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FLOOR DEBATE

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commit a crime. They were brought here by their parents. They are not criminals and they shouldn't be treated like criminals. They are children. And finally, Senator Flood, the legal cases that you were citing I think need to be read broadly. For instance, the Merten case, that you mentioned, said...it talks about all the ways that the courts look at these questions, and it talks about the fact that they look whether the state policy violates the constitution. And the first thing they talk about is the state policy in an attempt to regulate immigration. Well, no, we're not trying to regulate immigration. Two, is the policy otherwise preempted under the supremacy clause? And the court, in another case called DeCana stated two separate tests for this preemption. One is that Congress has occupied the field, and they certainly have in immigration, but not in education. And then secondly, state law is preempted when it's impossible to comply with both state and federal law. I don't believe there's any impossibility here, and if there were, you wouldn't have nine states that have passed a very substantially similar, if not identical, law in the past five years. The federal government has never taken action and, in fact, in the Kansas court, the Kansas court said it's up to Homeland Security. If they want to do something about it, fine. And Homeland Security has had complaints filed and they have never done anything. So I think you have to look at what the record is and what has been allowed in all these other states. With that, I would like to give the remainder of my time to Senator Aguilar.

SENATOR CUDABACK: Senator Aguilar.

SENATOR AGUILAR: Thank you, Mr. President. Thank you, Senator Schimek. Just one quick point I wanted to make. Senator Cunningham had a negative comment about the flags out in front, but he forgot to mention one thing. The most highest numbered flag out there was the flag of the United States of America, but you forgot to mention that, didn't you? Thank you, Mr. President.

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

SENATOR ERDMAN: Thank you, Mr. President. Just briefly,