. There's no question that it does. And the only reason I handed out this chart and talk about this is because it's going to be a long session and a lot of important issues are going to come up. And we can either continue to sit back and point fingers about academic achievement or step up and take action to move it forward. I appreciate, as I said, Senator Lautenbaugh's genuine concern for the kids in OPS. I am going to support this bill once...on General File with the understanding we're going to continue to work on a finalized map, and once we come to an agreement on that, certainly will support it going forward. And I'm hopeful that this will move us towards greater accountability for Omaha Public Schools, but we cannot take our eye off the ultimate goal here and that's ensuring that we are getting kids into our school system that are prepared at kindergarten, that are ready to learn at kindergarten, and we support them all the way through to high school graduation. Thank you, Mr. President. [LB125 LB274]

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SENATOR GLOOR: Thank you, Senator Nordquist. Senator Lautenbaugh, you're recognized. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And some of this is going to sound like it's a closing, I guess, and it's not meant to be, but I do want to explain some things that I think are worth pointing out that I did not point out at the beginning. I usually joke when I show up to committee and I have no proponents and no cosponsors that, well, I like to work alone. But I have not worked alone on this. Senator Chambers is one of my cosponsors. Senator Avery, the Chairman of the Government Committee, is one of my cosponsors, Senator Ashford, Senator Murante. And this...I think that says something because some will be concerned and say, well, what are your true motives here? Well, my contracts professor used to say, when you hear hoof beats, don't look for zebras, assume it's horses. I mean, sometimes things are what they seem to be and what we stand up and tell you they are. And I think if you look at the people involved in this, there have been some...although I should point out, outside of the body, the feedback on this has been overwhelmingly positive for me. The committee hearing, we did not have members of the public coming down going, what are you guys thinking? We had some school board members and a few others, but there was not a voter outcry, not a citizen outcry saying, my gosh, how can you contemplate this? The feedback I get is, why have you waited so long to do this? But I think it's important to look all who is involved here. And if you don't trust why I'm doing something, maybe you can trust why Senator Avery is doing something. And if you don't believe Senator Chambers' legal analysis about whether or not the board exists, maybe you can believe the county attorney's analysis up in Omaha as to whether or not the board is real. And I would submit to you that that's not a coalition of people that you can ascribe one set of partisan motives to, to say the least. It's kind of a broad spectrum of people who have come together to address a very serious concern and what, I think, can only fairly be described as a malfunctioning board. So I thank Senator Avery for his hard work. I thank Senator Chambers for his support and Senator Ashford, Senator Murante, and many of you others. I mean, I've...as Senator Nordquist alluded, there were concerns about whether or not the map took into account the interests of some communities. And I was here until 10:00 last night tweaking the map to try to get it just so in, basically, the southeastern part of the district to make sure that we take those concerns into account, because this is going to be something that I believe will go forward and it's important we do it right. I've had many discussions with Senator Harr and Senator Mello about their concerns on the bill and how to make it better. And I feel, without speaking for others, that the opposition to this has kind of gone away, especially with the reality on the part of the district, I would submit, that they've got a real problem here that this is a way to address, and it has to be done now, at long last. So I would urge you to look at, you know, who I've been fortunate enough to have assisting me with this and draw your own conclusions as to why this is happening and where it's going. And again, please don't ascribe motives beyond what we're telling you. Just look at who

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is doing it and ask yourselves why would all these people be working together towards this common goal if not for the very reasons we're giving you on the floor here today. And I would again appreciate your support for this. And I'll yield the rest of my time to Senator Chambers. [LB125]

SENATOR GLOOR: Senator Chambers, 1 minute 38 seconds. [LB125]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Lautenbaugh. Members of the Legislature, I have volumes in my head of allegations I can make against OPS and document them without referring to documentation. That's not what I'm talking about today. That's not what the bill is talking about today, although along the way I will show you some of the dysfunctional things that this existing board has done. The question to ask, if you are going to ask one about the size of the board: Why should there be a board of 12 members when you don't have that size board governing anything else in the state? Who can say that a board consisting of nine members is too small to serve as a board of that school district? [LB125]

SENATOR GLOOR: Thirty seconds. [LB125]

SENATOR CHAMBERS: If you can persuade me of that fact, maybe you'll open my mind to other things that you're saying, but right now, I think the bill is very fine. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. Thank you, Senator Lautenbaugh. Senator Pirsch, you are recognized. [LB125]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I do appreciate the conversation that's going on here today; and I appreciate Senator Chambers' comments that, as I understand them, that structurally it just doesn't make sense for any board to have that high of a number of members. I wonder if Senator Lautenbaugh might yield to a couple of questions I have, if... [LB125]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB125]

SENATOR LAUTENBAUGH: Yes, I will. [LB125]

SENATOR PIRSCH: With respect...there's a...I guess the feature of this bill that's been talked about most of all is the lessening of the number of members of the school board from 12 to 9. But there's another facet, is that correct, to the bill that deals with the election date? [LB125]

SENATOR LAUTENBAUGH: Yes. [LB125]

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SENATOR PIRSCH: Okay. And would the typical process, would that...as it exists today, that would be incumbents would have to file at an earlier date before challengers. Is that correct? [LB125]

SENATOR LAUTENBAUGH: That's correct. [LB125]

SENATOR PIRSCH: Okay. And we're...under the bill it would go away from that paradigm to everyone files with one filing date? [LB125]

SENATOR LAUTENBAUGH: I don't know if that's contained in the bill per se, but it's in Senator Harr's amendment that we'll be discussing pretty quickly here and I think that's probably a sound reason, there's sound reasons to do that, yes. [LB125]

SENATOR PIRSCH: Okay. And is that the structure that's used in other types of elections in the state, do you know? And if not, why are we utilizing this? [LB125]

SENATOR LAUTENBAUGH: Honestly, I think the justification for it is that, you know, this is a relatively short time frame. And just as surely as it would disadvantage anyone else to declare something by the middle of the month, we just thought it would be fairest, whether you're an incumbent or nonincumbent or hypothetical incumbent or whatever their status is. Everybody has the same filing deadline as March 1, just this one time, out of fairness and concern for the time frame involved. [LB125]

SENATOR PIRSCH: Oh, it would be a one-time deal, is that what I... [LB125]

SENATOR LAUTENBAUGH: Yes. [LB125]

SENATOR PIRSCH: Okay, not a permanent, lasting... [LB125]

SENATOR LAUTENBAUGH: No, this is not meant to change policy for this or any other board or entity on an ongoing basis. [LB125]

SENATOR PIRSCH: As far as elections in the future, it's just a one-time shot. [LB125]

SENATOR LAUTENBAUGH: Yes. [LB125]

SENATOR PIRSCH: Okay. That helped. And then with respect to the...could you comment a little bit. So there is this development whereby those who were seemingly elected in the last cycle were...by statute, there was a date under which they had to be sworn in and there's some...a matter of disagreement as to whether or not they are. Could you flesh that out a little bit? [LB125]

SENATOR LAUTENBAUGH: Sure. And this...I've alluded to this since the issue came

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up earlier in the month and I think last...I think it was this Monday or last Friday, I don't recall for sure, but the County Attorney in Douglas County did announce that he was preparing legal action to bring what's known as quo warranto action, which is a term I remember from law school, but I don't think any of us have ever seen a quo warranto action being filed before, but it is how you challenge whether or not an elected official is properly...in that office properly seated. And there is a statute regarding Class V school districts, of which there is only one, that is very harsh but very clear regarding how you seat new board members, with a very specific deadline that was not met. And the statute just says, in any case where it's not met, the election is void and a vacancy is declared. Now usually the board would then just fill the vacancy. But because it affects half the board--there's only six left, arguably--that's not a quorum to fill the vacancy. But more to the point, I think the statute of limitations on such an action might be four years, and two years ago they did it wrong as well. So there's a real concern... [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR LAUTENBAUGH: ...that the current six were not legally seated, and one of them has since resigned anyway. But the prior six from the 2010 election cycle also were not properly seated, so there's a real concern that the board really is in limbo right now, as a matter of fact. It's not clear if actions they take will be subject to challenge but there is certainly...a certain amount of uncertainty, a great amount of uncertainty because of that issue. [LB125]

SENATOR PIRSCH: Okay. Thank you. I'd yield the balance of my time to Senator Lautenbaugh should he have any comments. [LB125]

SENATOR LAUTENBAUGH: I'll waive. [LB125]

SENATOR GLOOR: Thank you, Senator Pirsch. Thank you, Senator Lautenbaugh. Members in the queue: Wallman, Scheer, Chambers, Bolz, Price, Karpisek, and others. Senator Wallman, you're recognized. [LB125]

SENATOR WALLMAN: Good morning, Mr. President, members of the body. Here we go. I talk to people, smaller government. What are we trying to do to Omaha? Put their school board from 12 to 11 or 9, whatever we're going to do. I don't see why this is necessary, and I'd like to ask Senator Lautenbaugh a question. [LB125]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB125]

SENATOR LAUTENBAUGH: Yes. [LB125]

SENATOR WALLMAN: Thank you. Now in all these board meetings, do you have legal counsel there, do you know? [LB125]

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SENATOR LAUTENBAUGH: I believe they do. [LB125]

SENATOR WALLMAN: Okay. It looks to me like there's some fault here with somebody. And so because they didn't do it legally, now we're supposed to straighten it out here. And that's not about educating students. It's not about spending money the right way. We'll probably spend some time in here. And as a former school board member, if my district was told to downsize two or upsize two, there would be a lot of discussion and a lot of anger because people care about kids. And Omaha has tremendous diversity, and I'm sure that was set up that way because of all the diversity in their cultures. So somebody had a representative on the school board from their culture. And look at how many languages they have. And I've got a cousin that teaches in Omaha and they have a lot of issues. It's not just about the school board. It's about all the languages and if you don't know the language, it's tough to teach a little kid. So where are we going here? I have no idea. But I hate to pass a bill in here to regulate schools any more than they are. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Wallman. The Chair recognizes Senator Scheer. [LB125]

SENATOR SCHEER: Thank you, Mr. President. Would Senator Chambers yield to a question, perhaps? [LB125]

SENATOR GLOOR: Would you yield? [LB125]

SENATOR CHAMBERS: Yes. [LB125]

SENATOR SCHEER: Senator Chambers, I know I'm going to ask a question that several of us without... [LB125]

SENATOR CHAMBERS: Just one thing, would you speak in your mike so I can hear you? [LB125]

SENATOR SCHEER: Sure. [LB125]

SENATOR CHAMBERS: Thank you. [LB125]

SENATOR SCHEER: I'm going to ask you the question I think is on a lot of the minds of people that I've talked to on the floor in relationship to the size change. And I agree this bill is exclusively about changing the size of the board from 12 to 9. And I don't have the institutional knowledge or the knowledge of Omaha School District, and your comments is on its dysfunctionality. And make...and I'll make an assumption that may not be the case, and we don't have to assume that, but if we had the elections and nine of those

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that are elected are nine present board members that are there either illegally or legally, can you give examples of the dysfunctionality of how that board in its current state was not able to work, versus reducing that to nine and assuming that perhaps those nine may be nine of the same people that are involved in its operation now? [LB125]

SENATOR CHAMBERS: Senator Scheer, I don't know precisely what you're asking me. Are you asking me, will any change occur if the nine elected would be among those who are already on the board? Is that the question you're asking me? [LB125]

SENATOR SCHEER: Well, not necessarily. What I'm trying to find out...we'll assume then we have nine new members. I guess it's not important who they are. But can you show me how the change from...I'm having difficulty finding how the change from 12 to 9 will... [LB125]

SENATOR CHAMBERS: Makes a difference. [LB125]

SENATOR SCHEER: ...will make a difference in its operational ability. [LB125]

SENATOR CHAMBERS: All right. There have been serious problems. For example, the existing board is not even willing to allow consideration of hiring a new or different legal counsel. In the past five years I think, that firm has billed OPS for \$13 million. And when a member wanted to have consideration given to whether or not a change could and should be made, the then-president of the board put the kibosh on that, said that she would appoint a committee. They wanted to go into Exec Session, the vote was 6-5 to do so, because the information was not desired to be put before the public. When that committee came back that had been handpicked by the now-resigned member of the school board, they just said, well, now is not the time to change firms, we got a lot to do so we're going to keep the same firm. There was no consideration given to making a change. If you got rid of 3 of the members, if 12...let's say all 12 are incompetent, you would reduce the incompetency by 3, whatever percentage 3 is of 12, and if there are four 3s in 12, you'd reduce it by 25 percent. And there are other issues. The public does not feel that they get a serious hearing when they come before the board because decisions are taken by the superintendent and the board rubber stamps what that superintendent tells them. When there was a problem of serial sexual assaults at a middle school, and the officials and board members and employees who knew about it did not report it to the law authorities, as the law says, and the principal put two of the girls who complained out of school and called them liars. [LB125]

SENATOR GLOOR: One minute, Senators. [LB125]

SENATOR CHAMBERS: A formal vote was taken by the school board to endorse the way the matter had been handled by the employees, because the superintendent told them, don't make any changes, leave everything alone. But the two girls who were put

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out of school, as lawyers by the principal, had charges which became felony charges by the county attorney. This is just one example of a very serious matter showing how the board voted formally in a way that was not only irresponsible, it endorsed lawlessness. [LB125]

SENATOR SCHEER: Thank you, Senator. My concern is, as you put it, if we reduce 12 incompetents to 9 incompetents, you've reduced it by 25 percent. I understand that. But you still have nine incompetents, based on your analogy. I'm just wondering if you still have that makeup. [LB125]

SENATOR GLOOR: Time, Senator. Thank you, Senator Scheer. Senator Chambers, you are next in the queue. [LB125]

SENATOR CHAMBERS: Mr. President, members of the Legislature, an election is like rolling the dice; you get what the people vote for, but they vote for it knowing what they're voting for. There has been enough discussion in the media and in other forums in Omaha for people to know what is going on. Senator Wallman said he has no idea where we're going. Well, we who are involved do have an idea and we're presenting the idea. So when the vote comes in, if nine people elected comprise members currently on the board, that's what the people decided. But they need to have the opportunity to do so. And Senator Scheer asked me a mixed question. So he might can ask it to me again, but here is what I want to keep focusing on. There is such a legal morass in Omaha right now that it's easy for Senator Wallman and other people who might have strings in OPS's hand pulling on them. That board, the six who were elected were illegally done so. Their election is void. Their seats are vacant. Under existing law, a majority of the remaining board members appoint replacements. The board consists of 12; 6 are not qualified. You have six left, you have no majority. There can be no appointment, if you leave it the way it is now, of those six members. So the Secretary of State would probably have to call a special election. We don't even know for sure what will result from any of that. What this bill gives us the opportunity to do is not try to resolve all of these problems created by the existing school board and that Baird Holm law firm, which, by the way, never warned those school board members that you're about to go over a cliff; your elections will be void. That firm missed it. Thirteen million dollars in five years and they can't advise their client on something as clear as this. We cannot resolve all of that here. We should not attempt to resolve it all here. What we're doing is something that is responsible. We're reducing a size of an unwieldy board to a more manageable number. We are setting up an election which will not entail all of the kinds of things I've mentioned where you have to have some people who may have been legally elected or maybe not, trying to figure a way to put six people into seats which are now vacant. It could boggle your mind if you tried to follow each one of those legal trails to where it would carry you. That's why I don't want to go into deeper detail about that, but I will if somebody asks me. I want to focus on what this bill does. Senator Scheer has not stood here and said that 12 members constitute a reasonable number.

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Senator Wallman talks about if they reduce this board by 2, how upset the people would be, but he didn't say that there are 12 members on his board. People need to think. And they need to think in a nuanced way. And if you don't know about it, be quiet. But you don't have to be. But when you speak, I'm going to address what you say and show how it's irrelevant, incompetent, and immaterial, quoting Hamilton Burger when he's confronting Perry Mason and makes an objection. [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR CHAMBERS: But we're all adults. This is a very serious issue. And I'm showing constraint by not going into all the things of poverty, racism, improper assignment of teachers; I'm focusing on what the bill says. I want somebody to stand on the floor who might be opposed to this bill and show me where 12 members on the board has created a result that is acceptable which can be traced to the fact that there are 12 members. Now I can argue that the fact there are 12 makes the board so unwieldy that in and of itself creates problems. And nobody can go to the number of any other governing body in the state and say, well, Ernie, you're wrong because we've got 12 members over here on this board and on that board and they're doing all right, so the number means nothing. I don't want to let you get away from the issue. I'll answer any question you ask me, but I will bring it right back to what the bill... [LB125]

SENATOR GLOOR: Time, Senator. [LB125]

SENATOR CHAMBERS: ...says, because that is all we're voting on. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Bolz, you are recognized. [LB125]

SENATOR BOLZ: Will Senator Lautenbaugh yield to a question? [LB125]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB125]

SENATOR LAUTENBAUGH: Yes, I will. [LB125]

SENATOR BOLZ: Senator, in general, I believe that it's good practice in democracy when those who are directly impacted by a decision-making process can have a voice at the table. And I see in this bill that you are removing the student member from the school board. Could you explain to me why you made that decision? [LB125]

SENATOR LAUTENBAUGH: It was suggested to me as a committee amendment, and I honestly...especially at a board this size and the complexity of issues they're dealing with, I don't see the point in having that member. It's my own personal preference,

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nothing more. [LB125]

SENATOR BOLZ: Senator, is part of your intention in bringing this bill to provide greater accountability within the school board? [LB125]

SENATOR LAUTENBAUGH: Yes. [LB125]

SENATOR BOLZ: And do you think that providing a person, to whom those folks are directly responsible, a voice at the table could perhaps create additional accountability? [LB125]

SENATOR LAUTENBAUGH: Well, I don't think the board hurts for feedback, and I think we're trying to...from students especially. But I think we're trying to apply a principle that it's good to hear from your constituency and the people that are governed should be a part of it, to people, because of their age, that might not be, necessarily, such an overarching concern, as if we were talking about whether or not the OPPD board should have...be elected from the citizenry that is part of OPPD. We had discussions years ago about how to try to increase voter turnout--I don't mean to get far afield--and someone suggested that maybe we should let teenagers vote on like school board issues so they would get in the habit of voting. And I thought that was a disastrous idea and it went nowhere. So I'm not saying that this board would not benefit from feedback from students. I just don't see the need for a specific student member. I have to tell you, that particular issue is not a passion of mine either way. It's just one of the changes that came in the amendment. [LB125]

SENATOR BOLZ: Thank you, Senator. [LB125]

SENATOR GLOOR: Thank you, Senator Bolz. Thank you, Senator Lautenbaugh. Senator Price, you're recognized. [LB125]

SENATOR PRICE: Thank you, Mr. President, members of the body. Well, we have before us an opportunity to talk about something that consumes a lot of time for everybody. Education is the constitutional requirement by which we are gathered. We're here to take care of education and a budget, so it's important that when we deal with these things we talk about it. But we must also show some restraint, because there are many education issues out there that go pretty far afield. Now as a member who represents a part of OPS District, I felt it was appropriate to make commentary. The first thing is to be sure that the school districts are doing their jobs, inasmuch as there are wonderful students coming out of the districts. We have students who are winning very prestigious awards, who are scoring high on aptitude tests. I am fortunate to have been the father of a couple of them and I do credit it to the school districts. It was nothing of my doing. However, in the course of all this, the discussion gets somewhat muddied, as Senator Chambers had said, and we see that there is a discussion of poverty, we see

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there is discussion of so many environmental factors that go beyond the classroom. And I begin to wonder how much more do we lay at the feet of educators? How much more burden do we put on the education system that is beyond the scope of their formation, why they exist? When we look at school, we think it is so important...I would say 60 percent of our budget goes to education, as it should. And we create school districts that can be created within a community to represent those community needs. And when they became out of balance, we had state aid to equalize. And some would say we have problems with that even. And when further issues were identified where school districts could not meet the needs, we created ESUs, educational service units, to combine resources to meet the needs. We have a State Board of Education to oversee and to orchestrate and to ensure. And as you all know, we are fortunate to even have a Learning Community where 11 districts are thrown together, thrust together, to ensure the capabilities and the needs are there for our students. Inasmuch as all that is there, now we address this board. And we hear, as it was said by Senator Chambers, the red herring on the board's side is that there is no data which would suggest a smaller board is more efficient. And we can't deny that. But we can at least anecdotally admit that the current one has not worked as well as one would have hoped. When we look at the contracts and we look at the things that have gone on, have been talked about, and the budget and administration, when we look at some of the outcomes, it hasn't worked. So moving to a different size board, doing things differently seems to be warranted. And, obviously, because of the pending legal situation, I guess, you know, we're going to be forced to do it. But again, let's not get lost and throw the baby out with the bathwater, so to speak, and say, all things are bad. There are great things that happen in OPS. And I think that we need to make sure that we don't lose sight of that and we address the issue at hand, and that is we...we're talking about the board size. It hasn't worked as well. It seems to work everywhere else when the boards are smaller. It hasn't worked here. And I will be supporting this bill and watching it as we amend it... [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR PRICE: ...and make it go through. Thank you very much, Mr. President. And I would encourage all members to keep a perspective on this so that we don't get caught up in emotional debate. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Price. Senator Karpisek, you are recognized. [LB125]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. As we've been over this the last couple years, I always wonder what the bottom line is. What do we really want? What are we getting at? And I know we're talking about incompetency of the board; we want the kids to do better. Of course we do. And I'm not going to defend OPS. I'm not also going to say what they've done wrong. In fact, I don't like these things coming up in front of the Legislature, but they have to. But it's really hard for those of us

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outside, outstate Nebraska, to be involved in these arguments. And again, we have to do it. And I appreciate Senator Lautenbaugh and Senator Chambers saying that things are wrong and things need to change. I don't know that just because we have, maybe, a solution that it's the right solution. Going from 12 to 9, I guess, seems to make sense to me, if that's what they think that they want. Maybe it's too big, but it's a lot of people too. My concern is the map. And I wonder if that's the bottom line. Now, I've been told it's not, but that is my concern. I also worry that just because we had bad people in there, we have elections all the time to get new people in. We don't like term limits here, necessarily; but now we're going to redo the board there because we don't like what they've done. Maybe that's what needs to happen. Again, I don't even like to be involved in it other than I do worry about if this is all about redrawing a map. Again, my good friends on the other side of this issue have said it is not. We need to do something different and it needs to get better. I did not support this bill out of committee. I don't think I can support it on the floor. But as we need to do here in the Legislature and work together, I would like to give Senator Lautenbaugh the remainder of my time. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Karpisek. Two minutes and five seconds, Senator Lautenbaugh. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I did want to talk a little bit more about the importance of the number itself because there have been questions raised on the mike and otherwise. Understand, the number is an actual problem. I mean, we can point to instances where a past superintendent was able to negotiate pretty much more authority than any other superintendent has ever had because he did not want to have 12 cooks in the kitchen with him, if you would. We've had superintendent candidates who weren't interested in having a 12-member board to answer to. When we had this hearing in committee, three of the current school board members came down in support of the bill to testify in favor of support of the bill, and the board itself was neutral. I think it speaks volumes when a board made up of incumbents, by definition, takes a neutral position on this. What does that tell you about how they feel about it? I was asked how the citizenry feels about this. And obviously, I haven't been polling; I can't answer that. I can only speak from my experience. [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President. And thank you, Senator Karpisek, by the way. This is, by far and away, this change, and last year's version of it, have been the most popular things I have ever done just based upon the feedback I've gotten, whether we're talking comments, editorials, Public Pulse letters, e-mails. The opposition to this, historically, has come from members of the board and their family members, it seemed like, last time around. Even that's not here this time. I can't stress strongly enough the board was neutral and three members came down in support of the

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bill. That's a watershed development when you're talking about a change of this nature for a board. The board is neutral; three members testified in favor. I think two testified neutral but with concerns that we've tried to address with Senator Harr and Senator Nordquist and, to a certain extent, Senator Mello talking about these issues. But even the board did not take a position in opposition to this. [LB125]

SENATOR GLOOR: Time, Senator. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members in the queue: Crawford, Kintner, Kolowski, Pirsch, Lautenbaugh, Scheer, and others. Senator Crawford, you are recognized. [LB125]

SENATOR CRAWFORD: Thank you, Mr. President. I rise to alert the body to one concern in terms of representing the representation of the citizens and parents in OPS that happen to live in Sarpy County. So, as you look at the map, you'll see that part of District 3 lies in Sarpy County and it is the case that Sarpy County is not a jurisdiction that has spring elections. And so there will need to be...we need to pay attention to how we can make sure that elections are held there. And if elections are held in Sarpy County, it would be the case it would only be for this race, and that raises some issues as to the attention that the race would get in terms of voter education and voter turnout. And so in just a moment I'll ask a question of Senator Lautenbaugh to address that. But while I yield to him...before I yield to him, I'm going to put another question in the queue. There's been some discussion here about whether or not we would be usurping local control in terms of making this choice. And as I read the statutes and understand our rights and responsibilities as a body, it appears to me that it is the state Legislature that decides how many seats that we have in each school district of each class. So the statute lays out X number of seats in each class. And so it is...it is the state Legislature that decides whether or not a school district of this class should have 9 or 12, just as this body also makes decisions about how many seats that a school district of other classes will have; that that is in the state statute, and so that is something that we decide. And so I will yield my time to Senator Lautenbaugh to address the representation concerns for Sarpy County, and, if there is time left, if he wants to address whether or not I understand the statute correctly on that matter. [LB125]

SENATOR GLOOR: Two minutes, fifty-three seconds, Senator Lautenbaugh. [LB125]

SENATOR LAUTENBAUGH: Thank you, Senator. Thank you, Mr. President. Yes, you understand the statute correctly. And I tried to set that point out earlier. We are the only ones that can do this. OPS could not vote tomorrow to change their board size. There is no referendum in the city of Omaha that could be held, or extending down into the Sarpy County portions as well, that would change the board size. We are the ones that

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set that. And again, the reason for 12 seems to be kind of lost in the mists of time at this point. If Senator Chambers doesn't recall, nobody is going to recall why we have 12. But to the Sarpy County portion, it is true. And that's the area I grew up in, actually, Chandler Hills, just across Harrison Street, and that is part of OPS. I believe there are seven precincts in Sarpy County that are in OPS. I took pains...well, on the one hand, to make sure that they were all in one district again so that the interests of Sarpy County are all together, and two, to talk to the election commissioner there and say, hey, this is coming, we'll follow your normal precinct lines. This happens whenever Millard has a special election, too, which is kind of the same problem. There are precincts from Millard that are in Sarpy County, if you will. And there are just polling places set up in those precincts and the election takes place as it normally would. As a cost-saving measure, I think they may pool the ballot counting. I don't know if the Sarpy County Election Commissioner counts them or if they're printed in Douglas County to save costs, because the biggest part of the run is in Douglas County. But they do have a way of addressing that, because this comes up frequently with Millard issues and others. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Crawford. Thank you, Senator Lautenbaugh. The Chair recognizes Senator Kintner. The Chair recognizes Senator Kolowski. [LB125]

SENATOR KOLOWSKI: Thank you, Mr. President, members of the body. It's a really important focus point I'd like to make and thank the senators for the comments that have been made concerning the question of raising test scores by the actions of this particular item before us at the current time. I thank Senator Chambers, Senator Nordquist, Senator Price, for their comments to that direction. And I think it's really important in our considerations that we examine the aspects of what we are really looking at for school improvement over time. School change, school reform, school improvement is all very challenging and very difficult work. As we examine the possibilities of the new three R's in our future, I hope we will concentrate very heavily on our discussions, after this particular discussion, and in other educational discussions about improved student performance being the center target of all that we should be doing as we examine school improvement. The three R's are of new concern to us, and those would be academic rigor, the relevancy of the culture and climate of a building, and the relationships--the teachers, the students, the parents, and the community that we'll be working with in our futures. So I hope the concentrated effort toward improved student performance will be the targeted area of concern rather than many of the periphery things we do spend our time on. And I thank you for that opportunity, Mr. President, and I yield my time. [LB125]

SENATOR GLOOR: Thank you, Senator Kolowski. The Chair recognizes Senator Pirsch. [LB125]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I wonder if

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Senator Lautenbaugh might yield to a couple of quick questions. [LB125]

SENATOR GLOOR: Senator, would you yield? [LB125]

SENATOR LAUTENBAUGH: Yes, I will. [LB125]

SENATOR PIRSCH: I do appreciate the conversation that is going on again and, towards continuing that, I wonder if you may...you submitted a...through the committee, a proposed...a map of new districts...since we're...under your proposal, it would scale it back from 12 to 9 districts. You also have a specific map, I understand, and I guess I'd just like to ask you, what...and you've had experience in drafting maps, but what principles or...did you use in drawing these revised lines, or what kind of guided your...the district lines as you drew them? [LB125]

SENATOR LAUTENBAUGH: Well, a lot of...thank you, Senator. There's a lot of ways to answer that. I did have some discussions with a couple members of the board about how it should be done. I've since had discussions with Senators Harr, Nordquist, Mello about some possible revisions in what I would call the southeast third of the map to improve it. But generally the principles are what you would pretty much expect them to be. We tried to draw compact, contiguous, kind of voter-friendly districts to the extent possible. In the northern part of the city, there is a majority minority district and one that is close to that. We tried...I tried, and we all tried, I guess, to preserve that community of interest so as not to dilute the influence of an existing majority minority district; so we took great pains in what are designated Districts 1 and 2 to bring that about. But otherwise, we did not, really, proceed with an eye towards where the incumbents reside. And there was a story in the media about, well gee, you put three incumbents against three other incumbents. Well, that's the result of the ironclad law of musical chairs, I would say. We've eliminated three seats, but those three people have to be somewhere. And so they will be running against other board members. One of them has already resigned, so that's not true in her case. But that was just unavoidable in the elimination of seats. [LB125]

SENATOR PIRSCH: Okay, thank you very much. [LB125]

SENATOR GLOOR: Thank you, Senator Pirsch, Senator Lautenbaugh. Senator Lautenbaugh, you are next in the queue. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And it's always a fine line between explaining something clearly and belaboring a point. And we never know when we cross it until it's too late, probably. But I do want to make very clear, there are people who are saying, why are we doing this, I have concerns about this. Understand, the board itself now is neutral on this and we had testimony from board members in favor of it. The need is now great for them for this to proceed to clear

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up the legal mess we find ourselves in. The last time around it was not like this. The board was far from neutral, I can assure you that. And there was one member that came down and testified in favor and many that were opposed. The world has changed as time has marched on, and by compromise the size has gone up to nine from seven, which was where we were last year. But this is necessary. Otherwise, we're faced with the uncertainty of a special election, perhaps called by the Secretary of State at some point, and a board that is in limbo. This offers them a way out. Now I'm not going to stand here and tell you that I contemplated this bizarre turn of events when I was contemplating this bill last fall. No one could have, or it wouldn't have happened probably. But we are where we are. And I think that's why you're hearing, instead of a full-throated opposition to this, a lot of people who would have otherwise been opposed saying, yeah, I understand, it has to happen now. So, I guess I'll end with...well, this won't be the end, a plea that you please understand where the board finds itself today; understand that they came in neutral on this bill, which is quite a transition from last time around; and understand that it has to be done. This is a bailout that isn't going to cost us anything, but it's a bailout they need right now. So, regardless of the other reasons, the fact that the actual board size has made a difference in superintendent candidates, in the agreements with current superintendents, with our ability to recruit candidates, because you're joining a large board, your influence is going to be less, that's just the nature of the beast mathematically. Leaving all that aside, now there's actually what I would call a crisis regarding the leadership of the board and the existence of the board. And this bill provides a way out. And I would urge you to support it and let us all move on from this. Again, that sounds like a closing and that is not my intent, but I'll yield the rest of my time to the Chair. [LB125]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senators wishing to be heard: Scheer, Avery, Chambers, Murante, Smith, and others. Senator Scheer, you're recognized. [LB125]

SENATOR SCHEER: Thank you, Mr. President. I agree with Senator Chambers again. I find this morning that elections are a crapshoot. But educational achievement and educational gaps should not be the whim of a crapshoot. And what we're really talking about, beneath it all, inasmuch as Senator Chambers says it is a number; it is the number that we're talking about. But when it's all done and said, we're looking at student achievement. And I would venture to say there are other school districts out in the state that are having difficulties with educational and achievement and gaps within their systems and trying to achieve that. We can't go around each time a district is having difficulties or is obstinate to moving in the direction of improving itself and change the size of the board. What we really need to look at is the ability for either the Department of Education or some agency to be able to go in and work with school districts and, if they are resistant or are unattainable under their leadership, to take those districts and move them in the right direction to try to eliminate those educational gaps and improve student achievement. Now I...I'll readily admit that has nothing to do with nine school

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board members, but it does. We have to, at some point in time, focus, not only on OPS but all school districts and really have a firm commitment to increasing the education and the achievement of our students in schools, regardless of what size of school district they're from. And so as we move forward, and I agree with Senator Lautenbaugh, OPS does have themselves in quite a pickle. And this may be the only solution to them. But the broader issue really is student achievement. And I would ask my fellow senators, as we move through this, to continue to think how we might be able to go about putting a system statewide that would eliminate this process coming up again in any size of school district, because the state would have the ability to intervene in those districts to help, if not force, to improve those academic outcomes in those districts. And with that, I will yield the time to the Chair. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Scheer. Senator Avery, you are recognized. [LB125]

SENATOR AVERY: Thank you, Mr. President. When we discussed this issue last year, we had the question frequently asked: What's so magical about the size of the board; how is that going to solve the problems? And I did, at that time, go over some of the scholarly literature on board sizes; and actually that literature is confined largely to corporate boards. But the evidence is pretty clear that larger boards tend to be correlated with lower performance. And the reason for that is that it takes a lot more effort to achieve consensus. More compromises on larger boards are required, so decisions may not be as bold or decisions may not be as creative, leading to more...or less performance by these boards. Poor communication and decision making undermine the effectiveness of large boards. That also was present in my review. Accountability is improved with smaller boards. There are a lot of advantages to going to smaller boards. And has been pointed out in here already, we have no evidence or precedence of boards of this size in school districts anywhere in the state. In fact, it's almost unheard of nationwide. There is something that happens often with large boards, and that is a tendency for large boards to engage in groupthink. You have similar people with similar backgrounds and similar viewpoints and they are...the large boards tend to seek decisions that create the least amount of conflict on the board. So there is often the case that in this drive to achieve consensus, the decisions become the product of the least common denominator. That is, the least common denominator is the idea that everybody can agree on. It may not be the best idea, it may not be the boldest, and it's often the weakest and most noncontroversial. So there...what happens is that the process of decision making is a sterilizer of ideas, because the boldest idea may, in fact, be the best. Sometimes the outliers, the ideas that seem to be so far out that nobody wants to even introduce them or talk about them, they might even engage in self-censorship, sometimes those are the ones that move a committee or a board forward. So I think that there is something to be said for a smaller board and that we ought not to be afraid to examine that. I would use a metaphor. The metaphor would be, smaller boards are like speed boats: they're nimble and maneuverable. And larger

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boards are like aircraft carriers: they move slowly, they change direction with difficulty, they're cumbersome. So it is not something that I shy away from in discussing the advantages of a smaller board. We have also talked today about a legislative involvement and whether or not the Legislature has the authority to be involved in these matters. [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR AVERY: I would suggest to you that if you look back at the history of this Legislature and its involvement in school boards, the OPS School Board in 1891 was set at 15 members by this Legislature. And then again in 1915 we set it at 12, where it remains today. So Senator Crawford was right; we have a history of involvement in this issue and we...and it goes back at least to 1891. I think this is not a perfect bill, perhaps. It's not necessarily going to be the solution to everything that has gone on in Omaha with respect to education of the students there, but I think we ought not to shy away from arguing that a smaller board is a better board. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Avery. Senator Chambers, you're recognized. [LB125]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, first of all a comment about my good friend, Senator Karpisek's, remarks. How many times do people from outstate Nebraska bring issues to the Legislature and want people from the urban area to support them and accept what our rural colleagues tell us is a problem they're confronting? So if the rule is to be put in place today that you only deal with the things in your neighborhood, then they should follow it out in the rural areas, because they're outnumbered in the Legislature now. Those are bogus arguments; they're not even worth mentioning, but I thought I would because Senator Karpisek can take it, because he and I deal with each other in that fashion. Senator Scheer had asked where the number of board members made any kind of difference or something like that. Senator Scheer, that 12-member board said, we want to hurry up and elect...and select a superintendent before the election because we're the ones who can better decide how to keep what OPS is doing going. And that's what they did. And that person right now has to go to school to get his doctorate, so the interim superintendent has to stay on for a longer period of time because the current board, or the ones who were there before this last election, said, we want to elect...select a superintendent before the election. You think that's responsible, fine. Somebody could say, well, that doesn't have anything to do with student achievement, let them do what they want to. It has a lot to do with it. And we'll have plenty of time to talk about it during the session; and I don't want you to get up and walk out when I start telling you how bad things really are. But let me go on. I've had people in my district, my community, who I would try to encourage to run for the school board. And you know what they would say: I don't want to have to fight 11 of them; because they know how the school board operates. You don't. You're not going to

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take my word for it. Then go get a house in Omaha and find out. But to sit here and raise all these bogus arguments make me tired. I am 75 years old. I'm an old man. Old people are entitled to have moods, to be crotchety, to be cranky. I'm going to make use of those prerogatives on occasion. (Laughter) Now when they were hiring a new superintendent, and she came from Iowa, and she had some sexually explicit e-mails that she exchanged with her lover on school equipment, word came out about it and the school board said, well, we can't go on with this. The president was named Freddie Gray; the lawyer, Eynon-Kokrda, working for Baird Holm. They told an outright lie to the public. They were asked by a World-Herald reporter: Did you all have contact with this woman about this issue before it became public? They said: No, why should we? So you know what the superintendent did, the one who is taking the blame, having it shifted to her? She let go a raft of e-mails between the school board president, the lawyer, and her, before it became public. Out-and-out lies, and the World-Herald even called back attention to it in a recent editorial, that they withheld information from the board. And that's kind of ironic because I have an article here dated December 4, where it says, "State overpaid OPS by \$6.3 million last year," because they double-billed the state, that board you think is great. I'm going to read a couple of paragraphs: "The Education Department notified OPS of the error in August, but board members were only recently told. 'For the board not to get that information until we were presented it with our audit is not acceptable,' said Freddie Gray." It was not acceptable that she not be given information about this double billing in a timely fashion, but it was acceptable for her and the lawyer to completely withhold from the board... [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR CHAMBERS: ...information that they needed to make a decision about the suitability of a superintendent. This issue...take it this way, if you can understand it. There is so much bureaucratic red tape right now in OPS that there are principals who have some things going and they can't even give interviews about it because the superintendent had said it will make the other principals look bad, so you are prohibited from talking to the media about the work that you are doing. That's OPS. The board goes along with it. You all don't know. But do what you want to do. And if you do something that hurt the people I represent, I promise you I will get my pound of flesh from each and every one of the perpetrators, take it or leave it, like it or lump it. This is serious and I mean business. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. Senators in the queue: Murante, Smith, Krist, Kintner, and Ken Haar. Senator Murante. [LB125]

SENATOR MURANTE: Thank you, Mr. President. Members of the body, I support LB125. I voted for it out of the Government, Military and Veterans Affairs Committee; not very enthusiastic about the committee amendment, but...and I voted against it in committee, but that's where we are right now. I listened to the impassioned pleas for

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local control by Senators Wallman and Karpisek. And we heard in committee, in the public hearing, members of the Omaha Public School Board come in and ask us for local control. And as a senator who represents Gretna, Nebraska, and a significant population from Millard Public School District, I have very little patience when the Omaha Public School Board comes to this body and asks for local control, because six years ago I was not a member of this Legislature, but I was sitting under that balcony when this Legislature passed the Learning Community. At that time they didn't ask the citizens of Gretna whether we wanted to be included. There was not an up or down vote by the Gretna Public School Board as to whether we would be members of the Learning Community. We weren't asked our opinion. This Legislature included us, OPS supported that, and there was nothing we can do about it. And here we stand six years later with Omaha Public Schools coming in and preaching local control because Senator Lautenbaugh seeks the Draconian measure of shrinking the school board by three members. So apparently, to Omaha Public Schools, this Legislature, even though we are the ones who set the board at 12 in the first place, ought not reduce the number by 3, but it is perfectly reasonable to force school districts to put in 95 cents of their levy and millions of dollars to be transferred from one district to another without their consent. They can force open enrollment without asking their opinion. They can force transportation costs to be borne by local school districts without asking for consent. I think it is a double standard; I think it is hypocritical; I think it holds very little water. And that is one of the reasons, among many, why I support LB125. But we are going to have discussions on the subject matter going forward in this legislative session, especially the members of the Education Committee. It is a subject matter that is not going away. I hope that we can all approach it with a fresh and open mind. To my knowledge, we have not discussed the issues of the Learning Community since it was adopted in 2007 on the floor of this Legislature. It is my sincere hope that we have that discussion this year and take a look with fresh eyes, see what is working, what isn't working, and make changes accordingly. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Murante. Senator Smith, you're recognized. [LB125]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. I'm going to be very brief in my comments and...but I am going to turn over my remaining time to Senator Chambers here in just a moment, if he would like to continue his train of thought. I appreciate the acknowledgment from the comments that had been made before me that there are indeed shortcomings in our education system in Nebraska, and it's not just OPS. I also appreciate the acknowledgment that this legislation that's before us does not correct many of the more serious problems in our education system. However, I believe strongly that this legislation is a step in the right direction and I support it wholeheartedly. It's a step to create greater responsiveness and accountability by our elected officials. I support this legislation and I hope that it leads to further constructive discussions on improvements that will make our education system

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more responsive to the needs of our children, to our families, and to our employers. Thank you very much, colleagues. And, Senator Chambers, would you like my remaining time? [LB125]

SENATOR GLOOR: Three minutes and fifty-five seconds, Senator Chambers. [LB125]

SENATOR CHAMBERS: Thank you. Thank you very much. Members of the Legislature, others keep bringing up the more substantive problems in education; I'm deliberately shying away from them, because we would be forever on them and get nowhere. Why can't we focus on the bill before us? If on a bill that relates to elections, something we all understand, the unwieldiness of a board, which we all understand and know that 12 members is unwieldy, we can't even get you to see that? You cannot even focus on that? And you're going to talk about all these disparities in education all over the state? We shouldn't waste our time talking on those big things when we can't handle the little one. That's why I get frustrated. I was told when I was in school that elections are designed to send the best people to whatever the governing board is. I listen to this conversation and I say, good God almighty, if there is a good God, and if that God is mighty. You all bring prayer in here every morning, so don't worry about anything I say about religion. Is this the best that those communities had and could send here? This is the best that they can produce in understanding a bill that is so basic and fundamental that I would rather see the pages allowed to discuss it and vote on it? Anybody can understand it. You all, some of you, I think, are being disingenuous and dishonest because you couldn't be as blind and like a bump on a log as you sound here this morning. And if you are, we ought to put an intelligence test on running for the Legislature, except that would be unconstitutional. People have a constitutional right to send fools to the Legislature if that's what they want to do. If they think a mule skinner represents them, they're entitled to send a mule skinner here, because people who love and are represented by mule skinner have a right to representation too. But I'm going to fight tooth and nail for what I think is a benefit to the people I'm to represent and that doesn't just mean the people of my complexion. My title is state senator, and my obligation is to the people of this state, not OPS, not MUD, not the State Board of Education, not the Department of Health and Human Services, not to the Governor, not to any of those entities. They can take care of themselves. The people need to be taken care of here. And throughout Omaha, people know that that board has too many people on it and they see all of these problems, which on some of the other amendments I'm going to take time and talk about one at the time so I won't put too much on the plate. [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR CHAMBERS: I will no longer use a scoop; I will not use a teaspoon; I certainly won't use a tablespoon. I will use the tine, one tine of the fork and put enough to cover that one tine and maybe my colleagues can understand it. You don't like me

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talking like this? I don't like the way you're talking. I don't like the fact that you don't understand what's as plain as the nose on your face and you're going to let people run you off on all these other issues. You run on off after them, but expect me to respond to your running off after them in the way that I think I should. And I will stay here until the cows come home, go to bed, are awoken in the morning by the cock crowing, and I'll still be going. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. Senator Krist, you're recognized. [LB125]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning Nebraska. I would like to get specific in terms of the piece of legislation that is in front of us, as Senator Chambers has recommended that we do. But I will take exception to one thing, Senator Chambers. I've met more pages who have an intellectual conversation with me than many others, so those pages are pretty talented, sir. The point that I would make here is that we have to be very careful about legislative intent. When you stand here and you profess that there's a reason that you are here or when you bring a bill before this Legislature, I have learned that you need to establish that legislative intent and purpose, and you need to be able to defend that legislative intent and purpose, and there should be no parochial interest nor binding outside interest other than representing the 1.8 million people in this state and your constituents. So I would ask that Senator Lautenbaugh would defer for one question, Chair. [LB125]

SENATOR GLOOR: Senator Lautenbaugh, would you yield? [LB125]

SENATOR LAUTENBAUGH: Yes. [LB125]

SENATOR KRIST: Senator Lautenbaugh, I've been contacted by my constituents and other folks in the Omaha area, the metropolitan area, and there is but one concern that I would like you to alleviate for me. Is this personal in any way with anyone who exists on the board or elected official in Omaha, or is this the right thing to do, Senator? And I will also yield the balance of my time to you. [LB125]

SENATOR GLOOR: Three minutes ten seconds. [LB125]

SENATOR LAUTENBAUGH: Thank you, Senator Krist; and thank you, Mr. Chairman. I don't know how to put it any more plain than I have, and I do appreciate the question though, because I guess it can't be said clearly enough. I took to the mike back in the special session on the pipeline because it was in the paper at that time that I was thinking of doing this and bringing the bill that I brought last year. And I was denounced as a racist and a sexist, because the board was predominantly female. And despite the fact that the gentleman I was...who brought me the idea was one of the

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African-American members of the board, I was denounced as a racist for contemplating this. And I took exception to that at the time. And I explained, you know, my kids do go to OPS, I don't have a vendetta against them; quite the opposite, that's where I live. And I really...trying to think how many of the board members I actually know, have met: three, four of them, I guess. But I don't have any animosity or personal vendetta against them or anyone on the board or the new superintendent. The incoming one I've never met; the interim one I met and I think she's a nice lady, very, very competent. That's faint praise to say she's a nice lady. She's very competent, and everybody I know who knows anything about education thinks the world of her it seems like. So no, there is no issue that is personal to me. And again, this comes back to the hoofbeats and zebras thing; sometimes things are exactly what they seem to be. I used to try to recruit candidates for OPS and people would say, I don't want to run for a 12-member board; you can't get anything done if you're 1 of 12. There's been a gentleman there for the last few years who has found that out. It's too big. We've had superintendent candidates who blanch at having a 12-member board that come from other places and say, well, jeez, mine is 7, what do you do with a 12-member board? Well, the answer is not much all too often. That's a problem. And that's what this is about, plain and simple. I can't put it any more plainly than that. And I'm not frustrated with Senator Krist for asking the question and I'm not really frustrated at all, I guess, if I think about it, but I just... [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR LAUTENBAUGH: ...I want to be painfully clear...thank you, Mr. President,...that sometimes things are what they are and sometimes the bill is exactly what it purports to be. I am worried when we talk about local control and I don't live in Omaha, why should we care about this. I can remember advocating for bills that helped out a city in the Panhandle one time and I didn't get much out of it, but I understood that I'm in the state Legislature and we were the only ones who could act. And so I helped to do that. And if OPS wants to change its board size or have an election to cure this problem, they can't just go do that. They need us to do that; this is our responsibility. As Senator Avery ably pointed out and was good enough to look up the history, we are the ones who set the board size and we have historically changed it. And you can't find another example of a 12-member board in this state anywhere, certainly not of a school district that is anywhere comparable to OPS in size. And if you look nationwide, I think there's one in Florida. [LB125]

SENATOR GLOOR: Time, Senator. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Members in the queue: Kintner, Ken Haar, Scheer, and Murante. Senator Kintner, you're recognized. [LB125]

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SENATOR KINTNER: Mr. President and members of this body, first I want to thank Senator Lautenbaugh for his efforts...continued efforts at pursuing this issue. I rise in support of this bill. I think earlier Senator Scheer, Senator Nordquist, Senator Price have all talked about achievement; and everything that we do in education is about achievements. We move money around. We change the funding formula. In Douglas County and Sarpy County we created something called the Learning Community. We created an incredibly large bureaucracy and lumped a bunch of school districts together to try to improve student achievements. And what we have done is we transferred wealth from OPS, from the taxpayers of Omaha and we've given it to Millard and Westside. And we haven't improved OPS at all. And these are the things we need to be talking about. I think this is a very, very first step of getting the school board under control. But I encourage this board to not only support this bill, but to continue talking about student achievement, continue looking at things we're doing like Learning Community that are not working, and let's find things that do work. I yield the balance of my time to Senator Lautenbaugh. [LB125]

SENATOR GLOOR: Senator Lautenbaugh, 3 minutes 20 seconds. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I'll briefly finish the thought I was expressing so I'm clear. I think there's a case in a community in western Nebraska where school boards are combined and they may have a 10- or 12- or 11-member board, I can't remember. But if you look nationwide at districts that are in any way comparable to OPS, I think there's one in Louisiana or Florida, I can't remember which, that has 14; and then there is OPS. There are no studies because there is nothing else to compare it to. You can't look at the success rate of 12-member school boards, because you can't find them. There's one to study. So you just have to look at what the reality is everywhere else and say, gee, why doesn't anybody else think this is a good model? Now I guess that's not a wise thing to say when you're standing in the only Unicameral in the nation, but still my point is, there aren't a lot of 12-member boards to compare it to. But nobody else seems to have seized upon the wisdom of a 12-member board to run an entity of this size, scope, and expense. I'm stepping in the role of Senator Chambers here because I believe someone is going to call the question pretty quickly and this is the first substantive debate we've had. Calling the question would just get us off this amendment to the amendment and have a vote on that amendment, but it's not meant to cut off all debate. So on the off chance that someone, say two speakers down the queue, calls the question, I think that's the purpose, not to shut off debate, but to at least handle the specific amendment at hand. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Ken Haar. [LB125]

SENATOR HAAR: Mr. President, members of the body, seems to be a lot going on here. And I'm also one of the old men of this Legislature and sometimes you sort of

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have to go with your gut reaction. And I do that when I have questions. So, I'd like to start by quoting from the Harvard Business Review, and the name of this article was, "Reorganizing? Think Again." And to quote just a little bit: If you ask managers to name their favorite sport, you'll hear a wide variety of answers: football, baseball, tennis. But what they won't tell you is that the one sport that all managers play the most is a game of reorganization. And so whenever I have the feeling that...or the reality here that reorganization is going on, I have to ask, how will it make things better? And so I will sit and listen and listen and listen on this issue until I finally come to a point where I need to vote. But I'll keep asking some questions. And, Senator Lautenbaugh, I wonder whether you would answer a question. [LB125]

SENATOR GLOOR: Senator, would you yield? [LB125]

SENATOR LAUTENBAUGH: Yes, I will. [LB125]

SENATOR HAAR: In your opening statement, you said that the system needs a shock and that this is a good opportunity. And I'm not against shocks from the Legislature. That's one of our duties as well. But tell me again the shock that needs to be applied and how this will solve...making things better so we're not just reorganizing again. [LB125]

SENATOR LAUTENBAUGH: Thank you for the question, Senator. And I think what we've struggled with, with OPS especially, is the syndrome of the down ballot election and the sheer number of people that are involved and elected in this board and the smallness of the districts involved. Over the years there have been fewer safer incumbents than school board members. There is just not a lot of focus on that and I think we've ended up with what we've ended up with. When I was in high school, an incredibly long time ago, I was advocating that Omaha South should have a parking lot because all the other high schools did. And I was a junior in high school. And the woman on the board I was sparring with, until last year, represented me on the board. And that was a long time ago, and she was still there. And it was just kind of remarkable. And the problem that we have in the system, and I've tried to maybe dance around this too lightly, elections do go unchallenged and ideas do go unchallenged. And when you have a board of this size--and it's not glamour duty, I mean they're...we're quasi-unpaid, they're actually unpaid--to find people that will stand up and try to become 1 of 12 and try to advocate change or bring new ideas, it's particularly daunting. And most people just demur and say, no, I'd rather not. This, I think, gives us an opportunity, with the smaller board size and the focus of the city election, whether that continues as a feature of the bill or not in the future, this one time focusing on the city election, gives us a chance to have high-profile, challenged races. And this gives the board or, I should say, the citizenry a chance to stand up and say: we have considered this, we are paying attention. This is not lost in the morass of MUD, OPPD, NRD, Legislature, everything else that clouds up the ballot. We elect more subdivisions than anyone else in the

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nation. This is a chance to focus on OPS. And for the parents to bring their considered judgment to bear with sharp focus with everything that's gone wrong and all of the various issues with the board that seem to come up in the paper every couple months, with frequency recently. That is what I meant by a one-time look at this. Look at what has gone on. Bring your judgment to bear and, for crying out loud, help us out. Make a decision and then we own it. [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President. If this doesn't...I'm not going to come back next year and say, oh, I guess I was wrong, it should have been seven. What I'm saying is, this is their shot; they now need it badly because of their own problems they've caused with the swearing in. But this is the chance to, as one of the board members said in his testimony in favor of the bill, hit the reset switch, get this thing done right and let it move forward. So that's what I was referring to. And I'm sorry my answer went on and on, on your time, I realize now. So if you want, I'll give you some back. [LB125]

SENATOR HAAR: No, thank you very much. There will be more time. And I would relinquish the rest of my time to Senator Lautenbaugh, if he wishes. [LB125]

SENATOR GLOOR: Senator Lautenbaugh, 15 seconds. Senator Lautenbaugh waives. Senator Scheer, you're recognized. This is your third and last time, Senator. [LB125]

SENATOR SCHEER: Thank you, Mr. President. And I would rise to call the question. [LB125]

SENATOR GLOOR: Do I see five hands? I do. I believe there's been a full and thorough debate. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB125]

CLERK: 26 ayes, 4 nays to cease debate. [LB125]

SENATOR GLOOR: Debate does cease. Senator Avery, you're recognized to close on your amendment to the committee amendment. [LB125]

SENATOR AVERY: Thank you, Mr. President. This amendment was brought to me by the Speaker in an effort to add specificity to the process of how the maps...or the map of the OPS district is filed and transferred, and it is nothing more than that. Thank you. [LB125]

SENATOR GLOOR: Members, you've heard the closing on the amendment to the committee amendment. The question is, shall the amendment be adopted? All those in

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favor signify by voting aye; those opposed vote nay. Have all voted who care to?
Record, Mr. Clerk. [LB125]

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of the amendment to the
committee amendments. [LB125]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB125]

CLERK: Mr. President, Senator Burke Harr would move to amend with AM97.
(Legislative Journal pages 333-334.) [LB125]

SENATOR GLOOR: Senator Harr, you're recognized to open on your amendment to the
committee amendment. [LB125]

SENATOR HARR: Thank you, Mr. Chair. I want to first thank Senator Lautenbaugh,
Avery, and Chambers for bringing this bill to our attention, LB125. If you would have
asked me two months ago where I am, I'd probably say at that time I was against this
bill. And I have a book here called The Essential School Board Book: Better
Governance in the Age of Accountability. And in there it says: In documenting the
commonalities among high-functioning boards, one of the most important is that...one of
the most important is that board structure; whether members are appointed or elected,
whether elected from zones or at large appears to matter less than practice. This is
important because so much public discourse around school boards focus on structure
rather than practices. It is not the structure that limits you; it is what you do when you
get elected. And I kind of believe in that oath. I believe that in those lines. I believe that
down here. However, there's another saying that the Byrds made famous that comes
from the Bible: To everything there is a season, a time of every purpose under the
heavens. A time to kill, a time to heal, a time to break down, and a time to build up. I
think we're in that time to build up right now. And so it's time to move forward with this
bill. It's time to work with a board of nine. And it's time to maybe clean up some of the
messes that we have that led us to this situation. And so what my amendment does is it
makes three things clear, is that everybody shall stand...has to announce by March 1.
And that's to avoid the situation of whether someone is a member or whether they are
currently an incumbent or not an incumbent. It also, today, we're almost February 1,
we're a day away, if we had February 15, we don't even have a map ready yet. We're
going to work on a map, and we are working on a map. But I think it's only fair that we
give people who may or may not currently be holding office a chance to decide what
they want to do and have a chance to really evaluate the maps. Which gets me to what
number two does in the amendment, and that is it's an agreement that we will continue
to work on the maps. Senator Lautenbaugh provided a map and he has been very
cordial and very amenable to working on finding a solution that appeases, may be a
wrong word, but in which we can all have a meeting of the minds. And we tried to meet
yesterday and we had some technical problems. So the amendment merely says "XX,"

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but it reserves a spot saying that we agree, in principle, to work together towards a new boundary. And I think we're all in agreement on that. And then finally, we clean up the language that caused the problem in this situation. It doesn't seem fair that we had an election and some people...the will of the people may or may not be heard because of a swearing in that may or may not have occurred properly. So to avoid that in the future, and again, going forward we're looking at what are best practices and how can we do this best. And in that spirit I...the third part repeals that language that has caused the current uproar in Omaha. With that, I would ask for the passage of AM97 to AM47. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Harr. We now move to floor debate. Senator Chambers, you are recognized. [LB125]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I think Senator Harr's amendment is straightforward and there's no way to make it clearer than the way he has done it already. I do want to make something clear based on what I have said earlier. I think it's good that the new senators are speaking and expressing their opinions, however erroneous they might be when they disagree with mine, but they are expressing them. That's what I've encouraged. You have to know that this can become a kind of rough and tumble place, and that's what it should be. Controversy sharpens the issues; it toughens the skin, it strengthens the mind, it encourages us to know what it is we're going to talk about. But we also should have an open mind and when something comes that will change it, then it ought to change. And believe it or not, there is several times this session that I've changed my mind on some issues when I got more information from people who presented something that I hadn't been exposed to at that time or up to that time. I'm just going to go through a list of items printed by the World-Herald, January 20; because if I just say them without attribution, there might be a tendency to reject them. Sometimes I say Edgar Allan Poe said something when, in reality, I said it. But then people become very attentive and they say, wow, Poe was quite a guy; I say, more than you realize. But anyway, these are some items. It took a year for school district policy to change and reflect state law after OPS failed to notify police of allegations of sexual assault on students. Board action: the board's president and its lawyer did not immediately involve other board members when information came to light about sexually explicit e-mails superintendent-to-be Nancy Sebring sent to a lover from her Des Moines school computer. Another item: board members were caught unaware...board members, when told that the school district owed a \$1 million lump-sum payout to retiring superintendent John Mackiel in addition to his \$200,000 annual pension. Despite widespread concerns about it spending more than \$13 million for the services of an Omaha law firm over the past five years, a board committee decided that now was not the time to seek a new firm or hire its own attorney. Questions even have arisen about whether six newly elected board members were properly sworn in on the first Monday of this month when state law says they are to take the oath "before the first Monday in January." That law firm that they paid \$13 million to, Senator

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Scheer, did not catch that and tell them, your election is going to be void and your office vacant because you didn't get sworn in, in time. A lawyer for a corporation has a responsibility, any lawyer to any client, to notify those board members of a problem that is confronting that corporation. That's why you hire a lawyer, even though in the Omaha Public School Board rules, regulations, whatever they call them, policies, is this explicit statement that they're to be sworn in before the first Monday after their election, you know, of the following year, the first Monday in January. Somebody could say, well, the board members have that responsibility. It's the responsibility of the lawyer to keep track of these kind of things. And knowing, or should know,... [LB125]

SENATOR GLOOR: One minute. [LB125]

SENATOR CHAMBERS: ...what the law says on something as important as this. And if the lawyer does not know and the whole firm is so inattentive that we have this fiasco, why in the world are they going to continue as a board to hire that law firm? And I want somebody to answer me why you think it's all right for those incompetents to hasten to hire a new superintendent, intending that the newly elected board not have an opportunity to do so, because the then-incumbents thought they knew how to maintain what OPS was doing and that it was the way to go. Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. The Chair recognizes Senator Krist. [LB125]

SENATOR KRIST: Thank you, Chair. Again, good morning, colleagues and Nebraska. If Senator Harr will yield to one question, I will be brief. [LB125]

SENATOR GLOOR: Senator Harr, would you yield? [LB125]

SENATOR HARR: Yes. [LB125]

SENATOR KRIST: Back to point and specific to this amendment and to the underlying bill, regardless of what we do, given the current situation in the Omaha area with six board members not being sworn in, one of which has resigned, do I understand that there will have to be resolution and a special election regardless of what this body does? [LB125]

SENATOR HARR: That is a very interesting question. I think that's a question that will possibly be litigated. If you read the newspaper, I believe County Attorney Don Kleine stated that he intends to bring forward a complaint saying that they were not properly sworn. If that does go forward then it's up to a court to decide, obviously, at the end of the day, whether they were sworn improperly or not. But a clear reading of the statute, to me, would appear that they probably...there may be an issue with the way they were sworn in. But I'm not giving a legal opinion. [LB125]

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SENATOR KRIST: Okay, thank you for your if/then response. But I believe that we're pretty assured, based upon the news release and the Attorney General's Opinion at this point, that there would have to be some...either litigation or there would have to be a special election to alleviate the situation. [LB125]

SENATOR HARR: That would be correct, yes. [LB125]

SENATOR KRIST: Okay. With that, I'll yield the rest of my time to Senator Chambers, if he would like. [LB125]

SENATOR GLOOR: Senator Chambers, you have 3 minutes 20 seconds. [LB125]

SENATOR CHAMBERS: Thank you. And, Mr. President, am I the last one whose light is on at this point? [LB125]

SENATOR GLOOR: That is correct, Senator Chambers. [LB125]

SENATOR CHAMBERS: I will let this be the time that I will speak and my light can be turned off. Here is something that I've got to say. Senator Lautenbaugh, in my opinion, and I'm not a mind reader and a diviner of what's in people's hearts, although I purport to be sometimes, this is not based on a vendetta. But even if it was, it's right. Is Jack the Ripper, if he could be found, a good man? No. But if you need an operation and his experience in ripping made it possible for him to perform it, and he's the only one who could and everybody agrees he can, would you say, well, you're Jack the Ripper, I don't want you to perform my operation? Crazy. You don't ask the pedigree, the political pedigree, of a plumber when he comes to fix your house...I meant your plumbing. If I thought Senator Lautenbaugh was doing something inappropriate, I would not be on the bill. I would be objecting and protesting. I think that what he is doing is correct. I think what other members who are cooperating and trying to give us the best bill that we can get, working in that tedious vineyard of putting a map together, are doing the correct thing and should be appreciated and not condemned. There will be plenty of opportunities for all of us to condemn each other. But when there is a situation like this where the merits speak for themselves, I think that ought to prevail, but I can't tell anybody how to believe, how to think, or even how to vote. But for my part, I find no fault with Senator Lautenbaugh, his motivation or anything else. But I want to make this crystal clear; if his motivation is the worst in the world, he's right this time. He speaks the voice of wisdom and I will support him. His name is on the bill as the chief sponsor, not mine. I ask him, can I hitch a ride on your wagon because it's the right one, it's going in the right direction, can I hitch a ride? Magnanimously he said, welcome aboard. [LB125]

SENATOR GLOOR: One minute. [LB125]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB125]

SENATOR GLOOR: Thank you, Senator Chambers. Seeing no further senators in the queue, Senator Harr, you're welcome to close on your amendment to the committee amendment. [LB125]

SENATOR HARR: Thank you, Mr. Chair. This is a straightforward amendment. What we're trying to do here is, we're going to move forward. This is trying to clarify any problems there may have been in the past and to make sure that if we have an election...when we have the election, everyone is clear who can run and when they can run. And so with that, I would ask for your support on AM97. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Harr. Members, the question is, shall the amendment to the committee amendment to LB125 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB125]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB125]

SENATOR GLOOR: The amendment is adopted. [LB125]

CLERK: I have nothing further on the committee amendments, Mr. President. [LB125]

SENATOR GLOOR: We now move to discussion on the committee amendment. Seeing no senators in the queue, Senator Avery, you're recognized to close on the committee amendment to LB125. [LB125]

SENATOR AVERY: Thank you, Mr. President. This amendment has been thoroughly discussed. Just very quickly let me summarize that it reduces the Class V board of education from 12 to 9. It also eliminates term limits for board members. It sets forth the election procedures and dates. It also references a redistricting map. And it has the emergency clause. With that, I would urge your passage of AM47. Thank you. [LB125]

SENATOR GLOOR: Thank you, Senator Avery. Members, the question is, shall the committee amendments to LB125 be adopted? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB125]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB125]

SENATOR GLOOR: The amendment is adopted. [LB125]

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CLERK: I have nothing further on the bill, Mr. President. [LB125]

SENATOR GLOOR: We move to discussion on the advancement of LB125 to E&R Initial. There are no senators wishing to be recognized. Senator Lautenbaugh, you're recognized to close. [LB125]

SENATOR LAUTENBAUGH: Thank you, Mr. President, and thank you, members of the body, for the discussion today especially. I will be brief, as I think several of my comments have sounded like closing comments. This is important. I can't stress that enough, and I think we can all agree upon that. And this is not about local control at this point. I've said here before, we're all in favor of local control until we're not. But this doesn't even rise to that because the locality doesn't have any ability to do what we're doing here. This is our job. And while, yes, because of the current size of the districts this would apply more where I live than more where some of you live, that doesn't make it less our responsibility and less our concern, especially when you consider the staggering amount of money we send to the Class V school district we have. And this is an opportunity to do the right thing. And I may or may not be Jack the Ripper, but I'm asking you to take my advice or my counsel on this, I should say, and please support it. My district needs help. Our kids need help. And I think you've seen what would have been a full-throated opposition kind of evaporate to nothing, because it has to happen now for other reasons that were beyond our control. But OPS finds itself in a spot. And it's fortuitous this bill offers a way out, but it does, very clearly. And I'm not going to belabor the point anymore. I would just ask you to vote green and please help us. Thank you. [LB125]

SENATOR GLOOR: Members, you've heard the closing on LB125. The question is the advancement of LB125 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB125]

CLERK: 37 ayes, 4 nays, Mr. President, on the advancement of LB125. [LB125]

SENATOR GLOOR: The bill advances. [LB125]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Mr. Clerk, we'll proceed to General File, LB155. [LB155]

CLERK: LB155, a bill by Senator Gloor. (Read title.) The bill was introduced on January 11 of this year; referred to the Banking, Commerce and Insurance Committee; advanced to General File. At this time I have no amendments, Mr. President. [LB155]

SPEAKER ADAMS: Senator Gloor, you're recognized to open on LB155. [LB155]

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SENATOR GLOOR: Thank you, Mr. President, with this opportunity to close this morning with a scintillating visit to the banking industry. The LB155 would amend two sections of the Public Funds Deposit Security Act, an act that sets forth mechanisms by which financial institutions acting as depositories of public funds may satisfy the requirements to secure deposits in excess of amounts insured or guaranteed by the Federal Deposit Insurance Corporation we know as the FDIC. Generally, depositories give security either by furnishing securities or providing a deposit guaranty bond. We've had laws of this sort in place for a long time. When your city, county, or school district has funds on deposit with a local bank, we require that security must be in place for deposits in excess of FDIC limits, just in case the bank might fail. The bank gives that security. LB155 would expand the definition of securities that may be furnished to include mortgage-backed securities and collateralized mortgage obligations that are backed by collateral 100 percent guaranteed by basically the government, the Federal Home Loan Mortgage Corporation, Federal Farm Credit System, Federal Home Loan Bank, Federal National Mortgage Association. The bill would further expand the definition of securities to include a letter of credit issued by any Federal Home Loan Bank and not just the Federal Home Loan Bank of Topeka. The bill would amend provisions which currently allow a depository to secure the deposits of one or more governmental units by depositing, pledging, or granting the security interest in a single pool of securities to secure repayment of all public funds deposited in the depository. I think this is a good bill, it's a cleanup bill brought to us by the Department of Banking. I think, given Dodd-Frank, it's some of the types of bills that we will see as a result of dramatic changes in the banking industry. It's a good bill for consumers. It's a good bill for smaller banks, I believe. And I would ask for a yes vote on this. Thank you, Mr. President. [LB155]

SPEAKER ADAMS: Thank you, Senator Gloor. The floor is now open for debate. Senator Gloor, there are no senators wishing to speak. Senator Gloor waives closing. The question is the advancement of LB155 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Has everyone voted that wish to? Record, Mr. Clerk. [LB155]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB155. [LB155]

SPEAKER ADAMS: The bill advances. Mr. Clerk, is there a motion? Do we have items? [LB155]

CLERK: We do. Thank you, Mr. President. A hearing notice from the Revenue Committee signed by Senator Hadley, as Chair of the committee. I have name adds: Senator Davis to LB65; Senator Coash to LB145. [LB65 LB145]

And a priority motion: Senator Hansen would move to adjourn the body until Friday morning, February 1, at 9:00 a.m.

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SPEAKER ADAMS: Members, you've heard the motion to adjourn. All those in favor indicate aye. Opposed. We are adjourned.