

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

Floor Debate  
April 27, 2011

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[LB106 LB137 LB151 LB200 LB200A LB252 LB301 LB305A LB345A LB345 LB359  
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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventieth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Matthew Mortenson, Faith Lutheran Church in Humboldt, Senator Heidemann's district. Please rise.

PASTOR MORTENSON: (Prayer offered.)

SPEAKER FLOOD: Thank you, Pastor. I call to order the seventieth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, two items: I have...

SPEAKER FLOOD: (Gavel)

CLERK: ...motions, MO42 and MO43, from Senator Campbell, moving that LB600 and LB600A become law notwithstanding the objections of the Governor. Those will be laid over at this time, Mr. President, and that's all that I have. (Legislative Journal page 1315.) [LB600 LB600A]

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions: LR163, LR164, LR165, LR166, LR167, LR168, and LR169. We now move to the first item on the agenda, General File, appropriations bill. Mr. Clerk, LB549A. [LR163 LR164 LR165 LR166 LR167 LR168 LR169 LB549A]

CLERK: Mr. President, LB549A is a bill by Senator Council. (Read title.) [LB549A]

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SPEAKER FLOOD: Senator Council, you're recognized to open on LB549A. [LB549A]

SENATOR COUNCIL: Yes, thank you, Mr. Speaker. LB549A is the appropriations bill associated with the Nebraska Youth Conservation Program establishment which was discussed yesterday and advanced to Select File. The bill that was advanced yesterday provides for a one-time transfer of \$994,000 from the Settlement Cash Fund into the General Fund, and this A bill provides for a transfer of those funds to the Youth Conservation Fund under the Game and Parks Commission. You'll see a little difference between the amounts, and the Fiscal Office noted that by the time the transfer of the funds from the Settlement Cash Fund occurred there would be a slight accrual of interest and the amount reflected in LB549A reflects the projected amount of interest that would be earned on the \$994,000 that is set forth in the bill that was advanced yesterday. So with that brief explanation, I would urge the body's advancement of LB549A. [LB549A]

SPEAKER FLOOD: Thank you, Senator Council. Members, you've heard the opening to LB549A. There are no members wishing to speak. Senator Council, you're recognized to close. Senator Council waives her opportunity. The question before the body is, shall LB549A advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB549A]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB549A. [LB549A]

SPEAKER FLOOD: LB549A advances to E&R Initial. Mr. Clerk, we now proceed to Select File, appropriations bill, LB305A. [LB549A LB305A]

CLERK: Mr. President, Senator Larson, I have no amendments to LB305A. [LB305A]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB305A]

SENATOR LARSON: Mr. President, I move LB305A be advanced to E&R for engrossing. [LB305A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB305A is advanced to E&R for engrossing. Mr. Clerk, we now proceed to General File, 2011 Speaker priority bills, Gloor division. We begin with LB589. [LB305A LB589]

CLERK: Mr. President, LB589, a bill originally offered by Senator Smith. (Read title.) Senator Smith presented his bill yesterday, Mr. President, at that time, and Senator Fischer opened on the Transportation and Telecommunications Committee amendments. Those amendments are still pending. (AM858, Legislative Journal page

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1019.) [LB589]

SPEAKER FLOOD: Senator Smith, you're authorized 2 minutes to update the body on your bill. [LB589]

SENATOR SMITH: Thank you, Mr. President, and good morning. And good morning, colleagues. In my office this bill is affectionately known as the parade bill. All of our communities benefit from special events that bring character, identity, and a source of pride. In cases where these events temporarily encroach on our state highway systems, our counties, cities, and villages need a consistent policy or practice that enables them to continue their traditions and events. LB589 and AM858 would allow temporary encroachment but would require that the roadway is within the jurisdiction of local governments seeking the encroachment, and that the local government would assume responsibility for damages and liability. Thank you again to Speaker Flood for making this a Speaker priority and to the Transportation and Telecommunications Committee for allowing this bill to come to the floor. Thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Smith. Senator Fischer, you're recognized, as Chair of the Transportation and Telecommunications Committee, to update the body in 2 minutes or less as to the content of the committee amendment. [LB589]

SENATOR FISCHER: Thank you, Mr. President and members. Senator Smith touched on some of the items in the committee amendment. This is to provide protection for liability to the state in instances where we're going to have these local events on state highways. It also removes the requirement for a permit to be issued and it requires the local government to give 30 days' written notice of the event to the Department of Roads, and the department did feel that this requirement for an actual permit being issued was not necessary and felt that that notice would be sufficient. Thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Fischer. We now turn to discussion on AM858 to LB589. We begin with Senator Cook. Senator Cook, you are recognized. [LB589]

SENATOR COOK: Thank you, Mr. President, and good morning, colleagues. I rise in support of LB589 and AM858. There is the Omaha Triathlon that goes through my district, commencing at Lake Cunningham, and they contacted our office last year with some challenges in getting the permits to use Highway 36. This is an event that has become national and it is something that brings business to the LD13 and to the Florence business district. So in addition to being called the parade bill, perhaps we can refer to it as the road race or triathlon bill. Thank you very much, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Cook. Senator Schumacher, you are recognized. [LB589]

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SENATOR SCHUMACHER: Thank you, Mr. Speaker. I generally rise in support of this bill and the amendment because many of our communities in the state need access to the highway for a special event. I don't think it rises to a level of a problem that there isn't outlines for the number of times or the length of these events, because most of them are going to use common sense with regard to that. However, I rise to call attention to the body and I think the need for something to happen to this bill, assuming it advances to Select, before...while it is on Select File. The language in here says that, "A county, city, or village making use of the state highway system for a special event shall have the legal duty to protect the highway and the public and shall be liable for all damages or injuries of any nature arising out of the use thereof, and the state shall have no legal duty, liability, or responsibility." And it goes on to provide for some indemnity provisions regarding the state. My concern on this particular language is that it may be creating liability for government, be it local or state, that doesn't now exist. It doesn't say liability for any negligent acts or any presently existing legal exposure but for any injuries of any nature sustained by the public, and I think that that's got to be "wordsmithed" considerably so that we don't create liability and exposure for taxpayers that does not now exist and that would...I can easily see someone arguing that they were hurt at something arising out of this but really wasn't any fault of the village or any fault of the state and all of a sudden we're in the middle of a legal mess with these, the community indemnifying the state, the state getting sued, the city getting sued over things that are not now an exposure. Thank you, Mr. Speaker. [LB589]

SPEAKER FLOOD: Thank you, Senator Schumacher. Senator Sullivan, you are recognized. [LB589]

SENATOR SULLIVAN: Thank you, Mr. President. Good morning, colleagues. I rise in support of this bill, even though that Senator Schumacher raised some legitimate points that I think probably need to be addressed. If nothing else, I think this bill then will create some consistency across the state. I know that at least one community in my district has had the good fortune of having received approval to have probably what I think is the longest running community celebration in Nebraska--Popcorn Days in North Loup, Nebraska--and the Highway 11 goes right through town and it is blocked off for several days when the annual popcorn festival is held and were rerouted on another state highway around town. But as I said, Senator Schumacher's comments begs the question even for those communities who have been able to do that, does this...is this sort of a game changer for them as well in terms of now they're going to probably have to take out an insurance policy. Maybe they've already done that, I don't know, but I think it's an issue that needs to be addressed. In spite of the fact that this is a good bill, I think it needs to be tweaked a little. Thank you. [LB589]

SPEAKER FLOOD: Thank you, Senator Sullivan. Senator Nelson, you are recognized. [LB589]

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SENATOR NELSON: Thank you, Mr. Speaker and members of the Legislature, and good morning. If Senator Fischer is here, I would like to address a question or two of Senator Fischer. [LB589]

SPEAKER FLOOD: Senator Fischer, will you yield to a question from Senator Nelson? [LB589]

SENATOR FISCHER: Yes, I will. [LB589]

SENATOR NELSON: Good morning, Senator. [LB589]

SENATOR FISCHER: Good morning. [LB589]

SENATOR NELSON: I'm looking at...it appears to me that on the committee amendments that you injected some things about liability and indemnification. That was...all right. And I'm looking at Section 1(2)(c) and I'll just read the language: If a claim is made against the state, it shall indemnify--being the city or municipality--defend, and hold harmless the state from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may result. I have a little bit of concern about a small town, what assets they have and their ability to indemnify the state of Nebraska if there is a huge claim, a death or something like that and we're talking about \$1 million claim. Did you look into that as to what they would do or be required to do to rise to that level of indemnity? [LB589]

SENATOR FISCHER: The concern with the committee, Senator Nelson, on this bill was that we're talking about state highways here. We're talking about state roadways and allowing cities, allowing communities to hold events on those roadways. We all have a number of communities in our legislative districts where the highways are closed for a parade, whether it's in O'Neill with St. Patrick's Day; in Valentine with the homecoming parade; or in Senator Smith's district, Papillion; the triathlon in Omaha. Those are on state highways. So the concern there was if we are closing those highways that the state really isn't liable then, the city, the village has assumed that liability. If a vehicle happens to go down that road when the event is taking place and there's an accident, the city, the village needs to recognize that they're taking that responsibility because the state...we're allowing a change in the usage on that roadway and we're allowing a city or a village or a community to change that use and we felt then that that community needed to assume the liability. [LB589]

SENATOR NELSON: Well, I certainly agree with that and I'm supportive, but before the permission is granted, is the city or town going to have to come forward and show that they have a means of, whether it's insurance or other things, that they can pay any claims or assume that responsibility in a responsible manner and so that if there's only,

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let's say, \$500,000 insurance and the claim is way above that, they're not going to be able to protect the state of Nebraska if some attorney wants to go after the state of Nebraska? That's my concern. [LB589]

SENATOR FISCHER: And I realize that attorneys can take what action they want for their clients, but I think on page 2 of the amendment, the official governing body has to take action and with that action they then acknowledge that they accept that duty. I think that lays it out pretty plainly for those communities that they are accepting that liability. [LB589]

SPEAKER FLOOD: One minute. [LB589]

SENATOR NELSON: All right. Thank you very much. I'm generally in support of the bill. I think it's a good idea. I still will continue to take a look at this language here and see if it needs to be strengthened somewhat. Thank you, Senator Fischer, and thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Nelson. Senator Krist, you are recognized. [LB589]

SENATOR KRIST: Good morning, Mr. President and members. I, too, have a real concern as to the language in the amendment which now is the bill, and it comes from a bit of personal experience but I'll describe it this way. First of all, that state highway, that's not owned by the Department of Roads. It's owned by the people that paid the taxes to pave it. And this language, to me, really means that the Department of Roads has said, okay, we're going to wash our hands of this whole thing; if something happens, it's you, the municipality. So as Senator Nelson referred to and Senator Schumacher referred to, their points, I'm not sure that liability should not be shared from the state to the county to the city to the village in some joint capacity. I'm not sure that notifying Department of Roads that we're going to have this event and give them 30 days' notice, and then they're going to wash their hands of the whole thing, is potentially the correct way to do it. I would suggest that between now and Select, because I do think this is a bill that needs to go forward, we need to look at those liability issues and continue to share them. And here's one of my concerns, Senator Smith, as you work through this between now and Select. Does that mean that because we've washed our hands of it from the state level that the State Patrol, the troopers cannot assist in maintaining safety and concerns for the state road? Does that mean that we would charge again? My experience comes from many, many times trying to put on and help put on air shows across this state and trying to get marathons around the area and the paying for the police protection, the safety protection that is needed during those massive events. This is not something, I don't think, that Tekamah can handle all by themselves, but it's something that the citizens in Tekamah that own that road that comes through that town deserve the opportunity to do, both in terms of civic pride and

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an interest. So if I'm reading this correctly, and again, as you all heard, I am not a lawyer, I'm a pilot, pretty simple. Houses get bigger, houses get smaller, I go faster and slower. But if this means that the state has washed their hands of taking care of my road because it's owned by the citizens, then I think we need to look at it one more time and make sure that the liability issues across the board are indeed shared across the board. Thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Krist. (Doctor of the day introduced.) Senator Lathrop, you are recognized. [LB589]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I am a supporter of the concept in LB589, the idea that we ought to allow our smaller communities primarily, but not exclusively, to use the main drag, which is oftentimes a state highway, for civic events, parades and the like. That's an important part of small town America and certainly an important part of small town Nebraska. With that said, so I am going to support this bill, I have expressed to Senator Smith my concern regarding the liability language, and it's not because I stand trying to create liability where none exists but what I want to participate in between now and Select File is a clarification of the language dealing with the liability. And let me offer a couple of thoughts just to illustrate some of the issues and some of the complexities. To start with, the state of Nebraska...claims against the state of Nebraska are governed by the State Tort Claims Act, which has a two-year notice and a two-year statute of limitations. It also has no cap. Claims against a city are governed by the Political Subdivision Tort Claims Act. That act has a one-year notice requirement and a two-year statute of limitations, and it has a \$1 million cap. Is liability that we are transferring in this case vicarious liability so that the city indemnifies the state or is...and liability by the city is dependent upon a showing of liability by the state? That's a question. The other question is going to be is there independent liability on the part of the state in any case? There are a number of issues. I'm not going to involve myself in this process to create liability where none exists but to sort out who is responsible and what the process is so that if somebody gets hurt through someone's carelessness and there is and should be liability, that it is clear who is responsible and under what theories and under what process that must be undertaken. I've offered to Senator Smith and to anyone else who...and Senator Schumacher as well, to participate in that process between now and Select File, as I believe this needs some clarification. I certainly understand the intent, and dealing with some of the complexities and the differences between the city's stand-alone liability, the state's liability, whether the cities are simply indemnifying the state, whether you have to establish liability on the part of the state, and then the liability or the amount of the judgments paid by the city, those are all things that I think need clarification and I'm happy to participate in that process and bring what I know about it to the table. I will offer this, that four or five years ago when I got here, the first year we dealt with recreational liability and these issues. We spent a good deal of time among the lawyers that worked on that solution talking about different scenarios, and this is not unlike that

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circumstance so I think I can bring a little bit of that background to this process and help Senator Smith out with his bill. Thank you. [LB589]

SPEAKER FLOOD: Thank you, Senator Lathrop. Senator Karpisek, you are recognized. [LB589]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I would like to thank Senator Smith for bringing this bill. I think it is a very important bill. I don't know that it's only important for rural Nebraska but all of Nebraska. I do know in Wilber we are going to have our 50th Czech Festival this year. Being mayor for 12 years, I've been through the fights, been through the arguments with the state about closing the highways. I think at some times it gets to be a power struggle and who's going to win. So far it's been the cities, but it's been getting harder and harder every year to get the highways closed. We've always had a liability policy that goes along with the festival. If there is some concern on this, I would be willing to sit down also and try to help out, if I could. I don't know that I can add a lot but I do want to make sure that the cities are okay on this and that the cities don't get any more liability than they have now. But however, this is going on right now. It's been going on for years. The city is the one that asked for the state highway to be closed. If it wasn't closed, then there wouldn't be the liability going back on the city. So I do see where there could be some concern but, again, this has been going on for years and years. I don't know of any huge problems that have been created. I also want to make sure, however, that anyone who would be injured would be covered. In the rec liability I was concerned and have a good friend from Crete that had a situation happen in a city park that I don't feel that the victim or the person who was injured got treated the way that they should have been. So I don't want to see a lot of liability falling on to anyone, but for something of no fault of theirs something happens to them, they should make sure that they're covered one way or another. Again, I think this is a very important bill, a bill to say these cities maintain the highways that go through their towns and if they want to shut them down and assume the liability and get the liability coverage that they have to do, let's by all means not only let them do it but help them do it to bring in the amount of economic development that some of these towns absolutely need and revolve around. There's no reason to throw barriers up in their way, but to help them. And I am sure with Senator Smith and Senator Fischer working on it, we will get there. And again, I really appreciate this bill and I think we can get there and make it better for everyone. Thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Karpisek. Senator Wallman, you're recognized. [LB589]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, want to thank Senator Smith for this bill. Been in a few parades with Senator Karpisek myself. And Beatrice, they close the highway down; Wilber does, some of the other towns do

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also and it is their main street sometimes. And this helps the state...or helps the municipalities. And I'm concerned also with the cities and make sure we don't put any more blame on them, the chambers of commerce and main street Americas. Economic development, it's good for small town America and also larger cities like Omaha, and I've been in those parades and it's a pretty nice thing to go to. I like to go in myself. So thank you, Senator Smith. And thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Wallman. Senator Fischer, you're recognized. [LB589]

SENATOR FISCHER: Thank you, Mr. President and members. I would like to stress that this bill was brought by Senator Smith and we heard from the folks in Papillion and the importance of Papillion Days. We also heard about Omaha. And then this bill, of course, relates to any highway across the state of Nebraska that would be closed for a local event, and I think that we need to stress that. These roads are being closed for local events. They are not being closed for state events. There's already a form that's required of cities to fill out, Senator Smith has a copy, I have a copy back here, and it addresses liability. What we're trying to do with this amendment to the bill was to make those requirements uniform across the state, and Senator Smith is nodding. You know, that's been a problem. Within each district of the Department of Roads, it was up to that district engineer to set those guidelines within that district. They weren't always consistent. It was open to interpretation. We're trying to make those uniform now so that every community across the state knows what's expected of them, knows what needs to be done, and hopefully that will be taken care of with this amendment. With regards to Senator Krist's comments, the state is responsible for the roads. It's a statutory requirement. The state is charged by statute to control access, to control the right of way. So when we allow the state, through this bill, to give up that control for a period of time to a city, we need to think this through. If the state is giving up the control, shouldn't the city then that's requesting the control of the event have the liability? And as I said, they have to have that now under a form that they fill out for a permit. So Senator Smith and I are trying to get into statute a uniform practice across the state with regards to how these events are handled on state highways. Thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Fischer. Senator Pahls, you are recognized. [LB589]

SENATOR PAHLS: Good morning, Mr. President and members of the body. I'm standing up here for selfish reasons. I want this bill to go through. Senator Smith and Senator Lathrop, if there are legal issues, I want you to help straighten that out because I'm doing this for selfish reasons. I happen to be a Keystone Kop in the Tangier Shrine and sometimes we go to some of these parades in some of these small towns and I truly enjoy that, and I have noticed over the years that it has gotten a little bit tougher because sometimes they put us on a side street. And if I'm going to be making a fool of

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myself out there as a Kop, I want to be seen by lots of people. I know this is a serious issue but we do need to do this, to make this effective. And just to let you know, as a Shrine, we do have our own insurance because every once in a while we may do some things that are a little crazy and if we do cause damage we are liable for that. And glad to say that I've never been held liable. Thank you. [LB589]

SPEAKER FLOOD: Thank you, Senator Pahls. Senator Krist, you are recognized. [LB589]

SENATOR KRIST: Yes, sir, thank you a second time around. But I wanted to respond to Senator Fischer and Senator Smith. If I came across the first time as saying that I was not in support of the amendment or the bill, that is not my intent. I am extremely in support of changing the process for all of our communities to be able to use those throughways for great purposes in terms of civics, civic team building and heritage days, etcetera, etcetera. But my question about liability comes from a personal experience where as soon as the state said, no, we wash our hands of that responsibility, the event then went into a mode of trying to control a crowd; that it needed to contract to other agencies because the State Patrol and the local police department needed to be paid for crowd control, etcetera, etcetera. And I also rise to let you know that what I couldn't say in terms of legalese I think Senator Lathrop said very, very well, and Senator Schumacher said very well. I think there's some loopholes here or some holes that need to be...continue. But by no means would I degrade the effort that's involved. I thank Senator Smith for bringing it forward and Senator Fischer and her committee for amending it the way they did. Vote green on AM858 and on LB589 so that we can change the process and make it easier and better for our communities to have these kinds of events. [LB589]

SPEAKER FLOOD: Thank you, Senator Krist. There are no lights on. Senator Fischer, you're recognized to close on AM858. [LB589]

SENATOR FISCHER: Thank you, Mr. President and members. I thank you for the discussion on this. My legal counsel and I will be visiting with Senator Smith, Senator Schumacher, Senator Lathrop. And I think, just with comments that I had off the mike earlier, I think we'll be able to do a little tweaking on the amendment in order to clarify the liability situation. I do want to make it clear, though, that the intent of the committee amendment is to stress that the state is giving up control of a roadway for a certain period of time to a local community and we need to keep that in mind and what all is involved in that process. With that, I would ask you to advance the amendment and the underlying bill. Thank you, Mr. President. [LB589]

SPEAKER FLOOD: Thank you, Senator Fischer. Members, you've heard the closing on AM858. The question is, shall AM858 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB589]

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CLERK: 40 ayes, 0 nays on adoption of the amendment. [LB589]

SPEAKER FLOOD: AM858 is adopted. We now turn to discussion on LB589. There are no lights on. Senator Smith, you're recognized to close. [LB589]

SENATOR SMITH: Thank you, Mr. President, and thank you to all of my colleagues, some great discussion. And to Senator Krist, I did not take anything that you said as opposition to the bill. I know you're in support of this bill and I think you raise some great and valid issues. And I do appreciate Senator Lathrop for offering to work with myself and Senator Fischer on getting the right type of language in here to address the liability issues. Once again, the trade-off here is to be able...for the cities and the counties and the villages to have certainty to be able to plan their events, and with that come some responsibility on their own. And I think of those government entities that I've spoken with, they're more than willing to take on those responsibilities in order to have the certainty for their planning purposes. So once again, all of my colleagues, I thank you very much for your support of this bill and I ask you to vote green. Thank you. [LB589]

SPEAKER FLOOD: Thank you, Senator Smith. Members, you've heard the closing to LB589. The question is, shall LB589 advance to E&R Initial? All those in favor vote yes; all those opposed vote no. Have all those voted who care to? Mr. Clerk, please record. [LB589]

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB589. [LB589]

SPEAKER FLOOD: LB589 advances to E&R Initial. (Visitors introduced.) Mr. Clerk, we now proceed to the next item on our agenda, that being LB590. [LB589 LB590]

CLERK: LB590, a bill by Senator Gloor. (Read title.) Introduced on January 19 of this year, referred to the Revenue Committee. The bill was advanced to General File. I do have Revenue Committee amendments as well as an amendment to those committee amendments. (AM1072, Legislative Journal page 1090.) [LB590]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Mr. Clerk. Senator Gloor, you're recognized to open on your bill. [LB590]

SENATOR GLOOR: Thank you, Madam President. Members, if you listen to nothing else on this rather lengthy opening, please understand that this is not about cigarette taxation as you understand it. Even though the agenda may title it "tax provisions," that is a misnomer. What this is about in its simplest is a very important bill that has to do with improving the reporting relationships that currently relate to dollars that come back

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from tobacco manufacturers and feed our Health Care Cash Fund. LB590 is about the legal agreement mandating payments from national tobacco companies to a number of states including Nebraska. You might know this as the Master Settlement Agreement or tobacco settlement funds. In Nebraska, the money from this agreement goes to the Health Care Cash Fund to pay for, as an example, CHIP, children's health insurance, tobacco cessation efforts, cancer research, and in the past, conversion of nursing home beds to assisted living. LB590 is also about safeguarding the money already in the Health Care Cash Fund and avoiding the loss of future payments, and that is significant. It's important that we talk about the evolution of the fund. In 1998, the Attorneys General of 46 states, including Nebraska, signed the Master Settlement Agreement with the four largest tobacco companies in the United States. The settlement was an effort to recoup the millions of dollars states have spent on healthcare cost for smoking-related illness. This settlement had national impact, was historic, and Nebraska received a significant monetary settlement and continues to. Under the MSA, the participating tobacco manufacturers are required to make an annual payment to the participating states to cover costs incurred by the state in addressing public health issues associated with tobacco use. A number of additional tobacco companies have subsequently joined the MSA, however, numerous smaller tobacco companies, called nonparticipating manufacturers or NPMs, are not bound by the provision of the MSAs. And I would pause for a second just to point out that there is a reason some of these tobacco companies chose not to participate. They were new to the dance. They might have been new tobacco companies, did not feel they had any obligation for long-term illness related to tobacco product since they were new to the market and did not participate. However, and this is significant and at the heart of LB590, one of the provisions of the MSA requires the state and any state involved to collect escrow from all nonparticipating manufacturers through what is called a qualifying statute. Requirement of the participating manufacturers whose price was driven up by the MSA was to try and make sure that there was a comparable price increase by the nonparticipating manufacturers so that they weren't given an unfair price advantage and so that the field was kept level. The handout, and you have a handout in front you, shows this in a flow chart form, and I would encourage you to take a look at that as just a quick briefing. The same provision of MSA requires states to diligently enforce said statute or be subject to an adjustment of the MSA payments. Since 1998, the Attorney General's Office and the Department of Revenue have actively successfully enforced provisions of the MSAs to reduce tobacco use and protect consumers and ensure that dollars are available for treatment of tobacco-related disease and illness and a variety of other programs, as I mentioned before. In 2002, the states and participating manufacturers identified concerns with loopholes in the original qualifying statutes. As a result, this Legislature in 2003 adopted LB572 that prohibited the sale of any brand of cigarette or roll-your-own tobacco in Nebraska unless the manufacturer was listed on Nebraska's directory of compliant manufacturers and brand families. Once again, the following year in 2004, we adopted LB944 to close a second loophole. This one was called the "Allocable Share" amendment. Since the original Master Settlement Agreement, we continually monitor

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and seek to close any loopholes that may be out there, and that is again the basis for LB590 to tighten things up. And though we've been very diligent in administering this agreement, the participating manufacturers have disputed all of the states, not just Nebraska but all of the states, diligent enforcement of their qualifying statutes. By disputing our enforcement of the agreement, the tobacco companies claim they are entitled to, and I quote, an adjustment for some of all of the monies they have paid out are refunded. We literally, members, are at risk of having to pay back some of the money we use in the Health Care Cash Fund if we do not get compliant. So in July 2010, a nationwide arbitration commenced to resolve the 2003 nonparticipating member adjustment for 2003 to 2010. By the way, the amount of this adjustment for all states (laugh) totals approximately \$7 billion, and Nebraska's share of the disputed payback is approximately \$46 million. That is what is at risk. In fact, R.J. Reynolds withheld \$2.5 million from its latest Nebraska settlement payment saying that we already were out of compliance and, therefore, they did not have to send the same level they've had in previous years. As a result of concerns raised in the arbitration in an effort to avoid being subject to any future NPM adjustments or payback, the Attorney General's Office crafted the bill before us now, LB590. LB590 establishes uniform licensing, stamping, and reporting provisions for tobacco product manufacturers, stamping agents, and wholesalers of cigarettes and roll-your-own tobacco. It also clarifies and enhances enforcement pertaining to those distributing tobacco in this state, specifically, LB590 requires that all escrow payments be made pursuant to Section 69-2703, be made quarterly, or the manufacturer is subject to removal from the approved list of manufacturers called the state directory. Only manufacturers on the directory can lawfully do business in this state. Under current law, only a portion of the nonparticipating manufacturers pay on a quarterly basis, the remainder pay on an annual basis. But LB590 further authorizes removal of a tobacco's product manufacturer and its brand of families from our state directory if it's removed from the directory of another state. In addition, LB590 requires a nonparticipating manufacturer to post a bond for the benefit of the state to cover its escrow obligations should it fail to make timely payment. LB590 also implements a universal reporting system which would require cigarette manufacturers imported and wholesalers to submit reports in a more timely basis following the end of each month. Those reports would contain the total number of cigarettes sold in or into the state during that month. LB590 further requires reporting sales from this state into another state. Those reporting requirements are consistent with the recently passed federal Prevent All Cigarette Trafficking Act, known as the PACT Act, of 2009. This was put together to address the problems with Internet sales and to get shippers like FedEx to agree not to ship cigarettes to try and get around taxing and MSA's payments. LB590 authorized the negotiation and execution of a compact between the state and any federally recognized Indian tribe within the state concerning collection of cigarette taxes and escrow on sales to tribal members on tribal lands and recognizes the use of tribal stamp to establish collection of the taxes by the tribe on tribal lands. The Attorney General's Office has worked with the Department of Revenue, tobacco wholesalers, manufacturers, and the Indian tribes in developing

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LB590. I and other senators had been participants in some of those meetings. As you can imagine with a bill of this technical complexity, and it is (laugh) complex, we have identified a handful of areas that needed tweaking. The AG's Office has negotiated a compromise with a variety of the stakeholders that I'd mentioned previously. The results of those negotiations are in the committee amendment and also in an amendment being presented by Senator Hadley. Members, this is a complicated issue. It's a complicated bill. If this bill does not pass, there can be some fairly severe financial ramifications for this state and for our legislative budgeting process. If the arbitration court finds this state has not been diligent in enforcing this law, and LB590 is an attempt to make sure we are diligent, we could lose future payments and potentially have to pay back millions of dollars now sitting in the Health Care Cash Fund. I will close so that we can address the committee amendment. [LB590]

SENATOR SULLIVAN: One minute. [LB590]

SENATOR GLOOR: Thank you, Madam President. But I, of course, will be here to answer any questions that you may have. Thank you. [LB590]

SENATOR SULLIVAN: Thank you, Senator Gloor. As the Clerk stated, there are amendments. Senator Cornett, as Chair of Revenue Committee, you're recognized to open on the committee amendment. [LB590]

SENATOR CORNETT: Thank you, Madam President and members of the body. First of all, I'd like to thank Senator Gloor for introducing this bill. It's something that the state needs to do this year. And I want to also thank the AG's Office for all of their cooperation on the bill. AM1072, as Senator Gloor stated, is a technical clean up. And I'm going to be very brief because most of it is, again, very technical and just references other statutes. This changes many aspects of the enforcement or cigarette taxes and the laws governing the settlement agreement the state of Nebraska reached with the tobacco companies. The committee amendments represent the work of the committee, the Attorney General's staff, and other parties of interest, including the tribal governments and the tobacco wholesalers. With that, I would ask the body's adoption of the committee amendment and the underlying bill. Thank you. [LB590]

SENATOR SULLIVAN: Thank you, Senator Cornett. Mr. Clerk, there is an amendment to the committee amendment. [LB590]

CLERK: Madam President, Senator Hadley would move to amend with AM1289. (Legislative Journal page 1312.) [LB590]

SENATOR SULLIVAN: Senator Hadley, you're recognized to open on your amendment to the committee amendment. [LB590]

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SENATOR HADLEY: Madam President, members of the body, good morning. I have an amendment to the committee amendment, and this came about because of work by the AG's Office and working with the stamping agents in the state. I want to thank Senator Gloor for bringing this bill because it is an important bill and one that we need to take care of this session. The amendments to AM1072 to address concerns raised by wholesalers include the following substantive revisions: In Section 9, it allows nonparticipating manufacturers to voluntarily post a bond for the benefit of the state to assure payment of escrow. This section had previously owner authorized mandatory posting of a bond by a nonparticipating manufacturer whose cigarettes were not previously sold in the state failed to make a timely escrow payment or were otherwise involuntarily removed from the state's directory. Section 11 is revised to allow a stamping agent to avoid joint and several liability from the escrow obligations of a nonparticipating manufacturer whose cigarettes were sold by a stamping agent if the nonparticipating manufacturer at the time the stamping agent purchased the cigarettes was on the state's directory, the nonparticipating manufacturer prepaid escrow on the cigarettes, and provided proof of such prepayments from the escrow agent to the stamping agent. Sections 12 and 15 are revised to give stamping agents ten days to cure a number of unknowing and unintentional violations both in this state and in other states where the stamping agent holds a license which would otherwise be grounds for license suspension or termination. Section 23 is revised to reflect the liability exemption for the stamping agent created in Section 11. Section 28 is revised to reinstate the 30-day time limit for a stamping agent to apply a tax stamp to all cigarettes. I will say that we are in the process and working on an amendment to this to be sure that the nonparticipating manufacturers get a fair shake in this, so it's my understanding there will be an amendment to my amendment on Select File. Thank you, Mr. President. [LB590]

SENATOR SULLIVAN: Thank you, Senator Hadley. We'll now move to discussion of the amendment. The Chair recognizes Senator Price. [LB590]

SENATOR PRICE: Thank you, Madam President and members. I rise to discuss the bill and tentatively, of course, I'm in agreement with it because of the implied and implicit risk to the state and funds for the health fund and the MSA. But I do have some questions as the Chair of the State-Tribal affairs and would like to ask Senator Gloor a question or two if I may. [LB590]

SENATOR SULLIVAN: Senator Gloor, would you yield for a question? [LB590]

SENATOR GLOOR: Certainly. [LB590]

SENATOR PRICE: Thank you. Senator Gloor, in your opening remarks you mentioned that if a entity who is on the list, the master list that you're creating there, that if they're removed in another state, they can be removed here. Is that a may, can, or shall?

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[LB590]

SENATOR GLOOR: Shall, Senator. [LB590]

SENATOR PRICE: Thank you. And so, Senator Gloor, does that mean that it's conceivable, and I'm speaking strictly from the tribal point of view, if any Indian tribe of any derivative is removed in one state, they could be removed in the state of Nebraska? [LB590]

SENATOR GLOOR: Senator Price, I'm being told in fact it is a "may" and that allows for due process. So the answer to your question is the removal of any other tribe wouldn't necessarily have any impact on the tribe in the state of Nebraska. [LB590]

SENATOR PRICE: Great. And just so we're making a good, clear record here, I understand but, again, that famous comment we're both not attorneys but the issue that I want to make sure is, if we have a tribe that's recognized in one state, a specific tribe that gets removed, that does not automatically mean that any other Indian tribe is lumped into that one tribe's removal or that process, correct? [LB590]

SENATOR GLOOR: Correct. [LB590]

SENATOR PRICE: Thank you very much, Senator Gloor. Would Senator Hadley yield to a question? [LB590]

SENATOR SULLIVAN: Senator Hadley, would you yield for a question? [LB590]

SENATOR HADLEY: Yes, Mr. President. [LB590]

SENATOR PRICE: Thank you very much, Senator Hadley. The question I have and perhaps you'll get back to me on this, I wanted to know when you talk about the stamps and things like that, when we're out there or someone...say there is an issue and we are dealing with, again, tribal lands, is there a mechanism within this agreement that will allow the state to enter into tribal lands and just confiscate materials based on a perceived violation? [LB590]

SENATOR HADLEY: Senator Price, I do not know the answer to that question. I would guess that maybe Senator Gloor might know the answer. My specific amendment dealt with just the stamping agents. So Senator Gloor might have more information on that, Senator Price. [LB590]

SENATOR PRICE: Thank you very much, Senator Hadley. Would Senator Gloor yield? [LB590]

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SENATOR SULLIVAN: Senator Gloor, would you yield? [LB590]

SENATOR GLOOR: Yes. [LB590]

SENATOR PRICE: Thank you. Senator Gloor, you heard the last question, I'm sure. Page 51, Section 21, paragraph 5 talks pretty much this. I just want to make sure that we understand the...what is the process. Should there be some concern or violation of this agreement, how are you going to...as you said before, due process is going to be utilized to ensure that we just don't take an arbitrary and capricious approach to Native American lands. [LB590]

SENATOR GLOOR: The answer to your question to Senator Hadley would be no, people will not be going onto tribal lands. There is sovereignty, sovereign nation and, therefore, the ability to go there and confiscate on tribal lands. And as an example of that you may recall in the paper...I'm sure you would recall given your responsibility as the legislative liaison, that there was recently a case of a smoke shop in northern Nebraska where it was felt that it was built on private lands and, therefore, the Revenue Department confiscated those cigarettes. It was found out later that was not the case; it was tribal lands and those cigarettes had to be returned. So... [LB590]

SENATOR SULLIVAN: One minute. [LB590]

SENATOR GLOOR: I would say as relates to assurances, that's a good example of something that just happens that shows that won't occur. [LB590]

SENATOR PRICE: Great. Thank you, Senator Gloor. And I'd appreciate that answer because what we found out in that enterprise, if you would, is that how we define tribal lands, whether they're in deed or whatever stage or situation they may be in, I'm not sure of all the proper terminology, we just can't waltz in there and do things. There's a due process that has to be followed and I appreciate the work that Senator Gloor and his staff and Senator Hadley and Senator Cornett have gone through and all those people. And with that, I'd yield the balance of my time to the Chair. Thank you. [LB590]

SENATOR SULLIVAN: Thank you, Senator Price. The chair now recognizes Senator Krist. [LB590]

SENATOR KRIST: Thank you, Madam President and colleagues. Good morning once again. I rise in support of AM1289, AM1072, and obviously LB590 and commend Senator Gloor and all for putting this forward. It is essential that we pass this legislation this year to protect ourselves from what potentially could happen. Colleagues, if you remember back to the legislative symposium, I talked extensively and probably should not have at that point, but after talking with my chair in HHS and others, it has become extremely important that we realize what that Health Care Cash Fund means to this

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state. It is the best example of earmark that this state has had in many, many, many, many decades because that money, we depend on that money to go out to fund programs, our senior citizens programs that come out of that cash fund and many, many, many more. It is a good read for you to sit down and look at that Health Care Cash Fund and the amount of support that comes out that are regularly budgeted items that are critical to this state, and without it we would be in hurt city. The point I'll make here is that we need to protect this fund. Only about \$2 million of it every year comes out that is legislatively authorized to go to biomedical research. The rest of that \$50-plus million goes out to different concerns, different agencies, and is part of their regular budget. Now I'll finish today by just saying one thing. It is imperative, imperative that this fund remain in its entirety as much as possible a perpetual fund. It needs to be treated as it is as a trust. And the sooner that we analyze where that money is going and get back to a point where we're only spending the interest coming off of that money and saving the principal, the better off we will be for our future, our children's future, and our grandchildren's future. It needs to be a perpetual fund. To that end, I'll reinforce again that Senator Campbell and I were very serious about putting together an interim study that would, again, look at that cash fund and how it's distributed, but let me emphasize once again: this is extremely important. LB590 needs to be passed. We need to protect our own interest as a state and protect the money that came to us in this way. Thank you, Mr. President...Madam President. [LB590]

SENATOR SULLIVAN: Thank you, Senator Krist. Seeing no other senators wishing to speak, Senator Hadley, you're recognized to close on the amendment to the committee amendment. Senator Hadley waives. The question is, shall the amendment to the committee amendment to LB590 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB590]

CLERK: 35 ayes, 0 nays on adoption of Senator Hadley's amendment to the committee amendments. [LB590]

SENATOR SULLIVAN: The amendment is adopted. Seeing no other senators in the queue, Senator Cornett, you're recognized to close on the committee amendment. [LB590]

SENATOR CORNETT: Thank you very much, Madam President and members of the body. I just wanted to urge the body again to pass the committee amendment. It is technical changes that were agreed upon by the parties involved. Thank you. [LB590]

SENATOR SULLIVAN: Thank you, Senator Cornett. The question is, shall the committee amendment to LB590 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB590]

CLERK: 35 ayes, 0 nays, Madam President, on the adoption of committee

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amendments. [LB590]

SENATOR SULLIVAN: The committee amendment is adopted. We'll now proceed with further discussion on LB590. The Chair recognizes Senator Council. [LB590]

SENATOR COUNCIL: Yes, thank you, Madam President. I've been trying to listen to the debate on the amendments and didn't hear any coverage of one of the questions I had and was wondering if Senator Gloor would yield to a question. [LB590]

SENATOR SULLIVAN: Senator Gloor, would you yield? [LB590]

SENATOR GLOOR: Absolutely. [LB590]

SENATOR COUNCIL: I noticed in reading the committee statement on this bill that there was an objection or opposition to the bill on behalf of the Winnebago Tribe of Nebraska. And in trying to quickly read through all of the amendments, it wasn't clear to me whether any of the amendments addressed the basis for the opposition that was expressed at the committee hearing. Can you address that issue, please? [LB590]

SENATOR GLOOR: I can, and Senator Price's questioning began to delve into that issue. The short answer and we can delve into it in much more length if you'd like, especially between now and Select File, is that the committee amendment is an effort to address those concerns specifically. There were numerous meetings and discussions. I was part of some of those. Their concerns were taken seriously. This is an issue of trying to seek a cooperative agreement rather than forcing the state's will on a sovereign nation. And both the AG's Office and I, the Revenue Committee, and more importantly the tribe are comfortable that the committee amendment does in fact address those concerns. [LB590]

SENATOR COUNCIL: Okay. And that was of concern because I suspected that it had something to do with the sovereign status of the tribe with regard to these issues. And I will vote to advance the bill with the understanding that I can get with you and get into more detail and have an opportunity to also speak with members of the tribe to be sure that we're addressing in an acceptable manner the issues that they raised during the hearing. So I thank you very much, Senator Gloor. [LB590]

SENATOR SULLIVAN: Thank you, Senators Council and Gloor. Seeing no other senators wishing to speak, Senator Gloor, you're recognized to close on the advancement of LB590. [LB590]

SENATOR GLOOR: Thank you, Madam President. I'd like to thank the Revenue Committee, Senator Cornett, Senator Hadley, staff, for helping moving this along and helping with some of their work and research and education of me on this. As a

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nonsmoker, I know far more about tobacco now than the beginning of this session. But I have to tell you, this bill is incredibly important. Were it not to pass, it has budget ramifications. We would need to sit down and decide what kind of adjustments are we going to make in the budget to now compensate for the loss of these revenues. I'm comfortable we won't need to do that. I'd also like to thank the AG's Office, Mr. Cookson, Ms. Spohn for their help on this important bill. I'm not going to talk to death. I will sit down with Senator Council. I think we can provide her appropriate assurance that part of the work that has gone on for months and months and months now is to make sure that LB590 addressed concerns of all the parties involved in this and provides us the assurance so that we can go into this arbitration discussion armed with being a compliant state. Thank you and please vote green on LB590. [LB590]

SENATOR SULLIVAN: Thank you, Senator Gloor. The question is the advancement of LB590 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB590]

CLERK: 38 ayes, 0 nays, Madam President, on the advancement of LB590. [LB590]

SENATOR SULLIVAN: The bill advances. Mr. Clerk, items for the record? [LB590]

CLERK: Thank you, Madam President. I have a Reference report referring the redistricting bill introduced yesterday, LB699, to the Redistricting Committee for purposes of conducting a public hearing. LR173 is offered by Senator Adams; that will be laid over at this time. That's all that I have, Madam President. Thank you. (Legislative Journal page 1317.) [LR173]

SENATOR SULLIVAN: Thank you, Mr. Clerk. We'll now proceed to General File, LB684. [LB684]

CLERK: LB684 is a bill originally offered by Senator Schilz. (Read title.) Bill was introduced on January 19 of this year, at that time referred to the Banking, Commerce and Insurance Committee for public hearing, advanced to General File. I do have committee amendments, Madam President. (AM375, Legislative Journal page 588.) [LB684]

SENATOR SULLIVAN: Senator Schilz, you're recognized to open on LB684. [LB684]

SENATOR SCHILZ: Thank you, Madam President. Members of the body, good morning. I bring LB684 for your consideration this morning. First of all, I would like to say thank you to all those folks and individuals that helped with this bill, namely the tourism industry itself, Department of Economic Development, and Speaker Flood for making it a Speaker priority. I would like to say that this bill advanced out of committee on a unanimous vote from the Banking, Commerce and Insurance Committee. We've

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had statewide support for the legislation. We had no opposing testimony within the hearing and those in support included the Nebraska Travel Association; Nebraska Association of Convention and Visitors Bureaus; Nebraska Hotel and Motel Association; and the Nebraska State Chamber of Commerce. One item that I would like to address that everybody needs to understand is the bill does have a fiscal note. It's \$75,000 but it's a one-time cash fund expense from the State Visitors Promotion Cash Fund and it would be paid...used by DED for the hiring of an outside consultant to conduct the assessment and the study for the tourism industry. LB684 would create the Travel and Tourism Division Advisory Committee, which would include at least one representative from Game and Parks, the Nebraska Travel Association, a tourist attraction or a number of tourist attractions that record at least 2,000 out-of-state visitors a year, the Nebraska Association of Convention and Visitors Bureau. And I would like to say here that those are minimum numbers, one of each of those, and that could be expanded at the director of Department of Economic Development's discretion. This committee shall develop a statewide strategic plan to cultivate and promote tourism in Nebraska. The plan will include a review of existing and potential sources of funding for tourism at the state and local level, a comprehensive inventory of local tourism boards, the structure of those boards and how those boards are funded, criteria for local tourism boards in terms of appointment to such boards and for awarding those local grants. We need to make sure that we are getting the best return on these local dollars. We want to examine the other states' funding models for tourism, marketing strategies for promoting tourism, proposal for creating or expanding existing tourism capacity, and this kind of study here should include regional cooperation, collaboration, and even privatization and, if needed, recommend legislation for funding requirements. It gives DED the opportunity to hire a consultant to assist the committee in developing a plan, and it also gives the department to take on funding partners and grant that may be available. I believe that LB684 is a bill that will help grow new revenue for all levels of government by creating a strategic, statewide tourism plan that brings industry representatives and DED together to maximize dollars for the highest return on development. Tourism is a main driver of economic development and is the third largest employer and industry in the state. Study conducted by DED has shown that each \$1 spent by tourists in Nebraska is re-spent in the state to additional \$1.70 in business and income, creating an overall economic impact of \$2.70 for every \$1 spent. This legislation recognizes Nebraska's current tourism assets and aligns an expert committee so that greater tax revenue returns can be achieved. It is deeply important to both rural and urban areas that we develop this resource and help take Nebraska communities to the next level. This is a great opportunity for all of us in the state to work together, whether it's urban, rural, or both. The district I represent is a fantastic example of a rural area that attracts thousands of visitors from outside our state, and on any given weekend in the summer there are more nonresidents in the county than residents by quite a bit. Western Nebraska's attractions, like hunting and fishing outfitters, water sports, golfing coupled with urban areas, like the Henry Doorly Zoo, West Haymarket arena--the new arena here in Lincoln, these all have merit and should all be looked at. I believe that the space of tourism has changed.

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I think that we need to go and we need to examine how people will spend their precious dollars in the future when it comes to tourism. You know, with the new age of much higher priced gasoline, much higher priced inputs, you know, how are people going to spend their money and what is the best way to attract these folks to our great state and our great tourism opportunities? And so that's basically what the bill does. There is a committee amendment. I've basically explained what that amendment is. And with that, I would appreciate your support on LB684. Thank you very much. [LB684]

SENATOR SULLIVAN: Thank you, Senator Schilz. As the Clerk stated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Pahls, as Chair of the committee, you're recognized to open on the amendment. [LB684]

SENATOR PAHLS: Thank you, Madam President, members of the body. As Senator Schilz indicated, he basically explained what the bill, the amendment, what it's all about. I'll just be very brief here. The committee amendments would alter the composition of the advisory board and it would also authorize the hiring of a consultant to assist in development of the plan. And the bill did leave the committee unanimously, and I would ask your support of the amendment and the bill. Thank you. [LB684]

SENATOR SULLIVAN: Thank you, Senator Pahls. We'll now proceed with...Mr. Clerk, did you have an item? [LB684]

CLERK: Madam President, just to...Senator Schilz, I had, Senator, a note that you would like to withdraw AM1190... [LB684]

SENATOR SCHILZ: Yes, that's correct. [LB684]

CLERK: ...and also AM30 that was... [LB684]

SENATOR SCHILZ: That's correct as well. Yes. [LB684]

CLERK: Okay. Thank you very much. [LB684]

SENATOR SCHILZ: Thank you. [LB684]

SENATOR SULLIVAN: Those are withdrawn. We'll now proceed with discussion on the committee amendment. The Chair recognizes Senator Fischer. [LB684]

SENATOR FISCHER: Thank you, Madam President and members. Would Senator Schilz yield to a question, please? [LB684]

SENATOR SULLIVAN: Senator Schilz, would you yield? [LB684]

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SENATOR SCHILZ: Yes. [LB684]

SENATOR FISCHER: Senator Schilz, it's my understanding, as Senator Pahls said, the committee amendment is to authorize \$75,000 to hire an outside consultant. Am I...did I hear that correctly? [LB684]

SENATOR SCHILZ: Yeah, that's correct, through the State Visitors Promotion Cash Fund, which is the lodging cash fund that comes into the state. That's the state's portion. That's where that money would come from to do that study. [LB684]

SENATOR FISCHER: I have a problem with that. Do we need to hire an outside consultant? Can't this be taken care of within DED right now? It seems like we, you know, we form task forces, we form groups, we hire outside consultants. Can't we do this in-house? Don't we have the personnel and the resources to handle it? [LB684]

SENATOR SCHILZ: You know, I have to admit to you that as I looked at the bill and as we developed it that may be a possibility, but as talking to folks that are in the industry it was impressed upon me the importance of bringing in true experts in tourism and what goes on. Can that be developed in Department of Economic Development? It probably can. I would say that those are discussions that we could have. One of the...and I'm trying to remember and I may be incorrect, but this money, this money is there right now and I'm not sure, as a one-time expenditure, I'm just not sure where everybody would stand on that. But we could sure talk about it. [LB684]

SENATOR FISCHER: You know, I received some correspondence on the bill and I happened to serve for I think 15 years on our tourism committee in Cherry County that's funded by the lodging tax and so I am somewhat familiar with this. But people seem to be concerned that the advisory committee has been in place. They're saying it's not broken. They worry about, you know, what's going to happen there because the committee has always had representation from a number of entities; that's going to change. They meet quarterly. They have input. I guess how would you respond to constituents that contact you on those concerns? [LB684]

SENATOR SCHILZ: Yeah, and I think your point goes exactly to why we had considered an outside consultant, because as you look at it, if you want to keep that bias out of there and you want to keep basically what you're talking about, to make sure that those dollars are spent with...as well as we can, the best bang for the buck, I think that that unbiased opinion is necessary to help guide and make people go forward. Don't misunderstand, the director of Department of Economic Development has the authority not only to hire that but also has the authority to pick who sits on this council. And so I think that...I think some of those fears are unfounded, some of those fears may be real. But if folks are concerned about whether something is going to change or not, then that would tell me that there's a concern out there that maybe they're afraid...

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[LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: ...they're not spending the dollars correctly themselves. [LB684]

SENATOR FISCHER: You know, I...and thank you. Thank you for responding to that. I understand, back to the \$75,000, that it's not General Fund money, but it's still money and I do have concerns about using that. I guess I'm willing to advance this bill to Select File but I don't know if I can go beyond that if this outside consultant remains in it. I'm just being honest with you there, Senator. And you know the department has how many employees? I think they have about 70 employees. I would think that it could be handled in-house and we wouldn't need to use that money. You know, I'm being honest with you about where I am on the... [LB684]

SENATOR SULLIVAN: Time, Senators. [LB684]

SENATOR FISCHER: ...\$75,000. Thank you. [LB684]

SENATOR SULLIVAN: Thank you, Senators Fischer and Schilz. Those senators wishing to speak are Dubas, Hansen, Carlson, Pahls, and others. Senator Dubas, you're recognized. [LB684]

SENATOR DUBAS: Thank you very much, Madam President. I do rise in support of the basic concept of the amendment and do support the bill, but I, too, have some questions I'd like to address. Would Senator Schilz yield to some questions? [LB684]

SENATOR SULLIVAN: Sorry. Senator Schilz, would you yield for a question? [LB684]

SENATOR SCHILZ: (Laugh) Yes. I was trying to figure out why everybody was staring at me. (Laughter) [LB684]

SENATOR DUBAS: (Laugh) We won't go there, Senator Schilz. (Laughter) [LB684]

SENATOR SCHILZ: I appreciate that. [LB684]

SENATOR DUBAS: I do have a couple of legitimate questions for you though. I think you briefly touched on this about who would make the appointments to this advisory board, and that would be the director of DED. Is that correct? [LB684]

SENATOR SCHILZ: That is correct, yes. [LB684]

SENATOR DUBAS: Okay. I don't see anywhere in the amendment, would there be a

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time frame as far as how long these people would serve or would it just be at the discretion of the director? [LB684]

SENATOR SCHILZ: As far as I know, and I'd need to get back to you on that, I think there is...I'm not sure if there's a time frame or not but I will find out and let you know. I do know...I do know that as we come up with a strategic plan there's a time frame on that as to when they would have to report back to the Legislature. I think it's 2012. [LB684]

SENATOR DUBAS: Okay. Thank you. And then as you're outlining who are the members of this advisory committee, you reference one representative from a tourism attraction that records at least 2,000 out-of-state visitors per year. What defines a tourism attraction and how would you collect that data to support that 2,000 number? [LB684]

SENATOR SCHILZ: Right. Well, I think that as you look around, we could find that definition of what is an attraction. Obviously, any of the state parks, state recreation areas, things like that could be. It could be private attractions. Could be...I mean one that I think of, I'm not sure they get quite this many out-of-state visitors but we may be surprised, would be like Carhenge out around Alliance. That would be a private thing that could be an attraction. Some would even say that Cabela's could be an attraction in Sidney, even though I'm not sure that that's...that's still defined that way. But there is a definition out there of what attractions are and I can find that out as well. [LB684]

SENATOR DUBAS: I think that would be important to make sure we have that. I mean I was thinking like Nebraska football games and things like that. Those bring people from out of state so are those technically a tourism attraction. So I think it would be important to define that. And then I have a question that is very similar along the lines with Senator Fischer's concern about the cash fund. And currently, what is that...what does that cash fund support currently? [LB684]

SENATOR SCHILZ: Right now what that cash fund supports is grants that the state gives out for tourism-related promotions. And I see something that looks at how we're aligning our dollars and how we're spending them as an important benchmark to make sure that we're spending them properly, so I think smart investment, looking at what you've done in the past and make sure it's the right thing to do going forward is always or is usually a smart endeavor to go after. I think it makes sense to reassess where you're at, at times, and I think it makes sense to bring new minds into the game and new players so that all users are brought to the table and so that bias is kept out of it. [LB684]

SENATOR DUBAS: I wouldn't necessarily disagree with you on that, but, you know, as Senator Fischer stated too, the number of people that are currently employed in DED, I

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think there's a lot of expertise over there. I think through this advisory committee we would be able to bring some of that outside perspective into play. And I'm just very concerned about taking dollars away that I know are very valuable to our tourism industry and I know it's just a one-time...one-time redirection of dollars but in the environment we're in right now I think we have to be ultra careful about what we're doing with these dollars. So I guess again, basically,... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR DUBAS: ...my questions would be is, you know, defining how long those terms are and then defining what's a tourism attraction and then my underlying concern is with diverting these dollars from the existing cash fund and their purposes towards hiring an outside consultant. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Dubas. The Chair now recognizes Senator Hansen. [LB684]

SENATOR HANSEN: Thank you, Madam President, members of the Legislature. I want to rise in support of this bill, but I'm not sure about the A bill that is attached to it or the idea of having a consultant come in and reorganize the committee. Would Senator Schilz yield to a question or two? [LB684]

SENATOR SULLIVAN: Senator Schilz, would you yield for a question? [LB684]

SENATOR SCHILZ: Yes. [LB684]

SENATOR HANSEN: Senator Schilz, thank you. On page 1, line 9 in the old language it states that "The department shall have an advisory committee to provide regular consultation to the Travel and Tourism Division." And then according to AM375 would give to the list of people that would be on the new commission underneath the consultant. And those would be Game and Parks, the Nebraska Travel Association, Nebraska Hotel and Motel Association, one big attraction, and Nebraska Association of Convention and Visitors Bureaus. Could you tell me the difference what the makeup--I guess that would be my first question--what the makeup is of the existing board that actually consults with Department of Economic Development now? [LB684]

SENATOR SCHILZ: You know, I can get that for you. I don't have it right here in front of me, but I will find that question out as well and have it for you next time I speak. [LB684]

SENATOR HANSEN: I think...and one other question I would have and it's probably about...would have to do with the funding of the \$75,000 you say is there, but where is it? Where is that \$75,000? [LB684]

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SENATOR SCHILZ: It sits in the State Visitors Promotions Cash Fund and that would be the state's portion of which all the lodging taxes collected in Nebraska goes into. There's a state fund there that...where it is coming from. And I'm going to find out, too, whether that money has been spent every year or not. This may be money that has been there. [LB684]

SENATOR HANSEN: I would assume it's been there, too, but it's probably been used for tourism and attractions or tourism development rather than hiring a consultant. And that's what I would really question. And I know I've been contacted by my visitors and tourism board folks at home, and they're in favor of this bill. But then I still question why don't they--and I don't know what the makeup is of that consulting group--but why don't they go on retreat for three or four days and hash this out? I know that you're from the Ogallala area and you have that big pond up there and you do attract a few people on the weekends. But in my district, we attract some people too. And it's regional. People can visit NEBRASKAland Days coming up here in June; they can go to Lake McConaughy; fish in Lake Ogallala; fish on the river, a lot of things to do out there in western Nebraska. I understand that some of these things are regional. We have some ownership of them. But I really question whether a consultant can bring all that together. Maybe he can, but I question spending \$75,000 where we could use it actually in a program that's already there. And you can respond to that, Senator Schilz, if you care to. I'd yield the rest of my time to Senator Schilz if he'd like. [LB684]

SENATOR SULLIVAN: Senator Schilz, 1 minute and 30 seconds. [LB684]

SENATOR SCHILZ: Thank you, Mr. President. Thank you, Senator Hansen. I don't disagree with you, Senator Hansen, that the tourism is regional. And that's why in the bill we talk about a plan that looks at all the tourism inventories from around the whole state. I think it's essential that we start to look at tourism and how can we bundle things together to attract people to spend more money in the state of Nebraska? And that's what we're talking about here. What I don't want to see happen is... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: ...a committee that comes together that just represents possibly one area of the state or just represents one facet of tourism that's out there. I think it's important to keep our minds open and our eyes open to what the opportunities and what the emerging opportunities are and can be within tourism in the state of Nebraska. Thank you very much. [LB684]

SENATOR SULLIVAN: Thank you, Senator Schilz. (Visitors introduced.) Senators wishing to speak are Carlson, Pahls, Howard, Schilz, Langemeier, and others. The Chair recognizes Senator Carlson. [LB684]

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SENATOR CARLSON: Thank you, Madam President, members of the Legislature. I do rise in support of LB684 and the underlying amendment, AM375. I am going to respond to Senator Fischer's concern, and then I'm going to ask Senator Schilz if he would yield to a question. On page 2, line 15 it clearly says that "The department may hire a consultant." I think that unsaid but perhaps implied in the bill would be that the department should first of all consider whether an outside hire is necessary. I think they should study the need for doing this. They should weigh the pros and cons of hiring an outside consultant because there is some value certainly in an outside consultant. There can be. And then make a decision based on what would bring the best results. And, of course, in that same section it says that the "Advisory Committee shall prepare and present the statewide strategic plan to the Legislature by September 1, 2012." I think that it's important that a statewide plan concentrate on things that allow for many tourists to take advantage of, and that means a place or an event. Now I don't think that Senator Dubas really meant Husker football should be something that could be a target or some effort spent by this committee, but we all understand what Husker football is and how important it is to the state. However, a Husker football game in Lincoln, Nebraska, does not offer very many visitors an opportunity. It's very, very limited. And so I think it's pretty important that because of that there not be dollars spent and effort on the part of a tourism committee on things that really don't involve many, many opportunities for people. I would like to address a question to Senator Schilz if he would yield. [LB684]

SENATOR SULLIVAN: Senator Schilz, would you yield for a question? [LB684]

SENATOR SCHILZ: Yes, I would. [LB684]

SENATOR CARLSON: Senator Schilz, do you feel like that in the bill itself because of the wording "The department may hire" that it might be an important function of the committee to be named first and then they discuss whether or not this is appropriate? [LB684]

SENATOR SCHILZ: You know, I think that makes sense. I think that...I think that's an outcome that could definitely happen. And I do think that it would be smart of us to allow the experts to come together and say whether or not that needs to happen. And we should remember that Department of Economic Development has the final say in how that comes together and whether a consultant is named or not. [LB684]

SENATOR CARLSON: Okay. And another question: In the makeup of the committee, there's a specification that one be representative of an event that attracts so many people, has the possibility of attracting so many people or in excess of so many per year. That's correct? [LB684]

SENATOR SCHILZ: Yes, that's correct. [LB684]

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SENATOR CARLSON: What was the number? [LB684]

SENATOR SCHILZ: Two thousand. [LB684]

SENATOR CARLSON: Well, I think it would be very important to seriously consider a member of the State Fair Board on that committee. There's an event that almost has unlimited capacity for people to come in and be a part of, much more so than something like Husker football game. Does that sound reasonable? [LB684]

SENATOR SCHILZ: Absolutely. And that's why within the bill it's stated that there is a minimum of one. And so as I see it, I think... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: ...somebody from the State Fair Board makes perfect sense because not only is it from an attraction that most definitely attracts that many people, but it's also from a different region of the state that we can start to gather some other stuff. So absolutely I think geographic dispersion as well as the type of tourism attraction is essential to make it work right. [LB684]

SENATOR CARLSON: Thank you, Senator Schilz. And I think the wording of "may" in there and if the committee meets first and decides whether or not an outside consultant would be appropriate that we have the framework that's a good manner in which to proceed. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senators Carlson and Schilz. The Chair now recognizes Senator Pahls. [LB684]

SENATOR PAHLS: Thank you, Madam President, members of the body. After listening to some of the testimony, I've tried to reflect on...or some of the discussion on the floor, I've tried to reflect on some of the testimony that was before the committee. And as I can recall by listening to...and I'm just going to read the Nebraska Association of Convention Visitors Bureau, there was a speaker from there; the Hotel and Motel Association; and also the Nebraska Travel Association, I did pick up a piece of bias between those groups. So that's one reason why I think they wanted a consultant to probably help all these groups come together. That's just one take on it. But I do agree with Senator Fischer is we are providing additional, basically I call it staff for the Department of Economic Development. And if you can recall on past bills, we have added to their staff this year--if you look back and reflect at least two, two and a half people. I don't know if they have the expertise in that department dealing with tourism as what they want this person to bring to the table. But my question is, are we adding more staff? I know this is directed to a particular level, but I have been concerned. In the

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past we're adding staff, and I don't think we added enough money for them to play with on some of the bills. We had limits of \$7 million and that bill probably should have been double, triple times that amount of money. I'm not saying they don't need staff, but I'm saying we need to keep them busy. So I do see where Senator Fischer is questioning the expenditures, although it does not come from General Fund. This actually comes from a particular service industry that tax. It sort of goes back and forth. So I see that as being a positive. But again by Select File we probably ought to become a little bit more solid on the approach that we're going to take on that position. Thank you. [LB684]

SENATOR SULLIVAN: Thank you, Senator Pahls. (Visitors introduced.) Those senators wishing to speak are Howard, Schilz, Fischer, Harms, and others. The Chair recognizes Senator Howard. [LB684]

SENATOR HOWARD: Thank you, Madam Chairperson and members of the body. I appreciate Senator Fischer bringing up the issue of the consultant. I think this is a...for me this is a critical piece of this bill. I remember a few years ago Senator Fischer brought us a bill in Education regarding tourism and the Niobrara River up in her area and the purpose of that bill was really to look at extending the summer for the date that school would start in the fall so that more people could go up to that area and enjoy the fall and tube down the river and take full advantage of that. And when she brought that in, she was very knowledgeable about her area and what they had to offer up there in terms of tourism and just plain having a good time. And I don't believe that she referred to a consultant or was in a position where she paid out \$75,000 for this information. I was astonished to learn there were 70 employees with this agency. And frankly, I would assume at least some of those people had the responsibility or the job description of carrying out research and possibly some of the other people were employed to develop strategic tourism planning. And that's the description of what's requested for this \$75,000 consultant. I think we need to start by looking at our own expertise. Look in-house. See what we have that's going to give us the information we need without going outside and paying over and over again for someone to tell us and, in many cases, what we already know. I certainly found that to be the case with Health and Human Services. Many, many times studies and surveys and information was gathered and it was information we already knew. We have that, all those pieces right inside, and especially now with things...everything being on the computer. We know what people are interested in doing, what attracts both the people living in-state and those who would come to Nebraska or possibly even those people that were traveling through and might want to stop off and take advantage of some of the things in this state that really are a draw, really are attractive. I'm opposed to the \$75,000 for a consultant. I believe that money could be better used. Of course, I always advocate for child welfare issues. I just...I do not see the need to pay someone from the outside, a consultant, to do what we should already be doing through our state employees in this division. Thank you. [LB684]

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SENATOR SULLIVAN: Thank you, Senator Howard. The Chair now recognizes Senator Schilz. [LB684]

SENATOR SCHILZ: Thank you, Madam President. I guess if we're going to talk about \$75,000, if I would have this...if we would have written the bill to have been done with in-house, my question is, would there be a fiscal note that would cost the state? I'm guessing there probably would have. In the bill it states that the money for the study cannot be used for salaries or anything else. So if we would do this, we would have to pull money from somewhere for the state Economic Development Department to do this. I checked on the numbers. The fund itself raises \$3.9 million to \$4.2 million a year. We're going to spend \$75,000 one time for a study to promote tourism. The statute itself claims that that's what this money is supposed to be used for. The money is not used up year after year after year. And so as we look at it, there's money available for this. There's money available that everyone that is involved and came to the committee hearing and talked about agreed that it should be used for this. And so as I look at this, I'm not so sure that I see the problem here. I believe what I see in this bill is exactly what the bill was intended to do, is exactly what the money within that fund is intended to do. If we can't grow our tourism, which if you look at the numbers, tourism is one of the industries during the economy in the state of Nebraska that has actually grown. We need to continue that growth, we need to strengthen that growth, and we need to find ways to better bring in money from other sources besides the taxpayers of the state of Nebraska. Thank you very much. [LB684]

SENATOR SULLIVAN: Thank you, Senator Schilz. Those senators wishing to speak are Fischer, Harms, Langemeier, and Loudon. The Chair recognizes Senator Fischer. [LB684]

SENATOR FISCHER: Thank you, Madam President and members. I think with every bill that we pass that assigns the duties to agencies there could be a fiscal note, as Senator Schilz said, but that doesn't necessarily happen. I think the members of the Appropriations Committee are aware of that and those of us on the floor are aware of that too. When agencies have a number of folks that are employed there now, those duties can be assigned to them now without a fiscal note to the bill. It looks to me...I went out in the lobby to see if anybody from DED was there, and I didn't see anyone. But maybe if there's one out there they'll send me a note in. But I do have some questions that I was going to ask them. It's my understanding that currently the Tourism Division of DED already has a five-year plan in place, and that the industry does have input on that. And that that document has been produced for 20 years. It looks like there has been planning. And I can understand that maybe having an outside consultant will offer new insight into what a plan should be. But again, I just question if spending \$75,000 on an outside consultant is a responsible use of that money, and I do have a concern with it. I hope we can take that out of the bill. I don't think it's necessary that we have an outside consulting firm come in and the state pays them \$75,000 to do what it

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sounds to me like volunteers are currently doing who are members of the Advisory Committee that is now in place within the Tourism Division of DED. So again, I would ask if we have the director of DED available if he could send me a note in and possibly respond to some of the comments I've made there because I'd be curious to know if he feels that he can implement this bill within the department or if he thinks that he has to hire an outside consultant to do it. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Fischer. The Chair recognizes Senator Harms. [LB684]

SENATOR HARMS: Thank you, Madam President and colleagues. I rise in support of AM375 as well as the underlying bill, LB684. I'd like to talk a little bit for just a moment here about the consultant. I think the consultant is extremely important to this project. Colleagues, if we use our internal staff members, you're going to get the same thing you have today. What this program needs is somebody innovative, creative, and visionary about the great state of Nebraska. What you get then is regionalization. Regionalization is not going to help you at all. What you have to have is a larger view about the great state of Nebraska and the kind of program we can have. If you just concentrate by just small regions, you're going to get nowhere. And when we bring people in here, when we recruit people in through tourism to Nebraska, we want them to stay longer. And if you only work by small divisions, it goes nowhere. And what this program needs is somebody who can come in who can create the appropriate creativity and the vision about putting together an appropriate strategic plan. This is important to the state of Nebraska. This is one of the only few programs in this great state that gets very little money from the state and we're funded...there's two other...there's only two other states that are funded less than we are, yet we're still growing. Could you imagine what it would be like to put a massive program together, a major program together, market the program appropriately, have someone from the outside look at us in a neutral environment. What you get caught in when you try to create a program through the Department of Economic Development, other agencies, you get all the old politics. You get the same things that you've got today, and that's not what this program needs. This program needs creativity. It needs vision. It needs another set of eyes to look at it. Nebraska has some great things to sell here. Nebraska has some great tourism opportunities and potentials. We will not get those, colleagues. We will not develop the appropriate strategic plan without having someone from the outside of that department doing it. It just will not function appropriately, and we may very well waste our whole effort here. So I'd urge you to support this, and I would urge you to support the whole process of a consultant. I've worked with consultants. I've watched the politics within certain organizations function. And unless you bring somebody in that can be creative and force things to happen right for Nebraska, we won't do well. Five years from now we'll be talking about the same thing. Did we waste our money? I don't think we will if we're bringing in someone to help us line up and move in an appropriate way. So thank you, Madam President. [LB684]

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SENATOR SULLIVAN: Thank you, Senator Harms. Mr. Clerk. [LB684]

CLERK: Madam President, Senator Dubas would move to amend the committee amendments with FA20. (Legislative Journal page 1318.) [LB684]

SENATOR SULLIVAN: Senator Dubas, you're recognized to open on your floor amendment. [LB684]

SENATOR DUBAS: Thank you very much, Madam President. There's been a lot of discussion here this morning. I think everybody is supportive of the concept of this bill and what it's trying to do. I know that I am. I shouldn't say everybody. It seems that there is a great deal of support for this bill and the amendment. The concern comes from spending the \$75,000 and hiring this outside consultant. I think many of the points that Senator Harms just made are valid. But yet this report is asking for a statewide strategic plan to be presented to the Legislature after hiring this consultant. There's still no guarantees that what that report or what that plan puts forward will be put into place. We have the ability to do these types of things without hiring an outside consultant. I think...I know the staff at DED is very capable, talented, committed to helping us grow the economy of the state and tourism is definitely a part of that vibrant economy in our state. We have so many opportunities to increase tourism in our state and generate those additional dollars. And I think this Advisory Committee would take us a long way in making those things happen. These members of this Advisory Committee, those are the boots on the ground. Those are the people that know what we have to offer out in the state of Nebraska. And so by bringing them in with DED, by looking at the plans that are already in place, by bringing their ideas to the table, talking to people across the state about what's available out there to grow our tourism industry, I think it's all there. I think by putting this Advisory Committee in place that just ratchets up a notch and puts a little additional pressure on DED to use their existing resources. There's nothing in here that says they can't go out and seek outside advice in helping create this plan. It's just not necessarily spending these kinds of dollars on an outside consultant when I think we have all the resources at hand to do this. And while \$75,000 doesn't sound like a lot of money in the scheme of the dollars generated through these tourism dollars, \$75,000 is still \$75,000. And you take that out, even if it's just one time, it can have an impact on what's happening. So again, I support LB684 and the amendment to the degree that we could take the hiring of the consultant out. I think it would be a lot easier to get more people on board with this. Tourism is important. I want to stress that, and I don't want to do anything to undermine that. But I think this is an important discussion for us to have now on General File. I know there's been some talk about advancing it. I think now is the time to have that discussion, and that was the reason behind my introduction of the amendment. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Dubas. Senators wishing to speak:

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Langemeier, Louden, Wallman, Schilz, Hadley, and others. The Chair recognizes Senator Langemeier. [LB684]

SENATOR LANGEMEIER: Madam President, members of the body, I rise in support of LB684, AM375, and now FA20. As Senator Harms so eloquently stated in his talk just a few minutes ago, my concern...the importance of tourism in Nebraska. I think it's very important. However, my experience in the Legislature, and this is just my seventh year. I have one more and I'll be gone. But my experience in the Legislature is anytime we have these type of studies if the Legislature doesn't buy in, the report that's given to the Legislature come next December really doesn't mean anything. We have so many times we have agencies out there doing things, they're studying, they're doing it, and then they come to the Legislature--if we weren't a part of it, it's tough to get this body to engage in that subject matter and understand the importance and the willingness to participate. So I think if we truly want to go out and make tourism a forefront of Nebraska and we truly are going to need something done on the legislative side to promote tourism in some structure, we need to do it. We need to buy in of all of my colleagues, myself as we look to do that. If DED goes out there and Senator Harms made a good point talking about the politics of it, it's there; but my fear is they're going to hire a consultant that fits right into the politics of what they want to hire. And that's understandable; that's kind of the way that system works. But at the end of the day, the report isn't going to be a lot different than what we do today. And so I am not going to support the hiring of a consultant. I think you can bring the...for what good it's going to do, you can bring the people within the tourism industry, you can bring DED together, and you can have that discussion of what the outcome and what the future plan for tourism can look like without a consultant. Now with that said, could we restructure this bill and put members of the Legislature as our role in creating an environment where tourism can thrive? I'm a strong believer in bringing people together on this body and doing that. But it's going to take buy-in from us and a good share of us to make our third largest economic tool in Nebraska, tourism, strive to be the best it can be. And so with that, I would yield the remainder of my time to Senator Schilz. I know he would like to talk on FA20. But I don't think that's going to get us to where we need to be with the paid consultant. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Senator Schilz, if you would like the time, you have 2 minutes and 10 seconds. [LB684]

SENATOR SCHILZ: Thank you. And I would like to just point out a couple of things here. I have to strongly disagree with FA20. I think that if that part of the bill is taken out the bill doesn't do a whole heck of a lot. If we're going to talk about the Department of Economic Development and we're going to talk about strategic plans, the Department of Economic Development does not do those strategic plans in-house. They hire consultants. They hire consultants for marketing plans. They hire consultants for strategic plans. This is no different. This makes sense. Let me ask you a question,

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everyone in here. Lake McConaughy has between 750 and 1,000,000 visitors a year. Nebraska Game and Parks will have two employees at the reservoir this year. Okay? They say we haven't figured out how to make money. They've been working on this in-house for many years. [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: Okay? They are looking for that fresh set of eyes to come in and say, hey, maybe we could try this. I've had some ideas on one of the greatest attractions in the state of Nebraska--the Henry Doorly Zoo. Have they ever thought or has anybody ever brought them together with folks from in western Nebraska where we can talk about the wild Nebraska tours where people from Henry Doorly Zoo go on basically a safari out to western Nebraska to see the big horn sheep, to see the elk, to see cranes and eagles and things like that? It's that kind of outside-of-the-box thinking that we're talking about here and bringing folks in and investing \$75,000 from a fund, from a fund that as I read from the statute book claims that it is generally to promote, encourage, and attract the visitors to and within the state. [LB684]

SENATOR SULLIVAN: Time, Senator. [LB684]

SENATOR SCHILZ: Thank you very much. [LB684]

SENATOR SULLIVAN: Thank you, Senator Schilz. (Visitors introduced.) We'll now continue with discussion. The Chair recognizes Senator Louden. [LB684]

SENATOR LOUDEN: Thank you, Madam President and members of the body. I've always supported tourism. In fact, when I first came down here, and that was before most of you were here, I introduced LB726 which gave the county board authority to implement a 2 percent occupation tax. And this is where a lot of these counties nowadays have...get their money. They get...it just doubled the amount of money they got. So I've always supported tourism. As I look at this bill, there's good parts and other parts that I wonder about it. But on the front page there when they talk about the advisory board, you're talking about either five representatives, whether there's two from each one of those or whether there's one from each or something like that, and that's fine. But I question when you say at least 2,000 out-of-state visitors per year. There's a lot of things around the state of Nebraska that do that. In fact, some of your rodeos would actually qualify for something like that. So I don't know what...how much good that part in that bill by having that in there. You may get a lot more representatives than what would make a good advisory board. Also I think something in there for your advisory board should be some of these coalitions of tourism counties around the state of Nebraska. In western Nebraska we have I call it the western coalition and sometimes they call it the paleontology trail across western Nebraska. But several of those counties have gotten together and they pool their funding and they advertise in Denver and

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places out of state to have people come through and participate in some of the activities they have and also to see some of the sights of the area. I would like to see something in there about some of these tourism coalitions that are already at work. A lot of this is already being done. Now I question about hiring a consultant. I don't have any problem with the part in the bill. It just says "may hire a consultant." But I do question if they go to this length that \$75,000 will probably get you anybody that can't any more than go into your Internet and crank out paper by the trainloads that they can take off the Internet. I've been mixed up in some of these task forces that we hired somebody and didn't have enough money to hire someone that was of any value. And about all they did was just crank stuff off of the Internet, and anybody can do that. And I didn't think it was quite worth our money. So I would like to see just put in there they may hire a consultant and leave it like that and do away with the A bill. And the DED department is the ones that has control over the tourism. They can probably go from there, and if they feel they have to do something, then they can probably either come up with an appropriation or find some funding to do this with. The good part of this bill that I think is really important is that we've been working with LB726 over the years and these local counties have these tourism boards is on page 2 of the bill about the sources of funding for tourism at the local level. That's very important. A comprehensive inventory of local tourism boards and the structure of each board and their funding, this is very important. This isn't being done now. Each county is more or less out there on their own kind of riding their own herd and chasing their own horses. And the local tourism board appointments as to how they're appointed to those boards and how they're awarding grants at the local level to...and using their local resources, this is important. I've had problems all the way to putting... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR LOUDEN: ...awnings on some store in the downtown area using the tourism money for it. So I think this is all important in this bill. And then the marketing strategies--well, we've had this coalition out west that's been doing that for years. And so I think if you just go ahead, appoint this board, give them the authority to hire somebody if they need some, forget about the A bill because \$75,000 isn't going to hire you a big-time person that can come in and show you really what to do. Seventy-five thousand dollars is going to buy you somebody that can run the computer and pull stuff off the Internet. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Louden. The Chair recognizes Senator Wallman. [LB684]

SENATOR WALLMAN: Thank you, Madam President, members of the body. I, too, like the floor amendment. I do, too, like the bill. Seventy-five thousand, like Senator Louden says, you're probably not going to get much of a deal. And in my area, we are the tourism promoters, my wife especially and Main Street, Chamber of Commerce, we do

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a pretty good job in Gage County. And we have attractions and we're proud of our area. So it is regional in that respect. But I think economic development people are also regional in some respect. And maybe we should have a clearinghouse where everybody get together. But that could be done, like Senator Langemeier said, by us senators, our offices, all this stuff. We can promote our state, which is a great state, and we have lots to offer, not just the interstate corridor. You get off the road, go to the Cowboy Trail and all these things. This is a good bill I think, but hiring a consultant for \$75,000 I, too, have trouble with this. And so I would support the floor amendment and the bill. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Wallman. (Visitors introduced.) Continuing with discussion, the Chair recognizes Senator Schilz. [LB684]

SENATOR SCHILZ: Thank you, Madam President. And here we go. First of all, if we're going to be serious about tourism and serious about a \$3.8 billion industry in the state, then we need to be serious in our intention to promote that. There is a five-year plan that sits out there that DED does. According to my sources and people that understand, there's no formal input from the tourism industry. This bill changes that. This bill brings experts to the table. We talk about studies, we talk about hiring consultants, and we talk about the concern of how much that might cost the state, oh, excuse me, how much that might cost the fund that was created to promote tourism, which is there and waiting to be spent on things such as that. Let's talk about a state study that was done by the Department of Economic Development, the Battelle study. Do you think that was a consultant that was hired? Absolutely. Does anybody know how much that cost? Was it a lot? A heck of a lot more than \$75,000. With this bill and what we did when we wrote it up was we had people from the tourism industry coming to us and saying, look, we need this study. There's money available that the state...that this Visitors Promotion Fund has, a cash fund that's sitting there. And there was...and people were so convinced of the need of this that we put in the bill that others could contribute. And others, private industry has said that if this gets passed they will help contribute to this as well. That's why the language is in the bill. Is this enough money to get what we need? I don't know. Does anybody know if \$75,000 does what we need? Then does that not beg the question? Does it not? Do we even know? We had a question--what is an attraction? There's no definition of attraction, but it's something that everybody uses every day. We talk about what are the attractions around the state? You heard Senator Hansen talk about what's going on in North Platte and Lincoln County. Do we know everything? Do we know everything that's happening there? Do we understand what's happening in other areas around the state? Do we know all of the attractions that are there? No. Part of the job of the study is to identify, categorize, and inventory those attractions so that they can be better utilized to bring in more revenue. This is what we're talking about, folks. We're talking about the third largest industry in the state of Nebraska. What's it worth to you? I think that's the question that's out there. Is it worth moving forward and spending or investing \$75,000 to work towards bettering the third

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largest industry in the state? Oh, and don't forget, this industry is not just made up of the Henry Doorly Zoos. It's made up of the Kingsley Lodges of the state, of the small mom and pop stores that cater to the tourists as they come in, the knick-knack place. All of this builds the foundation. This is what we're talking about. We're talking about families. We're talking about jobs. And we're talking about finding ways to increase the revenues... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: ...that go into their pockets. So with this, once again, I'm going to say if we get rid of...if we adopt this floor amendment, a lot of what the bill was supposed to do disappears. A lot of the opportunity that this bill provides goes away. So I would strongly urge and ask you not to support FA20. Thank you. [LB684]

SENATOR SULLIVAN: Thank you, Senator Schilz. (Visitors introduced.) The Chair now recognizes Senator Hadley. [LB684]

SENATOR HADLEY: Madam President, members of the body, I feel a little redundant because I think Senator Schilz said a lot of what I was going to say--\$3.8 billion industry business for Nebraska and we're sitting and spending a great amount of time over \$75,000 as to whether or not we're going to have a study of our third largest industry? We did have a Battelle study. Anybody know what it cost? I do--\$230,000. We had four bills out of that this session. So the argument that we're not going to pay any attention just because a consultant is hired doesn't seem to make sense because we turned around and we've got four bills that basically came out of the Battelle study. We had a committee this summer that used the Battelle study. Why in the world didn't we tell the Department of Economic Development, you do this inside? Don't spend that money. Seventy-five thousand dollars on a \$3.8 billion industry. You know what? That isn't going to pay for the entire study. My understanding and somebody can correct me if I'm wrong, that the understanding is that the tourism industry will pick up the difference for the study, the complete study. We're not hiring a person. We're going to hire an outside, independent firm to come in and work on our plan, strategic plan for economic development in the tourism that we've heard so much that Nebraska has such an opportunity in tourism and we're not doing enough. I-80: 30,000, 40,000 cars a day. This is an important issue. I appreciate Senator Schilz bringing it. And we're going to sit and get bogged down on \$75,000 for a consultant. I'm sorry. I oppose FA20. I support AM375 and LB684. I would yield any of my additional time to Senator Schilz if he wishes it. [LB684]

SENATOR SULLIVAN: Senator Schilz, you have 2 minutes and 20 seconds. [LB684]

SENATOR SCHILZ: Thank you, Madam Chair. Thank you, Senator Hadley. And thanks for the numbers on the Battelle study. I think it's telling--\$3.8 billion industry. I think it

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can be bigger. I think there's a lot of ways to look at it. I think that we're seeing on the floor this morning some of the same things that we've seen within the industry itself. Nobody knows what direction to go so they fight against change. Well, be aware. There's only one thing that is for certain and that is change. And you can either guide and direct that change or you can be at the end of the whip. Take your pick. I prefer to guide what's happening. Will it be perfect? (Laugh) In this Chamber, come on. No, we know that. Is it essential to lead on the issue and to move forward? We just had a bunch of bills come in today to talk about reshaping the face of economic development in the state of Nebraska, and why did we do that? Because a study,... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: ...the Battelle study, told us that that's what needed to change. Folks, if it's done correctly, if the department does what the bill says to do and we get the right consultant in there, this will not be a drain to the revenue. This will enhance it. And within the statute where I left off before, the proceeds of the State Visitors Promotion Cash Fund shall be used to enhance the use of travel and tourism facilities within the state. There's many of those that have never been identified. We need to find out what they are. We need to help those folks promote them. And I think LB684 with the committee amendment, minus FA20, starts us in the right direction. [LB684]

SENATOR SULLIVAN: Time, Senator. Thank you, Senator Schilz. Senators wishing to speak are Krist, Carlson, Dubas, Ken Haar, and Price. The Chair recognizes Senator Krist. [LB684]

SENATOR KRIST: Thank you, Madam President and members. I really...I don't think I can support FA20. I can support AM375 and LB684 and for this basic reason. I believe that many times when there is an institution and there tends to be a group-think mentality that goes forward that every once in a while you take two steps back and have someone take a fresh look at the potential. Some of the economic development in this state is hampered by dare I say the fact that you have to wear a helmet when you're riding a motorcycle? That the fact that gas will soon be above \$4 a gallon as we're told. That one or two of the attractions that we have in the state don't have enough water in them. There's a lot of things that would...that dissuades people from vacationing and recreating and being a tourist in Nebraska. And the industry needs to be built on a bit of out-of-the-box thinking. I don't think you're going to get that from a code agency that's used to doing things the same way all the time. And I think that when you have a code agency that works as they do for the executive branch, occasionally we need to take some initiative and see whether we can interject some new ideas and new viewpoint. How best to do that than to energize the tourist industry and fund them at the level that we're talking about today? You all heard it said you need to spend money to make money. You need to invest in your business to make money. I dare say that there are farmers out there that would never have imagined themselves or ranchers having a

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business on the side of producing jerky that would add to their business format years and years ago, but that was a bit of an out-of-the-box thinking and it worked. I dare say that those of us who have been involved with small businesses putting beehives on your farm or someplace or irrigating a little differently and growing muskmelons in the corner of an irrigated field or we can go on and on and on. And you know what that was? That was a mother of invention. It was an out-of-the-box thinking on something that didn't exist before. Seventy-five thousand dollars in this industry and the investment of promoting some new ideas in the tourism, whether it's the second or third or fourth industry in the state, to me is a valid investment. And I think that the way the bill is designed if you read LB684 and the safeguards that are implemented with AM375 there will be accountability for that money, every dime, every penny of it, and it is a good investment on our part. I will support AM375. I will support LB684. And I thank Senator Schilz for bringing it forward. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Krist. The Chair now recognizes Senator Carlson. [LB684]

SENATOR CARLSON: Thank you, Madam President and members of the Legislature. When Senator Schilz gets off the phone, I'm going to ask to address him if he would yield. [LB684]

SENATOR SULLIVAN: Senator Schilz, would you yield? [LB684]

SENATOR SCHILZ: Yes. [LB684]

SENATOR CARLSON: Senator Schilz, you read out of the constitution or the bylaws here about the State Visitors Promotion Cash Fund. Do dollars come into that fund from the lodging or occupation tax of hotels and motels? [LB684]

SENATOR SCHILZ: Yes. [LB684]

SENATOR CARLSON: Is that the source of these dollars that we're talking about? [LB684]

SENATOR SCHILZ: That is the source. [LB684]

SENATOR CARLSON: So these are not current General Fund dollars. [LB684]

SENATOR SCHILZ: Absolutely not. [LB684]

SENATOR CARLSON: Okay. I think that's pretty important. Senator Schilz, what's our number one industry? [LB684]

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SENATOR SCHILZ: Agriculture. [LB684]

SENATOR CARLSON: What's our number two? [LB684]

SENATOR SCHILZ: I'm testing here. I believe it's manufacturing. [LB684]

SENATOR CARLSON: Okay. And tourism is number three. And we should be paying attention to the fact that that is truth and in my opinion then we ought to be doing things that we can take advantage of that and help it to grow. And so I stand in opposition to FA20. I'm agreeing with Senator Hadley in his testimony earlier that we need to move ahead on this. Now I want to ask a question about the setup of, well, first of all because these funds are to be used by the Department of Economic Development for encouraging tourism, why do we have this bill? Is it to kind of direct them in how to use some of these dollars or why is it necessary we have the bill? [LB684]

SENATOR SCHILZ: Well, I think that on examination part of why this bill has been introduced is to further clarify what these grants should be...what this money we're talking about should be spent on. Some of it is to bring in expertise in the industry to bear upon the process as it goes forward. And then thirdly and most of all, this is an attempt to bring an industry together. It's an attempt to say, look, if we can all work together, we can make some real things happen. I can be honest in saying this, and I don't think that there would be anyone in the industry that would disagree. The tourism industry has been, you know, somewhat fractured. We need to come together as a state. We need to bring that industry together so that they can move forward with focus and they can move forward with an understanding that working together we can bring new revenue to the state of Nebraska. [LB684]

SENATOR CARLSON: Okay, thank you, Senator Schilz. And what you just said takes planning. And that planning may or may not involve the hiring of a consultant to encourage that it's done the best way that it can be done. The legislation itself says "may" so it might be somebody from within the department. It may be somebody from without, depending on which is best. Now this has nothing to do with voting for or against this bill because I'm in support of LB684 and AM375. But I look at the committee and it's the Nebraska...representative of the Nebraska Travel Association, the Nebraska Hotel and Motel Association, somebody that has something to do with an attraction that would invite or encourage at least 2,000 people per year, and a member of the Nebraska Association of Convention and Visitors Bureau. That's four people. Now the legislative language says... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR CARLSON: ...at least, so it could be more than four people. Is this correct? [LB684]

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SENATOR SCHILZ: Yes, that's...are you talking to me? [LB684]

SENATOR CARLSON: I'm still addressing... [LB684]

SENATOR SCHILZ: Yes, that's correct. The director of DED has that authority. [LB684]

SENATOR CARLSON: Okay. Now going forward, I would suggest that there be consideration given to somebody from the Department of Roads on that planning committee, perhaps two or three people at large, and maybe a representative from the Legislature because this is an important bill. It's important to you. It's important to several of us in here, and I think the Legislature needs to stay abreast of what's happening. So these are suggestions that I would make and perhaps to be considered for Select File. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Carlson and Senator Schilz. The Chair recognizes Senator Dubas. [LB684]

SENATOR DUBAS: Thank you, Madam President. And I did not introduce this floor amendment to make Senator Schilz's life more difficult. I truly didn't because I support his efforts. This is an important bill. But the discussion we're having right now is also very important. And while \$75,000 is a small amount of money, I think what we're trying to do is talk about what it is we need to do to support and move our tourism industry forward. I think we need to get some of these things in the record. Some people have raised the concern that \$75,000 probably isn't enough, and we've talked about the Battelle study and how much it cost. And I was involved with helping to get some funding for that study. We had a lot of legislative participation in that Battelle study, and I think that's what has helped it succeed. And we've had some great bills come out of that Battelle study. And again, I think it's because we had, you know, we had individual senators involved with that. We had some interim studies that supported hiring that consultant and getting that report to the Legislature. So again, there's that buy-in and that participation. I think that's something we need to be assured of that when this bill moves forward that whatever recommendations come out of this report we're going to be able to say we're there. We want to do that. We want to support that. We know reports make recommendations, and those recommendations nine times out of ten have a price tag attached to them. We're not in the spending mood right now and probably won't be for a couple more years. So we've got a great report with great recommendations and then we either don't have the buy-in or don't have the political will to put any of those recommendations into action. And so, you know, that's where my introduction of this floor amendment comes from. I think it's important that we do support the tourism industry and we do give them the resources. And maybe all we need to do is just strike the dollar amount out of this and maybe we leave in there that they hire a consultant. You know, they...we know DED has resources available to them.

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There are available resources through the university. I think our Planning Committee has used resources such as that that have brought in some outside expertise that maybe haven't cost as much or, you know, and still get us where we need to do. So I think there's a lot of options that may be available to us. Through further study and discussion, we'll be able to hone in on exactly what it is that we want from a consultant, what type of consultant do we need, what specifically are the dollars that are going to be needed to buy the type of expertise that we're looking for. And so instead of just throwing a dollar amount out there hoping it will stick to the wall, let's be more specific about what it is we're looking for from a consultant and what that will cost. And, you know, the tourism industry has obviously stepped up to the plate and said they feel this is important enough and they're willing to fund this and put their support behind it. But again, I think the discussion that we're having this morning is indicating that the body is generally in support of the tourism industry and what it has to offer to our state. So let's take a bill forward that really will move us to that next level and help our tourism industry grow. So again, that's my reason behind FA20 and see where everybody is at and get these ideas out on the floor. You know, I know there was some talk about let's just wait and work on this between General and Select, but I just felt strongly enough about this that I thought we needed to have this discussion started on General File so that when it advances to Select File and we have the opportunity to maybe continue to work on it we already have some of these ideas and thoughts out there. And so when this bill is on Select File and we have that discussion then we're going to have a bill that really will give... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR DUBAS: ...the tourism industry what they need and one that the full Legislature can get on board with. Because again, if you don't have the buy-in from the Legislature, and not just the Legislature, you need, you know, you need DED on board with what's going on. You need the executive branch on board with what's going on. And we all have to move things forward together. And so, you know, let's get everybody around the table and again make this a bill that will really get us what it is we want to support the tourism industry. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Dubas. The Chair recognizes Senator Ken Haar. [LB684]

SENATOR HAAR: Madam Chair, members of the body, I rise in support of LB684, AM375, and against FA20. And I would like to thank Senator Schilz for bringing this bill forward. I think it's in this time when we're sort of hunkering down and seeing where we can spend less money and so on we also have to look forward. And I think this is one of those bills that looks forward to develop...to continue to develop one of our largest industries. So one of the things I did, which is kind of interesting, I looked with it being the third largest industry in Nebraska, I wondered how many dozen people work for the

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Department of Tourism because when it comes to tourism, it's all about getting the word out to let people know what's in Nebraska and helping develop those potentials. Well, what I found out is there's only nine people. For our third largest industry to promote...promote our third largest industry, we have nine people on staff. There's, of course, a director and then we have somebody, a media and public relations coordinator. We have a group travel manager promoting Nebraska as a destination to both national and international tour operators. We have a development person who works in updating all the tourism things that we put out. We have a research coordinator who keeps track of the industry. We have administrative assistant who is responsible for all the databases at the Department of Tourism. We have somebody working on agritourism, somebody on ecotourism, and so on--nine people for our third largest industry. And I would like to suggest that from the descriptions...and by the way, these are all out on the tourism's, on [visitnebraska.gov](http://visitnebraska.gov) you can go in and look and these are presented as contact people for folks who want to talk about tourism. They all are doing a lot of work. If you...I didn't read their full descriptions, but they're all doing a lot already. And I think what Senator Schilz is talking about makes a lot of sense. We're not saying that this group of nine isn't doing their job or that they're not smart enough or whatever. We're just saying maybe a set of new eyes looking at this tourism might bring new possibilities to Nebraska. And so again, I would support LB684 and AM375 and stand against FA20. We already have people working. They're talented people. You can look at their resumes, but they have so much work to do. And I think Senator Schilz's resolution adds to that potential. And if Senator Schilz would like some additional time, I would give the rest of my time. [LB684]

SENATOR SULLIVAN: Senator Schilz, you have 1 minute 30 seconds. [LB684]

SENATOR SCHILZ: Thank you, Senator Haar. Thank you, Madam President. You know, having grown up around an attraction like Lake McConaughy, it's one of those things that I've look at almost all my life. I grew up there. I know it. I want to get back there as often as I can. And there are ways to promote that to people... [LB684]

SENATOR SULLIVAN: One minute. [LB684]

SENATOR SCHILZ: ...so that we can get more people to enjoy it and spend their money. The state of Nebraska, if I understand it correctly, is fifth from the bottom in states in spending for tourism promotion. I've seen the numbers out there of what other states are spending compared to us and it's staggering. Other states understand the new face of tourism and understand that it's not about really minimum wage jobs anymore. People will spend money for entertainment. People will spend money to come to your part of the state to see what your area has to offer, and I think we need to find ways to encourage and promote that. And that's why LB684 was introduced and that's why I am supporting it and fighting for it. And I hope you will support me as well. Thank you. [LB684]

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SENATOR SULLIVAN: Thank you, Senator Schilz. The Chair recognizes Senator Price. [LB684]

SENATOR PRICE: Thank you, Madam President and members of the body. Sitting here listening to the debate the last time, couple of times we've been debating this bill I marveled at the interest. And just earlier today we had a bill that dealt with hundreds of millions of dollars, and man that thing just (snaps fingers) flowed. So I'm kind of amazed at the interest that LB604 or LB684, excuse me, I don't have my glasses, I apologize, what that bill has generated. I stand in support of the bill. Senator Schilz has told us and articulated in more ways than I can count that the tourism industry is important and that what we seem to lack is a cohesive, comprehensive, inclusive plan that encompasses all of the diverse needs across Nebraska, whether it would be rodeos to zoos to our lakes to the Niobrara and all points in between. There are so many things I couldn't even begin to list them and adequately do it because I would leave somebody out of that listing and offend them. Nebraska is a beautiful state and a great state. And forever we hear things about what are we doing for tourism? And now we're going to see efforts that would not just say we're not going to do anything with tourism but we're going to deny growing tourism. So it seemed rather, if anything else, obtuse to me all the conversation that we've had on this. But that being said, I just wanted to rise to marvel at that, and I will yield the balance of my time to Senator Dubas if she would like it. [LB684]

SENATOR SULLIVAN: Senator Dubas, 3 minutes and 10 seconds. [LB684]

SENATOR DUBAS: Thank you very much, Madam President. Thank you, Senator Price, for yielding me your time. I think the discussion that FA20 has generated has been very important, and it has gotten a lot of senators to stand up and talk about the importance of tourism to our state and it truly is and I'm there. And I appreciate Senator Schilz's passion for his bill and what he's trying to do with this bill. And so again, I introduced FA20 to help us get some of these things on the record, to get senators engaged, fully engaged in this debate and understand what it is if we truly believe that tourism is as important to our state as we've stated this morning, we're going to have to step up to the plate and be there and be willing to support it. And so again, while it appears to be an unfriendly amendment to the bill, I didn't intend for it to be that way. I intended for it to do exactly what it's done this morning--to have this discussion to allow us to talk about the importance of the tourism industry to the state, as it is in its current form and what it could do for us if we ramp up our efforts and put additional support behind what they've done. It's definitely got everybody's attention. I think the different individuals who represent the tourism industry know that we have some expectations of what's to come through this bill. And so again, I appreciate the discussion that we've had this morning, and I would like to pull FA20. Thank you. [LB684]

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SENATOR SULLIVAN: Thank you, Senator Dubas. Mr. Clerk. Senator Dubas, you wish to withdraw... [LB684]

CLERK: Withdraw. [LB684]

SENATOR SULLIVAN: ...your floor amendment? [LB684]

SENATOR DUBAS: Yes, I do. [LB684]

CLERK: Okay, thank you, Senator. We're back to committee amendments, Madam President. [LB684]

SENATOR SULLIVAN: Thank you. And we will continue with discussion on the committee amendments. Senator Gloor, you're recognized. [LB684]

SENATOR GLOOR: Thank you, Madam President. I served on the Banking, Commerce, and Insurance Committee; heard this bill in committee hearings; had some questions; thought it was a good presentation; thought it answered to my satisfaction the vast majority of questions that have come up here today. I'm in support obviously of LB684 and AM375. I believe the enthusiasm for tourism in this state is hottest at the local level, believe that's where a number of individuals, groups within individual communities are, in fact, very excited about tourism opportunities in this state. And I believe that enthusiasm bubbled up to the surface and is the reason that we have LB684. It's not to speak disparagingly about the efforts at the state level except to say that I also think that at the local level some of that enthusiasm recognizes the fact that we need to take the next step. And it will be helpful to do that if we bring somebody in to help us. Make no mistake--tourism is economic development. Take a look at Grand Island and what happened when the State Fair came in. The investment of both public and private dollars in the millions was part of the enthusiasm and the recognition that that level of tourism was an important economic driver for this...for my community, not just last year but will be for years to come and the additional opportunities it provides. So this is an important bill and this is an important topic for us to spend some time talking about. I thought about the floor amendment, which has obviously just been withdrawn. I am a semi-expert when it comes to hiring consultants. In my former line of work, had to do this quite a bit. One of my hesitations was not just the dollars but also the old maxim that said a consultant is somebody who tells you what you already know. There is always that risk. But a consultant can also be somebody, as has already been pointed out, who takes a 30,000-foot look on the one hand, but also can help you see the forest for the trees. I think the way this bill was structured when it came out of committee with the amendment was a good bill, and I think it's an important economic development bill. And I think the dollars associated with it, which are driven by tourism, with the opportunity to drive even more dollars as we increase tourism, is a minuscule, minuscule expenditure compared to the kind of dollars we've been talking about already

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this session in other ways of economic development, whether it's Innovation Campus, whether it's internships. This is a form of economic development. And I think the dollars, which come from a completely different and appropriate source for this sort of expenditure, are going to be wisely spent the way the bill is currently structured. And I would urge my colleagues to support both the bill and the committee amendment as they currently are presented. Thank you. [LB684]

SENATOR SULLIVAN: Thank you, Senator Gloor. The Chair recognizes Senator Hansen. [LB684]

SENATOR HANSEN: Thank you, Madam President, members of the Legislature. I rise and I really appreciate Senator Dubas pulling that amendment because that really harms this bill, which is a good bill, and I think that we need it. This is a great example of a group of people that say they're together but not necessarily are. They're, as I mentioned earlier, the tourism is territorial. And there is a difference between being territorial and being regional. And I've talked to Senator Schilz and I asked him to please make this \$75,000 work in a manner to get tourism thinking about a regional aspect. We don't have enough people in this state to fight over the tourism that we have. We rely on out-of-state people. We need to make these things regional. They come to Nebraska, they can spend two or three days at two or three different venues if they wish to do so. I think it's self-funded. We found that out this morning, mostly through the lodging tax. It doesn't run through the General Fund. It goes into DED and we're saying, DED, please hire someone; get this thing off the ground. Once and for all get these members...I mean there's members that are on the advisory council now that probably would be on this advisory council under this consultant. So I think it's a good idea that Senator Schilz has come up with, appreciate the Banking, Commerce and Insurance Committee adding this amendment. I will support the amendment and the bill. Thank you, Madam President. [LB684]

SENATOR SULLIVAN: Thank you, Senator Hansen. Seeing no other senators wishing to speak, Senator Pahls, you're recognized to close on the committee amendment. [LB684]

SENATOR PAHLS: Thank you, Madam President, members of the body. It has been a good discussion. If you pass this amendment, essentially you will pass the bill because it's what it's all about now. I do think the Division of Tourism for the state of Nebraska under the Department of Economic Development is listening to what we've been talking about today. I thank you. [LB684]

SENATOR SULLIVAN: Thank you, Senator Pahls. The question is, shall the committee amendment to LB684 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB684]

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CLERK: 37 ayes, 0 nays, Madam President, on adoption of committee amendments.  
[LB684]

SENATOR SULLIVAN: The amendment is adopted. Seeing no other senators wishing to speak, Senator Schilz, you're recognized to close on the advancement of LB684.  
[LB684]

SENATOR SCHILZ: Thank you, Madam President. And thank you to everybody on the floor this morning that helped with the discussion. Tourism is important to the state of Nebraska, and I believe tourism can and will be a growth industry for the state of Nebraska. That's why I introduced LB684. I think there's so many opportunities to show others around the state, around the country how great Nebraska really is. And I think LB684 is a vehicle that will start us in that direction to find out how to best promote the third largest industry in the state and bring back dividends to everyone that is involved with that. Are there concerns about how money is spent? Absolutely. And the questions that we asked here today and that were asked about the bill and about the intentions of the bill were right on target. I welcome those because that's what defines how we move forward and understanding of what we need to do. And I know that everybody in this room is concerned about the economic viability of the state, the economic viability of the industries within that state. And I think every once in a while it takes a little bit of foresight and it takes some leadership to move forward to allow these kind of things to develop, to bloom, and to bring us dollars that we so truly need. So with that, I will close. I won't say any more. I think plenty has been said already. I would very much appreciate your support of LB684 to Select File. Thank you very much. [LB684]

SENATOR SULLIVAN: Thank you, Senator Schilz. The question is the advancement of LB684 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB684]

CLERK: 42 ayes, 0 nays, Madam President, on the advancement of LB684. [LB684]

SENATOR SULLIVAN: The bill advances. Mr. Clerk, we'll proceed to General File, LB684A. [LB684 LB684A]

CLERK: LB684A is by Senator Schilz. (Read title.) [LB684A]

SENATOR SULLIVAN: Senator Schilz, you're recognized to open on LB684A. [LB684A]

SENATOR SCHILZ: Thank you, Madam President. Obviously LB684A is mostly what all of the discussion was about this morning. This is the part that would dictate where the \$75,000 from the Visitors Promotion Cash Fund may go to hire a consultant, and I would appreciate your support on that. Thank you. [LB684A]

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SENATOR SULLIVAN: Thank you, Senator Schilz. The question is the advancement of LB684A to...oh, excuse me. Is there...I'm sorry. Any discussion? Senator Schilz, you are recognized to close. He waives closing. The question is the advancement of LB684A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted? Record, Mr. Clerk. [LB684A]

CLERK: 36 ayes, 0 nays, Madam President, on the advancement of LB684A. [LB684A]

SENATOR SULLIVAN: Thank you, Mr. Clerk. We now proceed to General File, LB682. [LB684A LB682]

CLERK: Madam President, Senator Mello, as the principal introducer, would ask unanimous consent to bracket LB682 until January 4, 2012. [LB682]

SENATOR SULLIVAN: Senator Mello, you're...are there any objections to the unanimous consent request? Seeing none, if not, so ordered. Items for the record, Mr. Clerk. [LB682]

CLERK: Thank you, Madam President. New resolution: Senator Gloor would offer LR174. It calls for an interim study. That will be referred to the Executive Board. LR175 is by Senator Cook. That will be laid over. Senator Avery would like to add his name to LB699 as cointroducer. (Legislative Journal pages 1318-1319.) [LR174 LR175 LB699]

And I do have a priority motion. Senator Flood would move to recess the body until 1:30 p.m.

SENATOR SULLIVAN: You've heard the motion. All in favor say aye. Opposed. We are recessed.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence.

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Mr. Clerk, please record.

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

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SPEAKER FLOOD: Thank you, Mr. Clerk. Do you have any items for the record?

CLERK: I do, Mr. President, a series of things. First of all...

SPEAKER FLOOD: (Gavel)

CLERK: ...Enrollment and Review reports LB200 and LB200A as correctly engrossed. Enrollment and Review also reports LB575, LB575A, LB252, LB106, LB549, LB345, LB345A, LB404, and LB549A to Select File, some of which have Enrollment and Review amendments. (Legislative Journal pages 1320-1323.) [LB200 LB200A LB575 LB575A LB252 LB106 LB549 LB345 LB345A LB404 LB549A]

SPEAKER FLOOD: (Gavel)

CLERK: Appropriations Committee, chaired by Senator Heidemann, reports LB380 to General File with amendments; LB379, General File with amendments; LB378, General File with amendments; LB377, General File with amendments; LB376, General File with amendments; LB375, General File; LB374, General File with amendments; and LB373 to General File with amendments, those reports all signed by Senator Heidemann, as Chair of the committee. And finally, Mr. President, Senator Heidemann would like to print amendments to LB374 and to LB379. That's all that I have. (Legislative Journal pages 1323-1332.) [LB380 LB379 LB378 LB377 LB376 LB375 LB374 LB373]

SPEAKER FLOOD: Thank you, Mr. Clerk. The Chair recognizes Senator Heidemann for an announcement.

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. As you probably are well-aware, the budget books are distributed already. They're a great resource as we prepare for our budget, which will be up on the floor, General File debate 1:30 Monday. You can take them home and over the weekend get more familiar with them. I do believe that the LR542 process has been a great process not only in helping us find places where we can do things as good or better with a little bit more money, but the main thing that I am going to like about LR542 when we're upon the floor is that everybody is more familiar with the budget than they ever have been before, at least the parts that is under their jurisdiction of their committee. There is a limited number of additional books that can be picked up in the LFO Office. It's Room 1007. The book is also posted to the Web if you aren't around your book and you need access to information. Also let you know we are going to host a budget briefing on Monday, May 2, at 9:00 a.m. in Room 1524. It's an informal meeting where we share some information. You can ask questions in an informal setting. If you have any other questions, you can contact me or any other members of the Appropriations Committee or the LFO. Legislative Fiscal Office staff is always a great resource. Just to let you know, there is a financial status inside of your budget book. You also, from this point on,

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starting tomorrow, there will be a green sheet attached to the agenda that will reflect all the actions on a daily basis and the financial statuses will reflect those actions. And because of that and when this thing was printed, if you actually go to your financial status in the book, the one that we see tomorrow actually will not be reflective in the book because one of the main things that we've done since the book was printed or sent to printers is we passed LB385. I think the financial status shows that we have \$7, right at \$7 million on the bottom line with the passage of LB385. That goes to I think right at \$16 million. It's a daily process of up and down. So if you have any questions just ask me or anybody else on Appropriations, Fiscal Office. Thank you.

SPEAKER FLOOD: Thank you, Senator Heidemann. Mr. Clerk, we now proceed to the next item on the agenda, Select File, 2011 Speaker priority bills, Lautenbaugh division. We begin with LB500. [LB500]

CLERK: Mr. President, with respect to LB500, I have no amendments to the bill. [LB500]

SPEAKER FLOOD: Senator Larson for a motion. [LB500]

SENATOR LARSON: Mr. President, I move that LB500 be advanced to E&R for engrossing. [LB500]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB500 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB360. [LB500 LB360]

CLERK: LB360, Senator, I have Enrollment and Review amendments first of all. (ER97, Legislative Journal page 1294.) [LB360]

SPEAKER FLOOD: Senator Larson for a motion. [LB360]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB360 be adopted. [LB360]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB360]

CLERK: Senator Larson would move to amend with AM741. (Legislative Journal page 1058.) [LB360]

SPEAKER FLOOD: Senator Larson, you're recognized to open on AM741. [LB360]

SENATOR LARSON: Thank you, Mr. President, members of the body. AM741 amends

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the Revenue Committee amendment...or amends the LB360 by striking language allowing the tax credit for wind energy facilities that previously paid personal property tax against their nameplate capacity tax. This tax credit provision was originally stricken in LB360, but the committee amendment that was adopted put the language back in. My constituents in District 40 have raised concerns about the negative fiscal impact of this tax credit on their local political subdivisions, and I'm introducing this amendment to address those concerns. The tax credit in this section applies only to the wind facility in Knox County. Knox County's tax base increased dramatically with the inclusion of the wind energy generation facility's property tax in 2009 and they collected property taxes for that year. After the passage of LB1048, Knox County and the Bloomfield school district had substantially raised property taxes to account for that property tax exemption. Because of the tax provision, not only are the county and Bloomfield Public Schools unable to collect property taxes but they're not able to even collect the nameplate capacity tax for the next several years. Eliminating the tax credit by adopting this amendment would require wind energy companies to pay the nameplate capacity tax for each year or each megawatt of energy produced, beginning with taxes assessed in 2010, instead of waiting five to six years for any tax revenue for the facility. There are several reasons why this tax credit should be eliminated. First, the wind companies have argued that there is no tax credit for previously paid property tax. Then this results in double taxation. The wind companies allege that the purpose of the nameplate capacity tax was to replace the personal property tax and that the two taxes are identical. But they are not identical taxes. The nameplate capacity tax does not operate in the same way of the property tax. The total monies paid under the nameplate tax may approximate what would be paid in property taxes but they are not equal. But the nameplate tax is revenue neutral for the first 26 years of operation, but then it is not. However, the usable life of a wind turbine is only 10 to 15 years, and new wind turbines would be commissioned. The nameplate tax does not take into account the new ownership or depreciation of wind turbines but, rather, is based solely on megawatts produced. If a wind company did not have this credit and had to pay the nameplate tax, that is not the same as reinstating the property tax. These taxes are two completely different taxes. One is based on the value of the property and the other is based on the energy produced. They are different in the amount of duration and, most importantly, a company is responsible for paying taxes due when they are due and this should not be credited back just because the Legislature changed the tax system the following year. A second reason the tax credit should be eliminated, the nameplate tax in LB1048 was described as an incentive to wind energy development. The nameplate tax reduces the up-front costs of developing a wind energy facility and provides the most stable tax cost for wind companies, but the wind facility in Bloomfield had already been completed and was operating based on the old tax structure, one where wind facilities were required to pay personal property tax. The wind company knew about the tax burden it would face when the wind facility was developed. Changing the tax structure was a benefit to that company because it lowered taxes in the following years. However, none of the provisions of LB1048 served as an incentive to the wind facility in Knox County. It was

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completely unnecessary to provide an incentive to a company that has already begun operations under the applicable law. The tax credit is certainly not an incentive to wind development because it was only applied to the wind farm in Knox County. While incentives for wind development may be a positive legislative goal, this tax credit cannot be considered as such. Eliminating this credit does not affect any future projects. Finally, Knox County has filed a lawsuit against the state alleging the LB1048 was unconstitutional. The lawsuit specifically alleges that this tax credit is unconstitutional. Eliminating this tax credit that only affects one county could potentially save the state considerable resources in defending this lawsuit and, at this point in time, saving the state's resources is a positive goal. I urge you to support this amendment. Thank you. [LB360]

SPEAKER FLOOD: Thank you, Senator Larson. Senator Cornett, you are recognized. [LB360]

SENATOR CORNETT: Thank you, Mr. Speaker. And I want to thank Senator Larson. He's been very cooperative in helping with the situation that we are addressing in LB360. Unfortunately, I cannot support his amendment. The proposed amendment by Senator Larson would move the credit provisions of LB360 and this would have two important negative consequences. The credit repeal would be contrary to the policy established last year that all windfarms be taxed under the nameplate capacity tax as opposed to imposing a tax on personal property value. The credit put all windfarms on the same equal, level playing field. Only one windfarm, Elk (sic) Ridge, LLC would be paying both taxes if the credit is repealed. If we did what Senator Larson's amendment proposes, it would be a double taxation situation for the Elk (sic) Ridge windfarm. I certainly understand Senator Larson's position and I certainly understand the position of his county and the difficulties this has caused him, but the second reason as the reason we should not do this is the reason that he actually brought up, which is the lawsuit that has been filed. The Knox County local government has already filed a lawsuit challenging the credit provision and other aspects in the Lancaster County District Court. Changing the law while these issues are in court would be changing the outcome of a legal action or lawsuit by legislative action. I don't think that that is a policy that we should embark on. I feel that the Knox County situation will be addressed in the court system. LB360, though, moves forward for the wind industry in Nebraska. Senator Langemeier did a wonderful job last year working on LB1048, bringing wind to Nebraska. I can only pay my highest compliments to him for that. These are technical corrections that need to be made so that industry that we worked so hard for can move forward in the state. AM741, while I do certainly understand the position that Knox County is in, does not help the situation in Nebraska, creates a double taxation situation, and interferes with an ongoing legal action. Thank you. [LB360]

SPEAKER FLOOD: Thank you, Senator Cornett. Senator Langemeier, you are recognized. [LB360]

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SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of LB360 and in opposition to AM741. But I want to thank Senator Larson. Over this first 60-some days we've been working together, it's been a pleasure to have the discussion about wind energy and what is going on in Knox County and what's going on across the state. We've got a lot of questions out there about we're not seeing turbines go up as fast as we'd like to see these towers go up, like Iowa has, but we do have progress out there. We do have net metering towers going up and that's the first step to start to monitor the wind. Before LB1048 came around, we were getting calls out in Knox County saying can't we balance this out on how we get some money. We heard from Boone County that is Senator Sullivan's district that has now got 80 megawatts built. We've heard on many occasions how we need to make this a more streamline approach to getting taxes in that is going to help our schools long term, and LB1048 did that, and LB360 will help resolve some of the technical issues with that. And Senator Larson has been at the forefront, having discussions with us about that, and we do understand the situation in Knox County but at this time, as we looked for a statewide view of Nebraska, LB1048 with LB360 as a technical fix is the way to go. And I want to commend him for his efforts and his continued communication with us as we move forward. And thank you. [LB360]

SPEAKER FLOOD: Thank you, Senator Langemeier. Senator Fischer, you're recognized. [LB360]

SENATOR FISCHER: Thank you, Mr. President and members. I'd like to thank Senator Langemeier. It was a pleasure and an experience working with him on LB1048. And I'd like to thank Senator Cornett. I was able to work with her on LB360 this year on Revenue Committee. And I'd especially like to thank Senator Larson. Although I cannot support his amendment, we need to continue this discussion on wind, and this is I think the first discussion we've had on the floor this year on it that comes to mind right now. But Senator Larson, as Senator Langemeier referred to, in his first 60 days here I think you can see his commitment to his district, his commitment to the state. He's working. He's working for them on an issue that is upsetting to a few of his constituents in Knox County and I commend him for bringing that forward, but I am sorry that I can't support his amendment. What LB360 is trying to do here is to clarify what was the intent of LB1048, and it was that intent that was agreed to by all the parties when we were working on that and when Senator Langemeier put that all together last year. And LB360 now is helping us move forward. That's difficult for somebody who got caught in this process when we weren't able to get that truly clarified in the original legislation. But I do thank Senator Larson for bringing this forward, for highlighting the concerns of the people in Knox County, the school districts, the county government and the city governments, because it is a situation that they do have to deal with. I think they will be able to move forward now and I am glad that LB360 is taking care of the situation we found ourselves in. Thank you, Mr. President. [LB360]

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SPEAKER FLOOD: Thank you, Senator Fischer. Senator Larson, you're recognized. [LB360]

SENATOR LARSON: Thank you, Mr. President, members of the body. You know, Knox County was put in a very difficult situation by the body last year and I know it is an unintended consequence, but I think we, moving forward, always must look at what is the appropriate steps moving forward. And I think LB360 does have some technical amendments that is good for wind moving forward, but I'd ask everybody in the body, you know, and understand that we do have to stand up for those that we represent every day and AM741 does that. And though I realize that there might not be a lot of support in the body, I would just really ask you all to reflect and think about what would you do if this was happening in your district. And I hope you understand that it would be the same as me because I believe most of you would. With that, I'd like to thank Senator Cornett and Senator Langemeier and Fischer for their comments and the work that they've done on LB360, and I'll withdraw my amendment. Thank you. [LB360]

SPEAKER FLOOD: AM741 is withdrawn. Mr. Clerk. [LB360]

CLERK: Mr. President, Senator Haar would move to amend with AM1298. (Legislative Journal pages 1332-1333.) [LB360]

SPEAKER FLOOD: Senator Haar, you're recognized to open on AM1298. [LB360]

SENATOR HAAR: Mr. President, members of the body, thank you very much. AM1298 to LB360 is really LB359, as amended by the Revenue Committee. The bill advanced out of Revenue Committee unanimously and had no opposition testimony at the hearing. The bill changes the zero emission tax credit to the renewable energy tax credit. This change is necessary to fulfill the original intent of the law and allow methane digesters to qualify for the tax credit. The other change made to the statute is that there is currently a \$750,000 lifetime cap for the tax credit. This amendment would change that to \$50,000. This effectively saves the state \$700,000 in commitments while still allowing the tax credit to have enough money to cover applicants. A little bit of background information then and, by the way, on the handout I gave you...again summarizes we're changing from zero emission tax credit to a renewable energy tax credit, which was the original intent when this was put in place. A little bit of background, and this is on page 2 of the handout I gave to you: Danny Kluthe is a hog farmer in Senator Schumacher's district and he's the only person so far to apply for this tax credit. In fact, I believe it was created for him...with him in mind. The Department of Revenue denied his claim based on the fact that his methane digester produces an emission. His total claim would be approximately \$350 per year. Wind projects that do not receive sales tax exemption would be eligible for this tax credit but none have applied. We don't know exactly why not, but we hope that some may apply in the future and that's why the

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new cap of \$50,000 should be sufficient to cover the program costs as opposed to the original \$750,000 cap. Going back to Danny Kluthe again for a minute, what he does is he's the only person in the state so far to use this process. He takes the hog manure, puts it into a digester, and in that environment it produces methane gas and he uses that methane gas to run a generator. Generator runs all the time, producing 80 kilowatts, I believe. And so it's really still a pilot project but it has great potential for Nebraska agriculture. Again, I think you'd be interested in reading the e-mail that I attached. I'd also like to point out that this past week you got, from the Nebraska Energy Office, this booklet called "2011 Nebraska Energy Plan." I want to thank Ginger Willson, the new director, for publishing this, putting it together. And on page 8 of this publication, talks about increased opportunities for methane recovery from agriculture and community biomass resources. So the potential for producing methane is not only there from agriculture but also from community biomass that's treated in the right way. So again, this really takes care of a promise that was made some years ago in changing from a zero emission tax credit to a renewable energy tax credit. I would appreciate your vote on AM1298. Thank you very much. [LB360 LB359]

SPEAKER FLOOD: Thank you, Senator Haar. (Visitors introduced.) Continuing with discussion, members, you've heard the opening to AM1298 from Senator Ken Haar. Senator Langemeier, you are recognized. [LB360]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of AM1298 offered by Senator Haar to LB360. I was fortunate to be on Revenue Committee when this program was started. I'm very familiar with Danny Kluthe methane digester and support the idea of lowering the cap amount of spendable money from \$750,000 down to \$50,000 and make this program a little more available to its use. And so with that, I would ask for your support of AM1298 and then LB360. Thank you. [LB360]

SPEAKER FLOOD: Thank you, Senator Langemeier. Senator Cornett, you are recognized. [LB360]

SENATOR CORNETT: Thank you, Mr. Speaker and members of the body. The Revenue Committee passed this bill out. When we looked at it, and I'd like to thank my staff for this, they pointed out the fact that out of the \$750,000 credit that was not being utilized, that we would not necessarily need the majority of that to incentivize this type of small either methane or wind project. So I just want to make sure everyone in the body understands that by decreasing the renewable energy tax credit cap from \$750,000 to \$50,000 we will be reducing a tax credit by \$700,000, which I think is an appropriate measure for this program since it has not been utilized anywhere near to that extent, if at all, because of the original drafting. I'd like to thank Senator Haar for coming to me this morning ahead of time and asking if he could attach this bill and clarifying that it was indeed germane to the bill, and I urge the body to support the amendment,

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AM1298, and the underlying bill. Thank you. [LB360]

SPEAKER FLOOD: Thank you, Senator Cornett. Senator Schumacher, you are recognized. [LB360]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. We often hear on the news and in our hopes that a lot of our energy problems and some of our other problems may be fixed by the proverbial guy in the garage working on something, trying to innovate and struggling along and finally hitting the magic combination. That is the case with Mr. Kluthe. He's struggling along in his development and trying to find a way to turn something, that otherwise would be waste and would go to waste, into electrical power, and maybe at some point down the road he'll find a way to convert that manure into electricity without having to run it through an engine. But this particular credit was kind of designed with him and guys like him in mind and apparently there was enough of a technical issue with it that the Nebraska Revenue Department felt that he did not qualify for it because he's running an engine as part of this process. So I rise in support of AM1298, thank Senator Haar for bringing it, and in support generally of LB360. Thank you. [LB360]

SPEAKER FLOOD: Thank you, Senator Schumacher. There are no other lights on. Senator Ken Haar, you're recognized to close on AM1298. Senator Ken Haar waives his opportunity. The question before the body is, shall AM1298 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB360]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Haar's amendment. [LB360]

SPEAKER FLOOD: Senator Haar's amendment is adopted. Mr. Clerk. [LB360]

CLERK: Senator Larson, I have nothing further on the bill, Senator. [LB360]

SPEAKER FLOOD: Senator Larson, you're recognized for a motion. [LB360]

SENATOR LARSON: Mr. President, I move that LB360 be advanced to E&R for engrossing. [LB360]

SPEAKER FLOOD: Member, you've heard the motion. All those in favor say aye. Those opposed say nay. LB360 is advanced to E&R for engrossing. Mr. Clerk, we now move to LB137. [LB360 LB137]

CLERK: LB137. Senator, I have Enrollment and Review amendments. (ER96, Legislative Journal page 1294.) [LB137]

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SPEAKER FLOOD: Senator Larson for a motion. [LB137]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB137 be adopted. [LB137]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB137]

CLERK: I have nothing further pending to LB137, Mr. President. [LB137]

SPEAKER FLOOD: Senator Larson for a motion. [LB137]

SENATOR LARSON: Mr. President, I move that LB137 be advanced to E&R for engrossing. [LB137]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB137 advances to E&R for engrossing. Senator Gloor, would you please come forward. [LB137]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: Mr. Clerk.

CLERK: Mr. President, LB463 on Select File. Senator Larson, Enrollment and Review amendments, first of all, Senator. (ER88, Legislative Journal page 1151.) [LB463]

SENATOR GLOOR: Senator Larson. [LB463]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB463 be adopted. [LB463]

SENATOR GLOOR: Members, the question is the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. The amendments are adopted. [LB463]

CLERK: Mr. President: Senator Flood, I have AM1174 with a note that you wish to withdraw that. [LB463]

SPEAKER FLOOD: Yes, I do. [LB463]

CLERK: Mr. President, Senator Flood would move to amend with AM1306. (Legislative Journal page 1310.) [LB463]

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SENATOR GLOOR: Senator Flood, you're recognized to open on your amendment. [LB463]

SPEAKER FLOOD: Thank you very much. Good afternoon, Mr. President, members. Among the changes that LB800 last year instituted was a process for the sealing of juvenile records, which is now in the juvenile code in Chapter 43. After the passage of LB800, all parties realized that certain changes would be needed, and earlier this session I introduced LB669 and Senator Ashford, who has also been working on this, introduced LB301. These bills were heard by the Judiciary Committee and this amendment represents a compromise among the parties concerning the provisions of LB669 and LB301. It is the result of several hours of discussions between the county court judges, court officials, minority justice committee, bar association, and the Nebraska JUSTICE as in the computer system JUSTICE system. What does this amendment do? It clarifies the court's role in the record-sealing process. It says the court shall initiate the procedure to seal a record when the juvenile has completed his or her probation, supervision, other treatment or rehab program, or has successfully completed the diversion or sentence of county court and the juvenile has reached the age of 17. Conversely, the court may initiate the procedure prior to the juvenile turning 17 if such juvenile has completed his or her probation, supervision, rehab, or successfully completed the diversion or sentence of county court. In addition, the juvenile or the juvenile's parent or guardian may file a motion asking the court to initiate the record-sealing procedure provided the juvenile has completed all required actions. A further change contained in AM1306 sets forth that those juveniles charged under a city or village ordinance that has no possible jail sentence must make a motion if the record-sealing process is to be initiated. Sealing in these cases is not automatic and this change is intended to ease the burden that this new process has placed on many of our courts. In addition, AM1306 sets forth a provision for a juvenile's record to be sealed when a juvenile was taken into custody, arrested, cited in lieu of arrest, or referred for prosecution without citation and charges were filed but later dismissed. In order for the record to be sealed under this section, any required pretrial diversion or mediation for any related charges must be completed and no related charges remain under the jurisdiction of the court. I want to be clear that the records are to be sealed under this section when the prosecutor has made the final decision regarding whether charges are to be dismissed and not refiled again. In sum, I think the pressing questions were addressed and resolved through our discussions. I'd like to thank Senator Ashford, the entire Judiciary Committee, the bar association, and the minority justice committee members for all their work on this issue. With that, I would urge you to support AM1306. Thank you, Mr. President. [LB463 LB669 LB301]

SENATOR GLOOR: Thank you, Senator Flood. Members, you have heard the opening on AM1306. There are senators in the speaking queue. Senator Ashford, you are recognized. [LB463]

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SENATOR ASHFORD: Thank you, Mr. President. And I don't need to add much to this other than to thank Speaker Flood and Justice Gerrard as well who has taken an interest over the last couple of years on the issue of sealing the records and the importance of having a plan to deal with sealing the records, the importance of, in fact, sealing the records of juvenile offenders who have successfully completed their probation. So with that, I appreciate the efforts of the bar association, Speaker Flood, Stacey Trout in my office that we...several weeks of work in this effort and I certainly appreciate it. Thanks, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. There are no additional senators wishing to be heard. Senator Flood, you are recognized to close on your amendment. Senator Flood waives. Members, the question is, shall the amendment to LB463 be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted who care to? Record, Mr. Clerk. [LB463]

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of Senator Flood's amendment. [LB463]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB463]

CLERK: Mr. President, Senator Ashford would move to amend with AM1297. (Legislative Journal page 1311.) [LB463]

SENATOR GLOOR: Senator Ashford, you are recognized to open on your amendment. [LB463]

SENATOR ASHFORD: Thank you, Mr. President. And let me, first of all, remind the body that this bill, LB463, is really a clean-up bill to LB800 passed last year regarding the issue of excessive absenteeism and truancy. I want to clarify some misconceptions that are out there in the public that many of you I'm sure have gotten some e-mails. I have and I've talked to numbers of parents about LB800 of last year and LB463 this year. The underlying public policy reason for investing the time that the Judiciary Committee has done and this body has done in truancy is because of the exorbitant numbers of students in this state who were excessively absent, meaning that they have been absent for more than 20 days without an excused absence from the school district or an illness. That has been an incredible eye-opener for those of us who worked in the juvenile justice area because the nexus between excessive absenteeism that's unexcused is to the lack of achievement is clear. And so with LB800 last year and these clean-up amendments this year, I think we're a long way down the line. But I want to assure parents out there that nothing in this bill and nothing in LB800 changes the underlying law of the state, which is that if you have an excused...if your child, student has an excused absence or is ill, that they are not...no one is violating any law of the

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state of Nebraska. But having said that, we also want to make clear that, as we did in LB800 and reinforced it in LB463, we want to make clear that we do want these children in school. We don't want to send them to the juvenile court system. And if there are cases where a young person is absent and the school does not know why, there has been no contact with the parent, there is no excuse, the child is not ill, then we want to know why that is and we want to find out what the problem is and hopefully bring that young person back into school. There have been incredible successes as a result not only of LB800 but of school districts across the state working with local officials, county attorneys, juvenile justice systems across the metro area and Lincoln, and then the county courts across the state in achieving tremendous results. In Grand Island, we've talked a lot about it. It's an incredible success story. Hastings as well, tremendous success. And I just received an e-mail before I came up from a Lincoln lawyer who says this to me: I am the defense attorney that has been appointed to the juveniles in the truancy program at Park Middle School in Lincoln. I can say without any doubt that the truancy court program has been nothing short of a miraculous success in all regards. The schools know which students are truant or have unexpected...unexcused...I'm sorry, unexcused absences versus the students that have legitimate absences. The schools know the families and students quite well. This program has turned around almost all 21 of the current participants. Having practiced in juvenile court for ten years, having seen how truancy matters are dealt with both in the school and at the courthouse, it is clear that help was needed. We're receiving the same sorts of reports back from Douglas County where a program that has been in effect for a couple of years with individuals who actually were in the...over 500 young people who were in the probation system working with HHS and probation. We've been able to get almost every one of those young people back into school. Intervention is critical with these young people, and if we can intervene successfully, reduce excessive absenteeism, we can get to the root causes of many of the issues that keep these young people from learning. And as we all know and as we've discussed many times, this is not an Omaha problem. This is a statewide problem. How much time do I have, Mr. President, and I'll quickly go to the amendments here? [LB463]

SENATOR GLOOR: Five minutes and twenty seconds. [LB463]

SENATOR ASHFORD: Okay. And I can wrap the amendments up. The first amendment or first part of the amendment deals with some technical changes suggested to us by the Appropriations Committee in the CASA program or the CASA grant program that we discussed last week. So it really is technical in nature. The second part of the amendment is, one part of it is a very technical HHS requested amendment. And the second part of the amendment deals with some of the questions I think Senator...well, many of the members raised at the time of the last discussion of this bill, Senator Price specifically dealing with military families and Senator Haar dealing with a case in his district. We want to make absolutely clear that it's understood that when we're talking about an at-risk child under the juvenile truancy statutes, that we're dealing with a child

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who...a student who has not been excused from school and is not ill. So clearly I think in Senator Price's case, which is a very legitimate concern, where military families are impacted by parents coming back from duty overseas and needing the time to be with their children, clearly that's an issue that should be addressed by the school district and I'm sure will be by...or has been and it will continue to be by those school districts affected, and there's nothing in this bill or any other bill that we've passed here in the last few years that would upset that. And clearly in Senator Haar's situation involving the family that he has identified to us, it would...that situation would be covered. They would not be at risk under Nebraska law...at-risk children under Nebraska law and the school district involved has full authority to excuse them from school. And so...but at the end, those children who are excessively absent who do not have excuses, we want somebody to get involved with that child as soon as humanly possible. So the five days per quarter language in the bill is kind of the norm. You know, if a child is out of school for five days, not excused, we don't know where the child is, why the child is not in school, we'd like somebody at least to contact the parents and the guardian. And that is what's going on in Grand Island. Senator Gloor knows because there is a five-day contact made with the family if there's no excused absence. Thank you all for listening to these arguments and discussions over the last couple of years. Appreciate the work obviously of my staff, the Judiciary Committee, that has committed endless hours to this issue. And I'm very hopeful and very optimistic that our goal of reducing truancy by 50 percent in the next couple of years will be achieved. I see it happening all over the state and it's because of the work of this body and the Governor as well and his support has been clear, it has been unbending, and the message has gone out from the Governor's Office, from the executive branch, and Chief Justice Heavican as well prioritizing truancy as a number one priority of the court system. So with that, Mr. President, I urge the adoption of AM1297 and the passage of LB463. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. Members, you have heard the opening on the amendment. We now move to floor discussion. Senator Price, you are recognized. [LB463]

SENATOR PRICE: Thank you, Mr. President, members of the body. I do rise in support of AM1297 and I do appreciate the effort that Senator Ashford has gone through to work the language on this to make sure that absences that are excused by the school are not concurrent with the five-day threshold. In other words the school could say, this absence...like if you were at a FFA convention to Congress and you're gone for five days, that's not going to count against you and it shouldn't automatically generate a letter and concerns, and that's good. And that superintendents now have the reins of this and that is also very good. I do have yet one question and would Senator Ashford entertain some conversation? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

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SENATOR ASHFORD: Yes. [LB463]

SENATOR PRICE: Thank you, Senator Ashford. And the question goes to the concept as you said, plenty of e-mails and contacts that are going around on this one, and it had to do with the sharing of information. Can you let me know...right now it's my understanding that a juvenile jurisdiction, whether it's Health and Human Services or the courts, etcetera, are the ones who initiate the sharing of information. They would go to the school. They would begin it. And now are we granting a new authority, an improved authority, or any other situation that did not exist prior to LB800 or this that allows the education community to initiate a juvenile inquiry? [LB463]

SENATOR ASHFORD: Senator Price, what we are doing at least in the metro area, not statewide, we are not... [LB463]

SENATOR PRICE: Okay. [LB463]

SENATOR ASHFORD: ...in the metro area, however, what we have...what the superintendents have asked us for and what we have given back to them is really the opportunity to come up with a plan for the 11 school districts in the metro area that will deal with information-sharing issues, that will deal with having a consistent approach to how do we notify a family when they are five days without excused absence. Those kinds of things we're sending back to the school districts in the metro area and asking them to come up with a plan. Right now there are two school districts that do provide excessive absenteeism information or absenteeism information to the state. Those are OPS and Ralston. I don't know of any other school districts that do that. It's a local issue. They can work with the state with that information, but there's nothing in this bill that requires that. But it does encourage collaboration on the issue of information sharing. [LB463]

SENATOR PRICE: Okay. So...but just specifically to the information sharing, I'm just going to build a what-if case if you would humor me. Superintendent or a school principal has a student who's been gone six days, not excused. They believe that there is enough issue here to go make an investigation. They now have the express authority to go to Health and Human Services and say, show me the records if you have a record for this student. [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR PRICE: And that authority did not exist before, correct? [LB463]

SENATOR ASHFORD: They have that authority to ask and what is changed is that now the database that includes that information is accessible through the NCJIS system in the Crime Commission. That information can be accessed by the school district through

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a memorandum of understanding with the Crime Commission, with HHS, and with probation. So that information is there. We're not requiring anybody access it, but it is available to the school districts. [LB463]

SENATOR GLOOR: One minute, Senators. [LB463]

SENATOR PRICE: And it was already available before? Thank you. Okay. Great. And with that, I just would ask that so if there were any issues with liability where information was being shared or that was...I don't know, I don't want to say that anybody would improperly share information but that MOU and all that would cover all that, correct? [LB463]

SENATOR ASHFORD: That's correct. [LB463]

SENATOR PRICE: All right. I really appreciate your effort there, Senator Ashford, and I do support the amendment that is before us today. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Price. Members in the speaking queue are: Adams, Pahls, Karpisek, Wallman, and Fulton. Senator Adams, you're recognized. [LB463]

SENATOR ADAMS: Thank you, Mr. President, members. I'm going to take just a moment. I did not speak to Senator Ashford's LB463 on General File so I want to take this opportunity. There isn't anybody in this body, there isn't a teacher out there, there isn't an administrator or a parent out there that doesn't have the same goal--student achievement. But when we sit down and we start asking ourselves, what are we going to do to improve student achievement, boy, I tell you what, there's a lot of different rungs on the ladder to start grasping at. Some of it may be not even identified yet, whether it's the size of the classroom, the quality of the teacher, the ventilation in the room, the income level, the neighborhood of, the list goes on and on. And this bill doesn't suddenly wash all of those issues away. But do you know what it does do? It drives a stake in the ground and says that at some point we know that school districts are out there every day trying to tackle all of those variables to improve student achievement, and they're going to continue to do that. What this does is to say: you know what? While they're doing their work, let's help. Here's what we know that you can't learn, that you can't improve if you're not in school. Let's drive that stake in the ground and go from there. Senator Ashford has led the charge and right behind him have been metro superintendents. And in the last year, our collection of data, I think that what you're going to find, we're going to have some rural superintendents opening their eyes saying we didn't realize we had as big a problem as we do. We got to keep them in school to do all the other things that we believe we need to do to improve student achievement. This, to me...and I said this to Senator Ashford when he first talked to me about this, to me this is not necessarily a beginning point but a solid point of beginning, something

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you can build on, something you can measure. And in order to get it done, it not only takes this kind of legislation, it's really going to take superintendents statewide and superintendents in the metro area working with different agencies, sharing, developing a plan, which they're willing to do. If we ultimately are going to say: What's the success? How do we measure success in the learning community? How do we measure success in Hyannis or Arthur County or York or Seward? One of the measurements ought to be have we improved on school attendance. Have we done that? And have we done all that we can at the state level to help schools help kids be there? This gets there. And I'm also hoping that as this evolves and as the plan in the metro area evolves, it helps to overcome a lot of other things. Whether it's data sharing or whatever it may be, I think we're on the right track here. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Adams. Senator Pahls, you're recognized. [LB463]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I thank Senator Ashford for making those clarifications. I think we're on the move there. Of course I totally agree with Senator Adams on we need the child in the school to show progress. Last time I was up on the mike and we discussed this, I mentioned schools throughout the state and I intentionally moved throughout the state, not just in the large areas to prove a point. And I know you cannot recall these, but some of the numbers and some of the schools in the...further west, I mentioned some of those and believe it or not I did get some response from some superintendents. And one e-mailed me and asked me...because he had heard that his school had been on it, and I said, this is not meant to be negative. Let's try...I'm using the word to "enlighten." And he wanted to know where I got this information. Well, I said this is information from the Department of Education. And this was the answer that I got back from him after he had reviewed. He had seen the data on his school and he said, well, we're really average. It was like trying to tell me, well, why would you mention my school, and I didn't respond to that. But I can assure you when I was in the active education field, I didn't accept average. If you worked with me or worked with kids...I know statistically there is always going to be average, but that wasn't my standard. So that's what I think we're going to do is we're going to hopefully get the...as it appears that all the superintendents are getting on board are in the process, we're going to raise that standard. And another thing that was intriguing to me was the number of parents who have had a concern about this because they're afraid or they apparently have gotten letters in the past. Well, I'm telling you there are some people who should not have probably received letters, but I'm saying, hurray. The schools are doing their job. Now there may have been some errors made but I can assure you, administrators are not out there trying to stir the pot to get the parents angry at them for no reason at all. They were trying to do something that's going to promote a better education for the students. I want teachers held accountable. I truly do. I held myself accountable. I want administrators or educators as well to be held accountable, but we know that to do that, that student needs to be in front of us. And

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there's just one piece of information that I want to leave you with, and these are raw numbers. I don't have all of the...I don't have the rationale behind some of these numbers, but out of approximately 283,000 students in the state of Nebraska last year, 85,000 of them missed 10 days of school; 42,000 missed 15 days; 23,000 missed 20 days. Now I know out of that 23,000/20 days there were some...there were students who had legitimate reasons to be gone from school, would be they health, etcetera, etcetera. But I tell you that number to me is sort of shocking--23,000 days, and these are not my numbers. These are numbers generated from the Department of Ed. So I see this as a wake up call. To be honest with you, I want us to be pouring more money into education but I want it to be there for a reason. In fact, as I suggested with Senator Adams, maybe on the TEEOSA formula we need to somehow maneuver that in when they take the information of how many students enroll, that there are a couple of dates that they take a look at, maybe we ought to start taking a look at the dates of those students... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR PAHLS: ...who were there for the total year or a significant part of the year, that can be probably factored in somehow. It would make it, again, much...maybe a little bit more complicated but it would make us probably as school people probably a little bit more on top of the issue of making sure those students are there. So I think we need to...I don't think, I know we need to value this particular legislation. And the one thing I wanted to end on, I did mention the school of Ewing because they're a small school but they had no students who missed 20 days. And the reason why Ewing sticks in my mind because many years ago my first volleyball coaching job was against Ewing, and needless to say I'm not going to tell you the score. It was a very good learning experience for me. So I commend Ewing for what they did to me a number of years ago and I commend them what they're doing... [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR PAHLS: Thank you...today. [LB463]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Karpisek, you are recognized. [LB463]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I support the idea behind LB463. I do think that maybe in some cases it's not being used appropriately, and I'd like to ask Senator Ashford some questions if he would yield. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield to some questions from Senator Karpisek? [LB463]

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SENATOR ASHFORD: Yes. [LB463]

SENATOR KARPISEK: Thank you, Senator Ashford. We spoke a little bit off the mike. What I keep hearing come up today is excused and nonexcused... [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR KARPISEK: ...absences. And so in all of this, this should be the nonexcused absences, correct? [LB463]

SENATOR ASHFORD: Correct. [LB463]

SENATOR KARPISEK: So if my son is gone for nine days and has excuses for either being sick or at the doctors or a funeral or any of those sort of things, those days shouldn't count. [LB463]

SENATOR ASHFORD: Correct, as long as they're excused by the district. The district has to excuse...they can't just go without an excuse, but there has to be...yes, that is not counted against the 20 days. [LB463]

SENATOR KARPISEK: Okay. Well, I think that that's maybe where we've got a little disconnect with some of the... [LB463]

SENATOR ASHFORD: Senator Karpisek, let me say it this way better. [LB463]

SENATOR KARPISEK: Okay. [LB463]

SENATOR ASHFORD: It is counted but it is not actionable...where there's a violation of the law is with 20 days. Okay. If there's 20 days of unexcused absence that's actionable under the law, that's technically truant, truancy. Always has been; it is now. So they're counted but the...and they're counted insofar as the relationship between the county attorney and the school district. So at 20 days what LB800 said is that you...at 20 days we want you to notify the county attorney if you're a school district and that...but if they're unexcused it's not...if they're excused, it's not actionable so the county attorney won't file anything. And it's up to the county attorney and the school district to decide whether to file anything anyway at 20 days. So it's not an automatic situation where there's a filing. But they count the days. If they are excused, there is no violation of the law, there's no filing by the county attorney. So they count the days but they aren't actionable. Right. [LB463]

SENATOR KARPISEK: I think (laugh) part of this is part of the problem. My son is to nine days, all excused, and got a letter from the school saying at ten days you will have

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to show up in front of the school board. Now as I understand, that's the school policy you think. [LB463]

SENATOR ASHFORD: That's correct. [LB463]

SENATOR KARPISEK: Okay. I'm concerned that we're having kids go to school that are sick that should stay home but they're to that ten-day window. I think any kid going in front of the school board is going to be very scary for them to say why they were gone or what's going on, and so...and the parents. They don't want to have to do that, so they may be sending a sick child to school and spreading more of the sickness. Do you see the problem there, Senator Ashford? [LB463]

SENATOR ASHFORD: I see the problem, but that problem existed prior to LB800 and it exists now in the sense that the school district, the school board, school district has the responsibility to make known to the parents what its policy is on illness and excused absence. If that...and so clearly if...to me, it seems to me that we... [LB463]

SENATOR GLOOR: One minute, Senators. [LB463]

SENATOR ASHFORD: ...we wouldn't want that person who's sick to be dragged before the school board or dragged before anybody else, but that decision is a school board...school district decision, not a decision made by us. Where the county attorney enters into it is we're asking that the...in LB800 last year that the school districts develop a plan with the county attorney to hopefully intervene with these kids if they're unexcused. [LB463]

SENATOR KARPISEK: Okay. [LB463]

SENATOR ASHFORD: And that's what we're trying to do. That's how the ball has been advanced. [LB463]

SENATOR KARPISEK: And I agree with that approach. I think maybe we need to make sure that our schools are understanding that part. Thank you, Senator Ashford. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Wallman, you are recognized. [LB463]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. This intrigues me. Always getting...most county attorneys are pretty busy. Would Senator Pahls yield to a question? [LB463]

SENATOR GLOOR: Senator Pahls, would you yield? [LB463]

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SENATOR PAHLS: I'll try to. (Laugh) [LB463]

SENATOR WALLMAN: Thank you, Senator. [LB463]

SENATOR PAHLS: Yes. [LB463]

SENATOR WALLMAN: Being that you were the administrator, right? [LB463]

SENATOR PAHLS: Yes. [LB463]

SENATOR WALLMAN: Did you ever tie truancy to dropout rates? Was there a correlation there did you feel? [LB463]

SENATOR PAHLS: Well, to be honest with you, I never looked at that piece of data when I was actually in that profession, but we know there's a...common sense would tell us that there's a tie-in. [LB463]

SENATOR WALLMAN: Thank you. I just had dinner with a national award winner, was very disappointed in what we did to our public schools, from out west, and they had a right to be disappointed. So we always seem to be making rules and regulations in here to tell local school districts what they should be doing. And maybe truancy has a direct correlation between class size, between income levels. The bigger the house usually the bigger and better the schools, and it follows all across our nation. So if we're willing to put money for teachers, doesn't have to be fancy school buildings but you have to have minimal kids for teachers in the lower elementary. That sets the tone for the rest of the school. We tried it in our school district and trust me, that's the way it is. Little kids need attention. So reluctantly I suppose I'll vote green on this, but I hate more rules and regulations. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Wallman. Senator Council, you are recognized. [LB463]

SENATOR COUNCIL: Yes, thank you, Mr. President. And as a member of the Judiciary Committee I rise in strong support of LB463 and AM1297. What the Judiciary Committee under the leadership of Chairman Ashford has been seeking to do since I was first appointed to the Judiciary Committee in 2009 is to eliminate barriers to student achievement to provide means for intervention in the lives of young people who are not being successful in school or in life. And LB463 is yet just one of those initiatives that the Judiciary Committee has advanced as a means of intervening in a positive and constructive manner in the lives of young people in trying to improve their opportunities for academic success. My colleague and friend Senator Wallman asked a question of Senator Pahls, whether he in his experience saw a direct correlation between

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absenteeism and dropout rates. But I can tell Senator Wallman that there is educational research that does link absent...school attendance or lack thereof to dropout rates, but even without that data, there's no question that if children aren't present in class, they're not learning. And that's one of the signals that is presented by the data that Senator Pahls shared with a number of young people in our schools and a number of those young people who missed...when you start talking about 10, 15, 20 days of school, we're talking about serious losses of instructional time. I guess one of the reasons I wanted to speak on this was because last evening on my drive home, though I don't know why I do it, I listened to a certain talk radio host who was berating and belittling the work of this Judiciary Committee on the issue of truancy and went so far as to comment on...to make the comment: well, why are we wasting our time on these kids who don't want to be in school? Why are we forcing these kids who don't want to be in school to be in school and if they're just going to disrupt and make life difficult for those who are? Well, if they had a real understanding of what the Judiciary Committee considered and what LB463 seeks to address is to provide intervention because in many instances where this family...and there was a pilot project in Douglas County where families where the children have had excessive absenteeism, when they're brought in and provided an opportunity to meet with representatives of social service agencies and you find out some of the reasons why these children are absent--lack of transportation. And not all children are eligible to be transported to their school and in many instances, public transportation is not readily available. Mobility issues affected...related to poverty and the fact that many children due to their condition of poverty have to move often, and as a result of having to move often, they miss a lot of school. Well, if through the processes that are encouraged by LB463 and its predecessor LB800 enable those children and those families to receive the kind of support services... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR COUNCIL: ...necessary, we'll see those children in school. And I almost got the sense that this particular talk show host thought that when we talked about truants, we were just talking about teens. I mean, if you look at the data, we're talking about elementary school children absences, we're talking about middle school children with excessive absences. I trust that this talk show host wasn't suggesting that we just throw those children away. I believe that LB463 with the amendment that's before you now moves us closer towards ensuring that all children in the state of Nebraska receive a full, complete, quality, comprehensive education, and I urge your advancement of these measures. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Council. The Chair recognizes Senator Fulton. [LB463]

SENATOR FULTON: Thank you, Mr. President, members of the body. This is an

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interesting bill and I had not been involved with it on General File but am now becoming involved with it and I'm glad that we've had some discussion. I'm going to ask Senator Ashford to yield to some questions. But I heard yesterday a story from a constituent of mine, actually it's more accurate to say I heard it last night. I stayed up late to hear a podcast of this person, this lady, this mother who was on the radio. And what she was describing caused my blood to boil, in a figurative sense of course. Now I don't know the entirety of her situation. I am going to meet with her next week. But from what it sounded like, there were legitimate reasons why her child was absent from school, legitimate such that I think anyone of good reason, sound judgment could look at this...her particular case and say: Okay, this probably isn't what the intention of our truancy laws are...or you're not the object of our intentions. But the fact of the matter is this family now entertains someone from the government who comes into this family's home to...I guess the only way I can explain it, to ensure that this parent is being a good parent. This is an unwelcome person from the government who is just coming to help in this mother's home. Now if I can accomplish nothing else here, I want to at least establish in the record that this is not our intention. And when such things happen in Nebraska, we in the Legislature can at least say this was not our intention. I encourage you to find this...this thing was...this was e-mailed to me and if you ask me I'll give you the link where I heard it. So I guess I'll just start...I'll ask some questions and then we'll do this within the context of our debate if Senator Ashford would yield. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Sure. [LB463]

SENATOR FULTON: I am on AM1131 which we had adopted. [LB463]

SENATOR ASHFORD: Um-hum. [LB463]

SENATOR FULTON: I believe is the...AM1297 is to AM1131. I'm on page 31 of AM1131 and I'm in line 20 right now. "If the child is absent more than twenty days per year or the hourly equivalent,..." [LB463]

SENATOR ASHFORD: Um-hum. [LB463]

SENATOR FULTON: "...the attendance officer shall file a report with the county attorney," etcetera. This is existing language but I guess my own ignorance here causes me to ask this question. Is this language that came to be as a result of LB800 last year? [LB463]

SENATOR ASHFORD: Absolutely. It's the key part of LB800. [LB463]

SENATOR FULTON: Okay. Is there some provision that exists in the statutes now or

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that exists in LB463 as amended which would allow for some implementation of judgment such that this case...you're familiar, I think you were on radio right after this lady... [LB463]

SENATOR ASHFORD: I was asked to comment about the case. [LB463]

SENATOR FULTON: Yeah. Is there something in the statute or is there something in LB463 which would allow someone to employ judgment such that this lady's situation would not be repeated? [LB463]

SENATOR ASHFORD: No. I absolutely...we must report absences of 20 days to the county attorney. It's not actionable, however, if the absences are excused. But the problem...the reason we have 23,000 truancy cases in Nebraska last year is because no one was notifying the county attorney and we...or very few people were... [LB463]

SENATOR GLOOR: One minute, Senators. [LB463]

SENATOR ASHFORD: ...and we had little access to these kids that were excessively absent. But, no, it is reportable but it's not actionable. [LB463]

SENATOR FULTON: Okay. At some point is there some judgment employed such that we don't have...so this eventually made its way to the Department of Health and Human Services. I guess I'm trying to figure out, is there some way that somebody's judgment could be employed so that we don't have a government worker in the home of what sounds to be a good parent who's getting caught up on the law? [LB463]

SENATOR ASHFORD: Yeah. And from what I can gather, Senator Fulton, I got part of it from the radio interview and it sounds as if HHS got involved with the home. That is normally not how these cases are handled. I don't know if there's something else involved with this family. I didn't get much information, but it's something we need to look at. I don't want to make any exceptions, however, for the school district working with the county attorney because... [LB463]

SENATOR GLOOR: Time, Senators. [LB463]

SENATOR FULTON: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Fulton and Senator Ashford. Senator Utter, you are recognized. [LB463]

SENATOR UTTER: Thank you, Mr. President. Just a question of Senator Ashford if he'd yield, please. [LB463]

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SENATOR GLOOR: Senator Ashford? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR UTTER: Senator Ashford, what constitutes an excused absence under the terms of this law? What would be proper and what wouldn't be a proper...? [LB463]

SENATOR ASHFORD: Well, any absence that the school district deems appropriate is excused. So, for example, Senator Price had a great example of the military family where the parent comes back from deployment and wants to spend time with the children. The school district excuses the child. That's an excused absence. [LB463]

SENATOR UTTER: I generally support the concept of what we're trying to do here and I think it's important. I guess I would like to know that...why the report of absences go to the county attorney if they're excused. Can you...I'm sure you've covered that but I'd like to have you do it one more time for me. [LB463]

SENATOR ASHFORD: And I have not covered it very well, Senator Utter, if you need to ask that question because you get most everything that's said here. So I'm sorry for that. But I will say this. One of the reasons why we have 23,000 reported trancies in this state now and have had for numbers of years, most probably because 2010 was the first year we got this data in current fashion is that school districts were allowing children to be absent many more than 20 days. They simply didn't come to school on any regular basis, and there are many, many cases anecdotally that we've seen in Douglas County that reflect that. Hastings has done a great job with their program. The whole goal here of LB800 is to find out as early as possible if you have an unexcused absence, meaning five days really, and that's what they do in Hastings. Then you can intervene and find out what's going on with that family. If it goes to 20 days, rather than have to go through...it's important that there be a...in my view it's absolutely critical that there be a contact with the county attorney to at least have that conversation. We have a child who's 20 days absent. The county attorney would then logically ask are those absences excused. Ten of them are. Well, they wouldn't be violating the law or there wouldn't be a violation of the truancy laws so there would be no action taken. But if that contact doesn't take place, I'm very fearful that we will never reduce the numbers of trancies, and that's why that outside contact with the county attorney I think is the key element. [LB463]

SENATOR UTTER: At that point in time then, is it the county attorney that's making the decision as to whether an absence is legitimately excused or not? [LB463]

SENATOR ASHFORD: Great question. It is...an unexcused absence is an absence that is not excused by the school district, not by the county attorney. So when that decision is made by the county attorney, it is made with information provided by the school

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district that says that absence is excused, and then the county attorney will not file. My experience is they don't want to file these cases anyway, so...but what it might trigger is more intervention. [LB463]

SENATOR UTTER: So is there a contact made then when there's 20 absences by the county attorney to the parents if part of them are excused or most of them are excused? [LB463]

SENATOR ASHFORD: My experience is no, that the contact would be with the school district only and that if there are not 20...that's Douglas County, now I'm not certain about Adams County, but if there is...if those absences are excused or most of them are... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...there is not contact by the county attorney, at least in my experience. Now there may be anecdotal cases where that's happened but I don't know of any. [LB463]

SENATOR UTTER: Thank you very much, Senator Ashford. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Utter. Senator Fulton, you're recognized. [LB463]

SENATOR FULTON: Thank you, Mr. President. If I could continue the conversation with Senator Ashford if Senator Ashford would yield. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yup. [LB463]

SENATOR FULTON: So to follow up a little bit on what Senator Utter and Senator Karpisek have talked about and just to hurry my questions up along a little bit, where is the definition for excused or unexcused? I've been looking through the bill here and I see the words "excessive absences" on page 31. Existing language, there is no reference to excused or unexcused. Is there a statutory definition for excused or unexcused...? [LB463]

SENATOR ASHFORD: No. [LB463]

SENATOR FULTON: ...or is that left to the volition of each local school district? [LB463]

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SENATOR ASHFORD: There is no definition. The school districts want to make that determination themselves and we are giving them that authority. That's their determination. They make it and they look at all the circumstances I assume and...but we are leaving it up to them as has been the case in the past. [LB463]

SENATOR FULTON: Okay. Okay. The next question I have, this again is AM1131. I'm on page 35, so this is Section 16 of AM1131 which will become the bill or which is the bill. This has to do with the learning community. [LB463]

SENATOR ASHFORD: Correct. [LB463]

SENATOR FULTON: The superintendents of the school districts in a learning community shall develop and participate in a plan to reduce excessive absenteeism including a process to share information regarding at-risk youth. [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR FULTON: There's another..."with the goal of improving educational outcomes, providing effective interventions that impact risk factors," and then here's where I have some question. Line 18, "and reducing unnecessary penetration deeper into the juvenile justice system." [LB463]

SENATOR ASHFORD: Correct. [LB463]

SENATOR FULTON: What does "unnecessary" mean? [LB463]

SENATOR ASHFORD: What "unnecessary" means is if a child is absent for an excessive period of time, more than 20 days, and there's been no intervention whatsoever, and what is the only option then to the county attorney which has been the experience in the metro area, they have a child that comes in that's three months absent, has not been to school for three months, the only option that county attorney has--and he's exercised that option in Douglas County--is to file a petition and to take jurisdiction which puts them into the jurisdiction of the juvenile justice system which is not the place that child needs to be. So that's what we mean by excessive period. [LB463]

SENATOR FULTON: Okay. Very good. Then in the following sentences, "For purposes of this section, at-risk youth means," and then we have, "children who are under the jurisdiction of the Office of Probation Administration, are under the jurisdiction of the Department of Health and Human Services,..." [LB463]

SENATOR ASHFORD: Right. [LB463]

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SENATOR FULTON: "...are otherwise involved in the juvenile justice system, or have been absent from school for more than ten days per year or the hourly equivalent for reasons other than documented illness." [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR FULTON: So if one is absent from school for more than ten days per year, then that child by definition for purposes of this section is an at-risk youth. [LB463]

SENATOR ASHFORD: Well, actually that's changed in the amendment, Senator Fulton. [LB463]

SENATOR FULTON: Okay. And... [LB463]

SENATOR ASHFORD: That's in the amendment AM1297. But you're asking a great question, and you didn't really ask it but I think you're asking the question or you're going to... [LB463]

SENATOR FULTON: (Laugh) Yeah, go ahead. [LB463]

SENATOR ASHFORD: ...you're not asking. But you've really hit it. The ten days is a figure given to us by the superintendents in Douglas County in the metro area, and they want intervention to occur at ten days. [LB463]

SENATOR GLOOR: One minute, Senators. [LB463]

SENATOR ASHFORD: That's what they're after. So...but what we have done is in the amendment as you'll see, it talks about five days per quarter of unexcused absence, so to make it consistent with what we're talking about here, excused and unexcused absences. But that section of...this section comes from the superintendents to us asking to give them the authority to do these things. But you're right in asking the ten-day question. [LB463]

SENATOR FULTON: Okay. So by utilizing "excused by school authorities," we are implementing into our policy some judgment at the local level. [LB463]

SENATOR ASHFORD: Correct. [LB463]

SENATOR FULTON: Okay. That makes this much better. I'm running out of time. I think I'll stop there. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Fulton. (Visitors introduced.) Continuing with the discussion, senators wishing to be heard are Dubas, Janssen, Schumacher,

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Howard, and Fulton. Senator Dubas, you are recognized. [LB463]

SENATOR DUBAS: Thank you, Mr. President. You know, it's hard not to support a bill like this because of what it's trying to do, but I do have some questions and some reservations if Senator Ashford would yield to some questions, please. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR DUBAS: Thank you very much, Senator Ashford. Okay, so as I'm understanding this, if a school district, and I think the majority of our school districts across the state do have truancy or absenteeism policies,... [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR DUBAS: ...they have those in place, how does this bill impact those local policies? [LB463]

SENATOR ASHFORD: Does not. [LB463]

SENATOR DUBAS: So there's nothing that they'll have to do differently. [LB463]

SENATOR ASHFORD: No. The only thing that's different was in LB800 last year that says at 20 days there has to be some contact made with the county attorney, with the goal of stopping the necessity of filing a juvenile court petition. We don't want them to do that if it's not necessary. So that's the only change. The policy remains the same. [LB463]

SENATOR DUBAS: Okay. And I know you've said you've worked closely or received a lot of input from Omaha, Douglas County, those larger school districts. Did you seek any input from any of the smaller school districts across the state? [LB463]

SENATOR ASHFORD: We have had...we went across the state and had hearings on this and there are Kearney, North Platte is looking at a program, an LB800 early intervention program. Grand Island already has an extremely successful one. Hastings I don't recall having, and some of the smaller school districts, for example, Gretna, which is in the metro area but it's a smaller district. They have a much more...it's a more personalized approach to each one of these families because they know the family and they know who's absent and who isn't and generally if it's excused or if there's a reason for it. So the reasons for...I mean it's compelling in any case when a child is not in school for a long period of time, but my sense is in the smaller districts they have a much better handle on it, though you look at districts like Alliance and other places

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where there are significant absences. So, you know, I think it's hard to say. I have talked to numbers of superintendents and... [LB463]

SENATOR DUBAS: And I guess that's, again, that's where my question comes in. When I think of small school districts, I'm thinking of my hometown of Fullerton,... [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR DUBAS: ...you know, and we have... [LB463]

SENATOR ASHFORD: Right, and I have not talked to Fullerton. [LB463]

SENATOR DUBAS: ...under 150 kids there. And that's very true,... [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR DUBAS: ...it's more personal. My superintendents in practically all the schools in my district know every family and know every child that's in their school and understand the different reasons behind the absences and probably are able to intervene without necessarily having to go to the county attorney. And I guess that's where my question comes in is for these schools that have that more personal contact with their children and with their families, if it gets to this point of the 20 absences, basically requiring them to have to interact with the county attorney where maybe that's not the best recourse in that situation for these smaller school districts. [LB463]

SENATOR ASHFORD: I don't think the county attorney necessarily would need to, and 90 percent, 95 percent of those cases there would be no interaction between the county attorney and the family if they're excused absences. The interaction would be with the school district. But I hesitate to try to find...to try to laundry list exceptions because then no one is going to contact the county attorney and we're not going to...my fear would be...not that the truancy numbers won't go down but my fear would be that they're not going to be dramatically reduced unless at least the county attorney is informed. This child could be at risk for other reasons. The child could be in the probation system. They could be in HHS and they have mobility issues where they're going from family to family. I guess your questions are great and what we are doing, clearly, in LB800 last year is we're making excessive... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...absenteeism a trigger for other things that may be underneath the absence. So the county attorney, it's a check. It's a check. I don't see it as a hammer, necessarily, because I doubt if county attorneys...there are some in the body

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here but I doubt if there are going to be any great filings of cases. [LB463]

SENATOR DUBAS: And again, I support what you're trying to do here. I liken this to the state aid formula, that we're trying to create a statewide policy to blanket school districts of so much diversity and size and different issues, that it's those unintended consequences and those difficulties that may negate the positives that will come through this. But I do appreciate what you're trying to achieve through this bill and will continue to listen to the debate. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Janssen, you are recognized. [LB463]

SENATOR JANSSEN: Thank you, Mr. President, members, and I'll keep Senator Ashford, if he would yield to a question, since he's already standing up and ready to go there. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yep. [LB463]

SENATOR JANSSEN: Thank you. I have the benefit here of riding shotgun with a former or current social worker, so several questions come up that she can answer for me on these issues and we were batting back and forth unintended consequences. And I did listen to the radio program that's been bantered about here on my drive in yesterday and that brought up some concerns, and Senator Fulton has kind of expressed those concerns that I would have as well. But what came to light to me is some of the unintended consequences of a well-intended bill and in this case what would happen...this is a question I had for Senator Howard back and forth, is what would happen once let's say an elementary school age child hits that 20-day target and maybe the 25-day, and what in particular when the social worker enters the house or who is entering the house I guess? And I picked that up from that radio program yesterday. [LB463]

SENATOR ASHFORD: That's a great question. Actually in Douglas County, in the metro area, what the...well, I'm sorry, I'll take it back. In Grand Island what happens is...and you bring up a great point, elementary school absenteeism is different than middle school and high school absenteeism. You're dealing with younger children. It's much more likely that the parents or the guardians are involved in not getting that child to school than a middle school person, so you're dealing with different sets of circumstances in most of those cases. In Grand Island, they bring the school social worker in at the point when the school district notifies the parents of excessive absenteeism, so that at the very beginning of the process they can start finding out what's going on and why is that child not in school. That's generally at the middle school

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level, Senator Janssen. At the elementary school, what's interesting about the Department of Education numbers we're getting is there are numbers, and Roger Breed made this very clear in the hearing, there are numbers of elementary school children who are excessively absent. That is a problem because they are...I think 1,500 in the metro area so that's a big, big issue for us. But I...you know... [LB463]

SENATOR JANSSEN: Yeah, that answers my question? And I've kept following on that line of questioning and I said is there a point at which a parent could lose custody over their child? And say that if I just want to be a person that says, you know what, I'm done with it, I'm just going to withhold my child from school over and over, what's the repercussion? [LB463]

SENATOR ASHFORD: Sure. That could happen. I mean if you get to the point where let's say it was some of the cases in the metro area where you had six or seven months where they literally were not in school and they were in the middle school ages, and the county attorney would have the alternative, and have had before and has now, the option of filing an abuse/neglect petition and there could be repercussions. If a child isn't in school for that length of time, I think, you know, any...the system takes over. What we're trying to do is stop getting to that point, stop from getting there. [LB463]

SENATOR JANSSEN: I guess I'm just trying to get around kind of a new type of safe haven, if you will, of somebody, you know, thinking that, oh, if I can just hold my kid out of school for so long now I'm going to be absolved of this, and really what's the criminal intent I've done? I mean I don't know. I'm not the attorney here. [LB463]

SENATOR ASHFORD: That's a...I think it's criminal. To keep your child out of school for that length of time is abuse. [LB463]

SENATOR JANSSEN: And I don't know. We've got attorneys here; they could say that. I'm just looking at unintended consequences of this bill which were kind of brought up the day and I don't know if that would rise to that level to where a parent or guardian could say, hey, if I hold them out for so long, the state is going to take over, I'm off the hook for this. [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR JANSSEN: This child has behavioral problems, I control them anyway, this is my way out. [LB463]

SENATOR ASHFORD: I think you raise an interesting circumstance, but I'd rather know about that child's situation at 20 days... [LB463]

SENATOR GLOOR: One minute. [LB463]

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SENATOR ASHFORD: ...rather than three months or six months down the line. But your point is well-taken. I suppose it could happen. If that were the motivation it would be an unfortunate one, but it could happen. [LB463]

SENATOR JANSSEN: Okay. Thank you, Senator Ashford. [LB463]

SENATOR GLOOR: Thank you, Senator Janssen. Senator Schumacher, you are recognized. [LB463]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I'm trying to see in my head how this system is working and why we have it established the way it is. In a typical county attorney's office certainly in a moderately sized county, and I'm not sure about Douglas and Lancaster County, but I would guess there's the county attorney, a number of deputies and some clerical and investigative staff in that office, and that office's principal function has traditionally been to go prosecute crimes that the police bring in, and I would guess that, never having been in the school business, but that in the school business you have the structure there where if a kid is not showing up for school at some point, some phone calls are made why. So, Senator Ashford, would you yield to a couple questions? [LB463]

SENATOR GLOOR: Senator Ashford. [LB463]

SENATOR SCHUMACHER: Okay. How do you...the idea that at 20 days, regardless of excused or nonexcused, the county attorney, will they get a spreadsheet, an e-mail, a letter saying little Johnny has been out for 20 days in all those cases? [LB463]

SENATOR ASHFORD: Well, I can tell you what happens in Grand Island and in Omaha. In Omaha what happens now is that there is a direct contact made. Don Kleine has three people in his office. There are three...there's potentially 3,000 truancy filings this year in Douglas County, 3,000. Three years ago there were 200. So clearly, we're working on an accelerated situation where these kids have been out of school for a long time. There's a call, though, at 20 days. At 20 days...the cases that are being filed are much longer periods of time than that. It's three, four months or whatever it is. But at 20 days what I would envision is what's happening in Grand Island and in Omaha I know for sure is that there is a direct contact made, at least in Douglas County, with two or three assistants. Nicole Goaley is the county attorney in Douglas County that heads up this section. They get a call, say we have a 20-day...a person who's been absent 20 days. And the question is, what's the situation? Well, they're excused. Well, then we're not going to file the case. So I mean I think there has to be that contact. If they aren't excused, however, I think it takes follow-up and what happens in Douglas County is there is a follow-up. There is more of a contact between the deputy county attorney and the school district and the principal, for example, on that kid, that child. [LB463]

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SENATOR SCHUMACHER: Well, if they're excused and if the only thing the county attorney's office is supposed to do is say, well, was little Johnny excused for 10 of those 20 absences, why bother the county attorney's office? [LB463]

SENATOR ASHFORD: Oh, I think because if the problem was not so huge in our state where you're dealing with thousands and thousands of kids that are excessively absent or truant or however you want to decide, we'd just let the school districts do it without any check at all. But what's happened in the past, Senator Schumacher, is that the data had come in on an annual basis to the Department of Education. You'd look back over the year and you'd see all these absences and you'd wonder what the heck happened. Why are there 23,000 absences? The idea in LB800 was to have that check. It's where the...potentially where the juvenile justice system converges with the public school system or the school system and to have that checked to make sure that everybody is...we all...we know what's going on with this family, to double-check the records to make sure they're excused so we don't get this child at 30 days or 40 days without some sort of action. [LB463]

SENATOR SCHUMACHER: Well, what is it... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR SCHUMACHER: ...are we expecting of the county attorney when they get that call and they say Johnny has been out for 20 days but 10 are excused? How much quizzing is the county attorney supposed to do? [LB463]

SENATOR ASHFORD: Well, I think...I think... [LB463]

SENATOR SCHUMACHER: I mean what's the county attorney supposed to do? [LB463]

SENATOR ASHFORD: I think...great question. I think the quizzing has to be material to the case, you know, what is this child's record in the past, have they had excessive absenteeism in the past, trying to find out what's going on and are they on probation, are they in some other situation that creates risk factors. The county attorney would have knowledge of that. The idea here is to intervene early so they couldn't... [LB463]

SENATOR SCHUMACHER: But this kid was... [LB463]

SENATOR ASHFORD: ...they wouldn't file a petition, you're right, but at least they would be informed of the situation and there would be that discussion. [LB463]

SENATOR SCHUMACHER: But this kid really was only illegitimately there for ten days,

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ten days were fine. [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR SCHUMACHER: We're bothering the whole system and expecting them to investigate it and, I don't know, it looks like the county attorney's office is being made babysitter in chief. [LB463]

SENATOR ASHFORD: Yeah. At least the ones in Douglas County and Grand Island are asking for this so... [LB463]

SENATOR GLOOR: Time, Senators. [LB463]

SENATOR SCHUMACHER: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Schumacher. Senators wishing to be heard: Howard, Fulton, Pahls, Brasch, and Price. Senator Howard, you are recognized. [LB463]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Senator Ashford, you'll be pleased to hear that Senator Janssen and I have been listening to you diligently and kind of critiquing back and forth what we thought were the high points here? I thought it very interesting to listen to your description of Grand Island and then the way that it operates or you envision it operating, this bill operating in Douglas County. I've long admired and supported the system that Grand Island has with the social workers in the schools. I kind of consider them a first line of defense in reaching out to the families. So those social workers are told if the child has excessive absences, can go into that home, sit down with the parents and say this is a concern, what are your needs, what's going on here. And if it's a matter of transportation or something that can be adjusted and solved then that's taken care of, no need to bother the county attorney or anybody else. What I suspect is there will be occasion when those social workers go into the home and find a bigger mess than simply truancy and, to me, that's the way that this can be handled and get the best results, which is you want that child in school. You want the family's issues addressed. It's kind of an awkward method to have a report go over to the county attorney and the county attorney kind of makes a judgment call without having the opportunity to know what's going on in the family. I don't know, can you shed any more light on that? Do you see what I'm saying to you? If Senator Ashford would yield to conversation. [LB463]

SENATOR ASHFORD: Great point as usual, Senator Howard. The county attorneys and the support groups that work with these children came in, in strong support of LB800 and of this bill. The issue here is that at 20 days of unexcused absence there is a violation of state truancy laws, so the county attorney, by definition, becomes involved

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anyway. What we are trying to achieve here by asking the county attorney to get involved earlier, as is the case in Grand Island and is now happening in the metro area with the superintendents, is that hopefully, hopefully the contact will be made earlier but at 20 days if the county attorney needs to see that file because there could be potentially other factors going on in that child's life, even if the 20 days is not all unexcused, that...or excused and it could be like 10 and 10 let's say, there still could be things going on that the county attorney is aware of, because of a probation situation or an HHS situation that would cause some light to go on, to say to the school you better check, bring the social worker in, check to see how this family is doing because we've had a history with this family. [LB463]

SENATOR HOWARD: But you're not going to have a social worker involved in the Omaha situation, per se. [LB463]

SENATOR ASHFORD: Well, I don't know what the plan is. The superintendents, by August 1, are supposed to come up with a plan. I am certain it's going to include social workers because they're modeling their plan after the Grand Island plan. [LB463]

SENATOR HOWARD: Good. Well, I would see that as a key piece, because if the social workers are available, and I'm not talking about Health and Human Services social workers, I'm talking about school social workers. [LB463]

SENATOR ASHFORD: Right, school social workers. [LB463]

SENATOR HOWARD: That's a whole...those are two entirely different fields. But if it works as I understand it to work in Grand Island where the social worker is available, goes into the home, sits down, assesses the family, possibly does a case plan to remedy the situation, if they see more than strictly truancy they're able to take a report back, give it to the county attorney,... [LB463]

SENATOR GLOOR: One minute, Senators. [LB463]

SENATOR HOWARD: ...thank you, so they've got something to work with. Otherwise, you're going back and doing that same thing over again. [LB463]

SENATOR ASHFORD: It may be the case. I'm sorry. That may be the case, Senator Howard, that you don't want to have it be redundant, but the goal here is to have...is really that five days. [LB463]

SENATOR HOWARD: Yeah. [LB463]

SENATOR ASHFORD: The goal is to get the children, who are five days unexcused, to get help. The 20 days is a marker. After 20 days, we really got problems. [LB463]

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SENATOR HOWARD: Well, I appreciate that and I'll make you this offer that, as this moves along, if you would, if it would be of use to you, I would be happy to help you with this. [LB463]

SENATOR ASHFORD: Of course it would be. (Laugh) Thank you, Senator Howard. [LB463]

SENATOR HOWARD: Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Howard. Senator Fulton, you are recognized. This is your third time, Senator. [LB463]

SENATOR FULTON: Thank you, Mr. President. I think this will be quick. Would Senator Ashford yield to one final query? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Sure, I just...I've got chlorine in my eyes from swimming and I can't see but go ahead. [LB463]

SENATOR FULTON: I see I make you emotional, Senator. That's all right. [LB463]

SENATOR ASHFORD: I wasn't tearing up. It was actually a chlorine reaction but... [LB463]

SENATOR FULTON: Okay. Back here on AM1131, we talked about the word "unnecessary" on page 35. Who determines...so the language here is, for the record, the language: "superintendents of any school districts that are members of a learning community shall develop and participate in a plan by August 1, 2011, to reduce excessive," and then it goes on, "and reducing unnecessary penetration deeper into the juvenile justice system." [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR FULTON: Who decides what is unnecessary? I think I understand the intention and I agree... [LB463]

SENATOR ASHFORD: Right. [LB463]

SENATOR FULTON: ...with the intention, but I have a curiosity here and there then could be some wiggle room for some parents who may argue what is necessary or unnecessary. Go ahead. [LB463]

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SENATOR ASHFORD: Well, the trigger, of course, is the filing of a petition. That's how you get into the juvenile justice system. In my view, if a child is simply not in school for no fault of their own but maybe there are other issues in the family, filing a petition in the juvenile court may be necessary, but I think the better way to do this is to get, as Senator Howard is suggesting, is find out early on what's going on and try to solve the problem. To me, any...just the filing of a petition when there are other options early on in the process prior to 20 days is excessive, so...but it would be up to the school district to determine with the county attorney and the policy...I guess in the end it's us. We have to look at the data after a couple years and see if the data reflects that this system is working. [LB463]

SENATOR FULTON: Us, by us you mean the Legislature. [LB463]

SENATOR ASHFORD: Yeah, absolutely. [LB463]

SENATOR FULTON: Okay. So as it stands now, reducing unnecessary penetration is somewhat of a judgment call but, since it exists in the statute, this is something that you believe the Legislature could revisit at some point based on the data collected as a result of Section 16. [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR FULTON: Okay. Okay. Thank you, Senator Ashford. Thank you, Mr. President. [LB463]

SENATOR GLOOR: Thank you, Senator Fulton. Speaker Flood for an announcement. [LB463]

SPEAKER FLOOD: Thank you, Mr. President. Members, we've made good progress yesterday and today, both. We will adjourn, after the resolution of LB463, for the day. Tomorrow we're going to start with some Final Reading. We'll have a couple of other motions as relates to overrides, and we will take up consent calendar. And there is a chance I think we could start consent calendar in the morning, which is good news, which means when we return at 1:30 there hopefully won't be as much to do. So we might be able to get you out of here a little sooner. So we will end today after we work through LB463. Thank you, Mr. President.

SENATOR GLOOR: Thank you, Speaker Flood. Returning to floor debate, senators wishing to be heard: Pahls, Price, and Ken Haar. Senator Pahls, you're recognized. [LB463]

SENATOR PAHLS: Thank you, Mr. President. I was almost getting ready to waive but I

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do have one question that I'd like to ask Senator Ashford, please. [LB463]

SENATOR GLOOR: Senator Ashford, would you yield to a question? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR PAHLS: Senator, this is the question I have because there's been a lot of dialogue and a lot of good questions but the people who must manage whatever we do are the superintendents. [LB463]

SENATOR ASHFORD: That's correct. [LB463]

SENATOR PAHLS: Now are they on board? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR PAHLS: So in other words, you have the support of the superintendents of...well, at least the metropolitan area but throughout the state, you also believe. [LB463]

SENATOR ASHFORD: I haven't...yeah, certainly the metro area superintendents have been incredibly supportive and helpful and every other superintendent...now I haven't... [LB463]

SENATOR PAHLS: Talked to all of them. [LB463]

SENATOR ASHFORD: ...talked to all of them but certainly everyone I've talked to has been helpful. What's neat about this is by giving the superintendents the authority to come up with these plans, they're all very creative and I think, quite frankly, they just needed a goal and the goal is to reduce truancy by half in two years. They'll go out and find a way to do it, I mean. [LB463]

SENATOR PAHLS: Thank you. Thank you. I think that's the message we ought to be sending to the public out there because we do have the leadership who are saying, hey, we need some help here and we are willing to implement what you think that we probably need some help in but it will be at the local level. We haven't taken that away. Now I'm going to switch roles here and I'm going to act like I'm a superintendent. And I looked up Fullerton because Senator Dubas made a comment about Fullerton. I'm going to talk about a small town. That school's system is the size of 329. Now I'm analyzing the information on the number of students who have been missing in my school district and I'm going to say, hey, there's something I may need to do or may not. Well, out of ten days, out of 329, I found out 39 of these students have missed, so in my mind I'm thinking will that have an effect on achievement or are we doing something

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wrong up here in our school that maybe the students are finding a reason not to be there? Then I would look at 15 days and I say, well, there are 18 students, 18 out of 329, missing 15 days, basically is close to getting around about a month for school. Well, I'm wondering, now I'm going to look at my achievement and I'm probably going to be talking to my staff and say, hey, let's take a look at this. Why are these things happening, because already I have in protocol that when a student is gone we call those parents. That's part of my protocol. And in a smaller town that would be probably very easy to accomplish as it is in larger cities also because I've been there. And I take a look at that. Then I take a look at my enrollment, 329. Now I'm going to take a look at how many missed 20 days. There are 12 students who missed 20 days. Now then when I go back and take a look at achievement test scores, I'll start seeing where these students happened to miss and then maybe my achievement test scores are down or lower because of the students missing that much time. I would be concerned. I would be concerned. Now I am not saying all 12 of those students did not have legitimate reasons, but then when I talked to my school board I would say, well, one reason why our scores are where they are, good, bad or indifferent, they...here's some of the things, variables we need to take a look at. Just don't judge me or the staff just simply on those test scores. Let's take a look at all the variables. And one of the things I need to point out to you, for some reason our school, we're missing a number of students on a regular basis. That's going to have an effect on us. It's not just what I'm going to do as the superintendent. What are you going to do as a school board? This is our school. That's why last when we talked this on General File, I said this stuff needs to be in the newspaper. Other than just me making... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR PAHLS: ...thank you, making a basket or carrying a football or whatever, this information should be there so people would understand it. Of course you can't place names on there, but if in a particular school there are issues, this is what we ought to be talking about and this is what I'm hoping that this type of legislation will do. Will it make some of us uncomfortable? Yes, because it will require some additional work. It will have educators reflecting on what they're doing, because there may be a legitimate reason why the students don't want to come to school, we need to reflect on that. Then parents need to reflect on are they promoting the concept of a better life? For the most part, if you're better educated we know that things do for some reason seem to be a little better for you. So this to me is a wake-up call. No matter how many days, if we have 3 students missing out of a school of 400, at least... [LB463]

SENATOR GLOOR: Time, Senator. [LB463]

SENATOR PAHLS: ...thank you, it will cause us...thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Pahls. Senator Price, you're recognized.

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[LB463]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Ashford yield to a question? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR PRICE: Thank you, Senator Ashford. Getting some e-mails and contacts, you know, as we talk more and more, more people are becoming... [LB463]

SENATOR ASHFORD: Oh my. [LB463]

SENATOR PRICE: ...are tuning in. It's a great deal. [LB463]

SENATOR ASHFORD: Well, we know that we're watched. [LB463]

SENATOR PRICE: Now what...let's talk about finance real quick, okay? Under this bill, when we talk about the financing mechanism the learning community is going to do for the metro, and I went and I read the bill, it's the county that has the originating authority for taking these actions for truancy that will be getting the monies, correct? It's not...so if you have Douglas County...an issue in a Douglas County school, the Douglas County Attorney would be the one that any funds would have to be transferred to, to pay for whatever we're doing, correct? [LB463]

SENATOR ASHFORD: Or Lee Polikov. [LB463]

SENATOR PRICE: In Sarpy County, his counterpart, right. Okay, I just want to make sure. There seemed to be a concern because it was always talking about Douglas County and obviously within the learning community we have other counties involved, so I appreciate. The other question I have for you, Senator Ashford, is I mean talk to me about this financial transaction. You know, right now we have prisoners that go from county jail or different jails, different people. We have a way of exacting the financial needs and balancing those type of books, well, at least in theory. And here, how do you perceive that the dollars will flow when a school engages a county attorney and then the county attorney does things and different agencies do things? I mean how does this funding mechanism work? Do you know? [LB463]

SENATOR ASHFORD: The funding for the...you know, actually, you're asking an extremely deep question that... [LB463]

SENATOR PRICE: Sorry. [LB463]

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SENATOR ASHFORD: ...no, no, that really we could have a week-long seminar on and that is how do you wraparound services for these kids and who pays what. That is the critical question of our time in the metro area. You do a great job in Sarpy County, quite frankly, with the juvenile justice system and in Douglas County we've got a long ways to go. We don't even have a staff-secure juvenile detention center and you do in Sarpy County. The dollars flow as the elected representatives decide them to flow. The school board allocates money to a truancy reduction initiative. The county board would, you know, if the county attorney needs additional funds then the county attorney would access those funds through the county board. What I think we're doing here, Senator Price, if I might just take liberty for a second, what I think we're doing here is we are really prioritizing excessive absenteeism in our juvenile justice system. We're moving it way up there, way up to the top of the heap because I think the numbers reflect and I think we know intuitively that if we act early on truancy we are going to stop other behaviors from occurring that will be much more costly in our system. [LB463]

SENATOR PRICE: Okay. [LB463]

SENATOR ASHFORD: So I think your question is right on point and the answer is, by spending early we're going to stop excessive costs later in the system. [LB463]

SENATOR PRICE: Well, thank you, Senator Ashford. And the reason I asked the question, you know, as we move dollars around and we appropriate from one thing, we're taking education dollars, and somebody is going to have to pay those county attorneys, and then what draws potential concern is we have the benefit in the metro, and I know everybody else here would love to have one of their own, but we have a learning community and, therefore, there is a pool of dollars there that will help share this burden. Senator Ashford, is there a different mechanism that's going to be utilized... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR PRICE: ...for schools outside a learning community for this? [LB463]

SENATOR ASHFORD: I hope so and I would love to...this is, to me, truancy is a wedge issue that can bring collaboration amongst school districts in certain regions of the state, in the metro area, in Lincoln and wherever it is, to have Hastings, Grand Island have the same program. [LB463]

SENATOR PRICE: All right. Well, I... [LB463]

SENATOR ASHFORD: So I see this working that way. [LB463]

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SENATOR PRICE: Well, thank you. I just...everybody should pay attention to that, you know, those dollars are going to have to be utilized. When we do things, it costs and it takes resources, and there's a different set of resources and a different mechanism in the Omaha metro area than there is anywhere else in the state. Not everybody is aware of this. But I will support this at this point in time, this and the underlying bill. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Price. Senators waiting to be heard: Ken Haar, Smith, Cornett, and Price. Senator Haar, you're recognized. [LB463]

SENATOR HAAR: Mr. President, members of the body, could I ask Senator Ashford some questions? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: Yes. [LB463]

SENATOR HAAR: Okay. I really appreciate your passion in this issue and I think it's very important, and so we just need to ask all the what-ifs I think, and so here goes a few of them. Are private schools covered by this at all? [LB463]

SENATOR ASHFORD: Are private schools covered? They're not. I mean the same truancy, I mean you have to be in school in a private school, but the referral to the county attorney and so forth and so on, that's a good question. Stacey, do you know? I don't think they do apply in the same way but let me...they certainly are...the state law on truancy does apply to all schools. The referral to the county attorney issue, I will ask. [LB463]

SENATOR HAAR: Okay. Great. What about a student, a young person who's just skipping from school to school? Will they be caught in this web? [LB463]

SENATOR ASHFORD: Yes. That is what I so hope happens because those are the most at-risk children that I can find as we go through looking at this whole problem are the children that are moving from school to school to school for a variety of reasons, whether they're foster care, whether they are in some situation causing that mobility to happen. Quite frankly, Senator Haar, the absolute critical element for the school districts to look at, and it's their choice, is this kind of information sharing between districts and between, well, between schools in a district is somewhat taken care of, so that we can trace those children, for example, if there's a change in foster care, they go into another district. I've heard of anecdotal situations where a child is moved in from OPS to Westside and has waited weeks and weeks before they were actually contacted and brought into the system and so forth and so on. So this information sharing piece, which I think is viewed, I think we have to be very careful when we deal with privacy and

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confidentiality issues, but it is critical. It is critical to know where these kids are, in my view. [LB463]

SENATOR HAAR: Okay. Does this affect homeschooling in any way? [LB463]

SENATOR ASHFORD: I'm sorry? [LB463]

SENATOR HAAR: Does this affect homeschooling in any way? [LB463]

SENATOR ASHFORD: I don't believe so. [LB463]

SENATOR HAAR: Okay, that's still an up in the air. [LB463]

SENATOR ASHFORD: No. [LB463]

SENATOR HAAR: I think one thing that's really important in constituents I've talked to is how the school communicates this policy to parents... [LB463]

SENATOR ASHFORD: Correct. [LB463]

SENATOR HAAR: ...so that they don't feel threatened, because a lot of parents, any time they hear from a school they think it's an oh my God kind of situation. And finally then there are situations, one constituent said, well, if I want to keep my child out of school to help with the harvest or something, that's my own business. But it really isn't, is it? [LB463]

SENATOR ASHFORD: It is not. [LB463]

SENATOR HAAR: And that needs to be clear. [LB463]

SENATOR ASHFORD: It's not your own business if the child is being deprived of an education for long periods of time. And the school district, if the school district has a policy regarding the harvest, then they do. But I guess what I would encourage...well, it's up to the school district to determine that. I don't know what school districts necessarily do in all cases involving helping around the farm. [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: I don't know the answer. We have to rely on their judgment. But, no, it would not be a good idea to have that young person out of school for long periods of time. [LB463]

SENATOR HAAR: Okay, great. And I'll just let you get back to me on that other

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question. I'll give the rest of my time to Senator Ashford, should he need it. [LB463]

SENATOR GLOOR: Senator Ashford, 40 seconds. [LB463]

SENATOR ASHFORD: Thank you. And the answer, and you caught me without a good answer, the 20-day referral is a school district issue so the compulsory education statutes apply to all students in the state no matter where they go to school. That is clear. The school district...reporting to the county attorney is a school district obligation under LB800. [LB463]

SENATOR GLOOR: Thank you, Senator Haar and Senator Ashford. Senator Smith, you're recognized. [LB463]

SENATOR SMITH: Thank you, Mr. President. I really do appreciate the work that Senator Ashford has put into this and I'm inclined to show my support of this bill and this amendment. I do, you know, in just recognizing that truancy is a major problem, and I think from the discussion I've heard here today and I've heard Senator Ashford, you know, trying to respond, and I think he would very much agree that this is not a perfect system and it's not a perfect solution. And if you, you know, just in this last discussion, you know the comments of it not being your own business, talk about the harvest, and I heard Senator Price, the example given earlier about military personnel coming home and wanting to spend some time with their family and that being potentially an excused absence based on what the school district believes. You know, what we're looking for here on one hand is a very personalized approach to determining, you know, how to respond to these absences, whether they're excused or not, and on one hand we want it being personalized but yet when we personalize it too much and make it subjective sometimes we do not apply the rules consistently and you get a good family, good children, good parents caught up in this net. So you know, on one hand we want standardized practices where everyone is treated in a uniform fashion, every school district handles it in an uniform fashion, but yet we're wanting that personalized approach from the county attorney to the school district. So again, it's kind of an imperfect system and I wish, I wish in some way we could have some guidelines for school districts, because I'm seeing that even from county to county you may have the attorneys, the county attorneys, handling this, you know, differently across the school districts. You may have different interpretations as to whether they have a standardized list of what constitutes an excused absence. And then even within the school districts I imagine you might have cases where maybe a military personnel coming home and wanting to take their children out of school for a couple days is considered an excused absence, but maybe there's a construction worker who is out of state for an extended period of time and wants to do the same thing and that's not considered an excused absence. So there's...I think there's a lot of opportunity here to have inconsistency, but I'm not certain how we approach that with an imperfect system. And with that, I'm going to yield the remaining time I have to Senator Ashford, if he would like to try to address

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that for me, but I'm just not certain... [LB463]

SENATOR GLOOR: One minute forty-five seconds, Senator. [LB463]

SENATOR ASHFORD: That is the critical question and how do you...and we deal with this, we're going to deal with it on the CIR issue, we deal with it all the time: Where does local control end and where does consistent application of standards begin? What we chose to do here is it's a hybrid clearly. I mean we are saying to every school district in the state, you have your own plan but we'd like you to work that plan out with the county attorney so that the juvenile justice system does not become clogged. Actually, Senator Schumacher made a great point. What we really are trying to do here is unclog the juvenile justice system, to unclog the filings by having early notice. The real consistent standard piece that will apply across the state is this 20-day thing. That's...we're asking every district to adhere to that. [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: But each school district, except the metro area there will 11 districts come together on a plan, but every other school district has, now has or will have, a plan and it will be different. There is no question. But the goal is to, as Senator Fulton in his questions was correct to ask, is to prevent excessive penetration of the juvenile justice system, to close the learning gap eventually for kids that aren't learning at a standard rate and get them into school. The only way we're going to tell is this is working is by looking at the data in the future to see where we are in the next two years. I mean our goal should be reducing truancy by 50 percent in two years. That should be our goal. If we're not there then the Legislature is going to have to look at that again and say why the heck aren't we there. And it's a great question, great philosophical debate over where you stop and where you start. But that would be my answer at this point. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford, Senator Smith. Senator Cornett, you are recognized. [LB463]

SENATOR CORNETT: Thank you, Mr. President. Senator Ashford, would you yield to some questions? [LB463]

SENATOR GLOOR: Senator Ashford, would you yield? [LB463]

SENATOR ASHFORD: You know, there is a limit to this yielding thing. (Laugh) No. Just for you I will of course. [LB463]

SENATOR CORNETT: (Laugh) Do you really want to go there? [LB463]

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SENATOR ASHFORD: (Laugh) Yes. Yes, I would love to yield. Thank you. [LB463]

SENATOR CORNETT: Thank you. I just had a couple of questions and part of where my questions arose from were some of the privacy issues. What safeguards are going to be in place for the county attorney? Are these records going to be public records... [LB463]

SENATOR ASHFORD: No. [LB463]

SENATOR CORNETT: ...once they are turned over to the county attorneys? [LB463]

SENATOR ASHFORD: No. [LB463]

SENATOR CORNETT: Where does it say that? [LB463]

SENATOR ASHFORD: They are not because...what records are we talking about? [LB463]

SENATOR CORNETT: The absences. When the school district turns...if a child hits 20-day absence, whether they're excused or unexcused, under the law it is turned over to the county attorney's office. Will those records be public and, if they are not public, where does it say they are not public records? [LB463]

SENATOR ASHFORD: I don't know how they would become public. I don't know under...first of all, what we're requiring is that there be a notice to the county attorney from the school district saying, you know, Johnny is not in school for 20 days but 10 of those absences are unexcused, 10 are excused. They would have a conversation. If they wanted backup information, obviously the school district is going to provide that. But I don't know under what circumstances those would ever be made public, Senator Cornett. [LB463]

SENATOR CORNETT: Well, I'm just following down some lines of thoughts and some questions I've gotten via e-mail. What if there is a custody dispute and the parent requests...does a public information request from the county attorney's office? [LB463]

SENATOR ASHFORD: I suppose they could get that information, well, they could certainly get the information from the schools. [LB463]

SENATOR CORNETT: And where does HIPAA fall into this in regards to if the school...does the school simply turn over excused or unexcused, or do they say excused for medical reasons? [LB463]

SENATOR ASHFORD: I think that the...where does...HIPAA, there's an exception under

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HIPAA for providing information, this type of information, regarding excused and unexcused absences. It falls...I'd have to get the federal cite, federal law cite on it, but I think HIPAA would exempt these kinds of transmissions because...I can get you the cite. I don't have it with me right now but there are HIPAA exclusions or exemptions for contacts that are being made between public agencies for the best interest...for a plan that's developed for the best interest of the child. And it would be FERPA and HIPAA both actually could potentially apply, but I believe there are exemptions under both. [LB463]

SENATOR CORNETT: What about if a county attorney receives a notice that a child has missed 20, excused absences or partially excused and partially unexcused? Can they change the determination of excused absence? [LB463]

SENATOR ASHFORD: No. [LB463]

SENATOR CORNETT: So if the school has determined that it's an excused absence, then the county attorney can't prosecute if they've missed more than 20 days. [LB463]

SENATOR ASHFORD: Correct. Nor would they...no, the answer is no. [LB463]

SENATOR CORNETT: We've all seen county attorneys in the past that have done things that are different from what other county attorneys would do. [LB463]

SENATOR ASHFORD: And Senator Smith has raised that issue and you're right, there might be excessive prosecution in this area. It's something we have to watch. It's a good question. [LB463]

SENATOR CORNETT: That is one of my concerns, is when you have a more activist county attorney versus a county attorney in the next district who is not as aggressive in prosecuting you're not going to have a fair standard from one school district or one county to the other. And the other concern... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR CORNETT: ...that I have is the fact there is no determination of what an excused and unexcused absence is under the current law. So one school district may determine that something is excused that another school district wouldn't determine is excused, thereby not turning or not resulting in prosecution and skewing the statistics on whether they are...and I'm not pointing figures at any one particular school district but the school district is the one that's determining whether they're excused or not excused and they're going to make themselves look...want to make themselves look better, particularly if they have a high absentee rate. [LB463]

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SENATOR ASHFORD: Great point, and the issue of data is very, very important and we haven't even scratched the surface of that. We need to dig so much deeper into how we get information and kids at risk and deal with them. No question that each county attorney, like any other violation of the law, will treat each case as he or she so desires and so wishes. [LB463]

SENATOR GLOOR: Time, Senators. Thank you, Senator Cornett and Senator Ashford. Senator Price, you are recognized. This is your third time, Senator. [LB463]

SENATOR PRICE: Thank you, Mr. President. And, Senator Ashford, I have no questions for you. I just wanted to rise. In all this conversation we talk about the student, we've talked about the family, we've talked about the district attorney. I think we've talked a little bit about the schools themselves and I thought that I would share with the body and those that are listening. I have a student in my family who was in a school and we went to the parent-teacher conference, which we try to get to as often as possible, where I was notified that my child had missed over 20 days in a class and I had never received a communication about it. Can you imagine my surprise? I wasn't surprised that he wasn't doing too well in that class, but I was surprised that there were well over 20 missed classes and I was never contacted. I think this talks to part of the problem. I asked the instructor, I said, why? And the instructor said, well, I have to fill out a form, it goes down to the office, and they don't ever do anything about it. Now that's an isolated, some would maybe even anecdotal, but it happened to me and I was concerned because I saw that we had a critical failure in the classroom, the first point where they take that attendance and then they provide that attendance to the school and the school does something, and it broke down at the very first link because there was a lack of confidence in the system. And now I'm going to get concerned again because we have this human nature to want to nurture and help and a teacher is going to say, well, I don't know if I want to turn this student in. I don't want to rat them out so maybe I won't count them as absent. Now lucky enough, we have a fairly robust system in our household to take care of things and that got tuned up just fine. But the issue is it was a glaring case for another area for potential breakdown right at the beginning because there was a lack of faith in a system. And I am hoping that with what Senator Ashford has worked so hard here and with other people is that it would take care of that, it will shore that up somehow that at the very point of attack, the student in the classroom, there won't be the sense of, well, I don't want to report it because I don't want to have to do the paperwork. It reminds me of old days in the military where we didn't want to open up another can of ammunition because we'd have to count all the rounds. I don't want to do the paperwork--that's driving what we do and what we don't do anymore. So I just wanted to share that within the school community that we have to do and that is incumbent upon them to take the action because it's important. And, yes, it's paperwork and, yes, it's a burden, but for all that we've sat up here and stood up here and talked about, for all the effort, it's for our students who are a fundamental part of our society and we cannot fail them so they will not fail themselves. Thank you, Mr. President.

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[LB463]

SENATOR GLOOR: Thank you, Senator Price. Senator Pahls, you are recognized.  
[LB463]

SENATOR PAHLS: Thank you, Mr. President, members of the body. I was not going to speak again on this, but Senator Price brought up a topic that I feel I need to address. If someone in his family was not contacted, that administrator was not doing his or her job. It's that simple. Because right now the way the system is set up, most of these, the teacher takes the attendance, it's computerized. They should know that on a regular basis. And in the elementary and middle school it's easier, but in high school they take those attendance on a regular hourly basis. That's wrong. That's why I'm saying schools need to reflect, perhaps they are part of the problem. Why students are not engaged is because of maybe what's happening in the classroom or how they're being treated by the adults and their peers. This hopefully will allow us to start reflecting. Because as a superintendent, if I'm looking at all this information, I'm going to try to find the answers, if nothing else, to make my internal beliefs stronger in some area. Senator Price, what happened to you was wrong. That should not happen and I hope that happens seldom. But if it does, it's, in my estimation, the fault of the leadership in that particular system because the information is there, teachers gather it. And it's like in any business. I'm not going to say they never maybe perhaps get a little sloppy, but if that's their mode of operation then something is wrong. And again, I see this could be just another one of those things that causes us to take a look at education and try to make it what it should be. And again, I want to thank Senator Ashford because I do think that's his intent. Let's make this thing work. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Pahls. There are no senators remaining in the speaking queue. Senator Ashford, you're recognized to close on your amendment.  
[LB463]

SENATOR ASHFORD: Thank you. And this has really been quite fun actually. I appreciate all the attention that I've received (laugh) and there's nothing better than getting some attention. And the questions have been super. Let me just end with this. If I were...had the ability to put together a system that would work across the state of Nebraska, here's what would happen. It would be Grand Island on steroids. Grand Island has done it. They have created a system that is not offensive to parents, that is not offensive to the school district and it is the essence of collaboration. And I'll just give you these numbers again: 1,100 students were determined by the Grand Island middle school in 2010 to be in a situation where they were missing too much school. They weren't violating any laws but they were missing too much school. They contacted the county attorney in Grand Island. The county attorney in Grand Island has an assistant that does these cases all day long. He contacts the parents and says, your child isn't violating any laws, we're really worried about that child because he's not in school;

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what's going on here? And in almost...well, I think 1,100 letters went out. Of those, 175 families needed some additional assistance and the county attorney, assistant county attorney, deputy county attorney met with 175 families and only 11 filings occurred in Hall County on that group of children. Those children are now learning. If I could waive a magic wand, I would have Grand Island apply to every school district in this state and I would, to Senator Price's question, I'd find the money to pay the people to implement the system. I'd also have a system that said if a child has missed five days and is not excused by the school district, I'd have every...alarms go off and lights turn on and sirens go on, and I'd figure out a way to get that child help because five days of not being in school may be, maybe, maybe, maybe in most...in some cases nothing is going on and that's great, but in an awful lot of these cases there is something going on. And if we can find a way to help that child, whether they're in elementary school, middle school, or high school, we can turn their lives around, no question about it. Every person, professional in this field has asked this law be passed, LB800 last year. They've asked, please, Legislature, put some teeth into the law so that we can get this thing going and we can reduce our truancy numbers and we can save children. I realize that we...there is a limit to what government can and should do from the state level, and that's why we have energized...not we have but the superintendents across the state have energized themselves. Thanks a lot to Roger Breed. I tell you, this guy has been fabulous, the Commissioner of Education, just energizing everybody around getting information about children as early as possible so that we don't have to file petitions in the juvenile court. Every time we don't have to file a petition in the juvenile court we can spend time with those cases that are in the juvenile court that need that extra care, that extra bit of work with kids that really do...are really in trouble and have exhibited behavioral issues or are the victims of abuse and neglect. So I would, just as an anecdote, my son is 13 and he's in 8th grade and I can't remember what the occasion was but we were talking about doing something that involved missing school and he indicated to me that that was not going to be possible;... [LB463]

SENATOR GLOOR: One minute. [LB463]

SENATOR ASHFORD: ...that he had to...could not miss more than nine or ten days or whatever. The school district, his school, Westside Middle School has inculcated him and the other students in that school with the thought, you cannot miss school. And that has inculcated those children to the point where my 8th grade son gets it. He gets it. So thank you, members, for this discussion. I want to thank Kevin Riley too, who's worked so hard in the metro area to put together the superintendents' plan. Thank you all for your questions and I would certainly urge the adoption of AM1297. Thank you. [LB463]

SENATOR GLOOR: Thank you, Senator Ashford. Members, the question before us is, shall the amendment to LB463 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB463]

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CLERK: 32 ayes, 0 nays on adoption of Senator Ashford's amendment. [LB463]

SENATOR GLOOR: Amendment is adopted. [LB463]

CLERK: I have nothing further on the bill, Mr. President. [LB463]

SENATOR GLOOR: Senator Larson. [LB463]

SENATOR LARSON: Mr. President, I move LB463 be advanced to E&R for engrossing. [LB463]

SENATOR GLOOR: You've heard the motion. Those in favor say aye. Those opposed say nay. LB463 is advanced. Continuing with Select File, LB463A. Mr. Clerk. [LB463 LB463A]

CLERK: LB463A, Senator, I do have Enrollment and Review amendments. (ER87, Legislative Journal page 1151.) [LB463A]

SENATOR GLOOR: Senator Larson. [LB463A]

SENATOR LARSON: Mr. President, I move that the E&R amendments to LB463A be adopted. [LB463A]

SENATOR GLOOR: Members, you have heard the motion. All in favor say aye. All those opposed say nay. The amendments are adopted. [LB463A]

CLERK: I have nothing further on that bill, Senator. [LB463A]

SENATOR GLOOR: Senator Larson. [LB463A]

SENATOR LARSON: Mr. President, I move that LB463A be advanced to E&R for engrossing. [LB463A]

SENATOR GLOOR: Members, you have heard the motion for the advancement. All those in favor say aye. All those opposed say nay. LB463A is advanced. Mr. Clerk. [LB463A]

CLERK: Mr. President, items. Business and Labor Committee, chaired by Senator Lathrop, reports LB151 and LB585 to General File with amendments attached. Amendments to be printed: Senator Cornett, LB384; Senator Krist, LB386. (Legislative Journal pages 1334-1337.) [LB151 LB585 LB384 LB386]

And a priority motion, Mr. President: Senator Schumacher would move to adjourn the

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body until Thursday morning, April 28, at 9:00 a.m.

SENATOR GLOOR: Members, you've heard the motion for adjournment till 9:00 tomorrow morning. All in favor say aye. All opposed say nay. We stand adjourned.