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LB 1205

SENATOR BROMM: Well, no, that's omitting. What if we rearranged the words in some fashion?

SENATOR CHAMBERS: Well, say, the plan shall not comply with the fiduciary duty?

SENATOR BROMM: No, no, no. But I mean I thought, by what you were saying, that perhaps if we made a different sentence that said that it is the intent of the Legislature that the plan shall comply with the fiduciary duties of the...of the...let's just say that the Board of Educational Lands and Funds shall...shall construct the plan so as to not violate their fiduciary duties, or something along that line. Would that make you happier with the structure?

SENATOR CHAMBERS: I still think it's surplussage, but at least it doesn't look like you've got two different ideas here that are bumping against each other, one designed to say do this, but the other suggesting that we really doubt that you can do it.

SENATOR BROMM: You know, I think if you're...I'm strong, I guess, in wanting to have the words in there, and I'm going to refer to the case of State v. Ebke Estate and others, Ebke v. Board of Educational Lands and Funds. This was a...this case goes back a ways, I think to like 1951, and then there was a couple cases after that that quoted it. But basically in that line of cases it talks about it cannot be denied that the board, in the exercise of its sound discretion, may sell some or all the school lands, nor can it be denied that the Legislature may direct the board to sell school lands within proper bounds for a fiduciary. And I stress that, within proper bounds for a fiduciary. So I wanted to...I want the directive to emphasize that it is not our intention to require them to violate their fiduciary duties, but yet we do feel that the lands should be sold, so we want a plan. If the plan comes back and we feel that it's not a proper plan or that it does violate their...

PRESIDENT ROBAK: One minute.

SENATOR BROMM: ...fiduciary duties, we have an opportunity, along with the report from the Investment Council that's required by December 1, to react to that in the next session, and it would be my intention to do so, if the Educational Committee feels that we need to also. So I...you know in