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Floor Debate
February 25, 2009

[LB34 LB89 LB129 LB153 LB175 LB183 LB272 LB333 LB403 LB505 LB507 LR1CA
LR5CA LR23 LR24 LR25 LR27 LR28 LR35 LR36]

PRESIDENT SHEEHY PRESIDING []

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-third day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Utter. Would you all please rise. []

SENATOR UTTER: (Prayer offered.) []

PRESIDENT SHEEHY: Thank you, Senator Utter. I call to order the thirty-third day of the One Hundred First Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk. []

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

PRESIDENT SHEEHY: Corrections for the Journal? []

CLERK: I have no corrections. []

PRESIDENT SHEEHY: Any messages, reports, or announcements? []

CLERK: One item, Mr. President. Senator Cornett would like to print an amendment to LB89. That's the only item I have. (Legislative Journal page 559.) [LB89]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR23, LR24, LR25, LR27, and LR28. Mr. Clerk, we will move to the first legislative confirmation report. [LR23 LR24 LR25 LR27 LR28]

CLERK: Mr. President, Natural Resource Committee, chaired by Senator Langemeier, reports on the appointment of Mark Spurgin to the Game and Parks Commission. (Legislative Journal page 531.) []

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on your legislative confirmation report from the Natural Resources Committee. []

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. Mark Spurgin was appointed to...from...first of all, he's from Ogallala, Nebraska. Was appointed to the Game and Parks Commission. We had a hearing on February 19, 2009 where he did attend. He is a new appointee to a nine-member board of

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commissioners for a six-year term. And he would represent District 7. He graduated with a Bachelors of Science degree from the University of Nebraska and served in the military for 28 years. He is self-employed with Spurgin, Inc., which is a farming operation that's dry and irrigated farm and a small feedlot. He's a member of the Nebraska Cattlemen, Ducks Unlimited, Pheasants Forever, National Guard Officers Association, and the Midwest Electrical Cooperative Corporation. He did appear before the committee; stood the questions that we posed to him. And we would ask for your support. He did advance from the committee unanimously. And with that, Mr. President, I would ask for the adoption of Mark Spurgin to the Nebraska Game and Parks Commission. []

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening on the confirmation report from the Natural Resources Committee. Are there members wishing to speak on this nomination? Senator Carlson. []

SENATOR CARLSON: Mr. President and members of the Legislature, I rise in support of Mark Spurgin to this appointment and would like to share with the body, this was an experience with a man that came in and had several people testifying for him. And it's a rewarding experience to see someone that comes up that others are really for. And it also brings to mind, I think, the serious responsibility that we have on these appointments that we take the time, that we meet with them, that we show an interest in them, and we ask them questions. And I was very impressed with his responses and the other candidates as well. But I certainly support the appointment of Mark Spurgin. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Carlson. Seeing no additional requests to speak, Senator Langemeier, you're recognized to close. []

SENATOR LANGEMEIER: Mr. President, members of the body, I do want to also tag onto what Senator Carlson said. Typically, on these hearings you don't have a lot of people come in. Dr. Tom Osborne submitted a letter in support, as well as a good group of people came in and testified in support of Mr. Spurgin. With that, I would ask that the body confirm the confirmation report. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You have heard the closing. The question before the body is on the adoption of the confirmation report from the Natural Resources Committee. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal page 560.) 41 ayes, 0 nays, Mr. President, on adoption of the confirmation report. []

PRESIDENT SHEEHY: The confirmation report is adopted. We'll now move to the

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second report. []

CLERK: Mr. President, second report by Natural Resources involves two appointments to the Nebraska Power Review Board. (Legislative Journal page 531.) []

PRESIDENT SHEEHY: Senator Langemeier, you're recognized to open on your second legislative confirmation report. []

SENATOR LANGEMEIER: Mr. President, members of the body, there are two individuals appointed to the Power Review Board. The term is...it's a five-member board with a four-year term. The first is Stephen Lichter. He was appointed to an at-large position on the board. He is a graduate from University of Nebraska. Has a bachelors degree in mechanical engineering. His employment, he is an engineer as an occupation. Community service, active with youth baseball and the Judicial Nominating Commission for the District Court Number 4. And the committee did recommend him unanimously. The second is former state senator Pat Bourne who was appointed. Again, the hearings were February 20, 2009. He's a graduate of the University of Nebraska with a degree in business and a graduate of Creighton Law School; is employed by Mutual...Blue Cross and Blue Shield of Nebraska and served in the Nebraska Legislature from 1999 to 2007. His appointment, too, was sent out of committee unanimously. And we would ask that the body adopt the confirmation report there offered. Thank you. []

PRESIDENT SHEEHY: Thank you, Senator Langemeier. You've heard the opening on the second legislative confirmation report from the Natural Resources Committee. Are there members requesting to speak? Seeing none, Senator Langemeier, you're recognized to close. Senator Langemeier waives closing. The question before the body is on the adoption of the second legislative confirmation report from Natural Resources. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. []

CLERK: (Record vote, Legislative Journal pages 560-561.) 40 ayes, 0 nays, Mr. President, on the adoption of the confirmation report. []

PRESIDENT SHEEHY: The confirmation report is adopted. Mr. Clerk, we'll go to first item under General File, 2009 committee priority bills. []

CLERK: Mr. President, LB403, a bill originally introduced by Senator Karpisek. (Read title.) The bill was discussed yesterday. Committee amendments were offered to the bill by the Judiciary Committee, chaired by Senator Ashford. There was an amendment offered to the committee amendments, Mr. President. (AM413, Legislative Journal page 518.) [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you like to give us a recap of this

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LB403, AM413, and AM435. [LB403]

SENATOR ASHFORD: Yes. Thank you, Mr. Lieutenant Governor. AM413 is a compilation of three bills dealing with the expenditure of public funds in a variety of ways. In one case, the expenditure of funds in the form of credits under the Nebraska Advantage Act; the second general category would be the expenditure of public funds in the form of contracts with private employers or...and thirdly, the third category would be benefits that are paid out to individuals by the state utilizing public funds. The idea as we brought AM413 to you...may I get a gavel, Mr. Lieutenant Governor, please?
[LB403]

PRESIDENT SHEEHY: (Gavel.) [LB403]

SENATOR ASHFORD: Thank you. The idea behind AM413, and the Judiciary Committee spent long hours, as I suggested yesterday, this had been the seventh hearing we've had on these issues. And I think our committee is quite expert now on this issue...worked laboriously to compile what I felt was a responsible, and still feel, is a responsible approach to dealing with immigration in our state. The issue that brought us...that really resulted in the convergence of three measures, Senator Friend's bill, and I do appreciate Senator Friend's leadership on this issue. And I might, just to give a little history, Senator Friend last year had a bill, two bills, or one bill I guess it was on this issue. And I complimented Senator Friend then and I compliment him now on the professional manner in which he dealt with those very emotional issues last year. But Senator Friend brought us the Nebraska Advantage Act bill. He suggested that going forward that companies that receive benefits under the Nebraska Advantage Act utilize an E-Verify system in making certain that employers are checking that so that only documented workers are working in the companies that receive public benefits. I think it's a responsible response to the failure of the federal government again to in any way deal with the issue of work permits or the other federal issues involved with expanding the pool of workers available in our state. So I commend Senator Friend for his fine work and also Senator Howard. Senator Howard worked on this issue as well. The only difference between Senator Howard's bill and Senator Friend's bill was that Senator Howard, and I think she had excellent reasons for it, suggested that we look back, had a look-back provision of five years in the Nebraska Advantage Act portion of the bill. The second bill was Senator Karpisek's bill, AM413. AM413 was similar to Senator Friend's bill last year, and it dealt with benefits. And basically the theory is that if public benefits are paid out that with the exceptions noted in federal law, and Senator Karpisek's bill carefully lays out the exceptions when this bill would not apply, but that the check system in place for checking benefit eligibility be required in Nebraska for payment of public benefits. I think again, as with Senator Friend's bill last year and Senator Karpisek's bill this year, very responsible approach to dealing with the issue. The third bill, which was, of course, the best bill and the most responsible and the most thoughtful bill, was my bill of all...I just wanted to see if anybody was listening, Mr. Lieutenant

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Governor. But LB35, which, you know, and it really was the result of, as are the other two bills, but at least after our...the Judiciary Committee's work on this issue and looking at this throughout and having several hearings on it, that really it seemed to us that it was at the employment level that...where we needed to make sure that Nebraska workers who are eligible to work in Nebraska be...the workers that are chosen to work on projects that have public money involved in them. Again, this LB35 as amended into AM413, I think it's LB35. Is that the right number--LB34, LB35. LB34, there is no LB35. LB34...there is a LB35 but it's not this, LB34 was an effort to draw a standard and to say to employers, public employers or private employers, who have contracts with the state of Nebraska or a political subdivision, again, tax dollars being spent on...with these private employers and certainly public employers are public anyway, that E-Verify be utilized to make certain that workers who are eligible to work in our country be workers or the employees that are involved with those particular employers. The other...what sort of transcends all these three bills and joins them sort of together, other than the tax money involved, is the process itself of checking. This is not an extreme measure to utilize a federal check system to determine the eligibility of someone to work. That is not an extreme system. There has been some discussion about or extreme requirement or a radical requirement. The federal government over several years has implemented the E-Verify system. Is it perfect? No. That's why under federal law and federal law preempts in how E-Verify is utilized, under federal law the employer hires an individual who has applied for work first. The E-Verify is then conducted. It's a very simple, very quick, within seconds the records are checked against Social Security records, the records are checked against Homeland Security records, and there is a response. It doesn't catch, it's not a gotcha kind of a process. It's a process of evaluating the status under federal law of a particular employee. If the check comes back negative basically that there's not a good match, then the employee is given additional time, under federal law now, to show to the employer proof that he or she can legally work in this country. And obviously, that pool of workers includes green card holders, obviously citizens, those who are here on some status under federal law. So again, we have here a meshing of federal...a state proposal and federal law. It is the federal law that controls the mechanisms that drive these particular proposals. It is not state law. What we are doing in state law by AM413 is acknowledging that there is a federal system in place. The federal system is substantially working and can help employers make certain that these employees or benefit recipients are entitled to receive the benefits. The overriding reason for doing this in my view, members, is suggested in the report that you have in front of you. It was suggested by every group that we visited across the state, and that is a desire for discrimination to eventually evaporate against primarily Latinos, but also other immigrant groups in our state. If everyone is treated the same, if everyone eventually is treated the same and their employment is determined based on criteria that applies to everyone who applies for work that eventually, not overnight, not tomorrow, not next week, but hopefully in our generation... [LB403 LB34]

PRESIDENT SHEEHY: One minute. [LB403]

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SENATOR ASHFORD: ...the discrimination that does exist in this state against immigrant groups because of their skin color will evaporate, will go away, that we will have, by utilizing the federal system, we will have a better society for doing that. The second reason and to me the most compelling reason is this creation of an underclass of workers in our state who can go nowhere, they can go nowhere. And why do we do this now? Why don't we just sit back and let the federal government act on this? You cannot...that's fine, that's fine if we didn't have created by this inaction this group of 35,000 people, 35,000 people in the state who are really...have no place to go and are a subservient class of workers. That's unacceptable. That does not meet our value system and our standards in our state I do not believe and does not reflect the values of those of us in this room. [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Senator Janssen, would you give us a recap on your amendment to committee amendment AM435. (Legislative Journal page 547.) [LB403]

SENATOR JANSSEN: Thank you, Mr. President, members of the body. AM435 would repeal the instate resident tuition portion of our postsecondary education statutes for those persons not lawfully present in the United States. Not surprisingly, I've been approached by several people about this amendment in the last 24 hours. Numerous discussions have taken place between myself, Senator Ashford, Senator Flood, and others, and I appreciate those conversations. And I would like to...I have a course of action that I could take. I want this to be on the floor. I want there to be a vote on this in one manner or the other. I'm a big proponent of LB403 and AM413. I do not want to risk that legislation not moving forward. At this time, I'm kicking around the idea of withdrawing the amendment and reintroducing it on Select File with certain understandings. And if I can get Senator Ashford to yield for a question. [LB403]

SENATOR ASHFORD: Yes, Speaker Flood said I could yield so I'll yield (laugh). [LB403]

SENATOR JANSSEN: Perfect. [LB403]

SENATOR ASHFORD: Thank you, Speaker Flood (laugh). [LB403]

SENATOR JANSSEN: I appreciate the conversations and apologize yesterday somewhat springing this on you as well. I believe even somebody said hijacked. He's gone right now, but I will assure you as I've already assured Senator Ashford that this

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morning I have put a lid on my coffee so he will not come over and knock it over. I've also moved my computer away from the coffee so I'm hoping for a little bit... [LB403]

SENATOR ASHFORD: All good moves. [LB403]

SENATOR JANSSEN: ...a little bit better day today. Senator Ashford, it's my understanding our discussions yesterday is that if withdrawn and refiled on Select that AM435 would receive a public hearing in your committee. [LB403]

PRESIDENT SHEEHY: Senator Ashford. [LB403]

SENATOR ASHFORD: Yes, Senator. We have a hearing scheduled for March 5 at 12:00 to consider AM435 so that will be done on the 5th. [LB403]

SENATOR JANSSEN: Then could I get...thank you, Senator Ashford. Would Senator Flood yield to a question? [LB403]

PRESIDENT SHEEHY: Senator Flood, would you yield? [LB403]

SPEAKER FLOOD: Yes, Mr. President. [LB403]

SENATOR JANSSEN: Senator Flood, we've talked about various options in this and to some people, of course me, the rules on this, I was going through my rule book again yesterday, but could you explain the rules which allows this amendment to basically receive a public hearing? [LB403]

SPEAKER FLOOD: Well, it's up to the Chairman, and the Chairman of the committee that has LB403 is Senator Ashford. And he made the decision to schedule a public hearing on this amendment. This isn't the first time this has been done. In my time as Speaker, it's happened on two other occasions. The Judiciary Committee will hear that. Some might ask why didn't it go to the Reference Committee? This isn't a bill, this is an amendment. And the Chairman has that prerogative. So because he agreed to do that is the reason that you're going to have a hearing on March 5 at noon to discuss the concept of repealing the DREAM Act that was placed in the statute several years ago. I think it's the most appropriate way, and at the end of the day, transparency is very important. And the citizens across this state, regardless of whether they support or oppose this proposal that you've introduced, should have the opportunity to weigh in, in front of state senators in a committee hearing. [LB403]

SENATOR JANSSEN: Thank you, Mr. Speaker. The...I would agree with that. I think the public hearing is a core part of what we do here. I would like to see AM435 receive a public hearing and participate in that public hearing with the assurances, in my opinion, I've been assured that we'll come back to the floor. I do want to have a vote on this. I

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think we need to vote on this. I think this will strengthen LB403 and make it more of a complete package, a comprehensive immigration package, if you will. And members of the Legislature, with these discussions on record and in the spirit of cooperation, I will ask that AM435 be withdrawn and refiled on Select File. This will provide the Judiciary Committee with the time to schedule and have a public hearing on AM435. When and if LB403 is considered on Select File, we will be given another opportunity to debate the merits of my proposal. I thank you for your time. And, Mr. President, at this time I would like to withdraw AM435 and refile AM435 on Select File. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Janssen. AM435 is withdrawn to be refiled on Select. (Visitors and doctor of the day introduced.) Mr. Clerk, you have amendments on your desk. [LB403]

CLERK: Mr. President, Senator Karpisek would move to amend the committee amendments, AM440. (Legislative Journal page 557.) [LB403]

PRESIDENT SHEEHY: Senator Karpisek, you're recognized to open on AM440 to LB403. [LB403]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. This amendment would try to clear up the postsecondary education benefit that was spoken to in the bill. I didn't expect that to move quite so fast, excuse me. The amendment reads on page 1, line 19, before the second comma insert "involving direct payment of financial assistance." As I indicated in my opening yesterday, the intent of LB403 was not the DREAM Act. I will reiterate again because I think maybe it got printed wrong, I am not a supporter of the DREAM Act. However, this was not the vehicle that I intended to bring it. I know that there is a lot of discussion about the DREAM Act. There is also a lot of ill will toward it. And again, I will admit I am not in favor of it. This amendment would clarify that my bill, LB403, was not to take the DREAM Act out. The reason why I brought the bill without the DREAM Act in it is because I feel we have way more problems with immigration than just the DREAM Act. This bill was introduced last year with the DREAM Act involved, and it did not move. I assumed that someone would bring a separate part concerning the DREAM Act and we would be at the point where we are now that the DREAM Act may stand alone or possibly get amended into LB403. That did not happen. Senator Janssen has, in effect, done that now. I had told everyone from the beginning, proponents and opponents of LB403, if there is an attempt to get the DREAM Act amended onto LB403, I will not fight it off and I will vote for it. But again, I think there are so many more issues involved with immigration than just the DREAM Act. I read this morning 28 students have taken advantage of it since '06. It's a small number, and I'm sure that we'll hear more about the pros and cons of that as we debate that. I do not want to debate that right now. What I want to debate is the reason for bringing LB403--for state taxpayer money to go to people who are here illegally. In the Judiciary Committee and on the floor, I have reiterated numerous times that that was

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not my intention to have the DREAM Act in. In committee, Senator Council asked if I would be willing to put some language to amend LB403 to make certain of that. I told her I would. In hindsight, maybe I shouldn't have. I've had a lot of advice that politically this is not a good move for me to offer this amendment. Politically, what's good for me is to keep my word, and I gave Senator Council my word that I would bring this amendment and I did. Many senators have stood up at the beginning of this session and maybe tried to teach some of the freshmen senators a few friendly lessons how to do things. I'd like to send a friendly message to everyone in this body that we need to stand up and stick to your word. At the end of the day, that's all we have in here is our word and our honor. This amendment will clear up that the DREAM Act is not involved in LB403 at this point. Senator Council and Senator Nantkes have drawn it up. They are both okay with it. That's why I'm bringing it. Senator Janssen's amendment is a whole new way to look at it. If Senator Janssen's amendment is not adopted, I feel that it might be a little ambiguous (laugh) nice word, ambiguous, thank you, Senator Nantkes. That's what I get for trying to use big words. It might be ambiguous and we really won't know yet what was intended by the bill. The university and the state college systems also had questions. This is meant to clear that up. If Senator Janssen's amendment is not adopted, we will come back to this, and this will be in the bill so we know what we meant when we passed this and did not move Senator Janssen's amendment. I'm not saying that's the way it's going to go. But in case that happens, I want this to be clear and clean and say what I meant. So again, one more time: I am not in favor of the DREAM Act. I will vote for this amendment, though, to clear up what this bill, LB403, was intended to do. Again, the DREAM Act is a separate statute, not involved in this. It will come up. I would urge everyone to not get involved into the whole DREAM Act argument on this amendment. It's not what it's about. It's just clarifying what LB403 was brought for, what it will mean. We can have that argument, the discussion on Select File with Senator Janssen's amendment. I think I've been clear on that. There are other issues in LB403 that I'm sure will come up, and that is what we're here to talk about today. If anyone has any further questions, I'd be glad to try to straighten them out. Senator Ashford has done a great job. Senator Janssen, I have to give him many, much kudos for working with us. As I said yesterday, let's not take a vote. We can talk it out through the day and through the night and we did. Also want to thank Speaker Flood. I think he did a great job of telling us what can be done and how we should do it. I think we've got our p's and q's back in line. The number one issue here is that we do this job by the constitution the way we're supposed to do it, not just jump up and do something that doesn't have, hasn't had a hearing. Sometimes we have to get our emotions out of it, and everyone here knows that I'm probably the biggest offender of that. My emotions play big on me. So again, this amendment is just to clean up what LB403 was intended to bring. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the opening of AM440, the amendment to committee amendment, AM413. Members requesting to speak are Senator White, followed by Senator Nordquist, Senator Karpisek, Senator

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Ashford, and others. Senator White. [LB403]

SENATOR WHITE: Thank you, Mr. President. Members of the body, I'm very pleased that Senator Flood's handling of this; Senator Karpisek's courtesies; Senator Janssen's courtesy in putting this back into a hearing. Senator Karpisek made a promise to the public that the DREAM Act was not part of this bill. And, therefore, people who have a vested interest in that one way or another didn't show up, so it's appropriate that they have a chance to have a hearing. I also, however, am going to take the opportunity. I will be introducing an amendment that I understand will be heard in Judiciary. I'm going to give Senator Ashford a few moments of my time. And that one I'm going to give a preview to the body, basically puts teeth in LB403. It says that if an employer violates and hires someone in violation of LB403 without E-Verifying that every public dollar expended on behalf of the employee hired in violation of the law, whether it's for education or incarceration, welfare, housing, hospitalization, will be recovered from the employer who violated it. Now we cannot sanction, we cannot punish for violation of federal law. But we certainly can require employers not to hire illegal aliens and then dump the cost of their violation of the laws on the taxpaying public. I intend to ask that that be made part of Senator Karpisek's bill. If we're going to be serious about immigration reform, we cannot just blame the person who lives in grinding poverty in a Third World country for crossing the border in an often life-threatening and desperate bid for a better life for himself and his family. We also have to hold responsible those employers who, in violation of the law, in violation of the trust to their fellow citizens, encourage such behavior, exploit the person who comes across the border, treat them poorly, underpay them, abuse them, and then dump the cost on the taxpaying public, either in the expense of educating children who do not speak English as a first language or hospitalization or food stamps and emergency care. Let's have a real bill. Thank you, and I give the rest of my time to Senator Ashford. [LB403]

PRESIDENT SHEEHY: Senator Ashford, about 2:20. [LB403]

SENATOR ASHFORD: Okay. Thank you, Senator White. LB403 with AM413 was such a nice bill (laugh) that addressed, I think, the issues as I said before. But now we're in a different ball game. We are going to be going way beyond AM413, and I appreciate Senator Karpisek, by the way, and I've known Senator Karpisek for two years now and there is no question that he is straight up and always is, and that's a lesson for all of us, me included. Let me just respond to Senator White. Here is what I'm going to do in the Judiciary Committee. This is the line I'm going to draw. Senator Janssen has a bill or an amendment dealing with the DREAM Act. That was a bill, a separate bill we heard last year. I believe Senator Friend brought it. And so that was considered last year. It did not advance out of the Judiciary Committee. Senator White had the same bill or generally the same bill he's talking to you about now last year in the Judiciary Committee. That bill was heard by the Judiciary Committee. It did not advance out of the Judiciary Committee. Therefore... [LB403]

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PRESIDENT SHEEHY: One minute. [LB403]

SENATOR ASHFORD: ...I'm going to...thank you, Mr. Lieutenant Governor. Therefore, I'm going to treat those two initiatives the same. What's good for the DREAM Act is also good for Senator White's initiative. However, just to make it absolutely clear if a matter was not heard last year, if it did not advance out last year, was not heard by the floor last year, we will not have a hearing on those measures. So if something else comes up today that is beyond the scope of those two issues, the Judiciary Committee would not have a hearing on those amendments. Speaker Flood is absolutely correct. It is unusual for this to happen. It is not unprecedented. It has happened and it is within the discretion of the Chair, and I'm very happy to accommodate Senator Janssen and Senator White and will do so. Thank you, Mr. Lieutenant Governor. Thank you, Senator White, for the time. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Thank you, Senator White. Senator Nordquist. [LB403]

SENATOR NORDQUIST: Thank you, Mr. President. First, I'd like to thank Senator Janssen for allowing us to have a public hearing and opening up the discussion to the public on the DREAM Act legislation. I'd like to thank the leadership of Speaker Flood for putting this together. This morning, just this morning I was over across the street at St. Mary's Church for mass and as I listened to the kids' choir and looked out over the diversity of that student body, I reflected on our discussion, reflected on how our world, our state, and our communities, no matter how much we resist, are going to become more diverse. And it's up to us, it's up to us to embrace that diversity. I reflected on how sad it is that there are people out there that are willing to use that diversity to instill fear and divide us. And we cannot let that happen. We can't let that happen in this body, in our communities, in our families. So it's up to us to take leadership on this. And Senator Ashford has done that with LB403. It's a commonsense, reasoned approach to address this challenging issue. It just covers two basic things: saying if you're going to get entitlement benefits, we want you to be a citizen. We'll take care of your basic needs. We'll take care of you in emergency situations. But if you're going to have a job that's a state job or you work for someone who receives state money or your job is supported by these tax credits, the Nebraska Advantage tax credits, that we want you to be a citizen as well. It's a very reasoned approach. I support LB403. I support the technical amendment that Senator Karpisek is bringing. I know there's a few other technical issues that Senator Pankonin is going to speak to the retirement-related issues. And I look forward to the continued discussion on the DREAM Act and Senator White's proposal. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Nordquist. Senator Karpisek. [LB403]

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SENATOR KARPISEK: I'd like to yield my time to Senator Nantkes. [LB403]

PRESIDENT SHEEHY: Senator Nantkes. [LB403]

SENATOR NANTKES: Thank you, Senator Karpisek. Thank you, Mr. President. Good morning, colleagues. I'm pleased that we have an ability to refocus our attention this morning on trying to improve some of the technical aspects of the committee amendment rather than the distraction that we suffered through yesterday and I imagine that we'll hear more about in the upcoming weeks. I wanted to be clear on a couple of pieces. I think Senator...I really want to thank Senator Karpisek for introducing this amendment. It is a commonsense approach that does not affect the underlying substantive nature of the bill, but rather ensures that our community colleges, our state colleges, our university system can have a clear definition of what educational benefit means so in order to not effect the slippery slope and potential unintended consequences I spoke about yesterday. I would urge the body to take a careful look at the amendment, to pose any questions they have with the definition itself or the implementation thereof. But I think that this is a very straightforward approach to trying to address technical issues. I think for people who are maybe trying to regain their bearings in regards to Senator Janssen's actions, take a moment to step back. This issue, this amendment is not substantively related to the instate tuition issue. This is about what an educational benefit is. And it simply says it's financial, a direct financial payment, which is something that I think is appropriate for how we move forward. Another point that I wanted to talk about briefly to clarify for the record was Senator Karpisek clearly stated his intent in bringing this bill and his concern about taxpayer dollar being utilized through any sort of public benefit system for those who maybe were unlawfully within our borders. If you look, colleagues, at the fiscal note on LB403, I think it's quite instructive. And Senator Council had a chance to visit yesterday as well on the microphone about how in Nebraska under existing state law, under existing federal law since about 1996 undocumented citizens are not afforded an opportunity to apply for, be eligible, or receive public benefits. And I think that's well outlined in the fiscal note where it shows that LB403 does not achieve a savings of taxpayer dollars or impose additional burdens on the agencies for the most part that do administer these benefits because they're already authorized and engaged in those kinds of verifications in terms of who's eligible and who's not. So while I think his motives are pure and beneficial in terms of being a careful steward of the taxpayer dollar, I think we have to be really careful about what LB403 does and does not do. And it does not help the state to achieve a significant cost savings in any regard because undocumented and most legal immigrants in our borders are not eligible for these types of public benefits. So I think we have to again be very, very clear about that. I'll direct your attention to the primary vehicle of welfare reform from the federal government in 1996, the Personal Responsibility and Work Opportunity Work Reconciliation Act... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

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SENATOR NANTKES: ...which very clearly details this restrictive eligibility. So again, I just want to make sure that we're all educated on the facts and the issues before us and how we move forward and really how immigration issues do intersect with public benefits in our state. Again, if people have a question as to the technical aspects of this amendment that Senator Karpisek has brought forward, please don't hesitate to grab me or him off the mike. We've worked very hard to find the common ground with the Governor's Office, with Senator Karpisek, and members of the Judiciary Committee to try and really improve the bill from a technical standpoint. That's all this amendment does. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Additional members requesting to speak on AM440 are Senator Council, followed by Senator Hansen, Senator Carlson, Senator Friend, and others. Senator Council. [LB403]

SENATOR COUNCIL: Thank you, Mr. President. I first want to express my profound appreciation to Senator Karpisek for being an honorable man. Senator Karpisek, when he introduced his bill before the Judiciary Committee, he expressly stated to a packed house, and I need to emphasize that, the hearing room was full, it was an overflow audience. He stated his express intention that his bill did not intend to apply at all to the DREAM Act or provide for the repeal of the DREAM Act. And in response to a question as to whether he would be willing to introduce an amendment that clarified that intent he graciously agreed to do so. And despite whatever pressures he may be receiving from others, he has maintained his position and fulfilled his promise to the public. And that is what AM440 is designed to do is to carry out the promise that was made to the public, who was here, who had a concern that the term "postsecondary benefit" could be interpreted to mean instate tuition. So the question of whether or not the DREAM Act has been discussed in public hearing, at least from the standpoint of whether this bill, the underlying bill, LB403 applied to the DREAM Act, it was expressly discussed. And Senator Karpisek's position on that was expressly stated. So again, I thank him for being a man of his word. And I support AM440 solely for the reason that it clarifies what the intent of the legislation is. My support for AM440, however, is not to be misconstrued as being support for the underlying legislation because I remain convinced that this legislation is unnecessary. Senator Nantkes just referred to the Personal Responsibility and Work Opportunity Reconciliation Act. Now interestingly enough, and I apologize, I cannot remember which of my colleagues made reference to this yesterday, but expressed the opinion that by passage of this act it would eliminate some of the negative feelings that some residents of the state have when they see people of color specifically utilizing an EBT card. And I sat here a minute and I said, well, obviously we don't know what the current state of the law is now because the Department of Health and Human Services currently uses the SAVE system. We're not, by this legislation, implementing any new verification system. They currently use the SAVE system. So if an individual has an EBT card, they have already been verified.

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And if we have concern that people are receiving EBT cards when they shouldn't be, then we absolutely should defeat this legislation because that means the SAVE system does not work because the SAVE system is intended to verify. And that's the other point about this legislation that I hope my colleagues take the time to review and understand. The SAVE system is a Systematic Alien Verification for Entitlements program. And I don't know how many of my colleagues understand how this system works. But all it does is verify an alien's... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR COUNCIL: ...status, which means that the individual has to state that they are an alien. Once they state that they are an alien, the system then verifies whether their alien status entitles them to benefits. This is not a system that automatically checks everyone to determine whether they are lawfully entitled to benefits. This is a self-disclosure verification process. And in fact, the Director of the Department of Labor explained that last year there were more than 3,000 individuals who disclosed that they were aliens. And of the 3,000 who disclosed that they were aliens, the system verified that 55 of them were not aliens who were entitled to benefits. So the system is in place. The system is already working. And unfortunately, when we have that circumstance then people... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR COUNCIL: ...look at this legislation as feel good legislation. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Hansen. [LB403]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I'd like to follow up a little bit on what Senator Council was talking about, if she and I are talking about the same thing, and it's the E-Verify system, I believe. Is that correct...would Senator Council yield for a quick question? [LB403]

PRESIDENT SHEEHY: Senator Council, would you yield? [LB403]

SENATOR COUNCIL: Yes, Senator. No, I was speaking to the SAVE system... [LB403]

SENATOR HANSEN: So that is different? [LB403]

SENATOR COUNCIL: ...which is different from E-Verify. [LB403]

SENATOR HANSEN: Okay. Thank you very much. The E-Verify system that is spoken about in this legislation, though, does have use in employment. And I would like to state one example. Well, finding out yesterday or the day before, which I should have asked

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before, E-Verify system is run by the Social Security Administration plus some database, some funds from Homeland Security but mostly through the Social Security Administration. Senator Wightman will know who I'm talking about, no one else will. But there's a packing house in Dawson County that hires a lot of people for their processing of beef cattle, part of my industry, and we really appreciate that business being there. They use the E-Verify system, the E-Verify system when they come in to take an application for a job there they use the E-Verify system to make sure that they have a Social Security card. They find that out. Then send a group of them...the group of the applications in, make sure that everyone has a Social Security card. Well, come the first check that that employee gets, 7.5 percent of his paycheck is taken out for Social Security, for FICA taxes. Seven and a half percent is applied from the company to the Social Security administration. And then we ask ourselves, why isn't the E-Verify system...why didn't it cost more? Why doesn't it...why isn't it more capable of finding illegal documentation? Well, it's their system. If there is an illegal or an undocumented worker that pays 7.5 percent of his weekly or biweekly check to the Social Security System, he will never get benefits from the Social Security System. That's a big win for the United States Government. Doesn't matter who's in charge at the White House. This is the Social Security Administration taking 15 percent of that person's salary on payday to run a system, partly anyway, to run a system that may or may not work. That's just one example of what the big overall picture, problem is. I do want to thank Senator Janssen for pulling the bill today, bringing it back on Select File after hearing. I think that was a good move. Senator Hadley would like a little bit of time. And I yield the rest of my time to Senator Hadley. [LB403]

PRESIDENT SHEEHY: Senator Hadley, 1:50. [LB403]

SENATOR HADLEY: Mr. President, thank you. I rise in support of AM440. I think this is a good amendment that Senator Karpisek has put in. And the original bill had a cost of about \$2.5 million to the university, which did work out to about \$40 for every student to use the provisions of LB403. So I do rise in support of AM440. This will cut down on the bureaucracy that the university has to do to use the system and will eventually cut down on costs to our students, which we want to do. Thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Thank you, Senator Hansen. Senator Carlson. [LB403]

SENATOR CARLSON: Mr. President and members of the Legislature, I also am in support of AM440. But I have a question that I would like to ask and it has to do with rules. Rules are important. Rules of the Legislature give us the framework for proceeding in the right way and doing it on a civil basis. And I think that it functions very well. In light of something that's happened this morning, I'd like to address a question to Senator Ashford, if he would yield. [LB403]

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PRESIDENT SHEEHY: Senator Ashford, would you yield to questions? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR CARLSON: Senator Ashford, Senator Janssen withdrew his amendment, AM435, and you have scheduled a public hearing for that. I think that is the right procedure. But I have a technical question here. And if I have it maybe others have it, so I'm going to ask it rather than spend 30 minutes or an hour researching it. If after this public hearing the committee indefinitely postponed that amendment, what would happen? [LB403]

SENATOR ASHFORD: Not a whole lot. The amendment would be...is already filed on Select File, I believe. And it will be heard on Select File. So whatever action we take, it's a good question. Whatever action we take would be able to be discussed on the floor. But it would not preclude Senator Janssen from moving forward with his amendment. [LB403]

SENATOR CARLSON: Okay. And I have another question. Thank you for that. I think that it's important for all of us to understand that, regardless of the action that the committee takes as a result of this hearing, that Senator Janssen has the right to resubmit that amendment. Now I have another question, though. In his statement to withdraw AM435 he put with that, "I request to withdraw and resubmit on Select File." Technically, can he do that? Can he make all that part of one request? [LB403]

SENATOR ASHFORD: He can withdraw it. And then the resubmission or the introduction of the amendment on Select File is a separate action. I mean, he can say it together, I suppose, technically. But it's two acts. He has to withdraw and then resubmit or refile. [LB403]

SENATOR CARLSON: Okay. And I'm going to ask you another question. Thank you, Senator Ashford. In his request is he already in line first on Select File for LB403? [LB403]

SENATOR ASHFORD: I don't know if there are any other amendments filed. But he would be if he was the first amendment up. [LB403]

SENATOR CARLSON: Okay, thank you, Senator Ashford. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Friend, followed by Senator Harms, Senator Pankonin, Senator Haar, and others. Senator Friend. [LB403]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I don't

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know if you come around and hang around for seven years you just kind of get the attitude that I have, but I'm going to apologize for it before I even start here. And do with that what you will. Let me get this straight. Let me make sure I understand. We're going to have another hearing on an amendment by Senator Janssen that was actually in a bill last year. The bill wasn't introduced this year. It wasn't part of a bill this year so it didn't have a public hearing by the tenth legislative day, which is what we're supposed to do by our rules. Now because turnout is fair play, understandable, we're going to have another hearing on an amendment by Senator White which was a bill last year, a standalone bill. We're going to have another hearing on that. And neither of these things were introduced this year by the tenth legislative day. Am I to understand this right? Okay. So here's where I stand. I didn't introduce the repeal of strict liability and police chases. I think somebody else did, but I didn't. So if that got killed I'd like to revisit that, so I may do that later this session. And better yet, if it's had a public hearing, then I've got even more ground to stand on. Now I didn't repeal the split electoral vote. I think the split electoral vote in this state is ridiculous. But I didn't introduce it. You know what? I think it's a good idea. I think I'm going to...when I get a chance to find the bill that I need to do it, I'm going to ask that particular committee chair, which would happen to be Senator Avery, to give me a hearing because I want...I want that bill out here now. Oh, I have an idea. I didn't repeal the smoking ban. I didn't repeal the smoking ban and institute a firm licensing system which I really think would be a heck of a lot more appropriate than a smoking ban because the smoking Nazi's throughout this country have driven that stuff down our throats. And there's nothing we can do about it. I think a licensing system of controlled substances would be a heck of a lot better, just like we do with alcohol. I like that idea. Oh dang it, I didn't introduce the bill. Well, I'll tell you what, I'll try to figure out a way that I can get a hearing on that as soon as I possibly can and I'll subvert the authority of this body. Oh, you know what? I did introduce two constitutional amendments that were both killed yesterday or recently by the Executive Board. And I'm mad about it, I'm angry. I don't like the fact that they killed those. I spent all summer looking at those. I think the people had a right to vote on them. I'm angry. You know what? I've got a different idea, I haven't had a public hearing. I'm going to ask Senator Wightman to give me that. You know, I don't know where to go with this. I did not once say yesterday in the ten minutes that I threw that recommit motion up or before that that I had cut some sort of deal that this should be revisited in a hearing. I...you...I'll go get the transcript, I didn't say that. I don't...you're going to do it. There's nothing I can say about it. I said this hadn't had a public hearing, AM435, and we shouldn't have done it. That's what I said. [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR FRIEND: You know, I don't know where to go. We are a Unicameral Legislature. By the way, I had a bicameral idea a few years ago and that got killed. But because we're a Unicameral...and I'm not too angry about that. But look, because we're a Unicameral our committee system is very, very important, members. I'm telling you

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right now that each of those ideas I brought up I could strong-arm any one of those committee chairs. And I now, or pretty soon will have precedent to get all of those things heard. We've got ten days to introduce bills, folks, ten days. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Friend. Mr. Clerk, you have a motion on your desk? [LB403]

CLERK: I have a priority motion, Mr. President. Senator Ashford would move to bracket the bill until June 3, 2009. [LB403]

PRESIDENT SHEEHY: Senator Ashford, you're recognized to open on your motion to bracket until June 3, 2009. [LB403]

SENATOR ASHFORD: Mr. Lieutenant Governor, this is a serious motion. I think Senator Friend is right on. And I'd like to ask him a couple of questions, if I could. [LB403]

PRESIDENT SHEEHY: Senator Friend, would you yield to questions? [LB403]

SENATOR FRIEND: Yeah, I suppose so. [LB403]

SENATOR ASHFORD: Senator Friend, let me ask you. Would it not be a better process to bracket this bill and bring it back next year at this point? [LB403]

SENATOR FRIEND: I don't know, it's had a public hearing. It was introduced within the first ten days. I don't know the answer to that question. I mean, I don't know. [LB403]

SENATOR ASHFORD: Yeah. I mean, I think we're going into a situation now that is as Senator Friend has suggested. And I do agree with Speaker Flood that there are occasions where we have hearings on amendments and it happens. This is an incredibly important issue. As Senator Council, just today, touched upon just a small part of the issue of E-Verify or the SAVE system. That alone, that discussion alone is a significant discussion. The DREAM Act is a significant issue of policy. Senator White's proposal is a significant policy discussion. I think Senator Friend makes a good point. I can't really...I can't particularly find an argument contrary to what Senator Friend is saying. If we don't like what happened in a particular committee hearing, you know, bill gets killed, we put it on an amendment to a germane bill, we ask for a hearing on it, another hearing on it. I mean, this could go on and on and on and on. I guess, I'm struggling a little bit with the rules here. I don't know what we've done. Whether we have, by doing this, have opened up a Pandora's box or not. Clearly, the amendments...not clearly. The amendment Senator Janssen has made is germane to the bill. It did not have a hearing. The university was not, as Senator...as has been

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suggested on the floor, the university did not have an opportunity to come in and talk about the costs involved in this or what they do now. So we're going to have a hearing on it and we'll be able to discuss it. Really, I don't know. I mean, I don't know whether to pull this motion or not, or whether to just talk about it. I guess, I'd like some...to hear what other people might think about whether or not this bill ought to just be delayed. How much time do I have, Mr. Lieutenant Governor? [LB403]

PRESIDENT SHEEHY: Six minutes 40 seconds. [LB403]

SENATOR ASHFORD: Could I give some of my time to Senator Friend, please. [LB403]

PRESIDENT SHEEHY: Senator Friend, 6:30. [LB403]

SENATOR FRIEND: Thank you, Senator Ashford. Thank you, Mr. President, members of the Legislature. I'm not trying to act like a baby. I've done that. Other people out on this floor have seen me do that. This is not one of those occasions. I was trying to make a point. I just talked to Senator White and I understand what's going on here. This bill is important and that's why my answer to Senator Ashford was, don't you think we ought to bracket this bill--I don't know. This bill is important. But I also think what's important is we've got a single house Legislature and we're the only one in the United States. And if we can't take this red book and follow it, look, I don't mind somebody rolling a proverbial hand grenade down the aisle, we do it all the time. But I also think we deal with...somebody usually grabs the pin to the hand grenade and sticks it back in or somebody says, wait a minute, here's how we deal with that particular hand grenade. This is how we deal with this particular hand grenade, then deal with it that way. Have these two public hearings. I'm only making the point that I have a lot of things that I like, too, and they don't pass. And by the way, on those occasions I don't act like a baby. I think you can ask Senator Wightman. I said, oh, I wish you wouldn't have done that. That's all I said. Am I in a foul mood because he presented that information to me today? No, I am not. I'm in a foul mood because I don't think we understand the way our legislative process operates compared to other states. You can usurp, you can use committee...you can use conference committees, and you can do things to try to avoid having to deal with committees. You can bypass it. And by the way, you can grease the leadership. If you're a Republican and you're in a Republican state, you've got it, you've got what it takes. If you're a Democrat in Massachusetts or Connecticut or any of those places, you've got it. You can do what you like. And the opposite is true for the opposing party. You don't have jack. You don't have anything. Ask them how they feel about this. They would love to be able to go through the committee process and deal with things in an up-front manner. My only point is LB403 is important, AM413 is important. AM440, according to Senator Karpisek, is important. Now we have a bracket motion on here because we don't know where to go with it. Here's my answer, have your public hearings, have them on both bills. The line is drawn in the sand. Here is my answer, have those two public hearings. But I'm telling you, you can trust me on this, it will allow

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us, all of us, to take that proverbial hand grenade, stand in the back of the hall and roll it down the middle without a pin in it. And there's not really anything anybody is going to be able to say about it. So get ready because it could happen. So all I'm saying, and if we as a body decide that we can look at these and analyze these in way that would allow us to do that, then we'll do it. I'm not trying to jerk Senator White around, and I'm not trying to jerk Senator Janssen around, and I'm certainly not trying to jerk Senator Ashford around. But the committee did a lot of work on this and the committee got hammered last year on similar work on this. All I'm saying is I think we're losing a little bit of perspective on the whole idea here. So my answer to Senator Ashford, after thinking about it for a second, have those two hearings. But I'm telling you I don't want an outcry. I don't want an outcry when we do roll that grenade down the middle of the aisle. That's all I have, Mr. President. Thanks. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Ashford, Thank you, Senator Harms (sic). Members requesting to speak on the motion to bracket until June 3, 2009, Senator Harms, followed by Senator Pankonin, Senator Haar, Senator Nantkes, and others. Senator Harms. [LB403]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Ashford, would you yield, please. [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you yield to questions? [LB403]

SENATOR ASHFORD: Yes. I'm sorry. [LB403]

SENATOR HARMS: Senator Ashford, you came to Scottsbluff, correct, to have a hearing on this bill? [LB403]

SENATOR ASHFORD: I did. [LB403]

SENATOR HARMS: And we had a good hearing, is that correct? [LB403]

SENATOR ASHFORD: It was an incredible hearing, actually, Senator Harms. [LB403]

SENATOR HARMS: There were probably, what, 25, 30 people there? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR HARMS: My point, Senator Ashford, is this, and I'd like for you to give this some consideration. Those people came...the people came there and they gave you their heart. Is that correct? [LB403]

SENATOR ASHFORD: Absolutely. [LB403]

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SENATOR HARMS: They told you exactly how they felt. They told you exactly what was on their mind. By bracketing this bill we say to them that, what you have told us in your honesty we're going to push apart. This bill is too important for us to allow it to go away. And whether we agree or disagree is not important. At this point people have given us...they have spoken to us very honestly and very openly, at least in my district. And I think they would expect for us to take this the distance. To take the vote and decide what we're going to do with this issue. It's clear that our federal government is not going to deal with this issue. We didn't hear that in, I think, the President's presentation last night. It's not on their radar screen and it is on our radar screen. And I'm getting tired of working and seeing people being hurt over issues like this. We need to address the issue. We need to stand up, whether you're going to offend people or not, we have to decide what's right. And what we're doing right now is not right. I don't believe this bill should be bracketed. Whether you want to have hearings on other bills, you know, this issue, or other amendments, this issue is important enough for us to have a conversation about. If we lose the vision of this, then everything that comes up in this body right now and in the future we're going to simply say, well, it's going to get tough, we're going to bracket it. Senator Ashford, I'm not being critical of you. I'm just trying to encourage you to hold the course, go for this thing, and let's find out just exactly where we're going to be. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Pankonin. [LB403]

SENATOR PANKONIN: Thank you, Mr. President, members of the body. I want to bring to your attention another issue that has been mentioned related to the inclusion of retirement benefits in LB403. My office has contacted and discussed this issue with the Nebraska Public Employees Retirement System, known as NPERS, with Senator Karpisek and Senator Ashford. Under LB403 retirement benefits would be denied to any person who is not lawfully present in the United States. Here's the concern, NPERS administers the deferred compensation plan for state employees in the five state retirement plans, which include judges, State Patrol, public school employees, state and county employees. Local political subdivisions, such as municipalities and others administer their own retirement plans as well. These plans must meet federal requirements in order to be a qualified plan for tax purposes. This applies to all retirement plans--defined contribution, defined benefit, cash balance, and deferred compensation plans. One of the federal requirements that must be met under federal law and maintained throughout the life of the plan is called the Exclusive Benefits Rule, which requires all contributions to be held in trust by the state or political subdivision for the exclusive benefit of members and their beneficiaries. Such benefits may only be used to pay benefits to such persons. A plan member's benefit begins to accrue when the member begins to pay into the retirement system. It's also important to remember that once a member vests in his or her retirement plan, then both the employee's contributions and the employer's contributions belong to the member. NPERS and other

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political subdivision boards, councils, and committees that administer requirement plans hold these funds in trust and have a fiduciary duty to their plan members. If LB403 is passed in its current form then these state and political subdivision plan administrators (sic) will be faced with conflicting statutory provisions. There may be people who are currently paying into one of these retirement plans or who are currently receiving retirement benefits who were not identified as unlawfully in the United States when they were hired and began making contributions. When a retiree applies for benefits and the state or political subdivision retirement plan administrator (sic) learns that the person has not been lawfully in the U.S., then under LB403 the administrator would not be allowed to distribute benefits to that person. As currently drafted, the administrator would also not be able to distribute benefits to a beneficiary, such as a spouse, child, or other person, if the beneficiary is not lawfully present in the U.S. I believe it also has probably the unintended consequence of even prohibiting distribution of a benefit to a lawful U.S. citizen retiree's beneficiary who lives outside the U.S. but is a lawful citizen of that country since the beneficiary is not lawfully present in the U.S. However, under the exclusive benefit rule the plan administrator is required to hold this money in trust and cannot use it for any other purpose, so it remains in limbo forever, i.e., it cannot revert to the plan as a whole or even to the General Fund or any other fund. I am not as concerned about State Patrol and judges who must go through a fairly rigorous background check and screening. However, entities like counties and political subdivisions do not have the resources to do as much checking. I wanted to make you aware of this issue. We are in discussion with the parties and I think we can come to an agreement to address this situation between General and Select File if LB403 moves forward. Thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. (Visitors introduced.) Additional members wishing to speak on the motion to bracket until June 3, 2009, Senator Nantkes, followed by Senator Fulton, Senator Council, Senator Karpisek, and others. Senator Nantkes. [LB403]

SENATOR NANTKES: Thank you, Mr. President. Again good morning, members. I rise in support of the bracket motion. And I see this motion as a tribute to the true statesman like quality that Senator Ashford always brings into this body. Rather than allow a single member to derail and disrespect our processes, as we've seen through the course of this debate, he's willing to take a step backward and to start yet again. The Judiciary Committee has worked diligently to put forward a vehicle to allow us to address this issue in a thoughtful and considered way. And that's what we were doing yesterday, that's where we're back to today. Unfortunately, Senator Janssen decided to go a different path. And he is committed today, despite withdrawing his amendment, that the Judiciary Committee can go ahead and have a public hearing on his amendment. But regardless of their decision, he's going to move forward on Select File and reintroduce the amendment. So that's, I think, disrespectful to our process. I also think bringing an issue that is as substantive as the one that he brought forward in the manner he did is

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disrespectful. It's Legislature 101 that if you want to introduce a bill you do so the first ten days of session. Senator Janssen had no trouble doing that in the one, two, three, four, five, six, seven, eight...eight bills that he introduced during that process. That's the straightforward way to deal with the issue. That has respect for law and process. He says that he wants to move forward because people who are here illegally have no respect for the rule of law. Well, due process, the cornerstone of our laws, requires notice and opportunity to be heard, neither of which his actions have afforded anyone in this body or citizens beyond this body. So, colleagues, I ask you to take seriously this bracket motion. To see the statesman like quality that Senator Ashford has given us an opportunity to again return and start the process in a meaningful and considered way next year rather than being reactive to a member who refuses to follow our rules and to take his own course without regard for the committee process, the hard work that they've done in the interim and through hearings this year. Senators, consider this bracket motion seriously. This has nothing to do about whether or not you're going to get tough on undocumented citizens, or whether or not you're sympathetic to their situation, this is about process and respecting this institution. A vote to bracket this motion protects the Nebraska Legislature. That's why I'm supporting it. That's why I urge you to. Thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Fulton. [LB403]

SENATOR FULTON: Thank you, Mr. President, members of the body. I rise in stern opposition to this bracket motion. I don't believe we usurp the Legislature by voting against the bracket motion. With respect to my colleague, Senator Nantkes, we have within our ability or we have within our purview the ability to use our rules as we see fit. This has occurred...whether a bill should have been introduced in the first ten days, I grant that argument. I understand that we should introduce our bills within those first ten days. So I'm not making any excuses there. But there was an amendment brought forward. There was an accord struck to allow that amendment to have a public hearing. It happened with the volition and judgment of the bill's sponsor, of the Judiciary Committee Chairman, and the Speaker of the Legislature. That being said, if we are usurping rules by allowing that to occur, then we are usurping rules an awful lot because this has happened in the past. We have the ability to vote to suspend the rules in our Legislature. We don't set up rules that bind ourselves such that we can't act when there is the volition to act. And apparently, from what I saw yesterday, and I was counting votes, there was...there were adequate votes to move Senator Janssen's amendment forward. The question becomes then, is that fair to the public? That we have votes does not mean that the public has voice. We get around that problem by offering a public hearing. And that was the accord that was struck. I stand...now with respect to the bracket motion, I stand in opposition to it because, while I recognize the hard work of the Judiciary Committee, no question about it, Senator Ashford literally traveled across the state as did members of the Judiciary Committee. That would be one reason I'd oppose the bracket motion, because of that hard work. Another reason,

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and I think probably even a heavier reason is that the people of the state of Nebraska expect action. Those of us that came in off the campaign trail, I don't think you'll find a single person who says that, you know, illegal immigration is really not that big of a deal in my district. Not true, it is a big deal. People expect action. That being said, there is some responsibility and obligation on the part of the Legislature to act. Therefore, we should oppose the bracket motion. Whether we acted within the rules or not, if that is troubling to a member of the Legislature, that member has the ability to speak via his vote. If you don't like the way an amendment was brought forward, if you don't like the way Senator Janssen moved forward with his amendment and how we're going to move forward in this process, vote against the amendment when it comes out. But don't...I don't believe that one can suggest that we need to bracket this motion because we have operated outside the normal way of doing things. We have operated within the rules. If the rules disallow this, then invoke that rule which disallows this specifically. Mr. President, I would yield the rest of my time to Senator Janssen. He took a pretty good beating and perhaps he'd like to respond. [LB403]

PRESIDENT SHEEHY: Senator Janssen, about 1 minute 20 seconds. Senator Janssen, Senator Fulton is yielding you time, about 1 minute 20 seconds. [LB403]

SENATOR JANSSEN: Thank you, Senator Fulton, Mr. President, members of the body. I would like to point out in legislation 101 we have done this before. This isn't...these are our rules. I apologize that I happen to traverse the rules better than... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR JANSSEN: ...Senator Nantkes can or has, but in this case LB701 in 2007, it was a water bill, this very procedure was used. Speaker Flood was the Speaker. Possibly if Senator Nantkes would like to give some lessons on that, I believe she was a member of the Legislature at that time. I'm just letting the body know this has happened before. I strongly oppose bracketing this bill. I think this bill is good. This bill needs to move forward. We need to vote against this bracket and continue on with this debate of LB403 and AM413 and AM440. I am in support of all of those. I just want this to come to a vote. And You're right. We can vote on it. That's how you...if you don't like the way it's gone, you simply give your vote on this. And you'll get a chance to vote on bracket. I'm hopeful that the bracket will be withdrawn. I'd implore Senator Ashford to do that so we could work forward with this. This is also an important... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR JANSSEN: Thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Thank you, Senator Fulton. Senator Council. [LB403]

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SENATOR COUNCIL: Yes, thank you, Mr. President. Would Senator Janssen yield to a question? [LB403]

PRESIDENT SHEEHY: Senator Janssen, would you yield? [LB403]

SENATOR JANSSEN: Yes. [LB403]

SENATOR COUNCIL: In the event this bracket motion fails and there is a public hearing on your amendment, will you move forward with your amendment despite the discussion that occurs during the hearing? [LB403]

SENATOR JANSSEN: I would want the Judiciary...if there is no action, Senator Council, I would if there's no action. If the action is made and the Judiciary Committee decides that this should not come back, I would respect the wishes of the Judiciary Committee. [LB403]

SENATOR COUNCIL: Okay. So you're stating publicly if the Judiciary Committee voted to indefinitely postpone your amendment you would not bring your amendment forward on Select File. [LB403]

SENATOR JANSSEN: I will state that publicly, yes. Yes I will. [LB403]

SENATOR COUNCIL: Well, I appreciate your candor, Senator Janssen, but I remain supportive of the bracket. And I do so...Senator Fulton referred to the public, and I know that there was a lot of discussion about this institution and the integrity of this institution, and I join in those comments. But I think more importantly than the integrity within the body is how we're viewed by the public. And when this bill was introduced, it was introduced as a benefits bill and an employment measure. Two separate bills amended into one to address those two issues. Senator Karpisek, as I again commend him for publicly stated that it was not his intent to deal with the DREAM Act. That's what the public was told this legislation was addressing and that's what the public hearing was held on. Now through this process, and I don't disagree with Senator Janssen as to whether the rules allow him to do what is being done, but I question seriously how open this body would be if this tactic was used by someone other than Senator Janssen. If this tactic was employed by myself I would be curious as to what the reaction of the body would be if this tactic was used by my predecessor. I'm sure it would have been immediately shot down, which is exactly what should occur here. When we talk about bracketing this bill, I applaud Senator Ashford for bringing that forward because there are serious issues still remaining with regard to this piece of legislation. And in particular relative to the public hearing, there was a lot of discussion at the public hearing that was held on LB403 and LB34 with regard to E-Verify. And the recommendation that came out of the task force, the interim study work, again which I commend those members of

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the Legislature who worked on that, was that if this Legislature is going to consider adopting an E-Verify system, one of the recommendations was that there also be developed concurrently an economic plan for the potential negative impact of losing undocumented workers and in some cases their documented family members. So in terms of what this bracket motion will enable the Judiciary Committee to do is to first and foremost to look at the necessity again for legislation that only, quite frankly, confirms that which the state is already doing and that which the state is mandated by federal law to do with regard to the SAVE system, with regard to E-Verify. I appreciate Senator Hansen's comments... [LB403 LB34]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR COUNCIL: ...with regard to the Social Security Administration database being the database because the Congressional Budget Office itself has reported that the implementation of a mandatory system like E-Verify could result in a loss of \$22 billion to the Social Security Trust Fund over the course of a ten-year period. These are very serious issues that have very serious and dramatic impacts on our economy. While the report itself says we can't even quantify the costs or the amount of benefits that are purportedly being taken advantage of by undocumented workers. At this point in time I think the bracket motion is entirely appropriate, particularly in view of Senator White's intentions to introduce an amendment. So every time...can I introduce three more amendments to this and we hold a hearing on it and hold a hearing on it and hold a hearing on it? I think we need to bracket the motion. If Senator Janssen wants... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR COUNCIL: ...to see the DREAM Act, then bring it next year. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Council. Mr. Clerk, do you have items for the record? [LB403]

CLERK: I do, Mr. President. I have hearing notices from Health and Human Services and the Judiciary Committee, and a new resolution, LR35 by Senator Carlson. That will be laid over. That's all that I have. (Legislative Journal pages 562-563.) [LR35]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Visitors introduced.) Continuing floor discussion on the motion to bracket until June 3, 2009. We have Senator Karpisek, followed by Senator Hansen, Senator Flood, Senator Janssen, and others. Senator Karpisek. [LB403]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I don't even remember why I turned my light on two hours ago, but now it's up to the bracket motion,

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so that's even a better one to speak to anyway. I do not support the bracket motion I wouldn't mind if we would want to bracket it for a week and a half or two weeks and take the whole issue up at that time, after the hearing and we can get our feet under us again and go. That we can talk and the Speaker will probably have some words of wisdom for us. I want to reiterate what I said in my opening about there are too many issues dealing with immigration, why I brought the bill, to bracket and get rid of the whole thing. Folks, we're stuck on 28 people taking advantage of instate tuition. Again, I don't support that, but that's what we're stuck on. There are so many other issues in this bill that we can talk about. Senator Pankonin brought up a very good issue on the retirement, and we've talked off mike and we will work through it if we ever get to Select. Senator Gay has been a huge help on that issue. So there are other issues, but the main reason, again, why I brought this bill and why the DREAM Act was not involved in it was so that we could get at these bigger issues rather than argue about 28 students. I also think that if we bracket this bill or in essence kill this bill, what kind of message does that send to the state of Nebraska? We've been on this for two mornings now and we've said what kind of problems we have: the problems that the immigrants have that we're trying to cut out on so many of the racist things that go on; try to help them and try to help the state coffers; try to get things legalized; make sure that our money is going in the right place. If we just give up because this got tough, say, oh, well gosh it just got so convoluted, we don't really know where we're at, we got into to some rules issues, I think that sends a heck of a message out to the public and I would be very disappointed in this Legislature if we did that. We can work through these issues. Senator Council asked what her predecessor if he would introduce something like this what would have happened. (Laugh) He did many times and we worked through them. I worked through a filibuster of Senator Chambers and I'll tell you what it wasn't fun at the time, but I probably learned a lot of lessons in those eight hours, ten hours, 90 days it seemed like. We can do this, folks, and I know that this is one of the first really tough votes for the freshmen senators. But you know what, term limits have proved that we have gotten some very good people in this body. They've stood up, they've grabbed the bull by the horns and we're running. So I know it's a tough vote, but a lot of them have stood up and made their feelings known. I'm not scared of them, by them or for them. They knew what they were getting into and they're doing a great job. So to bracket this bill would just send so many... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR KARPISEK: Thank you, Mr. President...so many bad messages. Talk about unintended consequences. Again, there are so many issues that we need to deal with here. So many of the things that are in LB403 are already being done by the unemployment insurance division, by HHS. LB403 just wants to make sure that all of those state agencies are doing them, making sure that the right people are getting benefits. Benefits are all a wonderful thing. They're here for a reason. We give people money. We help them out to make them better lives, but they're laws and they need to

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be followed. People who deserve them need get them; people who don't, don't. That's why I brought the bill. I think it's very important that we stay the course. If we want to hold off for a week or two until we have the hearing of Senator Janssen's amendment... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

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

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Senator Hansen. [LB403]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I, too, rise against the bracket bill. North Platte hosted a section of the LR362. We had a good turnout too, and I think it was all written down. We had a person there to negotiate between the people and keep order in the house. Senator Ashford was there. Legal counsel was there for the committee. It was a great turnout. We had a good day of discussion too. There's an article in the Omaha World-Herald today about Fremont and what Fremont City Council did last night. And I would ask Senator Janssen to explain that, but I don't think we have time to do that either. But the main reason that I rise is to oppose the bracket bill and, Mr. President, I call the question. [LB403]

PRESIDENT SHEEHY: I'm sorry, Senator Hansen. The call for the question has to come before any discussion, so that is out of line. Senator Flood. [LB403]

SENATOR HANSEN: Mr. President, do I have time left? [LB403]

PRESIDENT SHEEHY: Oh, 3 minutes, 45 seconds. [LB403]

SENATOR HANSEN: Okay. I'd like to yield some time to Senator Lautenbaugh. [LB403]

PRESIDENT SHEEHY: Senator Lautenbaugh, 3 minutes 40 seconds. [LB403]

SENATOR LAUTENBAUGH: I'd like to call the question. [LB403]

PRESIDENT SHEEHY: It has to be at the beginning of your speaking order. (Laughter) [LB403]

SENATOR LAUTENBAUGH: Understood. Thank you. [LB403]

PRESIDENT SHEEHY: Senator Flood. [LB403]

SPEAKER FLOOD: Thank you, Mr. President, members. We're talking about process and that's important. It's healthy for a Legislature to talk about the way we do business.

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The fact is a bill should have been introduced to address the DREAM Act and it wasn't, so we found ourselves yesterday with an amendment. And as Speaker and as individual senators, if we don't answer the question and look our constituents in the eye this summer or later this session when somebody says, you know, I was against that DREAM Act or I was for that DREAM Act, my son was going to college and his friend needed to use that to go to college to get instate tuition. I happen to be against the DREAM Act. That's how I voted when it came up the last time in the Legislature. But when Senator Janssen introduced that amendment we had a couple of options. As a body, nobody stopped, nobody made Senator Janssen pull the amendment. We were going to vote on it. I was going to make a decision after the matter was voted on to determine whether or not a hearing should be held or it should be recommitted to committee so that they could have a hearing because the bill is substantially and new and different. That didn't happen. Senator Janssen chose to withdraw his amendment. There's going to be a hearing. I don't want to confuse this process here with the normal work that we do in the Legislature when it comes to filing amendments. Senator White has an amendment that arguable is in line with the other employment requirements that are currently in LB403, the underlying bill. Does it need a hearing? In my opinion, after briefly looking at it, no. But you know what? Senator Ashford is the chairman, Senator Ashford makes the decision, Senator Ashford and this committee have spent two years working on this problem. They've held seven public hearings. He's doing and his committee is doing the best job they can on arguable the toughest issue we'll deal with this year. And because it's tough it doesn't mean we run, because it's tough it doesn't mean we spend nine hours talking about process and one hour talking about the bill. Nebraskans want answers on immigration. They want progress or they want to stop progress. They have opinions about what's happening here. And what Senator Ashford has done is he's tried to bring the issue to table. He's spent...and I know if you get calls from Senator Ashford, he can spend hours on his cell phone in the middle of July asking you questions about what you think should happen on immigration. And everybody else in that committee is participated. And they brought this to the floor, Senator Janssen brought his amendment, and you know what? I will feel better at the end of the day if that constituent in Thedford or in Madison or in Schuyler or in Lincoln knows that they had the opportunity to come down and talk on that. We don't need to confuse what's happened with the DREAM Act with everything else we do that 99 percent of the time is run-of-mill amendments that create new ideas on the floor. This is the marketplace of ideas. But when it's sold to the citizens as this has nothing to do with the DREAM Act, no bill is introduced at the DREAM Act, the hearing, there's nothing to do with the DREAM Act, and then the DREAM Act pops up. Think about July. Think about what you say to that constituent that wants to say I never got my chance to come down there and tell the Legislature what I thought. And that public hearing process is unique to Nebraska. It's how we do business. And quite frankly if we don't do that at a Unicameral, I would get very concerned with our form of government because there is no two-house system. There's one shot, three times. Governor vetoes, we override. That's the only game in town. And so I will protect and I will...and I do respect Senator

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Ashford's decision to give Senator Janssen a hearing on that. If we're going to take the issue up, then let's deal with the issue. Apparently that's important enough to a lot of people in the Legislature. Quite frankly I've supported Senator Janssen's positions in the past and I will support it on Select File if it comes up. But that's my personal position. But as the senator from Madison County and as the Speaker of this Legislature, let's slow down, let's calm down, let's take deep breaths. We're going to have disagreements on the floor. [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SPEAKER FLOOD: But let's do it in a civil way that everybody can get their opinions expressed about what they think should happen on immigration, everybody can have a dialogue about what the bill does and what the amendment does, and we can work this session on making sure we operate transparently. And if you were against the idea of sending it to a public hearing, think about a bill that you sent out of committee that has to do with removing vegetation from the Republican River Basin and a senator comes out here and wants to stop well drilling and put a moratorium well drilling statewide in every corner of Nebraska, I guarantee you would be at my desk saying this didn't have a public hearing. And I guarantee you I'll tell you the same thing. If they want a public hearing, it's up to the chairman. And if the chairman wants to do that, you can have a public hearing and that senator can bring their amendment on Select File. But what's fair for one is fair for all, and that's how I think it should happen and that's what we have to do in the Unicameral process. We never error when we go a step beyond where we are now to let the public know this is a transparent process. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Flood. Senator Janssen. [LB403]

SENATOR JANSSEN: I call the question. [LB403]

PRESIDENT SHEEHY: The question has been called. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB403]

CLERK: 28 ayes, 4 nays to cease debate. [LB403]

PRESIDENT SHEEHY: The motion to cease debate is adopted. Senator Ashford, you're recognized to close on your motion to bracket LB403 until June 3, 2009. [LB403]

SENATOR ASHFORD: Thank you, Mr. Lieutenant Governor. I know you're listening, by the way (laugh). Thank you, Speaker Flood, for those comments, and I think it put in context what I'm been trying maybe not so artfully to say. If you go...by the way, I'm

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going to withdraw the bracket motion and we're going to proceed with this debate. I would ask though when the bracket motion is withdrawn that we do start to think about getting this moved over to Select File because...and I know we have another hour this morning, but maybe it would be best if we just think about moving this to Select File so that we can...the amendments that are going to be drafted are going to be drafted and get up there. Again, I'm having hearings on two measures that were before the committee last year. That's why I'm having the hearings on those two measures. But I would refer the committee to page 21 of the study, if you would. Page 21 of the study has a number of proposals concerning immigration. This study has been delivered to this body so many times I'm sure I've made your head spin with continuing to give it to you. It has the DREAM Act suggestion in there which basically says that the DREAM Act should sunset because of the conflict with federal law. That proposal is in our recommendations. But in addition to that...and I still hold that position that the DREAM Act should sunset. It should sunset after the children, the young people are in school now, have an opportunity to graduate. That's what I think ought to happen, that's what this study recommended that we do. There wasn't a bill on that, but that is clearly the recommendation. And there could have been a bill on that, but I'm not critical of Senator Janssen at this point about that. But there are many other measures in here, a couple of which I'm going to bring amendments on. One has to do with legal representation of immigrants. There are...in this state, there's a big problem with domestic abuse involving females that...and we have to address that issue because federal law does permit representation of women in domestic abuse cases and there will be...no matter what there status is, and there will be an amendment on that. There will be an amendment by me on certified interpreters because it is a huge...Senator Harms remembers our discussions in Scottsbluff about the incredible lack of interpreters throughout rural Nebraska. There will be an amendment brought on that. And there will definitely be an amendment that reflects what Senator Janssen's community has done in Fremont, and that is to address the economic issues dealing with immigration in a community. What do our communities do to address the situation that has occurred like in Senator Wightman's town where 84 percent of the students are either Latino, Sudanese, or Somali. Those are significant issues, and they're going to be addressed on Select File. So when I withdraw this amendment, when I withdraw this amendment I just ask you to take a look at page 21 because page 21 will be reflected in a number of amendments by me, this debate will take a long time. This debate will take two weeks, in my opinion. It's okay that it takes two weeks. It's a really important issue, and it's an issue we all hear about, but it's going to be a debate that I think will be a high level debate, no question. It will be a high level debate, but it is going to be a debate not just talking about wedge issues as they relate to immigration, but talking about what happens everyday in Schuyler, what happens everyday in Lexington, what happens everyday in Omaha, what happens everyday in Lincoln, in North Platte, in South Sioux City. Those are the issues that we also have to address. As I suggested in this study, yes, the DREAM Act is questionable, legally. It is questionable that it can be enforced, and that's why we suggest in here that it be sunset. It is an issue we do need to address

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and we will need to and we will address it, but it will be addressed with a number of other issues that are very substantive that affect the day in and day out lives of not just immigrants but bankers and healthcare professionals and teachers and people who deal in the community... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR ASHFORD: ...in the communities that I visited everyday, all of whom to a person even those individuals who came in and opposed the immigrant population being here. Once you started talking to them and started to pull out the issues, you understood that those that came in very opposed to immigration in our state would sit back and say, you know, that is a point, that's a point we need to consider. So this Legislature is going to hear from Senator Harms and Senator Wightman and Senator Hansen and Senator Langemeier and the senators from south Omaha where there's a substantial Latino population. These people may be undocumented, but they cannot be forgotten. And as we move forward we must keep that in the uppermost of our minds. They are people. They are human beings. They came here. There are children who came here at an early age who have lived in this state... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR ASHFORD: Thank you. And I would withdraw the bracket motion. Thank you, Mr. Lieutenant Governor. [LB403]

PRESIDENT SHEEHY: The motion to bracket is withdrawn. We will now resume floor discussion on the Karpisek amendment to committee amendment AM440. Members requesting to speak are Senator Pirsch, followed by Senator Nantkes, Senator Ashford, and Senator Price. Senator Pirsch. [LB403]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I appreciate the debate that's being...going back, both in terms of substantive talk with respect to the issues encompassed in the bills and procedure. Just a point of clarification, I wonder if Senator Ashford might yield. [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you yield to questions? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR PIRSCH: And with respect to...you had just pointed out on a page 21, is that there were going to be additional amendments that are coming down the pike, is that... [LB403]

SENATOR ASHFORD: Yup. [LB403]

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SENATOR PIRSCH: Is that page 21 of the Judiciary Committee report? [LB403]

SENATOR ASHFORD: Yup. [LB403]

SENATOR PIRSCH: Okay. And I'm sorry, I had a hard time hearing, but what exactly were the... [LB403]

SENATOR ASHFORD: Well, I haven't told about all of them. What I'm suggesting is the policy options on page 21 will draw out several amendments, I think, that deal with the issues raised in the policy options, and some of which are already in Senator Janssen's amendment and Senator White's amendment, but I'm suggesting there will be others. [LB403]

SENATOR PIRSCH: Okay. And these will be heard then at the committee, so they won't be introduced on the floor for the first time. [LB403]

SENATOR ASHFORD: No, no, I'm sorry. My fault, Senator Pirsch. No. The two issues that will be heard are the two amendments that are going to be filed today. Senator Janssen's already has been filed. Senator White is filing an amendment. I have decided to hold hearings on those two issues. What I'm suggesting is that the body has had these proposals for some time. I don't think there need to be hearings on them, but there will be amendments on them because there have been hearings throughout the summer on these issues, so. [LB403]

SENATOR PIRSCH: You mean on some of the issues that are encompassed on page 21 then, is that... [LB403]

SENATOR ASHFORD: Right. [LB403]

SENATOR PIRSCH: Okay. And just so that we...but there won't be any committee hearings coming up when the two other bills are heard because of the summer that you had... [LB403]

SENATOR ASHFORD: Right. Well, not because of that. All I'm saying is, all I'm saying is that the reason that I have decided to hold hearings on the two bills or amendments is because Senator White had a bill that didn't advance last year, Senator Janssen has an amendment that was the same as a bill that didn't advance last year. I've made the decision that those two amendments should have additional public hearings if we're going to hear them. The other ones are not as substantive in my opinion as those, they're more conjunctive to what's already out there. [LB403]

SENATOR PIRSCH: Very good. So no substantive additions, the ones that

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you're...amendments that you're planning on proposing, but rather clarification in...
[LB403]

SENATOR ASHFORD: Right. Well, or to address...to be fair, Senator Pirsch, to address the issues on page...I mean, we elected in the committee...you asked a very good question, we addressed in the committee not all of the page 21 policy recommendations. We addressed the E-Verify, at least my bill did. Senator Karpisek's dealt with benefits. The committee elected to put those two...there are several recommendations. The committee adopted those two recommendations to put out. There are other ones and the DREAM Act is one that's in here, so I mean it's certainly not something we haven't thought about. But I felt we needed to have a hearing on that one, so. [LB403]

SENATOR PIRSCH: Okay. I'm just trying to figure out the line of demarcation between those things that are substantive, meaty additions that would require...just so that we can plan for in the future. [LB403]

SENATOR ASHFORD: Okay. And I appreciate your question and let me answer it this way: For example, the certified interpreter issue, that issue has been heard by the Judiciary Committee already. It's a...there's a \$1 court filing fee to pay for certified interpreters. It was brought by the Supreme Court. So that has had a hearing, that will be an amendment on Select File, that has had a hearing. [LB403]

SENATOR PIRSCH: This session in a bill that was... [LB403]

SENATOR ASHFORD: Yeah, it was heard a couple of weeks ago, LB333, so that did have a hearing. Now, to your point, if something comes out here that is totally different...
[LB403 LB333]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR ASHFORD: ...is totally different, hasn't had a hearing, then it can...no, someone can get up and raise the point that it hasn't had a hearing. But I'm trying to suggest that it's had several hearings, but... [LB403]

SENATOR PIRSCH: Well, and I guess my concern is that with respect to the proposition Senator Janssen is bringing, that that had also he could argue had several hearings in the past. [LB403]

SENATOR ASHFORD: It did. It did have several hearings. [LB403]

SENATOR PIRSCH: Probably more than some of the...and so I'm trying to think of the...and looking back I think it's good to talk about process. When we look at what

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happened with the learning community bill where just by the nature of its complexity we were doing rewrites after rewrites, you know, days before the end of the session, but that was out of necessity. And so I'm trying to say if we are going to take a hard rule, let's talk about process, about good form, and I think it's important so I'd like to...I think we should... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR PIRSCH: Thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Pirsch. Senator Nantkes. [LB403]

SENATOR NANTKES: Thank you, Mr. President. I was hoping that maybe Senator Ashford would continue at the mike. I'm sorry my light came up. [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you yield? [LB403]

SENATOR ASHFORD: Yes. [LB403]

SENATOR NANTKES: I'm sorry, Senator Ashford. My light came up a little bit before I had anticipated, and so I haven't had a chance to visit with you off the mike about this. But in trying to get a handle in terms of profits and how we move forward, I was just wondering...a couple of thoughts occurred to me that I was hoping to maybe get some feedback on. One would be the possibility of having Senator Karpisek withdraw this amendment to allow for your committee to revisit the issue and hopefully make that technical change in the committee process as you move forward. Is that a possibility? [LB403]

SENATOR ASHFORD: You know, I think we're okay adopting Senator Karpisek's amendment, and we can address some of that in the hearing. I think it's okay to...I think we should adopt Senator Karpisek's amendment. [LB403]

SENATOR NANTKES: Okay. And then in regards to the last bracket motion that you put up said a date certain for June 3, which essentially would be around the time of sine die which would essentially kill the bill or indefinitely postpone the bill upon your motion. It's my understanding that we can put in potentially a bracket motion with another date certain, maybe for a week to 10 to 14 days down the road that would allow for your committee to exercise its hearings on those new issues, and maybe that's another option that we could look at. Could you give me your thoughts on that? [LB403]

SENATOR ASHFORD: Thank you. Let me tell you what I would plan to do on this. We would have the hearing on the fifth of March. I would ask the Speaker then to give the committee a week or two, probably two weeks. We've taken...we have to address the

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death penalty in our committee the first week in March. I would...which we're going to do and I've committed to the Speaker that the committee will address that in Exec Session. I would think we would not get to this until the second week in March, which effectively is ten days or so. And then we'll have an Exec Session. And I'm thinking, quite frankly because you're asking a great question, because the committee has done as much on this as it has, I'm thinking about issuing a supplemental report to the report, because I think that's what the body has in front of it now. And rather than...you know, the committee can do whatever it wants, but I'm thinking in conjunction with whatever they do that we issue a supplement to the report and outline the issues that are brought up the hearing. [LB403]

SENATOR NANTKES: Great. Thank you, Senator Ashford. And Mr. President, how much time do I have remaining? [LB403]

PRESIDENT SHEEHY: Two minutes. [LB403]

SENATOR NANTKES: Okay. Just very briefly, I want to make clear for the body that sometimes in the heat of the debate on issues of substance and of process tensions can flare, particularly on an emotional issue like this. But I also want to be clear for each of the members that if there was a perception that I had some sort of animosity toward Senator Janssen, that's not the case. It's probably just three years in law school that sharpen the debate instinct in me, and I relish these opportunities. I don't see them as negative. I see this as an invigorated process which is exciting and which is why we are here and which helps us to better distill the issues so that we can find common ground and we can find resolution. And having passionate advocates on both sides of an issue is how we do that. So I want to be very clear to the members, particularly the new members, that when it seems that things are emotional or tense or highly charged, that's okay. It's not a personal issue. That's part of debate and dialogue and... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR NANTKES: ...the great spirit that this body contains. So I've had a chance to visit with Senator Janssen off the mike and we're smiles and we're congenial and I want to make clear for the body that that's how we operate, that's how I operate. And if there ever was a question about a personal aspect in the tenor of the debate, it is not that. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Ashford. [LB403]

SENATOR ASHFORD: Let's see, we're on...where are we? [LB403]

PRESIDENT SHEEHY: We are on the committee amendment, AM440 or amendment to committee amendment, AM440. [LB403]

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SENATOR ASHFORD: All right. AM440 which is Senator Karpisek's amendment. What I'm going to do is I'm going to give Senator White, if he'd take it, the mike, give him the opportunity to explain his amendment. Then if possible we could vote as soon as possible on Senator Karpisek's amendment. And then hopefully advance the bill today off of General File onto Select File so that we can start doing the work that I promise you we will do in this committee and will bring to you a report, we'll bring to you the information hopefully you will need to be able to debate this issue. So Senator White. [LB403]

PRESIDENT SHEEHY: Senator White, 4 minutes. [LB403]

SENATOR WHITE: Thank you, Mr. President. I have filed just now an amendment to LB403. It is AM691, I believe. Actually, I need my glass. It's amendment, I'm sorry, AM491. And what AM491 does is in part it goes back to an original bill that was discussed by Senator Ashford's committee, and then it adds something different. AM491 would now ask that LB403 apply to any employer of 25 or more employees, not just those who contract with the state, not just those who receive incentives from the state, but any employer in the state that employes 25 or more people in the state. It would require that employer to use E-Verify as LB403 does. And if they don't, if they don't use E-Verify and are in violation of that act and they're charged with a violation of the act, then it requires the state and any political subdivision of the state, meaning counties, school districts, hospitals that are state subsidized to examine to see if the employee that was wrongfully hired in violation of this act or members of that employee's family received any public funds. And if they did it then requires those agencies that expended the public funds to go after the employer, the employer to pay back the public for the funds expended because the employer lured and hired someone here who had no right to be here and working here. One of the great frustrations for me has been to see employers who knowingly lure, encourage, and hire illegal aliens here, pay them substandard wages, abuse them, and then dump a huge cost, the social cost of that on the public. And that can come in the form of large numbers of people who are brought into our schools who do not speak English as a first language. I would never willingly deny them an education. I think that's a recipe for social disaster. You do not, do not punish children by denying them an education. They're going to stay here often anyway. And if they are ill-educated, if they have no opportunities, then they become criminals. That is terrible. On the other hand, I will not reward an employer who violates the law to make a quick buck and then dumps the cost of that violation on the public. If we're going to be serious about the immigration reform... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR WHITE: ...and we should be, the public demands that we be, you do not just try to target the poor desperate person who crosses the border. What you really do is

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you take the profit out of those who exploit that person, both on this side of the border and on the other. And that's what this bill will do. It gives every honest honorable employer an absolute safe harbor. Use E-Verify, you have nothing to worry about. Don't use E-Verify and hire somebody, we're going to not sanction you as Senator Council so eloquently pointed out. That would be a violation of federal law. We cannot sanction people for that, but we can recover damages. We don't have to be chumps for cheaters. And if we as a people are required to expend money to house, hospital, educate people who shouldn't be here illegally... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR WHITE: Thank you, sir. [LB403]

PRESIDENT SHEEHY: Thank you, Senator White. Additional members requesting to speak on AM440, amendment to the committee amendment, Senator Price, followed by Senator Council, Senator Campbell, Senator Haar, and others. Senator Price. [LB403]

SENATOR PRICE: Mr. President, members of the body, thank you. Speaker Flood has asked us to spend time looking at the bill and discussing that over procedure and I welcome that opportunity. In researching and looking at it I found it interesting in AM413, page 2, line 17, paragraph 4 and I do call this out to the members, it says in there: symptoms of a communicable disease or diseases whether or not such symptoms are caused by communicable diseases will be treated. Wow! Symptoms of a communicable disease will be treated whether or not there is a communicable disease. A cough. I mean, I don't know what falls under the sun that could be something that doesn't have to be something that could be something that could be treated. Okay. Just take a look at that, folks. I mean, as you look at that. That's in the bill. Treat everything whether or not it has a foundation. Now onto the latest amendment, AM491. I'd like to ask if Senator Lautenbaugh would yield to a question. [LB403]

PRESIDENT SHEEHY: Senator Lautenbaugh, would you yield? [LB403]

SENATOR PRICE: Not available I don't think at the moment. We'll see. Well, I'll just go ahead and wing it on my own. The question I have is on page 1, line 11, paragraph 2 that says: if someone is found to have violated. And my question is, and I'm sure someone in the body will take the time help me out here, does having been found to violate equate to convicted. If anybody has the opportunity to answer to me on that later on or pull me aside I sure would like that. But just want to be sure if you're found to have violated or have been convicted, is there a difference there in those words? And with that, I would sit down and say thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Council. [LB403]

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SENATOR COUNCIL: Yes, thank you. If Senator Ashford would yield to a question. [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you yield to questions? [LB403]

SENATOR ASHFORD: Yes, ma'am. [LB403]

SENATOR COUNCIL: Yes, Senator Ashford, what is your understanding of what formal action the Judiciary Committee can take after having the hearing on Senator White's amendment as well as Senator Janssen's amendment? [LB403]

SENATOR ASHFORD: The committee can do nothing at all, simply hear it. It could recommend that the amendment not be adopted. It could recommend that the amendment be adopted. It could write a report or supplemental report from the committee that would outline the committees thoughts on the matter. It pretty much in my view, Senator Council, we could do pretty much what we would like to do as a committee on this matter. [LB403]

SENATOR COUNCIL: Okay. But what do the rules provide in terms of what...we're talking about a process that apparently has been rarely utilized. [LB403]

SENATOR ASHFORD: I don't think... [LB403]

SENATOR COUNCIL: So there has been some suggestion that there's some precedent for doing it, but what do the rules provide in terms of a hearing on a matter that was not originally submitted as a bill, what is the official formal action that the committee can take? [LB403]

SENATOR ASHFORD: I don't have the rule in front of me, but what's required is that we hold the hearing and that we hold the hearing in a manner that is as we normally do with notice and so forth and so on. I don't believe there's a rule that sets forth what the committee would do with it. [LB403]

SENATOR COUNCIL: Okay, because... [LB403]

SENATOR ASHFORD: My point is we can deal with it as we wish. [LB403]

SENATOR COUNCIL: Okay, because that needs to be clarified because my question to Senator Janssen was if the committee voted to indefinitely postpone his amendment, what would he do. Well, quite frankly according to my just cursory reading of the rules the committee cannot take that action. [LB403]

SENATOR ASHFORD: That's right. It would have no effect. I would rather that we...well,

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we can do what we want to do, we could make recommendations, Senator Council, but I don't think an IPP of the amendment is in order and probably has no effect anyway. [LB403]

SENATOR COUNCIL: And that needed to be clarified because if we did it, it would have no effect because there's no rule that provides for it. And again my concern is that this issue was presented in the form of LB403 and LB34 which did have a public hearing. The issue of the DREAM Act was included in the discussion during that public hearing. Representations were made to the public that LB403 did not address the DREAM Act, and now...and I appreciate and respect the Speaker's concern with regard to transparency and having a public hearing again on the issue of the DREAM Act. I believe that the committee should act upon the amendment introduced by Senator Karpisek. I would urge this body to vote to approve AM440 if for no other reason than the fact that that is the introducers expression and clarification of his intent. And that would be the only reason I would be voting in support of AM440 because Senator Karpisek offered to, stated publicly that he would clarify his intent and AM440 does exactly that. So I would ask that the body support AM440... [LB403 LB34]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR COUNCIL: ...for the purpose of clarifying the intent. And that when we get to AM413 I would just urge the body to again review what the bill does and what the bill doesn't do. And I just read an e-mail from a constituent who thinks that this bill creates some new system of verifying the status of aliens. It does not! There is no new system being implemented. There is no new way to determine whether or not individuals receive public benefits. And the public benefits that are all at issue are all public benefits that are funded by federal dollars which we are mandated to comply with federal law that requires verification. All we are doing is, in my opinion, is a redundancy. Without this legislation, our Department of Health and Human Services must comply with SAVE. [LB403]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Council. Senator Campbell. [LB403]

SENATOR CAMPBELL: Thank you, Mr. President and members of the body. I have appreciated the discussion over the last two days and would particularly thank Senator Ashford and the Judiciary Committee for a very thoughtful approach. I see the bill they brought forward as a framework of philosophy. And here is where I agree with Senator Fulton. When I was on the campaign trail people are frustrated, but they also realize the complexity of the issue before us and for us not to take the time to thoughtfully look at it, it seems to me flies in face of what many Nebraskans are asking. This is a complex issue. It takes the Legislature to frame a philosophy. However, I would also like Senator Ashford's committee to be very cautious and thoughtful when you look at the E-Verify

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system. I agree with Senator White that there are a lot of companies in the state who comply, and it is very difficult for those companies to look at others who do not and there is no ramification. But the U.S. citizens are also frustrated with the fact that the federal government will not take action. And if you look at the latest example of that...this last weekend I looked at articles, the E-Verify system and its continuation was struck from the stimulus bill. Our own federal government chose not to include that as a way to forward the job stimulus bill. And for that I think Americans will truly be frustrated. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Senator Haar. [LB403]

SENATOR HAAR: Mr. President and members of the body, again, I want to thank the committee and the whole body for this thoughtful discussion and I think we need to keep carrying it on because I, too, experienced on the campaign trail the concern of citizens. I talked to Senator Ashford and I think on Select File I will at least move that this be separated into two bills because I think it is. So going back to the first part about verification of benefits, I had handed out an article from The Denver Post. And the first sentence of that article say: Colorado's new law banning state spending on illegal immigrants has cost more than \$2 million to enforce and has saved the state nothing. And I went and I got that bill from Colorado. It is...if you'd like a copy I can get that to you, it's house bill 1023. Colorado passed it in 2006, and within six months...again, if you look at this article they had spent \$2 million to enforce it and they had found no results. And the thing that confuses me, I've read and reread the Judicial Committee's report, and if you look at page 12 way at the bottom it says: it is not bad policy in and of itself for agencies to verify an applicant's eligibility for benefits. However, we found little evidence of people applying for benefits for which they are ineligible. And so, Senator Ashford, I'd like to ask a question of you if I could. [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you yield to a question? [LB403]

SENATOR ASHFORD: Sure. [LB403]

SENATOR HAAR: And I see that part of our current bill of AM413 is actually taken from the Colorado law. What makes our law different from their law in which they basically concluded their...you know, you can't prove it makes a difference. I hate to spend a bunch of money and then find out that we've simply modeled a failure of Colorado. [LB403]

SENATOR ASHFORD: I don't think it makes a significant difference, and that's what we've concluded in our report, because there are very few undocumented workers that apply for benefits, at least based on our trip around the state we found that to be the case. Both talking to employers and hospitals and everybody we concluded that it just wasn't a big issue. I think what that bill does...that's our finding, I think what Senator

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Karpisek's amendment does is sets a standard that says you can't receive benefits if you're undocumented. It will have some financial impact. The \$300,000, I guess, is what we heard Cathy Lang talk about. So it will have some financial impact probably. But I think you're right. The overall...we need to make clear that the public realizes that it is...though it's an option that we can do it's not going to significantly financially benefit the state. [LB403]

SENATOR HAAR: Okay. Well, I really intend to explore this much further, but I would like to yield the rest of my time to Senator White. Thank you very much. [LB403]

PRESIDENT SHEEHY: Senator White, 1 minute 30 seconds. [LB403]

SENATOR WHITE: Thank you so much, Senator Haar, for your courtesy. I have introduced the amendment AM491 in order for the committee to have a hearing on it, I must withdraw it. I will do that and I will reintroduce it on Select File. I want to thank Senator Ashford for his courtesy and the committees courtesy. I don't think that this needs a hearing to be honest with you. Under the rules it directly relates to the substance of the bill, it doesn't have anything to do with new matter. [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR WHITE: But because this is such a contentious issue and because Senator Flood made it clear we need to be sure under a Unicameral system everything is heard and because there's going to be a hearing, I'm more than comfortable withdrawing it. I also withdraw it in order to speed a vote in consideration on AM440. So with the understanding that the body knows I will reintroduce this on Select and I will happily participate in a hearing in front of the Judiciary Committee on the substance of it, I now ask leave to withdraw for AM491. [LB403]

PRESIDENT SHEEHY: Senator Karpisek. [LB403]

SENATOR KARPISEK: Thank you, Mr. President. I'd like to thank everybody for kind of calming down, getting back to the business at hand here. I think it really helped to have Speaker Floor stand up and give his side of the story. Although this is throwing a little bit of a wrench into the things, I can't fault anyone. Senator Janssen, he's doing what he thinks is the best. And although maybe it wasn't the absolute best way to do it he's well within his rights. He's got a vote here just like all of us. And I do commend him for standing up and taking a little bit of a beating and doing what he felt was right. I just want to talk about a little bit again, a little tutoring maybe, again for standing behind your word. I did talk to Senator Ashford off the mike and Senator Nantkes about this amendment. It's probably not what I would have brought, but since I said I would clarify it, I did. And you know what? At the end of the day here we're going to work through it and it's going to work out. If I would have come and not did what I said I would do, I bet

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you that Senator Council wouldn't have said one nice thing about me today and I wouldn't have blamed her. And I do appreciate what she has said about Senator Campbell. You can tell with Senator Council also that she's been on boards, made tough decisions. She's come in here and hasn't missed a beat and that's very, very refreshing. I don't know about AM440. I think it's fine. I've asked Senator Ashford if we come back with Senator Janssen's amendment and we pass his amendment, what happens to AM440. Senator Ashford feels confident that it will still clarify what we are doing in LB403. AM440 was not only to try to clarify the DREAM Act, but other parts of postsecondary financial aid. Again, that's federal things, state things, so it is a clarifier. I am very worried that we're getting caught up in a political vote, and that's not why I have it up here and that's not why anyone wanted to see it up here. Senator Ashford and I have both said this is not a gotcha bill for the immigrants. It's also not a gotcha bill for these senators, for us. We know that there has been some very high profile elections that have maybe been won and lost here in recent years surrounding the DREAM Act. I think that's very unfair. Any of us that have been through a campaign and you get the negative mail and you hear the things that are said about you, it's tough. I haven't been through a reelection, but I'll bet you it's going to be even tougher because every vote that we make on this floor or everything that we say on this floor or in the paper or on TV could come back and get you. [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR KARPISEK: Thank you, Mr. President. I've worried about that on this bill. I've worried about it and worried about it, and I remember what I said my first year one of the first times on the mike. Senator Pankonin and I had a little discussion. Said, you know what, I'm so darn happy to be here once if I don't make it again, I guess I don't make it, which I intend to. But it's not going to influence my votes on how I feel in here because I guarantee you there is going to be something negative no matter what you do. And I do not like that. I would hope both parties knock that stuff off because once we get in here we don't need the partisanship. We work very well together. This issue has really showed that. We've all worked very well together and I complement everyone on that because we've all been through some nasty campaigns. And thank you for leaving that at the door. I appreciate it. We have the work of the state to do and that comes way before... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR KARPISEK: ...my feelings or yours. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. Members requesting to speak on AM413 or AM440 to AM413 are Senator Loudon, followed by Senator Janssen, Senator Pirsch, and Senator Haar. Senator Loudon. [LB403]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. I've not spoken or weighed in on this bill yet for the last couple of days. As I said before, I've not quite decided what I like about the bill or dislike about the bill, but at the present time I certainly am in favor of some of the ideas that Senator Council has brought forward. And I agree with most of the dialogue that she's brought about this bill. My concern is what we're doing with this bill. We played around with this thing. There's four amendments on the thing, and this thing has literally rolled around the Legislature here, and actually what it's done about like a tumbleweed until it's gathered up a whole lot of lint. I really think this bill should be recommitted to committee and worked on. There's four major amendments to this bill, and when you start trying to do this and then plan on moving it to Select File with some of these amendments out there on Select File, this will never get the right kind of consideration it should. It should be brought back to the committee, put together, put together right, brought back forwards again, and then acted on. And whether or not these amendments that are standing on it now will be voted up or down, that's what the committee work is all about. So I think this is where it should go. Now, you probably talk about a lot of extra work for the committee, but I'm sorry, that's what committees are for. When you came down here and when you got put on a committee, then if got to be extra work, well, that's just tough. That's part of it. You're going to have to do it, it needs to be done, and that's the way it should work forward. Also, we have some of the issues that Senator Pankonin mentioned about what goes on with some of the retirement funding. Has anyone considered how that should be? And as Senator Council has mentioned that part of this that if nothing is done, why the business of state will probably continue just like it has been. So I think we need to reconsider what we're doing about putting these amendments on and moving forwards. And the worst part of it, a concern I have is to bring this back into committee to have a hearing on an amendment. This is setting a very dangerous precedent. I don't know as I've ever seen where we've had a hearing on an amendment to a bill, especially when it may be...the amendment may be put on Select committee or to move a bill onto Select committee and then have a hearing on the amendment. This is something that we certainly that we certainly don't want to get involved in and should never set a precedent. I've looked through the rule book and I haven't seen where you can actually do that. You can recommit the whole bill and bring back, which is the right way to do it. So I think where we need to go is what we have more or less our rules set up, recommit the thing to committee, put our amendments on it that are there, let the committee decide the good and bad and better about us or what you would say the good, better, and ugly or something like that, and see where it comes from there. This is what our committee work is all about. So with that, I would like to see where we can go. If not, if there isn't an amendment brought forwards yet today on recommitting it to committee, I'll certainly introduce that amendment. I think Senator Friend had the right idea early on when he did make that. I think that at the time it was probably premature and everybody thought it was something that was up in the air. Senator Friend was doing it to hold a spot or something like that, but in hindsight that was probably the best amendment that's been brought up to this thing up to date there. At least we would have got the...

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[LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR LOUDEN: ...the situation done according to rules and went from there. And as Senator Karpisek said as far as politics, I've not seen any politics mixed up in that. I don't know as we do that much political...choose up political sides here in the Legislature. The seven years I've been down here or six years going on seven, I've not seen that. So I think we're all right with that part. But I do think that this bill has to be recommitted to committee, do it like we have our rules set up, and go from there. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Janssen. [LB403]

SENATOR JANSSEN: I call the question. [LB403]

PRESIDENT SHEEHY: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote yea; oppose, nay. Please record, Mr. Clerk. [LB403]

CLERK: 36 ayes, 2 nays to cease debate, Mr. President. [LB403]

PRESIDENT SHEEHY: Debate does cease. Senator Karpisek, you're recognized to close. [LB403]

SENATOR KARPISEK: Thank you, Mr. President, member of the body. I would like to point out again that this amendment was brought to clarify LB403, had nothing to do with the DREAM Act. We wanted...I wanted to make sure that I kept my word and specified what LB403 was after. I feel that it is just technical to let everyone know what it means, to try to help Senator...especially Senator Council that had concerns in committee, also for the postsecondary education system. They have been very concerned about what it meant. Did it mean the DREAM Act, did it not? Again, LB403 did not mean to address that. There are many other questions that we need to bring on just the postsecondary education. I shouldn't say questions, clarification. I think it's all clarified in there. We know what we're talking about when we talk about postsecondary education now. I have talked to the university system, postsecondary education system. They were all fine with the amendment. Again, the amendment is just to clarify, I hope that it does. Senator Ashford has said it does not make things tougher for Senator Janssen to confuse the issue greater. I will defer to his knowledge on that. I think it's simple enough, that's what it's for. I'd appreciate your vote on it. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the closing. The

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question before the body is on the adoption of AM440 amendment to committee amendment. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB403]

CLERK: 36 ayes, 0 nays on adoption of Senator Karpisek's amendment to the committee amendments. [LB403]

PRESIDENT SHEEHY: Amendment to committee amendment AM440 is adopted. [LB403]

CLERK: I have nothing further pending to the committee amendments, Mr. President. [LB403]

PRESIDENT SHEEHY: We will now return to floor discussion on Judiciary Committee AM413. Members requesting to speak are Senator Pirsch, followed by Senator Haar. Senator Pirsch. [LB403]

SENATOR PIRSCH: Thank you very much, Mr. President, members of the body. And I think that we have broached a larger issue here today, raised it, an issue that deals about process or procedure that going forward is going to affect this body, especially since the last waive of term limits have essentially come in and this group or a large component of this group might be together for the next eight years. And so I think it's really important that we think about what was raised today because it's going to have profound implications for your bills going forward for years to come. And so I want to make sure that we discuss this and if a consensus has been reached that we're very clear about this on the floor. I don't want to gloss over this. And the question deals with, was it resolved today that the Legislature enforces tightly requirements that substantive amendments must have a hearing before being added to bills. If it has any meat, if it isn't just a technical correction they must be accorded a public hearing before...unless and until it has, it is going to be rejected by the body. And so I just want to...if I could ask Senator Friend if he'd yield to that quick question. [LB403]

PRESIDENT SHEEHY: Senator Friend, would you yield to questions? [LB403]

SENATOR FRIEND: Yes I will, but I was...you'll have to... [LB403]

SENATOR PIRSCH: Very...I'll ask you again. Is it your position here today that going forward and, as it was with this bill, that we should have any substantive amendment, anything with meat to it other than the technical correction should have to be introduced and come through committee. Without that, it should be rejected by the body. [LB403]

SENATOR FRIEND: No. [LB403]

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SENATOR PIRSCH: Okay. [LB403]

SENATOR FRIEND: That's not my assertion. [LB403]

SENATOR PIRSCH: Okay. Could you distinguish that between your assertion earlier? [LB403]

SENATOR FRIEND: Absolutely. Let's just use the DREAM Act as an example. And I spoke to this on the recommit motion yesterday morning. For three times that particular issue has had public hearings. So because of that, because there was precedence set to deal with that particular issue three times in three different public hearings, because of that precedent I think that it is appropriate for this body to deal with it in that fashion. [LB403]

SENATOR PIRSCH: Okay. I just wanted to clarify that. You think if it isn't passed being given that...accorded that kind of treatment, then you don't necessarily have to have to hard rule that every substantive matter has to... [LB403]

SENATOR FRIEND: Not always and I've never asserted that. What I'm... [LB403]

SENATOR PIRSCH: No, no, and I appreciate that clarification. I was just asking you. I'm not attempting to say that you did. With respect...Senator Nantkes, would you mind answering a quick question? [LB403]

PRESIDENT SHEEHY: Senator Nantkes, would you yield? [LB403]

SENATOR NANTKES: I'd be happy to. [LB403]

SENATOR PIRSCH: Okay. Could you kind of give your position on that? Do you believe every substantive weighty...I'm sorry, meaty issue, something other than a technical correction to a bill thus would then require a committee hearing before it could be adopted onto an underlying bill or amendment? [LB403]

SENATOR NANTKES: I guess it's difficult to say, Senator Pirsch. It seems like a pretty broad question, but I think a good example using the current issue before us would be the fact that Senator Janssen's amendment has previously been introduced as a bill previously by Senator Schimek. The repeal efforts have previously been introduced by other senators in this body... [LB403]

PRESIDENT SHEEHY: One minute. [LB403]

SENATOR NANTKES: ...so that's a pretty clear indication to me that those are the types of bills that fall beyond what a normal amendment would be, and that would come in the

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normal bill introduction process. [LB403]

SENATOR PIRSCH: Okay. So not a hard and fast rule. Well, I'll ask Senator Ashford when...I'm not sure if he's on the floor at all. Oh, here he is. [LB403]

PRESIDENT SHEEHY: Senator Ashford, would you yield? [LB403]

SENATOR PIRSCH: I'd just like to ask him. But it seems as though, Senator Nantkes, you're not saying it's a hard rule, it's just kind of a guideline. Senator Ashford, same question, if you want to address that. Do you think that every...anything that is a meaty or substantive change other than technical corrections should have a committee hearing? [LB403]

SENATOR ASHFORD: No. [LB403]

SENATOR PIRSCH: Okay. [LB403]

SENATOR ASHFORD: No, what I think is that the body can argue that it...as long as the amendment is germane, I don't see a reason for it to have a hearing. What I was saying is that the issue of the...if it's a totally different subject matter, if it's something out of left field... [LB403]

PRESIDENT SHEEHY: Time, Senator. [LB403]

SENATOR PIRSCH: Thank you. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Ashford. Thank you, Senator Pirsch. Are there additional members requesting to speak on Judiciary Committee AM413? Seeing none, Senator Ashford, you're recognized to close. [LB403]

SENATOR ASHFORD: Thank you very much, Mr. Lieutenant Governor. AM413 very briefly deals with two of the recommendations in the report that was issued this year in December, at least to the Legislature from the Judiciary Committee. It deals with E-Verify and employment and deals with benefits. There are several other recommendations, one deals with the DREAM Act, that are...and nor do I...I'm not suggesting this is the only kind of issues we can deal with. If it's not in the report doesn't make it a bad deal, but that's what this does. It deals with two of the recommendations. I think it's worthy of adoption. And then hopefully we can quickly move LB403 to Select so the committee can go about doing its work on the work that we've been charged to do. Thank you, Mr. Lieutenant Governor. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Ashford. You have heard the closing. The question before the body is on the adoption of the Judiciary Committee AM413 to

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LB403. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB403]

CLERK: 40 ayes, 2 nays, Mr. President, on adoption of committee amendments. [LB403]

PRESIDENT SHEEHY: The committee amendment AM413 is adopted. [LB403]

CLERK: I have no further amendments at this time, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will return to floor discussion on the advancement of LB403. Are there members requesting to speak? Seeing none, Senator Karpisek, you're recognized to close. [LB403]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I really want to thank everyone for working through this. We have work to do between now and Select, that's for sure. We've got the retirement issue. We, of course, have the DREAM Act issue. There's a lot of work to be done, but I feel that we're moving in the right direction. We've moved it on or hopefully we'll move it on here. It was some hard lifting, but that's all right. That's what we're here to do. I've had many people already this year again ask me why do you always have to have such tough bills. You know what? The tough bills are why we're here. It's easy to pass the little word-change bills. But we need to tackle some issues. I think this is an issue that the citizens of Nebraska want dealt with, they want to see something done, many feel that it's too much, many feel that it's not enough. But I think as sitting down, working across party lines, different beliefs, different ideas that we can come up with something good for the state of Nebraska and something to make sure that we keep what we have, make sure that the people's money when they pay their taxes is being spend in the right place. We all know this is not the only place we need to look, but this is a good start. And I hope that this will get the ball rolling to look into other places. Maybe some people that are receiving benefits that shouldn't be and know they shouldn't be instead of saying, well, what the heck, illegals can get it, why shouldn't I. Look in the mirror. You're hurting the rest of this state and your neighbors. So, again, this is not a gotcha bill, a pick on anyone bill. This is for the state, for the taxpayers. They want something done. We've heard it. And thank you for working it out with us. Thank you for the senators that sat down and hammered out the details. I would ask for a green vote on this. Thank you, Mr. President. [LB403]

PRESIDENT SHEEHY: Thank you, Senator Karpisek. You have heard the closing. The question before the body is on the advancement of LB403. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB403]

CLERK: 45 ayes, 2 nays, Mr. President, on the advancement. [LB403]

PRESIDENT SHEEHY: LB403 advances. Mr. Clerk, do you have items for the record?

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[LB403]

CLERK: I do, Mr. President. Your committee of the Executive Board reports LR1CA, LR5CA, and LB505 indefinitely postponed, those signed by Senator Wightman as chair. Transportation Committee chaired by Senator Fischer reports LB175 General File, LB183 General File with amendments, LB272 indefinitely postponed. An amendment to be printed, Senator White to LB403; Transportation offers confirmation report; notice of hearing from Judiciary; Senator Gay offers LR36. That will be laid over. Transportation Committee reports LB129 to General File with committee amendments. Name adds, Senators Loudon and Flood to LB153, Senator Howard to LB507. (Legislative Journal pages 564-566.) [LR1CA LR5CA LR36 LB129 LB153 LB175 LB183 LB272 LB403 LB505 LB507]

And, Mr. President, I have a priority motion. Senator Flood would move to adjourn until Thursday morning, February 26 at 9:00 a.m. []

PRESIDENT SHEEHY: You have heard the motion to adjourn until Thursday, February 26 at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned. []