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Floor Debate
January 16, 2008

[LB157 LB205 LB210 LB312 LB379 LB380 LB383 LB575 LB586 LB764 LB770 LB813
LB826 LB837 LB843 LB844 LB895 LB918 LB920 LB921 LB922 LB923 LB926 LB948
LB988 LB989 LB990 LB991 LB992 LB993 LB994 LB995 LB996 LB997 LB998 LB999
LB1000 LB1001 LB1002 LB1003 LB1004 LB1005 LB1006 LB1007 LB1008 LB1009
LB1010 LB1011 LR5CA LR6CA]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the sixth day of the One Hundredth Legislature, Second Session. Our chaplain of the day is Senator Engel. Please rise. []

SENATOR ENGEL: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you, Senator Engel. I call to order the sixth day of the One Hundredth Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record. []

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any items or corrections to the Journal? []

CLERK: I have no corrections, Mr. President. []

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

CLERK: Mr. President, notice of hearings from the Revenue Committee signed by Senator Janssen, and from the Government, Military and Veterans Affairs Committee signed by Senator Aguilar. A series of name adds: Senators Ashford, Adams, Wallman, Hansen, Johnson, and Pankonin would like to add their name to LB157 as would Senators Howard, Christensen, and Lautenbaugh; Senator Lautenbaugh would like to add his name to LB764; Senator Gay, LB813; Senator Gay, LB826; Senator Dubas, LB837; Senator Aguilar, LB843; Senator Christensen, LB844; Senator Cornett, LB895; Senator Pirsch, LB918; Senator Karpisek, LB920; Senator Preister, LB921; Senator Dierks, LB921; Senator Preister, LB922; Senator Dierks, LB922; Senator Dierks, LB923; Senator Preister, LB923; Senator Cornett, LB926; Senator Burling, LB948. That's all that I had, Mr. President. (Legislative Journal pages 245-247.) [LB157 LB764 LB813 LB826 LB837 LB843 LB844 LB895 LB918 LB920 LB921 LB922 LB923 LB926 LB948]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item

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

Floor Debate
January 16, 2008

on today's agenda, LB205. Mr. Clerk, new bills. [LB205]

CLERK: Mr. President, very quickly, thank you. (Read LB988-LB989 by title for the first time.) And that's all that I had, Mr. President. (Legislative Journal page 247.) [LB988 LB989]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Now continuing to General File, LB205. [LB205]

CLERK: LB205, Mr. President, a bill by Senator Howard. (Read title.) The bill was discussed briefly yesterday, Mr. President. Senator Howard opened on her bill and offered AM1563 as an amendment to that bill. That amendment is currently pending, Mr. President. (Legislative Journal page 222.) [LB205]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Howard, you are recognized to give us a brief reintroduction on LB205 and your amendment, AM1563. [LB205]

SENATOR HOWARD: Thank you, Mr. President and members of the body. Briefly, LB205 is a simple bill that requires all school districts across the state of Nebraska to adopt policy to address the issue of bullying in their schools. The bill language respects local control and has the support of the Nebraska Department of Education, Nebraska Association of School Boards, and the Nebraska State Education Association. The sole purpose of the bill is to ensure Nebraska schools are safe places for our children to learn. I've introduced this bill because I believe that in order to provide the best educational environment that we can for children, every school must be a place that encourages scholarship and allows students to focus on learning. LB205 offers the means of increasing academic success for students without unduly burdening our school districts. And I would remind the body this bill had 21 people who came in to testify in support of this bill. We had no opposition, and the bill passed from my committee, Education, with the support of every member, so thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Howard. You have now heard the opening on LB205 and AM1563. The floor is now open for discussion. Wishing to speak we have Senator Pedersen, then Stuthman. Senator Pedersen, you're recognized. [LB205]

SENATOR PEDERSEN: Thank you, Mr. President, members of the Legislature. I just stand here to witness the fact that bullying is a problem. On an ongoing basis, those who have been bullied usually end up with some very angry attitudes and end up doing some very angry things in their adolescence. And if they're bullied on through their adolescence, we've got a very caged-up, angry person. This is a very harmless bill as far as the law goes and could be a very helpful bill with those who are affected by it. The schools are not against this. It's to come up with a policy, to put a light on it and see

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

Floor Debate
January 16, 2008

what we can do about it. I encourage your support of this bill. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Pedersen. Senator Stuthman, you're recognized. [LB205]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I do agree with Senator Pedersen. I know bullying is a problem. It is a concern to parents and schools. But the thing that does concern me also is, is this just another state mandate that we're going to be putting upon these schools as far as they have to register their policy or make the state aware or there's going to be a deadline as to when they have to have this all filed with the state? I think the majority of us maybe don't realize how many things that the school administration has to do to comply with the state regulations. That is the concern that I have. I'm not against a bullying policy at all. But I think in the schools in my area that have contacted me, they do have policies in place already to handle this situation. It's in their handbook. It's in their policy of what they do. School administrators and teachers do monitor, you know, playground activities or activities in the school. So I have a real deep concern. Are we just making another item on the agenda of administrators of the school that they have to do for a regulation that we pass down here in Lincoln? Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Wishing to speak we have Senator Kopplin, Avery, Friend, Lautenbaugh, Adams, Erdman, and many others. Senator Kopplin, you're recognized. [LB205]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. This amendment is simply about changing dates and I support that. I want to again thank Senator Howard for her persistence in bringing this to us. She had to work two years on me to get my support for this bill. It wasn't that I don't recognize the problem of bullying. But I sat back and thought, schools already have policies in place. And more importantly then, if you're going to have a policy, should be enforced, and how are schools going to do that? So I held back. But she was right; I was wrong. To me, bullying is any behavior that's conducted to lower another person's sense of self-worth. Too often we look at bullying and we think of physical actions: hitting someone, tripping someone, pounding on them. Schools watch that carefully, they do a good job. There's no principal in the state of Nebraska that wants to have any child feel unprotected when they come to school. But bullying can be far more cruel than that. Little girls are experts at it. Sugar and spice, these young ladies are not. They don't hit on each other and pound on each other. No, it's shunning; not acknowledging another person's presence; completely ignoring another person as if to say, you're not worthy of our notice. Well, imagine an eight- or nine-year-old girl that has to come to school every day knowing that no one is going to talk to her. She has no friend. But no one has injured her, so what's the principal going to do? Suspend a girl for not talking to someone else? No, it's not going to happen. But it's there and it's cruel. I agree that schools have policies, and I'll have a

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

Floor Debate
January 16, 2008

lot more to say about policies if I ever get another chance to speak. But schools need to look at their policies. Maybe they are in place, maybe they don't say the right things. We need to pass this bill. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. And I'd remind the body, if we could keep the discussions down a little bit so we can continue to hear the speakers. Thank you. Next on the list would be Senator Avery. You are recognized. [LB205]

SENATOR AVERY: Thank you, Mr. President. Yesterday, Senator Pahls called on two people to offer a definition of bullying. And I just want to thank him for not asking me to take the position of the geezer on that. I think (laugh) Senator Kruse admitted to being the geezer here. But what I heard in that discussion were words like this: intentional acts; designed to cause harm; verbal harassment; physical assault; more subtle methods of coercion; manipulation; taking advantage of; isolation; power differentials; covert abuse; humiliation. These are all behaviors that cause pain and harm, and these all should be discouraged and prevented to the extent possible. I have looked at the research in this area. We have abundant evidence of the most dreadful consequences that sometimes come from bullying. The Columbine rampage in Colorado comes to mind. Bullying is harmful. It is dangerous and, in my opinion, outright evil. There was a study published this month by the Children's Hospital and Regional Medical Center in pediatric magazine that concluded that bullying victims are more likely to say that it is not wrong to take a gun to school. So I think we can put to rest any disagreement that we might have or any questions we might have about the harmful effects of bullying. That means then we ought to turn our attention to what works, what can we do about it. I think it is not appropriate for us to say we need to do nothing. So what does work? Voices for Children is an organization that has compiled some research on this and they have concluded that the best intervention addresses the social context in which bullying occurs, and that the first step in dealing with the social context is a school policy that clearly states rules against bullying. Other research shows that where there is a schoolwide commitment to end bullying, it can reduce bullying by up to 50 percent. So what works is a policy that raises the awareness about bullying, increases teacher and parent involvement and supervision, forms clear rules and strong social norms against bullying, and provides support and protection for all students. Now I suspect that some of you might be asking yourselves, well, what's the big deal? These are kids, bullying is a normal part of growing up. But the facts are that serious bullying can be dangerous, it can be deadly. It leads to severe emotional and physical problems. It leads to physical violence and crime, and it keeps kids from learning by making them afraid and isolated and keeping them out of school. I saw some numbers last night that showed that kids that have been bullied... [LB205]

SENATOR LANGEMEIER: One minute. [LB205]

SENATOR AVERY: ...will miss, on average, about 100 or more days of school a year.

Floor Debate
January 16, 2008

So I ask you, I plead with you to look at this legislation as necessary, not just some empty gesture. It's important. These are our children, we need to protect them, and I urge you to support this bill. Thank you, Mr. President. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Friend, you're recognized. [LB205]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Who could be against a bill like this? Nobody. I'm not. I'm not going to vote for it. I don't want kids bullied. You know, this reminds me a little bit, Pat Bourne, Senator Pat Bourne--he's a friend of mine, so was Adrian Smith, Congressman Adrian Smith. One of the funniest things I ever saw out here was when Pat Bourne stood up over by Senator Aguilar, turned around to Adrian and said, oh, here's Adrian with another one of his big government bills. And you would have thought somebody kicked Adrian right in the mouth. Adrian was so disappointed. How could he carry a big government bill? It was a transportation bill, I don't even recall what the subject matter was. When we carried...no-call list, thank you. It was hilarious. I mean, and it was only sort of tongue in cheek because, guess what? It did have implications or an idea of increasing the government or...it certainly wasn't a streamlining bill. We all brag about how we want to streamline bureaucracy, how we want to stop this type of stuff. It could be argued, and Pat was making the argument that Adrian wasn't streamlining anything. He was adding to government. Adrian was devastated. Clearly, Pat's argument didn't ring true or in the long run in the voters' eyes, because Adrian is sitting in Washington making bureaucracy there. Look, there's a moral to this story, okay? A lot of the things that we do are good. This is good. Senator Kopplin spoke to that. Ninety percent of the time we do something, maybe 80 percent, there are regulatory changes that ensue. Now senators rarely get elected to high office. People in here don't get elected to higher office. You know why? Because we have a track record. And folks will go out and point at it. Ask Curt Bromm, ask other people. That's what happens. We pass a bill, we have a track record, and it's important to note something, okay? For everybody who claims or claimed to get in here, that they want to streamline bureaucracy, we pass this bill, you're not doing it. Let's say there's a good piece of regulatory legislation that we all like, okay? But with any type of regulatory legislation, I believe you have to weigh the benefits against the negatives or the disadvantages. Specifically in this bill, there are benefits; there are clearly benefits. Others have already eloquently spoke to that. But there are negatives. Anybody that says there aren't is on the record lying about it, in my view. There are negatives to just about every type of legislation that we pass. Here it is. Section 1, page 1, lines 12 through 15, subsections (3) and (4). In my view, this section should be stricken because what we're doing...by the way, if we don't strike that, I won't vote for the bill. So we can put our surprise and everything else away. Yeah, Mike Friend doesn't like the idea of kids being bullied, okay? So everybody relax. But the fact of the matter is, I spent all summer long and in the fall on a special ed task force. And you know what happened? We would have teachers, we would have administrators

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

Floor Debate
January 16, 2008

come in and talk about the type of paperwork that teachers have to deal with... [LB205]

SENATOR LANGEMEIER: One minute. [LB205]

SENATOR FRIEND: ...and the administrators have to deal with. And you know what they said? You know what gets tossed to the wayside? Teaching. I don't like to hold anybody out, but Senator Adams was on that committee. He heard it, too. And guess what? He spent his life teaching and he knows what I'm talking about. So there's the disadvantage. What we have are over 500 districts in this state, right? How many schools in this state? What we're specifically asking for...and I'm being practical here. Let's look at this legislation instead of tugging at each other's heartstrings. Look at what this legislation does. We're telling all of those schools that they have to go in, set aside for a...and you can do this in a meeting. You get a principal together with his or her staff and they can say, you see anybody bullying somebody else; it's in our state law, don't let it happen. You can do it in a meeting. You can do it with a memo, you can do it with an e-mail. We're codifying it in state law. Now if you strike that section, we're still saying bullying is bad. But even if you didn't have those bullying sections and... [LB205]

SENATOR LANGEMEIER: Time. [LB205]

SENATOR FRIEND: ...the definitions...time? [LB205]

SENATOR LANGEMEIER: Time. [LB205]

SENATOR FRIEND: (Laugh). [LB205]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the Legislature. Yes, the microphone does work. Thank all of you who inquired yesterday. I do have some questions for Senator Howard on this. [LB205]

SENATOR LANGEMEIER: Senator Howard, would you yield? [LB205]

SENATOR HOWARD: Yes, I will. [LB205]

SENATOR LAUTENBAUGH: Senator, I'm trying to understand what we are doing with this bill. This bill doesn't mandate what specific policies the district will enact, a district will enact. Is that correct? [LB205]

SENATOR HOWARD: That's correct. [LB205]

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

Floor Debate
January 16, 2008

SENATOR LAUTENBAUGH: So we're just trusting them to enact policies? [LB205]

SENATOR HOWARD: Yes. Each school district will develop their own policy according to their own need. And my vision would be that they would develop it with the teachers, with the parents, with the students. [LB205]

SENATOR LAUTENBAUGH: And then we're going to trust the districts also to enforce the policies? [LB205]

SENATOR HOWARD: I'm sorry, I couldn't hear you. [LB205]

SENATOR LAUTENBAUGH: We're going to then trust the districts similarly to then enforce the policies they... [LB205]

SENATOR HOWARD: To enforce their own policies, we will. [LB205]

SENATOR LAUTENBAUGH: Why, at this point, don't we trust the districts to then recognize this problem and act on their own? [LB205]

SENATOR HOWARD: Well, that's a good question. And I would have assumed three years ago that that would be the case. However, the more I learned about this issue, the more I was contacted by people whose children had experienced bullying in the school, had chosen not to see it or not to act on it, or as Senator Kopplin said, they really didn't have a means to address a child shunning or children shunning another child. It became quite apparent to me that we need to...we need to have a policy. We need to have policies at the school district level that really do address this that are in place, written policies, so that it's clear for the teachers when they deal with this problem that they have a frame of reference. [LB205]

SENATOR LAUTENBAUGH: Now I have several districts in my district, if you will, and I've yet to find one of them that doesn't have a policy. Do we know how many districts have a policy or how many we're still waiting on, either way? [LB205]

SENATOR HOWARD: Again, good question, and I do have that information, if I can just take a minute. And this information is from one of the individuals that's worked diligently on this bill. Approximately 20 percent of the school districts in the state have actual written policy addressing bullying. However, greater than 90 percent of the school districts in the state address bullying in their code of conduct for students... [LB205]

SENATOR LAUTENBAUGH: So we're addressing this to the remaining ten then? [LB205]

SENATOR HOWARD: We're addressing this with all school districts. [LB205]

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

Floor Debate
January 16, 2008

SENATOR LAUTENBAUGH: But our concern is that there are 10 percent that have not done what we want them to do yet? [LB205]

SENATOR HOWARD: Keep in mind only 20 percent of it have a written policy addressing this specific concern, specifically bullying. [LB205]

SENATOR LAUTENBAUGH: Thank you, Senator. [LB205]

SENATOR HOWARD: Thank you. [LB205]

SENATOR LAUTENBAUGH: I understand I'm running the same risk as Senator Friend here and it'll be easy to say, oh, Scott Lautenbaugh was in favor of bullying. But that's not the case, I think we all know that. My concern here is that I feel if we can trust the districts to come up with a policy and we can trust the districts to implement the policy, we should be able to trust the districts to recognize this problem and deal with it as they see fit. And I just have a problem...I'm not clear, as I stand here and I realize this bill was described by one of the senators as harmless, well, that may very well be the case on some level. But that raises, in my mind, the question of does it actually do anything then? And if it doesn't, why are we doing it? Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Wishing to speak we have Adams, Erdman, Howard, Wightman, McDonald, and others. Senator Adams, you are recognized. [LB205]

SENATOR ADAMS: Thank you, Mr. President. I don't know that I can shed any new light on this, but something else to consider. School districts have all kinds of policies. They have policies about truancy. They have policies about sexual harassment or, in a broader sense, harassment. What do the policies do? In many cases, they may do nothing in an individual school. They may not cause any kind of action. But it's a policy that's there. Bullying--does it require a school district to write new policy? It might. Might it cause a school district to take the word "bullying" and fold it into existing policy it already has on harassment? Probably. Will it cause some school districts to say, what's the big deal, we already have policies like this? Sure. Is it going to cure bullying? No, any more than policies about sexual harassment have cured that or policies on truancy have cured truancy. What it does, I suppose, is, number one, it draws the school board's attention to it if they haven't already put their attention to it. And I've thought about this. Maybe on the other side of it, it may do this as well: if I'm the parent of a child that has been bullied and I go to the principal or the superintendent of the school and say, this is the event, my guess is that 99 out of 100 school districts in Nebraska, the principal, the superintendent, and the board are going to take appropriate action and deal with it. But if they don't, what's my leverage as a parent? Would this policy give me something I can reach to and say, look, you have a policy against this, here's the

Floor Debate
January 16, 2008

appropriate action to be taken, are you going to deal with it? Is it going to cure bullying? No, it's not. Is it more text in a policy manual for a school district? Yes, it is. Thank you, Mr. President. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Adams. (Doctor of the day introduced.) Wishing to speak we have Senators Erdman, Howard, Wightman, McDonald, Kopplin, White, Friend, and others. Senator Erdman, you are recognized. [LB205]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I'm interested in the new information that I've heard this morning about the number of school districts that have a policy. In my research on this topic, I've also looked into what school districts currently have. And I think a lot of the dialogue at this point has been informative to me. I will tell you that it's somewhat contrary to what I've heard from Senator Howard, and I will look forward to visiting with her a little more. But in my conversations with the School Board Association--which is the entity that will be responsible for adopting this policy through their members, which are the school boards of the individual districts--I'm informed that their staff at the School Board Association here in Lincoln have actually personally reviewed approximately one-third of the policies that are currently in place in the state, or one-third of the policies for all school districts include similar provisions. And so the idea that only 20 percent of the schools have some policy, I'm wondering if that means they specifically name bullying or how that works. But I have no reason to doubt that the School Board Association is telling me that their members are doing a lot of this work. I've had some great dialogue with people that have contacted me. I've had some great discussions via e-mail and phone with individuals that are interested in this topic. And I think the issue that keeps coming back--and I don't see it addressed in this bill, I've shared this at one time with others that support this bill--is that we're simply naming the problem in statute without giving the schools any tools. And the people that are contacting me about this bill are not interested in simply naming the problem. They're interested in having it enforced. And so from the standpoint of what we need to do, maybe LB205 is the vehicle. But when I asked those individuals that have contacted me if their school district has a policy dealing with student conduct or generally bullying, whatever you want to call it, they say yeah. The problem isn't that the school district doesn't have a policy, it's that they won't enforce it. And that, I think, is a different discussion than what we're having here, whether or not a school district needs to have a specific bullying policy. If you pass this law, logically what will happen, at least from what I've researched, most of those school districts will just probably take out of their student conduct, this is what our policy is, we're going to call it bullying, and they're going to recodify it. What I'd like to hear and what I have encouraged the representatives...there was an individual, I don't know if this is a formal group or if it's an informal group, but it's called the Bully Police. Individual continued to contact me. We have a great conversation back and forth via e-mail and I encouraged her to work with the schools to determine what the tools they are that they need to enforce the law. And it gets into a situation--or their policy--it gets into a

Floor Debate
January 16, 2008

situation of due process and what the actual actions that were taken on the school grounds encompass. Senator Avery and others are right. Some of this activity is not simply bullying. It can be determined to be assault or other actions that there may be greater penalties for than just whatever the school may come up with. But the reality is, is that it has to be enforced. And so to Senator Howard's ability to bring this discussion forward, I think it's fine, I think it's great. I have an amendment that would change the way that her bill is written, but it's the same attempt, it's the same impetus. It would use the existing statute, which Senator Howard relies upon for her bill and she simply clarifies what bullying is. But again, and out of respect to Senator Howard and her efforts, I have engaged in discussion with a lot of these groups. But if you look at the list of people that testified in favor of this bill, especially the school districts, they've already told me they have a policy. They think that this is just a good idea to make sure that it's a specific policy regarding bullying. Great. [LB205]

SENATOR LANGEMEIER: One minute. [LB205]

SENATOR ERDMAN: But the point is still there. They could do it now. I'm interested, from Senator Howard and others, about what ideas we may be able to provide school districts to help them in their enforcement. And when I get those contacts and I get those calls from school districts, that's what I'm hearing. I've heard from school districts in northeast Nebraska, all over the state, in saying what tools can you provide us? I don't know. Maybe they don't need any tools. Maybe they just need a backbone. And I would like to hear that. Thank you, Mr. President. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Howard, you're recognized. [LB205]

SENATOR HOWARD: Thank you, Mr. President and members of the body. A clarification; the information that I received came in yesterday. This was provided by John Bonaiuto and the Nebraska School Boards Association. I have no reason to doubt this information, and I'll repeat it. Approximately 20 percent of the school districts in the state have actual written--keep in mind that word--written policy addressing bullying. However, greater than 90 percent of the school districts in the state address bullying in their code of conduct for students. Now we value local control in this state. I've heard both sides of this argument. There won't be enough teeth in it, there will be too much leverage in it. And one of the questions that's come up again and again for me is, if we do have this in written policy, is this going to be a better protection than not having a policy? And I've talked with attorneys and we're very fortunate in that we have a very articulate attorney here on the floor with us. And I would like to ask Senator White some questions on this matter. [LB205]

SENATOR LANGEMEIER: Senator White, would you yield to a question? [LB205]

Floor Debate
January 16, 2008

SENATOR WHITE: I would. [LB205]

SENATOR HOWARD: Thank you. Senator White, would you share your knowledge and your expertise with us concerning the need for a written policy and the ramifications, if you see ramifications, of not having a policy in place that is written to address this. [LB205]

SENATOR WHITE: Absolutely. With regard to Senator Erdman's question, that it is enforcement is the issue, the first line of any enforcement in a school is the teacher. If you want a teacher to address the issue of bullying, the best thing you can do is identify it first as a problem that needs to be addressed. The teacher is going to be concerned that they not overstep their bounds, they not get in trouble. So if you have, first of all, a statement from the Legislature that bullying is an issue, it's important, and that we need to address it as a society, that gives the teacher the foundation on which to act. Second, the teacher needs to know how to act. And if the school board says here's what bullying generally is, if you see that, then you should do the following. The teacher now is on firm ground to act and can know that if the teacher acts in accordance with the policy, they should be free from any kind of repercussions for acting. So you're going to get more enforcement once it's codified. Third thing is parents. Parents that are educated are the next thing that has to be used to prevent bullying. The message from the school district has to be reinforced at home. If we have a written statement of a bullying policy by a school district saying to parents, this is what we will do and this is what we as a parent expect of you if your child is going to participate in classes here, we've now given everybody clear direction and the protection of knowing what is an acceptable response to this bullying. Your best chance for getting it nipped in the bud early is a coordinated action from the administration, from the teacher, from the parents. That will not happen unless it's a written policy. So I would submit to Senator Erdman and others that what the policy specifically is should be allowed to be decided at the school level. They see things evolving. Ten years ago, five years ago, there wasn't e-mail. A lot of bullying happens on e-mail. That's why we need to allow them to be flexible, make their decisions. But a written policy is essential, so the child gets one message, one measured message: this behavior is not acceptable. And that comes from administration, comes from the teachers, and it comes from parents. And you need it written. [LB205]

SENATOR HOWARD: Thank you. I think that addresses concerns that not only Senator Erdman had, but also some other individuals brought up. [LB205]

SENATOR LANGEMEIER: One minute. [LB205]

SENATOR HOWARD: Thank you. I think it's critically important for a child to know that there are policies in place. And Senator White was very articulate in expressing that. A child who is bullied and feels he has no recourse, that there's no one that he can go to,

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

Floor Debate
January 16, 2008

that there's no one that's going to assist him with this is a child who's disenfranchised from his school situation. We've heard how children who are on the outside of their school group harbor anger. That anger festers, that anger grows. A child will take this out on himself and in some situations out on others in our society. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Wightman, you are recognized, followed by Senator McDonald. [LB205]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I'm somewhat torn. I agree that this bill may be a mandate that is unnecessary. However, I assume there are schools throughout the state of Nebraska that do not have a policy in place. I know I've talked to some of the superintendents within my district. They do have a harassment policy that they think is broad enough to include this. I am inclined to support it. I have a lot of problem with Section 1, subparagraph (4) that says that the school district shall review the policy annually. I will have an amendment to delete that, and I think that that is acceptable and will be acceptable. But I will discuss that later. But as for the reasons that I think this is unnecessary and probably dangerous provision, I know how litigation on these matters work. I think it will become...if they'll comb the minutes of the school board's meetings for the last year, if there has been no review, that will probably be item of evidence number one as to why they should be able to sue the Board of Education because they didn't review that policy, and there was no indication in the minutes in that they did review the policy. It just seems to me that once the policy is in place, that this is not the type of thing that changes on an annual basis or even a very frequent basis, and that that clause and that provision in the bill is not necessary, and particularly for it to be mandatory. So I'll continue to listen to the debate. I probably will support the bill. But I certainly would want that clause deleted and that might make a big difference on what my support of the bill is. Thank you, Mr. President. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator McDonald, you are recognized. [LB205]

SENATOR McDONALD: Mr. President, members of the body, before last year I served on the Education Committee. And Gwen has had this bill more than once. And I was reluctant to support it. I had checked with my schools. They assured me that they had a harassment policy and I believed that. But until recently, I found out that one of the policies that the school had did not address bullying, and it became a real issue at that school. They now have addressed it rightfully so. But how many other schools ignore the fact that bullying goes on? I look at the people that supported this bill in hearing, because this means a lot to me. When we have a public hearing and the public comes in and says, yes, this is a good idea, no, this is not a good idea, I look down the list. And we're asking our schools to develop a bullying policy. But yet we're not looking at those that support the bill. Now if the schools are against this, that's wonderful. They would be

Floor Debate
January 16, 2008

in the opponents' side saying, no, we already have a policy, we don't want the state to address and say we have a policy. That's fine and good. But I don't see that in the proponents. And I'm going to list just a few. Lincoln Public Schools are saying, yes, we think it's a good idea. We've got the Department of Educational Psychology with the University of Nebraska saying yes. Who develops the bullying policies for our schools? It's the school boards. And yes, the school boards came in. The Nebraska Association of School Boards came in and said, yes, we think this is a good idea, we want you to develop this, it only helps us putting something together. We have the Nebraska Department of Education saying, yes, this is a good idea. I won't name all of them, but we also have the Nebraska State Education Association. Our teachers are saying, yes, we want something. And we're here as a Legislature saying oh, no, we don't need this. But the people that are involved in this, the people at our schools, the teachers, the school boards are saying, yes, we want this. Who are we to say no, you don't need it? Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Wishing to speak we have Senators Kopplin, White, Friend, Carlson, and others. Senator Kopplin, you are recognized. [LB205]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I want to focus just for a bit on one of the items in the bill that is a little bit troubling. I don't know what to do about it. I don't disagree that something needs to do about it. But if I were still a school administrator, I would wonder about it. And that's that we need a policy about bullying at bus stops. And to answer, I think it was Senator Lautenbaugh said, well, are you enforcing the policy? Well, if you're not going to enforce a policy, you shouldn't bother writing it down on paper. It has to be enforced. And that is one of the problems. My own school district runs ten buses. They make 229 bus stops. Some of those are individual families, some of them are multifamilies, some are whole neighborhoods. We need to think about...or school people need to think about, not we. Schools have administrators that are hired to work these things out. They have school boards to set policies. They have administrators to put them into place. We've talked about tools, you know? I don't know what the tools are for anybody's school district, but good land, that's what administrators are for. Figure out your tools. But back to the bus stops. How do you control bullying at bus stops? If you're talking about individual families, do you step in because Bobby is beating the heck out of his little brother, or is that a parent issue? And what could you do about it, because it hasn't happened on your school property or anything else? Or what about neighborhood stops? Some kids don't have anyplace to go so they get to that bus stop 30 or 40 minutes ahead of time. And believe me, mischief happens. So how does a school work a policy that can address bullying at bus stops? I don't know. I'm no longer an administrator, I'm retired. I don't have to think about those things, administrators do. We need to talk about policies, and I will later if this proceeds, about the development policy and what needs to be in policy. And we'll need to talk a little bit about schools' reluctance to look at these, schools' fear of looking

Floor Debate
January 16, 2008

at these, and schools legitimately not knowing what to do about it. This is an important bill. There's lots of little things in it that need to be discussed, at least by school people. But I don't think that is any reason for us to dunk this bill and say, you know what, schools need to figure it out alone. No, we have to give them the leadership to say, you get it figured out, and this bill will do it. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Kopplin. Senator White, you are recognized. Senator White, you are recognized. Not seeing Senator White on the floor, Senator Friend, you are recognized. [LB205]

SENATOR FRIEND: Thank you, Mr. President. Sorry, Senator. Members of the Legislature, I'll just jump ahead of Senator White. He'll be ready in a minute. Let me be as brief as I can. I know, you know, chuckle about it if you want. Let me try to simplify my view on it. Senator Wightman has gone a distance, if he actually drops that amendment in, to making me feel a little better about the type of thing that I do down here that involves big government. And I've done it before and I'll do it again. But sometimes it just sticks right here and I don't like it. Because of the anecdotal evidence and information that I receive, not only on the special ed task force but from schools every day--I go to the schools, too, in my district. So that goes a long way and that might help. But let me reiterate, and let's just leave it at that. Unless we strike...as simple as this. Unless we strike the mandate on or before this day, and I think we're changing that with this amendment, each school district as defined in Section 79-101 shall develop, shall develop and adopt a policy concerning bullying prevention and education for all students. The school district shall review the policy annually. Those two pieces are stricken, let's go, let's codify it. If we don't, I'm not going to vote for it. I'm going to vote no. Now you guys will go, great, Friend, go ahead. You know, you're typical, go with it. But here's the reason, okay? Let's go further down in the statute. Subsection (3) of Section 2: causing or attempting to cause...this is against the law. Schools have to prevent this from happening--causing or attempting to cause personal injury to a school employee, to a school volunteer, or to any student. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision. Schools are dealing with this now. But guess what they don't have. There's no mandate that says they have to come out and reply to anybody and to point out that they're adhering to that law. Let's go further. Subsection (4): threatening or intimidating any student for the purpose of, or with the intent of obtaining money or anything of value from such student. That sounds kind of like bullying to me. I had somebody take money from me when I was little. I wasn't a very tough person. I don't think I am now either, but the point is that's bullying. Let's go ahead and define it up ahead. But if we're going to mandate one piece of this statute, why shouldn't we go through and mandate that schools show us how they're dealing with those other individual pieces in the statute? Is that not fair to ask that question? I think it is. One more, let's step a little further. Engaging in the unlawful possession, selling, dispensing--this is subsection

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
January 16, 2008

(6)--dispensing, or use of a controlled substance or an imitation controlled substance as defined in Section 28-401. We're telling them they can't have drugs, right? But we are not mandating that schools step aside and say, how are we dealing with the drug problem, let's make sure we do this annually now. Okay, look. Do what you want. I'm just telling you that we're setting a precedent here, arguably, setting a precedent here that would... [LB205]

SENATOR LANGEMEIER: One minute. [LB205]

SENATOR FRIEND: ...indicate to a lot of school districts that they are lax in their enforcement. They're lax in their enforcement. Because we're going to go ahead and we're going to make sure that we enforce the bullying statute that we've just created, but let's not really have to worry, right, as a policymaker. Let's not really make them or force them to have to worry about the substance control problem. We don't need...we don't have to have the district report any of that information back. Let's just assume that they're doing it. I'm not saying there's hypocrisy here. What I'm saying is it sets a bad...possibly a bad precedent. It sets an inconsistent precedent. And over and over again we harp on it out here that we don't want to try to do that. Look, if somebody wants to amend this and...I've said enough. Thank you. If this gets stripped... [LB205]

SENATOR LANGEMEIER: Time. [LB205]

SENATOR FRIEND: ...I'm all there. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator White, you're recognized. [LB205]

SENATOR WHITE: Question. [LB205]

SENATOR LANGEMEIER: There has been a call of the question. Do I see five hands? I do see five hands. The question before the body is, shall debate cease? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB205]

CLERK: 26 ayes, 1 nay, Mr. President, to cease debate. [LB205]

SENATOR LANGEMEIER: Debate does cease. Senator Howard, you are recognized to close on AM1563. [LB205]

SENATOR HOWARD: Thank you, Mr. President and members of the body. To remind you, this is just a housekeeping amendment. This changes the time from 2007, which was last year, to 2009, which allows the time that school districts would need to prepare these policies. Thank you. [LB205]

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

Floor Debate
January 16, 2008

SENATOR LANGEMEIER: Thank you, Senator Howard. You have now heard the closing on AM1563 to LB205. The question before the body is, shall AM1563 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB205]

CLERK: 42 ayes, 0 nays, Mr. President, on the adoption of Senator Howard's amendment. [LB205]

SENATOR LANGEMEIER: AM1563 is adopted. Mr. Clerk. [LB205]

CLERK: Mr. President, the next motion I have was from Senator Erdman. Senator, I have a note you'd like to withdraw MO19. [LB205]

SENATOR LANGEMEIER: It is withdrawn. [LB205]

CLERK: Mr. President, Senator Gay would move to amend with FA154. (Legislative Journal page 248.) [LB205]

SENATOR LANGEMEIER: Senator Gay, you are recognized to open on FA154. [LB205]

SENATOR GAY: Thank you, Mr. President. My amendment would just strike...Senator Kopplin brought up a valid point. In his district alone, I think, he had mentioned 229 separate bus stops that the bus must stop. I don't know exactly how many are in my district. But if you think about in your own district, how many times are those buses stopping at places? And the reason I put this amendment on, quite honestly, I talked to our school board members and administrators say, well, how would you enforce that? I mean, what if something is happening on the bus stop and you want to know, but how possibly can you enforce many of these areas? On the bus, yeah, they have cameras, they have other things. But when the kids are just out there, I don't know how you enforce this. So this amendment really just strikes on page 2, it strikes the "at a designated school bus stop." And we're going to continue debate on this, it sounds like. A lot of people have an interest in local control and some of those things. But I think this is a valid issue when you look at it and you go through your head, how many are we talking in your district? So I think if we could get rid of this it would help the bill along a little bit. I'm not sure where I'm at on the bill yet. I think there are other amendments coming that may improve this bill and that's what we're here to do today is improve this bill. I think this amendment will help do that. So I'm looking forward to any discussion on this amendment and I would encourage your support on this. Thank you, Mr. President. [LB205]

SPEAKER FLOOD PRESIDING []

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

Floor Debate
January 16, 2008

SPEAKER FLOOD: Thank you, Senator Gay. (Visitors introduced.) Continuing discussion on FA154, Senator Carlson, you are recognized, followed by Senator Gay, Senator Erdman, Lautenbaugh, Fulton, and Dubas. Senator Carlson. [LB205]

SENATOR CARLSON: Mr. President and members of the Legislature, again, I'm speaking to the bill versus Senator Gay's amendment. In listening to the discussion, I believe this is a problem, and I believe Senator Howard has done the right thing in trying to address this problem. I think the problem needs discussion and it needs public education and public awareness. We received a sample of some bullying or harassment cases by the ACLU this morning. And I believe these are sad examples. I also believe that they may be rather extreme examples. This problem needs attention, but does it need a bill? I think the problem requires good teachers and good administrators who develop a policy and enforce it. Unfortunately, schools have lost much of the freedom to discipline; not abuse, but discipline. Makes it difficult to carry out a policy and go through consequences when a policy is violated. I have a concern that there's unintended consequences to a bill, and especially in the form that it's written. I think possibly it interferes and restricts with parental teaching. So I think a minute. Who gets bullied? We've got examples here; the disadvantaged, perhaps those who are different in appearance, many times those who are small in stature. But all others also are possibly abused and bullied in many other situations. And I hate to use the phrase "normal" but that paints a picture. Students who fit in that category are bullied as well. Now I always like to give examples of potential cases. I have two children. I have a daughter that's a third grader, I have a son that's a fourth grader. I've taught my children to stick up for one another and defend one another. My daughter comes home and tells me that another third-grade boy is being unkind, he's teasing her, he's pushing her, he's calling her names. We talk about it and how to cope with it. She says the teacher hasn't seen it. Then it happens a second time. She comes home and we talk about it. My son hears it. We talk about it again. We hope the problem goes away. But it happens again. And so I tell my daughter and my son, if it happens one more time you have my permission to give him your best shot, because if he won't stop that may be the way to stop it. Now that may end up in a bloody nose and a black eye. So now who's the bully? These problems need to be dealt with. I think a bill that it shows an A bill with no cost... [LB205]

SPEAKER FLOOD: One minute. [LB205]

SENATOR CARLSON: ...this needs to be a bill that has no cost. I think it's fair enough to expect every school district to have a policy. I agree with Senator Wightman that it shouldn't be mandatory that it be reviewed every year. But we need to give our teachers and our administrators more freedom to discipline and that begins in the home. Thank you. [LB205]

SPEAKER FLOOD: Thank you, Senator Carlson. Senator Erdman, you are recognized.

Floor Debate
January 16, 2008

[LB205]

SENATOR ERDMAN: Thank you, Mr. President. Senator Howard, thanks for the additional information. Our numbers appear to be very similar. I think the same information that I received that over 90 percent of the school districts have it in their student conduct, and I think your terminology was that 20 percent or around 20 percent have specifically a bullying policy, and whether that's in addition to or fulfills whatever we're talking about. I think they are similar. I do know that the staff of the school boards have reviewed over one-third of those policies and they appear that they're in good condition and support them. The interesting part Senator Gay brings up with his amendment is rural Nebraska, there's a school bus stop every driveway. When I went to school, I got on the bus at 7:00 in the morning, rode for over an hour and school was ten miles away. But we travelled through the countryside, picked up everybody else. And I am a little interested in how that would have...if this amendment gets adopted, it takes that argument off the table. But if it doesn't, how that would be determined, if every place the bus stops is a school bus stop or if it's designated and if simply stopping designates that spot. But I think the intent is there, I think it's a matter of how we word it. But the student conduct issue, at least when I was in school, wasn't simply an issue between me and the school district. It was also between my parents and the school district, and the student conduct information that I received I either had to sign off on to say that I gave it to my parents and they had that documentation, or my parents signed off on it when they came to orientation. And so whether or not it's a specific policy A, B, or C or whatever it is, I think we can proceed with something here today. But again, it's simply not a decision that only goes to the student and the parents don't have an involvement. I think to that point Senator White is correct. The issue though, however, that teachers will likely stand by idly or may stand by idly when they see something that they would consider to be bullying, to me, is lost, at least in my school districts and at least in the communities that I represent. I don't need a policy to tell me that I see something that shouldn't be going on. I know that the teachers in my district take a very active role in the lives of their students and making sure that they're doing the best that they can, as Senator Friend points out, to teach, but also to provide an environment where learning can be successful. And ironically, those two go hand in hand and more and more we're doing more of the environmental issues to help learning happen, whether it's additional policies and procedures for the betterment of the students or whether it's assessments or whatever it is. But I'm not going to buy the argument that teachers are going to sit by and let some kid get bullied because they're afraid that the school doesn't have a policy. Kids got sent to the principal's office all the time when I was in school. Maybe we don't do that anymore. But that was generally the response that teachers used when they weren't sure what to do with the student because it was the administrator's responsibility. And what most administrators appear to need that don't have a bullying policy is a fortifying shot in the middle of their back that will strengthen their vertebrae. They need to have a backbone. I would love to see the School Board Association list those 10 percent of the schools that don't have a policy in their student

Floor Debate
January 16, 2008

conduct or bullying on their Web site, and say these are the school districts that don't have one that we're not aware of. And you know what? I bet in a heartbeat the remaining schools would have a policy. I think there is a value. I think there is a value in specifically stating a policy relating to bullying or whatever we want to call it. The argument can be whether it should be in the student conduct, whether it should be a separate policy. And the logic is, is that you give the school districts that want to have a backbone, that want to enforce the law, that want to create a learning environment that is welcoming to their students... [LB205]

SPEAKER FLOOD: One minute. [LB205]

SENATOR ERDMAN: ...the opportunity to utilize that for enforcement under their existing authority that they have in the statute. So I can see that. I think the debate here this morning is how do we do it. And if Senator Howard proposes this, and I understand that this bill was introduced at least three times and this is probably a great deal of work at this point, I'm not standing in the way. But for those that are reading the bill or not reading the bill and are reading the amendments that are filed, Senator Howard generally restates the existing law in her Section 1. And to the amendment that I filed, I simply take the language that she is adding in Section 1 to the existing language, which could do the same thing. But out of respect to her, if she doesn't want my amendment we won't pursue it. Thank you, Mr. President. [LB205]

SPEAKER FLOOD: Thank you, Senator Erdman. Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members, Mr. Speaker. I want to be clear on something I said earlier because I feel like it might have been misconstrued by one of the members here. I wasn't questioning whether school districts have the authority to enforce the policy once they arrive at a policy. The point I was trying to make is, we are saying with this bill, as I understand it, we trust the districts to invent a policy, we trust them to enforce a policy, but for some reason we can't trust them to perceive the need for the policy in the first place. And that is what I have a problem with. That seems inconsistent to me. I do support Senator Gay's amendment, by the way. I think that does go a ways to improving this bill. And I won't ask Senator Howard to respond because I think I understand this, but if I'm wrong I'm sure she'll correct me. I don't know that there's a difference between having a separate written bullying policy or including it in the code of conduct otherwise, which I assume is still written somewhere. So we are talking about 90 percent of the districts are doing something about this, doing what we're asking them to do without the annual reporting requirement that some, myself included, find troubling. But I listened to one of my colleagues say several of the school districts have come to us and said we need this bill and who are we to say no. Well, it seems to me those school districts can make their own luck here and just adopt their own policies and enforce it. And they have, by and

Floor Debate
January 16, 2008

large. I think that's become clear in the debate this morning. They have adopted their policies. So I don't know why they need us to tell them to do what they've done. And for the remaining 10 percent, I mean, I guess we're sending a message to them with this bill. But once again, I'm just struggling with the logical process, that we will trust them to come up with good policies, we will trust them to enforce those policies, but we can't trust them to perceive the need and handle it as they see fit in the first instance. So I remain troubled by this. Thank you. [LB205]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. Senator Fulton, you're recognized, followed by Senator Dubas, Howard, and Hudkins. [LB205]

SENATOR FULTON: Thank you, Mr. President, members of the body. If Senator...is Senator Raikes here? If so, would he yield to a question? I don't see Senator Raikes. [LB205]

SPEAKER FLOOD: Senator Raikes is making his way to his chair. Senator Raikes, will you yield to a question from Senator Fulton? [LB205]

SENATOR RAIKES: I will. [LB205]

SENATOR FULTON: Senator, one of the...we talked about this off the mike, I'd like to get it on the mike so that it's in the record. The...presently there's no fiscal note attached to this bill, but something that I have perceived that might happen, I would like to get an idea on the likelihood or the reality of what is perceived in my mind. Is there a way that this...if we enact this as statute and school districts are required, mandated to come up with policies, is there some way two, three, four years down the road that this could end up costing money, costing the state money, costing school districts money? Could you comment on that? [LB205]

SENATOR RAIKES: Senator, in my opinion, that would not happen without a subsequent action by the Legislature. In other words, there may be a bill introduced that says, well, there's a required policy on bullying and for that to happen effectively, there needs to be such and such a program which is going to cost this much money. So here's a bill that provides funding for that program, which would then have to be adopted by the Legislature. I don't see that this bill, as Senator Howard has introduced it, runs the threat of being a cost. [LB205]

SENATOR FULTON: Okay. And the reason, for the record, the reason, Senator Raikes, that I'm "picking on you" is because you are the expert on education and education funding. Then is the...if a school district could make the case that that district doesn't have the tools to properly enact what we have mandated by statute, you don't see any way that this bill, if enacted into statute, could be used in that way? [LB205]

Floor Debate
January 16, 2008

SENATOR RAIKES: Well, Senator, that is a, you know, an interesting way to pose it because, as you know, we're dealing with school finance issues all the time and now is no different. And school districts have needs for funding in several different areas, which drive their expenditures. Those expenditures then in turn drive needs calculations, state aid, and so on the argument goes. I suppose you could make the argument that any action by the Legislature suggesting that school districts do something additional may lead to that kind of an increase in spending. If you don't accompany that with increased budget authority or increased levy authority or something like that, then chances are that's going to end up, if anything, being a local expenditure rather than a state expenditure. So I guess I would concede your argument that requiring school districts to do certain things in their educational programming may have an impact on funds expended and that works its way through the system. I don't see this one as unusual in that regard, though, as standing out as, oh, this is really going to clearly lead to some additional expenditure. [LB205]

SENATOR FULTON: Okay. So then I guess I could have summarized my talk earlier by saying this...years from now it could be said that this was an unfunded mandate. In your opinion... [LB205]

SPEAKER FLOOD: One minute. [LB205]

SENATOR FULTON: ...while that exists as a potentiality, it is not...it's not likely. Would that be a fair assessment? [LB205]

SENATOR RAIKES: That would be, yes. [LB205]

SENATOR FULTON: Okay. Thank you, Senator Raikes. Thank you, Mr. President. [LB205]

SPEAKER FLOOD: Thank you, Senator Fulton. Senator Dubas, you're recognized. [LB205]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. I'm going to kind of pick up where Senator Fulton left off. I do support this amendment and I do support the bill. I've visited with my school administrators and some teachers. I believe all of the schools in my district have some type of policy, and so it's about making sure that it's enforced, I guess, is the question. You know, all too often I think history has shown that as a body we have maybe passed some legislation that has appeared to be rather innocuous and then down the road it's got some unintended consequences. And that's been the concern that was expressed to me by administrators that, okay, there's no funding requirements, no expenditures on us right now, but what happens down the road? Are you going to require us to file a report with the state? That will cost us some money and time. Are you going to require us to send staff to certain types of training?

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Transcriber's Office

Floor Debate
January 16, 2008

You know, these are questions that they have raised. And so again, I support the bill and know that bullying is a real issue out there. But I guess I want to get into the record the intent of this body is not to put any unfunded mandate requirements on our school districts. We're trying to address a very serious issue, and we're hoping that our schools and our administrators are doing the same. I do have a question for Senator Howard though, just as a point of clarification, if she would. [LB205]

SPEAKER FLOOD: Senator Howard, would you yield to a question from Senator Dubas? [LB205]

SENATOR HOWARD: Yes. [LB205]

SENATOR DUBAS: Thank you, Senator Howard. You do have in the bill that there is an annual review of the policy. Is that just an internal review? Right now you're not looking for them to file this review or show proof of doing the review? [LB205]

SENATOR HOWARD: You're absolutely right. It's an internal review done by the school boards that formulate the policy themselves. [LB205]

SENATOR DUBAS: That's all I needed was that clarification. Thank you very much. [LB205]

SPEAKER FLOOD: Thank you, Senator Dubas. (Visitors introduced.) Continuing with discussion this morning, Senator Howard, you're recognized, followed by Senators Hudkins, Wightman, and Fulton. [LB205]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I'd like to begin this discussion by specifically addressing the amendment that Senator Gay has put on the bill. This bill has been a work in progress over the last three years, and prior to that was carried by Senator Dave Landis, and he had done extensive work on it as well. In looking at the issue of school bus stops, I really weighed that out. I respect the difficulty in providing supervision at bus stops. However, keep in mind local control. It's local school districts that are developing their own policy. That includes their policy regarding bus stops. The last thing I want to do is send the message that bus stops are exempt from any sort of scrutiny regarding bullying. Local districts have the opportunity here to enlist parents, volunteers. I realize that there isn't the availability to have a staff at every bus stop. However, I think there would be means to address this. I'm not opposed to this amendment. I don't want this amendment to send the wrong message. Additionally, there was a question regarding code of conduct. Code of conduct language is much broader than the language in this bill. It does not define specific behavior or specific actions to be taken. Policy identifies a specific behavior and prescribes options for specific remedies. Keep that in mind when you consider this bill in the broad spectrum of policies. The last point I'd like to make is in regard to Senator Fulton's

Floor Debate
January 16, 2008

concerns. And that is that the State Board of Education, Nebraska school boards has committed themselves to providing material resources, information, whatever the local school districts will request by way of assistance in formulating policy and addressing bullying. I appreciate their commitment to this. I'm very grateful that they stepped up to the plate, if you would, to make themselves available. I believe that goes a long way to putting to rest any concerns about unfunded mandate in this bill. It's not an intention of the bill. We do have resources available and they can easily be provided. Thank you. [LB205]

SPEAKER FLOOD: Thank you, Senator Howard. Senator Hudkins. [LB205]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. I will be supporting this bill. I haven't decided yet on this particular amendment because I agree with Senator Howard. We don't want to send the wrong message in that anything goes at a bus stop. Now the problems in Omaha at their neighborhood bus stops are obviously different from a rural bus stop. And someone said that it's usually at the child's home. I would think that the bus driver would also be included in whatever discussions or training needs to be taking place in this issue. The teachers do have in-service sessions. As a former member of a school board, we look at policies all the time. And if you look at the committee statement and you see all of these educational organizations that think this is necessary, as Senator McDonald said, who are we to say that they aren't? I would like to respond to a statement by Senator Lautenbaugh--and welcome to the group, by the way. He asked, what is to stop schools from doing this on their own? When you see the State Board of Education, the School Boards Association, and other groups favoring this bill, this is why I think they want this particular bill. Let's say you have a student who is a bully. The teacher...he's either very good or very sneaky, or she, and has not gotten caught. And knowing children these days and knowing parents and anybody who is involved in any way with the school knows that if a kid gets in trouble, chances are the parents are going to be there the next morning saying, my child didn't do that, my child wouldn't do that. Well, of course we all know better. But to answer your question, Senator, as to why schools can't go ahead and do this, I think that they are afraid of legal ramifications. If they don't have...if they do have a policy in place and they have not received specific authority for having that particular policy, then what are the chances of the school being sued? So I think the educational people are saying we want this in writing, we want this in statute so when we have some irate parents coming in and saying you don't have the authority to have this, we're going to sue because my kid is an angel. So I think that we need to look at this, think of why schools are so overwhelmingly supporting it. Now perhaps Columbus has it all figured out. Good for them. But there are other schools that are asking for help. Thank you, Mr. President. [LB205]

SPEAKER FLOOD: Thank you, Senator Hudkins. One quick announcement: for the third time, Senator Carlson became a grandfather today at 8:48 a.m., Eli Antony

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

Floor Debate
January 16, 2008

Carlson. (Applause) Eight pounds, twelve ounces. Please congratulate him and his family. I'd like to recognize at this time Senator Howard. [LB205]

SENATOR HOWARD: Thank you, Mr. President. Senator Hudkins brings up a very important issue. And again, I'd like to question my colleague, Senator White, regarding the ramifications of not having a policy, a written policy in place. [LB205]

SPEAKER FLOOD: Senator White, will you yield to a question from Senator Howard? [LB205]

SENATOR WHITE: Yes. [LB205]

SENATOR HOWARD: Senator White, as I just expressed, Senator Hudkins was very articulate and brought up, I think, a very important point in this argument, and I feel that you'd be the best qualified of us to address this. What do you see as the ramifications of not having a written policy in place in terms of if something, heaven forbid, would happen? [LB205]

SENATOR WHITE: Well, there are a number of them. One of them, for example, is you just get people handling issues completely differently and that gives rise to lawsuits. If children of different races, for example, are handled differently and there's no policy in it, at that point you could also see a racial discrimination claim. One of the points of having any policy written, any law written, is to ensure equality under the law. And if you're going to have a policy like this, it should be written so that children are treated on the same basis but they also have the expectation...the same expectation of what's required. I know there's a concern on bus stops, for example, but I would submit to you the concern isn't where the harassment takes place as long as it's roughly controlled by the school, it's the individuals. Schools have control over the students. And whether that happens on school property or not, if it's reported to school officials, it happens on a bus, it happens at a bus stop, or it happens in the gym, the issue is the student's behavior in the school context. So we're not expanding jurisdiction. They have responsibility to ensure students' behavior. Where is less important, it's who that matters. [LB205]

SENATOR HOWARD: Thank you, Senator White. [LB205]

SPEAKER FLOOD: Thank you, Senator Howard. Senator Lautenbaugh, you're recognized. [LB205]

SENATOR LAUTENBAUGH: Thank you, Mr. Speaker. Senator White, would you answer a question? [LB205]

SPEAKER FLOOD: Senator White, would you yield to a question from Senator

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

Floor Debate
January 16, 2008

Lautenbaugh? [LB205]

SENATOR WHITE: Yes. [LB205]

SENATOR LAUTENBAUGH: So Senator White, if I understood what you just said, there is currently a mechanism or potential liability under civil law for not having a policy. [LB205]

SENATOR WHITE: If, for example--absolutely--a school is deemed now to have custody of children and if they don't discharge their duties to reasonably protect a child, yeah, with or without a policy you can sue them. Personally, however, I think they're much less likely to face any kind of a litigation if an articulated policy is in place that shows reason, it shows that they were reasonable in thinking about it, it shows that they planned for it. And in that case, a court or a jury is much more--well, in this case it would be a court probably because it would be a tort claim--the judge is much more likely to think they've acted reasonably by trying to put in place some policy in front of the problem. So I think this diminishes lawsuits. [LB205]

SENATOR LAUTENBAUGH: So just from a liability standpoint, there's already an incentive to have a policy. [LB205]

SENATOR WHITE: Without question. But since we fund many of these schools, I think it's reasonable for the Legislature to also ask them to have a policy in place. You know, we do supply a lot of the money and this won't cost any particular money and it's certainly prudent. It seems perfectly appropriate that we do this. [LB205]

SENATOR LAUTENBAUGH: But again, beyond actually requiring a policy, this law sets no parameters as to what that should be? [LB205]

SENATOR WHITE: Nor should they, because I think people run into different conditions. You know, the problems of interracial harassment might be profound in my district, but there are parts of the state...I mean, where I grew up there were no interracial issues. There were no identifiable races other than Caucasian. So I don't think we are in a position in Lincoln where we should tell them what the policies in their community should be, other than identifying it as a problem and asking them to think about it and put something down appropriate to their community. [LB205]

SENATOR LAUTENBAUGH: Thank you, Senator. [LB205]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. There are no other lights on. Senator Gay, you're recognized to close on FA154. [LB205]

SENATOR GAY: Thank you, Mr. President. I would encourage your support on this

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

Floor Debate
January 16, 2008

amendment. If you read through the legislation, whether you support this or not, I think this is reasonable though to ask this for this amendment. Because under the bullying, under here it has on a vehicle owned, leased, or contracted by the school being used for school purposes by a school employee or his designee. So the contractor, whoever you're contracting your bus service with, whether you do it alone or not, at least when they get on the bus there's someone there and you have an adult supervision and someone is going to say use common sense, like we all would--hey, knock it off, hopefully. So...but when they're just waiting on this bus...I've been around long enough to know in government, if anything you think can happen will never...it probably will. We all know what's going on out there, but you cannot know what's going to happen tomorrow, let alone five days, five years from now at a bus stop. Something crazy, then we open it up. Well, no one was watching that school bus stop. How can they? So this, I think is just a common sense. I hope we look at this as common sense. You can't ask the school to be everywhere, all things to all people. So I do think this amendment would help clarify that. They're still responsible for those students, and they don't want to see this bullying, none of us do. But at least then there are someone around. Because at school activities and all those...fine. But when there are kids waiting, who knows what can happen? So I would encourage your support on this amendment. I think it makes it a better bill. Thank you, Mr. President. [LB205]

SPEAKER FLOOD: Thank you, Senator Gay. You've heard the closing on FA154. All those in favor of adopting FA154 vote yea; all those opposed vote nay. Senator Gay, for what purpose do you rise? [LB205]

SENATOR GAY: Mr. President, I'd request a call of the house. [LB205]

SPEAKER FLOOD: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB205]

CLERK: 25 ayes, 0 nays, Mr. President, to place the house under call. [LB205]

SPEAKER FLOOD: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. All senators are present or accounted for. A roll call vote has been requested on FA154. Mr. Clerk, please read the roll. [LB205]

CLERK: (Roll call vote taken, Legislative Journal page 248.) 31 ayes, 12 nays, Mr. President, on the amendment. [LB205]

SPEAKER FLOOD: FA154 is adopted. Mr. Clerk, I do raise the call. [LB205]

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

Floor Debate
January 16, 2008

CLERK: Mr. President, Senator Erdman would move to amend with AM337. [LB205]

SPEAKER FLOOD: Senator Erdman, you're recognized to open on AM337. [LB205]

SENATOR ERDMAN: Mr. President, Mr. Clerk, I'd ask that motion be withdrawn. [LB205]

SPEAKER FLOOD: AM337 is withdrawn. Mr. Clerk. [LB205]

CLERK: Mr. President, the next amendment I have to the bill, Senator Wightman, FA155. (Legislative Journal page 248.) [LB205]

SPEAKER FLOOD: Senator Wightman, you're recognized to open with FA155. [LB205]

SENATOR WIGHTMAN: Thank you, Mr. Speaker, members of the body. I discussed my amendment a little bit earlier. I will again repeat it. What the amendment would do is delete Section 1(4), line 15, page 2 that says, "The school district shall review the policy annually." It seems to me this is not such a complicated matter that once a policy is adopted that it requires annual review. My fear is that this would be the source and would be pointed to as evidence of a violation by the school board if some sort of action was brought under the antibullying statute, and I just don't think we need that. It seems to me that school boards are going to review this policy. My superintendent at Lexington tells me that the schools have maybe as many as 1,000 to 2,000 policies that they have in place. Now I can't verify that amount, other than that was the number that he gave me. But to suggest that they should review all of those policies annually, including this one, I think goes beyond what any necessity of this particular bill would require. So it just seems to me that that strengthens the bill and eliminates the necessity that the school board have to have this on the agenda sometime during every year. I'm torn with regard to the bill. I'm going to support the bill, but I certainly have some, I guess, feeling for the sentiment that perhaps we're dictating too much policy in the form of statutes. I have a constituent within my district, a former law partner, as a matter of fact, that has suggested that any legislator that proposes a new bill should at least propose two laws that should be repealed from the books. Well, I've asked him for a list and I haven't received any yet so I don't know how serious he is about that, but it's something we need to take a look at and not be putting laws on the books just for the sake of putting them on. That having been said, however, I do believe that there is a reason for passage of this bill. I agree with Senator McDonald that there are certainly major groups that support the passage of this bill, and I think that should be taken into account. Many of those are much more familiar with the school situation and what's currently in place as far as policies than most of us here on the floor is, so that does carry a lot of weight with me. But I do feel strongly that a requirement that this policy be adopted annually is just not a necessary part of the bill and really not a desirable provision in the bill. So I would ask your support for the amendment. [LB205]

Floor Debate
January 16, 2008

SPEAKER FLOOD: You've heard the opening on FA155. Continuing now with discussion, Senator Kopplin, you're recognized, followed by Senators Pahls and Howard. [LB205]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I'm afraid I'm going to have to disagree with Senator Wightman. I want to mention something...a few things about policies. School boards have power only when they are seated as a school board. The other six days of the week it doesn't matter what they say. Decisions have to be made by the board in board meeting. They set policy. That's their job--set policy. Then, if they're good school board members, they will step back and say here's the policy. We have administrators to put it into effect. Policies are very carefully developed. We've had some discussion of will there be any cost to a policy? Of course there is, because if you're a good school board you're not going to sit there and decide what is good policy. You're going to have your attorney look at that policy and say how can we get into trouble. That takes a few bucks, nothing great, but it certainly is a cost. Most policies are written to keep schools out of trouble. They have to be written in a way that protects kids, protects teachers and so on, but underlying you protect the school district. Now where we get in a little bit of problem and the reason I'm going to disagree with Senator Wightman is that once we have decided what our policy is and we give it to the principals, they're going to develop a handbook. You know what? That handbook is an extension of policy. It ought to be reviewed every year. It ought to be approved by the board because it is an extension of policy, and if you're going to approve the handbook, you ought to know what the policy was in the first place. That's your job--set policy. You need to review what you did. You need to understand why you did it. It's not enough to say we passed this a couple years ago so we don't worry about it anymore. That makes superintendents tremble. There were a few comments about lawsuits and I'm going to tell you, without a policy, you're far more apt to be in court with huge costs than you are if you have a policy and have set out what you're going to do. Now the problem I see with some of our policies, especially one dealing with a subject such as this, is not that we're going to have a policy that says we're going to discourage or we're going to take care of bullying policies. Maybe policy ought to be we are going to provide every child with an adult advocate on our staff. I don't care whether it's custodians or teachers or principals, every child will have an advocate that they can sit down and talk with because teachers... [LB205]

SPEAKER FLOOD: One minute. [LB205]

SENATOR KOPPLIN: ...do not have time to spot every bit of bullying. And sometimes the child just needs to know that there's an adult on his side. Maybe that's what policy should be. Maybe policy should be we are going to train our staff. And, yes, that would take a few bit of money. Do we have to provide a grant to school districts to do that? No. It's common sense. Policies need to be reviewed annually. They are an extremely

Floor Debate
January 16, 2008

important part. So are handbooks. Principals need to know where they stand. Board members need to review the policies often, and they need to remember that they set policy and do not administrate schools. Thank you very much. [LB205]

SPEAKER FLOOD: Thank you, Senator Kopplin. Senator Pahls, you're recognized. [LB205]

SENATOR PAHLS: Thank you, Mr. Speaker and members of the body. It is my understanding that the school board, on a regular basis--three, four, five or six years--review the policies. So I may be in a little bit of disagreement that this needs to be reviewed annually because I think school board members, through the efforts of the staff, they review those on a...there's a system set up. And I think the Nebraska School Board Association, I think they provide workshops on developing/setting policy. So I think some of those things are in place. Now I do agree with Senator Kopplin when he says that the rule books, because that's the thing that a lot of people take a look at, but I think a lot of times those are updated on a regular basis through the staff, and if there's a question, they would bring that in front of the school board. But I do think right now we do have a system in place that the school boards would review those policies. So I think every year would be an additional thing that we may not really need to have. You know, we've been talking about this bullying for seems like several hours now. I think we ought to realize there are many schools and many school districts out there who are making it a top priority to help children. I'll just give you one case, one scenario. Let's say that you would be in one school district and let's say that the teachers and administrators are on this side and the parent and the child are on this side. They're saying, teacher, administrator, you're not doing your job; my child does not feel comfortable here and you can't resolve it. Well, in some school districts what they do is they have an outside person come in and review the data on both sides. They listen to the teacher, the administrator; then they listen to the parent, the students involved. And then that person sort of mediates it and says this is how...this is what I perceive. That tells me that there are districts out there who are really trying to make this work, perhaps not all of them, but I think once something does occur it really enlightens the administration; says, we need to do this, we need to make sure that these things are happening. So it does sound like we're talking about something that's just an unbelievable mass that's happening out there. I know abuse is happening, but I do see or I feel that the number of school districts are making an effort. I will admit that my good friend Senator Chambers has indicated in the past that he has had situations that he has not been happy with the school district that he has been involved with. That is one reason why last year I was really proposing the Ombudsman as an avenue, as a mediator. Although we did not make that part of the learning community, which I understand, I did see that as an avenue of helping with that situation. Thank you. [LB205]

SENATOR LANGEMEIER PRESIDING [LB205]

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
January 16, 2008

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Howard, you're recognized. [LB205]

SENATOR HOWARD: Thank you, Mr. Speaker and members of the body. Senator Wightman did come to me with this amendment, and I want to thank him for asking me prior to putting the amendment in. He also did talk to members of the school board, who are in the Rotunda, to get their feel on it. My intention with the annual review was that it be updated as needed, if there were new developments, if there were issues that needed to be addressed. And we all know things are moving so quickly anymore in our society that I think it's prudent, it's prudent to review your policies. I'm not going to oppose this amendment, but I would really encourage school districts to be conscientious about their policy and to be aware of changes that occur, and to be open to those changes, to be receptive to parents, students, teachers who bring them concerns. I think it's important not only to have the policy but to be aware of how the policy is handling current situations. In that way, I do certainly endorse an annual review. Whether each school district needs to do this every year on an annual basis, I'll leave that to my friends who are educators and whose opinion I very much respect. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Howard. Wishing to speak we have Wightman, McDonald, and Ashford. Senator Wightman, you're recognized. [LB205]

SENATOR WIGHTMAN: Thank you, Mr. President. Again, I certainly would also go along with Senator Howard that the school district should be encouraged to review these, whether it be on an annual basis, at least a periodic basis. My biggest fear in this is I think this is going to give a lot of support to someone who sues a school board. They just go back and review the minutes; there's no indication they reviewed that policy in school board meetings during that year, and then they're going to use that as evidence that the school either didn't adopt or, if they did adopt, didn't review it annually, as required by the statute. Again, I agree that that should be reviewed. I don't know whether it should be reviewed annually or periodically or whatever, but I just think that if we mandate it, we're going to foster litigation again. Some attorney is going to go look. He's going to check the record. There will be no record that they did review it or took any action on it. And so I just think it's a dangerous precedence. It's, in my opinion, unneeded. I support the bill. So again, I'd ask your support for the amendment. Thank you, Mr. President. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator McDonald, you're recognized. [LB205]

SENATOR McDONALD: Mr. President, members of the body, I think that we assume that the school board is the same every year. As we here on the floor discuss various things, we have new senators that come in all the time and they are not as familiar with

Floor Debate
January 16, 2008

some of the policies that we put together here on the floor because they weren't here when we developed those policies or those rules or that legislation. We have the same issue with our school board. They're not the same people that probably were there last year or maybe the year before. So I think sometimes we need to enlighten them because, as they're out on the street and somebody says, you know, can you tell me a little bit about a bullying policy, oh, I don't know if we have a bullying policy. If they know that they have one, they can certainly say, yes, we do have one and if you're concerned, you know, this is what we need to do. But without them knowing it, I think they could be caught blindsided; say, well, I don't know. That way they do know that there is a policy. And the other thing is every year when kids go to school there is a handbook that's given out, and generally that information of those policies are in that handbook. So as they're putting together that handbook, it's very, very easy to go through that policy and update it as they're updating all the teachers and the holidays and all those things. So it should be automatic in putting that manual together. But I think it's better off for our school board to know that there is a policy, and they make sure that the new school board members understand that. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Ashford, you're recognized. [LB205]

SENATOR ASHFORD: Thank you, Mr. President. Could I ask Senator Lathrop, our resident liability expert on.... [LB205]

SENATOR LANGEMEIER: Senator Lathrop, would you yield? [LB205]

SENATOR LATHROP: Yes, I would. [LB205]

SENATOR ASHFORD: I remember trying a number of cases involving employee handbooks in my days of trying cases and I...and those handbooks are treated, you know, they are treated very differently, depending upon the circumstance of the case, but can be a handbook or personnel policy. The failure to adhere to a personnel policy in a particular case can give rise to some sort of damage claim or damage award, if it's proved that there's some kind of a connection. Could you just talk about that for a moment, the impact of personnel policies or the failure to adhere to personnel policies from a legal perspective, from a liability perspective in a particular kind of case? [LB205]

SENATOR LATHROP: Right. Most of the time what we see, the employee handbook comes up in employment litigation, which is if you set a standard for levels of discipline, that's in your employee handbook. It becomes kind of a quasi-contract with the employee, which they can enforce, and so those handbooks do become important. The issue brought up by Senator Wightman's amendment is whether or not you have to have...whether we should have, as part of this bill, a requirement that they review that every year, and the question is, what happens if they don't? The thing that gets lost

Floor Debate
January 16, 2008

sometimes when we talk about liability issues, and which lawyers I think understand, is you have to be able to establish a causal relationship between something that people are critical of and the harm. So if you have a young person who is injured because of some bullying, then a lawyer who might represent that child might look at them, and it's as Senator Wightman suggested, and say, well, you didn't even review the policy. Well, you'd have to be able to show that that would have made a difference. It's not enough to say, in a liability claim, you didn't do something. You have to show that there's a relationship between something somebody did or didn't do and the harm. And so I think it makes perfect sense to have a requirement in there that you review the policy every year. If someone doesn't, that doesn't make your chances of making a claim any better because they could have reviewed it the year before and decided it was fine. So you'd have to be able to establish, as an additional step, that had they reviewed it they would have done something different and that would have affected the outcome for a bullied child. So I think it makes perfect sense to have it in there as a requirement, and I don't think it exposes the school districts to any additional liability, in my judgment. [LB205]

SENATOR ASHFORD: Thanks, Senator Lathrop. Just one other: Would it be more likely in a case involving a personnel handbook or these kinds of policies if there is evidence, for example, in the record not only of the policy and that it wasn't reviewed but that somehow there was...the school board had knowledge of a condition that was covered by the policy and that that...and that would logically would have necessitated a change in policy? That kind of evidence would be more relevant probably to a determination of whether or not the school district was negligent or... [LB205]

SENATOR LATHROP: Well, I think that's right. I think at least if you have a policy then somebody has to look at the issue. I think, from a liability point of view, you have more exposure if you do nothing. If you do nothing and we don't make them do something, then they do nothing and then the lawyers... [LB205]

SENATOR LANGEMEIER: One minute. [LB205]

SENATOR LATHROP: ...that file the liability claims will say, well, you did nothing about bullying. I mean, you knew it was going on in your school district and you've done nothing. At least with this bill, in my judgment, in an annual review we're making people pick it up and avoid a liability situation because they haven't considered bullying, they haven't considered the injuries that can come to a young man or a young lady in the classroom setting. [LB205]

SENATOR ASHFORD: Thank you. And I think that is the point. And I appreciate Senator Wightman's amendment because I think it's insightful. I think he's raising an issue that does come up. But I would agree with Senator Lathrop that it would seem to me that there needs to be causation. That causation would take forms that would be additional to simply a failure to read a policy. But I appreciate Senator Wightman's

Floor Debate
January 16, 2008

amendment, but I think we're on firm ground to adopt... [LB205]

SENATOR LANGEMEIER: Time. [LB205]

SENATOR ASHFORD: ...not adopt the amendment. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Pahls, you are recognized. [LB205]

SENATOR PAHLS: Thank you, Mr. President, members of the body. The interesting factor about this, if we are so concerned about reviewing those policies every year, let's say that you're in a metropolitan district and your policy book is about the size of this. Some of those school districts have 500, 600, 700 policies. That's why they set this stuff up on a regular basis, because they can't review them all at once. So that's why I'm saying is if that school board takes their job seriously, most of them do have attorneys with them when they review these policies to make sure that they are following and doing things correctly, so you do have an attorney taking a look at this. So that's why I'm saying is they do need to be reviewed. They do need to have a policy dealing with bullying. Not questioning that at all. But the idea of saying this is a good one to review every year, what about the other 600 in there that should be reviewed every year? Keep in mind when a new rule book comes out there are people who take a look at that. And if they believe that changes need to be made, they make professional decisions, clarify it with the school board to make sure everybody is in agreement with this, because I trust you, most school board members can't know all these policies. That's why you have an administration. And if they're failing to do some of these things that we need to be...that need to be corrected, then they need to be held accountable all the way down, from the classroom, all the way up from the administration, the different layers of administration. They do need to review it. I don't see the need every year. Remember, 600, 700 policies. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Seeing no other lights on, Senator Wightman, you are recognized to close on FA155. [LB205]

SENATOR WIGHTMAN: Thank you, Mr. President. Thank you, Senator Pahls, for that support. Again, Senator Pahls suggests that maybe there's 600 or 700 policies. I understand there may be even more than that in some districts. Perhaps ours are higher than some because of a high minority population. But we're elevating this above almost all other policies when we say it has to be reviewed annually. It just seems to me that it does not strengthen the bill. It certainly, I think, is going to affect some of the support for the bill if we have such an onerous requirement in there. It may or may not be onerous in some people's minds, but to elevate this policy above so many others and say that that must be reviewed annually, I agree that it should be reviewed periodically. But I don't think the school boards of education need that mandate in state statute. So I

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

Floor Debate
January 16, 2008

would ask your support for this amendment. Thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Wightman. You have heard the closing on FA155 offered to LB205. The question before the body is, shall FA155 be adopted? All those in favor vote yea; all those opposed vote nay. Senator Wightman, for what purpose do you rise? [LB205]

SENATOR WIGHTMAN: I would ask for a call of the house. [LB205]

SENATOR LANGEMEIER: There has been a request to put the house under call. The question before the body is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB205]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB205]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. All senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Pedersen, would you please check in? Senator Synowiecki, please return to the Chamber. The house is under call. Everyone is present and accounted for. Senator Wightman, how do you wish to proceed? You can have call-ins or a roll call. Request a roll call in regular order? Mr. Clerk, please call the roll. [LB205]

CLERK: (Roll call vote taken, Legislative Journal page 249.) 22 ayes, 19 nays, Mr. President, on the amendment. [LB205]

SENATOR LANGEMEIER: FA155 fails. Mr. Clerk. [LB205]

CLERK: I have nothing further on the bill at this time, Mr. President. [LB205]

SENATOR LANGEMEIER: We return now to discussion on LB205. There are no lights on. Senator Howard, you're recognized to close. Senator Chambers. [LB205]

SENATOR HOWARD: Thank you, Mr. President, members of the body. And thank you all for this good discussion. I always feel I learn so much when we have these discussions. There's always new light that's shed on things, and I'm very grateful that you took the time to listen to the arguments on this and to contribute. I'm going to take just a few moments to read to you a letter that I received that really had an impact on me, and I'll try to move forward through it: Dear Senator Howard, I'm writing to express my support of LB205, the antibullying bill. I know from experience the effects of bullying in schools and the cycle of hurt that is created when children fear their peers. I'm a biracial woman and, because of bullying, I felt ashamed about my race all the way through school. It started when all of the white girls in my 4th grade class would make

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

Floor Debate
January 16, 2008

fun of this black girl in our room because of the dark color of her skin and the texture of her hair. She was taller than any of the other girls in our class. She probably could have beaten them up, but she just wanted them to like her. Instead, they taunted her daily and often made her cry. When no one was watching, some of them would play with her, but when they were in a large group or when one of them wanted attention, they would abruptly begin teasing and name-calling. Our classroom was not a safe place for Angela and no one intervened. I could see how much the actions and the words of the other girls hurt her, and I would do anything to keep from being hurt that way, anything, including joining in on the teasing and name-calling to avoid being in her place. She seemed the most hurt when she looked at me, expecting me to make things better, not worse. I still remember how the salt from her tears seemed to stain her dark skin, leaving a visual reminder of the hurt of the cycle of bullying. On occasion, she would lash out at the offending students, yelling at them or hitting them. When this happened, it was often Angela who was punished. I never had the courage to ask the bullies to stop or to advocate on her behalf when she got in trouble. Now I am ashamed by my actions in that classroom. Now I've learned to confront the bullies instead of joining in, but it takes a lot of courage. I believe LB205 is important because one child can't confront bullying on their own. With antibullying policy in all schools, maybe some little girl in a classroom will be spared the experience of childhood bullying. I would not feel comfortable testifying at your hearing, but I hope you can share my story and encourage members of your committee to consider how very important it is for children to feel safe at school. For me, this says it all. I ask for your support on this bill and thank you. [LB205]

SENATOR LANGEMEIER: Thank you, Senator Howard. You have heard the closing on LB205. The question before the body is, shall LB205 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB205]

CLERK: 39 ayes, 1 nay, Mr. President, on the advancement of LB205. [LB205]

SENATOR LANGEMEIER: LB205 does advance. With that, I raise the call. Mr. Clerk, items? [LB205]

CLERK: Mr. President, new bills. (Read LB990-1001 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 249-252.) [LB990 LB991 LB992 LB993 LB994 LB995 LB996 LB997 LB998 LB999 LB1000 LB1001]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Continuing on the agenda, LB210. [LB210]

CLERK: LB210 by Business and Labor Committee and signed by its members. (Read title.) The bill was introduced on January 9, referred to Business and Labor, advanced

Floor Debate
January 16, 2008

to General File. I have committee amendments pending by the Business and Labor Committee, Mr. President. (AM252, Legislative Journal page 503, First Session, 2007.) [LB210]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, as Chairman of the Business and Labor Committee, you are recognized to open on LB210. [LB210]

SENATOR CORNETT: Good morning, Mr. President and members of the body. LB210 was introduced by the Business and Labor Committee on behalf of the Department of Labor and at request of the Governor. LB210 makes changes to the membership of the Nebraska Workforce Investment Board. Before I go into further detail about the bill, I would like to give you a little background about the state Workforce Investment Board, which was created in 1998. The Workforce Investment Board Act legislation was enacted with the goal to coordinate and improve employment, training, and education systems to build a work force to meet the competitive needs of businesses nationwide. At the state level, Workforce Investment provides oversight of local areas and makes decisions regarding training and employment programs and makes advisory decisions regarding grant allocations within communities and programs. A specific project that the board oversees is the one-stop career centers throughout Nebraska. Currently, the board has 48 members and are accepting applications for a 49th member from the business community. As you can imagine, a 49-member board is rather unwieldy and difficult to manage. The federal Workforce Investment Act requires that certain government officials must be appointed to the state Workforce Investment Board, and that a majority of the members must be from the private business community. By reducing the number of public officials on the board, it will not be necessary to have as many members of the business community serving on the board. LB210 seeks to remove both the Lincoln and Omaha mayors from membership on the board. Currently, both Lincoln and Omaha mayors are members, but neither mayor has ever attended a board meeting and they are not federally mandated members of the board. The bill would also make the two members of the Legislature who serve on the board nonvoting, ex-officio members. Up until 2007, no representative of the Legislature had ever attended a board meeting. Last year, both Senator Fulton and myself attended at least one board meeting, and I think I can speak for both of us when I say that a 49-person board is very difficult to manage. The two membership changes would result in an overall reduction from 49 to 41 members. The bill would also allow the Governor to appoint a designee to represent him at the board. This designee would be allowed to vote in the Governor's place. A committee amendment addresses the quorum requirement, so I will speak to that issue when I open on the amendment. [LB210]

SENATOR LANGEMEIER: Thank you, Senator Cornett. As the Clerk has stated, there are amendments offered by the Business and Labor Committee. Senator Cornett, as Chair of the Labor Committee...Business and Labor Committee, you are recognized to open on AM252. [LB210]

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

Floor Debate
January 16, 2008

SENATOR CORNETT: Thank you, Mr. President. AM252 redefines "quorum" as a majority of voting members of the Nebraska Workforce Investment Board. The board is considering further consolidation by combining some of the nonmandatory members with some of the federally required memberships. If this consolidation occurs, then they would have less than 39 members. Therefore, 20 would be a supermajority. They have asked this body to reinstate a quorum as a majority of the voting members to accommodate these potential changes. Thank you very much. [LB210]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the opening on LB210 and the committee amendments. The floor is now open for discussion. Senator Fulton, you're recognized. [LB210]

SENATOR FULTON: Thank you, Mr. President, members. I'll be brief. It's appropriate. I serve on the Workforce Investment Board with Senator Cornett. It's appropriate for me to say that I wholeheartedly and fully support this bill. It's something that should happen and I hope that it moves forward all the way through Final Reading. Thank you, Mr. President. [LB210]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Are there any other senators wishing to speak? Seeing no lights on, Senator Cornett, you are recognized to close on the committee amendments. Senator Cornett waives closing. The question before the body is, shall the committee amendments offered by the Business and Labor Committee be adopted to LB210? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB210]

CLERK: 28 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB210]

SENATOR LANGEMEIER: Committee amendments are adopted. We return now to discussion on LB210, the bill itself. Seeing no lights on, Senator Cornett, you're recognized to close on LB210. [LB210]

SENATOR CORNETT: Thank you, Mr. President, members of the body. I will be brief. I just wish...or I urge you to support this bill. It will allow the board to consolidate and become a more friendly...more user friendly. Thank you very much. [LB210]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on LB210. The question before the body is, shall LB210 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB210]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB210. [LB210]

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

Floor Debate
January 16, 2008

SENATOR LANGEMEIER: LB210 does advance. Mr. Clerk. [LB210]

CLERK: Mr. President, LB312 is a bill by Senator Aguilar. (Read title.) The bill was introduced on January 11 of last year, at that time referred to the Government Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB312]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Aguilar, you are recognized to open on LB312. [LB312]

SENATOR AGUILAR: Thank you, Mr. President and members. This bill is in response to a situation that happened in Howard County a few years ago. In that situation, the sheriff, who was an object of a recall, resigned shortly before the election. Under current law, the election was required to go forward because there was no provision for cancelling. Additionally, there were questions raised as to whether the sheriff had actually resigned, because he hadn't resigned in writing to the county board. To address this situation, Senator McDonald introduced a bill in 2006. LB312 is based on Senator McDonald's original bill. LB312 provides that if the official who is the object of a recall resigns before the election is held, the governing body may cancel the recall election if the governing body notifies the election commissioner or county clerk of the cancellation at least 16 days prior to the election. If the body does not receive such notification, the recall election will be held as scheduled. Sixteen days was chosen simply because the county clerk or election commissioner is required to send out ballots for early voting fifteen days before the election. This will prevent the county clerk or commissioner from having to send out these ballots. Finally, the bill requires all resignation to be in writing to provide clarity on when the official actually resigns. The bill was advanced from the committee on a 7-0 vote, with 1 member being absent. There was no opposition to the bill at the hearing. I encourage you to advance this bill to Select File, and I'll be happy to try to answer any questions you may have. Thank you. [LB312]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. You have heard the opening on LB312. The floor is now open for discussion. Senator McDonald, you are recognized. [LB312]

SENATOR McDONALD: Mr. President and members of the body, this was another situation that happened in my district. Howard County is in my district and it dealt with a sheriff that had resigned but had not done so on the record. He had verbally resigned. And when he did resign on the record, it was too late to stop the election. Now, as many small counties, there's not a lot of extra money and they had to go ahead and have the recall election out there. But he had already resigned so it was...there was no reason to have it, but state statute insisted and made sure that it happened. And so what this will do is will stop those unneeded elections from happening if that person resigns in a

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

Floor Debate
January 16, 2008

certain period of time. So I totally support Senator Aguilar's bill. I think it's something that we all need to look at because it tends to create a waste of money in our counties, and we certainly cannot have that. Thank you. [LB312]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Are there any other senators wishing to speak? Seeing none, Senator Aguilar, you're recognized to close. Senator Aguilar waives closing. The question before the body is, shall LB312 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB312]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the motion to advance LB312. [LB312]

SENATOR LANGEMEIER: LB312 does advance. Mr. Clerk. [LB312]

CLERK: Mr. President, the next bill, LB379 by Senator Pahls, relates to corporations. (Read title.) The bill was introduced on January 16 of last year; at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time I have no amendments to the bill, Mr. President. [LB379]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Pahls, you are recognized to open on LB379. [LB379]

SENATOR PAHLS: Thank you, Mr. President, members of the body. LB379 was introduced at the request of the Secretary of State. The bill would amend various sections regarding corporate and business entity filings with the Secretary of State. This bill would allow digital or electronic signatures on filing. It would also allow electronically transmitted notices to corporations by the Secretary of State. The bill would allow filings with the Secretary of State to contain a post office box number, in addition to the street address, for the registered agent for service of process. The Secretary of State feels that this would be another tool being able to track down the agent, registered agent, for an entity. We were told at the hearing that sometimes the street addresses for a registered agent may change but the post office box would not. This would help the Secretary of State to find a business entity by the way of a registered agent. The bill would also repeal the term "professional limited liability company" as a definition. There is no business entity separately recognized in statute as a professional LLC. Again, these are all modernization and cleanup changes in our corporate and business entity statutes, recommended by the Secretary of State. Thank you. [LB379]

SENATOR LANGEMEIER: Thank you, Senator Pahls. You have now heard the opening on LB379. The floor is now open for discussion. Seeing no lights on, Senator Pahls, you're recognized to close. Senator Pahls waives closing. The question before the body is, shall LB379 advance? All those in favor vote yea; all those opposed vote nay. Have

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

Floor Debate
January 16, 2008

all those voted that wish to? Record, Mr. Clerk. [LB379]

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB379. [LB379]

SENATOR LANGEMEIER: LB379 does advance. Mr. Clerk. [LB379]

CLERK: LB380, Mr. President, a bill by Senator Pahls. (Read title.) Introduced on January 16 of last year; referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB380]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Pahls, you are recognized to open on LB380. [LB380]

SENATOR PAHLS: Thank you, Mr. President, members of the body. LB380 was introduced at the request of the Secretary of State. The bill would amend the Mortgage Bankers Registration and Licensing Act to make one change. The bill would provide that in an application for license as a mortgage banker, as submitted to the director of Banking, a post office box number may be provided in addition to the street address for the registered agent for the service of process. It would not be required. The Secretary of State feels that this would be another tool in being able to track down the registered agent for the mortgage banker. Thank you. [LB380]

SENATOR LANGEMEIER: Thank you, Senator Pahls. You've heard the opening on LB380. The floor is now open for discussion. Seeing no lights on, Senator Pahls, you're recognized to close on LB380. Senator Pahls waives closing. The question before the body is, shall LB380 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB380]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB380. [LB380]

SENATOR LANGEMEIER: LB380 does advance. Mr. Clerk. [LB380]

CLERK: LB383, a bill by Senator Pahls. (Read title.) Introduced on January 16 of last year; referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. Once again, I have no amendments pending at this time, Mr. President. [LB383]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Pahls, you are recognized to open on LB383. [LB383]

SENATOR PAHLS: Thank you, Mr. President, members of the body. LB383 was introduced at the request of the Secretary of State. The bill would amend various

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

Floor Debate
January 16, 2008

sections regarding partnerships, limited partnerships, and limited liability partnerships. The bill would provide that filings with the Secretary of State shall contain the street address of the entity's agent for the service of process. The bill would also provide that filings with the Secretary of State may contain the post office box number of the entity's agent for the service of process. The Secretary of State feels that this would be another tool in being able to track down the registered agent for the partnership's entity. Problems have occurred in past mailings because the number of incorrect mailings...incorrect address, I should say. This would help the Secretary of State to find a partnership's entity by the way of a registered agent. Thank you. [LB383]

SENATOR LANGEMEIER: Thank you, Senator Pahls. You have heard the opening on LB383. The floor is now open for discussion. Seeing no lights on, Senator Pahls, you're recognized to close. Senator Pahls waives closing. The question before the body is, shall LB383 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB383]

CLERK: 28 ayes, 0 nays, Mr. President, on the advancement of LB383. [LB383]

SENATOR LANGEMEIER: LB383 does advance. Mr. Clerk. [LB383]

CLERK: Mr. President, LR5CA, introduced by Senator Friend on January 5 of last year. It proposes an amendment to Article XIII, Section 2 of the Nebraska Constitution. The constitutional amendment was referred to the Urban Affairs Committee for public hearing. The resolution was advanced to General File. I have no committee amendments, although I do have an amendment pending by Senator Friend, Mr. President. [LR5CA]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Friend, you are recognized to open on LR5CA. [LR5CA]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. LR5CA is a resolution proposing a constitutional amendment that would permit the Legislature to authorize any county, city or village to acquire, own, develop and lease real and personal property suitable for use by nonprofit enterprises. The county, the city, or village could issue revenue bonds for the purpose of paying for the acquisition and financing the development. The bonds could not be a general obligation of the government subdivision and would be taxable or, depending on the circumstances, exempt from taxation during the period of any lease to the same extent as private property similarly held and used. Taxpayers would not be at risk in any way by reason of the issuance of these bonds, and activities by a city, county or a village under this subsection would be deemed for public purpose, but they are expressly prohibited from acquiring any property by exercise of the power of eminent domain for these purposes. The bonds to be issued are revenue bonds. The principal and interest payments would

Floor Debate
January 16, 2008

be secured by a pledge of the lease and any revenue derived from it. The changes proposed in LR5CA would allow Nebraska charitable organizations, organizations that are exempt under Section 501(c)(3) of the Internal Revenue Code, to be treated just like charitable organizations are in the vast majority of other states. Because of existing restrictions in the Internal Revenue Code, it's important to provide an option for local financing for such organizations. With the passage of this amendment, they could take advantage of the federal tax benefits resulting from the inclusion of their projects within the definition of the projects eligible for industrial development bonds. This is a bit complicated, and the IRS Code disallows a portion of a financial institution's deduction for interest paid. To the extent that the financial institution holds tax-exempt obligations acquired after August 7, 1986, an exemption (sic) permit (sic) issuers of less than \$10 million of revenue bonds per year--cities, counties and villages, in this instance--could designate certain tax-exempt obligations, including the 501(c)(3) bonds qualified, as provided in this amendment, as tax-exempt obligations. Now here's an example, really quickly. Goodwill Industries expressed some support a few years back of this measure; indicated, Goodwill did, that \$1.7 million of an expansion project, amortized over a 20-year period with a normal 2 to 2.5 percent savings in interest resulting from the passage of LR5CA, would provide annual savings in the amount of about \$20,000, or a combined savings of \$400,000 over the life of the project. So Goodwill Industries' strategic plan provides the need for ten new or relocated facilities over the next 20 years, this could mean potentially a savings of \$4 million over that period of time and would accrue, the benefit of this, to the charitable organization. I do have an amendment that's going to follow, because when this originally came out to the floor last year it was supposed to...the idea was that we would have this on the primary ballot. Can't do it. It's too late. This wouldn't...the proposed amendment would be that we delay the appearance of the amendment on the ballot until the primary election of 2010. The reason, and I'll explain it when the amendment comes up, the idea is that it be more amenable to voters. This failed on the ballot 4 or 5 percent last time around, and I believe it was a general election, and so did a lot of other amendments. So what I would say in closing, at least of the...in closing to the opening, is that there's benefit here, and I can explain that further if you'd like, because you're talking about giving governmental subdivisions options when it comes to the Red Crosses, the Goodwills and those type of folks of the world. So I'll explain the amendment in a minute. Mr. President, members of the Legislature, thank you. [LR5CA]

SENATOR LANGEMEIER: Thank you, Senator Friend. Mr. Clerk, for an amendment. [LR5CA]

CLERK: Mr. President, Senator Friend would move to amend the resolution with AM1536. (Legislative Journal page 172.) [LR5CA]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Friend, you are recognized to open on AM1536. [LR5CA]

Floor Debate
January 16, 2008

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, quickly, we have a proposed amendment here in AM1536 that would delay the appearance of the amendment on the ballot until the primary election of 2010--more than two years from now. With the adoption of this amendment, supporters will have sufficient time, we believe, to educate the public and make the case for the amendment. It would also ensure that the proposal would appear on the relatively uncluttered primary ballot, if you will, where it would not be competing with other proposals for voter attention. That's it. I would be happy to answer any questions. Like I said, this has been out there before, but we've explained the benefits. I think they're legitimate. I think it's significant. I would ask for the adoption of AM1536 and the advancement of LR5CA. Thank you, Mr. President. [LR5CA]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have now heard the opening on AM1536 to LR5CA. The floor is now open for discussion. Are there any...Senator Avery, you are recognized. [LR5CA]

SENATOR AVERY: Thank you, Mr. President. If I could get Senator Friend to listen to this, I might be able to offer a slight piece of advice here. You remember last session we passed my priority bill that put on the primary ballot this May a provision that would change the constitution to allow public endowments to invest according to prudent investor standards. We just completed a statewide poll and this is not going to be easy, not like I thought it would be when I addressed you last year. One of the...Senator Chambers is nodding his head like I told you so. One of the things we learned is that in primary elections you have a lot more older voters that turn out in those elections than younger voters. What we also learned is that when it comes to money and government, people don't trust us with money. I guess that's not a revelation. (Laugh) We also found out that in matters involving money that people are a little bit cautious and, because of that, there's a tendency to enter the voting booth with a predisposition to vote no. I think that in this case it's probably not clearly a matter of money, but I think you need to be a little bit concerned about whether you put it on the primary ballot or the general election ballot, because if you...you really have to understand or try to anticipate the kind of voter that's going to turn out and what kind of reception your amendment will get from those voters. Plus, as you pointed out, you want an uncluttered ballot, which is what I was seeking when we voted on LR6. I wanted an uncluttered ballot. I got it. Amendment 1--only issue on the ballot, but we still have a fight. I mean it's going to be tough. So I thought you might want to know the results of that poll and it might cause you to reevaluate. I don't have any real advice for you, like I said I did, but information. Thank you, Mr. President. [LR5CA LR6CA]

SENATOR LANGEMEIER: Thank you, Senator Avery. Are there any other senators wishing to speak? Seeing none, Senator Friend, you are recognized to close on AM1536. [LR5CA]

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

Floor Debate
January 16, 2008

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Mr. President, I'm closing on the amendment? [LR5CA]

SENATOR LANGEMEIER: Yes. [LR5CA]

SENATOR FRIEND: Thank you. Senator Avery brings up a valuable and interesting point, but we don't have gambling in this state, but if we did, this would be like me running up to a craps...I've never...well, wait a minute. I have played on a craps table before, I admit it. This would be like me throwing the dice. I really don't know. I really don't know. And, frankly, it's not...I mean, you want me to be honest? Right here, right now, it's not really my call. I don't really care, actually. What I care about is that the voters, either on a primary ballot or a general election ballot, understand what LR5CA does. I'm not downplaying what Senator Avery said. I just think it's two things. I think it's a dice roll. I'm not sure that anybody has any hard and fast statistics that tell us that one is going to be better than the other and, again, frankly, I don't know that I care. The education process is going to be there. I think the 2010 primary ballot...primary ballot is one thing. I think 2010 gives folks, citizens, advocates and everything...everybody else time to educate the public. I think time is the key here because this thing...and remember, again, this thing failed on the ballot two years ago. So I don't mean to sound ambivalent, but I am. I want them to have time (laugh)...I want them to have time and consider it Mike Friend following certain types of marching orders because the people that are going to be promoting and using that time are the ones that feel that this is best. So I'm being honest. I don't have necessarily a "dog" in the timing fight. I do believe in LR5CA. Let me tell you really quickly why, and Mines, last year, told me to knock it off, you're killing your own bill. No, I'm not, and he's not here anymore so...(laughter). The Red Cross, the Red Cross would benefit, for example. If they came out and said we would like...we need a building. Right now they're staring at the idea of going in to procure a general type of commercial installment loan. Look, this opens up options for an organization like that. That's what we're dealing with here. This opens up options. There is no risk, if you will, to the taxpayer. The charity is on the hook. The charity is staring at a revenue bond situation. So I would ask again for the adoption of AM1536. I appreciate Senator Avery's concern, I share it, but LR5CA is important. Timing isn't quite as important to me. I would ask for the adoption of the amendment and the advancement of LR5CA. Thank you, Mr. President. [LR5CA]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the closing on AM1536 to LR5CA. The question before the body is, shall AM1536 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LR5CA]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Friend's amendment. [LR5CA]

Floor Debate
January 16, 2008

SENATOR LANGEMEIER: AM1536 is adopted. Mr. Clerk. [LR5CA]

CLERK: I have nothing further on the resolution, Mr. President. [LR5CA]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We return now to floor discussion on LR5CA, the bill itself. Senator Louden, you are recognized. [LR5CA]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I wonder if Senator Friend would yield to some questions, please. [LR5CA]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LR5CA]

SENATOR FRIEND: Absolutely. [LR5CA]

SENATOR LOUDEN: I read some of the summary of the purposes and that sort of thing of this bill. What I'm wondering is, on some of it, it said such bonds would not be a general obligation of the governmental subdivision. Now if they're not an obligation of that subdivision, who is going to pay for these bonds and how are you paying these off? Because we just got our fingers burnt down here in this Republican River deal by the fact that you couldn't sell bonds unless you had a tax levy to pay them off. How did you address that problem here and get around it? [LR5CA]

SENATOR FRIEND: Well, I hope I'm answering the question properly. The revenue bonds that the charity is on the hook for and the bank that would be the issuer of those revenue bonds...I mean the governmental subdivision, to answer your question, the governmental subdivision can't be on the hook because they're not the ones that are issuing those revenue bonds, if I'm not mistaken. [LR5CA]

SENATOR LOUDEN: Then this is all between the nonprofit organization and the bankers that are doing this? [LR5CA]

SENATOR FRIEND: Yeah. What is a...a banker is...the charity is the bondholder then, right? [LR5CA]

SENATOR LOUDEN: Okay. But somebody has got to... [LR5CA]

SENATOR FRIEND: And the banker is the one that issued it. [LR5CA]

SENATOR LOUDEN: Somebody has got to guarantee those bonds. I mean who guarantees that that bond will be paid off? [LR5CA]

SENATOR FRIEND: The charity. My understanding of it would be the charity, based

Floor Debate
January 16, 2008

on... [LR5CA]

SENATOR LOUDEN: The charity. [LR5CA]

SENATOR FRIEND: ...the revenue that they generate. [LR5CA]

SENATOR LOUDEN: Well, now can you... [LR5CA]

SENATOR FRIEND: That's why they're paying the...that's how they're paying the lease. [LR5CA]

SENATOR LOUDEN: Okay. Then can you sell those bonds? Will anybody buy those bonds if there isn't anybody that's going to be responsible for them other than a charitable institution? [LR5CA]

SENATOR FRIEND: Well, are you asking me to speculate? I guess so, yes. [LR5CA]

SENATOR LOUDEN: Okay. Because that was a problem when we worked on this other deal, that they told us that they couldn't sell the bonds unless they were...somebody guaranteed the money, and it usually took a tax levy or something like that to guarantee the money on the bonds. And I'm wondering then why...are you calling these just like if you're buying bonds on a corporation or something like that and they'll be rated AA or someplace like that? Is this what that is? And if that's the case, then do we need a constitutional amendment to do that with? Because it would be a nonprofit organization just selling bonds. Does that have to be in statutes or in the constitution now that a nonprofit organization is able to sell bonds? [LR5CA]

SENATOR FRIEND: Specifically, no, but I think it has to be...I think we have to change the constitution in order for a...to authorize any county, city or village to acquire, own and develop and lease that real and personal property. So that's the key, I think. [LR5CA]

SENATOR LOUDEN: Okay. Now... [LR5CA]

SENATOR FRIEND: That's the reason that...that's the reason an amendment is needed. [LR5CA]

SENATOR LOUDEN: Okay. Because I was wondering if the reason for that amendment was more or less to give them that tax-exempt authority... [LR5CA]

SENATOR FRIEND: No. [LR5CA]

SENATOR LOUDEN: ...to sell the bonds rather than the privilege to sell the bonds.

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

Floor Debate
January 16, 2008

[LR5CA]

SENATOR FRIEND: No, Senator Louden, that's not my understanding, no. [LR5CA]

SENATOR LOUDEN: Okay. [LR5CA]

SENATOR FRIEND: That wouldn't be the reason. [LR5CA]

SENATOR LOUDEN: Okay, thank you, Senator Friend. [LR5CA]

SENATOR FRIEND: You're welcome. [LR5CA]

SENATOR LOUDEN: Thank you, Mr. President. [LR5CA]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Pirsch, you're recognized. [LR5CA]

SENATOR PIRSCH: Thank you, Mr. President. I was wondering if Senator Friend would yield for a question. [LR5CA]

SENATOR LANGEMEIER: Senator Friend, would you yield? [LR5CA]

SENATOR FRIEND: Yes, I will. [LR5CA]

SENATOR PIRSCH: Is this structure in place in any other state, to your knowledge? And by "structure," I mean the ability of these 501(c)(3) nonprofits to issue revenue bonds. Are you aware of any other state has a similar provision? [LR5CA]

SENATOR FRIEND: Senator Pirsch, I don't...I don't know, because our constitution deals with it a little bit differently than all the other states. I know that there are other states that will allow this sort of transactional mode, but I can't tell...I don't know who. And I can get that information for you, though. [LR5CA]

SENATOR PIRSCH: Great. I guess I'd be interested. Obviously, if the only...the bonds would be backed by...well, could you explain the typical context under which a 501(c)(3) nonprofit would want to raise money through revenue bonds. [LR5CA]

SENATOR FRIEND: Well,... [LR5CA]

SENATOR PIRSCH: Just a typical scenario or a... [LR5CA]

SENATOR FRIEND: Yeah, the Red Cross...yes, Senator Pirsch, the Red Cross scenario, where the Red Cross is authorized to issue those bonds. They build a building

Floor Debate
January 16, 2008

and lease it...and then it's...they build the building and they are paying a lease, so in other words the bank is...you know, got a different and a creative way to collect that, to collect that benefit, if you will. And the benefit, the ultimate benefit, is that the Red Cross needed a building and if the bonds are issued back at a cheaper rate than a normal, commercial installment loan, I mean that's probably not the best way to describe it, but if they're issued back at a cheaper rate than an installment loan could give them from a...with the limited tools that the bank has, then the beneficiary is the Goodwill or the Red Cross. They got a new building and they got it pretty cheaply in the long run, is they're going to...the revenue is going to affect...or the revenue is going to reflect that. [LR5CA]

SENATOR PIRSCH: Yeah. Would it ultimately be individual investors who are bringing forth the money that would go towards the building and then the... [LR5CA]

SENATOR FRIEND: No, I don't think, normally. I don't know, that's an interesting question. I don't think normally it would be. I think what you're talking about...well, it depends on what you consider an individual investor. There's a lot of independently...there's a lot of independent commercial banks in this state, right? Less now than there were in 1980 or whatever, but I mean that could be considered an individual investment. I don't know. [LR5CA]

SENATOR PIRSCH: Okay. I'm just trying to get a sense or an idea of how these deals are structured. Obviously, there's a need on behalf of the nonprofit for an up-front amount of money, a large sum that... [LR5CA]

SENATOR FRIEND: Yeah. [LR5CA]

SENATOR PIRSCH: ...they don't have currently but they, over the course of time, can make payments, similar to a loan. And so they approach...how would these nonprofits then go about, through this bill, achieving this financing, so to speak? They would...they have the capacity to issue these revenue bonds. Do they go through a bank then, and is the bank guaranteeing the revenue bond, or how does that work exactly? [LR5CA]

SENATOR FRIEND: The charity would be guaranteeing the revenue bond with the money that it made on...but they go through a bank, yeah. That's exactly right. [LR5CA]

SENATOR PIRSCH: At the end of the day, the money is guaranteed by the...something that... [LR5CA]

SENATOR LANGEMEIER: One minute. [LR5CA]

SENATOR PIRSCH: ...with respect to Red Cross, the ability to have future donations, correct? They're not a commercial enterprise and so the ability to repay those revenue

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

Floor Debate
January 16, 2008

bonds would be guaranteed through the ability to collect donations over the course of time, correct? [LR5CA]

SENATOR FRIEND: Sure, along with the revenue that they generate, I think. I mean, Goodwill generates revenue from its sales, right? I mean everything they get is almost free...almost everything they get is free. It's a donation. So there's a revenue there and I don't know what exactly what those are. But, I mean, I think it's a combination of both... [LR5CA]

SENATOR PIRSCH: Okay. [LR5CA]

SENATOR FRIEND: ...that they could use...utilize. [LR5CA]

SENATOR PIRSCH: And maybe I'll ask a little bit more. I'll speak again. I don't know if there's another speaker, but I'll push my button and ask a few more questions a little later. Thank you, Mr. Speaker. [LR5CA]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Mr. Clerk, items for the record. [LR5CA]

CLERK: Mr. President, new bill. (Read LB1002 by title for the first time.) I have a hearing notice from Judiciary Committee, signed by Senator Ashford, as Chair of the committee. Announcement: Reference will meet upon recess in Room 2102. A series of name adds: Senator McDonald would like to add her name to LB157; Senator Lautenbaugh to LB770; Senator Pankonin to LB920. (Legislative Journal pages 252-253.) [LB1002 LB157 LB770 LB920]

And I do have a priority motion, Mr. President. Senator McGill would move to recess until 1:30 p.m. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. You have heard the motion to recess until 1:30 this afternoon. All those in favor say aye. All those opposed say nay. We are at recess. []

RECESS []

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record. []

ASSISTANT CLERK: There is a quorum present, Mr. President. []

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

Floor Debate
January 16, 2008

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Do you have any items for the record? []

ASSISTANT CLERK: Mr. President, I do. I have a Reference Committee report that was adopted this afternoon through the lunch hour; a letter from Senator Wallman declaring LB575 to be his priority bill for this session; Senator Pahls would ask to add his name to LB157; and I have a new bill. (Read LB1003 by title for the first time.) That's all I have at this time. (Legislative Journal pages 254-255.) [LB575 LB157 LB1003]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Now pursuant to the agenda, it is 1:30. We're going to move down to General File, 2008 senator priority bills, LB157. [LB157]

ASSISTANT CLERK: Mr. President, LB157, introduced by Senator Stuthman. (Read title.) The bill was read for the first time on January 8 of last year, referred to the Judiciary Committee. That committee advanced the bill to General File and the bill was considered last year by the Legislature. The committee amendments had been offered. (AM250, Legislative Journal page 689, First Session, 2007.) Senator Stuthman had offered an amendment to the standing committee amendments and Senator Chambers had then offered a priority motion, that being to bracket until May 25. Senator Chambers, I understand you want to withdraw that particular bracketing motion. In that case, Mr. President, we are back to Senator Stuthman's AM844. Senator Stuthman, I have a note that you wish to withdraw this one and substitute AM1574. [LB157]

SENATOR LANGEMEIER: So done. It's been quite a while since we last addressed this bill. Senator Stuthman, would you reintroduce LB157. [LB157]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. Last year I introduced LB157, which was my priority bill last year. It was a safe haven bill. What this bill was intended to do was to give a female another option as to where she could take the possible unwanted baby. Originally we had in the bill that they could be left or delivered to a fire station or to a hospital. We did change a few of the things at that time and put it just to a hospital. What my real intent for this bill is two things: number one is the safety and protection of the infant, the baby, and also protection of the mother. These mothers that are in this situation, to me, are not criminals. They should not have to be prosecuted for something that has happened to them. I think those are the two main things that I'm trying to accomplish. When we had testimony when the bill was heard, there was some opposition. There was opposition from hospital association. There was opposition from child advocacy center, Voices for Children, some of those that were not real happy with some of the wording in my bill. Throughout the summer, my staff and I have worked with these agencies and hopefully come up with something satisfactory for everyone concerned. We did debate the bill last year in the final days of

Floor Debate
January 16, 2008

the session, and at that time, I decided to pull it off the agenda because of the time that was needed to hopefully get that bill passed yet last year. I thought we wouldn't have enough time. So I did pull the bill off of the agenda, hopefully to have it come up this year early in the session, which I'm very fortunate to have the Speaker get it on the agenda at this time. I will also say this is my priority bill again this year, so I'm going to try to make every effort to get this passed at this time. Those are my opening comments as far as the original LB157 are concerned, and I think there are some committee amendments that maybe we can address at this time. Thank you, Mr. President.
[LB157]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. As you've heard the Clerk state, there are committee amendments offered by the Judiciary Committee. Senator Ashford, as Chairman of that committee, would you give us a brief reintroduction?
[LB157]

SENATOR ASHFORD: Thank you, Mr. President and Senators. This committee...we did open on this committee amendment last year, and it's my understanding that there will be some amendments to the committee amendments that will strike these amendments and insert additional language. And Senator Stuthman has explained those to me and they're rather substantive. So rather than go into any great depth on these committee amendments, which we will be...there will be an amendment to immediately after this, I think what I will simply do is state that the committee did address this bill, that it was advanced to the floor on a vote of 5 to 3, that there was a thorough discussion in the committee. There was some concern, as Senator Stuthman has suggested, that we attempted to iron out in the committee amendments dealing with HHS and some of the criminal penalties and the liability sections. But with that, Mr. President, I think it might be appropriate at this time to go to Senator Stuthman's amendments to the committee amendments. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Mr. Clerk, for a motion.
[LB157]

ASSISTANT CLERK: Mr. President, Senator Stuthman would offer AM1574.
(Legislative Journal pages 255-257.) [LB157]

SENATOR LANGEMEIER: Senator Stuthman, you are recognized to open on your amendment. [LB157]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'm going to give you some of the details of the amendment that we have before us at this time. In Section 1, it allows a mother to leave her infant in a hospital when the infant is 72 hours old or less. So this is an infant. When a hospital staff member takes temporary custody, it shall perform any act necessary in accordance with general accepted practices of the

Floor Debate
January 16, 2008

professional practice to make sure the child is healthy, notify the Department of Health and Human Services within four hours, and place such child with a child placement agency as defined in Section 43-212 (sic). Generally accepted standards of professional practice means medical treatment or care of the type, quality, and the amount that a hospital staff person would be expected to provide according to the professional standards of care for hospital staff with regard to the medical treatment and care of infants. In Section 2, the mother may claim the child within 48 hours after delivery of the child to the hospital staff member. Such claim shall be made to the entity having physical or legal custody of this child. If this mother that had placed this child at the hospital does not reclaim the child within 48 hours, she shall be presumed to have intended to leave the child and consented to termination of her parental rights. In Section 3, Department of Health and Human Services shall contact the Nebraska State Patrol to determine if the child is a missing person. In Section 4, the Department of Health and Human Services shall maintain and update a monthly report of the number of children who have been left with safe haven providers and the number of children abandoned by other means. And beginning in January 1, 2009, the department shall submit an annual report to the Legislature that compiles the monthly reports required. In Section 5, the department, Nebraska Hospital Association, and the Nebraska Adoption Agency Association shall develop and implement a public information program to inform the general public of this new safe haven law. The program may include materials in print, audio, video, electronic, or other media, public service announcements, and ads, and the establishment of a toll-free hot line. The department shall develop a method that would allow the parent of any newborn infant placed under this section to provide information about her medical history of the infant, including family medical history. Section 6, the department shall explore the possibility of expending funds received from the United States Department of Health and Human Services pursuant to the Promoting Safe and Stable Families Program in order to implement the public information program. Section 7, the mother would avoid prosecution when leaving the infant with...excuse me, the mother would avoid prosecution when leaving the infant if the mother provides the hospital staff with a proof of her identity. Those are the portions of the bill that this amendment primarily has concerns with. There are some issues in there that were brought up by some of the opposing entities when we had a hearing on it, and hopefully this takes care of the concerns of all the people that have interest in this bill. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. You have now heard the reopening of LB157, the committee amendments, and AM1574 to the committee amendments. The floor is now open for discussion. Wishing to speak we have Senator Chambers, Synowiecki, Pirsch, and Ashford. Senator Chambers, you're recognized. [LB157]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when there is a boxing match the pugilists, the contestants seldom come out swinging for all

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

Floor Debate
January 16, 2008

they're worth. They kind of spar and dance around, see what the other one is likely to do, in a process known as feeling out. So that's how this debate will commence. I'd like to ask Senator Stuthman a feeling-out question or two. [LB157]

SENATOR LANGEMEIER: Senator Stuthman, would you yield to a question? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR CHAMBERS: Senator Stuthman, did you show this amendment to the Nebraska Hospital Association or its representative? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR CHAMBERS: And they agreed with this amendment? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR CHAMBERS: Did they say they support it or they don't object to it? [LB157]

SENATOR STUTHMAN: Well... [LB157]

SENATOR CHAMBERS: In other words, if I were to ask them their position, would they say they support this amendment or would they say they don't object to it? [LB157]

SENATOR STUTHMAN: I would say that they would support it because we have addressed the portions of the bill that they had concerns with. [LB157]

SENATOR CHAMBERS: And that didn't simply make them neutral, it brought them over to the side of supporting, if I understand you correctly. [LB157]

SENATOR STUTHMAN: This is correct. [LB157]

SENATOR CHAMBERS: Did you talk to the Nebraska Medical Association representative? Did you? [LB157]

SENATOR STUTHMAN: No, no. [LB157]

SENATOR CHAMBERS: So...and they were an opponent, weren't they, of the bill? [LB157]

SENATOR STUTHMAN: I am not sure. I'd have to look. [LB157]

SENATOR CHAMBERS: Is this your bill, Senator Stuthman? [LB157]

Floor Debate
January 16, 2008

SENATOR STUTHMAN: Yes. [LB157]

SENATOR CHAMBERS: Did you say that there were people who had opposed it, entities that had opposed it? [LB157]

SENATOR STUTHMAN: Yes, there were a number of entities. [LB157]

SENATOR CHAMBERS: And you told us in your opening that over the summer you had talked to these entities and worked out the difficulties that they had. Is that correct? [LB157]

SENATOR STUTHMAN: That is true. [LB157]

SENATOR CHAMBERS: If I look at the opponents, I see the Nebraska Medical Association as an opponent. But that association you did not talk to over the summer? [LB157]

SENATOR STUTHMAN: I am not aware I was talking to them. I would have to refer to my staff. [LB157]

SENATOR CHAMBERS: Oh, so you didn't talk to any of these groups or individuals yourself? [LB157]

SENATOR STUTHMAN: Yes, I did. [LB157]

SENATOR CHAMBERS: Well, why didn't you choose to talk to the Nebraska Medical Association? Did you consider them to be inconsequential or of little importances? [LB157]

SENATOR STUTHMAN: No. [LB157]

SENATOR CHAMBERS: Well, could you tell me, if you recall, which ones you yourself talked to? [LB157]

SENATOR STUTHMAN: The ones that I had talked to were Nebraska Hospital Association, Nebraska Medical Association... [LB157]

SENATOR CHAMBERS: So then you did talk to the Nebraska Medical Association. [LB157]

SENATOR STUTHMAN: Yes, yes. And I'm glad you alerted me to that now. It comes back to me when I see who the individual was with the Medical Association. [LB157]

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

Floor Debate
January 16, 2008

SENATOR CHAMBERS: And that person now is a supporter of the bill or one who no longer has opposition? [LB157]

SENATOR STUTHMAN: They no longer have opposition to the bill. [LB157]

SENATOR CHAMBERS: How many worked with you in drafting and crafting this amendment, if you recall, roughly? More than five people worked on it? [LB157]

SENATOR STUTHMAN: I would say...could you clarify that question as far as people or... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR STUTHMAN: ...agencies? [LB157]

SENATOR CHAMBERS: Okay, people. [LB157]

SENATOR STUTHMAN: Yes, it was more than five. [LB157]

SENATOR CHAMBERS: How many agencies were represented in the discussions, so that we cover both of these items, if you recall? [LB157]

SENATOR STUTHMAN: If I recall, I think there was four agencies that I talked to. [LB157]

SENATOR CHAMBERS: Okay. Whose hand or pen or typewriter or word processor actually put the words on the paper, if you recall? In other words, who wrote this amendment? [LB157]

SENATOR STUTHMAN: Myself and my staff. [LB157]

SENATOR CHAMBERS: You used the word computer, the word processor, or your staff wrote it? [LB157]

SENATOR STUTHMAN: The staff wrote it after we communicated from these agencies as to what portion of... [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR STUTHMAN: Thank you. [LB157]

SENATOR CHAMBERS: Thank you, Mr. President. [LB157]

Floor Debate
January 16, 2008

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Synowiecki, you're recognized. [LB157]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Good afternoon. Senator Stuthman, would you yield to a couple questions? [LB157]

SENATOR LANGEMEIER: Senator Stuthman, would you yield? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR SYNOWIECKI: First of all, you know, thank you for your persistence with this bill. I don't know...you weren't down here but the very first bill I put in as a member of the Legislature was a safe haven act. And in your opening, Senator Stuthman, I agree relative to the protection of the newborn baby. I...relative to the criminalization of the mother, Senator Stuthman, do you really think that any county attorney in the state of Nebraska would level criminal charges against a mother who, in everyone's eyes, is probably...this bill essentially targets young mothers who are probably, number one, in denial that they're pregnant to begin with and are in a panic situation upon the delivery of the baby. And those young mothers that make the right decision and get that baby to a safe harbor, to a safe place, do you really think they would be criminally prosecuted? [LB157]

SENATOR STUTHMAN: Well, I am very considerate of the situation that these mothers are in. And I think if the attorneys would all have the common sense and the respect of the situation that those people are in, I don't think they would prosecute them. But there is the chance that they could be prosecuted because that they have abandoned a baby. And that, I think, is in some statute of child abandonment. They could, but... [LB157]

SENATOR SYNOWIECKI: You're absolutely correct. [LB157]

SENATOR STUTHMAN: ...if that would never happen, that would make me the happiest person around. [LB157]

SENATOR SYNOWIECKI: Yeah, that's a fair response, Senator Stuthman. I respect that response and I think there's been one or two sensational kind of cases that occurred since last session. And if I recall those situations correctly, there were no criminal charges levied against the mother. [LB157]

SENATOR STUTHMAN: That's right. [LB157]

SENATOR SYNOWIECKI: Senator Stuthman, when I carried this bill some time ago, six years go, whenever, there was substantive opposition from adoption agencies. And I

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

Floor Debate
January 16, 2008

might...my own agency that I work for outside of the Legislature had some serious apprehensions relative to adoption protocols and procedures in these instances. Can you point me to, substantively in the amendment, where those concerns that were raised when I brought this bill have been mitigated? Section 5 speaks to the Department of Health and Human Services working in conjunction with other departments and agencies of the state, hospital associations and other entities, and the Nebraska Adoption Agency Association or its successor. But I don't see where it's...there's any substantive language there to remedy the concerns that were quite prevalent back when I brought this bill from the adoption agencies. [LB157]

SENATOR STUTHMAN: I am trying to find it, Senator Synowiecki. [LB157]

SENATOR SYNOWIECKI: I think, and I hope I'm not mistaken, but my cursory review of the amendment that you presented here this afternoon, the only mention of adoption in this would be--again, I hope I'm not misleading you--is in Section 5. And I'm not seeing anything that, you know, in my mind would substantively address the opposition and the concerns that were brought to me back when I carried the bill, other than it talks of toll-free numbers and public service announcements and that sort of thing. [LB157]

SENATOR STUTHMAN: Senator Synowiecki, I know this was a concern... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR STUTHMAN: ...of the adoption agencies and it is in here and I'm trying to find it. We did address it because we have...they...the Department of Health and Human Services is to notify a licensed childcare agency of the fact that a child has been placed at the hospital. [LB157]

SENATOR SYNOWIECKI: Okay. Well, thank you, Senator Stuthman. I do appreciate, again, your persistence on the bill. I think I'm going to support the bill. I am, though as a practical matter, confident that mothers under these situations would not be--I hope they wouldn't be, I agree with Senator Stuthman--as a practical matter would not be prosecuted under these sorts of circumstances. But nevertheless... [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR SYNOWIECKI: Time? Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Ashford, you are recognized, followed by Dubas. [LB157]

SENATOR ASHFORD: Just for...thank you, Mr. President. Just for clarification, I had some questions from members of my committee, Senator Schimek and others,

Floor Debate
January 16, 2008

regarding changes in this bill to what the committee amendments were. And one of the changes is the 48-hour provision. In the initial committee amendments that we discussed last session, there wasn't a reclaiming time in that bill. There was...they had, I believe, 30 days...the mother had 30 days to take the child to one of these locations. That has been changed. There's now...they have 72 hours, I believe, in these amendments or Senator Stuthman's amendment. So those are changes from the committee amendments. Senator Stuthman, just for the record, I would...if I could ask you a question. [LB157]

SENATOR LANGEMEIER: Senator Stuthman, would you yield? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR ASHFORD: And I know there are some questions here. On the 48-hour, if you could just give me some of your thoughts as to your thinking on the 48-hour period, why that is in there and what the reason for the change is from the committee amendments. [LB157]

SENATOR STUTHMAN: Okay. Thank you, Senator Ashford, for asking that question. And I'll explain to you why I put that in there. We had the instance in Omaha where the child was left at the hospital. And then the grandparents were notified that the daughter had placed the child in the hospital. Then, you know, they wanted to claim it back. They wanted to take the baby back. Fortunately, that did happen. And the reason that I put this in there, you know, I thought it would be okay to put that in there, was the fact that maybe there should be some provisions in there where if this happens, that there should be a short period of time where they could claim it back when they maybe made a bad decision to start with. And that gives them the opportunity, you know, to take it back in a certain situation. We have researched it in other states and they do have a provision for that, for the reclaiming of that. I don't know for sure which ones have it, but I think there are some. And that was the reason. And the main reason was because, you know, I felt there should be a process in there where the mother, after making a hasty decision, has a chance and opportunity to reclaim it. If it causes too much of a concern or hassle, you know, I'm willing to work, willing to pull it out. That is no problem. But I just thought that since the one in Omaha was and had that type of a situation where they did claim it back after it was abandoned or left there. And she thought we had a safe haven law. [LB157]

SENATOR ASHFORD: And I believe--just, Senator Stuthman, one other quick question--if I might, Mr. President, members, there are some changes in Senator Stuthman's amendments which our committee did not review as a committee. And we're taking a look at those now to see how they work together with each other and with other states that have adopted these rules. But I think in my case, and I think we do need some more discussion on the 72-hour period versus the 30-day period that was in the

Floor Debate
January 16, 2008

committee amendments for the right to leave the child... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR ASHFORD: ...at one of these locations. I think our concern, my concern as a committee member is that though this does not happen a great deal, it does happen, and that there are numerous regulations and rules and agencies that are involved in these issues once one of these incidents occurs. And Senator Stuthman has changed some of those provisions and he stated, I think, well some of his reasoning as to why he made those changes. I think it's a good discussion, it's an important bill because we do want to, if we can, save the lives of these infants. On the other hand, we don't want to invite unnecessary abandonments either. Mothers, the fathers need to be responsible for their infants. So this is a very important debate, but I think we need to have a little more discussion. I may turn my light on--Senator Howard, I know, has had good experience in this--to talk a little bit more about these other agencies and rules that enter into this, and we'll do some more research on the side here as the debate goes along. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Wishing to speak we have Senator Dubas, Schimek, Chambers, Pirsch, and others. Senator Dubas, you're recognized. [LB157]

SENATOR DUBAS: Thank you, Mr. President. Would Senator Stuthman yield to a question, please? [LB157]

SENATOR LANGEMEIER: Senator Stuthman, would you yield? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR DUBAS: Senator Stuthman, I have a question on the amount of time where if the woman decides she wants her child back that she can come back. Is this just, okay, she shows back up at the hospital and says I've changed my mind, can I have my baby back, and no questions asked, the baby is returned? Or are we providing any kind of support system for this woman to help her through this difficult time so that she's not changing her mind a couple days later, saying I can't handle it? I mean, it seems to me like it's a lot more complex than just returning a blouse to the department store. [LB157]

SENATOR STUTHMAN: Senator Dubas, the real intent for this, in my opinion, was I felt that after there was kind of a cooling off period for the mother, that maybe she had made a bad decision and within the 48 hours if she wanted to return for the child, she could do this. Now there's another important component of that. If...you know, we're thinking that just somebody comes back and says I want to take this baby. That's where the component of she has to prove proof of identity when she leaves the child there.

Floor Debate
January 16, 2008

That's in my bill. And I think, you know, in order to come back and get this she has to prove proof of identity, because it could be really a complex situation if we didn't have that in there with the proof of identity in having that they could return for the child within 48 hours. [LB157]

SENATOR DUBAS: Oh, I would agree that she would need to have the proof of identity. But again, this woman is in a state of a great deal of distress. And so even though she's had a few days to reconsider the decision that she made, I would consider her still being under a great deal of distress. And so is there any kind of assistance that, okay, in order for you to take your child back we need you to go through some counseling or, you know, anything else that would help her deal with the decision that she's just made? [LB157]

SENATOR STUTHMAN: At the present time, no, there isn't anything in my bill that addresses that situation of a procedure to reclaim the child. There isn't anything in my bill according to that. [LB157]

SENATOR DUBAS: I support the safe haven concept but this would be a concern of mine, that you would just have someone coming back and, again, if this woman hasn't dealt with the emotional issues that she's going through and we're turning this child over, that we could be placing her or the child in an even more difficult or complex situation. So I'm glad to hear that you're willing to work on this and maybe this is an issue we could address down the line. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Schimek, you're recognized. [LB157]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise because I am feeling very conflicted about this. As some of you may not remember, or you may, I was not in favor of this bill last year. I don't believe I voted to send it from committee. And part of the reason is...yes, I didn't vote it out of committee. Part of the reason is because so many awkward--or complicated would be a better word--kinds of questions came up in the discussion. But I was feeling as if maybe I could support this bill this year, and told Senator Stuthman that I was leaning that direction. But when I see and hear about the particulars in the bill, I'm even more concerned than I was last year, Senator Stuthman. First of all, the 72-hour provision, I'm not sure that I think that's long enough and I don't know how you tell if a child is only 72 hours old. How do you tell that? What if that child is really, let's say 110 hours old, and this woman brings this child to this hospital and, you know, she may or may not be even from the same city, how is that checked? Do they have to check on the child's, the hours the child has been in this world before they accept that baby? I can see kind of some questions about that. But that's minor compared to that 48-hour provision. And Senator Dubas touched on this, and Senator Ashford and others. But consider that in most cases in this kind of

Floor Debate
January 16, 2008

abandonment it is a young mother. It is someone who is probably not married. It is someone who is scared out of her mind that, one, her parents may find out or, number two, what it's going to do to her life. She's very confused and in a lot of cases she doesn't have anybody to lean on. So the quickest way to solve her problem is to abandon the baby. Now I understand your motivation and I think it's a really good motivation because if this bill would save only one baby, it would be worth passing. But to say that there would be a presumption that this mother has abandoned this baby if it's 48 hours I think is really terrible. This mother may...who knows? She may have postpartum depression, she's most certainly going through emotional upheaval. Forty-eight hours is only two days, and I don't think that even comes near meeting her needs at this point. I would echo what Senator Dubas said, and I would not vote for this bill with particularly that provision in it. And I think you're hearing from enough people that I think maybe there needs to be some work on this provision. I'd like to vote for this bill because, as I said, I think if it really does save some lives, it would be worthwhile. [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR SCHIMEK: Thank you, Senator Stuthman. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Mr. Clerk, items for the record. [LB157]

CLERK: Thank you, Mr. President. Series of hearing notices: Health and Human Services Committee, chaired by Senator Johnson; Revenue Committee, chaired by Senator Janssen; and Natural Resources, chaired by Senator Louden. A new bill. (Read LB1004 by title for the first time.) And I have an amendment to be printed to LB586. (Legislative Journal pages 258-259.) [LB1004 LB586]

Mr. President, with respect to LB157, I have a priority motion. Senator Chambers would move to recommit the bill to the Judiciary Committee. [LB157]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Chambers, you are recognized on your motion to recommit. [LB157]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a cruel bill. Last session I pointed out how sloppily drafted, in my opinion, the committee amendment was. People who supported the bill agreed, but wouldn't offer any amendments. This is poorly crafted, too, and I need some time and I'm going to take it to go through it. But here's what's going to happen. This is an emotional bill. The senators are going to get emotionally wrought up and make an emotional vote and say I can't vote against it even though I know it's trashily drawn. Cloture will be invoked, the thing will move. And when that happens, I'm going to declare war on the Legislature.

Floor Debate
January 16, 2008

We are dealing with a very serious issue here and it is not being handled well. Senator Stuthman did give me a copy of his amendment yesterday in the evening. Now this bill, as envisioned by Senator Stuthman, changes from the green copy, which said a parent could bring the child. Issues were raised so now they make it possible just for the mother. What they really should say if they're going to be realistic is that if a woman brings the child. If all of this is done anonymously, you don't ask this person who she is. Hospitals have security video cameras. There's going to be no anonymity. They talk about, in this amendment, the woman calling some hot line number and giving information relative to family medical history. Is there anything in the bill, since it's supposed to be done anonymously as mentioned on page 3 in line 13, is there anything to say that this phone cannot be equipped with caller ID? No, we're supposed to trust...you all are supposed to trust. I don't trust anything in this bill. This amendment that I have in my hand contains many notations. If you start out in Section 1 where it tells the person to whom the woman delivers the child, it is a hospital staff member who engages in admission, care, or treatment. Let's say the person engages in admission. All this person does is sit down and write out information. When we get down to line 20, it says language to this effect and it continues on to page 2. For purposes of this section, and they put this in because I attacked the fact that they didn't have a definition of generally accepted standards. But anyway, for purposes of this section, generally accepted standards of professional practice means medical treatment or care of the type, quality, and amount that a hospital staff person would be expected to provide according to the professional standards of care for hospital staff with regard to the medical treatment and care of infants. Gobbledygook. What kind of medical care is expected to be provided by an admissions clerk? What standard of medical care? But that clerk is supposed to provide for that infant care that meets this standard. But since there is no standard of medical care that the clerk has to meet, the clerk doesn't have to give any kind of care whatsoever. If you read it, it looks like you've got something here. But like so much of the bad legislation that comes, you all aren't going to read it. You're going to have an emotional response and you're going to go for it. But I'm going to take all the time I need and you can invoke cloture. But I'm going to put things in the record that shows how atrociously drafted this is, just like I did that committee amendment which is being stricken by Senator Stuthman's amendment. If you look at that section that was brought up about the woman's parental rights being terminated after 48 hours, does that make sense to you, when in certain commercial transactions you have 72 hours to change your mind and void the whole thing? And these people are talking about family values and you're going to cut off a woman's parental rights after saying that the bill is here because you're dealing with a woman in a state of mental turmoil or panic or anxiety who cannot rationalize? And you're going to say this person who may not be able to make a rational decision is going to have her parental rights terminated in 48 hours? That is crazy. That is insane. But you all will go for it. That's the kind of Legislature this is. Continuing--what about the father's parental rights? You don't talk about the father's parental rights being terminated. Suppose the woman has a dispute with the man and out of spite she turns the child over and doesn't tell the man where the

Floor Debate
January 16, 2008

child is. She says, my grandmother has him. Well, where does your grandmother live? I'm not going to tell you. Well, after 48 hours her parental rights are terminated. It doesn't say anything about his. I'd like to ask Senator Stuthman a question. Senator Stuthman, when you were talking with the experts and staff people with these agencies who helped you with this, did anybody say anything about termination of the father's parental rights? [LB157]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB157]

SENATOR STUTHMAN: Yes, I will yield. Senator Chambers, there was very little discussion, to tell you the truth. There was no discussion as far as the father's parental rights. [LB157]

SENATOR CHAMBERS: Okay. Now if this that you're offering was put into effect, a legal presumption, a law is going to create a legal presumption that her parental rights should be terminated. And the way a presumption works, it says if fact A comes into existence, then fact B is assumed or considered to be in existence. So fact A is that she delivered the child and let 48 hours go by, so fact 2 is that she intended her parental rights to be terminated. She may not even know that. So there is no actual intent here, is there? It just acts by operation of law, correct, after 48 hours? [LB157]

SENATOR STUTHMAN: Yes, that is true. [LB157]

SENATOR CHAMBERS: Now suppose something prevented her from returning within 48 hours to make a reclamation. Based on the way this law is written, that won't make any difference, would it? Her rights are terminated; is that right? [LB157]

SENATOR STUTHMAN: After the 48 hours, after the child has been placed in the hospital, according to my amendment, her legal right to the child would be terminated... [LB157]

SENATOR CHAMBERS: Would there be a court action that would cover this? Would a court terminate the rights or are they terminated by operation of this amendment? [LB157]

SENATOR STUTHMAN: I think there are legal ways and methods in the process of adoption agencies that is already in law as far as when that person's real parents have terminated their rights with a child. [LB157]

SENATOR CHAMBERS: But this has nothing to do with that, does it? [LB157]

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

Floor Debate
January 16, 2008

SENATOR STUTHMAN: No. [LB157]

SENATOR CHAMBERS: This is stand-alone. In Section 3 on page 2, when the HHS is notified supposedly within four hours of the baby being delivered to a hospital, HHS is supposed to contact the State Patrol to see if a child is missing and a report had been made that this child was missing or lost. And suppose... [LB157]

PRESIDENT SHEEHY: One minute. [LB157]

SENATOR CHAMBERS: ...such a report has been made. What does HHS do then? [LB157]

SENATOR STUTHMAN: If a report, Senator Chambers, has been made that there has been a missing child? [LB157]

SENATOR CHAMBERS: Yes. What does HHS do then? It doesn't say, does it? It doesn't say. [LB157]

SENATOR STUTHMAN: No, you are correct. [LB157]

SENATOR CHAMBERS: Now if the father found out that the woman had delivered the child, but he found out more than 48 hours later, what would that...what would happen then? Because no request is going to be made by HHS to see if there's been a reporting of a missing child. The report could be made more than 48 hours after it occurred, couldn't it? [LB157]

SENATOR STUTHMAN: The HHS must... [LB157]

SENATOR CHAMBERS: Here's what I'm saying. HHS calls the Patrol, the Patrol says we... [LB157]

PRESIDENT SHEEHY: Time, Senator. [LB157]

SENATOR CHAMBERS: ...have no report. Thank you, Mr. President. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Stuthman, followed by Senator Fulton, Senator Howard, Senator Pahls, and others. Senator Stuthman. [LB157]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. And I would like to continue in the discussion with Senator Chambers. [LB157]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB157]

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

Floor Debate
January 16, 2008

SENATOR CHAMBERS: Yes, I will. Thank you, Senator. [LB157]

SENATOR STUTHMAN: Senator Chambers, on your last question, in this amendment it says, you know, the HHS because the HHS is notified within four hours that there has been a child abandoned at the...been placed at the hospital. I shouldn't say abandoned. And then HHS shall contact the Nebraska State Patrol to determine if a missing person as defined in Section 43-2003. In that section... [LB157]

SENATOR CHAMBERS: Well, to help you, it says the child is lost or missing. [LB157]

SENATOR STUTHMAN: Yes, yes. That's what it is, to see if there has been a report of a child lost or missing, like you do state. [LB157]

SENATOR CHAMBERS: Now here was the question, if you don't mind, before we get too far away. [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR CHAMBERS: HHS makes that call. The State Patrol says we have no report of a missing child. HHS is not going to make a subsequent call, but there could have been a report of a missing child made after HHS had placed their call. Isn't that true? [LB157]

SENATOR STUTHMAN: That is very true, it could be. [LB157]

SENATOR CHAMBERS: But HHS would not know, would they? [LB157]

SENATOR STUTHMAN: No. [LB157]

SENATOR CHAMBERS: That was the question I wanted to ask. [LB157]

SENATOR STUTHMAN: Yeah. [LB157]

SENATOR CHAMBERS: And the amendment does not cover a situation like that, does it? [LB157]

SENATOR STUTHMAN: No, no. That it doesn't, because it's just upon receipt of the child, the procedure is that the HHS is notified that there's been a child there, then HHS checks to see whether there has been a missing child report. If there is no missing child report, things will proceed on as what's outlined in my amendment. [LB157]

SENATOR CHAMBERS: Okay. Now one follow-up, and I'm not going to take all your

Floor Debate
January 16, 2008

time. I'm going to try to keep the questions short and not be argumentative. If the father had been dealt with in a spiteful way, as I mentioned before, and he had been misled into thinking that the child was with a family member and subsequently found out that the child had been left at the hospital and then he files a missing child report, if more than 48 hours had elapsed the mother's parental rights, there would be the presumption that she intended her rights to be terminated. And I think--if I understood you, then I'll let it alone on your time--the father's rights in the example I'm giving had not been discussed at all when this amendment was being drafted. Is that correct? [LB157]

SENATOR STUTHMAN: The only time the father's rights were mentioned were when I brought up the situation with other states that have a safe haven law. What are in some of those state's regulations as far as the father's rights? Some of the states have something that deal with father's rights but there has never been a situation in any of the states that I'm aware of where a father has ever surfaced to claim the baby. [LB157]

SENATOR CHAMBERS: Do you think that it would be constitutional to put in law language that would, by operation of law, terminate a father's rights in a very short period of time without giving an opportunity to come forth? And if he did come forth, then there's nothing in the law to deal with that situation. Do you think that's a constitutional provision? [LB157]

SENATOR STUTHMAN: I think it's a workable situation, that if we're going to terminate the mother's rights, the possibility of terminating the father's rights also at the same time, or giving an opportunity for either one or both to reclaim the child. I have no problem with that. I don't know... [LB157]

SENATOR CHAMBERS: That's all the time I'll take, so if you want to go on, then I thank you. [LB157]

SENATOR STUTHMAN: Okay. Thank you, Senator Chambers. Thank you for the dialogue that we've had. I want to discuss a little bit... [LB157]

PRESIDENT SHEEHY: One minute. [LB157]

SENATOR STUTHMAN: ...with Senator Schimek. Is she available? Well, I can continue on. She had made concerns of, you know... [LB157]

PRESIDENT SHEEHY: Senator Schimek would yield. [LB157]

SENATOR STUTHMAN: Okay, Senator Schimek... [LB157]

SENATOR SCHIMEK: Yes. [LB157]

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

Floor Debate
January 16, 2008

SENATOR STUTHMAN: ...you had concerns of how are you going to tell when the child is 72 hours old or if it's 80 hours old or 60 hours old. [LB157]

SENATOR SCHIMEK: Correct. [LB157]

SENATOR STUTHMAN: I do have a concern about that. But to me, if you make it 30 days old or 20 days old, how are you going to determine whether it's 31 or 35 or 25? [LB157]

SENATOR SCHIMEK: That was the problem I had with the bill, you know, in the first place. Some of these things seem simple at first blush. But when you try to implement them, they're not that simple. And this... [LB157]

PRESIDENT SHEEHY: Time, Senator. (Visitors introduced.) Senator Fulton. [LB157]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I have had the opportunity of knocking on a lot of doors. I missed that opportunity. Some of my freshman colleagues got to do that. Well, I did that over the course of this summer. And up until about I'd say late August or early September, the number one issue on the minds of my constituents, anyway, that I talked to was the safe haven law or safe haven bill, which was a surprise to me. You'd think taxes and spending, but at that time it was safe haven. And I've continued knocking on doors and right now taxes are number one but number two remains safe haven. So this is on the minds of my constituents, and I'd be willing to bet it's on the minds of your constituents also. Situation played out here in Lincoln, played out in Omaha, that found...both those situations found their way through the media. What we're talking about is indicative of where we have come as a society. Oftentimes we're talking about young mothers who are in situations which may be abusive where they feel that they have no other options. And we as a society encourage these young mothers to choose life for their children, which is a good thing. This particular case, this mother did choose life for her child--the case in Lincoln, I think this is reflective in Omaha--and the mother got slapped in the face by society for making the brave choice. Oftentimes these mothers are in abusive situations such that the father, if he doesn't get his way, sometimes the father is demanding that the mother abort this child, kill the child before it's born. The mother makes the brave choice to give life to the child and then she has to face the father. She's scared. So it seems to me that society has recognized that the compassionate response is to provide her a means by which she can give life to her child and do so in a fashion that does not earn punishment. So that is what I would take as the intention. I think that it is the public's intention and reflected...I think this is reflected by the resolutions that Senator Stuthman has passed out. We've had political subdivisions, cities put forth resolutions to this effect. The intention is to find a way for mothers to leave their child with the appropriate authorities. The intention is to have some form of a safe haven bill. The particularities, the specifics are what we are here dealing with. So I hope that we can bear that in mind. If Senator

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

Floor Debate
January 16, 2008

Stuthman would yield to a quick question, please. [LB157]

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR FULTON: Senator, thank you for your work on this. Thank you for bringing it forward. I believe I speak on behalf of my constituents when I say that we want to see safe haven law occur, or a safe haven bill pass to become law. The specific...there are some specific questions I have and I'd like to go ahead and get this on mike, on the record. Page 2, Section 2, that provision of 48 hours, could you give the rationale behind why 48 hours was chosen? [LB157]

SENATOR STUTHMAN: The reason that we went with...that I went with the 48 hours, I thought 2 days would probably be sufficient for the mother to reclaim the child. [LB157]

PRESIDENT SHEEHY: One minute. [LB157]

SENATOR FULTON: Okay. So it's as a judgment call. [LB157]

SENATOR STUTHMAN: Yes, it was...okay, go ahead. That will be all for right now. [LB157]

SENATOR FULTON: Okay. Thank you, Senator Stuthman. Just in talking, I've been to many of you already here on the floor trying to gauge whether there's support for this bill, and indeed there is some support. People want to see particularities again, specifics. That seems to be a point that we could talk a little bit more about. But I just want to get across that the intention ought to be to get a safe haven law out there. Nebraska is one of two states in the Union that doesn't have this. Frankly, it's embarrassing to me that we don't have a safe haven law. So the intention is there. Let us use that intention to animate our activity such that we can find the particulars to make this bill able to be passed. Thank you, Mr. President. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Howard. [LB157]

SENATOR HOWARD: Thank you, Mr. Lieutenant Governor and members of the body. Senator Ashford looked back earlier and knew I was chafing at the bit to speak on this bill. I stand in support of Senator Chambers' amendment to recommit this to committee. This amendment, to me, is very shocking. Over the summer I talked to a number of my friends who work at private adoption agencies. And one in particular--Karen Authier, who's the executive director of Nebraska Children's Home, who I have the highest regard for--felt that some of the details that were problematic in the earlier version of the bill had been worked out, primarily that a child would be placed with a private adoption

Floor Debate
January 16, 2008

agency. The agencies would be available on a revolving basis for this infant. I fully support that. This amendment that's been brought to us by Senator Stuthman is problematic on so many levels it's difficult for me to know where to begin. I mean, we're making assumptions regarding the mother leaving this infant. We don't know that's the case. It could clearly be another individual. We're going to terminate the mother's parental rights after 48 hours. Let me give you an example, just one little example of how that can go wrong. Terminate the mother's rights after 48 hours, father is located and he's totally unsuitable. And yet, that's the family member that's available. Or the father's parents step forward, totally unsuitable. These are determinations that need to be made by trained professionals. These are not things to be taken lightly. One of the other very, very problematic areas in this for me is termination of any parental rights after a brief 48-hour period. This flies completely in the face of the safeguards that are currently in place to protect both the child and the parents. That is reasonable efforts. That's a federal requirement--reasonable efforts must be met and that judgment is made by the court system. In Douglas and Sarpy County and Lancaster County, that's made by the juvenile court system. Reasonable efforts must be present in every termination. And that is a very, very important factor. Forty-eight hours gives no opportunity for any sort of reasonable efforts to be conducted. I have to control my...I don't want high blood pressure over this bill, but this amendment is...to me, it's discouragement for any individual leaving an infant because the penalty is so high. And I worry about the...we talk about unintended consequences. I worry about the unintended consequences of Senator Stuthman's amendment. Clearly the individual who delivers this baby is not perusing our statutes, and yet information regarding this brief window of opportunity for termination of parental rights you can bet will get around in any circle. This will be out there immediately. This is shortsighted. This is poor legislation, this is poor legislation. I'm going to offer the remainder of my time to Senator Chambers, if he'd like to have it. [LB157]

PRESIDENT SHEEHY: Senator Chambers, you have about 1:40. [LB157]

SENATOR CHAMBERS: Thank you. And Mr. President, if you convert that 1:40 to years, you almost stated how long I intend to live, minus one score. But at any rate, we've been talking about a possible way to get out of this tangled situation. And broadly and generally stated, you would allow any caregiver who felt a child in his or her care is endangered to present that child to the hospital and that would not be abandonment carrying a criminal penalty. It doesn't talk about termination of anybody's rights... [LB157]

PRESIDENT SHEEHY: One minute. [LB157]

SENATOR CHAMBERS: ...and the hospital would notify the appropriate authorities who would then place the child. Everything would be on hold, nobody's rights are terminated, no dispositions are made, no time limits are set. Remember, I'm just stating it in broad

Floor Debate
January 16, 2008

terms. If we could come up with something like that, my opposition would virtually evaporate because we are not then putting state approval, an almost endorsement on the idea of saying I'm going to just abandon this child because I don't want the responsibility. If that happens to be the reason, what we're talking about is broad enough to include that without our stating in statute that that's why this process exists. Any caregiver who feels overwhelmed, rather than harming that child, would be able to take that child to a safe haven. We would work our way through to get to the details because, as everybody knows... [LB157]

PRESIDENT SHEEHY: Time, Senator. [LB157]

SENATOR CHAMBERS: ...the devil is in the details. Thank you, Mr. President. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Pahls, followed by Senator Dubas, Senator Wightman, Senator Chambers, and others. Senator Pahls. [LB157]

SENATOR PAHLS: Mr. President, members of the body, I'm going to change the direction of this just a little bit. Just going to talk about this last year, three different women left their babies in the state of Nebraska. And I just want to give the scenario a little bit. One woman left her child near a dumpster. Fortunately, this child was found alive in time. The mother was never found, thus no charges were filed and her name was never printed in the newspaper. And last Sunday, to be honest with you, I drove up to the area at 66th and Fowler, which is not too far from the Benson Golf Course, and just to see where this happened. And it's a very nice area, but this mother was never found and never charged. Okay, then we happen to have another young woman, left her child in a hospital rest room in Omaha. She was captured on television or on camera. Her name and her picture were printed in the newspapers and released to the news. Charges were not filed against her. It was nice, because they did get that issue resolved because they gave the mother enough time to really find out that she really wanted this baby. It took more than two days. And in most states, they give at least 60 days. But for the mother to obtain her child, she had to go through counseling. It wasn't just you walk in and say I want my child. They have things already established. And here's the third case. A young woman in Lincoln went to St. Elizabeth Hospital. She gave a false name, had her child under the care of doctors and nurses and she walked out of the hospital without the child. She left the child at the hospital and still under the care of doctors and nurses. The police tracked her down and charged her with misdemeanor child abandonment. Her picture and name were printed in the newspaper. Of course, again, that was released. Now she actually was the only woman who did the right thing. She made sure her child was safe in the hands of a doctor. But her name was in the paper. Earlier we had talked about prosecution. Now these young women were not prosecuted through the court of law, but by having their names in the newspaper, they were indirectly prosecuted. I know the TVs and the newspaper

Floor Debate
January 16, 2008

reporters, it's their obligation to obtain the news. But I did talk to Senator Stuthman because I was concerned that their names would not get out in the newspaper and he assured me it would not, because I had an amendment that I was going to propose. But he told me that the way his amendment was written, that the mother's name would not be in the newspaper because they would not have access to it. I questioned that a little bit because the mother had to sign, had to give the information about the child. Most states you don't do that, it's done anonymously because their intent is to save the baby, not to prosecute the mother--not through the court of law, but through the newspaper and the TV. And in the state of Nebraska, we do a real good job of that because, as you may recall, this past year those three cases were talked about an awful lot in the newspaper. They did their job, but the only thing I was questioning a little bit is they actually in some way prosecuted those young women in the newspaper because their name appeared several times. And it is ironic, the one who left the baby at the dumpster who's never...the name was never reported in the newspaper because we don't know who it was. So as you look at...that woman who did the best, she left her baby in the hospital, actually was punished the most. So that's a fallacy. Now I support safe haven. I'd like to see this bill, and I think right now we're talking about making some adjustments in it to carry on. But we do need to make some major adjustments because most of us, if we have a major thing happen to us, it takes us more than two days to... [LB157]

PRESIDENT SHEEHY: One minute. [LB157]

SENATOR PAHLS: ...recover from it. Think about it. If you twist your back, takes a couple days to take care of that. Now we're talking about something much more significant and our names probably won't make it into the newspaper. So I think one thing we need to do is make sure that the people involved, their names do not appear there. As we had talked earlier, several of us were talking, you need to think about the child. Thank you. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Pahls. Senator Dubas. [LB157]

SENATOR DUBAS: Thank you, Mr. President. I am appreciating the debate that's going on because this is a very important issue, and I think has been stated that, you know, maybe this won't impact a lot of people, but the people that it will impact are very important. And the fact that we're raising these questions, it's because we feel very strongly about this and we want this to be a bill that can be moved forward in the best shape possible. I will raise another question just for thought, and hopefully we can get it interjected into the discussion as to how this bill will proceed. But nothing is even mentioned in this bill about the father. And if the father would show up at the hospital, if some way he finds out that the baby was born and within this 48-hour time period and says I would like the child, we have no provisions in this bill to deal with that. So I think it was stated earlier that sometimes what we perceive to be a very simple issue with a

Floor Debate
January 16, 2008

very straightforward answer doesn't always end up to be that. But it is an important issue, it does deserve serious time and consideration and debate. And I hope we can continue to raise the questions and find the answers and find a way to help these young women and men and their children to get the help that they need. Thank you. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Dubas. Senator Wightman. [LB157]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I've been supportive of this bill; was last year, still am. I think Senator Chambers and others have raised some real serious questions with regard to particularly some of the time limits that are on the bill. I think it does become difficult to create a balancing act between a foster parent or some prospective adoptive parents who might have this child but two days, I agree, seems much, much too short. I think it could be up to 30 days, quite frankly, maybe more. But you do have to balance this against the rights of either a foster parent or, even more, a prospective adoptive parent. An adoptive parent has to have the child in their custody for six months before they can commence an adoption. I think that's way too long, in this instance, probably 30 to 60 days would be more realistic with regard to reclaiming the child. I guess I've been interested in the debate. I think interesting questions have been raised. I would hate to stand right here and say what I think the proper time frame ought to be to reclaim that child, but certainly 48 hours is way short of what I would think would be proper. On the other hand, as you approach 30 to 60 days, you're starting to talk about a parent who becomes very emotionally involved...I should say a prospective adoptive parent who becomes very emotionally involved with that child and their rights have to be considered, too, at some point. So I think it's a balancing act in determining where that time frame should be. So I'm interested in listening to the rest of the debate. I do want to support the bill and will listen. Thank you, Mr. President. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Chambers. [LB157]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, that admonition to come let us reason together has taken hold and obtained traction today. Those who have a great amount of interest in this subject and who have worked on it, either for what was offered or against what was offered, came together and arrived at a way to resolve the issue. The focus is going to be the welfare of the child. Under current law, there is the notion of abandonment which, if it occurs, is a Class I misdemeanor or a crime. What will be done is to draft an appropriate piece of legislation which does not criminalize the act of delivering a child to the hospital. If there has been abuse of any kind, that is not covered. That will be handled just as it is now. But the mere act of delivering the child will not be considered abandonment or be criminalized. That child will then be turned over by the hospital to the appropriate authorities, whether it be the juvenile people or whomever. The existing system that would deal with children who are left at the hospital will kick in. I'm trying to keep it as general and simple as I can.

Floor Debate
January 16, 2008

Nobody's rights will be automatically terminated--not the mother's, not the father's. The child will not be put up for adoption. There's not going to be a mad scramble or anything done other than what is done decently and in order under the law. So the way we had decided we would work it is that I will withdraw my motion to recommit to committee. Senator Stuthman will withdraw his pending amendment. We will then adopt the committee amendment and advance the bill to Select File. That will give us enough time to work our way through this without bracketing the bill on General File. I'm showing that I trust my colleagues by withdrawing all of my opposition at this point so that the bill can be amended with the Judiciary Committee amendment and advanced to Select File. There is the understanding, however, that if the wheels come off the wagon, I then, and others who would be in opposition, will not have given up any of the rights that we have on General File and we would have the full complement of time. But based on the way that we have discussed this, the willingness of the sides, if you want to call them that, to work together, I don't think the wheels will come off the wagon. I think we will be able to produce something that almost everybody can agree with. And not intending to brag--if I agree with it, the few who don't agree with it won't make much difference. No, here's what I'm saying. Everybody, I believe, wants to find a way to ensure the safety of these children, and that's what we're going to wind up with. Thank you, Mr. President. That's about all that I will have to say. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Speaker Flood, you are recognized. [LB157]

SPEAKER FLOOD: Thank you, Mr. President, members. In my role as Speaker, I'm going to take this opportunity to maybe further articulate what I think Senator Chambers has done a nice job of. We're fortunate the Legislature is built the way it is because the wheels are turning as they are supposed to today with senators working very hard to find common ground and shared interest. And I want to recognize a couple people so we make sure this works. But my understanding is that we have a compromise in the works. It's going to take some time to draft it. It's going to take some time to get people around the table and buy into it. But I intend to bring this back after this bill advances to Select File, which is the understanding that I have today that Senator Chambers is going to pull his recommit to committee motion, Senator Stuthman is going to pull AM1574. I hope the body will help us in passing. We'll adopt the committee amendments and advance LB157 to Select File. Next stage of debate, we're going to obviously, hopefully have the amendment that will be voted on promptly after its introduction. In the event that it's not, I will treat LB157 as a bill of first impression, like I would any other bill on General File for purposes of the cloture rule. And I want to thank the committee chairman, Senator Ashford. I want to thank Senator Pahls. I'd like to ask Senator Stuthman for just a moment, and then I want to ask Senator White a question. I would like to ask Senator Stuthman if this is his understanding of the agreement and if there are any additions. [LB157]

Floor Debate
January 16, 2008

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB157]

SENATOR STUTHMAN: Yes. Speaker Flood, what you have stated and what Senator Chambers has stated is the agreement that I'm very willing to cooperate with. I think this is something that we're going to do in good faith and hopefully accomplish what we want to accomplish. And I think that's where we're headed right now. And I accept everything that Speaker Flood is planning and intending to do. And we...and I should say I will cooperate with the group. [LB157]

SPEAKER FLOOD: And one final message that I want to convey, and that is the basic tenets of the agreement. And I want to thank Senator Chambers and Senator White initially for proposing this and working with others to discuss it. And if I could have Senator White stand up and kind of outline the terms of what, in general, has been discussed so that the citizens have an understanding of what steps, I think, are being taken before we go to Select File. [LB157]

PRESIDENT SHEEHY: Senator White, would you yield? [LB157]

SENATOR WHITE: Yes. Essentially Senator Chambers, Senator Pahls, Senator Stuthman, Senator Ashford, and others kept stating that we need to protect the children and of that, all Nebraskans can agree. And the law as we had proposed would protect infants under a certain age. I think the proposal will be to protect any child. A child doesn't stop deserving protection when they're 72 hours old. If a child is at risk of being abused, I think the sense of the senators is we want to give the person in charge of that child every opportunity to deliver it to a safe place and protect it. Therefore, the thrust of the law will be the child is delivered to a hospital and in exchange, the person who had charge of the child and delivers it will not be prosecuted for that act, for delivering the child to the hospital. At that point in time, the juvenile courts will take charge of the child, take custody of the child, and they'll hold the appropriate inquiries. That may be to contact the father, it may be to contact the parents because it could be a babysitter that's at the end of the rope and on the verge of hurting a child. And they should have the same protection. Again, the point that I think every one of us agrees to is the child should not be hurt and we should give them every opportunity to deliver the child to a safe place. Then let the court sort it out on all different matters of issues, whether it's termination of a parental right, whether it's giving it up for adoption, whether it's changing custody, there are systems in place to handle that. We don't need to take those on. That would be the essence, Mr. Speaker. Thank you. [LB157]

SPEAKER FLOOD: Thank you very much, Senator White. With that, I think that summarizes this. I'd also like to thank Senator Schimek and Senator Pirsch for spending some time on this. Nothing is perfect and done until it's finalized and we've all agreed on it. And so I trust the system will work appropriately. I hope that we can complete this process within the next seven days. And I do want to make one other note. Tomorrow

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

Floor Debate
January 16, 2008

you might note in the Journal tonight that Senator Kruse, with Senator Wallman's help, prioritized LB575. In light of the discussion we're having here with this bill, LB575 has been a prioritized bill. It will be up on tomorrow's agenda, and I want to make sure people, both here and across the state, know that will be on the agenda. That's all I have. Thank you, Mr. President. [LB157]

PRESIDENT SHEEHY: Thank you, Speaker Flood. Mr. Clerk, we will move forward as discussed by the Speaker and senators. [LB157]

ASSISTANT CLERK: Mr. President, for the record, Senator Chambers withdraws the motion to recommit the bill to committee. Senator Stuthman, AM1574 which is drafted to the committee amendments, to withdraw that? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. [LB157]

ASSISTANT CLERK: Senator White, I had filed from you AM1118, which was actually filed last year. I have a note to withdraw that. [LB157]

SENATOR WHITE: Yes, please do so. [LB157]

ASSISTANT CLERK: Senator Stuthman, the final amendment to the committee amendments was AM1539. I have a note to withdraw that. [LB157]

SENATOR STUTHMAN: Yes. [LB157]

ASSISTANT CLERK: Mr. President, I have nothing further pending to the committee amendments. [LB157]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will continue with discussion on the committee amendment. Senator Stuthman, followed by Senator Carlson. Senator Stuthman. [LB157]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I think what has just occurred, I'm very pleased with it. It has given some time and opportunity for members of the legislative body to voice their opinions and I think we've come up with something that maybe, hopefully, we can come up with a good solution and get this bill passed this session. I'm very confident of that and I think at this time, you know, we need to pass these committee amendments and move forward. Thank you. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Carlson. [LB157]

Floor Debate
January 16, 2008

SENATOR CARLSON: Mr. President, members of the Legislature, my remarks will be brief. Last year I was against this bill. And as I got to thinking about it, I thought about the woman involved, which would be women in many cases. She had some choices to begin with. She could have chosen not to get pregnant. That happened. Then she could have chosen to end the pregnancy. And in what we're talking about, she chose not to do that. She chose life. So I think that really helped me to come around and say this is the kind of bill that I would like to support. As it goes back to committee and some other considerations are put into it, just something that came to me and this time element that we're talking about is too brief. I think of a female student at the University of Nebraska whose parents may live in California and she's come out here to school and ends up getting pregnant and the parents may not even realize it. And so there needs to be a lot more time, and I appreciate the idea of rights not being lost and parents that have the opportunity to become involved as they should. I'd like to make one other comment about the cooperative attitude that I see as we are debating this bill. And I really appreciate it. Senator Adams, Senator Pankonin, and I went to a leadership conference last summer and listened to the surrounding states talk about how they do their business. We get together on breaks and say, man, are we glad we're from Nebraska, because we're not as bipartisan as most other states are. And I appreciate that. I appreciate this attitude that we're seeing today. We work together. I've spent a whole session here. I could go down the list of the other 48 senators and I don't know what they all are. And it's not important enough for me to find out. So I appreciate what we're doing, and I'm glad I'm from Nebraska. Thank you. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Any other senators wishing to speak? Seeing none, Senator Ashford, you're recognized to close on the committee amendment. [LB157]

SENATOR ASHFORD: Thank you, Mr. President. The nicest thing about--and I've always had my seat on this side of the Chamber--and the nicest part about that and the reason I do it is because I can stand over here and watch what goes on from my little perch over here. And there's no question, as Senator Carlson absolutely correctly stated, we are unique. And we can do things like this on the floor amongst ourselves. And inside the glass, certainly taking into consideration the opinions of others outside the glass, but we have a number of very smart, highly motivated people in here. And in these wonderful times when this happens when we get together and come up with something that works, it's exciting and it really is the reason to be here. I appreciate, again, Senator White who always seems to kind of pop up from time to time at the appropriate time and come up with a clear pathway, and he's done that here. I appreciate also Senator Pirsch, members of my committee, Senator Pirsch who came up to me with the idea of the procedural idea that sort of germinated into this compromise. And it comes from Senator Pirsch's many years of working in this system. And Senator Schimek, and then of course Senator Chambers for teaching us how to do

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

Floor Debate
January 16, 2008

this again and again. But finally, Senator Stuthman, thank you for your idea of this bill. I think, as everyone has said and I don't want to belabor it, but we are here to protect the child. That is our goal. All 49 of us agree with that. And it's just fun to be here to watch this happen. I'm confident that, as Senator Flood indicated, we will have a positive resolution of this. And again, within this body we will resolve a very difficult and critical issue for our state, using our own minds, our own emotions, our own motivations and help...there are many other difficult bills that we're going to have to deal with throughout this session, and I'm confident that we can use the same methodology in arriving at what's in the best interests of our constituents and our state as a whole. So thank you to all of you for helping me as Chair of the Judiciary Committee get through this, and I'm very confident that we'll have a resolution of the safe haven issue and move forward with passage of that bill. Thank you, Mr. Lieutenant Governor. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing on the committee amendment to LB157. The question before the body is on the adoption of the committee amendment. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB157]

ASSISTANT CLERK: 35 ayes, 0 nays on the adoption of the committee amendments, Mr. President. [LB157]

PRESIDENT SHEEHY: The committee amendment is adopted. We'll now return to floor discussion on LB157. Any senators wishing to speak? Seeing none, Senator Stuthman, you're recognized to close on LB157. [LB157]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I want to thank everyone that has been involved in the discussion today. And I think because of the weather and everything like that, I'm going to keep my remarks short. We're going to move it on to Select File, which I thank you for, and we will come up with some agreement at that time to hopefully move this bill. Thank you. [LB157]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. You have heard the closing. The question before the body is, shall LB157 advance to E&R Initial? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB157]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB157]

PRESIDENT SHEEHY: LB157 does advance. Mr. Clerk, do you have items for the record? [LB157]

ASSISTANT CLERK: Mr. President, I do. (Read LB1005-1011 by title for the first time.) In addition to that, name adds: Senator Pirsch to LB157; Senator Engel to LB997. And a

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

Floor Debate
January 16, 2008

priority motion, Speaker Flood would move to adjourn until 9:00 Thursday morning, January 17, 2008. (Legislative Journal pages 260-261.) [LB1005 LB1006 LB1007 LB1008 LB1009 LB1010 LB1011 LB157 LB997]

PRESIDENT SHEEHY: You have heard the motion to adjourn until Thursday, January 17, 2008, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []