

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

Floor Debate  
February 24, 2009

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[LB27 LB34 LB89 LB128 LB165 LB167 LB184 LB221 LB231 LB261 LB274 LB301  
LB325 LB335 LB338 LB339 LB341 LB403 LB412 LB429 LB450 LB462 LB464A LB511  
LB512 LB526 LB544 LR32 LR33 LR34]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. And welcome to the George W. Norris Legislative Chamber for this the thirty-second day of the One Hundred First Legislature, First Session. Our chaplain for today is Donella Silveira from Immanuel Lutheran Church, Chadron, Nebraska, Senator Louden's district. Please rise.

PASTOR SILVEIRA: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the thirty-second day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: Mr. President, I have no corrections.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: There are. Enrollment and Review reports LB165, LB89, LB231, and LB167 to Select File, some of those having Enrollment and Review amendments attached. Government Committee, chaired by Senator Avery, reports LB450, LB512, LB544 to General File, and LB325 to General File with committee amendments attached. Senator Stuthman offers LR32. That will be laid over. And that's all that I have, Mr. President. (Legislative Journal pages 533-539.) [LB165 LB89 LB231 LB167 LB450 LB512 LB544 LB325 LR32]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda, General File, 2009 committee priority bills, LB403, Mr. Clerk. [LB403]

CLERK: Mr. President, LB403 was a bill introduced by Senator Karpisek at the request of the Governor. (Read title.) The bill was introduced on January 16 of this year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM413, Legislative Journal page 518.) [LB403]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Karpisek, you are recognized to open on LB403. [LB403]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. LB403 is a bill dealing with benefits from the state or local subdivisions that would be given out. And the question is legal status. I was asked to introduce LB403 on behalf of the Governor. We share a common benefit...belief that public benefits should not be awarded to individuals who are not legally in the United States. LB403 is an attempt to establish a uniform process across state and local government that will verify that individuals who apply for public benefits are legally in the United States. The legislation prohibits state agencies and political subdivisions from providing federal, state or local public benefits to individuals who are not lawfully present in the United States. The definition of public benefits is taken directly from federal law. It includes: grants, contracts, and licenses provided to individuals, and welfare, health, disability, housing, food assistance, unemployment, and other similar benefits. This bill does not include in-state tuition. Postsecondary education is listed in the bill. That would address scholarships and other benefits that are state-driven. Again, I want to emphasize: This bill as intended does not address the in-state tuition. State statute 85-502 is what we've considered...called the DREAM Act. I'm not here today to say that I'm in favor of the DREAM Act, but that is a whole separate issue not included in this bill. I cannot stress enough that that is not included. And I will have an amendment later that will clarify some language. Again, I am not saying I am in favor of that statute, but it is not in this bill. This prohibition that we're talking about in LB403, the benefits, already exists in state/federal law. It has been used by the Nebraska Department of Labor, which is required by federal rules, for the Department of Insurance program...unemployment insurance, excuse me, for over 20 years. It is called the SAVE Program. The verification of legal status is not mandated by federal law but it is allowed. Again, we've been doing that for over 20 years with unemployment insurance. LB403 establishes a uniform verification process throughout state and local government. All individuals that apply for public benefits must execute an affidavit--and I think in an amendment that we will not call it an affidavit but a document--that will state that he or she is either a citizen or an alien. If an individual indicates that they are a citizen, that is the end of the line. If they are not being truthful, it probably will be caught somewhere down the line. If an individual is an alien, then the state agency or governmental entity would be required to verify the alien's immigration status through the Department of Homeland Security's Systematic Alien Verification for Entitlements program, also known as SAVE. SAVE is a Web-based program available to governmental entities that can verify whether or not an alien is lawful, if they are lawfully present in the United States. Verification under LB403 will not be required for emergency medical benefits, in-kind emergency disaster relief, immunizations, and treatment of communicable diseases or programs, services or assistance necessary for the protection of life and safety. If federal law requires the granting of a benefit to an individual not lawfully present, then a state agency or political subdivision will not have

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to verify lawful presence. LB403 also places a duty on state agencies to file an annual report to the Legislature and the Governor on the number of applicants for benefits and the number of applicants rejected pursuant to LB403. There was a demonstration on SAVE in the Capitol the day of the hearing. The number on an alien ID card is entered and within seconds the results come up. If it is said that they are legal, benefits are granted, no more questions asked. If there is a question on status, more information may be needed. These transactions cost the state 50 cents each. Many people here illegally have overstayed a work or a student visa. I think the stereotype on this bill is the person coming across a border in the dark of night. We have many people here illegally that just overstayed their visa; they didn't renew it, they blended in. This is not a gotcha bill or a deportation bill; this is a way for the state to save money by not paying benefits to people who are not here legally. We have numbers from the department of unemployment insurance and HHS who are also currently using this system in parts later that I will bring up. Again, these are mandatory laws by the federal government. This bill gives us a way to check the legal status. It does not do anything that the federal government does not already ask. There have been questions on why this couldn't just be an executive order. It's already in statute. There's been an Attorney General's Opinion that it cannot be an executive order, that's why we're here today. The main purpose for this bill for me, why I carried it, is because I feel that taxpayer money that is doled out by the state needs to go to the people who are of legal status and deserve that money. To me, this bill is no different than checking on people receiving benefits to make sure that they deserve them, that they've worked enough hours to qualify for unemployment insurance or other benefits that the state gives out in scholarships and all the other things that the state subsidizes. Again, I cannot stress enough that this is not the DREAM Act, this is not a gotcha bill, but a way to try to make sure that state taxpayer money is going to where we intend it to go. Thank you, Mr. President. [LB403]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. As the Clerk has stated, there are committee amendments offered by the Judiciary Committee. Senator Ashford, as Chair of that committee, you are recognized to open on the committee amendments, AM413. [LB403]

SENATOR ASHFORD: Thank you, Mr. President and members. AM413 replaces the original LB403 but includes the provisions of LB403, as Senator Karpisek has delineated them, and incorporates amended provisions of LB34, a bill that was heard in the Judiciary Committee, and LB335, which was Senator Friend's...is Senator Friend's E-Verify tax incentives bill, a bill that was voted out of the Revenue Committee. LB335 was introduced by Senator Friend. And a similar bill was also introduced by Senator Howard. And I want to thank Senator Howard and Senator Friend for their work on this issue and also for not only this year but certainly Senator Howard's work last year on this issue. Sections 1 through 6 of AM413 include the original provisions of LB403 with a small change to the affidavit provisions required under Section 4. Under the amendment, the affidavit would be a document to allow for electronic filing. An affidavit

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must be notarized, which cannot be done electronically--a very small change. Section 7 of AM413 includes the intent of LB34, again, a bill that was heard by the Judiciary Committee and voted...well, was heard by the Judiciary Committee last week, to require employers in the state to verify the employment eligibility of new employees through the federal E-Verify system. Under the amendment to LB...well, under AM413, all public employers and public contractors, that being any contractor and his or her subcontractors who are a party to a contract with any state agency or political subdivision, must verify the employment eligibility of all new employees through a federal immigration verification system. Under current law, that system is the E-Verify system. Members, this is very similar to Senator Obama's plan on the federal level to require all public employers that have contracts with the federal government to use E-Verify. It's a very similar provision. E-Verify is a free Internet-based service that allows employers to electronically verify the employment eligibility of new employees after they have been hired and filled out an I-9 form. The employer enters the information from the I-9 form into the E-Verify system, where it is compared against several million records in the Social Security Administration database and 60 million records in the Department of Homeland Security's immigration database. Results are returned in seconds. If not immediately confirmed, the employee must be given an opportunity to resolve the problem by visiting a Social Security office or call the Department of Homeland Security. Twelve states require the use of E-Verify for public and/or private employers, nine through legislation and three through executive orders. The definition of federal immigration verification system included in this amendment also allows for the possibility of an alternative federal program that could be created in the future. Additionally, any contract between a public employer or contractor and a public employer must include a provision requiring the contractor to verify the employment eligibility of all new employees. This bill does not deal with...retroactively with employees that have been hired prior to October, the effective date of this act. Finally, the amendment requires the Department of Labor, and I think this is an important provision, requires the Department of Labor to make available to all private employers information about E-Verify and to encourage them to use E-Verify. Members, E-Verify treats all prospective employees the same way. It is an effort to directly attack discrimination against lawful immigrants who are working in our country. If you pass the E-Verify test, if you are able to work, you may work. And I believe sincerely, after studying this issue for a year, that it will impact discrimination in our state and in our country. After two years, the Department of Labor must report back to the Legislature about the use of E-Verify. We will have empirical data in two years to determine how many people are using it, what is the impact of E-Verify on our rural communities that we visited: Senator Wightman, Senator Harms, Senator Hansen, Senator Langemeier, and others when we talked throughout the state about this issue. Sections 8 through 15 include provisions of LB335 with amendments that make it only apply to new employees. LB335 is the Nebraska Advantage Act. And it requires, again, that if public money is going to be spent--and that's the underpinning of all these amendments in AM413--if public money is going to be spent, all we are asking is that we verify to make

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sure that employees that are involved in these public projects or receive public benefits follow federal law. That's what we're doing here. But with Senator Friend's bill, LB335, which is included in AM413, all new employees under the Nebraska Advantage Act would require the employer to use E-Verify and to state so in their contract with the state. Immigration is a complex and emotionally charged issue. And the Legislature must take time to examine the various aspects of the proposed bills in order to develop a rational and responsible policy that is legally permissible under federal law. I thank the Judiciary Committee, who last year had to deal with this issue in a very emotionally charged environment, this year took a rational prudent approach in advancing these bills to you as one package. We continue to debate these issues at the state and local level due to the failure, the incredible failure of the federal government to enforce its immigration laws and the public demand for legislative action to address the significant population of undocumented workers in our state and throughout the country. The federal government, different from when many of our families came to this country in the late 1800s, the federal government has very tightly controlled the borders, very tightly controlled immigration laws, but has failed to enforce them consistently since 1986. As a result, the states and local communities have largely been left alone to handle the social and economic consequences of the nearly 12 million undocumented persons living in this country. So far, Congress has been unable to make the necessary adjustments to the broken immigration system by allowing adequate numbers of immigrant workers to enter the country legally to fill labor demands and creating some sort of pathway to citizenship for those immigrants that have worked here for several years and have raised their families here. Therefore, I believe, after studying this matter with my committee, our committee, the Judiciary Committee for over a year, that it is incumbent upon all the states and our state to address these issues in a prudent and rational way. Federal law preempts much of local action in the area of immigration. The U.S. Constitution specifically vests with Congress the power to regulate matters relating to immigration. Therefore, it is absolutely critical that we understand and discuss at whatever length of time it takes this week to understand federal preemption, the framework within which we work in the federal preemption area, and realize that much of the action that is sought after on the state level by many of our constituents is not possible under federal law. [LB403 LB34 LB335]

SENATOR LANGEMEIER: One minute. [LB403]

SENATOR ASHFORD: It was clear to me after the hearing on these issues last February, a year ago, that more information was needed before legislation on immigration could move forward. Again, we spent all summer and fall on the committee researching the complex legal issues surrounding immigration, including federal preemption. The committee paid close attention to events in Fremont, Nebraska, last summer as the community debated in a very heated atmosphere, in a difficult environment. And Senator Janssen is here and can talk about that and was certainly on the front lines of that very difficult debate, the impact of undocumented immigrants living

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in a community with an inadequate federal response to the issue. We listened to community leaders across the state on the impact of immigration. We spoke to mayors, business people, teachers, doctors, law enforcement officers, and others. With that, Mr. President, I'm going to finish when I have an opportunity to do so. Thank you. [LB403]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the opening on LB403 and AM413, the committee amendments offered thereto. Those wishing to speak, we have Senators McGill, Mello, Nantkes, Lautenbaugh, Friend, Rogert, Gloor, Fulton, and others. Senator McGill, you are recognized. [LB403]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'd like to start by thanking Senator Ashford for the wonderful job and leadership that he's shown during the interim hearing and during the hearing itself, because that level of discussion was much more elevated than it was last year. Now while I support this legislation, I do want to address the tone of the debate across the state and make a plea to the people of Nebraska, not so much just to the members in here but to all the people of Nebraska to try to approach this issue with that same tone of reason. As I've been getting e-mails from people who are opposed to this issue, ultimately I end up saying, what right does someone who comes here illegally have to work in America? And they can never give me a response to that. And that is ultimately the first reason that I support this bill. But I do understand the Latino communities fear that a bill like this only spreads prejudice and hate. And I, personally, believe that it already exists in our state and we must acknowledge that but that this bill is a step in the right direction. And I want to take this time to remind Nebraskans that our Latino...many of our Latino brothers and sisters were born here in Nebraska, not only that, they've been here for generations. And we must all strive not to see someone with a darker shade of skin and assume that they are here illegally. We're all guilty of some sort of bias and prejudice in our lives. I mean for me, my roommate is half Latino, one of my best friends is Latino, I've got many friends who are, but even I have fallen victim to these thoughts. And I'll even share an example to show you how genuine I feel about this. Just a year ago, I was in a grocery store checking out. And about ten lanes down there was a young Latino man about my age who had a big coat on and had his hand inside of his jacket and wasn't removing it. And I'm ashamed to admit that I was sitting there thinking, why is that...why is his hand in his jacket? What is he reaching for? Is he reaching for a weapon? Is he going to hurt somebody? And then I said to myself, Amanda, you're being irrational and you're racially profiling this man. Even with that acknowledgement, I still couldn't wait to get out of the grocery store because that fear that comes along with that bias often overrides our rationality. And I share this because it's important to acknowledge our fears and our faults in order to rise above them, both as individuals and as a society. We should not ignore that that is part of the issue here in Nebraska. We must also remember that the vast majority of illegal immigrants didn't come here to cause trouble or to smuggle in drugs, they came here to make a better life for themselves and their families. What they did was wrong. But if many of us were raised in the same conditions, we would have

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thought about fleeing to America too. But they didn't flee here into wonderful great jobs. In many situations their lungs are being permanently burned by chemicals where they're working, their fingers are being cut off, they have massive scars and injuries on their arms and legs. They're treated inhumanely in many cases where they work because they can't go get an attorney and get reimbursed for their injuries because they'll be deported. Some of the conditions are deplorable that these folks are working under. And that is the second reason that I support this bill and think we should try to prevent folks from working here because it's not in their best interests, oftentimes, and they're being manipulated and used on that level by their employers. So it's with a heart of compassion that I do rise in support of this bill and hope that all Nebraskans will flee from that fear that often masks our judgment. And as we pass laws like LB403 to help secure our country and our laws, we do it from a stance of reason and open-mindedness and not from fear and prejudice. Thank you, Mr. President. [LB403]

SENATOR LANGEMEIER: Thank you, Senator McGill. Senator Mello, you're recognized. [LB403]

SENATOR MELLO: Mr. President, members of the Legislature, I stand today ashamed of our federal government that we have been put in a situation right now that is solely because of the ineptitude of Washington, D.C., and our federal political leaders who would rather score cheap political points instead of finding a solution to a very difficult issue. With that being said, I understand why we're debating LB403 today. And on the campaign trail for close to a year and a half, and I imagine a lot of the other new senators as well can imagine that you heard an awful lot about illegal immigration, and you probably heard similar thoughts that I heard, too, which is Nebraskans just won't stand for the status quo. And I applaud Senator Ashford. I've followed the Judiciary Committee's interim study, their hearings of trying to seek a commonsense, practical solution to deal with a very, very difficult issue. It's with that, and I would like to also give a word of gratitude to Senator McGill who so eloquently put a lot of my thoughts into her remarks so I don't want to repeat them exactly. But I would like to encourage all of us in today's debate and future debate on LB403 that we really take this issue and look at it as the most thoughtful perspective we can, each of us can give. Because it's so easy for people to demagogue a group of people, to demagogue a race or an ethnic group because it's easy to do. And it's what you hear a lot of people say, and a lot of people who are the loudest repeat similar language. And that's not what this bill was intended to do. I don't believe that's what the amendment, AM413, was intended to do. And it's my hope that not only us in the body today but fellow Nebraskans will take a step back and try to look at the bigger picture when discussing this issue because there are a lot of complicated aspects that aren't discussed in LB403 or the amendment, AM413. But I can say this, that I believe our state respects the rule of law, but I also believe our state respects human dignity and respects the fight against injustice against people who are being exploited. And with that, I look forward to the debate. I look forward to hearing more of everyone's feedback and I hope that Nebraskans will as well. Thank you so

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much, Mr. President. [LB403]

SENATOR LANGEMEIER: Thank you, Senator Mello. Senator Nantkes, you're recognized. [LB403]

SENATOR NANTKES: Thank you, Mr. President. Good morning, members. I rise in opposition to the amendment, AM413, and the underlying bill, LB403, in its current form. I have a lot of technical concerns with this legislation as proposed. I think many members have already given us a very eloquent overview of some of the issues that we're asked to deal with in this legislation. Immigration is a highly complex and technical system of federal civil law. In preparing my remarks and opinion in dealing with this legislation, I started to dig into a lot of research from my law school days and taking immigration law to practicing in that area as a student at the University of Nebraska Law School in the civil clinic and later in private practice dealing with many public policy issues surrounding immigrants in Nebraska and beyond. And the good news is the Judiciary Committee has done a lot of the heavy lifting and hard work for us. And I've commended Senator Ashford and his staff, particularly Stacey Trout, for their thoughtful, thoughtful work put out in LR362, "Judiciary Committee Report on Immigration" from December of this year. Members, I encourage you to read this document. I encourage you to note right off the bat in the early stages page 8. It talks about federal preemption of immigration issues. Later, on pages 46 and 46, there is very thoughtful consideration given to how federal law is the sole purview and appropriate jurisdiction for immigration issues. Supreme Court cases are replete. The Constitution of the United States could not be clearer in this regard. We as state senators have competing obligations to be responsive to our constituents who are concerned about immigration issues but also to help shape the dialogue in an appropriate way and share with them that we as state senators can do very, very little in regards to their frustrations with our current broken immigration system. One of the best and most effective things we can do as a state would be to issue a resolution calling upon the federal government to enact comprehensive immigration reform and to fix this broken system that they have thrust upon our communities. Nowhere in this amendment or in this legislation are those ideals contained. I think that's a technical problem and really misses an opportunity. Finally, there's two competing issues of significant concern within the bill and the amendment, one related to employment law and one related to public benefits and educational benefits as well. These are really two separate and distinct areas which are traditionally governed by state law and, of course, we do have jurisdiction to operate within. In regards to the E-Verify components of the bill and the amendment, a couple of things that I think the body needs to consider. Number one, E-Verify is only funded through March '09 currently by the federal government. So I think that we need to be very clear about what we're mandating employers in our state to comply with--a federal system that has potentially limited sustainability. And this is noted in the Judiciary Committee's report. Also as noted in the Judiciary Committee report on page 16 or I believe, if I can read my handwriting,... [LB403]



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SENATOR LANGEMEIER: One minute. [LB403]

SENATOR NANTKES: ...federal law already currently prohibits employers from knowingly hiring, recruiting and employing undocumented immigrants in the United States. See Immigration Reform and Control Act, 8 U.S.C., Section 1324, subsection (a) 1986. And there are currently civil fines and criminal prosecution for employers that do such. In addition, this talks about public benefits and educational benefits. And again, I think that in its current form, without technical change, there are some potential for slippery slopes. Under current law in Nebraska and federally, legal...most legal immigrants and all illegal immigrants are currently prohibited from receiving public benefits. And under state law, see Nebraska Revised Statute 68-1017, people who seek public benefits and who are ineligible for so... [LB403]

SENATOR LANGEMEIER: Time. [LB403]

SENATOR NANTKES: ...knowingly are guilty of a Class III...a Class III misdemeanor up to a Class IV felony. Thank you, Mr. President. [LB403]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. (Doctor of the day and visitors introduced.) Continuing with discussion on AM413 offered to LB403, those wishing to speak we have: Senator Lautenbaugh, Friend, Rogert, Gloor, Fulton, and others. Senator Lautenbaugh, you're recognized. [LB403]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do rise in support of Senator Karpisek's bill, LB403, and the committee amendment. And I will yield my time to Senator Ashford. [LB403]

SENATOR LANGEMEIER: Senator Ashford, 4:50. [LB403]

SENATOR ASHFORD: Thank you, Senator Lautenbaugh and Mr. President. And I appreciate the comments by Senator Nantkes. This needs to be a in-depth discussion of the issues. We need to think about it and we have the time to do it. This is a committee priority bill. I appreciate the comments by Senator McGill. As a member of the committee she has worked with me, Senator Mello as well, I think they're heartfelt. It is...in order to fully understand, and I don't fully understand, but I understand a little bit more than I did a year ago this issue, it is necessary to go out where Mike Gloor is from. We talked to Mike. Mike was at the discussion we had in Grand Island with Senator Hansen. Senator Hansen was at the discussion in North Platte. Senator Harms, who's really an inspirational leader in Scottsbluff, what he's done with the community college, and he knows about that. There's 17 percent of the community college students in Scottsbluff, at Western, who are Latino. And I know Senator Janssen, as I mentioned, is intimately involved with this issue. Senator Langemeier, we had a great day at the

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monastery up there talking to community leaders. This is a mixed bag, members. There is no question that the Latino immigrant population in this state have made a significant mark on our state. I was struck in south...well, in many places, but Scottsbluff, by the comments of a fifth generation Latino woman who still faces discrimination after the many years of her family's involvement in the community in Scottsbluff, living here since the 19...just the turn of the twentieth century. I was struck by what has happened out here in Nebraska with this influx of undocumented persons working, whether they are Latino or from any other country. And this...obviously there are many Latinos that live here. But there are also immigrants from other countries as well that we must be concerned about. You know, I was struck by the fact that no matter what we do, no matter what we do, if we allow this to continue...and why do we do this, Senator Nantkes? We do it because if we allow this undocumented group of people to continue to come here, we are supporting, endorsing, underwriting an underclass of citizens, of noncitizens. We are endorsing a policy that allows, that permits an underclass of people who can work here but can go no further. They can go no further. They can go from K-12 education. These peoples...the young people can even go on to college, but they can't work here legally. That is an incredible thing that our country primarily...and Senator Nantkes is absolutely correct. It is to me absolutely incredible that the federal government, for 20 years, since 1986, would sit back and allow that to happen. After...as Senator Mello so correctly states, why doesn't the federal government act? Because they are afraid of the political ramifications for acting. For me, members, why do I propose this? Because it is a federal program, it is...the E-Verify program is promoted by President Obama, it was endorsed by Senator McCain, it was endorsed by President Bush. It is going to continue on past March. The E-Verify system is a fair way to determine for everybody, not... [LB403]

SENATOR LANGEMEIER: One minute. [LB403]

SENATOR ASHFORD: ...just Latinos, our...every person is treated exactly the same in public employment or with public contracts. That's public tax dollars, members. And we do have a nexus, we do have an obligation in that regard to make sure that our public tax dollars, at the very least, are not supporting an underclass of workers who have no bargaining power, have no ability to advance, who are going to stay subservient for the rest of their lives in this country unless the federal government acts. That is wrong. That is morally wrong. That must change. We can do something about it, we must do something about it. It was...it would be a dereliction of duty not to do something about it. And if we need to send the message, Senator Nantkes, I'll put in with you on that for you to draft a resolution, because the federal government has sat on its hands and, in effect, given all... [LB403]

SENATOR LANGEMEIER: Time. [LB403]

SENATOR ASHFORD: ...the cost and responsibilities their lax policy... [LB403]

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SENATOR LANGEMEIER: Time. [LB403]

SENATOR ASHFORD: ...to us in the states. That is bad stuff, that's bad karma, that's wrong. That must change. Thank you, Mr. President. [LB403]

SENATOR LANGEMEIER: Thank you, Senator Ashford and Senator Lautenbaugh. Senator Friend, you're recognized. [LB403]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. As Senator Ashford noted earlier on his opening on AM413, the Judiciary Committee amendments, the committee amendments include the E-Verify portion. Currently, Nebraska receives applications for employers for tax incentive under the Nebraska Advantage Act, the Nebraska Advantage Rural Development Act, the Nebraska Advantage Research and Development Act, and the Nebraska Advantage Microenterprise Tax Credit Act. Parts of any of the tax incentive programs are requirements and duties on the part of the taxpayers of the state of Nebraska. LB335, which is what it was, and now it's incorporated into Sections 8 through 15 of AM413, the Judiciary Committee amendments, places a new duty on these companies that wish to take advantage of our tax incentives by requiring the electronic verification of the legal status of their employees. As Senator Ashford pointed out earlier, this protects employees too. This isn't a...I'll get to that in a second. In May, the feds are going to require this for all contractors and subcontractors. So we're following federal process, procedure or guidelines, if you will. The operative date of this act is October 1, 2009, the bill that we're talking about right now. One of the things that I want, members of the Legislature, for you to understand about this piece of legislation is it's not...about this particular section of the legislation, this is not retroactive. Now the thought process is I'd love to go back 20 years and try to use E-Verify to figure out who was making mistakes back when LB775 was signed. Can't do it. Not only can you not do it, not only is it not practical, it runs afoul of federal law. So we have to have a starting point. We have to have the ability for these employers to go in and check the status right now, currently what's going on and where we're going to hand out those incentives. And by the way, there's been a lot of federal talk, there's been a lot of federal bashing. I'm not going to start in on that because you don't even know where to begin with it. But we do have a duty, make absolutely no mistake about it, we do have a duty in this state, a fiduciary duty to our taxpayers in regard to the incentives that we distribute to our employers. And I think we have a duty, I think we have a duty, and it's a little more indirect, might be more of a federal duty, to protect those employees. Senator Ashford just alluded to it in his own artful way. This can help do that. I don't know...I don't know where this groundswell...I think that it takes action sometimes to produce action, action or a reaction. This bill is a reaction. It's a reaction to, as has been pointed out earlier, federal inaction. It's a reaction to citizens last year seeing an immigration bill and then turning around and saying, you know what, we do want something. [LB403 LB335]

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SENATOR CARLSON PRESIDING

SENATOR CARLSON: One minute. [LB403]

SENATOR FRIEND: I credit Senator Ashford for realizing that after last year's situation and scenario that it had to...something had to be done. I'd just like to sum up by saying this. I don't know where this conversation is going to go today. It could go today, it could go tomorrow. I'd just like us to be fairly careful. The bill needs to be read, Senator Nantkes is absolutely right, every piece of it. The amendment needs to be read. But quite frankly, I'm getting sick of George Bush bashing. It hasn't happened out here. I'm sick of the media doing it. The guy is not even around anymore. He had an idea to fix this problem from a federal standpoint and nobody liked it. I don't know the man. If I hear some of that today I may just jump right back in and enjoy the debate from that standpoint. Haven't heard it yet. I'm anxious to hear that. It's George Bush's fault, right? [LB403]

SENATOR CARLSON: Time. [LB403]

SENATOR FRIEND: Wrong. [LB403]

SENATOR CARLSON: Thank you, Senator Friend. Senator Rogert, you are recognized. [LB403]

SENATOR ROGERT: Thank you, Mr. President, members of the body. I rise in support of the underlying legislation. However, I will relinquish the rest of my time on this time to Senator Nantkes. [LB403]

SENATOR CARLSON: Senator Nantkes. [LB403]

SENATOR NANTKES: Thank you, Senator Rogert. Thank you, Mr. President. Members, again I want to clarify my position here. In its current form I rise in opposition to the committee amendment and the underlying bill. I have been working closely with Senator Karpisek and members of the Governor's Policy Research Office to try and draft some language to make the legislation technically stronger and to address some of the...what I believe to be unintended consequences of the bill in its current form. And let me talk a little bit about that. In terms of the public benefits and educational benefits contemplated by the legislation, those are not truly specifically defined. The community colleges, state colleges, and our university system have indicated a concern about those definitions. In the bill and amendment as currently written we would require those state institutions to verify citizenship of every person taking an on-line course, every 4-H member working with an extension officer, a variety of other unintended consequences which I know Senator Karpisek has been very clear and straightforward in seeking to

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resolve. And I commend and appreciate his work in that regard. I'm also glad to hear that there will be an amendment put forward about the type of documentation we'll be requiring under the bill as contemplated because, as many of you know, an affidavit is not a term without definition. In existing law, under Nebraska Revised Statute 25-1241, it defines what an affidavit is and it contemplates the fact that that kind of document must be notarized. So if we're going to ensure that those kinds of documents are being utilized, we have to ask about the burden that puts on Nebraska citizens to verify that they in fact are here legally. In a rush to try and seek resolution or to be tough on undocumented immigrants we may be adding an unnecessary, unanticipated administrative burden on many Nebraska citizens which I think we can work out through amendment and I'll be willing to look at and support and work on with the committee and Senator Karpisek. Finally, to get back to some other issues which we did not...which I didn't quite have a chance to address, many things in AM413 and LB403 are already contemplated under current law. Under federal public benefits law, immigrants, undocumented and most legal, are ineligible for public benefits. They are also prohibited from working and maintaining employment in the United States. There are already requirements under federal law that state agencies who have knowledge of an unlawful presence in the United States must report that to the federal government. So our state colleges and Health and Human Services, if they know somebody is in our jurisdiction unlawfully they must report that to the federal government. Those provisions already exist in current law. So a lot of the rancor surrounding this issue, I think, may be unwarranted. In many ways this legislation does nothing more than mirror and replicate existing federal and state laws. And so, I guess, that would pose the question further, is there a need to act in this regard? [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR NANTKES: In regard to the E-Verify piece, it says that it's going to apply to certain private employers who receive tax benefits. Does that contemplate subcontractors? Does that contemplate the potential impact and burden that would have on many small businesses who subcontract with those companies? If E-Verify is an appropriate remedy for these employers, why shouldn't we mandate its use for all employers? Other states have done so. Their governors, through executive order, have said, all employers in our state will utilize E-Verify. The Governor could do that today. The Legislature could contemplate that in this legislation but instead has chosen a very piecemeal approach to who is going to fall under those mandates. I think that working through this debate in a way that is analytical and appropriate we can address those issues and we can find the common ground that does exist on this difficult issue and that exists on all of the difficult issues that we are asked to deal with. [LB403]

SENATOR CARLSON: Time. [LB403]

SENATOR NANTKES: Thank you. [LB403]

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SENATOR CARLSON: Thank you, Senator Nantkes. Senator Gloor, you are recognized to speak. (Visitors introduced.) Senator Gloor. [LB403]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I would add my voice to those thanking Senator Ashford and members of the task force for the work they've done. I was, as he was kind to mention, involved in one of the meetings, sharing concerns from my years of running a large hospital and seeing the impact of illegal immigrants on the overall cost of care in my institution and the costs associated with that being spread across the state of Nebraska. It is a real issue. And at the same time we provide that service because most of us are driven by this as a ministry and as a calling. We also recognize that the federal government, which refuses to enforce immigration laws, also has other laws that require us to provide care through emergency rooms. Therefore, the states find themselves in the uncomfortable position of having to make decisions, even though they may be small, small decisions in the grand scheme of things. We find ourselves forced to take some degree of action since the federal government has not. And I do not have any problem bashing the federal government on this issue. I also would applaud Senator Nantkes for her questions in trying to make sure that if we're to end up with a statute that it is as good a bill, as good a statute as it can possibly be. And along those lines, I would ask if Senator Ashford would yield to a question. [LB403]

SENATOR CARLSON: Senator Ashford, would you yield? [LB403]

SENATOR ASHFORD: Yes, sir. [LB403]

SENATOR GLOOR: Senator Ashford, to what extent would the bill require a look back at people who are currently receiving benefits or receiving assistance from...or employers receiving assistance under public funds? I'm...I'll give you a specific example. I'm thinking of the elderly residents in our long-term care facilities throughout our state who are Medicaid patients. Are they going to be expected to sign an affidavit at some point in time to show they're...as proof of their citizenship? [LB403]

SENATOR ASHFORD: The answer...let me ask, first of all, in a Medicaid situation, is there a monthly...does a Medicaid recipient in an elder care situation need to fill out a monthly Medicaid request? That's the...that would be the...the answer generally is no, that there's no look-back provision in the bill. And if Medicaid is being paid out now for a particular person, that payment would continue. Where this comes into play--and you've asked a great question--where this issue becomes important for hospitals and elder care and so forth, in my opinion, is that the hospitals, for example, are required to take...and your hospital did the same, you take the patient in. That's not going to change under this law. You take the patient in and then you apply for whatever payment, if it's private insurance, great, if it's some public benefit, then you would apply for that. Today

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you don't get reimbursed either if it can't be verified. Now you don't go through the E-Verify system, but you would have to determine that. Medicaid could come back and say, we're not paying this person, they're not eligible, whatever. That...I don't think that situation changes. My investigation of this would indicate that that situation doesn't change. If they're ineligible, they're ineligible. This just adds the verification piece to that. I hope I've answered the question. [LB403]

SENATOR GLOOR: Yes, I think you have. My guess would be that when we take a long-term care patient, when they have to recertify for Medicaid eligibility, that at that point in time they would probably have to go through the verification. And it would seem to me they'd have to do that verification, hopefully, once and that this wouldn't become a paperwork jungle that would require continual verification of that. [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR ASHFORD: So maybe there would be a way, Senator Gloor, of...in the bill of reflecting that, to make sure that it isn't...in that case where there has to be recertification, maybe, you know, they're either qualified or they're not as far as... [LB403]

SENATOR GLOOR: Thank you. [LB403]

SENATOR CARLSON: Thank you, Senator Gloor and Senator Ashford. Mr. Clerk for an announcement. [LB403]

CLERK: Mr. President, committee reports: Judiciary Committee reports LB274 and LB429 to General File, those signed by Senator Ashford. Urban Affairs Committee, chaired by Senator Friend, LB526 to General File, and LB128, LB338, LB339, and LB412 to General File with amendments. (Legislative Journal pages 540-547.) [LB274 LB429 LB526 LB128 LB338 LB339 LB412]

Mr. President, I have an amendment to the committee amendments. Senator Janssen would move to amend, AM435. (Legislative Journal pages 547-549.) [LB403]

SENATOR CARLSON: Senator Janssen, you are recognized to open on your amendment. [LB403]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. I bring you AM435. This amendment may look very familiar to returning members of the Judiciary Committee and others who have followed this issue closely in the past. Although not a returning legislator, I can tell you I've followed this issue very closely, as Senator Ashford alluded to. In fact, tonight my former colleagues on the Fremont City Council are dealing with a much more comprehensive immigration package than we are

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debating here this morning, one that actually has some teeth in it. My constituents, over and over when I campaigned, have asked me specifically about the in-state tuition benefits. AM435 would repeal the in-state resident tuition portion of our postsecondary educational institution statutes for those persons not lawfully present in the United States. This issue has caused a lot of unnecessary ill will in our state and for my community of Fremont and Dodge County for the last several years. It has become an issue in every state election in the previous two cycles and has generated unfair criticism of many candidates. I hope that we can return to our former policy of granting resident tuition to our lawfully present residents of the state of Nebraska. I find it almost outlandish, if I had a cousin or a friend from another state that wants to attend the University of Nebraska, they can't come here and get the same tuition breaks that unlawfully...people that are here unlawfully are able to get. For that reason, I hope you support AM435 that would repeal this. I do support the underlying bill and I do support the committee amendments on this and thank Senator Ashford and Senator Karpisek for bringing it. Thank you. [LB403]

SENATOR CARLSON: Thank you, Senator Janssen. The floor is now open for debate. Those wishing to speak are Senators Fulton, Wightman, Hadley, Howard, Stuthman, Haar, Council, and others. Senator Fulton, you're recognized. [LB403]

SENATOR FULTON: Thank you, Mr. President, members of the body. For Senator Friend, I'm going to start by talking about how rotten that George W....(laugh) that's payback for something that happened a year ago. I rise in support of AM435 with thanks to Senator Janssen. I will read the amendment. If we're just talking about the principle I think we're talking about, then I support it. I also support AM413 and the underlying bill. There was a question, I think Senator Nantkes brought the question forward, as to why we wouldn't move forward with a resolution. It seems that would be more appropriate. I did introduce a resolution last year and this year specifically to deal...to cooperate with federal authorities through...287(g), a section of the federal Immigration Act which would specifically allow...it was created specifically for local law enforcement. And the Judiciary Committee didn't move that resolution forward. And this year I introduced it again with the hope that something would come out of the committee. And, indeed, something has in the form of this bill. And so to that end I thank the Judiciary Committee for putting something forward dealing, at least in some small way, with illegal immigration. Because I can tell you I heard about it when I was campaigning. There was also a point, a good point brought up by Senator Nantkes that I'd like to address, not specifically with regard to AM435 but with regard to AM413. The suggestion was that anyone who took an on-line class with the University of Nebraska or community college, the onus of proving that individual being lawfully present would be on the university. Certainly that would seem to be a pretty heavy weight to lift. As I read through the amendment, I'm on page 1 of AM413 now, line 6, start in line...we'll start with line 3. "Notwithstanding any other provisions of law, unless exempted from verification under Section 3 of this act or pursuant to federal law, no state agency or political subdivision



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of the state of Nebraska shall provide public benefits to a person not lawfully present in the United States." So I don't know if that is the point of AM413 which Senator Nantkes was referring to, but I don't know that a person taking a class on-line is receiving a public benefit. If that's the case, then I would think that any employer out there who offers any good or service would have to prove that the person purchasing that good or service is a legal immigrant. So I don't know if the example of saying that we would be so overreaching and sweeping in passing this legislation that we would have such unforeseen consequences that we shouldn't act, I don't think that's the case at all. In the past few years, this is something I want to address that I think Senator McGill touched on. Two years ago, the hearing in Judiciary Committee was pretty heated. In fact, I think that was the hearing at which our old colleague, Senator Chambers, actually dropped and started doing pushups (laugh). Yeah, Senator McGill nods. Yeah, that's not your typical every day hearing. This year it seemed to be a little bit more reserved. But there was a charge that I heard which I want to respond to here, and that is by moving forward with these amendments or with LB403, somehow we, as a body, are acting in a racist manner or in a manner that promotes discrimination. I don't believe that's the case. Perhaps there are individuals in our communities in Nebraska, in fact I'm sure this is the case, who are racists, who hold prejudices, who are discriminatory. That such people exist should not disallow us from acting here. The reason this is a...oh, this bill and this topic... [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR FULTON: ...invokes passions from me is because of my own situation. My mom is from the Philippines. That entire side of my family remains overseas. For those of you who don't know, the Philippines is a Third World country. They experience poverty like most people do not even believe. And when I tell stories of some of the things that have happened to my family overseas, things that we're dealing with today in my family here, folks don't believe me. They laugh and say, well, that's fine, you're being a politician, you're stretching the truth here. No, no. And so I would like to suggest to individuals here today with me in the Legislature, as we act today we aren't simply acting for the citizens of Nebraska. We are operating within the rule of law. And when we put forward laws, those laws mean something. They represent attributes and immutable principles which exist, which we can't always see. [LB403]

SENATOR CARLSON: Time. [LB403]

SENATOR FULTON: Thank you, Mr. President. [LB403]

SENATOR CARLSON: Thank you, Senator Fulton. Senator Wightman, you are recognized. [LB403]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I'm not sure

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where I'll be on AM435, but I'll probably be in opposition to it. I do have some questions that I would like to propose to Senator Janssen, if he would yield. [LB403]

SENATOR CARLSON: Senator Janssen, will you yield? [LB403]

SENATOR JANSSEN: I will. [LB403]

SENATOR WIGHTMAN: Thank you. Senator Janssen, you drew a parallel between your friends that lived down in Kansas and would not be able to have in-state tuition and drew a parallel to undocumented workers or illegal aliens, whatever we want to call them, and they do get in-state tuition currently. Is that correct? [LB403]

SENATOR JANSSEN: Under the DREAM Act, the way I understand it, yes, they are allowed state...just as I would be if I were to return to college, that is a subsidized education from the taxpayers. As a university, as we know, we allocate funds to them every year. [LB403]

SENATOR WIGHTMAN: Now, Senator Janssen, you would concede that many times the parents of these high school graduates who would be attending college have lived here and worked here for some times as much as 15 or 20 years? Would you agree with that? [LB403]

SENATOR JANSSEN: I would not agree with that. I have no idea, they're undocumented. [LB403]

SENATOR WIGHTMAN: Well, you can't...everything you hear would indicate that there are people here that have lived here for 15 or 20 years and have been working. Do you question that? [LB403]

SENATOR JANSSEN: If they are here illegally, I don't know how long they've been here. I can't answer that. [LB403]

SENATOR WIGHTMAN: Okay, well... [LB403]

SENATOR JANSSEN: If we know that, we should be going out then and finding them or letting immigration, ICE know about that. [LB403]

SENATOR WIGHTMAN: Are you familiar with a UNO study, and I assume you were, that came out last summer? [LB403]

SENATOR JANSSEN: I had probably no less than 500 different studies sent to me, Senator Wightman. [LB403]

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SENATOR WIGHTMAN: And you're aware that a lot of those show that undocumented workers across the country actually pay in more than they receive in the way of public benefits. [LB403]

SENATOR JANSSEN: I do not doubt that that's what these studies may have said. I didn't go through all the studies. I would disagree with that. And there are many, many expenses that you're not seeing on that. If you want to take it from a paying in versus an impact, sometimes there's a greater impact there on our schools, our hospitals, our public infrastructure, public benefits, which we're here testifying today, so I would disagree with that statement. [LB403]

SENATOR WIGHTMAN: Okay. I would tell you that Texas did a net impact study that was about as comprehensive as any that has been done in the United States, and they don't contend that they took into account every impact that illegal aliens had. But they did show that there was a positive cash flow. And that's at the state level. I think at the federal level, where they're paying in to Social Security, a lot of times admittedly under false Social Security numbers, that net impact would be even greater on the federal level than it is on the state level. But I guess what I would like to suggest is that they are paying in, and that the person who has worked here and maybe had children in school since they were kindergartners and graduated from our high school have paid taxes in to the state of Nebraska. They aren't in the same position as somebody who comes in from out of state, maybe from the state of Kansas, who would not have paid anything in. So I think if we look at some of these impact studies that have been made across this nation and in the state of Nebraska as well, we will find that there is a positive cash flow. Now, I know, in the Texas net impact study they did not take into account the cost of law enforcement, which may have added to that cost. They didn't take into account the cost of medical services, which didn't actually involve the state of Nebraska and expenditure from the state of Nebraska. So... [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR WIGHTMAN: ...so there may be some difference there. But I do think there is a big argument to be made that these...many of these people, and we have a lot of immigrants in the state of Nebraska or in the city of Lexington as well who have...and in high school, they're some of our leading scholars in our high schools. I think you could go to Lexington and check that out from the school administration, you would find that to be true. And yet we are depriving them on the in-state tuition, even though their parents may have paid in to that system for years. I realize this is a politically sensitive subject. And there may be people listening to me today who will vote against me for what I have said here. But I truly believe that we need to examine this. We need to look at these impact studies. And it's not the drain on the state of Nebraska through these benefits that we are being told by many people that it is. Thank you, Mr. President. [LB403]

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SENATOR CARLSON: Thank you, Senator Wightman and Senator Janssen. (Visitors introduced.) We'll proceed with our testimony. Senator Hadley, you are recognized. [LB403]

SENATOR HADLEY: Thank you, Mr. President, members of the body. First, I would like to thank Senator Ashford and the Judiciary Committee for doing an excellent job in studying this issue. Would Senator Janssen yield to a question? [LB403]

SENATOR CARLSON: Senator Janssen, would you yield? He's coming. [LB403]

SENATOR HADLEY: I...ambling down. Senator Janssen,... [LB403]

SENATOR CARLSON: Just a minute. Will you yield, Senator Janssen? [LB403]

SENATOR JANSSEN: Yes, I would. [LB403]

SENATOR HADLEY: Senator Janssen, I noticed in the fiscal impact that the University of Nebraska system estimates that it would cost \$2.15 million to implement the system. I worked that out to something like \$43 per student in tuition increase. Is that worth it? There are 20...it is my understanding there are 26 students taking advantage of this in-state tuition benefit right now. Is it worth spending \$43 per student per year to get at the 26 students who are getting this benefit? [LB403]

SENATOR JANSSEN: I'm not certain that we're talking about the same thing here. I think that fiscal study was done to the committee amendments and the underlying bill, not my specific amendment that I brought forward. Would you agree with that? [LB403]

SENATOR HADLEY: But the university would have to verify every student who applies, correct? That... [LB403]

SENATOR JANSSEN: Well, that would...I'm sorry, that would be under Senator Ashford and Senator Karpisek's purview of their bill of who would be...who would have to be E-Verified and whatnot. I do take some exception. I can speak a little bit to that and possibly Senator Ashford or Karpisek could clarify. I did not agree with the, which many times we don't, the university's findings on that because I don't believe they would have to verify all the people that they were saying...stating that they actually were going to verify. I think it was the people that actually said they were here undocumented. But I could be wrong on that. But again, I don't think we're talking about the amendment that I just dropped. [LB403]

SENATOR HADLEY: Okay. Well, I just have a concern that if you're going to...if the law is such that you want every person going to any state institution to have to verify that they're not an undocumented illegal alien, then there is a cost to it. I would like to ask

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Senator Karpisek a question, if I could. [LB403]

SENATOR CARLSON: Senator Karpisek, will you yield? [LB403]

SENATOR KARPISEK: Yes, I will. [LB403]

SENATOR HADLEY: The devil is always in the details. Would a landlord who receives some kind of subsidies from the state, for subsidized housing, would they have to E-Verify that every one of their tenants when they apply would not be an illegal immigrant? [LB403]

SENATOR KARPISEK: As I sat down with the university and the state colleges, they feel that everyone, all students would... [LB403]

SENATOR HADLEY: No, sir. I'm talking about just a landlord who's receiving some kind of state subsidy for their apartment rental. [LB403]

SENATOR KARPISEK: Yes. [LB403]

SENATOR HADLEY: And would they have to verify whoever rents their apartments are not illegal immigrants? [LB403]

SENATOR KARPISEK: I'm going to say I think so. I'll have to find out. But I think anyone that's getting state subsidies would have to verify the business that they're doing with people. [LB403]

SENATOR HADLEY: Okay. I just...I'm not saying I'm opposed or supporting the bill yet. But it just seems to me again it's one of those devil-is-in-the-details type of thing. And I think the same thing might be said for the Medicaid portion, a mother taking a child to a pediatrician, whether that has to be verified and such as that as to whether or not they're an undocumented alien. [LB403]

SENATOR KARPISEK: Senator, I will find that out and I will get back to you and the rest of the body. [LB403]

SENATOR HADLEY: Okay. Thank you, Senator Karpisek. [LB403]

SENATOR KARPISEK: Thank you. [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR HADLEY: Thank you, Mr. President. [LB403]

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SENATOR CARLSON: Thank you, Senators Hadley and Janssen and Karpisek. Senator Howard, you're recognized to speak. [LB403]

SENATOR HOWARD: Thank you, Mr. President. The issue of undocumented immigration is very emotionally charged. And we've certainly heard that this morning on the floor. The reason I brought LB95 in 2007 and again in 2008 is to bring employers to the table. Those who employ undocumented individuals are taking advantage of the American worker and placing the undocumented person in virtual servitude. This individual has no rights, no recourse. They are placed in the worst of work conditions and held in fear of having no job. These are disposable people. The employer must be held responsible and must not be rewarded with our business incentive dollars or tax breaks. Additionally, I have concerns about the welfare of children who may be brought into this country. If Senator Ashford would yield to a question or possibly more. [LB403]

SENATOR CARLSON: Senator Ashford, will you yield? [LB403]

SENATOR ASHFORD: Three. [LB403]

SENATOR HOWARD: Thank you. Senator Ashford, every summer we have a wonderful program that takes place in this state. It's run by the dentists who volunteer their time. They go to a community and they work for an entire day with children and with adults who have severe...in most cases severe dental problems. Do you see that either the amendment, the committee amendment, or the original bill would affect this program in any way? [LB403]

SENATOR ASHFORD: No. [LB403]

SENATOR HOWARD: Thank you. That's an important fact. Creighton University does a similar dental clinic. And am I safe in carrying over and assuming that this would also be the case, that they wouldn't require these individuals, these children to be documented? [LB403]

SENATOR ASHFORD: No, they would not need to require that. [LB403]

SENATOR HOWARD: Okay. Thank you. The in-state tuition that's also come under question in Senator Janssen's bill (sic), does your bill...I know there's a section regarding secondary education. Does your amendment prohibit in-state tuition for these students that Senator Janssen is addressing? [LB403]

SENATOR ASHFORD: No. [LB403]

SENATOR HOWARD: Okay. Thank you. How succinct. (Laugh) [LB403]

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SENATOR ASHFORD: I could comment, but you probably don't... [LB403]

SENATOR HOWARD: I believe you could talk longer. (Laughter) [LB403]

SENATOR ASHFORD: I got three questions and... [LB403]

SENATOR HOWARD: Yes, you could. As a point of clarification on the student issue that Senator Janssen has brought forth, and I stand in opposition to that amendment, I was here when the original bill was passed. And I remember the requirements on these students. This isn't a giveaway program. If it were a giveaway program there would certainly be more than 26 students that would be taking advantage of this. The requirements, as I recall specifically, was a student has to have graduated from a Nebraska high school and attended that Nebraska high school for at least three years. The student is not eligible for any scholarship or any other reimbursement programs. They have got to pay the tuition. They also have to be in the process of applying for citizenship. This places those students, those individuals on the course of becoming American citizens. Having them in an educational program certainly puts them in line to be taxpaying individuals. I would much rather see people in school getting an education, preparing themselves to go out and hold a job legally than I would for someone that had come into this country and was not employed and was looking for additional opportunities outside of the realm of employment. I'm going to offer the remainder of my time to Senator Nantkes, should she want it. [LB403]

SENATOR CARLSON: Thank you, Senator Howard and Senator Ashford. Senator Nantkes, you have 1 minute. [LB403]

SENATOR NANTKES: Thank you, Senator Howard, and thank you, Mr. President. Members, I think that we're off to a really good start this morning in talking about the technical aspects of this bill and the underlying substantive issues which it seeks to address. Again, in private conversations off the mike with members of the committee, with Senator Janssen and other people who are interested and engaged in this debate, I'm confident that working together our rules will allow us to deal with this in a measured and considered and thoughtful way as we do with each issue before us. I urge each of you to give careful consideration to all of the debate prior to a vote on any of these amendments which are now being put in and have not been subject to a public hearing previously. I think that that's in some ways disrespectful to our process. And we do, thankfully, have remedies within our existing rules to try and ensure that the process is carried out appropriately. And I'll continue to work with Senator Janssen and members of the committee to ensure that, following the Rules of the Nebraska Legislature, separate and distinct issues should be afforded a separate and distinct bill, or at the very least recommitted to committee for public hearing. I think that Senator Karpisek has... [LB403]

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SENATOR CARLSON: Time. [LB403]

SENATOR NANTKES: ...some important amendments that are technical, that are coming up that we need to address. Thank you. [LB403]

SENATOR CARLSON: Thank you, Senator Nantkes. Senator Stuthman, you are recognized. [LB403]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I've been very interested in the debate that we've had here this morning. And I want to talk a little bit about, you know, perception in our community. We are one of the fortunate ones that have the public health department in my county. A lot of the people say that, you know, that is something that all these illegal people are getting services, getting health services for. And I would like to ask Senator Ashford a question. [LB403]

SENATOR CARLSON: Senator Ashford, would you yield? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR STUTHMAN: Senator Ashford, in this bill, in this immigration portion of it will there be any effect to the people that go to these public health departments as far as assisting them with their health needs? [LB403]

SENATOR ASHFORD: My answer is this, Senator Stuthman, that nothing will change as far as going to the public health facility to access services. Where the verification system comes into play is if the federal...if the public health system needs to seek reimbursement for payment, at that point there would not be reimbursement. But there isn't reimbursement now ordinarily. I mean, I talked to my public health...this is a good question, talking to my public health people in Douglas County--I'll be very quick--they do this verification now. And so this bill would not change what they do in Douglas County. That's my understanding, Senator Stuthman. [LB403]

SENATOR STUTHMAN: Thank you, Senator Ashford. I did visit with my health department this morning. And according to my health department, which is a very successful health department and it is something that helps our community, but I was informed that the health department could not, under federal mandate, ask the question whether they are legal or illegal citizens. And I would like to ask Senator Ashford if he would like to comment on this, please. [LB403]

SENATOR CARLSON: Senator Ashford. [LB403]

SENATOR ASHFORD: Senator Stuthman, that's a great question. And that's correct. And that is why, I believe at least generally, that these health facilities, public health



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facilities, community-based health facilities across the state do provide the service because they cannot ask that question. They provide the service. Now whether or not they get reimbursed, to Senator Gloor's question, I think is academic, and they either do or they don't, whether...depending upon whether or not they can just...you know, they can verify the payment later. But I think that's correct, Senator Stuthman. [LB403]

SENATOR STUTHMAN: Okay. Thank you, Senator Ashford. One of the most important things, I think, in our community and in all the communities of the state that have these health departments is that it keeps the people out of the emergency room. These health departments, you know, take care of a lot of people, they have a lot of clients. And if these were not in existence, these individuals would end up, you know, in the emergency room. And then that would be a state expense. So I am very supportive of the fact that, you know, in this situation that the assistance that the federally accredited health departments and the public health departments, you know, will still give assistance for healthcare needs. I think that is very, very important. Thank you, Mr. President. [LB403]

SENATOR CARLSON: Thank you, Senator Stuthman and Senator Ashford. Those senators wishing to speak: Haar, Council, Price, McGill, Nordquist, Ashford, Nantkes, Gay, and others. Senator Haar, you are recognized. [LB403]

SENATOR HAAR: Mr. President, members of the body, first of all, I would like to compliment George Bush and John McCain at the national level for trying to look at this problem a year or two ago. I want to get that straight. Then I want to thank the committee for taking on this very difficult issue and I hope we'll take the two or three days it takes to really go through this in detail to make it work. Then I have to say I believe in the rule of law and all of us in this body believe in the rule of law and we took an oath to that when we came here. So since we're going to spend a lot of time talking about this, I would like to set kind of a background for it. I'm very emotional about this issue because I just came through a campaign where I was beat up over this issue. Also, I am concerned about the jobs of working men and women and I am concerned about those human beings who operate now under the radar screen as illegal immigrants. I want to give a little background. First of all, there's a word that's been used for a long time. It's xenophobia and that means the fear of...basically of races, and I would like to just give some history to this. My great-great-grandfather immigrated to South Dakota, homesteaded, and that's why I am in this country. And I would like to read you some quotes from the past around this issue. Here's one that says why should Pennsylvania, founded by the English, become a colony of aliens who will shortly be so numerous as to Germanize us instead of our "Anglofying" them, and who will never adopt our language or customs any more than they can acquire our complexion, because those of us of German accent have a slightly reddish complexion. Benjamin Franklin said this back in 1751 when Germans were immigrating into the colony of Pennsylvania. Here's another one from about 100 years later. This a quote: They, the

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Irish, are nothing but imported beggars, animals, a mongrel mass of ignorance and crime and superstition as utterly unfit for society's duties as they are for the common courtesies and decencies of civilized life. And that was from a newspaper called the Jersey City Standard in 1859 when the Irish were coming to this country. And then a final quote I'd like to give, and again, this is just background so we're not surprised by the attitudes that we run into as we go door to door. Quote: America must not be overwhelmed. Every effort to enact immigration legislation must expect to meet a number of hostile forces and, in particular, two hostile forces of considerable strength. One of these is composed of corporate employers who desire to employ physical strength at the lowest possible wage and who prefer to rapidly revolving labor supply at low wages to a regular supply of American wage earners. The other is composed of racial groups in the United States who oppose all restrictive legislation because they want the doors left open for an influx of their countrymen, regardless of the menace to the people of their adopted country. And this is from Samuel Gompers, the first president of the American Federation of Labor, 1924. And so having just come off the campaign trail and being beat up on this whole issue, I just wanted to give that as background... [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR HAAR: ...because almost from the time of the formation of this country there has been a fear of immigrants and that fear is alive and well and with some good reason in Nebraska today. With that, I'll stop now, because I know we're going to be talking for two or three days. Thank you. [LB403]

SENATOR CARLSON: Thank you, Senator Haar. Senator Council, you are recognized. [LB403]

SENATOR COUNCIL: Thank you, Mr. President. I rise in opposition to AM435 for basically the reason that I question the necessity of the underlying legislation, AM413 or LB403. I have sat here, like the rest of my colleagues, and listened to the debate that has occurred thus far. I've heard and listened to the alleged horrors associated with the issue of undocumented citizens in the state of Nebraska while, at the same time, reading the report prepared by the Judiciary Committee's interim study. And I want to thank Senator Ashford and that committee for preparing the study. But for those of you who have read the study, and make the statements that are being made with regard to the necessity of this legislation, are ignoring the facts that are disclosed in the very report that was prepared by the interim study committee. As Senator Nantkes referenced to page 8, she talked about the preemption issue, but before I get to that, first and foremost, on page 8 of the interim study it states, and I quote, "Without better data on undocumented immigrants, it is difficult, if not impossible, to determine the costs or benefits associated with this population within the state of Nebraska. So I, quite frankly, don't understand and don't appreciate the basis upon which all of these

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allegations of these tremendous costs to the state of Nebraska associated with undocumented workers, where the interim study itself states it's impossible to determine what those are. Secondly, I've heard the discussions about the reason and the rationale for this legislation is that the federal government hasn't acted, yet everything in this piece of legislation is based upon action that has already been taken by the federal government and, in that regard, there is a legitimate concern with regard to the federal preemption issue. I don't know how we can sit or stand and speak about these issues and ignore the fact that the interim study committee recognized that federal immigration law preempts most state and local action in this area, specifically with regard to E-Verify. Federal immigration law expressly prohibits any state or local government from imposing employer sanctions on those who employ, recruit or refer for a fee unauthorized immigrants. Thus, any state or local legislation that attempts to regulate the hiring of undocumented workers through basic pilot E-Verify may subject state and localities to unnecessary litigation that will in fact waste taxpayers' money, as some localities have already discovered. Secondly, when we talk about the SAVE system, the SAVE system is currently a system provided by the federal government and is provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which restricts the access of undocumented immigrants and immigrants that have been in the U.S. for less than five years to federal public benefits, such as Medicaid, Supplemental Security Income, Social Security, Medicare, food stamps, and Temporary Assistance for Needy Families. Someone name me a benefit provided in the state of Nebraska to anyone other than those that are listed under the Reconciliation Act. [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR COUNCIL: Going further, the Systematic Alien Verification Act, SAVE, the very system we're talking about here, is to be...is maintained by the U.S. Citizenship and Immigration Services. Now with regard to SAVE, the report of this interim study says: It is not by a policy in and of itself for agencies to verify an applicant's eligibility for a benefit; however, we found little evidence of people applying for benefits for which they are ineligible. So everything we're doing here in terms of this legislation flies in the very face of the findings of the interim study. Finally, with regard to AM435, we want to pick and choose what parts of federal action we want to follow. AM435 runs squarely in the face of the DREAM Act. The DREAM Act is federal legislation that we chose to adopt as a state. Now if we want to say that the federal government isn't taking action in the area of immigration... [LB403]

SENATOR CARLSON: Time. [LB403]

SENATOR COUNCIL: ...to our satisfaction, we certainly pick and choose which ones we want to apply. [LB403]

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SENATOR CARLSON: Thank you, Senator Council. Senator Price, you are recognized to speak. [LB403]

SENATOR PRICE: Mr. President, members of the body, I, too, can be loud. Okay, I'm done. I want to talk about a few things that have been brought up here. I am the proud son of an immigrant family who came over on a boat and a dream and worked in a coal mine, bad conditions. Got black lung, fought wars, wounded, killed. And dad-gum proud to be an American who came here and applied through the process and became a legal citizen. Now, folks, this is very complicated if you want to get down in the weeds of feelings. And of course it's complicated when you want to get in the mechanics of law. But let me tell you, it's not complicated. If the first word that describes you is "illegal," you are illegal. Don't complicate it. That's not rocket science. You're illegal. Now, let's look at some notes here. Better data and studies versus illegal aliens, oh my, how hard is it to conceive why people who are illegal aren't coming up and saying, volunteering, oh, I did this and I did that, I'm an illegal alien. Okay. Basic premise of that study is pretty much faulty right there, okay? Costs that illegal immigrants have, and we don't know the costs because they're not volunteering. Well, how about we just look at the idea of how much it costs a citizen to be here? Citizens bear the cost of our government. Citizens pay taxes for their houses. Citizens pay taxes and we know their burden. We know their costs. We know what it costs, how we must share the burden of government. There's your costs. We can extrapolate from that. And then the argument...and, Senator Wightman, I just hope you're able to hear this. Listen to this very carefully. By paying into the system, you're okay. See, if you pay into the system and you're breaking the law, it's okay. So if we get our crack dealers to pay into the system, it'd be okay. If we get a car thief to say, I stole this car and I got to pay my taxes on the car, it's okay. Now what judge is going to sit there and say it's okay to steal cars? I'm not saying illegal immigrants are at the same level of that, but it's the same concept. It's very, very simple: You are breaking a law; paying your way into it doesn't make it okay. And these people who are paying in to Social Security numbers that don't...that are illegal or that are fictitious Social Security numbers, how are they going to draw a check on that? Is that even fair to them? Do we look at this person who's come to our country...now I dare say I don't know who in this body has lived in foreign countries longer than I have or who grew up on the border with Mexico like I did. I lived with people. I was there. I was there with port of entries. I've defended this country in foreign countries. I've lived in foreign countries. I've seen foreign countries who won't let you do anything if you're an illegal immigrant, let alone if you move from one state in that country to another state. We got it good here. We're real open here, folks. But the bottom line is, if you're illegal and that's how and what defines you, that's it. And personal responsibility, because we hear about LB403 and the AM435 to AM413, you know, sometimes parents have to take responsibility for their actions. Why are we abdicating responsibility here? At least, as Senator Janssen said, they could pay out-of-state tuition costs to go to in-state. I mean they're not in the country legally. This is not rocket science. This is feelings. This is emotion. [LB403]

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SENATOR CARLSON: One minute. [LB403]

SENATOR PRICE: Bottom line is you come to the country, you apply for your citizenship, you go through the role and you get it done. Now is it America's fault if another country can't get their immigration process under control so people can get their visas and get their passports? I don't think so. Is it fair to an immigrant who comes here and they have these deplorable conditions, as was articulated by Senator McGill? Are we doing them any favor by allowing them to continue to work here under the guise of being an illegal alien instead of letting them become identified so at least they get paid the wages they're supposed to be paid so they get out of these conditions? No one thinks about that. Again, ladies and gentlemen, we're going to be on this for days if not weeks, not because of my doing but everybody is going to get up and pontificate. If the first word used to describe you is "illegal," then it is illegal and we cannot reward... [LB403]

SENATOR CARLSON: Time. [LB403]

SENATOR PRICE: ...illegal behavior. Thank you, Mr. President. [LB403]

SENATOR CARLSON: Thank you, Senator Price. I will recognize Speaker Flood for a Speaker's announcement. [LB403]

SPEAKER FLOOD: Thank you, Mr. President, members. Good morning. We are under discussion on AM435 to AM413. We find ourselves in the situation of answering the question, whether or not the concept of repealing the DREAM Act, which was originally passed by the Legislature over the Governor's objection in 2005, requires a public hearing. There is no question that the Legislature's proud history includes the ability of the citizens, the second house, to weigh in on issues and matters of import before the Legislature through a public hearing. Senator Janssen has filed an amendment that purports to repeal the DREAM Act. Rule 6, Section 3 of our rules provides an authority to the Speaker in situations where: "In the event a bill has become substantially a new and different bill by reason of amendments having been adopted, the Speaker may refer said bill to the Reference Committee who must refer said bill to a proper committee for a public hearing; provided, that a majority of the elected members may overrule the decision of the Speaker." I want to just be very clear. If this amendment is adopted, and I make no comment as to whether I will support or oppose the amendment, I don't think that's appropriate in my time as the Speaker here this morning, it will be my decision that AM435 to AM413 will be referred to committee for a hearing. It will first go to the Reference Committee and then it will follow the procedures in the Reference Committee back to the committee of jurisdiction. That ruling is challengeable. And if 25 members don't agree, that is the Legislature's recourse. I do think it's important that this issue have a public hearing so that the citizens, both opposed and in support of this concept,

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have the specific notice provided to them statewide to weigh in on this important issue. Thank you, Mr. President. [LB403]

SENATOR CARLSON: Thank you, Speaker Flood. We will return to debate on LB403, AM413 and AM435. Senator McGill, you are recognized. [LB403]

SENATOR MCGILL: Mr. President, members of the body, unfortunately, I feel like this debate has...the tone of this debate has turned, and I think that's really unfortunate. You know, there's some anger and even some animosity I'm sensing from some of the speakers and I think that we should try to at least bring it down to that reasonable, rational level and try to debate this issue. Because it is fair that we debate all elements of illegal immigration and benefits. I don't personally support this amendment and I won't go on and on about it, but if this amendment is adopted then I am going to support amendments that take a harder look at businesses. Because people aren't coming here because their kids are going to get in-state tuition and save a couple thousand dollars. They're coming here for the jobs that they're getting. And so if we're going to go after the young people who are trying to educate themselves, then we need to be taking a harsher look at the businesses that are actually recruiting and hiring people, because we know that it's happening here. And with that, I'm going to yield the rest of my time to Senator Ashford. [LB403]

SENATOR CARLSON: Thank you, Senator McGill. Senator Ashford, you have 3 minutes and 50 seconds. [LB403]

SENATOR ASHFORD: You know, I've been sitting here, trying to think of a way to talk about this in some way that's meaningful hopefully to the body but expresses my feelings about it. Obviously, the DREAM Act is a contentious issue. The DREAM Act is not in this bill without the amendment. The DREAM Act is not in this bill without the amendment. If you look at the study that we did, we spent a lot of time talking about the DREAM Act. There was ample opportunity for someone to introduce a bill on the DREAM Act this year. The study spends pages, pages, pages on the DREAM Act and analyzes what is clearly a division of opinion by the courts on this issue of the DREAM Act, and the issue is simply this: Is the DREAM Act preempted under federal law or not? The Congress has voted, I believe three times or at least two times, has voted down the DREAM Act on the federal level. Therefore, they have not acted on the federal level and that at least gives those who support the DREAM Act an opportunity to support it on the state level, as we are doing in the rest of AM413. But, members, please, please, please, please, let's vote this down. We need to vote this amendment down, not on the merits of the DREAM Act necessarily, because I'm sure the body is probably divided on the issue. AM413 deals with millions of dollars of state money, millions and millions of dollars. AM435 on a good day deals with a few thousand dollars per student for 28 students. Now that doesn't mean that the DREAM Act shouldn't be repealed at some point and I'm not trying to tell you how you should vote on this or suggest one way or

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the other, but I will tell you that this committee has had seven hearings, seven hearings since last February on this issue. There is a study which, thanks to my aide, Stacey Trout, has gotten national attention. May I have a gavel, please, Mr. President? [LB403]

SENATOR CARLSON: (Gavel) [LB403]

SENATOR ASHFORD: This study has had national attention. We've had feedback from across the country on this study that said to us and to my aide, Stacey Trout, it's one of the most comprehensive analyses of the issue of immigration as it relates to state, federal law that's ever been done. This has been out here for months. [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR ASHFORD: The bill that has been introduced, LB403, with AM413, deals with a significant issue that cuts across all sides of the issue. Latino immigrants are discriminated against. Public funds are being spent on undocumented people in this state. Those are two polar positions that converge on LB413. We are saying to the state, no more subservient class; people are going to be treated the same. We're saying to taxpayers, public funds are not going to be used to subsidize undocumented workers. That is what this bill is about. This bill is not about the DREAM Act. Please, please, do not vote for this amendment. Please, do not vote for it. It is not a vote yea or nay on the issue. The only way you can have a vote yea or nay on the issue is if you've had a bill introduced and a full discussion. [LB403]

SENATOR CARLSON: Time. Thank you, Senator Ashford. As we continue debate, please hold conversations down so senators can be heard and those that want to listen can listen. Senator Nordquist, you are recognized to speak. [LB403]

SENATOR NORDQUIST: Thank you, Mr. President. First of all, this is a serious conversation. I think our attitudes on the floor should be serious about it, too. We need to put the jokes aside. You know, people are passionate about this issue and we need to respect that and respect their passion on the issue. Second, this is a bad precedent to be setting here to hijack a bill that a committee has been working on for more than two years, traveled across the state with interim studies, had seven hearings on it, has released a comprehensive report. And now we're running an amendment that is a substantial amendment that should have had a hearing, should have been introduced as a standalone bill. I know that if you're a committee Chair, you would be furious if this was happening to your bill. You wouldn't want to have it go back to committee either. We know that Nebraskans will not support the status quo on this issue. And Senator Ashford and members of the Judiciary Committee and their staff spent a lot of time working on this issue. They took a thoughtful approach to it. They cut through the rhetoric, they cut through the emotion on both sides, and that's what we need to do here on the floor of the Legislature. The underlying bill is a good bill. It does two basic things.

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It says if you're going to get entitlement benefits in Nebraska, we want you to be a citizen. We'll take care of you with emergency situations, we'll feed you, we'll clothe you, but for an entitlement benefit we want you to be a citizen. And on jobs, if you're going to be a state employee, if you're going to work for someone who works for the state or if your job receives significant tax credits to support that job, we want you to be a citizen. I think that's pretty reasonable, especially in the economy that we have with people losing jobs, hardworking Nebraska families who are doing things the right way looking for work. I think that's reasonable. This underlying bill is reasonable. This is an issue that's been demagogued for more than a decade. On campaign trails, across the country we've heard hateful rhetoric, but this bill gives us a chance to protect workers in the state, to address injustice, address discrimination, address the underclass that are working, the nameless, faceless individuals who are working. I'd like to ask Senator White a quick question, maybe not so quick but... [LB403]

SENATOR CARLSON: Senator White, will you yield? [LB403]

SENATOR WHITE: Yes, sir. [LB403]

SENATOR NORDQUIST: Senator White, you spent a long time, a career representing workers in discrimination litigation. I'd just like...what are your thoughts about kind of the E-Verify system and the benefits that it would have? [LB403]

SENATOR WHITE: I have spent a lifetime, literally now 25 years, representing minorities, representing workers, and one of the most horrifying, reoccurring events in my career has been workers who have suffered really terribly injuries on the job, workers who have been forced to work as children, workers who have been denied overtime, workers who have been sexually harassed, even raped, by their employers in the workplace, and they have come to my office and asked me for help. And the law is there to help them. But in each case I tell them, if you file this, there is a substantial chance you will be deported, and almost every time, almost uniformly, they have not gone through to protect themselves because their position is so vulnerable; that well over a century of social progress, simple things, and I mean child labor in packing plants, I mean raping, fondling of women in the workplace openly with contempt for the law occurs, occurs in this state, and the victims are utterly helpless. Therefore, I support this law, the underlying law. In fact, I support stronger versions of it that I hope to talk about. [LB403]

SENATOR CARLSON: One minute. [LB403]

SENATOR NORDQUIST: Thank you, Senator White. I appreciate your comments on that. This is a thoughtful, commonsense, reasoned approach to take care of those situations and to take care of other workers in the state. And just go back to my first point: This is a bad precedent to be setting. Committees are there for a reason. They're



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there to have the hearing, to have a thoughtful discussion in our committee process, to advance a bill if they so choose, to kill a bill if they so choose, and to bring it here for a thoughtful, reasoned discussion, not to just plop it in our lap today on top of this committee bill, which the committee has spent a couple years working on, traveling across the state. If we're going to do this, what was the purpose of all these interim studies? What's the purpose of any interim study? What's the purpose of our committee structure? Thank you, Mr. President. [LB403]

SENATOR CARLSON: Thank you, Senator Nordquist and Senator White. Mr. Clerk for an announcement. [LB403]

CLERK: Well, Mr. President, I have a priority motion, but some reports prior to that. Your Committee on Education, chaired by Senator Adams, reports LB221 to General File with committee amendments attached. Health Committee reports LB462 to General File; LB27, General File with amendments; LB341, LB511 to General File with amendments; LB301, indefinitely postponed; those reports signed by the respective Chairs. Senator Stuthman offers LR33; that will be laid over. An amendment to be printed to LB184 by Senator Loudon. (Legislative Journal pages 549-555.) [LB221 LB462 LB27 LB341 LB511 LB301 LR33 LB184]

Mr. President, priority motion: Senator Friend would move to recommit the bill, LB403, to the Judiciary Committee. [LB403]

SENATOR CARLSON: Senator Friend, you're recognized to open. [LB403]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. The last time I did this to Senator Ashford, he lit me up. Well, I actually have his permission this time. I don't need anybody's permission to try to recommit a bill. It just so happens that I think that there's some important background information that needs to be addressed at this very moment. I also think that I can shed some light on maybe some questions. There's a lot of conversations going on out here. We've been gaveled down several times, probably for good reason. I wanted to point some things out and really let everybody maybe kind of chew on it if they desired, so desired. Don't get too excited, by the way. I'm going to pull this recommit motion off because, as Senator Flood earlier alluded to, if this amendment gets adopted, we don't need a recommit motion. I think it would appropriately go back to the Judiciary Committee, and let me explain that. Right now the legislative floor is a mess, and I'm not talking physically. I'm talking emotionally and spiritually, philosophically, it's a mess. That happens. That's what legislative floors are. At least it's not like...at least we're not throwing punches. I mean this is how we deal with things. But Senator Flood, Speaker Flood spoke the reality here and I bring an interesting perspective to this. The reality is, and I've already had these discussions four or five times off the mike, the reality is this bill, this amendment has not had a public hearing. It has not. It doesn't matter whether it was discussed during the public hearing

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on LB403 or AM413. Irrelevant. The idea itself hasn't had a public hearing. And I ask you this, and it's rhetorical: Do you know why I know that it hasn't had a public hearing? I'm not on the Judiciary Committee. You know why I know? Because I had this piece in a bill last year that I brought in front of the Judiciary Committee and tried to whittle my way through the Judiciary Committee to get it out to the floor. The entire bill was killed, along with this piece, probably within a couple days. I don't remember now. The whole thing is a whirlwind. Let me give you some background now. Senator Schimek brings this bill approximately three years ago. It's my understanding and my recollection that the bill, the bill that we're trying to address right now with AM435, actually had two public hearings. If I'm not mistaken, it actually had two public hearings. Senator...it was very important to Senator Schimek and I know it was because she told me it was and she told me she was offended that I was trying to actually repeal it during the Judiciary hearing. And anybody that's on the committee, you remember that. I was not trying to offend Senator Schimek. I told her that. But I had an idea, it had a public hearing. And the other piece of the background is--I went out a little too far--the Governor vetoed Senator Schimek's bill. The Legislature overrode the Governor's veto and the bill became law. I come in the next year and try to repeal it. I get shot down after voluminous discussion, as far as I'm concerned. The university came in, they knew what we were doing, the university came in and said Friend's piece here is out of line. The whole bill they didn't like but this piece they said is out of line, there's no reason for it. A lot of things happened during that public hearing that didn't happen in the public hearing for LB403 and they certainly didn't happen on the hearing in Revenue for LB335, because I was there. I know. Those type of issues just didn't come up; they didn't need to. The point to this whole thing is that there is precedence. We set the precedence and I think the argument is well taken. You know what? We attach amendments and Christmas tree stuff all the time that haven't had public hearings. Well, you know, we do, but there's no precedence that the bill had four public hearings or three public hearings or two public hearings before we did it. It's an idea from somebody and we say, let's Christmas tree it on to this. Doesn't mean that it required a public hearing. I'm telling you this has precedence of a public hearing. We have to address that. There's no law that says we have to address it, but I think we have to address it because, if we don't, we put ourselves in a really, really, really weird situation with floor amendments and having a messed up floor, like we have right now. Senator Janssen came up to me beforehand. He said, well, you know...he asked for my advice, he said, I'm seeking your, you know, idea on this. And I told him, I said, you know what? Practically I think it makes a lot of sense. Politically--and I don't know if I...I'm paraphrasing--but, Charlie, I said, specifically and philosophically and from a political standpoint, it doesn't make sense so we need to be really careful here. The Speaker laid the ground rules. I've got a vested interest in this bill. We all have a vested interest in this bill and here, I think, is where we sit now. Whether we took a recommit vote on this or not--we're not going to, I'm going to pull it, like I said--it doesn't matter. This thing gets adopted, and you know it probably will, this thing gets adopted and it's going back to committee, and I'm not willing to have this go back to committee at this point. There's...except for one thing that I know of, we

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maybe need a little more enforcement from the Department of Labor, enforcement language from the Department of Labor and the Department of Revenue standpoint, there's nothing that functionally wrong with this bill. I've read it. But we're going to force an amendment on to this and send it back to a committee when we don't have to do that. Members of the Legislature, I would submit to you, I think that that is very inappropriate, and get mad at me if you want. By the way, am I loud enough? (Laughter) Get mad at me if you want, but I think at this stage of the game, while I understand because I carried the initiative, I don't think it's appropriate. I think it could cause divides out here. On the thirty-second day of the session, folks, this is a marathon. It's not a sprint. We've got a lot of work to do together and I sort of feel like tensions are running high. You haven't seen my tensions run high yet. Senator Fischer saw it last year. It's not pretty. I don't like it. I don't want to be a mean guy. It's the thirty-second day. We don't have to be doing this. Do what you will. I'm telling you, I think it's inappropriate because we have precedence dealing with issues like this. And it puts us...sometimes we have to deal with things the way we have the opportunity to deal with them. We can't pick and choose everything that we want just because we think that it was a travesty two years ago that it had occurred. I can say...I can say unequivocally that this is the way I feel about this. [LB403 LB335]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: One minute. [LB403]

SENATOR FRIEND: Senator Janssen asked me, would you vote for this? You know what, nine times out of ten, but we have one time here that I think we're in a situation that it is not within my power to do so. I don't think it's appropriate. I had to sit through the slings and arrows last year. Wasn't fun. I think this bill should have the same thing. Question is, do you really believe it should have it this year or do you believe it should have it next year? I guess that's up to you all. Mr. President, that's all I had. I would like to withdraw this recommit motion. [LB403]

SENATOR ROBERT: The motion is withdrawn. Returning to discussion on AM435 to AM413, those wishing to speak: Senators Ashford, Nantkes, Gay, Janssen, Karpisek, and others. Senator Ashford, you are recognized. [LB403]

SENATOR ASHFORD: I was going to remark on Senator Gay being able to sit there as quietly and stoically as he has all day. That's a lesson that I need to...major lesson that I need to learn, Senator Gay. Look at, this is a wedge issue. It's a difficult issue. People out there say, well, if you vote for the DREAM Act, you're for illegal immigrants; if you vote against the DREAM Act, you're whatever, I don't know. This is a complicated issue. It's a complicated issue and, again, I would ask you to take a look at the study because it talks about all of the cases on both sides of the issue that have come about in the last four or five years, and especially since the Congress has failed to pass a federal

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DREAM Act. I believe President Obama supports the federal DREAM Act. I believe that's his...in fact, he voted for the federal DREAM Act, as did Senator McCain. So at least on the federal level, there is some chance and in all probability there will be a federal DREAM Act which will allow for young people who have graduated from a K-12 school to attend higher education as a resident, so it's probably going to be worked out in the next several months on the federal level anyway, one way or another, because there will be another vote. But I just want to say this. I cannot recall what we...in my 11 years here, the angst that was experienced in the Judiciary Committee last year trying to deal with this issue. It was very, very difficult. I know some of...one of my very dear friends and colleagues was literally condemned in his district for a position he didn't take on the issue of the DREAM Act. I mean, that shouldn't happen. This is a political body but when we talk about issues like this, it is...we must put our politics away and think about what's best here. What's best for the citizens of the state of Nebraska, what's best for the people who are directly impacted by the laws we pass. And clearly, clearly, Latino immigrant families are impacted by this law, directly impacted by this law, and Senator Nantkes has outlined some of those challenges, and Senator Council has outlined some of those challenges. There's plenty in this bill without this amendment, AM435, not to like, Senator Nantkes (laugh) and Senator Council. There's plenty of discussion to have on this issue, on these issues. We're dealing with thousands. There are somewhere around 35,000 to 50,000 undocumented people in this state, some of whom are Latino, most of whom are Latino but some are not. That's what we should be talking about. What is the impact of those...of E-Verify or of another system involving benefits on those people and how does that impact the rest of the state? That's our job. Our job is not at this point in time, as Senator Friend so clearly stated, to talk about an issue involving 28 students at the University of Nebraska system. That is not this issue. And, sure, Christmas trees occur. Christmas trees do occur but not on these kinds of issues, not on these kinds of issues. These are fundamental issues. We have plenty to talk about in AM413. This committee, this Judiciary Committee, I could not be...the Judiciary Committee of last year, the Judiciary Committee of this year,... [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR ASHFORD: ...I cannot be more proud of a group of people than those people who dealt with these issues, and they didn't necessarily all agree last year and we didn't necessarily all agree this year. But we dealt with the issue and we gave you a bill, members, that you can vote for or not vote for, that impacts tens of thousands of people in our state. Please, don't trash this thing. Please, don't put this thing down. Let's either vote not voting, if you feel you've got to vote against the DREAM Act, but whatever you do, please, do not do this. Let's get on to the bill, the issues at hand, and move forward, and if there's going to be a bill on the DREAM Act next year, so be it. We'll debate it then. Thank you, Mr. President. [LB403]

SENATOR ROBERT: Thank you, Senator Ashford. Senator Nantkes, you are

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recognized to speak. [LB403]

SENATOR NANTKES: Thank you, Mr. President. And thank you, Senator Ashford. As usual, there's far more agreement amongst us than there is difference, and I take to heart Senator Ashford's comments in regards to process, particularly not only out of respect for his leadership position as Chair of the Judiciary Committee but as a senior member of this body. And the committee has worked diligently on these issues and deserves to have a debate and a dialogue about what they put forward. I think it's unfortunate that Senator Janssen has sought to amend the bill at this stage of the debate. I was so hopeful that we'd have a chance to get to Senator Karpisek's technical amendments which really would have alleviated all of my concerns, to a great extent, and I think many other people's concerns, and would allowed us to move forward in a more thoughtful and considered and measured way through the legislation that the Judiciary Committee had brought forward. That being said, Senator Janssen, as any member, has within his right the ability to bring forward amendments and I think the underlying issue contained in his amendment is worthy of dialogue and debate, and so now that's where we're headed. I think the more honest and straightforward way to have that debate would be through a separate bill and a separate public hearing. That being said, Senator Janssen chose not to utilize that avenue, so here we are. I am going to listen more to the debate on this amendment and other motions that come up, but at this point in time, out of respect for the Judiciary Committee, their hard work and their Chairman, I'm contemplating following their lead and asking that maybe we do have a straight up or down vote on this amendment and get back to working out some of the important technical aspects of the underlying bill. Thank you, Mr. President. Senator Ashford, you can have my time, if you need. [LB403]

SENATOR ROBERT: Senator Ashford, 2:45. [LB403]

SENATOR ASHFORD: Let me just...let me just recast the process, again, for the body because I know this has been going on a long time and it's probably going to go on a lot longer, though if this amendment goes on, my sense is it's not going to go on much longer at all. But let me recall what happened after last session and what was a very difficult situation. We've talked about the statewide study and I have not, I failed...I mentioned but I failed to thank profusely Senator Aguilar, Senator Harms, Senator Wightman, Senator Langemeier, Senator Hansen, and Senator Engel, though we didn't make it to South Sioux City at that time, for their hospitality and their willingness to bring together--a pretty gutsy thing to do--bring together people from their communities on all sides of the issue. Our challenge was to come up with a bill that dealt, as best as possible, with all sides of this thing, to come up with a policy that we as a state could live with. I spoke with the Governor on this issue and we had a great discussion about what direction he wanted to go and what direction I wanted to go, and I've talked to my committee over and over again. It was decided that at least this time the DREAM Act was not really that material, it wasn't that critical; what was important is that we set a

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standard on employment and set a standard on benefits. That was the decision. Those are material issues. And as Senator Nantkes rightly suggests, they are issues that have differences of opinion. We have done what we are supposed to do in this Legislature by putting this measure, AM413, before you. [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR ASHFORD: I can ask you...I will ask you again and maybe if I have additional time I'll ask you another time, but let me also fall back very quickly, and I know Senator White has his light on, we had a lot of other provisions that we considered in the Judiciary Committee last year. One of the provisions we considered was a thoughtful provision brought by Senator White that talked about creating a cause of action against employers who hire undocumented workers, that would ask those employers to pay back all of the benefits that had been paid out in violation of federal law. That is major litigation, members. And if we want to have that amendment, I think Senator White will probably bring it so we could talk about that for awhile. [LB403]

SENATOR ROBERT: Time. [LB403]

SENATOR ASHFORD: Thank you. [LB403]

SENATOR ROBERT: Thank you, Senator Ashford and Senator Nantkes. Senator Gay, you are next and recognized. [LB403]

SENATOR GAY: Thank you, Mr. President. Senator Ashford says I was being patient. I think you need to be today. I see 30 lights on, so we should be patient on something like this. I've been listening and we all are, but I would hate to see us rush to vote on this amendment one way or the other. I think this is good, to talk. Things happen and they happen in a hurry. I was getting prepared. I hit my light to talk about the prior bill and the questions I had was how it affects small contractors, how E-Verify works, all these other issues we're going to address, and then all of a sudden...things change quickly in the Legislature, as we all know so...but that's the way it works. But I hope we can continue on as the day goes on and we don't make any rash decisions on day thirty-two. I think the underlying bill is a good bill. Was prepared to support that. And there are probably going to have to be amendments on that bill to make it work better. I had issues as well, as how the Tax Commissioner would implement these things, how the Labor Commissioner goes about his duties, what the report will say back to the Legislature. So the prior bill, it still is a good bill. LB403 I think is a good bill that we need to act on. AM435 certainly changes the scope of that and I know that it would have been different coming out of committee had this been...had the public hearing been...this been in that public hearing. And I'm a little concerned. I still think there's something that could happen on a compromise on AM435 if we relax a little bit and put our heads to it. I don't think anyone is in favor of a person currently in school, then changing the, you know,

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pulling the rug out from under them. But also, there are concerns. We all know it, that you talk to your constituents, we need to listen to them, too, of course. We're here to try to make good decisions. So I think if we slow down a little bit, continue dialoguing on this, see what happens. There's going to be a lot of other amendments, I'm sure, but I guess I don't think this thing...we need to rush into it and hurt a good bill, which LB403 I think is a good bill. I think public wants us to act on this issue. The public wants to know where you're at on AM435, quite honestly. But maybe there's some kind of common ground we can come together on. So I would encourage us, I don't know that the strategy will be on those for and against, to call the question or whatever, but we'll deal with that as it comes. One thing, I was hearing about the benefits, that somebody might get to not receive health benefits and some of those things. They have been. There are opportunities that they will still continue to receive some benefits in emergency situations. I think that was accounted for. But I would like to say, when I was talking about that, in the bill, the nonprofits that have been providing so many of these services that are kind of hurting at this time, of course, with the economy, but I did want to put in a word for the nonprofit agencies that are out there every day providing these services to a lot of people. And do they ask that question? No. But anyway, I just think there are so many other questions on the prior bill that we need to address and move that bill that I'd hate to see this whole bill go down because of one amendment put on or not completely thought through. So I just wanted to, like I say, get up and ask those questions. Hopefully, I'll hit my light and we can get to those other questions I was going to ask Senator Ashford and others on, but, like I say, the discussion has certainly turned and we'll see what happens. But I would hate to see us throw the baby out with the bathwater because of one amendment. I think we could work through this. Let's see what happens. Let's slow down, no rush for day thirty-two, and then just see if we can maybe work this out. Because I think if the sides come together maybe there's some common ground that we could all work this out. Senator Ashford alluded to maybe a possible federal...if federal legislation is going to trump all this anyway, we're going through a lot to do about nothing. [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR GAY: But I shouldn't say about nothing, because it is something. We all know that. That's why we're kind of strategizing on these things. So, like I say, I hope we can continue to have a good dialogue, which I think we're having, and let's see what happens and I'm more than happy to get back to LB403 and make that work because I think that ultimately is a very good bill and I commend the Judiciary Committee for bringing that out. Thank you, Mr. President. [LB403]

SENATOR ROBERT: Thank you, Senator Gay. Those wishing to speak: Senators Janssen, Karpisek, Dierks, Coash, and others. Senator Janssen, you are recognized. [LB403]

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SENATOR JANSSEN: Thank you, Mr. President, members of the body. It's been interesting this morning. Since I've brought this amendment, Senator Ashford has come over and dumped my coffee out on my desk over here in my computer, and my computer no longer works. So this is definitely one of those issues that has brought some emotion on both sides, and I certainly understand that emotion. You know, I can go back to it several times. We all got e-mails about this issue. I think it is an issue for all immigration. The e-mails I got last summer, serving on the city council of Fremont, were much more to the core than anything we saw. Why did I bring this amendment? I think I'm well-equipped to defend this amendment. I've been through the battles. I've been through them. I don't...maybe Judiciary went through it last year but it wasn't drawn out through an entire summer. I believe that was a one-day hearing and they voted on it right afterwards. I believe that was the case. I've just took down some notes while I've been sitting here and getting paraded around a little bit of my options. Public hearing keeps getting brought up. Senator Friend brought that up--public hearing, we need a public hearing. Certainly nothing wrong with public hearings. It was also brought up that we always have amendments added on. LB403 had a public hearing. I attended that public hearing. I failed to attend the public hearing on AM413, yet nobody is asking for us to send that back and have another hearing on AM413. Didn't have a public hearing. Public didn't give testimony on that for or against. They didn't have anything to scale that back. So when you start talking about recommitting stuff because it did not have a public hearing, well, then LB413 needs to go back and all the other amendments that we have need to go back. I might be a rookie but I believe that's how it went down. This is the very issue, in-state tuition is the very issue that touched off the city of Fremont's issues last summer. It was no other issue. It wasn't E-Verify. My company E-Verifys right now. We're a medical staffing company. I believe the state of Arizona requires it, so we've done it. It's not that difficult. It doesn't do much. I would challenge that it's really just a watered-down way of saying that we are tough on immigration, illegal immigration, in the Legislature. While I think the bills are worthy and the amendments are worthy, I don't think they go far enough, and that's why I offer this amendment. It gives us a chance to go that far. And I don't want to really mislead people. LB403 is good. AM413 is good. I just don't think it goes far enough. And I wanted to speak on the federal has acted on this issue. We keep acting like the federal government has not acted on this issue. I've read the report that the Judiciary Committee put together, LR362, and if you go to Appendix C, page 9, I'll read directly from this report. This is Congress passed this in 1996: Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a state or political subdivision for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit, if no less an amount, duration and scope, without regard to whether a citizen or national is such a resident. In other words...and this is from the report, in other words, federal law may prohibit undocumented students from being eligible for in-state tuition rates unless all U.S. citizens, including those residing outside the states, are eligible for the same rate. So it is...it is out there. It is in federal law. It's in



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the very report, LR362, the Judiciary's report. So there was a little bit of testimony on the other side. This has been. [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR JANSSEN: We can do this. We should be doing this. We're empowered to do this already and it needs to be done. Look, this is very simple. I've talked to a lot of people this morning. If you are against giving in-state tuition benefits to people here unlawfully, you vote for AM435. You also vote for AM413 and you vote for LB403. You do that. If you are in favor of doing that, that's fine; you don't vote for the amendment. It's simple. Is it political? Yeah. Everything we do here is political every day. This is a political body that we're all serving in, so, yeah, it's political. I mean it's...I hear people behind me right now. One person just made note, wait till the head honcho gets ahold of this guy this afternoon. That was just said right behind me. [LB403]

SENATOR ROBERT: Time. [LB403]

SENATOR JANSSEN: Thank you. [LB403]

SENATOR ROBERT: Thank you, Senator Janssen. Senator Karpisek, you are next and recognized. [LB403]

SENATOR KARPSEK: Thank you, Mr. President, members of the body. In my opening in committee and on my opening today on the floor I've been very up front to say that this bill, LB403, did not include the DREAM Act. Did I know that it might come up? I thought it might and I have told people on both sides of the issue that I would not try to fight it off. I will say that Senator Janssen probably...it does need to have a public hearing. It's had public hearings but not this year. I think it does need to have a public hearing. It probably needs to go back. Over the course of today and tomorrow, if we don't bring this up to a vote today, maybe some compromise can be brought up and see how we come out on this. Maybe, between Senator Janssen and myself and Senator Ashford and Senator Council and Senator Nantkes and anyone else involved, we can sit down and talk this out. So I would ask that we not call the question; think about this. I am not a supporter of the DREAM Act. I don't think that it's right and I would not vote for it. The question is, is what happens to this bill if we vote for AM435? The Speaker has said it will go back to committee. Committee Chairman Ashford said he doesn't want to have another hearing. Can't say as I blame him. He's had many. The committee has had many hearings. And I, too, want to say I think they've done an excellent job. The reason for LB403 and other bills that have been amended into it are not for discrimination. They're to try to alleviate some of the discrimination. We've all seen people that we think must be illegal using an EBT card or getting some sort of assistance, and that's just not right. If this bill goes through, LB403, as amended, if we see someone with an EBT card or getting benefits we will know that they are deserving

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of those benefits. So I do not appreciate some of the e-mails that I'm getting, saying that I'm a racist, that I am doing this against one certain class of people; quite opposite. That is not what I am trying to do. I'm trying to make it fair, mainly to the taxpayers of Nebraska. They deserve to know where their money is going. Senator White has a bill on transparency. We have many bills. We want people to see where their money is going, where their hard-earned taxpayer money is going. That's what the underlying bill of LB403 is. Senator Janssen also thought AM413 should be taken back to committee. The bills amended with AM413 all did have hearings. They had hearings and the Judiciary Committee moved them out. I have an amendment, as Senator Nantkes talked about, pending after this. I have to apologize. I should have had my amendment in first. I think we could have avoided some of this had my amendment been in first.  
[LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR KARPISSEK: Thank you, Mr. President. I had it in my hand. I was waiting for Senator Nantkes to get off the mike to run it by her one more time. I snoozed and I lost. So now we're in this pickle. What do we do? Again, I would hope that through the day we can talk about it, come to some compromise. I think LB403 is a good start. I've also had a lot of people say this doesn't go far enough. Maybe it doesn't but this is a place to start. I have more to say but I am going to yield my time to Senator Nordquist. [LB403]

SENATOR NORDQUIST: Thank you, Senator Karpisek. Just going back to the process, I don't necessarily support the DREAM Act either, but what I do support is our process here. And Senator Janssen did bring up AM413. AM413, if you look at the committee statement, is a combination of four bills: LB403, which had a hearing which he attended; there's a... [LB403]

SENATOR ROBERT: Time, Senator. [LB403]

SENATOR NORDQUIST: What's that? [LB403]

SENATOR ROBERT: Time. [LB403]

SENATOR NORDQUIST: Oh, sorry. [LB403]

SENATOR ROBERT: Thank you, Senator Nordquist and Senator Karpisek. Senator Dierks, you are next and recognized. [LB403]

SENATOR DIERKS: Thank you, Mr. President. It's been a long time. I turned that light on I think an hour and a half ago. It's been a busy house. I just had a question for Senator Karpisek regarding the bill itself, not the amendments we're talking about.  
[LB403]

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SENATOR ROBERT: Senator Karpisek, will you yield to a question? [LB403]

SENATOR KARPISEK: Yes, I will. [LB403]

SENATOR DIERKS: I was asked in the Rotunda about the E-Verify situation that we have here in the bill. Does that mean that all businesses who order or sell products would have to E-Verify that before they could do the ordering and selling with the companies they're working with? [LB403]

SENATOR KARPISEK: You mean if they are doing it with a company who has state contracts? [LB403]

SENATOR DIERKS: Yes. [LB403]

SENATOR KARPISEK: As I understand it, yes, it does. [LB403]

SENATOR DIERKS: Thank you. Oh, I give the rest of my time to Senator White. [LB403]

SENATOR ROBERT: Senator White, 4 minutes. [LB403]

SENATOR WHITE: Thank you so much, Mr. President. Thank you for the courtesy, Senator Dierks. Would Senator Janssen yield to a question? [LB403]

SENATOR ROBERT: Senator Janssen, will you yield to a question? [LB403]

SENATOR WHITE: And I would like to take this moment, before he gets to the mike, to tell the members of the body I am going to vote for his amendment, but I do have a couple of questions. Senator Janssen,... [LB403]

SENATOR JANSSEN: Yes, I will. [LB403]

SENATOR WHITE: Thank you. Senator Janssen, you made political campaign promises about this and you strongly support the idea of this, correct? [LB403]

SENATOR JANSSEN: I support the idea of this, yes. [LB403]

SENATOR WHITE: All right. Why didn't you introduce it as a bill? Why are we here without you having introduced it as a bill and had the hearing so we wouldn't be in this situation? [LB403]

SENATOR JANSSEN: Yeah, that's a very good question, fair question. When you come

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down here as a new senator, as you know, I spoke to you, as a matter of fact, asking for some insight in that, drove down to your law offices in Omaha. When you get here, it all kind of comes at you. You have some bills come your way. So I was hoping that...or even thinking that maybe this would be brought up by a more senior member and it failed to happen. So on my part, I didn't get a chance to do that. The ten days expired of bill introductions and I saw it wasn't on there, so I started to look and see if there was an avenue to which I could bring this discussion. [LB403]

SENATOR WHITE: Thank you, Senator Janssen. I will tell the members of this body the following. I will support this. I will resist it going back to committee. And then I will support and I intend, if permitted, to introduce a series of amendments to make this meaningful. I have to tell you that Senator Council's comments on what is and isn't permitted under federal law were some of the finest, insightful, legal opinions I've heard on this whole debate. I do, however, think it is a cruel hoax to pass a bill like this unless it has real meaningful consequences. It gives us, quote, political cover so we can pretend to be doing something but leaves in reality the people who I am also worried about, not just the Americans seeking jobs, not just the Americans who want to control immigration, but also the people who are victimized by the unscrupulous employers who lure them here and then abuse them. So I will have a series of amendments, and I hope we have time to debate them all, that will state, for example that when the state or the county or a school district suffers damages, in other words, an employer brings in an illegal worker and that person has to go to the county for healthcare because they're not provided it or they have to apply for food stamps or their child gets sick and goes to the county hospital or the cost of educating a nonnative English speaker by the school district, when any subdivision is damaged because of violations by employers that those subdivisions can and indeed must seek the return of the money that they have been damaged, the monies they have suffered, because these unscrupulous employers have... [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR WHITE: ...insisted on bringing illegal workers into the work force and hiring them. Now...and the reason I want to thank Senator Council, I believe this is permitted under federal law. We are not seeking to punish, we are not seeking to sanction for violations of federal law, but the state does not have to be a passive victim of those who spurn our laws, of those who violate basic human dignity by bringing illegal aliens in. So I will support Senator Janssen's amendment and then I will have a series of amendments that I submit to each and every one of you is necessary so that what we do is really, truly address the issue, not just in a political gamesmanship way but in an honest, constitutional, lawful, responsible manner. And once again, thank you, Senator Dierks, for your courtesy. Thank you, Mr. President. [LB403]

SENATOR ROBERT: Thank you, Senator Dierks and Senator White. Senator Coash,

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you are next and recognized. [LB403]

SENATOR COASH: Thank you, Mr. President, members of the body. I turned my light on way before this amendment came up, so I'm going to speak a little bit about the original bill. And just wanted us to consider, colleagues, what this bill is really about. Is it an immigration bill? Of course it is. Now it's also an education bill. I would like to remind the body that, you know, three bills came together to provide for LB403. Now we have an amendment to add it...put education on the table. Is this a good idea? It might be. I think we're going to find out soon. But is it what three introducers of a bill wanted? No. But what this bill is about is about employers. This is an employer bill. I don't think we should forget about that. Employers have a responsibility. Employers have a responsibility to their communities, their government and, above all, their employees, and we're asking employers through this bill to honor that and to be responsible to it. Employment seems to be the biggest issue. That's why we had three bills come to address that. Employers affect thousands of people. Does education affect thousands of people? Yes, it does. Is it as many as the employers? Maybe not. But I'd ask the body to consider what the intent of LB403 was. It was to address employment, it was to address employers, and it was to address workers' rights. And with that, I'll yield the rest of my time to Senator Ashford. Thank you. [LB403]

SENATOR ROBERT: Senator Ashford, 3:20. [LB403]

SENATOR ASHFORD: Thanks, Mr. President. And I'm sorry about your computer, Charlie. (Laugh) And certainly this is not...my comments and I don't think anybody's comments are meant to be personal on the issue. I understand why Charlie is concerned about this issue. I understand the Fremont issue. He was on the front lines of that issue and I acknowledge that. You know, and in the study that I did, there are...or I didn't do it. Stacey Trout did it. I always say I did it. I didn't do it. But basically there's a significant discussion on the DREAM Act and it puts into question the DREAM Act. There are numbers of cases that have been decided sort of around the issue in the federal courts, and there's one court in California that has basically struck it down and that's on appeal to the Supreme Court of California. It is doubtful, unless the federal government acts on a federal DREAM Act, it is doubtful that we in Nebraska will be able to continue to have a DREAM Act. I really think that's...and I...and in deference to my colleague, Senator Council, who does know a lot about these issues, that's my opinion after looking at, reading the cases and thinking about them. So it may very well be that this Legislature may want to repeal the DREAM Act or amend the DREAM Act, but there's a lot to the issue. There is a lot to the issue. There will be federal legislation on this. I think with the majorities in the Congress, the way they are now, they will pass. Again, I think it is not that...it is not, Senator Janssen, that we shouldn't vote on this because it did not have a hearing. The issue is, it is a significantly complicated issue. We can vote on it. We will be voting on it. If it goes on the bill, it doesn't change much because, quite frankly, the federal law probably would abrogate the state law anyway.

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My point is different. And it's not that Senator Janssen has gone outside the process, and I don't think he's done that. I think it's an issue that he's concerned about. I would ask you to consider not voting for this amendment but certainly, if you wish, at some future time, voting for the DREAM Act... [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR ASHFORD: ...because, because for the first time in two and a half years we have put together...not, Senator Janssen, because the Senator...or the Governor told us to do it, and I understand your frustration with the executive branch. That's always the case. In my 11 years, we always have frustration with the executive branch. But this is a coming together. And I understand Senator White's point, but I do think this bill does have meat. I think it does address an issue, I think it does, of employment and benefits and public expenditures of some significant degree. I ask you to move this AM413, to adopt the amendment without Senator Janssen's amendment, realizing I'm sure the issue is going to come up at some future date, because this does make a difference to our state. It makes a difference to those who are directly impacted by the law and to... [LB403]

SENATOR ROBERT: Time. [LB403]

SENATOR ASHFORD: ...taxpayers of the state, I think, in a prudent, rational, reasonable way. And again... [LB403]

SENATOR ROBERT: Time, Senator. [LB403]

SENATOR ASHFORD: Thank you, Senator. [LB403]

SENATOR ROBERT: Thank you, Senator Ashford and Senator Coash. Senator Fulton, you are next and recognized. [LB403]

SENATOR FULTON: Thank you, Mr. President, members of the body. There was something that I said earlier which is not...which was not entirely accurate and so, for the record, I'd like to correct that. Senator Nantkes had raised the question with regard to...and to be clear, I'm actually speaking now on AM413 but it needs to be corrected, so she had raised the question as to whether or not the provision of services from the University of Nebraska could be construed as the providing of public benefits and I disagreed with that assessment. It could be construed such because we taxpayers fund the University of Nebraska, we...and the Appropriations Committee will be making a...well, we have made a recommendation, preliminarily, with regard to the amount of aid that we'll provide to the university as part of our responsibility. Those are tax dollars and so that is why there could be question as to whether or not we are usurping the "shall provide public benefits" by moving this forward, that part of the amendment. So

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there I understand there will be amendatory language to clarify that, so I want to correct that part of the record. Something else that I was just about to finish, I picked up a head of steam and then I ran out of time. I was discussing a little bit or sharing a little bit about my family's situation overseas and the point I was trying to make is that we aren't here...we aren't simply acting for the benefit of citizens in Nebraska. While that might be the direct action that we're taking, that may be the direct intention that we have, what we do has ramifications all over the world because we are enacting laws. Our inactions also have ramifications. And so I bring that as another perspective. What we do here is noticed by other people around the world, more so than in any other country, because the United States is looked to as the greatest country in the world, and I believe it is. So what we do with our laws have ramifications all the way in the Philippines and in other countries also. So that is part of what forms me in wanting to have a clear and concise law that does not reward illegal behavior. Mr. President, I'd like to yield the remainder of my time to Senator Janssen. [LB403]

SENATOR ROBERT: Senator Janssen, 2:40. [LB403]

SENATOR JANSSEN: Thank you, Senator Fulton. Mr. President, members of the body, first, I'd like to clarify. I have no issues with the executive branch in handling this. I think they're doing a wonderful job. I just wonder what some of my constituents might think that if it was implied that I had something against the executive branch when I'm from Fremont and then all of a sudden Senator White is supporting my amendment. They're going to wonder what's going on here pretty soon so I needed some clarification on some things there. I did appreciate Senator White's comments and his supporting of this, and even his comments about making it better. I will acknowledge that it can be and should be made better. I talked to Senator Nantkes early on in this debate and I think it's coming to a way that this will work and work well. It will repeal the in-state tuition to people here unlawfully, and I know a lot of people seemingly don't want to vote on that. There's been a lot of options thrown my way, but I keep saying, if you don't like it just don't vote for it. It's that simple. I would encourage you to vote for it. I believe this would make it a meaningful piece of legislation as far as it will have some teeth in it. We'll have something we can work with now. E-Verify is fine. It just doesn't do that much. I listened to Senator Council. She brought up some great points. I listened very intently to that. It just won't do much of anything. I support it, LB403, AM413. I think AM435 adds some teeth to it and it's what the people have asked for. It's what the people that I got elected from have asked for, not all of them, everybody has different views, but the majority did and that's why I brought this. I encourage you to support this. I encourage the debate to continue. [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR JANSSEN: I hope the debate can continue into tomorrow. I'm sure I'll have a busy office this afternoon. But with that, I'll sit down. Thank you. [LB403]

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SENATOR ROBERT: Thank you, Senator Janssen. Those wishing to speak: Senators Wightman, Pirsch, Haar, Council, White, and others. Senator Wightman, you are next and recognized. [LB403]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I'd like to ask a few questions of Senator Ashford, if he would yield. [LB403]

SENATOR ROBERT: Senator Ashford, will you yield to a question? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR WIGHTMAN: I'm going back to the bill and I would compliment the Judiciary Committee in bringing out the bill that they did. I think there may still be clarifications that could be made. I know we've talked a lot about what benefits might be excluded under this act that wouldn't be excluded under the federal law, and I don't know that there are very many. Quite frankly, most of these are cost-sharing projects or cost-sharing benefits, such as Medicaid and many of the other benefits as well that the federal government shares in. Would that be a correct statement? [LB403]

SENATOR ASHFORD: Yes, for the most...yes. [LB403]

SENATOR WIGHTMAN: Can you think of some, and you may have already done this--I haven't been present in the Chamber all of the time--can you think of some that might be benefits provided by the state of Nebraska that would not also be included in federal benefits? [LB403]

SENATOR ASHFORD: That would be both federal and state? Well, emergency assistance, I suppose, is a county benefit that's paid for by county tax dollars, would be a benefit that someone could get. However, under the bill, those benefits would not be affected because they are emergency benefits, but that would be a benefit. I suppose there would be...you know, without other...I don't know if Stacey knows about any other ones. They're mainly, for the most part, we're talking about, on the benefit side I think we're talking about there's shelters, there are...that regions, the regions have certain benefits for mental health and shelters and emergency care that could not be...would involve other than federal money that...but again, I think for the most part those benefits...well, I'm sorry, Stacey brought up a good point, retirement benefits. If someone is...actually, Senator Pankonin has raised a point about retirement benefits. If someone is in a retirement program and is undocumented, the bill could impact those retirement benefits, I suspect. But as far as emergency assistance is concerned, for the most part, if they're emergency in nature they would still be allowed. [LB403]

SENATOR WIGHTMAN: Private scholarships that were given by a foundation, a local



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foundation, would not be affected by this, would they? [LB403]

SENATOR ASHFORD: That's correct. And there are...there are a couple states, Senator Wightman, that actually prohibit undocumented persons from attending the state university system. That isn't...Senator Janssen isn't proposing that I don't...I don't...but most states that prohibit nonresident tuition don't and cannot, I don't believe, prohibit a private scholarship from being awarded to someone who is undocumented. [LB403]

SENATOR WIGHTMAN: Now, I don't think it's true of most of the members of this body. I think they would understand the differences. But we use a lot of terms interchangeably that have a lot different significance in the law. Is that correct? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR WIGHTMAN: So when we talk about "immigrants," that's a much broader term than "undocumented workers," obviously. [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR WIGHTMAN: Anybody that came here from a foreign country, even though they may now be a citizen, is an immigrant, right? [LB403]

SENATOR ASHFORD: Correct. [LB403]

SENATOR WIGHTMAN: And we talk about refugees and I know we have quite a number of refugees... [LB403]

SENATOR ASHFORD: Right. [LB403]

SENATOR WIGHTMAN: ...in Lexington, Nebraska, and they are here legally. [LB403]

SENATOR ASHFORD: That's correct, and there are a number in Omaha as well, in Douglas County. [LB403]

SENATOR WIGHTMAN: And I know we... [LB403]

SENATOR ROBERT: One minute. [LB403]

SENATOR WIGHTMAN: ...there are a lot of Somalians. Let me talk just a minute before we close with regard to the difference between a resident and a citizen. They aren't the same either, are they? [LB403]

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SENATOR ASHFORD: No. I mean a resident is here with some sort of documentation from the federal government. A citizen has the full rights of citizenship. So they're a different category of status but they're allowable. They're allowed here. [LB403]

SENATOR WIGHTMAN: I don't mean to interrupt you. Undocumented workers count as residents when we do the census, do they not? [LB403]

SENATOR ASHFORD: They are counted as...they are counted, yes, that's correct. [LB403]

SENATOR WIGHTMAN: And so for a long time we had a residency tuition instead of... [LB403]

SENATOR ASHFORD: Correct. [LB403]

SENATOR WIGHTMAN: ...one based on citizenship. [LB403]

SENATOR ASHFORD: Correct. [LB403]

SENATOR WIGHTMAN: And I just think it's... [LB403]

SENATOR ASHFORD: And that's the...one of the big issues in the DREAM Act, Senator Wightman, is whether they're a resident or not under current law and that's a debatable point. [LB403]

SENATOR WIGHTMAN: Thank you. Thank you, Senator Ashford. Thank you, Mr. President. [LB403]

SENATOR ROBERT: Thank you, Senator Wightman and Senator Ashford. Senator Pirsch, you are next and recognized. [LB403]

SENATOR PIRSCH: I'm going to waive. Thank you. [LB403]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Haar, you are next and recognized. [LB403]

SENATOR HAAR: Mr. President, members of the body, thank you. I have some questions. Senator Janssen, could I ask a question? [LB403]

SENATOR ROBERT: Senator Janssen, will you yield to a question from Senator Haar? [LB403]

SENATOR JANSSEN: Yes. [LB403]

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SENATOR HAAR: You had referred to going back, with your amendment, of going back to the way it was before. My understanding, the way it was before didn't include a requirement of citizenship or did it? Do you...? It was simply that you had to...you had to attend a Nebraska high school for three years and then graduate? [LB403]

SENATOR JANSSEN: I believe that's the premise of the DREAM Act, is that you...that students that graduate from a Nebraska high school, and if they're undocumented, they receive in-state benefits. [LB403]

SENATOR HAAR: Okay. But I mean before the DREAM Act, the situation...the...and I'm sorry to turn my back but I'm supposed to look this way. So...but before the DREAM Act was passed, was there a requirement for citizenship, or did just...did they just look at a person's transcript and...you know? [LB403]

SENATOR JANSSEN: Well, if they put down they were not a resident of the United States or the state of Nebraska, they were not eligible for in-state tuition rates, which would be the reasoning behind that. [LB403]

SENATOR HAAR: Okay. And then Senator Ashford, some question, if I can. [LB403]

SENATOR ROGERT: Senator Ashford has stepped off the floor. [LB403]

SENATOR HAAR: Oh, he's off the floor right now? Okay. Well, I'll just press the light button again then and wait to get on next time. Thank you. [LB403]

SENATOR ROGERT: Thank you, Senator Haar. Mr. Clerk, items for the record. [LB403]

CLERK: Mr. President, I do. Thank you, Mr. President. New A bill. (Read LB464A by title for the first time.) I have a new resolution, LR34 by Senator Gay, be laid over. Senator Karpisek, an amendment to LB403 to be printed. Senator Howard would like to withdraw her name from LB261; Senator Gloor to add his name to LB403. (Legislative Journal pages 556-557.) [LB464A LR34 LB403 LB261]

And, Mr. President, a priority motion: Senator Gay would move to adjourn the body until Wednesday morning, February 25, at 9:00 a.m.

SENATOR ROGERT: Members, you have heard the motion. The question before the body is, shall we adjourn until Wednesday, February 25, at 9:00 a.m.? All those in favor signify by saying aye. Opposed, nay. We are adjourned.