

FEBRUARY 11, 2005

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February 11, 2005 LB 162
LR 39

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Lee Weander from Our Savior Lutheran Church, Norfolk, Nebraska, and that's Senator Flood's district, District 19. Pastor.

PASTOR WEANDER: (Prayer offered.)

SENATOR CUDABACK: Thank you, Pastor Weander, for being with us this morning. We appreciate you being here. I call the twenty-sixth day, Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Are there any corrections for the Journal?

CLERK: I have no corrections this morning, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 162 to Select File with Enrollment and Review amendments attached. I have a report regarding the number of registered lobbyists, required by statute to be filed weekly, to be inserted in the Journal; a report from the Environmental Quality Department on file in the Clerk's Office. New resolution, LR 39, by Senator Johnson, will be laid over. And an announcement, Mr. President: Urban Affairs will meet in Executive Session at 9:45 this morning in Room 2022. And that's all that I have at this time. (Legislative Journal pages 487-489.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go on with agenda items. First agenda item is legislative confirmation reports. Mr. Clerk.

CLERK: Mr. President, Senator Raikes, as Chair of Education, offers a report regarding the appointments of Marilyn Harris and James Strand to the Coordinating Commission for Postsecondary

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Education. (Legislative Journal page 460.)

SENATOR CUDABACK: Senator Raikes, as Chairman of Education Committee, you're recognized to open on the first report.

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. The Education Committee is pleased to bring you, for your consideration for confirmation, two members who would serve on the Coordinating Commission for Postsecondary Education. Let me just remind you the commission consists of 11 members appointed by the Governor, with the approval of the majority of the Legislature. One member is chosen from each of the six Supreme Court judicial districts, and then five members are chosen on a statewide basis. The term is six years. Both of the appointments we have to consider today are terms shorter than that, so they're filling...finishing terms that were not completed. The first person, Marilyn Harris, I'll tell you about. She earned a Ph.D. in Administration, Curriculum and Instruction from the University of Nebraska-Lincoln; currently works at the Harris Training Group here in Lincoln, an organization that she founded. She's currently involved with several community and professional organizations, including serving as a Lincoln Public Schools trustee, the UNMC Board of Counselors, and others. She appeared before the committee for the confirmation hearing. I would strongly urge your support of her appointment. James Strand earned master's degrees both in Psychology and Business Administration from the University of Nebraska-Lincoln. He's a retired telecommunications executive; served on the College of Fine Arts advisory board at UNL, the Nebraska Wesleyan Board of Governors, and a number of other important community service organizations. Again, Mr. Strand also appeared before the committee for the confirmation hearing, and I would again urge your...strongly urge your support of both of these nominees. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on the first report offered by the Education Committee. Open for discussion on that report. Senator Raikes, there are no senators wishing to speak. He waives opportunity to close. The question before the body is, shall the confirmation report, offered by the Education Committee, be adopted? All in favor

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vote aye; opposed, nay. The question before the body is the confirmation report offered by the Education Committee. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 489.) 27 ayes, 0 nays, Mr. President, on the adoption of the confirmation report.

SENATOR CUDABACK: Confirmation report has been adopted. Mr. Clerk, second report by the Education Committee.

CLERK: Mr. President, second report from Education involving the appointments of Stephen Lewis and Carter Peterson to the Board of Trustees of the Nebraska State College System. (Legislative Journal page 460.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Raikes, Chairman of the committee, you're recognized to open on that report.

SENATOR RAIKES: Again, thank you, Mr. President, members. To remind you, the State College Board of Trustees is composed of seven members. Six of these are appointed by the Governor, with the advice and consent of the Legislature. They serve six-year terms, and the Commissioner of Education is the seventh ex-officio member. The two appointees that I bring for your consideration today are Stephen Lewis and Carter Peterson. Mr. Lewis was not able to appear before the committee for the hearing, it was a bad weather day, but he did communicate with us over the phone. He earned a master's degree in Business Administration from the University of Nebraska at Kearney. He currently works as Director of Administrative Services for the Tri-County area hospital district in Lexington. He's a member of the American College of Healthcare Executives, has a number of other community and statewide service activities. Carter Peterson did appear before the committee. He earned a bachelor's degree from Wayne State College, currently works as the owner of Northeast Nebraska Insurance Agency in Wayne. He's a trustee and member of the executive board of the Wayne College Foundation. And likewise, both of these appear to be very

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qualified candidates. I would urge your support. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on report number two offered by the Education Committee. Open for discussion on that report. Senator Engel, report number two.

SENATOR ENGEL: Mr. President, I know Mr. Peterson very well. He's very well qualified for this position, and he's very community-minded. He's very interested in education in the state of Nebraska and northeast Nebraska, and I think he's the right man for the job.

SENATOR CUDABACK: Thank you, Senator Engel. Further discussion on report number two by the Education Committee? Seeing no lights on, Senator Raikes. He waives his opportunity to close. The question before the body is, shall report number two be adopted by the...from the Education Committee? All in favor vote aye; opposed, nay. The question before the body is, shall the confirmation report number two adopted from the Education Committee? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 489-490.)
28 ayes, 0 nays, Mr. President, on the adoption of the report.

SENATOR CUDABACK: The report has been adopted. Mr. Clerk, next report.

CLERK: General Affairs Committee offers a report regarding the appointments of Riley George and Tom Ourada to the State Electrical Board. (Legislative Journal page 466.)

SENATOR CUDABACK: Senator Janssen, you're recognized to open, as Chairman of the General Affairs Committee.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. On Monday, February 7, General Affairs Committee heard two appointments to the State Electrical Board. The first one was Mr. Riley George. He's a reappointment but he was unable to be there because of the weather. Senator Baker testified in his behalf, and he is from Lexington, and has

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served on the board, as I said, for a few years, and is doing a great job. The second one was Mr. Tom Ourada. He is a reappointment from Crete. We have a very good Electrical Board right now and we need to keep these people on. And I urge you to reconfirm these two reappointments. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the opening on confirmation report offered by the General Affairs Committee. Open for discussion on that report. Senator Janssen, seeing no senator wishing to...he waives the opportunity to close. The question before the body is, shall the confirmation report, offered by the General Affairs Committee, be adopted? All in favor vote aye; opposed, nay. The question is before the body the confirmation report offered by the General Affairs Committee. Have you all voted on the question who wish to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 490-491.)
33 ayes, 0 nays, Mr. President, on the adoption of the report.

SENATOR CUDABACK: Motion was successful. The report has been adopted. (Visitors introduced.) We now go to General File, 2005 committee priority bills. Mr. Clerk.

CLERK: Mr. President, LB 126, a bill by Senator Raikes and others. (Read title.) Bill was introduced on January 6, reported to General File, discussed yesterday. At that time there was an amendment to the bill, offered by Senator Raikes, that was adopted. At this time, Mr. President, I do have other amendments pending to the bill.

SENATOR CUDABACK: Senator Raikes, would you like to give us a short review of what took place yesterday.

SENATOR RAIKES: Thank you, Mr. President, members. I will attempt to do that. LB 126 is a bill requiring the assimilation of Class I school districts. I'll try to keep this in a nonadvocacy mode. It would require that the school boards be eliminated, Class I school boards be eliminated. There are provisions in the bill, both for the distribution of, or the assignment maybe I should say, of Class I property to K-12

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districts. And there are also provisions in the bill for the maintenance of attendance centers or protection of attendance centers. There's two levels involved, one requiring that they be left open; another one requiring a 75 percent majority vote of the school board. The amendment that was adopted was important but, nonetheless, technical. It dealt with a number of issues, including such things as date changes and cross-referencing. So I hope that covers it. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes, for the summary. Mr. Clerk, first amendment.

CLERK: Mr. President, Senator Hudkins would move to amend the bill with AM0251. (Legislative Journal page 491.)

SENATOR CUDABACK: Senator Hudkins, to open on your amendment, AM0251, to LB 126.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. The amendment is quite simple. It just delays the implementation of LB 126 for 50 years. We have said all along that this bill is not necessary because the schools are in the process of closing on their own at the rate of one every two weeks. We figure that by the year 2055 there may not be very many Class I's left at all. And if there are, there will be other heads in this body that will look at the overall effectiveness of those schools, the overall educational opportunities in those schools, and they will certainly see that this program is not necessary. I would like to call your attention to a handout that you received this morning, one of three that you have gotten across your desk. I hope that you do read the colored ones. I hope that you also look at the opinion poll from Channels 10/11. They asked, "What is your opinion regarding the proposal to require elementary only schools to merge with K-12 districts?" The possible answers were: should be a local decision, or needed for greater efficiency. Now, I'm not sure who proposed this particular question, but talk about slanted questions. I was just appalled at how this question was asked. But look at the numbers. Should this be a local decision? Eighty point six percent of the participants in the poll said, yes, this should be a local decision, not something

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mandated by the Legislature. Should it be...should this bill be passed because it's needed for greater efficiency? Only 19.4 percent agreed with that statement, less than 20 percent. Now obviously, this is not a scientific poll because anyone can call in or enter into the computer question. It's not a Gallup Poll. It's just the people who feel strongly about this question that offered their opinion. I think it's a fairly accurate representation of this particular community's feelings, and most likely most of the participants were from Lincoln and surrounding areas, at least in Channel 10/11's broadcast area. I think that if there had been a statewide poll, the numbers would likely have shown even more disparity. Now, I did not take part in the poll or the numbers would have been even greater that way, too. But when the public is telling you this should be a local decision, these are your constituents. They're telling you what they want, and it is probably your responsibility to take that into consideration a little more. We have taken a look at the introductory remarks, also the remarks in the public hearing on LB 126, and we want to measure those comments against factual evidence. What I'm going to tell you are statements that were made by Senator Raikes which were documented from the Clerk of the Legislature's transcript following the hearing. And after each of Senator Raikes' statements is the rebuttal of that particular statement. Senator Raikes said: It, LB 126, does not require that any school building be closed. These are our comments. In the Education Committee bill summary prepared by Tammy Barry, the committee counsel: Beginning on June 15, 2006, school boards would be prohibited from taking action to close an elementary attendance center if (a) the fall membership of the attendance center for the prior school year included a total number of resident students that was at least 2.5 times the number of grades offered; and--and that's the tricky part--and the attendance center is at least ten miles from another elementary attendance center within the district, or the attendance center is the only elementary attendance center located within the boundaries of an incorporated city or village. I would like to know why those particular figures were chosen--2.5 times the number of resident students. Why 2.5? If you, perhaps, in your Class I school don't have any 2nd graders, for example, are you shot out of the saddle right at that point, or does the average

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of the entire school make that up? Why ten miles? Why not five? Why not...well, pick a number. Why were those numbers chosen? They're strictly arbitrary. If you have a Class I that is ten miles away from the K-12, chances are that those students, some of them, are going to live even further away from that K-12. If you take the radius of that K-12 district and the radius of the Class I district, there are going to be some students in that Class I that are going to then be 19 or 20 miles from that K-12. You're going to put these kids on a bus, you're going to have them be transported that length of time, or you're going to have the parents drive them 20 miles twice a day? Another bullet point that we've chosen to talk about: Assuming Senator Raikes' resident student figures from information that he presented to the Education Committee, only 49 of the 231 Class I school districts have 23 or more resident students, and this excludes option enrollment; only 49 of the 231 Class I schools. So those would be the only one that would qualify under the first stipulation of the numbers of students. Of these 49, an unknown number may not qualify under stipulation (b), the distance, making them susceptible to closure. And furthermore, any Class I district with per-pupil costs lower than the affiliated district would be vulnerable to closure since closure would raise the affiliated system's average per-pupil cost and, under Nebraska's state aid calculation, would qualify the affiliated system for additional state aid. This would drive education costs even higher. So if your K-12 is \$6,000 per pupil and your Class I is \$5,000--and obviously I'm picking figures out of the air--those children from the Class I going into the K-12, then the total enrollment figures would be calculated for additional state aid. And of course, they're going to use the figures from the higher school...the larger school's calculations. As an example, if this bill were enacted, Oak Valley--and I'm going to be talking about Oak Valley a lot because that is what I'm familiar with--if they were...they're in northern Lancaster County. They're about three, four miles north of Kawasaki. If they would be assimilated by Malcolm Public Schools, since Oak Valley officially operates at a per-pupil cost of nearly \$1,000 less than Malcolm, Malcolm would stand to gain over \$347,000 in additional state aid if Malcolm were to close Oak Valley. With over 90 efficiently-run Class I districts in Nebraska, similar

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scenarios could total millions of dollars of additional taxpayer-funded state aid. And absolutely, why wouldn't Malcolm then close Oak Valley? If they're going to get these additional students, they're going to get these additional state aid dollars. Yes, they're going to have increased costs. There could be additional transportation costs. If they were to bus all 28 or 30, however many it is, students from Oak Valley to Malcolm, chances are...

SENATOR CUDABACK: One minute.

SENATOR HUDKINS: ...chances are there would have to be another bus. Chances are there might be, if there were ten kids in one class, there might have to be some more desks. If there were ten students in the 2nd grade and now were over the optimal number of students in the lower elementary grades, chances are that class would have to be split, and that means hiring another teacher. If the teacher from the Class I were assimilated into the Malcolm school as well, or any K-12 as well, then if she has or he has more seniority, chances are that they're going to be hired and one of the existing teachers ruffed. If you have more seniority, chances are you're higher up on the pay scale--again, an additional cost for the taxpayers of Nebraska. I'll talk about this more next time. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. You've heard the opening on AM0251, offered by Senator Hudkins. Open for discussion on that amendment. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I rise in support of Senator Hudkins' efforts to delay this several years because I have a concern that any time the state steps in to attempt to make everything look the same, quality education gets put on the back burner. When quality does not enter into the mix, I think children, families and communities, probably in that order, stand to lose. That is why I oppose LB 126 and Senator Raikes' efforts to make everything look the same, so that all teachers can be paid the same, so that all administrators can administrate the same thing. And I'm actually kind of anxious to see how many districts will then have a new administrative position called assistant

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superintendent for school district assimilation because there's several assistant superintendents for other things. And as we saw yesterday, the graph that was handed out shows the steep incline in the number of administrators across Nebraska, even as school district numbers have decreased. And it concerns me greatly when all we look at are numbers, and even...not even consider the numbers that are so obvious. But I wanted to clarify something that I started in on yesterday, if Senator Raikes would yield to some questions.

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

SENATOR SMITH: Senator Raikes, we mentioned yesterday that a Class I and a K-12, to use your phrase, assimilating, they come together by choice of the state and so those districts merge into one school board, if you will, and the teachers from the Class I school are then teachers of the K-12 district. Is that accurate?

SENATOR RAIKES: Yes.

SENATOR SMITH: And if a teacher in the Class I school has ten years experience, they will trump the teacher in the larger district with less experience, if it's necessary to reduce the teaching force in the district. Is that accurate?

SENATOR RAIKES: That's my understanding. I think you have that correct.

SENATOR SMITH: And so longevity of service is the only thing that's looked at when it comes to who gets to keep their job and who doesn't.

SENATOR RAIKES: I'm not familiar enough with those sorts of operations that I can verify that. If you say that, I can't counter it. But I can't...I can't...

SENATOR SMITH: Okay, especially at the elementary level where basically all the teachers have the same degree, with the

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exception of phys ed and music, maybe.

SENATOR RAIKES: Yeah. What I'm thinking of is special ed endorsements that may be required, and I don't know exactly how that might be handled.

SENATOR SMITH: Okay. But if there's a vibrant, young new teacher who is a great teacher but doesn't have as much experience as a more veteran teacher, the more veteran teacher is higher on the hierarchy. Is that accurate?

SENATOR RAIKES: Yeah, I think that that would, in fact, probably be the case, if not mistaken, in a Class I right now. Suppose you had three teachers in a Class I, say with ten students, and you decided that you simply couldn't fund that anymore. You would have to let one of them go, and it may well be that the younger...or that one with the least experience is the most...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...vibrant, as you say, but still that's what would have to be done. So I think you're right. I think that's the procedure.

SENATOR SMITH: Right. But we're more likely to experience this question here when we've merged the districts. Is that accurate?

SENATOR RAIKES: I don't know. Certainly, if there are economies...I'll grant you this. If there are economies to be achieved by reducing teaching staff and still getting the services performed, you're probably right.

SENATOR SMITH: Right, but that original Class I school board wouldn't be able to have an input in that at all, would they?

SENATOR RAIKES: No, I think that's right. When you say "that," you're talking about the teacher decision?

SENATOR SMITH: Right.

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SENATOR RAIKES: Yeah. They would...yeah, they would have, I guess, the same input as any other citizens.

SENATOR CUDABACK: Time.

SENATOR SMITH: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Louden, followed by Senators Fischer, McDonald, Heidemann, Beutler, Raikes, Hudkins, Baker, and Smith. Senator Louden, on the Hudkins amendment.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I certainly rise to support this, I'd call it a bracketing bill, I guess. It's just kind of a long ways out there to bracket it. There's several things with this bill that I question that I think is between last...a year ago when they had meetings out through the different parts of the state. I think the testimony that came in to those three meetings that were...one was held in Wahoo, one was held in Broken Bow, one was held in Mullen, and it was usually about 95 to 1 against this type of bill, closing these or assimilating these Class I school districts. But nonetheless, whatever the thinking was, they went ahead and plowed through it with it anyway, and I don't know as it's all that well thought out. As we get into the bill and start looking through it, I've noticed on page 47 there, line 8 in through there, there's some wording through there that tells about how the Class II and III students are going to be allowed to get mileage if they attend schools in a Class II or III district, high school students. But then here somewhere along the line comes LB 634, came out through the tube, and basically what LB 634 does is take all the language back out of LB 126. So when we're talking about LB 126, we also have to consider what's happening with LB 634. So then my next question is, I happen to find LB 634, what other bills do we have out there that's kind of lurking or that's pumping out from this LB 126? I think the whole system has been pushed forwards faster than what is necessary. I don't think there's any way of showing where any...there's going to be any savings in it. As Senator Hudkins, with some of her handouts, has shown that these

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Class I schools, for the most part, are operating below state level, and when you start hunting up these schools that are...that have a higher than state average cost, most of them are in areas that are hard to get to, probably have few students, and the reason they have few students, there aren't that many people out there, but nonetheless the state of Nebraska still is required to educate those students. There isn't anything in our laws yet that says that you have to have a school within a certain mileage of someone's house. So when you pass something like this, you could be talking about sending people 40, 50 miles or more to go to school, and that isn't uncommon in our areas. There was...we were 30 miles from any high school. I put all my kids through high school that drove 30 miles one way. You people that drive back and forth from Omaha, that's a little over that. So why don't we have Omaha and LPS all one school? You're driving 30-some miles. It's about the same thing as what we have to do all the time. And we happen to be, where we live, we were a little bit closer to the highway and we're closer than a lot of people. A lot of people are driving 40 miles one way to go to high school. And if you're going to close your Class I schools that service those people in the grades, then you're talking about grade schools that are driving that far. Busing, it's out of the question in most of the western counties. Not everybody lives on one graded road...

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: ...in a row, so they have to have several buses or something like that. Your transportation costs will skyrocket. Some of our Class III schools out there that do have busing have found out that it's a considerable amount of money to carry on a busing operation. Some of the schools have found in some of those areas that since they raised the requirements for a bus driver, it's very hard to get somebody to drive a bus. So I think whenever you can leave a lot of this on your local control, you're going to have children that are better educated. With our technology we have now, most all those schools have computers in them. When you have schools that only have students of 10 or 15 or so, I think the school we have has about 16 students, and I think there's probably 16 computers in there.

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So they learn this technology at an early age, and there's a lot of advantages that they have. Sure, there's a lot of advantages they don't learn.

SENATOR CUDABACK: Time.

SENATOR LOUDEN: I've never yet found...thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Senator Fischer, on the Hudkins amendment.

SENATOR FISCHER: Mr. President and members of the body, yesterday I began my comments by questioning the new fiscal note on LB 126. I hope that all of you have had a chance to look at it, and I would hope that Senator Raikes or other Education Committee members, Senator Schrock, Senator Stuhr or Senator Byars, would provide the body with information on how the figure of \$12.7 million was reached. I understand the Department of Education assumed that \$11 million would be the saving at the local level the first two years, not a savings realized by the state of Nebraska for General Fund purposes. And that figure was reached by assuming the closing of schools. And please remember that these are schools, they are not attendance centers. As I said yesterday also, I was a student here in Lincoln. I was born here. I attended Randolph Elementary School. I did not attend Randolph Elemen...or attendance center. I would like some further information on just which schools will be closed in determining these figures. If there are Class I's within a Class VI included in those figures, then I take issue with the fiscal note estimates. My reason? In a Class VI system, the high school board already has the responsibility to set each and every Class I's budget authority within that system. These decisions are made in cooperation and collaboration in my local district, the Valentine Rural High School district. The Class VI high school board can, in effect, already close one of its Class I districts by authorizing that Class I zero budget authority. That has not happened, and I would assume that this will not happen because of the geographical locations of these schools in the Valentine Rural High School district. So these Class I schools would not close. There would be no fiscal impact, and so this is another reason I

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question the so-called savings of the fiscal note. Throughout this discussion, I've heard comments being spoken as though they were facts. As I said yesterday, I've stood behind the glass for over 20 years, listening with frustration to misinformation and perceptions regarding rural schools being put forward as facts on this floor. Again, I'm glad to have the opportunity to now be a member of this body and have the chance to rationally discuss this very important issue by offering facts. I currently have factual information which rebuts over 20 comments made thus far in this debate. I hope you will allow me the opportunity and the time to present these to you, in order that you can make an informed decision on this very important issue. Yesterday the discussion on this bill began saying that efficiencies can be found if we pass LB 126; that the Class I districts are not efficient in their operation. I see we've just received a handout from Senator Raikes and he has targeted two school districts with that handout. I assume...

SENATOR CUDABACK: One minute.

SENATOR FISCHER: ...I assume that he will be addressing that. I didn't prepare information but, in conversations with Senator Raikes, my comeback on his argument has always been that there are Class III districts in this state that are not efficient. And I see that perhaps I'll need to gather information and target some of those Class III districts for their lack of efficiencies. When you look at the average per-pupil cost for all Nebraska students, it's at \$7,476.30. All Class I school students, that number is \$7,548.67. It costs just \$72.37 a year, less than 1 percent more, to educate a Class I student...

SENATOR CUDABACK: Time.

SENATOR FISCHER: ...in Nebraska.

SENATOR CUDABACK: Thank you, Senator Fischer. Mr. Clerk, an announcement.

ASSISTANT CLERK: Thank you, Mr. President. A reminder that the Urban Affairs Committee is going to meet in Executive Session in Room 2022 at 9:45; that's Urban Affairs in 2022.

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SENATOR CUDABACK: Thank you, Mr. Clerk. On with discussion of the Hudkins amendment. Senator McDonald, followed by Senator Heidemann and others.

SENATOR McDONALD: Mr. President and members of the body, I'd like to ask Senator Raikes a couple of questions.

SENATOR CUDABACK: Senator Raikes, would you yield to a question from Senator McDonald?

SENATOR RAIKES: Yes.

SENATOR McDONALD: Senator Raikes, do you know how many school districts will close in September of 2005 if LB 126 passes?

SENATOR RAIKES: No. That would not be my decision.

SENATOR McDONALD: But do you know how many would? I mean, do you have a list of schools that would...

SENATOR RAIKES: You said in September of this...that...you're asking about this coming September?

SENATOR McDONALD: Or if...

SENATOR RAIKES: And you're speculating that LB 126 passes and that you're talking about the decisions of local boards to close school buildings in September, which would be before any deadline set by LB 126, if I'm hearing you correctly.

SENATOR McDONALD: Yes.

SENATOR RAIKES: I don't know the answer to that.

SENATOR McDONALD: Don't know the answer to that. Do you know then, counting the year after that, do you know how...what list of schools would close? So you have no idea how many would close.

SENATOR RAIKES: No, I don't know about specific school

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buildings, if that's the question, Senator.

SENATOR McDONALD: Do you know the names of the schools, a list of the schools that would close? You don't have the numbers, but you don't even know the names.

SENATOR RAIKES: Didn't I answer that? I don't know.

SENATOR McDONALD: Okay.

SENATOR RAIKES: Yeah.

SENATOR McDONALD: Well, my question is...

SENATOR RAIKES: If I'm missing the question, please restate it. I'm not trying to evade you.

SENATOR McDONALD: (Laugh) If we don't know the list of the schools that will be closing, how are we going to know the estimate of savings? I guess I question that fiscal note with the new information if we don't know who...what the schools are. I'm sorry, I have a question for that. Can you give me a list of where we come up with the new data, where we come up with the \$12.7 million if we don't know which ones are going to close? How are we going to know where the saving comes from?

SENATOR RAIKES: Well, you simply have to make a reasonable judgment about the decisions of local school boards, K-12 boards, based on the fiscal circumstances they face. And the Fiscal Office has made their assumptions in that regard very clear. I don't really, you know, I don't know what you expect me to offer in the way of clarification. If there is something, I'll try to do it.

SENATOR McDONALD: Well, I'm just wondering where the new information came from because you say we have new data for the new fiscal note. I'm just curious where the data came from. I mean, I just want the validity of the data.

SENATOR RAIKES: I believe all the data, Senator, is from the...or compiled by the Nebraska Department of Education.

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SENATOR McDONALD: I know. Are we...

SENATOR RAIKES: And there, in turn, is information they collected from budget documents for individual school districts.

SENATOR McDONALD: But there are...

SENATOR RAIKES: In other words, the school districts provided them the information. They've compiled it and provided...I know I've gotten some from them. And you're on the Education Committee. You're well aware of what we've done on LB 126. You know that we have gotten information from the department.

SENATOR McDONALD: Would you agree that when a Class I school closes that we won't save money in all cases?

SENATOR RAIKES: Save money in all cases? You'll have to elaborate just a little bit, Senator. I'm not quite...

SENATOR McDONALD: In every Class I that closes, is sometimes the cost going to be greater than the savings, in some cases?

SENATOR RAIKES: Well, if what you're referring to, Senator, is if an action like LB 126 does not happen, you allow school districts to continue long beyond the time they have any students, then I would agree with you. Yes, I would think that in that particular case, there's no students out there but we're still budgeting money to that school, which is happening, as you know, in 11 Class I school districts now as we speak.

SENATOR McDONALD: If a Class I school closes, what do...are they accountable for any expenses?

SENATOR CUDABACK: One minute.

SENATOR RAIKES: I think every Class I district, the way the statute is right now, is required to file a budget document each year. I don't think, and I don't know, I don't think they're required to be audited every year, but I'll have to check on that to be sure.

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SENATOR McDONALD: If a Class I school closes and they have teachers under contract, who pays for those teachers and where does the money come from?

SENATOR RAIKES: The "if" is in the event of LB 126 or without LB 126 or what...like, how it was last year, or what is the circumstance we're talking about here?

SENATOR McDONALD: Well, what...a Class I school has a teacher under contract for, say, they've signed a contract for three years,...

SENATOR RAIKES: Okay.

SENATOR McDONALD: ...and that school closes.

SENATOR RAIKES: Okay.

SENATOR McDONALD: Where does the money come from to continue paying for that contract for that teacher?

SENATOR RAIKES: Well, right now, if there were a Class I district, and you mentioned September 1, 2005,...

SENATOR CUDABACK: Time.

SENATOR RAIKES: ...the school decides it's...I'm sorry.

SENATOR CUDABACK: Thank you, Senator McDonald. On with discussion of the Hudkins amendment. Senator Heidemann.

SENATOR HEIDEMANN: Thank you, Senator Cudaback. I would like to ask Senator Raikes some questions, if he would yield.

SENATOR CUDABACK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: Sure.

SENATOR HEIDEMANN: I'm just trying to understand this all, and

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I come up with a scenario to maybe help me understand it, and I was hoping you will help me through this. I was just thinking, if the federal government maybe had come up with a study and looked at the efficiency of the states and decided that we had some states that were kind of small and not very efficient, and they did a study and they come up with a bill that decided they was going to take the smaller states and assimilate them into the larger states to gain efficiency and make the state governments more effective. And being as Nebraska would be a smaller state, they are going to be assimilated into Iowa. The federal government, not one to make anybody made, says it will be up to the local people whether Nebraska remains a state or they just become part of Iowa and then they are one big state called Iowa. Also part of the bill in the federal government that had passed, it did away with the Nebraska Legislature. This decision would be totally in the hands of the people from Iowa and the Iowa Legislature. I kind of wonder, do you think that the people of Nebraska will think that the people from Iowa or the Iowa Legislature will make that prudent decision, what is right or wrong?

SENATOR RAIKES: I commend you on your visionary thoughts, Senator. I can't even, right off the top of my head, comprehend all the constitutional issues, both federal and state, that would be involved in the proposal. And let's see, did you say maybe the federal government was going to merge the United States, Canada and Mexico, too, for efficiency, or you didn't get quite that far?

SENATOR HEIDEMANN: Let's stay with my scenario.

SENATOR RAIKES: All right. And again, you'll have to repeat the question, and try to keep it fairly specific, if you would.

SENATOR HEIDEMANN: The whole gist of it is, is if that would happen, we would not have a say whether we would be a state or not. We would not have a vote. It would be up to someone else. Do you think that would be justifiable? Would that be right?

SENATOR RAIKES: You know, I don't. And I don't think it would be right, if we can bring this back to LB 126, if you don't

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mind, I don't think it would be right that the local people in K-12 districts who are supporting public education are denied a say in what happens there. And I don't think one particular group, say the Iowans, ought to have a veto power over what the Nebraskans do. So I'm very much interested in local control, those...all of those that helped pay get an equal vote in what goes on, and also I might add, sticking within the constitutional bounds. I'm really very conservative with that. I would just as soon stick with what the constitutions offer us in the way of options.

SENATOR HEIDEMANN: Will the Class I, the people in the Class I district, have any say whether their school closes or stays open?

SENATOR RAIKES: They'll be a part of the voting bloc that elects a K-12 board, and that K-12 board...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...will make that decision. Specifically, and Senator Hudkins talked about some of the requirements for maintaining attendance centers, there would be some attendance centers that actually even the K-12 residents would have to leave alone. And down the road, suppose you got to a situation where one of the permanently protected attendance centers was no longer such. Then certainly, everybody that was in the Class I district, as one example, would be involved in voting for the representatives that would make that decision on the K-12 board.

SENATOR HEIDEMANN:: Isn't it true, though, Senator Raikes, that that would not happen for two and sometimes up to four years, depending on the election cycle, that they would have a voice in that K-12 district?

SENATOR RAIKES: That could be. You're absolutely right. It would depend on the election cycle. We covered this yesterday. I think most K-12...

SENATOR CUDABACK: Your time is up, Senator. I'm sorry.

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SENATOR HEIDEMANN: Thank you, Senator Raikes. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Heidemann. Senator Raikes, you may continue. Your light is next.

SENATOR RAIKES: Okay. Thank you, Mr. President, members of the Legislature. I sent a double sheet around which I hope you will take a look at. These are legal-size documents. We have so far been discussing the fiscal note or fiscal issues, and those are very, very important. Certainly, my take on them is that that's absolutely a green light to go forward with LB 126. But I've been asked by some of the colleagues to talk about another issue, particularly the equity issue. And I must apologize for you. I raised that issue in my opening, but it was toward the end and I think maybe it escaped some of your attention. So what I'm doing now is sending around a sheet, this double sheet, which talks about this equity issue, or presents information. I don't think the sheets talks, it presents information about two school systems. The top one is Lexington Public Schools. The bottom one is Schuyler School System. This is also the information, the bottom one, is also the information you've got in the handout yesterday. Looking at the top sheet, let's go through this. There are affiliated with Lexington Public Schools six Class I school districts. They're in the block on the top. You can see the total membership involved in each district, and also the membership involved in Lexington Public Schools. Skip over to valuation, property valuation per student enrolled in those districts. Note that we've got District 015, a Class I with a little over \$3 million per student; we've got Lexington Public Schools with \$133,000 per student. If you look at LEP students, we have 0 students in every one of the Class I districts; we've got 804 LEP students in Lexington Public Schools. Skip over to free lunch/free milk. We have 0 students who qualify for poverty in every one of the Class I districts; we have 1,172 in the Lexington School District. Finally, on the far right, budgeted expenditures per fall member, note the top one--\$10,962. Keep in mind, again, this is for a school district that has no poverty, no LEP students. Look at the bottom number, \$8,589, for a district that has 31 percent LEP and 45 percent poverty students. Turn to the next page,

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Lexington (sic). This is a Class I, Class VI system. We've got seven Class I's and we've got Schuyler School System at the bottom. I'm going to go through this quickly. English Language Learners: 0, 0, 0, 250, 0. Free lunch/free milk: 307, 13, 3, 2. Budgeted amount per student, the absolute lowest of any district. What I want to know, is there someone who endorses this in this body? Is there someone who says this is fine, this is what we should do. If you do, you've got your lights on, stand up. I'll sit here and listen to you explain to me why...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...this is something we ought to do. Explain to me why, when we've got Hispanic families coming into this state, working their tails off, working two jobs, that they're not entitled to have their kids participate in a school system that is adequately funded and with an adequate building. Please explain to me why that should be the case. This Class I system allows this to happen. It must stop. It must stop now. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator Hudkins, on AM0251 to LB 126.

SENATOR HUDKINS: Thank you, Mr. President and members. Senator Raikes has just talked about the overspending of all of these Class I's and why we should not allow them to continue any further. I have...this is the annual financial report from the Nebraska Department of Education and its per-pupil costs. Let's just look at some of these: Adams County, Kenesaw Public Schools, \$7,988, Class III; Adams Central, Class VI, almost \$8,700; Silver Lake, Class III, over \$9,000; Antelope County, Elgin Public, over \$10,000; Nebraska Unified, over \$9,000, Class III; Arthur County, \$23,000 a student, Class VI; Boone County, Boone Central, \$8,000; Cedar Rapids, \$9,000; St. Edward, \$8,000, all Class IIIs. I can go on and do every single one of the counties. So does this mean that any of these Class IIIs or Class IIs or Class VIs, and there's a number of them in here, should we close them, too, because they're not operating efficiently? Well, of course not. And a lot of these with the higher costs are in the western part of the state. So you're

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looking at transportation costs, and now you're going to have more students go into more of these schools, and you're going to add to the transportation costs. Cass County, let's look at that one. Cass County, Weeping Water, Roger, those kids are paying...or those taxpayers are paying almost \$9,000, and that's a Class III; Cherry County, Valentine, almost...well, a little over \$10,000, a Class VI; Cody-Kilgore, already consolidated, \$10,367, Class II. Let's go to Lancaster County. We'll go in the eastern part of the state a little bit, so we're not always just talking about the western part. Lincoln Public, a Class IV, \$8,030 per student; Waverly is good, \$7,700, they're under the class average; Lincoln County, Brady, Class II, \$11,000. Let's go to Douglas County, just for fun. Let's look at some of those: Douglas County, Omaha Public, a Class V, over \$8,000; Waterloo, over \$10,000 a student, Class III; Valley, same thing, \$9,000; Westside Community--isn't that interesting--a Class III school, a very wealthy district, and their per-pupil costs are, for average daily attendance, and that's what I have taken all of these from, \$8,500. So are we going to close everybody who isn't efficient? Shall we start with Westside and Lincoln and Omaha? I think not.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. I need to start off with correcting the record. I do have a Class I school, or at least one anyway, in Dawson County, which used to be some of Senator Cudaback's district; is now in mine. So I'm not sure yet what I do have up there. Then there's apparently a school on the south, a Class I on the south side of the Platte River that I was not aware of till made aware of yesterday. I want to explain some of the teacher assimilation issues. I am married to one of those bright young teachers that has gone through a merger process, a unification if you will. I also have a sister who's gone through it, and so I speak from personal experience with this. The situation is when a school is merged into another one, they take the larger school's personnel policy and adopt that and then just simply go through the channels, and tenure is not much of a factor. It's endorsements and so on, and in some cases I think evaluations and so on, but certainly endorsements plays a lot of it. I know

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one I'm referring to is a K-12 endorsement and her secondary endorsement is in science. So she's very flexible. She survived. The other half of the equation did not. My sister was riffed in the new system. So we've been through it. It worked. And I can tell you, we would not go back and be where we were five years ago. What we've done is created some efficiencies and have a better school system than we did before. As far as what Senator Raikes was referring to on his handout over here, I think it's unconscionable that we can do this. We...and he's referring to the top sheet dealing with Lexington Public Schools, and as I did find out, I do have a Class I in Dawson...some Class I's in Dawson County that I do represent in District 44. Valuation per member at the top, lists there District 15 in Dawson County is \$3.297 million per student valuation; Lexington Public Schools, \$133,000. Folks, if we do nothing, we could be in trouble here just on the disparity between valuation per students here. The costs, you talk about costs. Senator Hudkins was describing costs involved. I can go back to the districts that I am familiar with in my district, those being District 8 in Red Willow County. The Fitch Public School District has 18...no, I'm sorry, 33 students, fall membership, with a budget of \$178,000. Granted, the per-pupil cost is fairly low, but those could be assimilated into the current public school system there in Red Willow County at no additional cost. I've been assured of that, no additional cost. There might be a busing issue there. I don't know. It looks to me like most of the students, or half the student body, is opting out to the Class I, so they're starting in, I'm assuming, in the McCook area anyway. The other district I have is District 41, north McCook, \$158,708 for 13 students, and they would fit into the category of the Lexington, Dawson County issue. I've been told that most of those 13 students are Hispanic students, and it fits very similar into what Senator Raikes was talking about with the Lexington and the Dawson County Class I's. So there's some tremendous disparity, is my point here. We can solve this disparity problem by assimilating these students into the affiliated high school district. I guess Senator Fischer wanted a minute of my time to try and add something to debate. I'm going to do this probably against my better judgment but if you have any time left, why you can yield it back to me. I'm doing this for Senator Fischer for a minute

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or thereabouts.

SENATOR CUDABACK: Senator Fischer, there's about 1, 11 total.

SENATOR FISCHER: Okay, thank you, Senator Baker. Mr. President and members of the body, in regards to what Senator Raikes just brought up on these handouts he gave us, he talks about the assessed valuation and then the valuation per member. Again, this is my argument on why we aren't talking about state aid. That's the important issue that this body should be addressing. As long as state aid to schools is based on property, then we're going to see these kind of figures. Another point: Senator Raikes implied that these poverty students that some of these districts have are because of option. Senator Raikes said the Class I system allows this to happen; it must stop, it must stop now. If that is truly what he feels, perhaps we should not be addressing Class I's.

SENATOR CUDABACK: Thirty seconds.

SENATOR FISCHER: Omaha Westside exists in this state by action of this Legislature. If we're going to talk about option students, and if we're going to take this broad-brush approach against Class I's because we seem to be the weaker of the people in this Chamber, and Omaha Westside...

SENATOR CUDABACK: Time.

SENATOR FISCHER: ...seems to have votes and business behind them, we need to rethink it.

SENATOR CUDABACK: Thank you, Senator Baker and Senator Fischer. Senator Smith, followed by Senator Erdman, Beutler, Loudon, Janssen and five others.

SENATOR SMITH: Thank you, Mr. President and members. I was, in the interest of Senator Raikes' own heart health, I don't want to get him worked up too much, and so I was going to ask questions of the Vice Chair, but I don't see Senator Byars on the floor either. But let me chat a little bit about some issues that concern me. And I believe that this issue of

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poverty and race is an issue of convenience for the proponents of LB 126. It's one that gets a lot of attention because we're, to use Senator Fischer's term, using a broad-brush approach except, except in the urban areas. We wouldn't want to do that because we don't have the political will to do that. We've got the political will to pick on the little guys, so we're going to do that. And I just hope there's not a quarter laying on the ground beside a vulnerable person because I'm afraid Senator Raikes would knock the old lady over for the quarter. Just a joke. This is an issue that cuts all across Nebraska. And I believe that quality is lacking from this discussion. If Senator Raikes would yield to a question...

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

SENATOR SMITH: Senator Raikes if a Class I school had better test scores than the assimilating district, the K-12 district, should they still be forced to assimilate with that district?

SENATOR RAIKES: Absolutely. If they have Class I...or if they have a better assessment score, and by the way most of them now don't have to report, or do report but the numbers are too small. Because they are dealing with all poverty, all...or all nonpoverty, all non-LEP students, and they're being compared with students in a poverty LEP school, I don't see how you can make that comparison.

SENATOR SMITH: So we should bring the test scores down to make it even and,...

SENATOR RAIKES: I don't...

SENATOR SMITH: ...therefore, look for the...

SENATOR RAIKES: I don't...I don't agree with that at all. All I'm saying is that you have everybody in the district help support the public education for all the students. You mentioned Lincoln Public Schools. If Lincoln Public Schools had a building that had all poverty students or all LEP students,

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and they were funding them at a lower rate than they were the students in my district, I would be on them at least as hard as I am on any Class I district.

SENATOR SMITH: Okay. Thank you. Because it concerns me a great deal that we're singling out...I mean, Senator Stuhr talked about bad Class I schools yesterday and low-quality Class I schools, and I hope she expounds on that today because I want to know where those low tests scores are, where the poor quality education is in the Class I's. I would like to know more specifically where it is because, on average, they do well across Nebraska. I think they set an example of what can and should take place in education with class size, with opportunities that they can take across Nebraska. The only classes that get to come to visit the State Capitol are Class I 8th graders, from my district, because that distance is too great across the state and too expensive, and the state aid formula doesn't reflect any distance. But if we want to get to the bottom of the problems facing education funding and structure, we need to look at the state aid formula. We can't blame the structure on the poor formula that we have and expect to get anything done. I would yield...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...the balance of my time to Senator Fischer.

SENATOR CUDABACK: Senator Fischer, about one minute.

SENATOR FISCHER: Mr. President, members of the body, thank you, Senator Smith. As I was saying, LB 126 does take a broad-brush approach in regard to Class I schools. This discussion is targeting efficiencies and now race has been brought into the debate. If that is the reason, if these are the reasons that LB 126 has been introduced, then we need to discuss those reasons. As I said before, what about Omaha Westside? Why are we only targeting Class I's? Is that because we're the easy target here, because we don't have the votes, we don't have the influence in this body, and I would argue even across this state; we don't have the influence that Omaha Westside has, not just with votes but with the business community in this state?

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Since option and race...

SENATOR CUDABACK: Time. Sorry, Senator Fischer. Senator Erdman, on the Hudkins amendment. Is Senator Erdman on the floor?

SENATOR ERDMAN: Mr. President.

SENATOR CUDABACK: I'm sorry. I did not see you.

SENATOR ERDMAN: That's all right. I was standing at my desk. I would yield the rest of my time to Senator Fischer.

SENATOR CUDABACK: Senator Fischer.

SENATOR FISCHER: Mr. President, members of the body, thank you, Senator Erdman, for letting me continue my sentence. I'll yield back to you when I'm done. As I was saying, since option enrollment and race have been brought up as issues to this body in regard to schools, I will be introducing an amendment to bring this issue to the forefront for discussion. Obviously, it is an important issue and we need to discuss it. If that's the point of this bill, as some senators are suggesting in their comments about Class I's, then let's discuss the amendment I'll bring, let's pass the amendment I bring, and maybe we can address the problems that exist across the entire state of Nebraska. Senator Erdman.

SENATOR CUDABACK: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I would yield the remaining time to Senator Smith.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Mr. President. If Senator Raikes would yield to a question...

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

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SENATOR SMITH: Senator Raikes, on page 45 of the green copy, subsection (3), it talks about the temporary relocation of some or all of the students to an alternate elementary attendance center for a period of two years shall not constitute the closing of an elementary attendance center or a change in the grades offered at such elementary attendance center. So the temporary relocation for two years, two years being temporary, what's the rationale behind that language?

SENATOR RAIKES: This applies to all elementary attendance centers in the state. This is not just Class I's. Class I's are not being singled out. So that if you have a building, either a Class I building or another building that is being remodeled or worked on, then this deals with that issue.

SENATOR SMITH: Okay, as an example?

SENATOR RAIKES: I think Senator Engel mentioned a Class I building in his district. Suppose that there were another tornado that came through or something like that, such that you still had the school in operation but the building were damaged or destroyed so that the students would have to go someplace else, but as soon as the building were restored, they would come back there.

SENATOR SMITH: Okay. And so this is a safeguard to keep that attendance open?

SENATOR RAIKES: Yeah. It's a...yeah, it's an indication that this is the...you know, because of an incident like this, a school building should not be regarded as out of operation, the school per se.

SENATOR SMITH: Okay. Thank you.

SENATOR RAIKES: Uh-huh.

SENATOR SMITH: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with

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discussion. Senator Beutler.

SENATOR BEUTLER: I call the question.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM0251 to LB 126? All in favor vote aye; opposed, nay. The question before the body is, shall debate cease on AM0251? Have you all voted on the question who care to? For what purpose do you rise, Senator Beutler?

SENATOR BEUTLER: Senator Cudaback, I think I would ask for a call of the house, roll call vote.

SENATOR CUDABACK: The question before the body is, shall the house go under call? All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: 16 ayes, 1 nay to place the house under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chambers. Unauthorized personnel please leave the floor. The house is under call. Senator Johnson, Senator Kopplin, Senator Price, Senator Chambers, Senator Synowiecki, Senator Preister, Senator Bourne. The house is under call. Unexcused senators please report to the Chamber. Senator Kruse, Senator Chambers, Senator Synowiecki, Senator Bourne, Senator Kopplin, and Senator Preister. Senator Bourne, please report to the Chamber. The house is under call. Senator Kopplin, would you also report? Senator Bourne. Senator Kopplin. All members present or accounted for, the question before the body is, shall debate cease on AM0251? Request...a roll call vote has been requested. Mr. Clerk, call the roll on the question, please.

CLERK: (Roll call vote taken, Legislative Journal pages 491-492.) 27 ayes, 13 nays, Mr. President, on the motion to cease debate.

SENATOR CUDABACK: The motion was success. Debate does cease.

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I do raise the call. Senator Hudkins, you're recognized to close on AM0251, which is an amendment to LB 126.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I'm glad that everybody is still here because it's important that you be here. What we're voting on today, not necessarily this amendment, the entire package though, is going to affect over 8,000 students. I'm glad to see that Senator Bourne is here. Senator Pedersen has already disappeared, and Senator Foley is here. So I would like to ask Senator Bourne and Senator Foley the same question. So, Senator Bourne, if you'd like to go first?

SENATOR CUDABACK: Senator Bourne.

SENATOR BOURNE: Certainly.

SENATOR HUDKINS: Senator Bourne, you have a son going to Catholic school. Is that right?

SENATOR BOURNE: Yes, that's true.

SENATOR HUDKINS: And, Senator Foley, likewise?

SENATOR FOLEY: Five.

SENATOR HUDKINS: Five children going to Catholic school. (Laughter) And there might be others of you here who have had your children in a parochial school, a private school, whatever the situation. If someone were to come down from the heavens or wherever they would come from and say, Senator...well, it wouldn't be Senator Chambers because he doesn't believe in what we're talking about. But, Senator Bourne and Senator Foley, if someone would come to you and say, we're closing your school because they're inefficient; we are going to tell you, you have to send your children to the school down the street or across town or 20 miles away, and you had to do it, how would that make you feel? That's taking...you don't have to answer. It's a rhetorical question. That takes away your choice. Again, I would call your attention to the fact that the 10/11 poll said, should the elementary-only schools be merged with K-12s? It

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should be a local decision, or it's needed for greater efficiency? Talk about a slanted question, but the local decision answer was able to get 80.6 percent of the vote; needed for greater efficiency only came up with 19.4, less than 20 percent. So that shows me that the community at large thinks that we need to leave the Class I schools alone. Yes, there are some that are inefficient and, yes, they are closing on their own. We will bring out those statistics in later discussions. As far as AM0251 is concerned, that would say that none of this would happen until the year 2055. Mr. President, I would move to...I would request that we...that I...forget that. I would withdraw this amendment. Thank you.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, you may read some items first, if you wish.

CLERK: Thank you, Mr. President. Notice of priority bill designation: The Government Committee has selected LB 242 as one of its two committee priority bills. Business and Labor Committee reports LB 462 to General File with amendments, and LB 532 to General File with amendments. Government Committee reports LB 240 to General File; LB 241, General File; LB 401, General File with amendments; and LB 56 indefinitely postponed; and LB 255 indefinitely postponed. I have confirmation hearing reports from the Government Committee, Mr. President, and a new resolution, LR 40, by Senator Erdman. That will be laid over. (Legislative Journal pages 492-499.)

Mr. President, the next amendment I have is by Senator McDonald, AM0086. (Legislative Journal page 499.)

SENATOR CUDABACK: Senator McDonald, you're recognized to open on AM0086 to LB 126.

SENATOR McDONALD: Mr. President and members of the body, AM0086 removes the distinction between resident students and option students. Option enrollment is part of Nebraska law. Supposedly, LB 126 is not an attempt to eliminate option enrollment. If that's truly the case, then let's make certain that LB 126 reflects that viewpoint. This amendment says that there is no difference between students who option into a

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district and students who reside within the district for purposes of determining a daily average membership, fall membership, daily attendance, and so on. Resident students and option students will both be counted as attending a school if this amendment is adopted. When we look at the numbers of option students, students optioning out, sometimes there are reasons that students option out. And I got a letter from someone that attends a Class I school, and this one says: One particular argument for LB 126 is based on the number of option students who opt out of Class I school districts. In our particular case, many of those students are 7th and 8th grade students. They are...this particular school is accredited to teach 7th and 8th grade; however, we only offer through grade 6. Therefore, our option out numbers look large when, really, our students have no other choice because we do not teach 7th and 8th grade. So I'm sure that in many circumstances this is the case. We look at all of those that option out. Well, why are they optioning out? Because many times that Class I school doesn't teach that particular grade, our 7th and 8th grade level, but yet, they're added into the option enrollment, option out. I don't think that's fair. I think we should look at the students and add them all up when we talk about attending a Class I school. I don't think it's fair. We do have option enrollment. State statute says that we do. We should not take that away from our numbers. May I ask Senator Raikes a question?

SENATOR CUDABACK: Senator Raikes, would you yield to a question from Senator McDonald?

SENATOR RAIKES: (Microphone malfunction) Yes. Yes.

SENATOR McDONALD: Why was option enrollment taken out of the LB 126 of counting of the 2 and 2.5 average students?

SENATOR RAIKES: I'll give you my own version of that and, again, it was agreed upon by the committee. I should...I'll back up, 7 to 1. The argument, I believe, is that there is, first off, the main purpose, objective, of a school system is to serve...public school system is to serve the resident students. That's certainly the main thing. The second thing is there is a

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distaste, I think, among a lot of people about schools recruiting into other districts in order to support an enrollment. So there's certainly, as you mentioned, under LB 126 the option program is alive and well. Students can option. There's no limitations on optioning. It's just that as a matter of protecting an attendance center you focus on the resident students, the one that they're...the ones that they're most directly concerned with serving. You don't encourage recruiting.

SENATOR McDONALD: Yes, and I have to ask you a question. Does Omaha schools recruit?

SENATOR RAIKES: I don't know that I could...Omaha Public School you're talking about?

SENATOR McDONALD: Yes. Oh, no, just the Omaha schools. Schools in the Omaha system, do any of those recruit?

SENATOR RAIKES: Well, you have different opinions on that.

SENATOR McDONALD: Have you seen articles in the paper that they recruit?

SENATOR RAIKES: I can't remember of any.

SENATOR McDONALD: Was there any passed out in our hearing that had a recruitment for an Omaha school?

SENATOR RAIKES: There...yeah, I don't know that I would call it an advertisement,...

SENATOR McDONALD: I remember that there was.

SENATOR RAIKES: ...but I do remember...

SENATOR McDONALD: It happened.

SENATOR RAIKES: ...a statement about some deadlines...

SENATOR McDONALD: Thank you.

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SENATOR RAIKES: ...and so on.

SENATOR McDONALD: Thank you. It happens all the time, not just in Class I schools, not in our rural communities. It happens all over the state because we have the ability to use option enrollment to fill our schools, regardless of what reason. If it's learning environment, if it's because a parent wants a choice to make their children go where they want them to go, we have that opportunity. Option enrollment is part of our state statutes and should remain there because it's a viable option; should also remain in LB 126 because it's still a viable option for our students. Because many of those students, as I spoke from this letter saying that we don't offer classes 7 and 8, but yet we're accredited to teach them, so those are option students. So that inflates that option enrollment that appears that those students don't want to attend that. They can't attend that. There's not the classes there for that. That is the reason we have option enrollment. I do have one other question that I would like to ask, and I see in State Statutes 50-419 that...it's called "Fiscal analyst; powers and duties." On number (4) it says, "All information and reports of the fiscal analyst and Appropriations Committee shall be available to any and all members of the Legislature." And I think, in due respect of the new fiscal note, we do need to see those, those reports. I want to know how the Fiscal Analyst came up with that information. I'm sure...and I know that they do a good job and I have no complaints, but they were given certain information. I would like to see the information that they were given, and I think that we have the right to. State statute says we do. I want to find out where these inflated numbers come from. So, I don't know if I have to make a formal report for that or how that's done, but I think that we on the floor of this body need to find out where that information came from. I think it's in all due respect of the new fiscal note. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. You heard the opening on AM0086, which is an amendment to LB 126. Open for discussion on that amendment. Senator Loudon, followed by Senator Janssen.

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. When the option...when we talk about some option students and where the Class I's are coming in at, may I ask Senator Raikes a question, please?

SENATOR CUDABACK: Yes, you may. Senator Raikes, would you yield?

SENATOR RAIKES: I would. Thank you.

SENATOR LOUDEN: On this handout that you handed out, Senator Raikes, and it has the Lexington Public Schools and affiliated Class I districts on your list there, across there,...

SENATOR RAIKES: Right.

SENATOR LOUDEN: ...and like this District 15 in Dawson County, there's 26 students going to that school for the fall enrollment. I presume that's what...that's a correct number of students?

SENATOR RAIKES: Yes.

SENATOR LOUDEN: Okay. And then they have a valuation of \$85 million...\$85.75 million, about, going across there. Now, I presume their total value levy would be at the \$1.05 maximum for that Lexington Public Schools and affiliated districts. Would that be correct to presume that?

SENATOR RAIKES: Yeah, that would be the lid on the operating funding.

SENATOR LOUDEN: And anyway, that's probably what's on the property tax, is \$1.05. Well, with that \$85 million then, that Class I district contributes somewhere around \$900,000 to the...their Class I school and also to the affiliated Lexington Public School. That would be just ballpark figuring, but that would be about correct, wouldn't it? A \$1.05 times the \$85 million or so...

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SENATOR RAIKES: Okay.

SENATOR LOUDEN: ...would come out about \$900,000.

SENATOR RAIKES: Yeah, I think I...I think I understand what you're saying.

SENATOR LOUDEN: Yeah. And then, when you go on across there, the budget per student last fall, I presume that was your cost per pupil is what you're figuring is what they budgeted.

SENATOR RAIKES: No. No, that's the...that's not last year's actual cost per student. That's the...that's the budgeted amount for the current school year and, therefore, the amount that would be included in the tax asking.

SENATOR LOUDEN: Right, the nearly \$11,000 per pupil.

SENATOR RAIKES: Right.

SENATOR LOUDEN: Yeah. In other words, that would, if you took the \$11,000 times the 26, then you would come out, oh, like 286. But you'd have about \$290,000 is what it's going to cost to put those 26 kids through school, or that's what's budgeted for that. Right?

SENATOR RAIKES: Right.

SENATOR LOUDEN: Okay. There's, between the \$290,000 and the \$900,000, what is that, about \$610,000 that comes out of that Class I district towards the operation of the Lexington Public High School, right?

SENATOR RAIKES: Right.

SENATOR LOUDEN: In other words, even though you're budgeting \$10,000 or \$11,000 per student, that Class I district is still contributing way over a half a million dollars to their...to their school that they're affiliated with. And that Lexington Public Schools, that would include their grade schools, high schools and the whole works, correct?

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SENATOR RAIKES: That's correct, and I think you may be getting to this, but I'll just ask you. If you took that number of students times the \$11,000, or even \$20,000, let's say, and if that Class I were not a part of the Lexington district, then they could have a tax levy that was well below \$1.05.

SENATOR LOUDEN: Well, they would still have the...they would be entitled to the \$900,000. But what makes you think they would be below that? Because my next question was going to be, since I was on a school board years ago when state funding was first brought up and I know how some of the games are played,...

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: ...they can, the school district, if it was all assimilated, could go in here, and some of these high-cost schools out there, they could keep them open and close some of the lower than their average schools so that they would be eligible for more state aid. And I think we have to consider this; that there is a possibility, the way you're doing this, that there are...it's possible that some games can be played with this, and I think it's going to cost the state more. But you can't say that these Class I districts aren't paying their fair share, because they're not only supporting their own schools but in most cases they're supporting a class...the affiliated schools that they're affiliated with. And that isn't...hasn't anything to do with the Class VI schools, because they're in a different category. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. Further discussion on the McDonald amendment? Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. This morning I thought I'd just share a letter that I received from a citizen from Madison, Nebraska, and it says: Dear Senator, please work hard to close Class I school districts in Nebraska. I believe all children have the right to the articulated K-12 curriculum found in K-12 school districts. I further believe that Class I school districts are often white flight dodges for families trying to avoid our growing Hispanic

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population. The inefficiencies inherent in operating hundreds of school districts in a small population state has made school consolidation an issue for 50 years. When will there be a definitive action? Too often Class I school districts are located within five miles of the town school. Clearly, distance is not a factor in determining the need for such an attendance center. Nebraska does not need this large number of school districts. Our population does not justify it, and the distance claim is largely false. Those were some of the comments from this letter that I received. I believe we have been talking about efficiency today. I think we need to remember we have 231 districts that represent only 3 percent of the student population and, of those, there are over 200 districts with less than 50 students. And I have to agree that many of these Class I schools have actually become private schools, and I don't believe that that is the best use of our taxpayer dollar. We have 13 districts that have no students. We have 100...around 140 of these districts that have less than 20 students. I think we have to put this in perspective and look that our population, we all agree, is declining in our rural areas, and also in our K-12 systems. Most of the schools that have even been consolidated are fighting for additional enrollments because of the declining enrollments that we see across the state. I would not be standing up here supporting this bill ten years ago, I just probably would not, but things change. We have a declining enrollment. We have a declining population in our rural areas. I believe the time has come that we in Nebraska have to manage the most efficiently with the very limited resources that we have. And I would turn the rest of the time that I have left to Senator Raikes.

SENATOR CUDABACK: Senator Raikes, are you available? I don't...

SENATOR STUHR: Okay. I'll turn it back to the Chair.

SENATOR CUDABACK: Okay.

SENATOR STUHR: Thank you.

SENATOR CUDABACK: Thank you. (Visitors and doctor of the day

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introduced.) On with discussion. Senator Fischer.

SENATOR FISCHER: Thank you, Mr. President. Members of the body, I was going to speak on option students, but I just can't let this opportunity go by without addressing a couple of Senator Stuhr's comments. She spoke about...that there are six schools in this state that have no students. One of the remarks Senator Raikes made earlier during the hearing was, and there are almost \$500,000 budgeted for six schools that have no students. There are six school districts which Senator Raikes is referring to. They are Bruno Public School, Ohioa Public School, Middle Creek Public School, Emerick Public School, Kalamazoo Public School, and Carleton Public School. The Bruno, Ohioa, and Middle Creek schools are in the process of dissolving. The funds budgeted for these three districts will be spent to liquidate the assets of the school and to settle any contractual obligations regarding to that liquidation. That includes teacher severance pay, legal fees, the ongoing utility expenses. So when you say that there are six schools that are...that aren't even in session but they're getting money, there is a reason that these districts still need to have budgeted funds. Any funds that are left over will go to the respective affiliated K-12 district. The other three districts, the Emerick, Kalamazoo, and Carleton schools, financially contracted their students to another district and they are paying those districts to educate their respective resident students. Again, there is the implication made by some senators on this floor that public tax dollars are being wasted. This is incorrect. This is wrong. When schools are dissolved, the funds must be budgeted to liquidate property and assets, as well as fulfill contractual obligations. Once the district is effectively dissolved and all liquidation processes are completed, the property tax dollars earmarked for those schools from the former district are distributed to the affiliated district. This is not a waste of tax dollars. Next, Senator Stuhr referred to curriculum coordination in the letter that she read from a person in Madison County who was concerned that the students in this state don't see that. I can speak from personal experience. Within our Class VI, we have had curriculum coordination for over 20 years. We have textbooks throughout our many Class I's that are all the same for all

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elementary students, whether they are rural or whether they are part of the large Class I, the Valentine Elementary in town. Again, this is misinformation. The law is already in place that requires curriculum coordination of Class I districts. A Class I needs a three-member advisory council, under that law, to meet and communicate with their high school district. This includes affiliated Class I's. This is required in law. So, if this is not being done, then you don't blame the Class I schools and just say there is not curriculum coordination. Someone, either the high school administrator or the school board or, ultimately, the Nebraska Department of Education, is negligent in this matter. And this is something that local citizens...or perhaps this is another...

SENATOR CUDABACK: One minute.

SENATOR FISCHER: ...issue that needs to be addressed before this body. We need to find out why this isn't being done. Things are in place in statute currently which address some of these problems, or so-called problems, that we have been listening to on the floor. The state and the Department of Education and this body, we're the ones who should be responsible for seeing that the laws are carried out, so why don't we address that basic issue? Thank you, Mr. Chair.

SENATOR CUDABACK: Thank you, Senator Fischer. On with discussion. Senator Hudkins, on the McDonald amendment.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I, too, would like to address the letter that Senator Stuhr received from someone in Madison County. The writer said that children have the right to go to a K-12 school. You know, they also have a right of option and choice, and that option and choice just might be a Class I school. She also...well, I'm assuming it's a she; you never know...the writer also said "white flight." Look at the demographics in our state. How many schools are actually affected by minority...not "affected." Not a good choice of words. How many schools have minorities populations? There are getting to be more, but these schools, these Class I schools, are bound to accept students if they have room. If there is a Hispanic student, a Chinese student, a

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black student, a green student, doesn't matter, if there's room they have to be accepted. The writer says that we do not need the number of school districts that we have. Is this writer an expert on this situation? I don't think so. We need the number of school districts that the local people think we need. The writer also says that only 3 percent of the student population is served by Class I's. So? What difference does that make? Shall we also say then that since there's a Wal-Mart on the edge of town that we close the local hardware store, lumberyard, greenhouse, watch jewelry store, grocery store? Because in Seward, Nebraska, probably a lot of people go to the Wal-Mart, but those local main street stores are a choice, and that's what we want for our students. We...Senator Stuhr said that there were 13 schools with no students. You know what, folks? Most likely those schools will close in the next year. I want to read you a section from the Revised Statute of Nebraska. It's Section 79-232 to 246: The Legislature finds and declares that parents and legal guardians have the responsibility of ensuring that their children receive the best education possible. In recognition of this responsibility, the Legislature intends to provide educational options for parents and legal guardians, when deciding what public school is best for their children, by allowing them to consider the following factors, including, but not limited to: the size of the school and school districts in the area; the distance children have to travel and the ease and availability of transportation; the course offerings and extracurricular offerings; the quantity and quality of staff; the performance of the school district on any indicators of performance established by the State Department of Education. The Legislature also finds and declares that desegregation and racial integration in the public schools are of critical importance for the future of this state and that those school districts with desegregation plans may, as authorized, adopt standards which deny the educational options for parents and that such school districts are not required to consider in denying those options any of the factors in subsection, and it goes on. So these Class I's are not private schools. They are taking the children that want to come to their school. We talked yesterday about the graduation rates, and the way I explained it was not the best, so I'm going to just try again. I asked the secretary at the Malcolm Public...

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SENATOR CUDABACK: One minute.

SENATOR HUDKINS: ...Malcolm Public School to look up in the last well, since 1984, the numbers of valedictorians and salutatorians and highest distinction students that came out of Oak Valley. Well, in '84, a resident student was a salutatorian; '87, resident student, valedictorian; '89, resident student, valedictorian; '90, resident student, valedictorian; '92, salutatorian, resident student; '95, resident student; '98, a homeschool; 2002 and 2004, I don't know where those kids lived. But we do have an excellent opportunity in these small schools. Shouldn't we reward quality and the people who are interested in producing quality product, namely, our kids? Too often in society we judge success by who can produce a product with the least amount of expense.

SENATOR CUDABACK: Time.

SENATOR HUDKINS: I hope we don't take that attitude with our children. Thank you.

SENATOR CUDABACK: Thank you, Senator Hudkins. (Visitors introduced.) On with discussion. Senator Heidemann, followed by Senator Baker and eight others.

SENATOR HEIDEMANN: Thank you, Senator Cudaback. I have some questions for Senator Raikes, if he would yield.

SENATOR CUDABACK: Senator Raikes, would you yield for a question?

SENATOR RAIKES: Yes.

SENATOR HEIDEMANN: Some questions just about how they figured the fiscal note. They had figured it that every school within ten miles would be closed. Is that correct?

SENATOR RAIKES: I think that they only looked at schools of a certain size that were bigger or that were within ten miles, but that's the type of approach. I think the assumptions are stated

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in there and I've forgotten exactly what they are, but, yeah.

SENATOR HEIDEMANN: I think it's 2.5 students times the grades offered and, not or, but and, (inaudible)...

SENATOR RAIKES: I think it would be actually less than two students per grade average. So I know earlier a point was made, well, if you happen to have no students in 2nd grade, that would...that would end you, and it's clear in the bill that that's not the case. It's an average. And you count kindergarten, so K through 6 would be seven grades. And I think the school districts you're talking about had less than two students per grade average and were within ten miles of another elementary attendance site.

SENATOR HEIDEMANN: And how was ten miles defined?

SENATOR RAIKES: It was a judgment.

SENATOR HEIDEMANN: How was ten miles defined as how they figured which schools were going to close and which ones were staying open?

SENATOR RAIKES: How was it figured? How was it measured?

SENATOR HEIDEMANN: According to the bill, it says the elementary attendance center is only...no, back here: The elementary attendance center is at least ten miles from another elementary attendance center within the district on a highway as defined in Section 60-24 (sic).

SENATOR RAIKES: Okay. And the procedure...

SENATOR HEIDEMANN: And that's the way this was figured.

SENATOR RAIKES: Yeah. So if you're asking how the distance is measured, the way we do it in other places in school statute, for example, sparse and very sparse are defined according to distance between attendance centers and that's measured on highway miles, if I'm...if I'm hearing your question correctly.

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SENATOR HEIDEMANN: You are hearing my question correctly. I'm getting to the point about how they figured the fiscal note. I talked to a Michelle Stephens at the Nebraska Department of Education. She said she does not have the software to figure it according to statute. She said she figured it as the bird flies. And now I want to ask you if you still are comfortable with your fiscal note.

SENATOR RAIKES: Well, yes, I am, if that's the answer. So she said that she may not be exactly on to the half a mile or something? Is that the gist of your point? You mentioned as the crow flies.

SENATOR HEIDEMANN: There are so many schools, as the bird flies, would be ten miles; there's a whole bunch of them, if you would travel highways, that would not be. Your fiscal note is not right because she figured how the bird flies. Your bill says highway miles. They don't compare. It would skew the fiscal note something fierce. Correct?

SENATOR RAIKES: It may. I don't...it may have an impact. I doubt if it would be a significant impact, but that's a judgment that you're certainly entitled to make.

SENATOR HEIDEMANN: Don't you think we need to go back and get a...so if people vote on...

SENATOR CUDABACK: One minute.

SENATOR HEIDEMANN: ...how much money is being saved, we should go back and get a more true fiscal note on highway miles and not how the bird flies?

SENATOR RAIKES: To me, I don't believe that's a decisive factor. We have tried very hard to provide as accurate of information as we could. We rely on the department for a lot of the information we use. I don't really think we have any choice but to do that, and I would say, by and large, we have certainly been very, very well-served in that regard. I'm not convinced that we're not served well in that regard in this instance.

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SENATOR HEIDEMANN: I think they do as good as they possibly can, and I'll agree with you on that. But how they come up with this and how the law reads is two different things, and I think we really need to look at this because it would skew the fiscal note something...significantly, without a doubt. So, with that, I'll just give the rest of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you. Senator Baker.

SENATOR BAKER: I'd call the question, please, and I ask for a call of the house.

SENATOR CUDABACK: The question has been called. Do I see five hands? Senator Fischer, why do you...for what purpose do you rise?

SENATOR FISCHER: I have a question, Mr. President. I would challenge that. I don't think that there's been a full and complete debate on this issue. There's still a number of lights on.

SENATOR CUDABACK: Senator Fischer, there have been seven people have talked on this issue and, after seven people, generally we let the body decide, especially if it's been kind of repetitious-type statements from senators. So I do rule that there has been sufficient discussion on this amendment, and let the body decide. The question has been called. Senator Fischer.

SENATOR FISCHER: I would then challenge the ruling of the Chair.

SENATOR CUDABACK: Senator Fischer, you may speak to your point, why you wish to overrule the Chair.

SENATOR FISCHER: I overrule the Chair, Mr. President, because, as I said, there are lights still on. Also, the discussion on the amendment, for instance, when my turn was up, I responded to issues that Senator Stuhr brought up that didn't even apply to this amendment, and I was not able to address option, which is

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the issue in this amendment.

SENATOR CUDABACK: Thank you, Senator Fischer. As you know, each senator can speak one time to the objection and to overrule the Chair. There are a number of lights on. I will go down through the list. If you wish to speak to Senator Fischer's motion to overrule the Chair, the first light that's on is Senator Raikes'. Did you wish to address that issue?

SENATOR RAIKES: I do, thank you.

SENATOR CUDABACK: You may.

SENATOR RAIKES: Mr. President, members, I would just point out that Senator Fischer herself, I think, spoke since this amendment has been up and she didn't speak about option students. So I think there has been ample opportunity. Whether that opportunity was taken for one reason or another, I don't know, but I would argue that there has been an opportunity to discuss this issue fully. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Move down through the list, Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. One time I called the question, thinking I was able to move things along by calling the question and having the votes to do it; didn't work. And maybe that's another attempt here today. But there's a pattern here and it concerns me greatly that, you know, certainly this bill, via the rules, had the consideration to be introduced the first day of hearings, to have its hearings on the first day. I was glad when it became a committee priority bill to eat up a committee priority, but when there are lights that go on and talk about certain things and displace the time, the magic number seven I guess is what we're using now, seven speakers, and so that Senator Fischer can't speak on something, that that concerns me greatly. We have an issue here that needs discussion. I think that we're discussing relevant material and we have a legitimate amendment that there are those wishing to speak on, and if you happen to fall within seven speakers, mark that off; let's move on; we don't need to discuss it anymore. I

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think we can keep discussing this and come up with a fair way to proceed. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with the list of the names that were on, Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I'm going to rise in support of Senator Fischer's request to overrule the Chair, and here's why. The real decision here probably isn't about this bill. I guess the question is, do we want to set a precedent on this early set...early time in the session that six people is enough for any debate and then we can move on? Because, literally, that's what we're going to do. We're going to say, hey, we did it on LB 126; six people, let's call the question. Now, if you can file more amendments and you can get more people to talk, so be it, but I'm not sure we want to do it at this level at this early stage in our legislative session. So, regardless of where we're at on the amendment, there probably needs to be more discussion. I think what Senator McDonald is asking us to do with the amendment is appropriate. My light was on. Whether or not I would have got a chance to speak before Senator Baker called the question is probably irrelevant because we would get a chance to discuss this some more, but the bigger issue is whether or not we want to set six speakers as our decision to set the precedent for this session before you can call the question. I think that's too few. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Louden.

SENATOR LOUDEN: Yes, Mr. President, I also rise to support Senator Fischer's motion to overrule the Chair. Part of the reason is you say there's been six lights, but three or four of those people spoke for, spoke against the amendment, or they didn't even speak at all about the amendment. I think Senator Stuhr was one of them. Some of the answers that Senator Raikes had when he spoke wasn't exactly with the amendment. So I really think that we need not set a precedent here that seven people. I thought we would at least have a longer time period and a longer time frame. The reason it seems like it's been a long time, because most of the seven speakers have used up their

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allotted time and also there's been speakers when these amendments were introduced. So I think we need to do this very carefully and I'm against calling the question at the present time. I think the Chair should be overruled, and that's where I would like to see this thing go for now. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Senator McDonald.

SENATOR McDONALD: And I also support in overruling the Chair. My amendment was concerning option enrollment. Now, there were a lot of people that brought up other issues besides option enrollment, because this is a very much a concern of this bill. Whether they talk about option enrollment or if they talk about the bill in general shouldn't make any difference as far as seven speakers. There are other issues that are involved in this. I believe we need more discussion on option enrollment because we need to be concerned why our students that are optioning out of Class I's are being penalized. Our Class I's are being penalized because of option enrollment, allowing them to move out of the system, and for no reason but because sometimes there isn't even a class there. We haven't discussed this enough. I believe that we need to continue on this to answer more questions, to ask more questions, and I believe that we need to overrule the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Senator Schrock, motion to overrule the Chair. Waives the opportunity. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I don't think anybody is attempting to limit debate. There's...there are amendments on file now that will take us through the lunch hour, and we'll start off again tomorrow, and if somebody wants debate, they can file more amendments. But I think the...I think the effort is to keep us flowing through the different amendments with whatever time we need to discuss those specific amendments, and obviously the conversation, all the conversation that was to be had on a particular amendment, had apparently been had, because there was enormous amounts of time being spent on the broader issues, which is okay. But if we're going to...I mean, seven people spoke. That's a lot of people

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on one amendment. They were, I think, mostly on one side. And if we're going to keep an orderly process going, we're going to have to accept the judgment of the Chair. Otherwise, it will turn into a more chaotic process. I think the Chair made a decision that was not out of line at all with past decisions in this body, and I know some of the new people will have to get a sense of that to know whether they feel it's appropriate or not. But I feel like it's very much in line what we've done in the past and I'm anxious to hear whatever additional amendments there may be, but let's hear them. Let's not...let's not waste too much of our time. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Janssen. Is Senator Janssen on the floor? Senator Janssen is not on the floor. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members. I, too, would join the others in requesting that the Chair be overruled. Frankly, I was a little surprised at the use of the terms "there has been repetitious debate." All the more reason for the Chair to be overruled, because, as Senator Beutler said, most of the debate was on one side. Exactly. We think that both sides should be heard. And if there are those on the floor that thinks that most of the debate that we've heard this morning has been on one side, we need the other side. We need them to counter our arguments. Otherwise, it's not going to be fair for the entire body. It's not going to be fair for 8,000 of our students. This is an issue that is very important and I think it should be fully debated. We are talking about the amendments. The last time I talked we spoke about option. I also read you portions of a law that said that option students and choice of schools is in the state law. Now we are taking that option away from our kids. People send their children to the school that best suits them. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. Senator Baker.

SENATOR BAKER: Thank you, Mr. President, members. I called the question. We were discussing the general issues of this bill, but not specifics of the amendment, and in an effort to keep things moving today, there are what I consider substantive

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amendments down the list, I'd like to get to them before we do go to a cloture vote, if that's what we have to do. That was my rationale. Let's keep this thing moving. And had we been speaking to the amendment, fine, but I didn't hear that discussion. And so I am going to support the ruling of the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Everybody else on the list has spoken. Senator Fischer, you're recognized to close on your motion to overrule the Chair.

SENATOR FISCHER: Thank you, Senator Cudaback. Members of the body, I appreciate the comments on this issue and I would just stress again that I believe the Chair needs to be overruled in this instance. Thank you.

SENATOR CUDABACK: Thank you, Senator Fischer. You've heard the closing on the motion to overrule. The question before the body is...Senator Beutler, for what purpose do you rise?

SENATOR BEUTLER: Senator Cudaback, could you just remind us what vote...what vote rules on this particular motion?

SENATOR CUDABACK: It will take 22 to overrule the Chair, as it's a majority of those present.

SENATOR BEUTLER: Okay. A call of the house.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor, those wishing the house to go under call vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: 14 ayes, 5 nays to place the house under call, Mr. President.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call. Unexcused senators please report to the Chamber. Senator Dwite Pedersen. Senator Janssen, Senator Johnson, Senator Langemeier, Senator Brown. All unauthorized personnel please leave the

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floor. Senator Chambers, Senator Stuthman, Senator Synowiecki, Senator Bourne, Senator Thompson, Senator Preister. Unauthorized personnel please leave the floor. The house is under call. Senator Brown, would you check in, please? Senator Kruse. Senator Brown, would you check in, please? The house is under call. Senator Kruse. Thank you. Senator Chambers, thank you also. All members are present or accounted for. It will now require 23 votes. There has been a request for a roll call vote on the question to overrule the Chair. Mr. Clerk, call the roll on the question, please.

CLERK: (Roll call vote taken, Legislative Journal pages 499-500.) 15 ayes, 19 nays, Mr. President, on the motion to overrule the Chair.

SENATOR CUDABACK: The Chair is not overruled. The question before the body is now, shall debate cease on the McDonald amendment, AM0086? All in favor vote aye; opposed, nay. The question before the body is, shall debate cease on AM0086, offered by Senator McDonald to LB 126? Have you all voted on the question before the body who care to? Senator Baker, for what purpose do you rise?

SENATOR BAKER: I'd ask for a roll call vote, please.

SENATOR SMITH: (Microphone malfunction) Reverse order.

SENATOR BAKER: Regular order. I don't know who was first there.

SENATOR CUDABACK: Senator Baker, you do have the floor. What is your request?

SENATOR BAKER: Regular order, please.

SENATOR CUDABACK: There's been a request for a roll call vote in regular order.

CLERK: (Roll vote taken, Legislative Journal page 500.) 23 ayes, 17 nays, Mr. President, on the motion to cease debate.

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SENATOR CUDABACK: Debate does not cease. I do raise the call. We'll continue debate on the McDonald amendment, AM0086, to LB 126. If you wish to speak again, there was a number of lights on. We will continue with the lights that were on. If you wish to speak again, you may turn your lights on again. Senator...Senator Fischer, you're recognized.

SENATOR FISCHER: Thank you, Mr. President. Members of the body, in dealing with option enrollment, which was passed by this body a number of years ago and it is a choice that parents have in which school district they would like to send their children, the statement has been made that there's little evidence that parents and students prefer this structure, meaning Class I's, when given the choice. I believe there's no foundational evidence to support that statement. Under the option enrollment laws of the state of Nebraska, parents and guardians are given the legal right to choose the school which best meets their child's individual needs. Assuming that Senator Raikes' optioning student figures from the tables that he presented to the Education Committee members during that January 18 public hearing are correct, a sizeable number of students do choose to option into Class I school districts. That number was 1,000...thank you. That number was 1,810 students for the 2004-2005 school year. Students optioning out of a Class I district may also choose to do so, and they probably do so for a multitude of reasons. One could be that it is closer to a parent's workplace; the availability of transportation within that district; also for...I hate to say this, but for athletic reasons. A neighboring district may have a better team than their own home district, or for another athletic reason. A neighboring district may be able to offer more sports than the home district can offer and parents would like their children, their students, to be able to participate, say, in swimming, if that district would have a swimming pool, where a smaller district in this state probably does not have a swimming pool. But these reasons, they have little or nothing to do with the structural preference of the district. The mere fact that parents and guardians of these 1,810 Class I optioning students must make arrangements at their own personal cost and time to transport students to and from school because they do not receive the transportation payments. That's just one

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example of the personal sacrifice and the commitment that Class I optioning parents and guardians make in their value and benefit choice to send their child to a Class I school. The comment has also been made that we cannot justify a system that allows students and parents, or taxpayers, to withdraw from the broader community that supports public education. I don't believe there's another member of this body that is more supportive of public education than myself. I have been a member of a school board for over 20 years and I believe in the importance of public education in this state and in this country. As to the statement there again, I don't believe there's any foundational evidence to support it. Class I schools are no different than any other public school district in the state of Nebraska. They are publicly funded, they cannot segregate, they must meet state and federal educational standards.

SENATOR CUDABACK: One minute.

SENATOR FISCHER: They are accountable to local taxpayers, and they qualify, and this is important, and they qualify under the same option enrollment laws as other Nebraska public school districts. As I said earlier today, if this discussion is going to be about optioning, in regards to the overall discussion in this bill about the optioning and how parents who choose to option their students to another district are, quote, withdrawing from the broader community that supports public education, there are other school districts in this state that need to be looked at and looked at much closer than any Class I district in Nebraska. Thank you.

SENATOR CUDABACK: Thank you, Senator Fischer. On with discussion of the McDonald amendment, Senator Janssen. Do not see Senator Janssen on the floor. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. As we discuss option enrollment, I must say that it's probably one of the best policies we have within our...within the confines of public education so that a sense of competition is created and fostered, and that's within the confines of public education. Now, other states have engaged a little differently, whether

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it's charter schools or other choice or option alternatives, other states have engaged differently than we have in Nebraska. But I...what I find disturbing is that in 1989, I believe it was, when the Nebraska Legislature adopted option enrollment as policy for the state...and I realize that can change at any time, any policy like that is at the wish of the current Legislature and it can be changed statutorily...this is a backdoor approach, LB 126 is a backdoor approach to get rid of some option enrollment. In fact, option enrollment, as it has impacted the districts, is an argument against Class I schools. I think we need to look at the trends we see in education. We have a lot of positive trends in our state. Nebraska educators, I think, are very dedicated. They work hard. I'm related to several of them and I'm reminded often how hard they work. I wish I could...I wish we could pay them more and reward them for their hard work in a manner that is rewarding to them. I wish that we could do that. But the system that we've created over time of making sure that everybody is equal, that every teacher is paid the same, with the exception of time and education, but every teacher is paid the same, with that concept, it's harder to pay teachers more because it becomes so cost prohibitive. Because I honestly believe there are teachers out there who deserve \$100,000 a year, and I know that there are a lot of other folks who feel that way, but our system prevents that from happening. But our trends in education of more homeschoolers every year, and we see homeschool cooperatives coming together as an alternative to public education, and I support homeschooling, but it does concern me a little bit when we take quality students that are typically homeschooled, when we take them out of the public school setting because we do need some balance. And to remove students from the setting, from the public school system, is somewhat troubling to me, but I support that right to homeschooling, by all means. But if we keep taking choices away, as LB 126 seeks to do...because, again, if LB 126 doesn't mandate the closure of schools then we won't experience any savings. The only way we experience savings through LB 126 is to close the building and lay off staff, and lay off staff with the least experience, as we've discovered earlier today. Senator Elaine Stuhr read into the record some correspondence. If she would answer a question or two?

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SENATOR CUDABACK: Senator Stuhr.

SENATOR SMITH: Senator Stuhr, you read some correspondence, and who was that letter from?

SENATOR CUDABACK: One minute.

SENATOR STUHR: It was from a citizen in Madison, Nebraska.

SENATOR SMITH: A nameless...was it an anonymous letter or...

SENATOR STUHR: No, I can give you the name, I, you know, if you...if you want it on the record.

SENATOR SMITH: Okay. Well, I was just curious why you chose that particular letter to read.

SENATOR STUHR: Because I thought it brought an interesting perspective in some of the reasons why we are discussing LB 126.

SENATOR SMITH: Okay. Thank you.

SENATOR STUHR: And if you would like me to repeat some of those reasons, I would be glad to. (Laughter)

SENATOR SMITH: Well, I very vividly recall some of those. And are they a constituent of a Class I school or a K-12 who will gain enrollment as a result of LB 126, or...okay. Thank you.

SENATOR FISCHER: (Microphone malfunction) Elaine, did you hear his question?

SENATOR STUHR: (Microphone malfunction) What? I'm sorry.

SENATOR SMITH: That is a concern to me that I think Senator Stuhr put...noted earlier that...

SENATOR CUDABACK: Time.

SENATOR SMITH: ...we have declining enrollments across the state and LB 126...

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SENATOR CUDABACK: Time, Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

SENATOR CUDABACK: Sorry about that. Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, the debate goes on and it goes on. And, as I've said before, I really don't have a dog in this fight. My district doesn't have any Class I schools. We have one, but it's closing. They've finally seen the light. By the "light," I mean this Class I school sat within earshot from the Fremont Public School system. They're down to one student, one student. Now, does that makes sense? I don't think it does. I think everyone, everyone in this state, every child in this state should be able to go to a Class I school, everyone, everyone from Senator Chambers' district, Senator Synowiecki's district, if you want to make that fair, to get that individual good education. In my district, I think we have a very fine education system. We don't have the one-room school, but we have very good elementary schools, very good ones. If someone is too far away from the elementary school, they're bussed. We make sure that those kids get to those schools. They're accredited, fine schools, but we have one system, one system. We don't have three or four school boards that have elementary only. And let me tell you something. That was hard to get. That was hard for some people to swallow when that happened, but it happened. I can't see us trying to hold the line when Hawaii, the state of Hawaii, has one school system, one. I believe it's the state of West Virginia has a countywide system. One on one is pretty darn good, but can we afford to do that? Can we afford to keep these? All right, now, in Senator Fischer's district there is going to be...there is a need there to have a remote location, I'll call them remote locations, because of the distance that those kids would have to travel. There is a need to have those attendance centers there. Is there a need to have another layer of government? I don't think so, in my opinion. So I am supporting LB 126 as it is. Thank you, Mr. President and members of the body.

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SENATOR CUDABACK: Thank you, Senator Janssen. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I yield my time to Senator Smith.

SENATOR SMITH: Thank you.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I was having a discussion with Senator Foley, explaining some of the positive experiences that I had in a Class I school that I'll guarantee you would not have happened in a larger school district and, maybe if Senator Schimek would listen to this, I think it's something that would not have occurred in a larger school district. But when I was in 7th grade, and I apologize, I hope you'll oblige me a personal experience, but when I was in 7th grade, Gary Hart was campaigning for President. He was coming to town the next day and my interest in politics led me to call up my teacher and say, can we go see him at the airport tomorrow? There were six of us in class. The 8th graders were already done for the year. And the teacher said, sure, Adrian, just round up the transportation, get a parent or two to provide the transportation, and consider it done. We did that. We did that and it was an experience that I will never forget. And I realize that there is some sentiment in the body that says that's unfair that that Cedar Canyon School 7th grade got to have an experience that the larger school districts didn't have. I think it's an enriching experience that we need to maintain. We need to maintain those options. And if someone in a larger school district likes the activities of the smaller district, they have that right to option out there without being penalized in the future. Our state aid formula has encouraged the recruitment of students for whatever reason. Our state aid formula has encouraged that. Now, our state aid formula, I think many folks would agree, needs some addition, perhaps not the way Omaha Public Schools wants it to change, but it needs to reflect some of the realities of public education and the changing demographics of our state. Just because a district over here loses 150 students one year and a growing district gains 150 students the next year, that does not reflect the

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needs, our state aid formula does not reflect the needs that are directly proportionate in an inverted way. If Papillion-LaVista gains those 150 students and Scottsbluff loses those, Papillion-LaVista gains as many dollars basically as Scottsbluff lost. Scottsbluff wasn't able to lay off the teachers without hurting some students, and I would think that Papillion-LaVista could gain enough students, they've shown some efficiencies in other ways, they could gain the students and not have to automatically hire the staff that Scottsbluff was unreasonably expected to lay off. If we want to rework fairness in education there are a host of other ways to do that without picking on the little guys. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with discussion of the McDonald amendment, AM0086, to LB 126. Senator Hudkins.

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I would like to comment on the statements made by Senator Janssen concerning the Fremont Public Schools and the Brugh Public Schools. Fremont is a Class III, and their operating costs are 70...if you figure cost per pupil by average daily attendance, it's higher than if you consider the average daily membership. Let's take, so I'm talking about the same way all the way through, the average daily attendance. It costs \$7,384 for students in Fremont Schools. That is about \$500 less than the state average. But then you look at Brugh Public Schools and they're only a little over \$7,000. They are more efficient, quote, unquote, than Fremont. Look at the rest of the schools in Dodge County. Senator Janssen said he only had the one Class I left, but look at the rest of the schools, what do they cost to operate: Dodge, over \$9,000, a Class III; Scribner-Snyder, already consolidated Class III, \$8,100; Logan View, a Class III, \$7,800, so they're just under the average; and North Bend, Class III, over \$8,000. So if you're going to talk costs, let's talk about the costs of the bigger schools as well. I'm rising in support of Senator McDonald's amendment. We are not recruiting students for Class I's. We are not requesting that students option into our Class I's. Those option students are going where they're going because that is the situation that fits their needs the best. And, yes, there are some astronomically high figures for some schools, and

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I think in the next few years you are going to see those close. Going back to a statement made by Senator Raikes, in his opening remarks: the time has come for us to move to a K-12 organization of school districts in Nebraska. There are several reasons. First, we can no longer afford a structure that requires administration and budgeting of an extra 230 separate local government units. Fine. How many school districts does Douglas County have? Just a thought. From 1970 to 2004, the number of Nebraska school districts declined from 14,088 to 488. That's a decrease of 67.2 percent. There are fewer school districts now in the state of Nebraska than at any time during...since the Civil War, and we are closing more schools, one...average one every two weeks. And meanwhile, from 1970 to 2002-03, the number of administrative and certificated staff grew at an increase of 243 percent. We are seeing a decline in the number of our Class I's. The people are doing it on their own. Senator Baker said that his district, they closed all of their Class I's. They consolidated, they merged, they affiliated years ago. That's fine. That works for his area. But you know what? They did it on their own. They were not mandated by a group of senators in Lincoln to do that. Of course, when you do it on your own, there are going to be someone that's disgruntled. You don't think that if we mandate this there aren't going to be a whole lot more disgruntled people? The schools that need to close are closing and will close. I just don't understand the reasoning behind some of these statements. National studies have shown that as school districts grow in size,...

SENATOR CUDABACK: One minute.

SENATOR HUDKINS: ...funding for administrative oversight, together with other non-education-related expenses, rises. With two-thirds fewer districts in the state since 1970, the increase in certificated administrative staff is symbolic of an underlying educational problem. The problem is not a lack of efficiency in schools. It's a lack of efficiency in administration. Today, less money is headed to the classroom, where it counts. We are seeing over and over again the schools that are not efficient, the schools that don't have students, are closing, but they're doing it on their own. It's going to

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take some time, perhaps not 50 years, like I suggested in my amendment earlier, but we don't need to mandate that it be done in the next two years. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Hudkins. On with discussion. Senator Schrock.

SENATOR SCHROCK: Mr. President, I give my time to Senator Fischer. And, Senator Fischer, I answer all questions about grandchildren.

SENATOR CUDABACK: Senator Fischer, first. Senator Fischer.

SENATOR FISCHER: Thank you, Senator Schrock. Mr. President, members of the body, I would just like to thank you for overruling the Chair. Nothing personal against the Chair, of course. Again, I want to state, as I did first thing this morning, I consider it a privilege to be a member of this body, and I thank you for the opportunity to address these issues and to address them with facts and to address them rationally. So I, personally, would like to thank all of you and I hope the debate continues on a high level, and information is put out so senators can address this issue. Thank you.

SENATOR CUDABACK: Thank you, Senator Fischer. Senator Schrock, did you say you wish...waives the rest of his time. You may do so. Senator Louden, on the McDonald amendment.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I guess when you talk about option, option enrollment and that sort of thing, maybe some of us need our memories refreshed. Maybe some of us weren't around when that was begun. But, as I said before, I was on a school board years ago when a lot of this stuff became the rules and along in the late eighties, nineties, some time in there, if my memory serves me correctly, why, here we came up with the idea of option enrollment. And my goodness, it was sold that those...they'd be inner city students could have the chance to go out there and enroll in those better schools out around the larger metropolitan areas. These country kids that were getting the...such a poor education out here in these, in the country,

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they could opt into these schools in the towns, where everything was a lot better, teachers and everything was a lot better. And that's the way it was sold. Now, whether that was the underlying reason as why option enrollment was brought about I've not heard the complete discussion on it, but I've been told over the years that that was probably a underlying reason to get the thing sold, that there was actually a personal reason to get it started on a basis anyway. So that part I won't mention. But anyway, this option enrollment was sold and people began to use it. Up until then, when we didn't have option enrollment, if you wanted to take your children to another school district, you paid the tuition. You paid the mileage and the whole bit. You weren't allowed to just bring them over to another school and went on. As option enrollment came on, it seemed like a good idea and I'm sure it's helped a lot of people. But somewhere along the line there was these people, and I call them that live in these bedroom communities around some of these larger towns and areas, that found out that they could live at the edge of town or they could live in the country and they could take their students out here, or their children, out to these small schools, get this personal attention and that sort of thing. And they found out that a lot of these teachers weren't that far behind that were teaching out in the country. So, consequently, a lot of them started opting their students out of the towns, into these smaller schools. Some of them do opt into town. There's instances where some of the family members work in town and they bring their kids into school with them and so they opt them in. Option enrollment has been probably, all in all, something that's helped most all students in Nebraska, and I'm not opposed to it. I think it probably should be continued. I think it's a good idea. But it seems like when we are discussing these Class I schools that are called private schools and they're fussing about having it within three miles of town and stuff like that, you want to remember, folks sat right here in this marble cathedral of law and voted that bill in. They voted that option enrollment in for people, declared it to be a law of the state of Nebraska. Now people have found out that they can use that to their advantage, and now there's a bunch of people that are uptight because it's being used to the advantage to help people that live in towns and opt their children out to the neighboring

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schools. Most all of those schools are a grade school type. They're not high schools. They all...all those children will come back into the town schools eventually. You don't see option students opting into a Class I school because they have better sports or something like that. You'll see some 8th grade students opting into the towns' schools for the benefits of some of the athletics, but you don't see them opting the other way for athletics. They're opting the other way because they think they have a better type of education and that helps their children. That's part of the reason we have that and...is to help the children...

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: ...have a better type of education. I've not seen any Class I schools where any student has brought a gun to school and shot the teacher. Now, I've seen Class III schools that do that; we've had it in some of the bigger schools. But this is the problems that you have in your other schools and, by using LB 126, you're not going to solve those problems. We have a system that's been working. The system is working through the cases where there aren't any schools. So I still support Senator McDonald's amendment and I still, if that's the best we can do is put an amendment onto a bad bill, I suppose that's where we'll go.

SENATOR CUDABACK: Thank you, Senator Louden. On with discussion. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members. Let me remind you, awhile ago there were a couple of maps that came around, one laying out the array of Class I school districts around Lexington, Nebraska, and one around Schuyler. This corresponds with the information that you got on the wide sheet that I handed out earlier. Keep in mind now that, for purposes of presenting this on a map, these districts are shown to be totally affiliated with or there's no distinction, I should put it that way, on the percentage of affiliation with, say, Lexington or Schuyler, for that matter, but they are at least partly affiliated. Senator Louden talked about option, and let me mention that a little bit. Again, referring back to the

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amendment we're talking about, what we're doing here is saying that, in terms of protecting an attendance center, you consider resident students. I think that's simply sound policy. You focus on the school district's ability to serve its resident students, which again has to be the main criteria by which you evaluate that school system, and also, at the same token, you do not encourage school districts for whatever reason, and particularly for reasons of achieving a certain size, to go out and recruit. I think that's bad state policy and I think we should avoid it. So, for those reasons, I am strongly opposed to this particular amendment. Back to the map and to the information I presented on the legal-size sheets, I really haven't heard anyone talk about that. We've got, in the case of Schuyler, we've got seven Class I districts. All of the ELL students are in one of those districts, virtually all the poverty students are in that district, yet, the budgeted amount per student for that district is the lowest of the bunch. Again, I have not heard anyone defend that, and I don't blame you. I don't think you can defend that. That is not defensible. The point was made, well, why don't we talk about school finance. School finance is certainly more important than school structure. What I would remind you is that I have no interest in dumping more money into a school structure that produces these kinds of results. I don't think you should either. We need to get this straightened out first and then we'll talk about school finance. Again, I would simply emphasize this is not something you can defend, this is not something you should defend. I have not heard anyone defend it, and I think for good reason. Look at both Schuyler and Lexington. Remind yourself of what's going on. We simply cannot endorse that. We can't tolerate that. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Senator McDonald, on your motion.

SENATOR McDONALD: Thank you, Mr. President, members of the body. Because we have the ability to option, I don't think that we need to deny our Class I schools of counting the option students in their fall membership to put them up for the possibility of closure. I think that should be removed from that. We should have all students that attend that center.

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When LB 126 comes in with the requirements, there's many arbitrary numbers that are there, no scientific numbers. Ten miles; why not five miles? Why not three miles? Why not two miles? Why ten miles? And I would like to refer back to Senator Heidemann's comments about ten miles. I'm originally from Hamilton County, and Hamilton County, you can go around the section. You start at my house, go around the section and come back, takes four miles. When I moved up to Sherman County, I had no idea you couldn't go around the section. In fact, the first time I ended up trying to go around the section, ended up in a riverbed. Not only are riverbeds available, so to speak, around the section; you end up on a minimum maintenance road. You can't get from here to there by going around the section. Decided one time when I was campaigning, I was going north of Wolbach on 281. I wanted to go over to Elba. Looking at the map it appeared that I could get to Elba, but you know what? The river runs through it. There was no way for me to get from where I was to get to Elba. I ended up getting lost, having to go back to 281 to go about 20 miles around the area to get to Elba. We do not have roads that go as the bird flies, so that ten miles doesn't end up being ten miles. It's a lot further than that. We basically have two Nebraskas. We have the type of Nebraska where everything is flat and you can get from here to there. You can't get from here to there. The other thing that was enlightening when I moved to Sherman County, Rockville, Nebraska, we had no natural gas; only had electricity. H'm, coming from Hamilton County, you have natural gas, you have electricity, you have a choice. We don't have natural gas. No natural gas is even piped into the house. Everything has to be total electric. It's totally different, and that's only in Sherman County. What about way out west where Senator Loudon lives? It's totally different. Yesterday or the day before we had information coming in from the pharmacist, and I looked at my district. I have one county that we don't even have a pharmacist. The other counties have one pharmacist. Let me tell me, in Lincoln and Omaha we have lots of pharmacists, but not in rural Nebraska, so we can't take those same requirements and apply those to rural Nebraska. We need the opportunity to add those option enrollment students. We need to verify whether ten miles is a scientific number. These are arbitrary numbers. Two and a half students, resident students, per grade is

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arbitrary. When do we come up with the correct information? We don't have any correct information. You just figure out how many you want to close, you make the numbers prove that, and that's where you get. We take those students and say, okay, they're going to close the Class I school. We have to put those in another school. We still have to pay for them. They don't go away. So the savings going from a Class I to a another school system doesn't necessarily save us that money. We still have to pay for them. They don't go away. They're automatically included in how we have to pay for our students.

SENATOR CUDABACK: One minute.

SENATOR McDONALD: So when we look at this bill, it's bigger than just closing our Class I's. It's taking our rural identity away. As I was out in the district this last year, and I heard various senators talk about us, getting up and talking about who we are, and I heard one particular senator saying we get no respect, we get no respect down there in Lincoln. Why don't we get any respect? We don't get respect because many times we don't listen to the people that are affected by this bill the most. We are here in Lincoln and many of us have not gone back out into the field and realized that we have two Nebraskas. We have Lincoln and Omaha, and we have western Nebraska. We don't have the same rules, we don't have the same populations, we don't have the same opportunities. We need to address that. We can't necessarily pass a law that affects one area...

SENATOR CUDABACK: Time, Senator McDonald.

SENATOR McDONALD: ...that doesn't affect another. Thank you.

SENATOR CUDABACK: Thank you, Senator McDonald. Mr. Clerk, items for the record.

CLERK: Mr. President, your Committee on Retirement Systems reports LB 494 to General File with amendments attached; that report signed by Senator Stuhr. A new resolution, LR 41, by Senator Combs; that will be laid over. I have a series of notice of hearings from the Transportation and Telecommunications Committee, signed by Senator Baker, as Chair.

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A series of amendments to be printed, have a series of amendments. Senator Louden has amendments to LB 126. I have amendments to LB 126 to be printed, as well, from Senators Beutler and Smith. Some name adds, Mr. President: Senator Dwite Pedersen would like to withdraw his name from LB 599; Senator Schimek to add her name to LB 712; Senator Dwite Pedersen to LB 754. (Legislative Journal pages 500-503.)

Mr. President, a priority motion: Senator Langemeier would move to adjourn until Monday morning, February 14, at 10:00 a.m.

SENATOR CUDABACK: You've heard the motion by Senator Langemeier to adjourn till Monday morning. All in favor of the motion say aye. Opposed to the motion say nay. We are adjourned till Monday morning, 10:00 a.m. And, members, have a nice weekend.

Proofed by: J. Hurlbut