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Floor Debate
March 15, 2010

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-second day of the One Hundred First Legislature, Second Session. Our chaplain for today is Pastor Howard Jordan of the Bible Baptist Church, Beatrice, Nebraska, Senator Wallman's district. Please rise.

PASTOR JORDAN: (Prayer offered.)

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

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

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

CLERK: I have no corrections.

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

CLERK: I have but one item. Senator Pirsch offers LR378, Mr. President. That will be laid over at this time. [LR378]

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR346, LR347, LR348, LR349, LR350, LR351, and LR352. (Visitors introduced.) Mr. Clerk, we now proceed to the agenda for today. One note for members this morning: We will be passing over LB862. We will be passing over Senator Christensen's LB862 toward the top of your agenda. Please make a note on your agenda. Mr. Clerk, we now proceed to LB701. [LR346 LR347 LR348 LR349 LR350 LR351 LR352 LB701]

CLERK: LB701, a bill by Senator Hadley. (Read title.) The bill was introduced in January, Mr. President, at that time referred to the Health and Human Services Committee. The bill was discussed last Thursday...last Friday, excuse me. Committee amendments, as was an amendment by Senator Mello, were adopted to the bill. At this

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time I have no additional amendments pending. [LB701]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Hadley, you are recognized as we continue General File discussion on LB701. [LB701]

SENATOR HADLEY: Thank you, Mr. President. I appreciate your taking the time. And what I want to do today is to go back and really make sure that I explain...could I have a gavel, Mr. President? [LB701]

SPEAKER FLOOD: (Gavel) [LB701]

SENATOR HADLEY: I want to make sure that everybody understands what this bill is about, because I hope you will move it on to Select File so that we could have further discussion there. LB701 basically amends the state ICF/MR Reimbursement Protection Act. We had two amendments that we passed last Friday. One amendment was a technical amendment that made, basically, the Centers for Medicare to approve it, and the second amendment was to amend the last part of the bill to include a reimbursement to the ICF/MRs of up to \$600,000. I want to go through kind of how it works, because the questions I heard last Friday--and they were very legitimate questions, and the questions dealt with the funding. What was it trying to do? Are there controls in place to make sure that the money is being spent appropriately? And also, is this something that we should be doing, and what does the fiscal note really mean on this? Well, let me start...I gave you a handout, LB701, and let me use that as a means of describing what my bill is trying to do. The first is...it starts, I believe, in FY '12. We started with an agreement back in 2004. There's a part of the Medicaid/Medicare reimbursement act that basically says if providers tax themselves, the federal government will provide additional funds. It's a way of leveraging funds to the state. It is a great deal for the state. If you'll look at the handout, it's important that you understand this is a handout that only deals with Mosaic because they're the only nongovernmental ICF/MRs in the state. Beatrice, BSDC is the state-owned, but the state lost its ability to leverage these funds when it lost Medicare certification. So right now this only deals with the private companies. When Beatrice is recertified, they will again be part of this. It will enhance and leverage more funds to the General Fund, but it doesn't right now. Mosaic basically says we will tax ourselves \$1 million. They actually send that money to the state, and the state sends it on to the federal government. The federal government matches that at approximately 64 percent. So the federal government turns around and gives back a check to the state for \$1,644,200. Now the uses of that fund. The first thing the state does is it pays Mosaic back the \$1 million, so Mosaic is not out the \$1 million. The Department of Health and Human Services gets a \$55,000 amount to administer the fund. Folks, that's pretty good. Since BSDC is no longer part of the fund, they're getting 5.5 percent... [LB701]

SPEAKER FLOOD: One minute. [LB701]

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SENATOR HADLEY: ...to administer the fund. The community-based programs is the waiting list--\$312,000 goes to try and work on the waiting list. The contentious, or the part I'm dealing with, is the \$277,200. The way the bill was originally written and the intent of the bill was this money was to go back to the ICF/MRs to help fund the programs. It has been used. Basically, right now, the DHHS uses part of that for the rate increase every year, the normal rate increase, the 1.5 percent they've gotten in the past, with the remainder being put back into the General Fund. So I'm arguing that the intent of the original legislation is not being met. [LB701]

SPEAKER FLOOD: Time, Senator. [LB701]

SENATOR HADLEY: Thank you, Mr. President. [LB701]

SPEAKER FLOOD: Thank you, Senator Hadley. (Visitors introduced.) Continuing with General File discussion on LB701, Senator Gay, you are recognized. [LB701]

SENATOR GAY: Thank you, Mr. President. I just rise in support of the bill, and I'm going to probably give some of my time to Senator Hadley, I think, to continue on. But just on Friday, when we passed the committee amendment, it did clarify some very important things. So the revenue that would be received has a reimbursement rate, and that was in...and Senator Hadley is doing a fine job explaining that. But I did just want to say I think many of these ICF/MRs, they are our partners in providing services to the developmental disabilities community. And in the future--they decided to tax themselves a long time ago--but in the future this mechanism will help make sure that they can afford to provide these services. Especially now, as we're going to a method where we have more community-based ICF/MRs, it's more and more important that we make sure we maintain a stable funding formula. And again, as he had mentioned, this was a tax they put on themselves to maximize some federal monies that we receive. So with that, I do support the bill, and I would yield the balance of my time to Senator Hadley if he'd like it. [LB701]

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Senator Hadley, you're recognized. [LB701]

SENATOR HADLEY: For how long? [LB701]

SENATOR LOUDEN: Beggars can't be choosers. [LB701]

SENATOR HADLEY: Okay. (Laugh) [LB701]

SENATOR JANSSEN: For three minutes. [LB701]

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SENATOR HADLEY: Thank you, Mr. President. I will finish up my thoughts. So the point...going back to my handout, the point we're talking about is the \$277,200. This, as the bill is written, can go up to \$600,000. But it can't go up unless we get Beatrice back into the fold, because Axtell, Beatrice, Grand Island, Mosaic cannot do it itself because they cannot tax themselves that much. I am going to tell you that this will have a General Fund impact. I'm sorry. I wish it didn't, but it does. I'm going to argue it is an appropriate General Fund impact because, number one, we are following through on what we should have been doing many years. Since 2004, we've been putting \$1.5 million a year into the General Fund. Part of that should have been going to the ICF/MRs. So we've gotten a windfall since 2004. The state has gotten a windfall. The actual fiscal note, the way it's written, it is very confusing. And I'm working with the Fiscal Office to make sure that we get the right fiscal note for the Select...when it comes back on Select. And I will make sure that we open it up for discussion at that point in time, so anybody who wants to talk about the fiscal impact, we can talk about it. I'm not trying to run anything through or do a back door on a fiscal note at this point in time. Lastly, there was a question about is there controls over this? Yes, there's a couple controls. The worry was, will this go to administrative salaries? Administrative salaries are capped at 14 percent of the reimbursement. No matter...if they decide to spend 25 percent on administrative salaries, the other 11 percent can't come out of here, so there is that control. Secondly, there are cost reimbursement reports that they're required to make that justifies and tells how they're spending this money. So again, I'm telling you that there will be a fiscal note. I'm not going to quibble about that. The exact amount I will have some discussions about. But remember, one of the biggest concerns I have right now... [LB701]

SENATOR JANSSEN: One minute. [LB701]

SENATOR HADLEY: I'm sorry, did you say "time"? [LB701]

SENATOR JANSSEN: One minute. [LB701]

SENATOR HADLEY: Oh, one minute. Okay. Couldn't quite hear it. If somebody would have come to this body five or six years ago and said, for \$200,000 or \$300,000 or \$400,000 we can help BSDC, would we have done it? I think we would have done it. Folks, this is a serious problem in the ICF/MRs. They cannot consistently pay \$2 to \$3 an hour less than Beatrice is paying and expect to keep people working there. I gave you the numbers last week of the number of residents they're working with and the staff they have. This is one of these "pay me now or pay me later." And I'll tell you what: We've had an example of what "pay me later" costs, and I don't think we want to go there again. Thank you, Mr. President. [LB701]

SENATOR JANSSEN: Thank you, Senator Hadley and Senator Gay. Next up on

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LB701, Senator Lathrop, you are up and recognized. [LB701]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I'm standing in support of LB701, and I wanted to share where this bill fits in, in the state's renewed effort to provide quality services to the developmentally disabled in this state. As you know, we ran into significant problems with BSDC. We put a committee of senators from this body together to look into how the state is doing providing services to the developmentally disabled, and we learned a number of things. Certainly we learned about care and shortcomings down at BSDC, the chances we had to fix those problems that we did not take advantage of. But we learned some systemic things that I think this bill helps to address. First of all, what we learned is that if you are going to pay people essentially entry level wages, that you're going to have significant turnover. It is exacerbated when across town the folks at BSDC are making more than the folks at Mosaic are in Beatrice. So it's important that we make the wages competitive at these privately run ICF/MRs. And I'll say a word about Mosaic. Mosaic is a quality, quality provider of services, and they are part of the Governor's strategy for getting the provision of services for the developmentally disabled back on track. There is a contract. The state--and this is the Governor's work--he's put together a contract, and I believe it's for 75 beds with Mosaic. It is important that if we are going to partner with an institution or with a private provider like Mosaic, that we make it possible for them to do what we are asking them to do, and to do it well. If we keep the contract amounts and the reimbursement rates for these providers at entry level wages, they're going to have turnover. We're going to be wasting money on training and we're not going to have the services that we want because the people will be new--they won't be trained well. When we pay these folks a competitive wage, we will keep people doing this work. We will train them once, and they will be capable of doing this work so that we're not spending more money on training because of a high turnover. Again, the ICF/MRs are an important...a very important piece in the services that are delivered to the developmentally disabled in this state. Making certain that the wages that are paid to those folks are competitive is essential. Certainly, wages paid to direct care staff is a component to the problems that we experienced at BSDC. And so I fully support the bill. I would encourage you to appreciate that the ICF/MRs are very important--critical--in the way we provide services to the developmentally disabled. Mosaic is a very good provider of those services in this state and have a terrific track record. They are our partner in the solutions that the Governor has crafted for taking the state from where we were at BSDC and where we were with the waiting list, and getting us to where we can all feel good about how we're doing with the developmentally disabled in this state. And for that reason, I would encourage your support of LB701. Thank you. [LB701]

SENATOR JANSSEN: Thank you, Senator Lathrop. Next up is Senator Wightman, followed by Wallman. Senator Wightman, you are recognized. [LB701]

SENATOR WIGHTMAN: Thank you, Mr. President and colleagues. I certainly will

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support LB701 as far as advancing it to E&R Initial. I think, like all of us, I want to see the fiscal note and exactly where that is. But I have long been an advocate of increasing pay for providers, because it seems to me that we ask our providers in health and human services to provide a lot of services. Their frontline workers are paid substantially less than the state employees. With that, I would like to ask a question of Senator Hadley if he would yield. [LB701]

SENATOR JANSSEN: Senator Hadley, would you yield to a question from Senator Wightman? [LB701]

SENATOR HADLEY: Yes, I would. [LB701]

SENATOR WIGHTMAN: Thank you. You had indicated, I think, that maybe these wages were, what, 70 to 80 percent for the frontline workers at Mosaic compared to the state of Nebraska employees? [LB701]

SENATOR HADLEY: That's correct, Senator. [LB701]

SENATOR WIGHTMAN: And that doesn't factor in benefits. Can you tell me anything? My understanding is that the benefits are substantially lower for healthcare providers, private providers, as opposed to the state benefits. Can you give us any information on that? [LB701]

SENATOR HADLEY: I do not have any exact data but to my understanding they are quite a bit less. I will give you just one anecdotal note. I was involved with a hospital that happened to own a nursing home. And the hospital got out of the nursing home business because the benefits they had to pay as a hospital, they could not operate the nursing home. So I think we have the same kind of situation here. The state benefits are so much greater than the private benefits that it exacerbates that difference in salary. [LB701]

SENATOR WIGHTMAN: So if you factor that in...and that's the same information I have, that the healthcare many times is perhaps a \$500 payment towards their healthcare benefits, compared to the state that pays 79 percent of the total healthcare benefits and can amount to \$17,000 and \$18,000 per employee, per year--that it's much, much less than that. And the retirement benefits, I think probably are equally disproportionate. Would that be your understanding? [LB701]

SENATOR HADLEY: That would be my understanding, Senator Wightman. [LB701]

SENATOR WIGHTMAN: So instead of the 70 or 80 percent, it may be 50 to 60 percent by the time you factor in benefits. Is that correct? [LB701]

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SENATOR HADLEY: That's correct. [LB701]

SENATOR WIGHTMAN: With that, I'll yield the rest of my time to Senator Hadley if he desires it. Thank you, Mr. President. [LB701]

SENATOR HADLEY: I will pass, Mr. President. [LB701]

SENATOR JANSSEN: Thank you, Senator Wightman and Senator Hadley. Next up, Senator Wallman. You're recognized. [LB701]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I, too, thank Senator Hadley for this bill. And if we...Mosaic is a good provider, and they augment, with our state, BSDC, but the salaries are not the same. So if we truly want to privatize these ICF/MRs, we should compensate them. And thank you, Mr. President. [LB701]

SENATOR JANSSEN: Thank you, Senator Wallman. There are no other lights lit. Senator Hadley, you are recognized to close on LB701. [LB701]

SENATOR HADLEY: Thank you, Mr. President and members of the body. I would encourage a green vote on this. I will promise you that I will work with the fiscal note to get an appropriate fiscal note that deals with the actual bill, and I will make sure there is time when this bill gets to Select so we can talk about what the actual fiscal impact is versus the benefits that we can gain by doing this. With that, I would appreciate a green vote on LB701. Thank you, Mr. President. [LB701]

SENATOR JANSSEN: Thank you, Senator Hadley. Members, you have heard the closing on the advancement of LB701 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB701]

CLERK: 39 ayes, 0 nays on the advancement of LB701. [LB701]

SENATOR JANSSEN: The motion to pass the bill is successful. Next bill, Mr. Clerk. [LB701]

CLERK: Mr. President, if I may right before that, a few items. Senator Pirsch offers LB510A. (Read LB510A for the first time.) Senator Harms, an amendment to be printed, LB862; Senator Loudon, LB862; Senator Campbell, LB1110; Senator Hansen, LB836. (Legislative Journal pages 882-883.) [LB510A LB862 LB1110 LB836]

Mr. President, LB1071, introduced by Senator Adams. (Read title.) The bill was introduced on January 21 of this year, at that time referred to the Education Committee.

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The bill was advanced to General File. There are committee amendments, Mr. President. (AM2103, Legislative Journal page 747.) [LB1071]

SENATOR JANSSEN: Senator Adams, you are recognized to open on your LB1071. [LB1071]

SENATOR ADAMS: Thank you, Mr. President, members of the body. You are being handed out three different bullet point sheets. One of them is the green copy of the bill, the second is the committee amendment, and then the third is an amendment to the committee amendment. This is the Education's technical bill. And though it is heavy, we have tried very, very hard to make sure that this is as purely technical in nature as we possibly can. And what I'd like to do is to simply run through the highlights of what is here and certainly answer any questions that you may have. The one thing that the bill will do right at the outset is to remove the requirement for county assessor's to certify taxable value to the schools. Currently, that is done through the Property Tax Administrator. So we're just clearing up language there. The residency requirements: students who attend any school district in which at least one parent resides would be considered a resident of that school district. Also, when it comes to learning community and open enrollment now, if a student open enrolls into a different school district, they are considered a resident of that school district. Enhancing Excellence in Teaching Program: If you recall, that was a bill that we passed last year. And what that bill did was to essentially say we already have a program where we are using lottery dollars to help offset the undergraduate costs of those going into teaching. Last year, with that bill, what we did was to say we're going to help teachers, using the same dollars, with their graduate program. What we ran into over the summer was, first of all, a depletion of those funds. The program is in high demand. This doesn't add more funds to it. What it does do is to clarify something. In current language, it says that a person has to be applying for a graduate degree in a teacher education program. That's probably too narrow. For instance, speech pathology, working on a master's degree in speech path wouldn't necessarily be working on a master's degree in teacher education. So what the language would do in the bill is to open that up a little bit. So if you're working on a graduate program, it doesn't have to be a teacher education graduate program. The next thing that we do in our early childhood programs...really this is no change in statute, it's clarification. If a school is not receiving an early childhood grant, they are still eligible for TEEOSA--they are under current law--but it makes sure that...we're clarifying that that is the case. Just because you don't have a grant doesn't mean that you aren't eligible, as long as you're following the state guidelines for the grant to have those early childhood students counted in TEEOSA. Again, this is a matter of clarification. TEEOSA deadlines. We have a lot of different deadlines for our allowances, for poverty, ELL. We're setting all of those here at October 15 rather than having them all over the board. We're just simply saying October 15 is the deadline for turning that in. Unused budget authority--"unused" budget authority. What we are currently saying is...what we're going to say in statute is that we're going to calculate your unused budget authority based on

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what you did spend, not what you could have spent, based on the allowable growth formula that we have been changing in TEEOSA. That, Mr. President, is the green copy of the bill. [LB1071]

SENATOR JANSSEN: Thank you, Senator Adams. As the Clerk has stated, there are amendments from the Education Committee. Senator Adams, as chair of that committee, you are recognized to open on the amendments. [LB1071]

SENATOR ADAMS: Thank you, Mr. President. This is the committee amendment. And it doesn't completely replace the bill, but indeed it adds a lot to it. One of the things I want to draw your attention to, next year, 2011, this will change the certification date for state aid for the year 2011 to April 1. We believe this is prudent. Next year, it's a budget-building year. It's also a year that we're going to have to have a bill on TEEOSA in front of all of us to make adjustments to bring the needs down so that we can fit into a budget picture that's not looking good. The point of this is, let's not kid ourselves, we all know what we went through last regular session on LB545. And rather than have to change the certification date three or four times as we are winding our way through that TEEOSA maze, I would prefer that we, right now, set it at April 1. That's not to say it might not have to change next year, but let's set it at April 1. It's a notification to school districts and everybody that, hey look, it's not going to be when it normally is. We know it's going to be tough. Let's set it out there. That's not to say that it may not change again. But it gives us a...it sets the goal out there. The other thing it will do is to move it to March 1, from February 1, for every year thereafter. What we're experiencing, and you all know it because you've been here on the floor, is that we're changing TEEOSA so often, to adjust to this budget and adjusting needs down, that to hit that February 1 certification date all the time is just not realistic. So we move it out to March 1, beginning in the...every year after the 2011. Unified systems. If you remember, Senator Dierks had a bill--it was LB711 if I recall, that has gone across the finish line. The Governor has signed it, recreating the possibility of unified systems. What this does is to say that that system will report for state aid as a system. So hypothetically, let's say you have four or five schools, maybe six or seven in a unified system, they will apply for one state aid check. They will report as a system, rather than individual school districts, for poverty and ELL and those kinds of things. It smooths it out for the superintendent or the superintendents of that unified system, and it takes us closer to that point where they begin to act as one within that unified structure. Again, in the early childhood, again it's a further clarification of what's in the green copy of the bill. Grant qualifications have to be met, but if they don't have a grant, that does not exclude them from TEEOSA. It just is clarifying. Open enrollment students will be treated as resident students. And at the same token, in schools that are not in the learning community, resident students are considered resident students, but they'll still have...the school that they option from still has to handle the special ed transportation. That won't be so in the learning community. Memorandum of understanding for student data systems. We're taking LB957 and rolling it into this bill. Let me give you some background here. In our P-16 initiative that I

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know that you've all heard about--it's been around for a while--but in the last 12 months it has taken on new direction and new energy, and it's called P-16, not P-12. It is P-16. And up to now, most of the onus, in my opinion, has been on K-12 in order to prepare students for higher ed, and that's just fine. This time, as we reinvigorate this P-16 system, what we're saying is, K-12, you got to raise the bar, you got to narrow that achievement gap that we have; you got to make sure that these kids are ready for college. But what we are also saying: Hey colleges, you're part of the system. And if K-12, within its data system, has to make data available to you about how they are preparing students for your postsecondary institutions, then, postsecondary institutions, you need to share some data with all of us so we can see what you're doing with those students when you get them. This is a giant leap of faith, because, up to now, the higher ed institutions, of course, maintain data, but we have never had a sharing of that data--of taking higher ed data and flowing it into our student data for K-12. We think it's essential. Obviously, we have to be terribly careful that we recognize privacy rights, and we will do that in all of our postsecondary institutions. We're talking university, state college, and community college. Our first step is very simple. It is a memorandum of understanding where the commissioner of K-12 education and the representatives from K-12 sit down, and they develop a memorandum of understanding for the collection of data so we can start to move in that direction. The next step down the road will be how do we share that data. This, I believe, is essential. In the next bullet point, we take LB1069--has to do with ESUs--and we put it in here. Our Educational Service Unit Coordinating Council, which is the administrators of all 19 ESUs, get together on a regular basis. They're called the Coordinating Council. The State Auditor has had some issues with open meetings, public records, with them. This gets us over that. It simply says that the ESU Coordinating Council will be deemed a political subdivision with no taxing authority. Now, when the Auditor sits down and looks at the way that they're running their meetings, it becomes very clear how they have to run those meetings. They will be looked upon as a political subdivision with no taxing authority. In addition to that, we're going to change the way that we distribute core service dollars to ESUs. Currently, there is an "aid" hold harmless in the formula. We want to do away with that, an aid hold harmless, and we want to move it over to a "need" hold harmless. We hold their needs harmless. But at the same time that we do that, what we are saying is that the distance education allowance and the telecommunication allowance will be excluded from the calculation of that need hold harmless, because they vacillate, they fluctuate far too much on any given year, so it's not fair to have that incorporated in a needs hold harmless. Finally, technology purchases. This is a matter of clarification, a clarification between ESUs and the Distance Education Council, the CIO's Office, and the Nebraska Information Technology Commission. It is unnecessary, in our opinion, for a school district, when they have a router go out, to make application to the NITC to review that for technical specifications, which may take 30, 60 or 90 days to do that. They may need the router overnight. Now I'm capsulizing here, but the essence of this is if an educational service unit distance ed coordinating council needs to purchase hardware or software, they go ahead and do it. They go ahead and do it without all this

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approval process. However, they need to follow the technical guidelines that are provided by the CIO's office and the NITC, otherwise they can go about their business. The other thing that it clarifies is this--and this may seem petty but it's not in the distance education world--and that is that if an ESU chooses not to participate in Network Nebraska, they don't have to. It is a competitive world out there. Let them look for where they can get the best deal for their ESU's money. That, in essence, is the amendment, AM2103, Mr. President. [LB1071 LB545 LB711 LB957 LB1069]

SENATOR JANSSEN: Thank you, Senator Adams. (Visitors introduced.) Mr. Clerk, is there an amendment to the committee amendment? [LB1071]

CLERK: There is, Mr. President. Senator Adams, I, first of all, have AM2165 with a note you want to withdraw that. [LB1071]

SENATOR ADAMS: Correct. [LB1071]

CLERK: Mr. President, Senator Adams would move to amend the committee amendments with AM2182. (Legislative Journal pages 883-887.) [LB1071]

SENATOR JANSSEN: Senator Adams, you are recognized to open on AM2182. [LB1071]

SENATOR ADAMS: Thank you, Mr. President. What AM2182 does is to add, again, to the committee amendment which I just went through. One of the things it does: currently, under law, school districts submit to the State Board of Education and the Commissioner their plan for evaluating teachers. Currently, it is teachers only. What this would say is, certified staff. Now, like memorandum of understanding, this is something of a leap of faith, because what this is saying now is the school districts need to develop a methodology and have it approved by the State Board of Education, not just for teachers, but for the principal and the superintendent as well. They, too, need to be evaluated, and the State Board needs to approve that methodology for evaluation. Enterprise projects. What we are doing here is trying to more clearly define in technology what an enterprise project is. And the essence of it is this: If a state agency or state agencies go together on a technology purchase or a software purchase, that is an enterprise project. We are clarifying here in the language, though, that if a political subdivision, like a city, an ESU, a school district, goes out and purchases software, that's not considered an enterprise project which has to go through a review of the CIO and the Nebraska Information Technology Commission. And finally, distance education scheduling. In current law there is a requirement that if an ESU wants to offer distance education courses on-line, that scheduling software has to be purchased. It's an unnecessary expense. There may be a place for that, but currently it's an unnecessary expense. Instead, what the law would say is that if we have an ESU out there that has a host of courses that they would like to offer on-line, that what they will do is they will get

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with the ESU Coordinating Council and schedule those courses. Whether it be via software or not, they will schedule those courses. It eliminates some of the obstructions and the cost in scheduling. Mr. President, that is the amendment to the committee amendment. Thank you. [LB1071]

SENATOR JANSSEN: Thank you, Senator Adams. Members, you've heard the opening to AM2182 to AM2103. Those wishing to speak are Senators Price, followed by Harms and Nelson. Senator Price, you are recognized. [LB1071]

SENATOR PRICE: Thank you, Mr. President. Members of the body, good morning. Welcome to another week in the Legislature. I wonder, would Senator Adams yield to a question, please? [LB1071]

SENATOR ADAMS: Yes. [LB1071]

SENATOR JANSSEN: Yes, proceed. [LB1071]

SENATOR PRICE: Thank you very much. When we talk about the residency question outlined in the bill, how does this work within the context of LB1087 where we're moving residency...I mean in LB1087 we talked about last year, the residency requirement, how payments move. Now we're throwing another move in there and a change of residency. How does all this work out? [LB1071 LB1087]

SENATOR ADAMS: It doesn't change anything. LB1087 recognizes residency the same way that this will recognize residency. [LB1071]

SENATOR PRICE: All right. So I guess the point I come to is, as far as residency from where the parents live. Because it seems now if the parents--and help me out--if the parents live in district A and now the child is going to district C, that residency now is not where the parents reside and where they were doing school, but where the child is going to school in district C. [LB1071]

SENATOR ADAMS: The child...parents, two parents living in district A, that's the child's residency district. [LB1071]

SENATOR PRICE: Even for all the other things we talked about in LB1087? Because I thought you were saying, now in the learning community part of that, we're moving a child...if, in the learning community, the child goes to district C while living in district A, that district C becomes the resident for the child--the resident school district. [LB1071 LB1087]

SENATOR ADAMS: Just a moment. They will be treated as a resident, Senator. [LB1071]

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SENATOR PRICE: Of which school district? [LB1071]

SENATOR ADAMS: Of the district that they have open-enrolled into. [LB1071]

SENATOR PRICE: Okay. So this only applies to a learning community situation then? [LB1071]

SENATOR ADAMS: Well, in that portion of the language, yes. [LB1071]

SENATOR PRICE: Okay, great. Thank you. [LB1071]

SENATOR ADAMS: Yes. [LB1071]

SENATOR PRICE: I would like to move on then to another thing. You talked about the transportation costs for special education students. [LB1071]

SENATOR ADAMS: Right. [LB1071]

SENATOR PRICE: Was it only special education students, only in a learning community? [LB1071]

SENATOR ADAMS: If it's special education students, yes. Now you also realize that in a learning community there is open enrollment, and there's transportation involved with that, too, but for special education purposes which is what this deals with. [LB1071]

SENATOR PRICE: All right, thank you. And then, finally, to move on, I heard you speak that, with ESUs, you're opening up the system. Not tying them to the proprietary system they use for Network Nebraska, I believe it is, correct? [LB1071]

SENATOR ADAMS: That's right. [LB1071]

SENATOR PRICE: Okay. So now I heard you say that, and I think...I applaud that, I support that. The question I have, though, is when we talk about the scheduling tool that the ESU uses, is this, the scheduling part of your AM2182, going to ease the scheduling nightmare? Because it seemed to me if you're not...if you don't require an ESU or a school to have to use the ESU's Network Nebraska but yet they have to schedule classes and you had a proprietary system on Network Nebraska, you'd be kind of forcing them to that. And this fixes that, is that what that does? [LB1071]

SENATOR ADAMS: Yes, yes. It's a good question. But what we're hoping to do here is to eliminate some red tape and some hassles that are being interpreted in the law that we think are unnecessary. [LB1071]

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SENATOR PRICE: All right. Thank you very much, Senator Adams. And I will yield any time I have remaining to Senator Adams. [LB1071]

SENATOR JANSSEN: Senator Adams, you're yielded 1 minute 3 seconds. [LB1071]

SENATOR ADAMS: Thank you, Mr. President. And the questions that were asked are relevant ones. And again, let me remind you that basically we are clarifying language here, as much as anything else. The Department of Ed has told us, you know, these are some bumps in the road that we have with interpretation. And that's, in essence, what we're trying to do here. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Price and Senator Adams. Next up, Senator Harms. You are recognized. [LB1071]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Adams, would you yield, please? [LB1071]

SENATOR JANSSEN: Senator Adams, will you yield to a question from Senator Harms? [LB1071]

SENATOR ADAMS: Yes, I will. [LB1071]

SENATOR HARMS: Senator Adams, first, thank you very much for what you're doing here. It's a comprehensive move, and I think it's an important move and changes that are needed. Let me talk to you about a couple of things I'm just curious about. In regard to the 2011, March 1 deadline, do you feel really comfortable that we're going to make that? Because this has really been, you know, has been a real battle for us. And, historically, we get about 15 or 20 sheets dropped on us at the last minute, and it's really hard for us to deal with our own school districts to help them think through some of this, and do you really feel that that's going to give you enough time? Looks like, to me, April would be better, but I don't know how that's going to work. [LB1071]

SENATOR ADAMS: You know, Senator, you raise the question that I have rolled around in my mind for a week prior to putting this language in there. There was no question in mind that February 1 wasn't going to work and that March 1 wasn't going to work. Will April 1? I don't know, I don't know. I think it's better than what we've had. Is it good enough? I don't know. [LB1071]

SENATOR HARMS: Well, I appreciate you having the courage to go ahead and make that change. I do think it's important, particularly for those of us on this floor that have difficulty with that funding formula, because it is comprehensive and it is hard to follow. The other thing I wanted to visit with you about, Senator, is the P-16. [LB1071]

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SENATOR ADAMS: Yes. [LB1071]

SENATOR HARMS: And you heard me say this before, but with raising the standards in our public schools there are an awfully lot of children or teenagers that will not meet that standard, and I have heard nowhere in the discussion about the kids who can't reach those standards. Are we going to be looking at applied academics for those kids? What are we going to do for that group? Because my greatest fear is that when we raise the standard, which I applaud--I think it's important to do--there are an awful lot of teenagers that are not going to get there, and what are we going to do with that? I hope we don't have a warehouse dropout. I mean, what provisions are being made for those kids, because I think that's really important. [LB1071]

SENATOR ADAMS: You raise a good question. And as we are asking school districts to step it up, we are looking at common core standards and the kind of standards that are being used nationwide. And Nebraska standards, as we have moved through them, the reading now, the math next, we find that our Nebraska standards match right up with common core national standards. The question that you ask is probably one of the most important questions in education: What about the student who can't? One of the things that we need to recognize is that we're dealing with standards, not a course. If we said every kid has to take calculus--a course--we know they can't get there. But within our standards, are there standards that are applicable, math standards that are applicable that we think that most of our students can reach within the scope of curriculum? And, yes. Now are we stepping it up? There's no question. And it's differentiated instruction. It's teachers and school districts having to account for those students. I think also our assessment system is different today than it was two years ago, and I see a continued evolution in our assessment system towards, potentially, some growth modeling where we look at how much has a student grown rather than have they reached that particular bar. [LB1071]

SENATOR HARMS: Thank you, Senator. I'm still concerned about the student who's going to have difficulties here, and I haven't really heard any real discussion yet about how we're going to reach those students and how we going to make education to where they can... [LB1071]

SENATOR JANSSEN: One minute. [LB1071]

SENATOR HARMS: Thank you, Mr. President...to where they really feel that they have a chance. And what I'm talking about are the options: kids being able to work with their hands and taking applied academics. Where if you're going to be an automotive mechanic, you do mathematics, it's going to deal specifically with being an automotive mechanic or a welder or whatever you would like to be. That's where our disconnect is a lot of times in our school systems. And so I'm just going to continue to push on that as

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this thing goes across because I have a high interest in this. I support what you're doing. I'm want to go a step further now. I want to talk about higher education and the public schools and their relationship to this data. Now when we talk about this, are we talking about...when you talk about data, you're talking about numbers? Are we going to have any discussion at all about lining up the curriculum? Because what I have found, in my previous world, a lot of students who come from a public school system are so deficient in mathematics, English, reading, writing... [LB1071]

SENATOR JANSSEN: Time, Senator. [LB1071]

SENATOR HARMS: Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Harms and Senator Adams. Those wishing to speak: Senator Nelson, followed by Fulton and Harms. Senator Nelson, you are recognized. [LB1071]

SENATOR NELSON: Thank you, Mr. President, members of the body. I, too, want to thank Senator Adams here for his presentation and for the bullet points. I don't happen to have the educational background, I mean as a teacher or anything, that each of you, Senator Adams and Senator Harms, so you're talking on a level higher than I am. But I also have some questions here on the memorandum of understanding for student data systems. That's number five on your committee amendment. First of all, what are we talking about: B-16? I'm not familiar with that term. And would Senator Adams yield to that question, please? [LB1071]

SENATOR JANSSEN: Senator Adams, will you yield to a question from Senator Nelson? [LB1071]

SENATOR ADAMS: I will. Senator, P-16 is primary through college. [LB1071]

SENATOR NELSON: Oh, it's P and not B. [LB1071]

SENATOR ADAMS: Right. [LB1071]

SENATOR NELSON: All right. Second, when the memorandum of understanding, the colleges, the Board of Education are to get that put together by September 1? Is that what I understand, just the memorandum of (inaudible)? [LB1071]

SENATOR ADAMS: That's correct. Just the memorandum. [LB1071]

SENATOR NELSON: Okay. You said everything has been going in one direction, from the K-12 on up. Now what is going to come back? What kind of data are we talking about? How the students are performing their freshman year of college? Could you just

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elaborate a little bit about that, what information is going back to K-12. [LB1071]

SENATOR ADAMS: Right. And thank you for the opportunity to elaborate. And just so that we're clear, K-12 has a data system. Higher ed, within their individual institutions, have their data systems. This is fusing that together to some degree, not 100 percent, but to some degree. And what is that degree? It depends on what the memorandum of understanding will call for, what things are going to be shared. In answer to your question also: Yes, it may be the performance of students. It also may be success rate: how many students started, how many finished, how many finished their first year, how many of them needed to have remediated courses when they entered into the college level from the K-12 environment, that type of thing. [LB1071]

SENATOR NELSON: So K-12 is going to find out deficiencies mainly--where they need to concentrate: English, math, or whatever--as I understand it. [LB1071]

SENATOR ADAMS: K-12 will find deficiencies. And, quite honestly, and let's be clear, it could very well be that down the road higher ed finds some deficiencies as well. [LB1071]

SENATOR NELSON: Does higher ed then have to share as far as curriculum and their requirements? Is that already known by K-12, you know, what the expectations are; what...where the students need to be when they go into college? [LB1071]

SENATOR ADAMS: You know, that's been an interesting discussion as we have met in the P-16. Currently, higher ed establishes what they need to see from a student as they're coming in. They do that. But part of this P-16 initiative has been helping higher ed understand how K-12 operates. And, for instance, I'll give you the classic example. Higher ed may come in and say, well, does every kid have to take second-year algebra? Well, in K-12 we don't deal with course offerings. Instead, it's standards: do they meet these standards before they leave high school. And higher ed has to change the way that they think. Rather than courses; standards. So there's an understanding on curriculum that is evolving right now between higher ed and secondary. [LB1071]

SENATOR NELSON: I'm guessing then that the contribution of the community colleges will be more based on the first two years, or am I wrong on that? How does that interact with the four-year schools? Is there any problem there on that memorandum of understanding? [LB1071]

SENATOR ADAMS: It really shouldn't, because what we're looking at, primarily here, initially, are those first two years. And so whether it's the university... [LB1071]

SENATOR JANSSEN: One minute. [LB1071]

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SENATOR ADAMS: ...or a community college, we're really looking at the same kind of entry point and, one year down the year, into higher ed results. [LB1071]

SENATOR NELSON: Thank you, Senator Adams. If Senator Harms needs some additional time, I'll give him what's left. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Nelson. Senator Harms, you're yielded 43 seconds. [LB1071]

SENATOR HARMS: Thank you, Mr. President. I'll yield that over to Senator Adams. [LB1071]

SENATOR JANSSEN: I do not believe you can yield time from somebody else. Moving on, those wishing to speak: Senator Fulton, followed by Harms and Utter. Senator Fulton, you are recognized. [LB1071]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Adams yield to a question, please? [LB1071]

SENATOR JANSSEN: Senator Adams, will you yield to a question? [LB1071]

SENATOR ADAMS: Yes, I will. [LB1071]

SENATOR FULTON: Senator, I'm going to talk a little bit...or ask about the date. So starting on...this would be in AM2103, so not specific to the subject matter now but at least cursorily specific...can you explain a little bit more on the date? Specifically here, we're changing it from March 10, to next year being April 1, and then in years following to be March 1. Can you just share with the body what your thought process was? I know you talked about thinking on this for a week, the thought process on moving back to April 1 and then, in following years, March 1 again. [LB1071]

SENATOR ADAMS: Yes. And it's a confusing thought pattern, which I hope is no reflection on my mind-set but, rather, all of the different issues out there that we balance. One of the things we had to consider is, realistically, politically, where are we going to be at next session as we try to develop a TEEOSA package that fits in with the budget package that your committee puts together and notification of that going out? As I indicated during the introduction of the bill, given the problems that we had during the last regular session with LB545, it would seem to me that the committee needs time; the body needs time. We're going to have extended floor debate to decide how we're going to do what we're going to do: hence, the April 1. Now, also considering in that, school districts would like to know, as soon as they can possibly find out, what their numbers are going to be so they can develop budget. We also have, in statute, an April 15 personnel deadline where school districts have to notify personnel about RIFs and

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those kinds of things. That April 15 deadline, that looms in the minds of superintendents and school boards and the teacher's union, NSEA. They're all concerned about this as well. And I'd like very much to be able to say, here's the date, and everybody will be happy with it and we'll be able to hit it every year. But I find that hard to believe. [LB1071 LB545]

SENATOR FULTON: Okay, thank you. What happened this year with respect to the day, we had to change the day, which we talked about. We decided upon and we did it. From the vantage of the Appropriations Committee...and, Senator, part of the reason I asked that question is so that we can get into the record that it's not just the Legislature that depends on these dates. The reason why we put these dates in statute is to communicate to the people of the state of Nebraska, a time line--superintendents, constituents of ours, senators here in the Legislature. But I want to express something that comes from my vantage on the Appropriations Committee. When we have...numerically, when we have settled on a figure that we are going to utilize in our budget, when we...if that figure is going to change, which this year it did, it changed with respect to what we thought it was going to be--and it changed in a more challenging way I guess would be a way that I would say it--the date is very important. From the legislative side of things, I'd like the record to show that in the first year of our Legislature...so next year, April 1, 2011, is when we would be proposing...if AM2103 is adopted, April 1 is when we would propose the deadline--so we have a date specific. I can justify April 1, 2011, because that is the first year of the One Hundred Second Legislature in which we'll be setting a two-year budget by which the state of Nebraska will be making plans going forward. And that's a pretty important budget. Because if you... [LB1071]

SENATOR JANSSEN: One minute. [LB1071]

SENATOR FULTON: ...if you look at how we planned our budget out in this Legislature, we actually do make calculations for legislatures to come. Maybe we don't bind with decisions that we make here, but we do, at least structurally, show what kind of cash flow we expect up through the year 2013. Having this deadline--March 1 on years thereafter--makes some sense. And it should be known to people that in the second year of a Legislature we aren't setting a budget; we are adjusting. So, I guess I'm putting down markers. I support this, Senator, but it's important for constituents to know. Because, I'll tell you, I have been contacted by a lot of people asking why we keep changing these dates and why we can't get the numbers right. Well, we keep changing the date so that we have something objective for everyone to work off of. The reason why we don't get the numbers right sometimes could have to do with the complexities of the formula, but that's for another time. So, Senator, I... [LB1071]

SENATOR JANSSEN: Time, Senator Fulton. [LB1071]

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SENATOR FULTON: Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Fulton and Senator Adams. (Visitors introduced.) Continuing discussion to AM2182 to AM2103, those wishing to speak: Senator Harms, followed by Senator Utter. Senator Harms, you are recognized. [LB1071]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Adams, would you yield? [LB1071]

SENATOR JANSSEN: Senator Adams, will you yield? [LB1071]

SENATOR ADAMS: Yes, I will. [LB1071]

SENATOR HARMS: Senator Adams, first, I need to tell you I support what you're doing here, support the bill and the amendments. I'm just wanting to have a few more things answered so I have a better feel for what your thinking is. I want to go back to P-16 again. If it's all right, I'd like to continue to visit with you just a little bit about that. I guess the concern that I have with our teenagers leaving the public schools and coming in on the college level, what I found over the years is that their knowledge base is not where it should be, in many cases: mathematics, English, reading and writing. And what I found is when you started the discussion with your college faculty and then you talked to a few of the public school teachers, there's a major gap between the public schools and many colleges and universities about the knowledge that is required to come into the math program or to come into the English program or just basic skills. And so I guess that's what I'm trying to come to grips in my mind with is, are we, with this P through 16, going to get to that issue and are we going to address the issue? I'm not talking about courses. I'm talking about the knowledge base that you have to have to be successful. And why I bring this up is that 70 percent of the students who enter a community college in this great state most likely will end up in what we call developmental education. It's remedial. But yet when you get the kids in the classes and you find out they lack some of the skills, they're bright; they can go through it. And I guess that's where I'm struggling a little about where we are, and I'm hope that we'll be able to address this issue. Is that where you're headed with this? [LB1071]

SENATOR ADAMS: You know, Senator Harms, you...again, you've raised a critical question. And I believe--and I'm going to do my part in pushing this--that we are back on track. The first thing that needs to happen, and I think you'll agree with me, there needed to be an open line of communication between K-12 and higher ed. Which I believe the conduit was there, but it was a one-way conversation. And I don't mean to be critical, but now I'm going to resort back to my old high school days when I was teaching, and it seemed like it was always higher ed dictating to K-12 what they wanted, and K-12 having to crank it up all of the time. What the P-16 initiative now does is to

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force an open dialogue between higher ed and K-12 so that K-12 can explain, all right, look, here's what we can do, here's what we will do. You tell us this is what we need to do--fine, but there needs to be an understanding from the higher ed perspective of what it is that K-12 is up against. And I think, on the higher ed side, there may be...needs to be an understanding on their part how they, too, need to differentiate their instruction for some kinds of students, rather than just saying here's the mold, everybody has got to fit into that. [LB1071]

SENATOR HARMS: I don't disagree with you, and I think you're right on target with those comments. The biggest issue is going to be getting the faculties together to have that common feeling that they're there because of the student and wanting to make sure that we have a knowledge base and the changes made so that those students can be successful when they go to college. I think it's a tragedy that we have 70 percent...in Nebraska, coming into community college, 70 percent of the students go in developmental education. It's even worse when you look at it nationally. It's not just Nebraska, it's national. And I really applaud what you're doing here, and I hope that we can bring... [LB1071]

SENATOR JANSSEN: One minute. [LB1071]

SENATOR HARMS: Thank you, Mr. President...bring the faculties together, because it's critical to a knowledge-based economy. I mean, we're headed toward a knowledge-based economy that's going to be digital. And to be competitive in a changing world, global economy, our students have got to have the skills that are necessary for them to go on. And this is a start, Senator, and I applaud you for what you've done because I think out of it will come good things. I'd like to move on to another topic, if I may. How much time, Mr. President? [LB1071]

SENATOR JANSSEN: Thirty seconds. [LB1071]

SENATOR HARMS: I'll stop here, and thank you. [LB1071]

SENATOR JANSSEN: Thank you, Senator Harms and Senator Adams. Continuing on with floor discussion: Senator Utter, you are recognized. [LB1071]

SENATOR UTTER: Thank you, Mr. President. I would like to just ask a short question to Senator Adams, if I might. [LB1071]

SENATOR JANSSEN: Senator Adams, will you yield? [LB1071]

SENATOR ADAMS: I will, to a brief question, not a short one. I'm a little sensitive over in this quadrant of the Chamber. [LB1071]

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SENATOR UTTER: (Laugh) Sorry about that, Senator Adams. I think I heard you right when you said that in this area of Enhancing Excellence in Teaching Program, that it was oversubscribed, that there was really not adequate funds in that program? [LB1071]

SENATOR ADAMS: That's correct, there were a lot of applications. [LB1071]

SENATOR UTTER: So I guess my next question is that we are enhancing the lines of education, if you will, that these folks that are applying for these Enhancing Education awards or grants or whatever they're called to expand the areas in which they can get graduate degrees beyond areas directly related to education. And my concern is, are we, in fact, going to be using dollars that should be going to people who are going to stay in education, to prepare them for a career somewhere outside of education? [LB1071]

SENATOR ADAMS: Has he yielded? Senator, you raise a good point and I think I can clarify it for you. By changing this language, what we have not gone away from is the current language in the bill that says that if you're a teacher and you're going to be working on a master's degree, it still must be related to your endorsed area, unless your superintendent has said we want you to go a little different direction because maybe we need a math teacher and you already have a science endorsement. Really, all this does is to simply say that when you're headed for that degree, that advanced degree within your curriculum area, it doesn't have to be a teacher education degree. For instance, I might have an endorsement to teach history, but maybe I choose to go get a master's degree in history rather than a master's degree in social studies education. One would just be as good as the other. Or as I pointed out to you before, the speech pathologist, which we desperately need in our schools, typically they work on a master's degree that has nothing to do with an identified teacher education graduate program. [LB1071]

SENATOR UTTER: Thank you very much, Senator. And whatever time we have left I would be happy to yield to Senator Adams if he wants it. [LB1071]

SENATOR JANSSEN: Senator Adams, you're yielded 2 minutes 9 seconds. [LB1071]

SENATOR ADAMS: I'll take just a few seconds to further clarify. I hope everyone understands, that graduate program loan forgiveness that we created last year was not to allow teachers in Nebraska to head off in totally different directions and we subsidize their graduate program and then they walk away from our classrooms. That was never intended. The intent was to enhance the endorsement that they already have, or, particularly in our rural environment, if a superintendent says, you know, you have a degree in mathematics but we need a science teacher and we can't get one out here, and rather than work on a master's degree in math, why don't we ask or request from the Department of Ed if you couldn't apply for this program and work on your master's

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degree in science and get that second endorsement--and we're still following the curriculum line; it's what that school needs from you. This would just simply open up an area that we found that we ran into trouble on, quite frankly. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Adams. Thank you, Senator Utter. (Visitor introduced.) Continuing on with floor discussion: Senator Harms, followed by Senator Gay. Senator Harms, you are recognized and this is your third time. [LB1071]

SENATOR HARMS: Thank you, Mr. President, colleagues. Senator Adams, would you yield? [LB1071]

SENATOR JANSSEN: Senator Adams, will you yield? [LB1071]

SENATOR ADAMS: Yes. [LB1071]

SENATOR HARMS: Thank you for your patience today. Senator, there's another topic I'd like to just, even though it's not right on this bill, I want to talk to you a little about teacher preparation, because I think when we start to look at where we have to take education in the future, teacher preparation is going to have to come into the drawing board here, because we're changing to a knowledge economy; we're changing to a digital economy; we're changing to a technology economy, and we're going to have to make those adjustments in school. When students today come out of our public school system and go to college, they learn completely differently. They are based on...it's based on technology. And what we don't have is, I think, a system that's going to be appropriate to be able to be competitive in this changing global economy. Do you see anywhere in the future here that we can bring this discussion to the table?--because I think it's time that we do address this across this great state, not only in our state but in the nation. [LB1071]

SENATOR ADAMS: Yes, Senator. And as a matter of fact...thank you for the question because it draws out another phase of the P-16 that I have not had an opportunity to talk about. If you look at the nine goals that we have created for P-16, they are P-16 goals: to improve classroom instruction K-12 and higher ed, and to get students ready for twenty-first century jobs, which you have said over and over again, and properly so, and even though it may not be specifically identified within the P-16 goals, teacher education preparation. Believe me, Senator, in my opinion it is one of the peripheral things that will need to happen if we're going to really see growth, if, for no other reason, there needs to be an evaluation of our teacher education programs. Maybe we find out they're fine, but we need to be taking a look to make sure that if we're going to improve student instruction--and the teachers are key to that--then we better make sure we're getting the right teachers in the classroom and they are prepared. And I think that is, in part...that higher ed...in part, that higher ed component. You're right. [LB1071]

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SENATOR HARMS: Thank you very much. I agree with you. We are both on the same sheet of music. But it's not going to be easy to do, as we both know, to get higher education to make the adjustments and even prepare the teachers who are now in the classroom today to make that transfer to a new world global economy curriculum. And that's the area that I worry the most about. I'm afraid that we're going to wake up some day and find out that we are no longer going to be competitive in this world. We already have lost ranking in how we prepare our kids for jobs and how our high school students are prepared. And my concern is that it's time that we wake up. It's time that we begin to understand that we're at risk through our curriculum. The only thing that has kept us free, in all the research that I have ever read, is our educational system. Why do you think that, internationally, they sent the best students here for several decades? And today they're not doing that. What has happened is that we took the best minds of people from other countries, they went back and they opened up their own universities; they opened up their own research centers. And you know what they didn't lose in this process? They didn't lose academic rigor. And that's what I'm talking about. We have lost a lot of that... [LB1071]

SENATOR JANSSEN: One minute. [LB1071]

SENATOR HARMS: Pardon me, Mr. President? [LB1071]

SENATOR JANSSEN: One minute. [LB1071]

SENATOR HARMS: Oh, thank you. We have lost a lot of that in this process, and I worry about that. Unless we make the changes now, unless we get on focus now...and with what you're doing here is a start, but we still have a ways to go. And I hope this body will understand how important these changes are that Senator Adams is asking us to make. But it's only the beginning. Unless we bring in a whole other source of information and other changes, we will not be competitive in the future. We are losing ground. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Harms and Senator Adams. Next up and recognized: Senator Gay. [LB1071]

SENATOR GAY: Thank you, Mr. President. I'd yield my time to Senator Harms if he'd like it. [LB1071]

SENATOR JANSSEN: Senator Harms, you're yielded 4 minutes 55 seconds. [LB1071]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Adams, this will be the last time. Would you yield? [LB1071]

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SENATOR JANSSEN: Senator Adams, will you yield to a question? [LB1071]

SENATOR ADAMS: Yes, I will. [LB1071]

SENATOR HARMS: I promise. I want to talk a little bit about evaluations and certification. Would you talk a little bit, first of all, about what the schools are going to be required to do in regard to evaluating their principals and superintendents to meet certain criteria? I'd like to have a little bit better dialogue with you on that topic. [LB1071]

SENATOR ADAMS: Currently, under law, the State Board of Education reviews the evaluation process for teachers that school districts put together. This would just simply take it one step further and say that the school districts also need to prepare an evaluation acceptable to the state board for their principal and superintendent. And I would tell you, if you don't mind--and I know that I'm on your time--the reason for this. [LB1071]

SENATOR HARMS: No, I don't care. [LB1071]

SENATOR ADAMS: What we know when we look at the research is that if we're going to improve classroom performance, first on the list is the teacher. Next on the list is that building principal, the leader in that building. Farther down the road is that policy implementer, the superintendent. But we think if one needs to be evaluated, given the critical piece that a principal serves and, even that, the superintendent, there ought to be assessment for them as well. [LB1071]

SENATOR HARMS: I agree with you, because the only hope we have is through that kind of leadership. If you don't have a prepared principal who understands what we're talking about in regard to a changing world global economy, he will never be able to lead his teachers in that direction and the encouragement. Our students are really ready for this. I just look at my grandchildren, and I know when they go into high school and into college they're going to learn completely differently, and we have not made the changes that we should make in this area. And I think by doing the evaluations, Senator, we're right on target, because that's an area that we have to change. A lot of schools die because they don't have good leadership principals or superintendents who understand where they have to take these kids. It's our only hope. It's our only hope for freedom. And so I hope, as you think about this and you look at it, I hope you'll take an interest, colleagues, because I really believe very strongly what the Senator is doing here, Senator Adams, is right on target. But we've just started; we're just beginning. There's a long ways yet to go to make the kind of corrections we need in our educational system. And I will tell you this: It will take courage to do this. It will take courage to change our public school system. And the only time that is going to happen is whether this body will have the courage to stand up and say, these are the things we want; this is the criteria we want to have in order to move us forward in this changing

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global economy. So I thank you, Senator Adams, for what you're doing. But I hope, as I said, this is only the beginning. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Harms, Senator Gay, and Senator Adams. Senator Adams, there is nobody else wishing to speak. Senator Adams, you are recognized to close on your amendment to the committee amendments. [LB1071]

SENATOR ADAMS: Thank you, Mr. President. I'll make it very quick. The certification and evaluation that we were just talking about, that Senator Harms was just talking about, is part of AM2182. In addition to that, we clarify the definition of what an enterprise is for technology purposes, and at the same time we take out that requirement that, for distance ed, to have to go along with a scheduling software. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Adams. You have heard the closing on the amendment to the committee amendment. The question is, shall the amendment to the committee amendment to LB1071 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB1071]

CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the amendment to the committee amendments. [LB1071]

SENATOR JANSSEN: The amendment to the amendment is adopted. Now back to discussion on the committee amendments. There is no one wishing to speak on that. Senator Adams, do you wish to close on your committee amendments? [LB1071]

SENATOR ADAMS: Thank you, Mr. President. I will. Very quickly, just to remind you of the provisions, we're changing the certification deadline for next year to April 1, and then we're going to go to a March 1 certification date thereafter. Unified systems are going to report for state aid purposes and data purposes as one system rather than individual schools within that system. We're clarifying, a little bit further, our early education and TEEOSA calculation. Open enrollment: A student under open enrollment is considered a resident of the district that they open enrolled into. Here is where we have the memorandum of understanding between higher ed and K-12 for the sharing of data. Educational Service Unit Coordinating Council becomes a political subdivision. Core service dollars: We're going to recalculate the way that we calculate core service dollars. Remember, we're going to go away from an aid hold harmless, go to a need hold harmless; take the distance ed and telecommunication allowance out because it varies too much; and technology purchases by ESUs and by educational institutions, we're saying follow the technical guidelines provided by the NITC, but that doesn't mean that you have to go through the entire review process. Thank you, Mr. President. [LB1071]

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SENATOR JANSSEN: Thank you, Senator Adams. You've heard the closing on the committee amendment. The question shall be, shall we accept the committee amendment to LB1071? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB1071]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB1071]

SENATOR JANSSEN: The committee amendments are adopted to LB1071. We're now ready to discuss the advancement of LB1071 to E&R Initial. All the...Senator Adams, you're recognized to close on LB1071. [LB1071]

SENATOR ADAMS: Thank you, Mr. President, and thanks for all your help in moving both of those amendments into this bill now. You know what the various components are. Let me highlight some things that were in the green copy, unamended, that will be included here. We're going to remove the requirement that the county assessors have to certify school valuations to the Department of Ed. That's done by the Property Tax Administrator already. The residency requirement, we have clarified that on open enrollment. The Enhancing Excellence to Teaching Program: Remember, what we're saying now is that if they're going to work on that graduate degree, that's all fine and good, but it doesn't necessarily have to be a teacher education master's degree. It may be a master's degree in history; it may be a master's degree in speech pathology. And the TEEOSA deadlines for all of those allowances, we're aligning them all at an October 15 deadline rather than have them all over the board. Thank you, Mr. President. [LB1071]

SENATOR JANSSEN: Thank you, Senator Adams. You've heard the closing on the advancement of LB1071 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB1071]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB1071. [LB1071]

SENATOR JANSSEN: The bill is advanced to E&R Initial. Proceeding to the next bill on the agenda, LB800. Senator Ashford, you are recognized to open. [LB1071 LB800]

SENATOR ASHFORD: Thank you, Mr. President. LB800 and AM2109, which will follow it, make up the juvenile justice reform bill that is being presented today to this body by the Judiciary Committee. Let me first say that this committee has worked for, now, four years on issues involving juveniles and violence, and juveniles and truancy, and I want to thank them, every single member. This is a team effort. My name is on it but it is much more of a team effort than any bill I've ever been involved in. Also I want to thank Stacey Trout, in my office, and Molly Burton, from Senator Lathrop's office, who have worked, really tirelessly, for at least since the end of last session and prior to that time

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as well, to think about the issues that we're going to be addressing today. This bill is not an overlay. This is not some effort to take some sort of uniform legislation on juvenile justice and impose it on our state. The exercise we went through as a committee was to, first and foremost, identify the needs--what is driving some of the behaviors that we're seeing amongst our juveniles in our communities. And I can say with no equivocation that this juvenile issue, the juvenile issues that we're going to be discussing in LB800, apply across the state of Nebraska. Senator Harms talks eloquently about the needs for juvenile justice reform throughout our state, from Scottsbluff to Omaha, from Lincoln to Columbus, to Norfolk, to smaller communities around our state. There have been wonderful pieces of work done, already in Nebraska, on the issues of juvenile justice, and we'll hear some of them. Senator Gloor's district in Grand Island has developed some very innovative programs. The Sarpy County juvenile judge, Larry Gendler, has done...really is a nationally recognized expert in dealing with the issues of juvenile justice. So I just want everyone to understand that some of these provisions in this bill do not have necessarily a logical continuum because we're picking out individual problems and developing, hopefully, solutions for each one of them. Let me just summarize by saying that the bill addresses inefficiencies in the process of juvenile cases by keeping nonviolent offenders out of detention and ensuring that those in detention do not remain there unnecessarily. This, of course, is a critical bill throughout the state. So often our juveniles who have just committed very much status offenses, nonviolent offenses, find themselves in a detention environment which can only cause them greater harm than good. The bill recognizes that at-risk juveniles have a better chance of success if they remain in schools and in their communities. Some...as I said, Senator Gloor's district in Grand Island has done amazing work at bringing together the county attorney, Mark Young, with the school system in devising an early alert system. One of the things that we're going to be talking about in this bill and that comes up over and over again is the fact that, where is the interface; where can we really do the most good? One of the places is in the schools and having early intervention policies and strategies in place to identify behavioral issues at the earliest possible time in a young person's life--and Senator Gloor's county attorney has been doing that. And I might also say in this regard that there have been over 200 advocates, judges, county attorneys, public defenders across the state that have been working with us. We have an e-mail list that continues to grow of many of your county attorneys, many of your judges who have played really an intimate role in this. There is not an amendment, there is not a piece of information that goes out of our office that doesn't go to this group of about 200 people across our state. Finally, the bill seeks to remove barriers to success caused by records of involvement with the juvenile justice system. There is...and I cannot tell you, in the years that I've been here, how important it is to have a clear and succinct policy on sealing of records of juveniles. So many times we have had young people come into our committee and talk to us. As juveniles, they may have committed, for example, an MIP, that Senator Harms has been concerned about, or a minor drug offense. And they've come into a county court environment and pled and paid \$50 or whatever it is, and then, all of a sudden, five or six years later they find

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out that this little offense is still on their record. They can't get into medical school; they can't get a scholarship. In Senator Council's district there are so many young people in poverty, and Senator Council has worked throughout her whole career on this issue. Elected officials in north Omaha and community leaders in north Omaha who take individual children by the hand and try to find them a job as they get older, have to deal with these records that for the most part are for minor offenses. Nebraska needs to be in the vanguard on this issue and this bill takes care of that. Let me just go through some of the provisions. First of all, I ought to talk about the provisions that keep offenders, who are not a danger to themselves or others, out of the juvenile court and out of the secured detention environments. (1) The bill authorizes, though it does not require, the establishment of a civil citation pilot project in Omaha. And we have no problem in this bill of adding additional counties to this. It is an idea that emanated from Douglas County, from Chris Rodgers who is on the county board. And he suggested to us a strategy that was devised in Miami-Dade County where nonviolent offenders, juvenile offenders, are given a civil citation rather than a criminal citation. This keeps them out of the system--there's not a filing done by the county attorney--and puts them into, in Douglas County, our juvenile assessment centers. And other counties have similar types of centers. They're ordered to go there. They're ordered to meet with probation officers and there's a plan that's devised for each individual juvenile. In Miami-Dade County, which is certainly in many cases, I would think, somewhat of a problematic county in some of its issues with crime, has experienced a significant reduction in recidivism since adopting the civil citation system in their county. Secondly, in this area that I'm discussing, we're phasing out the practice of sending status offenders into secure detention for violating a court order, by January 1, 2013. This gives the counties sufficient time to find alternatives to detention for status offenders. The bill also codifies the authority for probation officers to impose graduated sanctions to juveniles who violate their conditions of probation. This is really important, members, because what happens, traditionally, is if you have a violation of probation, the young person, the juvenile, is taken back into court and they have to wait for a hearing, and then the probation violations are heard. But we don't need to do that, and, in practice, it really isn't done all the time anyway. Probation officers have the tools to amend a plan or in consultation sometimes with the county attorneys or the judges, but not requiring another hearing, to allow for graduated sanctions--something that goes on in the adult system that needs to happen in the juvenile system in law. Finally, we have prioritized the use of grant money awarded under the County Juvenile Services Aid Program for programs that will reduce the juvenile detention population. Juvenile detention for nonviolent status offenders is not a good thing. It should not be the policy of our state or our local subdivisions, and, hopefully, this message will be sent with that provision. The bill amends law enforcement's authority to take juvenile offenders into temporary custody without a warrant. This is another area of the law which has caused confusion throughout our state with law enforcement. [LB800]

SENATOR JANSSEN: One minute. [LB800]

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SENATOR ASHFORD: Under current law, misdemeanor offenders cannot be taken into temporary custody unless the offense was committed in the presence of the officer. In order to protect juveniles from causing greater harm to themselves or others, this bill would codify a customary practice of allowing law enforcement to interview, release, ticket, or detain juveniles when there are reasonable grounds to believe that they have committed a law violation. There are so many cases involving juveniles who are in a problematic situation, who are...the officers know about their history, and there's a fear that if they are not taken off the street, that something will happen. And this codifies giving law enforcement the authority to work on those cases with those individuals. There are also, in this bill, a number of provisions to enhance the efficiency of the juvenile justice system. [LB800]

SENATOR JANSSEN: Time, Senator Ashford. Thank you, Senator Ashford. Mr. Clerk, are there any amendments to LB800? [LB800]

ASSISTANT CLERK: Mr. President, the Judiciary Committee would offer AM2109. (Legislative Journal page 761.) [LB800]

SENATOR JANSSEN: As the Clerk has stated, there are amendments from the Judiciary Committee. Senator Ashford, as Chair of the committee, you are recognized to open on the amendments. [LB800]

SENATOR ASHFORD: Thank you...and I'll just go on with my comments. Thank you, Mr. President. Some of these provisions to increase efficiency include: imposing a time line on courts to hold hearings on the results of evaluations within ten days after the court receives a completed evaluation; authorizing the use of videoconferencing for juvenile proceedings if the court approves and both parties agree; eliminating the use of the three-judge review panel for appeals of juvenile cases in which the court order implements a plan different from the plan recommended by DHHS or the Department of Health and Human Services. The bill adds language to emphasize a need to place juveniles in the least restrictive environment possible. Truancy: provisions for truancy intervention and prevention. We have heard, over the last four years, numerous testifiers talk about truancy and its impact on children. This bill deals, we believe, in a very head-on way with the truancy issues. Under this bill, a school district must report truancy cases to the county attorney after 20 days of absence, regardless of whether any of the absences were excused or unexcused. This is an extremely key provision. What we're asking the schools to do and what's happening in Grand Island already, in Grand Island we have a county attorney actually physically in the school in Grand Island dealing with truancy, so if there's a report of a truant student, they can deal with those children immediately. This is a big problem, a huge problem, in my view, in the juvenile justice system. School districts must collaborate with the county attorney, as they're doing in Grand Island today, in developing their truancy policies. School districts must

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report to the Department of Education on a monthly basis--and this is a big change--a monthly basis, indicating the occurrence of and reason for excessive absence, suspension, expulsion, referral to the county attorney, and contact with law enforcement. The bill establishes the Truancy Intervention Task Force to examine the data collected by the department and to make recommendations to the Legislature on how to reduce truancy. We only...all that is required today is that there be an annual reporting in the aggregate of truant students. That's not enough. That's not enough. It's killing our system and we need to address it head on. We authorize the juvenile court to suspend driving privileges of truant juveniles and to issue fines not exceeding \$500 or other community service for parents of truant juveniles. These would be last-resort types of remedies, but the judges need to have a full complement of remedies in dealing with truancy. We allow law enforcement to take a juvenile into temporary custody when there are reasonable grounds to believe that the juvenile is truant, and deliver the juvenile back to school. We need to get that juvenile off the street and back to school. In Douglas County, just last week, there was the beginning of a series of arraignments being conducted by the Douglas County Juvenile Court that involve over 600 children in the metro area that have been truant for several months and, in some cases, as much as three years. I mean, this is a critical crisis in our state. Sealing of the juvenile records: I think, as I mentioned in my introduction, that this is so very important and key. LB800 includes the provisions of LB923 to provide a clear and comprehensive process for sealing records of interaction with the juvenile court system and the county court system. Such records create barriers to employment, receiving scholarships, and admission to schools or the military. The bill would allow more juveniles to have their records sealed, and clarify the process, which is now quite confusing, by defining what it would mean to have a record sealed, and providing guidance on how to respond to questions about the records once they are sealed. Sealed records would not be available to the public except by order of the court. However, sealed records would be available to the court, law enforcement, and prosecuting attorneys for the purpose of prosecuting and sentencing criminal defendants. When applying for jobs, the person whose record has been sealed may respond to questions as if no record exists. I can't think of any, other than the truancy provisions, of anything that is more critical than allow young people who have made a mistake, albeit a minor one in their lives, to be precluded from working. We have the highest black male unemployment in the country in Douglas County, and I would suggest that this sealing of the records will address, if not a significant part, at least quite an important part of that problem. This is such a very, very important issue, and it's been drawn to our attention so many times. The Office of Violence Prevention, I have hopefully handed out to you--I don't know if they have been handed out...they have been handed out--a synopsis of the work that has been done by Mike Friend in the last nine months. It is close to amazing what is happening in our state as a result of the interaction between state government and community groups and local law enforcement agencies across the state, particularly in South Sioux City, in Grand Island, and in Columbus where gangs are prevalent. Gang-related violence is not an Omaha problem, and it is critical and essential that we

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continue the work of Mike Friend: one person alone working with law enforcement and working with community groups. In north Omaha alone, there are meetings that occur, and Senator Council can talk about them--it's her district and I don't want to impede on her territory--but there are people from across the community meeting every week, working on solutions and strategies to address the issue of gang and gun violence in our community in Omaha. With the passage of this bill and the continuation of the Office of Violence Prevention programming, I think what we're accepting in our state is that traditional methodologies of punishment only, is not the way we're going to successfully deal with the problem of gang and gun violence. It's just amazing to see, as we approach potential offenders on the street and explain to them that they're not going to like the punishment if they commit a gun crime, for example--that there are options. We have to continue to work on employment opportunities for youth; they're lacking in our state. So there are many, many strategies that we cannot drop the ball on, and the Office of Violence Prevention is an absolute key, as is the work already done across the state on these issues. And I have handed out some information on the work of the Office of Violence Prevention, and I also have handed out some information on the sealing of the records, the process that must be gone through to do this. In conclusion, there is a fiscal note on the original bill that will go away as we move this over to Select File. We've made changes in the bill so that the fiscal note will be ameliorated, and it will really have, if anything, a very small, few-thousand-dollar fiscal note. So the bill is not going to cost us any real money here. In conclusion, I just tell you this, that there is nothing that we can do, in my view, that is more important than to identify those issues which appear to many to be so paradoxical, so chronic, so this-will-never-end. I mean we just need to get more families and more traditional families. There is no question that all those things have to happen for a better society. But in the meantime...in the meantime, we cannot give up on the children that are 9 years old, the children that are 11 years old, the children that are 13, as they become older and get into middle school and high school, that aren't attending school, that aren't incented to attend school. We need to work hard to make the juvenile justice... [LB800 LB923]

SENATOR JANSSEN: One minute. [LB800]

SENATOR ASHFORD: ...system more responsive to the needs of each individual child in this state and working with the parents and the schools to bring those children into the system in a positive way so that they can experience education in a positive way and move forward in their lives. Thank you, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senator Ashford. (Visitors introduced.) Opening up floor discussion on LB800...excuse me, AM2109 to LB800, those wishing to speak are Senators McGill, Price, Howard, Mello, Council, Ashford, Lathrop, Rogert, Gloor, and Krist. Senator McGill, you are recognized. [LB800]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I'd like to tie in

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LB800 with the safe haven issue that we experienced over the last couple of years. As we all learned, there are a lot of mental health issues out there in our kids that aren't being treated properly, and the reason this ties in is because so many of our children who are serving in detention centers actually have a mental health problem. They don't belong in a detention center. They belong getting treatment somewhere in their community, staying with their families. I support LB800 because it does provide for better opportunities for young people to go into diversion programs. Yes, their mental, their behavioral health problems may lead them to commit some sort of misdemeanor crime, or worse sometimes. But to fix that problem we need to be treating the mental health, the behavioral health element of the issue and not just sending them to detention where, chances are, they're going to learn worse behaviors than if they were sent to the proper place in the first place. The committee has worked very hard on this piece of legislation. We had several hearings over the interim, and in one of them we went up to Douglas County and had a roomful of testifiers, and I asked them about the mental health element, about how many kids they see in the juvenile detention center have mental health problems. And it's hard for them to even put a number on it because so many of them haven't been diagnosed, actually diagnosed with a mental illness, but they know from their experience with these kids that that is the case with the majority of them. Some of them, it's because they live in very at-risk families and at-risk...they have a lot of factors that have, you know, developed a mental health issue, and some of them were born with that mental health issue. But regardless, in many cases, that's what needs to be treated. They shouldn't be being put in detention. They're young enough that we can try to reform them to make sure they're not going to live a life of crime. And so I appreciate all the work Senator Ashford and the rest of the committee and their staff have done on this bill, and I appreciate the support of the rest of the body. Thank you, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senator McGill. Next up and recognized: Senator Price. [LB800]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Ashford yield to a question, please? [LB800]

SENATOR JANSSEN: Senator Ashford, will you yield to Senator Price? [LB800]

SENATOR ASHFORD: Yes, sir. [LB800]

SENATOR PRICE: Thank you, Senator Ashford. And thank you for bringing the bill. Obviously it's a lot of work and it's very important. And the question I have is, when you were talking about school districts must report truancy cases to the county attorney after 20 days of absence, first of all, what happens with that report? What is the life of that report? [LB800]

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SENATOR ASHFORD: Well, it can be just a phone call as well. What we want to have happen, what isn't happening now, not in all places--and I think in Sarpy County it is happening--but in some places it isn't, where we have that call to the county attorney. They review the case. Are these excused or nonexcused? Is this the kind of case that we should at least contact the parents directly by the county attorney to see what the problems are out there? So it's more of an informal deal at 20 days, but the county attorneys are not now being notified in some places. I think they are in Sarpy County actually. [LB800]

SENATOR PRICE: Well, I appreciate that, and here's the question I have, in that is there a way to create an understanding of what duties are incumbent to the county attorney when they're called so that there's not a wide-open set of actions? They don't know...I've been reported, what do I do with this? And the reason I ask that, in the case of a student with a significant medical issue, the last thing a family wants to do is know now there's been a record opened up because of this action. So I didn't know if you'd entertain a streamline or a tightening or identifying what actions should be taken by the county attorney if they decide that it's a...that if they decide that this excused absences, that it's truncated and that it's somehow cleared off or something like that. I just didn't want families to have that extra burden when you've already decided nothing is going to go forward, that it's reported back somehow. [LB800]

SENATOR ASHFORD: Yeah, and we'd sure take a look at that, that language. We played around with a lot of language on that issue. Generally, we would say that the county attorney is not going to file in the case of an ill student. But, you know, if we need to take a look at some language that will tighten that up, we can certainly do that. [LB800]

SENATOR PRICE: And I agree that they probably wouldn't file, but I'm talking about the county attorneys that may not deal with this on a regular basis,... [LB800]

SENATOR ASHFORD: Right. [LB800]

SENATOR PRICE: ...and now they're going to be levied this task. Thank you very much, Senator Ashford. I would yield the balance of my time to Senator Ashford if he would like it. [LB800]

SENATOR ASHFORD: No, and just very briefly... [LB800]

SENATOR JANSSEN: Senator Ashford, you're yielded 2 minutes 21 seconds. [LB800]

SENATOR ASHFORD: Thank you, Senator Price. Very briefly, that has been an issue that's been brought up to us, but the general sense was that that call needs to be made to the county attorney and...because oftentimes...and at least it's a contact, and the

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county attorney can follow up on it. It is unlikely that criminal action certainly would be brought in a case of 20 days, but at least it would...it would alert the system. Thanks. [LB800]

SENATOR JANSSEN: Thank you, Senator Ashford and Senator Price. Mr. Clerk, do you have items? [LB800]

ASSISTANT CLERK: Mr. President, I do. New resolutions: LR379 offered by Senator Utter, LR380 by Senator Wallman, LR381 by Senator Ashford, LR382 by Senator Wightman, LR383 by Senator Wightman, and LR384 by Senator Krist. An announcement that Judiciary will hold an Executive Session at 2:00 this afternoon under the south balcony. (Legislative Journal pages 888-892.) [LR379 LR380 LR381 LR382 LR383 LR384]

Finally, Mr. President, I have a priority motion. Speaker Flood would move to recess until 1:30 p.m.

SENATOR JANSSEN: Thank you, Mr. Clerk. We have a motion to recess until 1:30 p.m. All those in favor signify by saying aye. Opposed, nay. Ayes have it. We are in recess until 1:30. (Gavel)

RECESS

SENATOR JANSSEN PRESIDING

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

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

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

CLERK: I do. Enrollment and Review reports LB836, LB965, LB918, LB975, LB1057, LB728, LB742, LB820, LB924, LB970, LB864, all to Select File, some of which have Enrollment and Review amendments. That's all that I have, Mr. President. (Legislative Journal pages 892-901.) [LB836 LB965 LB918 LB975 LB1057 LB728 LB742 LB820 LB924 LB970 LB864]

SENATOR JANSSEN: Thank you, Mr. Clerk. We will proceed to the first item on the afternoon's agenda. Mr. Clerk.

CLERK: Mr. President, LB800, introduced by Senator Ashford, discussed this morning.

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Senator Ashford presented the Judiciary Committee amendments. Those are still pending. (AM2109, Legislative Journal page 761.) [LB800]

SENATOR JANSSEN: Thank you, Mr. Clerk. Senator Ashford, you're recognized to give a brief opening on LB800. [LB800]

SENATOR ASHFORD: Thank you, Mr. President. And, very briefly, this bill deals with a number of reforms to the juvenile justice system, to the truancy laws, and to the sealing of court records for juveniles, and is designed to focus on early intervention strategies to identify young juveniles who are exhibiting behaviors that we can intervene with, and hopefully help them become productive. Thank you, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senator Ashford. Those wishing to speak: Senator Howard, followed by Mello, Council, Ashford, Lathrop, Rogert, Gloor, Krist, and Sullivan. Senator Howard, you are recognized. [LB800]

SENATOR HOWARD: Thank you, Mr. President and members of the body. There is so much in this bill, I hardly know where to begin. Senator Ashford, as always, packs a good bill. (Laugh) And I'm going to start by talking about a few of the things that I find, in particular, to be important. The detention issue: He has a provision in this detention issue that children that are accused or adjudicated as a status offense or status offenders will not be put in facilities, such as I think of the Douglas County Youth Center. And I can't tell you how important that is. I've seen kids come into juvenile court who maybe they've decided it would be fun to run away or maybe they've, on the spur of the moment, decided to impulse shoplift something at Target, not realizing that's a very bad idea. And if they come into juvenile court with an attitude, it's easy for the judge to think, well, I see this kid needs a good lesson--and possibly they would be spending a little time in the youth center. That's probably the worst place for them to be, because they'll learn some lessons, all right, but they certainly won't be the kinds of lessons we want them to come out with. And the Youth Center, for as long as I can remember in recent times, has run over capacity, and so when you put kids in there that are status offender--minor infractions that really should be addressed in another way--too often they come up with ideas of how to get engaged in other forms of crime. Regarding the status offenders, time and time again, when a child is adjudicated to status offender, it's been impossible to have any leverage over the parents to sit down and deal with the problems that not only belong to that child, not only what's going on with the child, but also, in most cases, far too many cases, the problems that are going on with the family. When a child is adjudicated to be abuse/neglect, the parents have to be involved. They have to participate in counseling, in family group counseling, in ways that will have that family either reunified if the child has been removed, or address the problems within the family before they become so serious that it would reach a point where there would have to be a decision made regarding removal--and none of us want to see that. So having a requirement in this bill where children who have been

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adjudicated status offenders have to participate in counseling, and also that their parents have to participate and be involved is a massive step forward. I'm very thrilled to see that there's provisions in there regarding truancy. Years and years ago, we used to have truant officers that went out from schools and would see what's going on with these kids that weren't where they needed to be--which was in class. And this is a step--a step, you could say, back in time--but certainly a step that needs to be taken. It's too easy for kids to just not want to go to school. You could stay home, do what you want--your parents are working. And that becomes more of a pattern, and then things do go from bad to worse. So to have people responsible through the school system to find out what's going on with that kid, to address it with the kids, to address it with the families, that's very, very good. And again, holding a parent responsible when a child commits an infraction or is truant from school, it's not just the child who is at fault. I remember years ago I had a case I worked on where a nine-year-old child was charged with truancy. Now anyone who's doing any kind of thinking realizes that it's not a child who's responsible for being truant from school when they're nine years old. That's a parent responsibility. [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR HOWARD: Thank you, Mr. President. I'm going to offer my one minute remaining time to Senator Ashford. [LB800]

SENATOR JANSSEN: Senator Ashford, you are yielded 51 seconds. [LB800]

SENATOR ASHFORD: Very briefly, I just want to commend Senator Howard for her work with social workers in the schools. As we traveled to Chicago this summer to the Models for Change Conference, what was interesting to hear was that there are school districts across and states across the country that are trying, just now, to think about bringing social workers into the schools. The social workers in the schools in Omaha is a critical piece, at least of our efforts, to address truancy and behavioral issues in the schools. So I commend Senator Howard for that. Thank you, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senators Howard and Ashford. (Visitors introduced.) Continuing with discussion, Senator Council, you are recognized. [LB800]

SENATOR COUNCIL: Thank you, Mr. President. I rise in support of AM2109, which effectively replaces LB800. And before I begin, I want to take this opportunity to thank everyone who has been involved in the process that led up to the introduction of LB800. This represents hours upon hours of work devoted to the objective of reforming our juvenile justice system. That work was put in by several members within this body and numerous members outside of this body. I want to express my particular appreciation to those participants in the Douglas County Juvenile Justice Task Force, a task force who put in countless hours reviewing the juvenile justice system and providing

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recommendations to the Judiciary Committee, many of which are reflected in AM2109. And what AM2109, ladies and gentlemen, actually does is to move Nebraska's juvenile justice system closer to the original objective, the original purpose of establishing a separate juvenile court system in the first instance, and that is to be rehabilitative in its purpose as opposed to punitive in its purpose. Now we all know where the more punitive provisions of our juvenile justice system rose out of, and that was, unfortunately, the increase in crime committed by juveniles during the 1980s. But what we are seeing now is that our juvenile justice pendulum has swung too far toward the punitive and is actually catching in its net youngsters who are not committing violent offenses. It catches in its net numerous individual youth who are merely status offenders. And what the study showed us was that far too many of these juveniles were being placed in secure detention for reasons other than being engaged in violent criminal offenses. And as Senator Howard referred to in her statements, that prolonged confinement in these secure detention facilities of juveniles, who have no record or propensity towards engaging in criminal or violent criminal offenses, places them in a setting where they're exposed to juveniles who have that propensity and then are unduly influenced because they are discouraged by the fact that they are spending countless days in secure detention for status offenses, at one point in time including truancy. So what AM2109 is designed to do is to provide some efficiencies in our juvenile justice system and, again, to move us closer to the original purpose of the separate juvenile court. And if you look at it, and I don't want to be redundant, but just to give you some examples of the reasons why you see some of the changes that are reflected in AM2109, one of the changes that is reflected is to codify the authority of probation officers to impose graduated sanctions on juveniles who violate the conditions of their probation rather than doing what essentially is to revoke their probation and treat them as having committed a criminal offense. Now if you compare that to... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR COUNCIL: ...what we have in our adult system, an adult who is on probation now, under our current probation system, working through the Community Corrections Council and the Office of Probation to reduce the number of probationers who are incarcerated as a result of violations, we've moved to administrative sanctions, and AM2109 provides that same opportunity for juveniles. The truancy provisions are very important, particularly when you look at the dropout rates--and I reflect upon the school district from within my district. We have an alarmingly high and unacceptable dropout rate, and a lot of the indicators of whether an individual student will complete his or her education is whether or not they have excessive absenteeism. We don't want to criminalize that behavior. What we want to do is provide the means by which we can keep these young people... [LB800]

SENATOR JANSSEN: Time. [LB800]

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SENATOR COUNCIL: ...in school. Thank you. [LB800]

SENATOR JANSSEN: Thank you, Senator Council. Those wishing to speak: Senator Ashford, followed by Lathrop, Rogert, Gloor, Krist, Sullivan, Harms, and Pirsch. Senator Ashford, you are recognized. [LB800]

SENATOR ASHFORD: I'd give my time to Senator Lathrop, if he'd like it. [LB800]

SENATOR JANSSEN: Thank you, Senator Ashford. Senator Lathrop, you are yielded 4 minutes 55 seconds. [LB800]

SENATOR LATHROP: Thank you very much, Mr. President and colleagues. Good afternoon. I stand in support of AM2109 and LB800. And I thought it was appropriate, first, to begin by thanking Senator Ashford for his work. This has been an effort by the Judiciary Committee, but certainly the lead has been taken by our Chair, who has, I think, come up with something that is visionary and an important piece of legislation for us to take up this year. We have in Judiciary Committee, when I first arrived nearly four years ago, we began by looking at violence in north Omaha, and we began that process by talking about the guns and the violence and what do we have to do to get ahead of the violence. And at the same time, we took up issues that related to the learning community--what do we have to do to take our youth who are in poverty and take them through the educational process so that they can become employed. And what we have today in LB800 is really where juvenile justice meets the issues related to education. We have put the learning community together to try to educate the poor and the youth not just in Omaha but in other communities where it may find application. But what we also found is it doesn't do any good to spend more money in the schools, to develop more programs in the schools, if the youth aren't attending classes, if we haven't addressed the issues that they face when they graduate from high school, which is employment. And LB800 really addresses those issues that deal with, from a Judiciary Committee point of view, education issues--how do we get the kids back in school, what do we need to do in a creative way, not to punish to the point where we are making things worse and diminishing the prospects of employment for these high school graduates, but to keep them in school and then to afford them an opportunity to be employed once they complete school or even while they're still in it. What we have learned through the great number of hearings that we've had on violence in north Omaha--and it's not unique to north Omaha but it's true in Grand Island and Lexington. It's up and down the Interstate in the Class I cities. More and more, these are becoming issues not unique to Omaha--and this bill addresses those. You've heard it: detention. We have been putting people in detention next to folks that are just plain criminals, and we have folks in there, young people in there, who have done nothing more than have parents that aren't doing a good job. And they're learning and they're making acquaintances with people who will only teach them bad habits and criminal behavior. The records is a response to quash...sealing these records is responsive to what we've

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learned about their efforts to find work. It doesn't do any good to do all the things that we're doing with the learning community and with violence prevention if these kids that have a shoplifting when they were 14, and now they're 18, and they've gotten through high school and they can't get a job because they have to reveal that they have had a shoplifting when they were a young person. And so that and the truancy piece I think is a good effort to be responsive from a juvenile justice point of view... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR LATHROP: ...to the goals that we've been trying to achieve with the learning community and with the efforts of Building Bright Futures in the Omaha area. So I am in full support of the amendment and the bill, and again express my appreciation to Senator Ashford for his leadership. Thank you. [LB800]

SENATOR JANSSEN: Thank you, Senators Ashford and Lathrop. Next up, Senator Rogert, followed by Gloor, Krist, Sullivan, Harms, Pirsch, Council. Senator Rogert, you are recognized. [LB800]

SENATOR ROGERT: Thank you, Mr. President. Members, I've come to believe throughout the discussion of this issue that there's a couple pretty large misnomers that most of us here would have. And if you read through the bill and you would have sat through the hearing and you listened to the discussion, that you would come to think, as a guy from rural Nebraska, that this is an issue that deals with Omaha and Lincoln--and that's not really true. That's where the facilities are located, but that's not where all the issues are. Rural kids, too, all have problems, and when they have problems they get to go to Omaha or Lincoln or Grand Island or Kearney, and they're further away from their home and they're further away from their families, and they're more easily able to pick up habits and things that would put them back into the system, pretty shortly after they get out, even if they get out. Another misnomer is when I started discussing this and we started talking about the sealing of records, throughout my time I always thought that all kids' records were sealed up until 17 or 18--and apparently that's only a TV and movie thing. You know, they talk about, well, some cop is going to get some records but you can't because it was sealed because it was a minor. Well, it's not the case here, and I think it's pretty big. Probably, maybe the most important chunk of the bill is the fact that we are doing that. Kids that spend time in these facilities go to apply for jobs and schools and scholarships, and this issue comes up and they immediately get thrown out of the pile of folks that are considered for these things, and that leads to further recidivism and further destruction. I think this thing comes to us in a unique time where we don't have any money to spend on it, so we had to find different policy discussions and different ways to address it. In the past, we could have just said, well, let's throw a million bucks in the system and surely it will fix itself. But we didn't have the availability to do that, so we had to go and sit around a table for months and discuss and think of different discussions and policy issues that could be addressed to fix the problem. I

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think the recidivism point is major. I think the population in our juvenile detention centers is increasing and for the wrong reasons. I think our population in our correctional facilities is increasing because it starts with the kids. They go to the juvenile detention center; they come out some time later. They're not being treated in the community. They don't get back to their families. They end up back in some sort of correctional facility, and just...it's a constant circle. One of the things I also thought was great about this is it allows law enforcement officers to go in and take kids who are constantly out and truant; they get to collect them without a warrant; and they bring them to a place where they can get some treatment to them and get them back into school and get them back to their parents. We've got to control the population in our prisons and we've got to control the populations in our system. Senator Council, you're looking at me like you need some time. No? Okay. Thanks, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senator Rogert. As we continue discussion on AM2109 to LB800, those wishing to speak are Gloor, Krist, Sullivan, Harms, Pirsch, and Council. Senator Gloor, you are recognized. [LB800]

SENATOR GLOOR: Thank you, Mr. President. Good afternoon, colleagues. There have been a lot of references made to some of the initiatives towards truancy, juvenile crime, that have been undertaken in Grand Island. I thought I would give some specificity to that, and I think it's worth sharing all of this, I believe, as well as--and I should say I'm in support of AM2109 and the underlying bill LB800--is that we've learned that at-risk juveniles do better when they stay in school. That seems to be pretty straightforward, yet it's a basic philosophy that too often we forget about in the crime and punishment aspect of juveniles. One of the programs that was instituted out in Grand Island--and my thanks to Senator Ashford's LC, Stacey Trout, for reminding me of this--relates specifically to truancy. There's an interlocal agreement between both the school system and the county attorney's office which defines how the schools and the county attorney's office will work together to address truancy. They fund this through a fifty-fifty arrangement between the school system and the county attorney. And it has a county attorney actually being housed in the middle school that has the highest truancy rates, although that service, that county attorney is responsible and works with truancy in all the middle schools and all the elementary schools. Here's an important number to think about as we consider this bill, because this is one of the things this bill purports to work towards: Truancy has been reduced in one middle school from 30 filings last year to 3 filings for the same period of time this year. That's 30 filings one year to 3 filings the next year. There's a successful program. Now one of the ways it works is that the first step is to have the social worker within the school identify children who have truancy issues, and, once identified, they monitor them. After a certain number of days' absence, the social worker reports to that county attorney, who's in the schools, the possible need for an intervention. That attorney, county attorney, sets up a meeting with the family and the social worker, at which time they all sit down and develop a plan to try and prevent further truancy. But if there is additional truancy, the family and the

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juvenile are referred to an attendance court. Those of you with law degrees will not have studied an attendance court. I believe this is just a term that they came up with. But the attendance court has that county attorney donning a robe to act as a judge, with the family on one side, the school on the other side. The attendance court meets. They meet every week with that county attorney and the school, staying on top of youth, their family, and trying to deal with whatever barriers are out there that prevent good school attendance. And that's the reason that, in that one school, truancy dropped from 30 to 3. If the youth in one of these attendance court cases continues to be truant, then there's a petition that's filed. They appear before the actual county court judge, and other processes are taken. But again, we learn from others. This is an example of one of the approaches. Again, one of things that LB800, in its best form, would work towards, in healthcare we say an ounce of prevention is worth a pound of cure. Clearly, early intervention with truancy is much cheaper than paying for crime... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR GLOOR: Thank you, Mr. President...as this youth moves forward in life. I'd also like to thank State Senator Friend, who sat down and visited with me based upon his experiences in Grand Island and looking at some of the programs set up out there. I know our county attorney, Mark Young, has been very supportive of this bill, in fact, provided some of the information I have related to you in talking with the Judiciary Committee. This is a good bill. This is a good approach. Last year, County Attorney Young told me that when it came to LB63, which you recall we passed, which had a significant impact, he said it was as if somebody sat in a courtroom and listened to what we dealt with as county attorneys, and turned it into legislation. I think he would echo those same thoughts as it relates to LB800 and dealing with youth and truancy. Thank you, Mr. President. [LB800 LB63]

SENATOR JANSSEN: Thank you, Senator Gloor. Those wishing to speak: Senator Krist, followed by Sullivan, Harms, Pirsch, Council, and Dubas. Senator Krist, you are recognized. [LB800]

SENATOR KRIST: Thank you, Mr. President, and let me say that you're doing a great job. I just wanted to bring a couple things to mind. I thank Senator Ashford for his leadership and for bringing this forward. I have a young lady that's in my district that will not be able to pursue the career that she would like to because of a mistake that she made. This type of legislation, this type of bill would potentially help her in that endeavor. She truly is a one-mistake person and that needs to be taken into consideration. Back in the day, I'm sure you all remember, it was very easy to avert any kind of criminal charge by simply signing up on the dotted line and going in the United States service of some type or another. For one reason or another, that attitude has changed. In fact, going into the service is no longer available to you if you have certain activity on your record. So there are, again people who I know, personal experience,

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one retired Air Force lieutenant colonel who probably wouldn't be standing here today if it had been a one-strike mentality. I applaud the efforts of Senator Ashford and others, and I hope that this is not taken to the extreme or it's abused. I do see some problem with repeat offenders, but I also trust that the judiciary, that the judges in this state are more than capable of handling some of those issues. Thanks again for the legislation and the opportunity. Thank you, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senator Krist. Those wishing to speak: Senator Sullivan, Harms, Pirsch, Council, and Dubas. Senator Sullivan, you are recognized. [LB800]

SENATOR SULLIVAN: Thank you, Chairman. And good afternoon, colleagues. First of all, I want to say I appreciate Senator Ashford's work on this legislation. I know that he feels very passionate about this subject and I know he's worked very hard on it. So I wondered if he would yield for a few questions. [LB800]

SENATOR JANSSEN: Senator Ashford, will you yield? [LB800]

SENATOR ASHFORD: Yes. [LB800]

SENATOR SULLIVAN: Thank you, Senator. Oftentimes when we in this body talk about problems and issues facing children and families, I mention the need for prevention. And so it's with respect to the provisions in this legislation on truancy intervention and prevention that I would like to ask you a couple of questions. One has to do with the truancy policies. Is that a...that a school district would have to develop and implement. Is that a mandate for every school district, or simply those that might be facing these issues? [LB800]

SENATOR ASHFORD: It's we're asking every school district to have some truancy policy of some kind, but I don't think it's...my guess would be that every school district at least has something in their policies about what happens if a child is chronically truant. But, yeah, we are asking them to have a policy. [LB800]

SENATOR SULLIVAN: In addition, it indicates that school districts must report to the Department of Education on a monthly basis with respect to excessive absence, suspension, expulsion, truancy. Any guidelines there? Or is this just again going to be something that a district would have to do on a monthly basis, and, if so, in what form? [LB800]

SENATOR ASHFORD: They do report on an annual basis, Senator Sullivan, much of that information, and it's reported in aggregate to the department. And what we're asking them to do--as districts, to do--is to report it on a monthly basis so that we have actionable data. [LB800]

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SENATOR SULLIVAN: And then the third feature in that also had something to do with a Truancy Intervention Task Force that again would look at this data being collected, I assume, that's being made available to the department, but it also says that there will be recommendations that they will make that they will be reported to the Legislature.
[LB800]

SENATOR ASHFORD: Correct. [LB800]

SENATOR SULLIVAN: Again, in what form, and how do you see that playing out?
[LB800]

SENATOR ASHFORD: The task force would be made up of Ellen Brokofsky from the Probation Department, Kerry Winterer from HHS, and Roger Breed from Education. They would meet as need be to review this data. At the end of the year they would send us a report, not solely just on the aggregate numbers but also on what actions have been taken in response to the data as it's come in over the year, that year. There is no specific detail of how they are to report, but I think it...in talking to them, I think they fully understand what they would need to do at the end of the year, in talking to them.
[LB800]

SENATOR SULLIVAN: Okay. Thank you. Again, so often in some of these discussions, I mention the need for prevention before we get to the problem area, but also, oftentimes, I say we need to be careful that we're not just treating a symptom and not the underlying problem. So, Senator Ashford, I have to...and in several ways you've perhaps addressed this, but can you shed some light on why?--why do we have this huge truancy problem, particularly in Omaha? [LB800]

SENATOR ASHFORD: My sense, Senator Sullivan, is that...I heard an interesting statistic on NPR over the weekend that, for example, African-American women in this country have an average accumulated nest egg, so to say, of about \$5. I mean we have...they just...they have no capital. I think...and then there's... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR ASHFORD: It has to do with poverty, I believe. It has to do with issues of social issues that have plagued Nebraska and other states for 30 years--for longer than that. Two-parent families that both parents are working. I can't...there's a laundry list a mile long. I don't think it's just Omaha, but it does...I think it is reflected in the poverty numbers, not just in north Omaha or south Omaha, but throughout the state. [LB800]

SENATOR SULLIVAN: Thank you for your insight in that. And I have to also say thanks for giving us the information from former Senator Friend and the Office of Violence

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Prevention. We've missed, I guess I would have to say, his ebullient engagement and conversation in this body since he left us, and it looks to me like he's hard at work in the Office of Violence Prevention. Thank you. [LB800]

SENATOR JANSSEN: Thank you, Senator Sullivan and Ashford. Those still wishing to speak: Senators Harms, Pirsch, Council, and Dubas. Senator Harms, you are recognized. [LB800]

SENATOR HARMS: Mr. President and colleagues. Senator Ashford, would you yield for just a moment? [LB800]

SENATOR JANSSEN: Senator Ashford, will you yield to a question from Senator Harms? [LB800]

SENATOR ASHFORD: Yes. [LB800]

SENATOR HARMS: Senator Ashford, first of all, thank you for LB800, as well as the amendment. I support both of those. [LB800]

SENATOR ASHFORD: Thank you. [LB800]

SENATOR HARMS: So thank you for the work that you've done. Senator Sullivan did an awfully good job in asking some of the questions I had an interest in, but when I look at the Omaha environment that you're trying to address, there is a theme that goes through this. Three years ago, I remember picking up the Omaha World-Herald, and it said that Omaha was number one in the nation in Afro-American children living in poverty. Three or four weeks ago, I opened up the World-Herald or maybe the Lincoln Journal, and it said that Omaha was number three in the nation in the number of Afro-American boys or men who have been murdered. So there is a theme that goes through this, and you're absolutely right, it is poverty. So, Senator Ashford, the truancy that you are addressing here and Senator Sullivan had mentioned, is just a seed of what the true problem is, and I know that you have given a lot of thought about this. What are you wanting to truly accomplish? Because in order for us...in order for you and for this body to make an impact on this issue, there has to be an awfully well-thought-out program. So what are you...what is in your mind? I know you do have, because we have had some conversations about it. [LB800]

SENATOR ASHFORD: Well, I'll try to be succinct. First of all, I think that each school district, in working with their various officials in their counties, are the best place to find the solution for that area. So I think the bill does empower county attorneys and school districts to come up with their own solutions. The other thing we were careful to do, Senator Harms, was make sure that we weren't just overlaying some sort of uniform truancy bill on Nebraska, but we were trying to listen to what the problems were and

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address them. What we heard was each school district had their own different policy, so we, I think, reflected that in the bill, and we're not mandating a particular truancy policy. But the...I think it's this, and I think it goes to an example. There was an arraignment of numbers of students in the metro area the other day. Judge Crnkovich arraigned numbers of children who had been truant, some for as long as a year, year and a half, two years. And one of the most interesting aspects of that arraignment, and I think it came about partially as a result of this Legislature really drilling down into the truancy issue, but many of the children, as reported by the World-Herald, said: Thank you, I didn't know anybody really cared; I didn't know anybody really wanted me back in school; I want to go back to school. These are 14- and 15-year-olds. I think...I don't know. I mean, every little case is different, everything from Von Maur to the shootings we've experienced in Omaha to some of the issues in Grand Island that I've talked to Senator Gloor about. I, to me, it just...I can't...it just makes you just...you hear about the violence in Iraq and you think, my goodness, it goes on here in Nebraska. So I don't know what all the problems are that get us to that point, but I do know that these are just children, and that if you just...I think two things have to happen. First of all, you have to show them you care by getting them...someone has to tell them we want you in school. Number two, there has to be a clear definition of what's going to happen if you're not in school. I think so long...so many times, because the juvenile courts... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR ASHFORD: ...get so crowded, is that each individual case can't get the kind of attention it needs. So there has to be a clear, defined sanctions, clearly defined consequences. We've talked about consequences. I think it's that recognizing the problem, letting the children know we care about them, and then defining clearly what the consequences are. [LB800]

SENATOR HARMS: How much time do I have, Mr. President? [LB800]

SENATOR JANSSEN: Forty seconds. [LB800]

SENATOR HARMS: Well, thank you very much, Mr. President and colleagues. I'll talk to you off the mike. Thank you. Thank you. [LB800]

SENATOR JANSSEN: Thank you, Senator Harms and Senator Ashford. Those wishing to speak on LB800: Senators Pirsch, Council, and Dubas. Senator Pirsch, you are recognized. [LB800]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And I appreciate the conversation that's gone forward so far. I appreciate us, in particular, exploring the concept of truancy. You know, as a prosecutor in Douglas County for many years and now working in the juvenile courts in Douglas County, that is clearly an issue that does

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come up. And so I appreciate that this issue is being addressed, as I had introduced a legislative resolution with respect to truancy, last year, and so I am glad that this conversation is being had. With respect to the...I have some just...this is the first exposure that I've had to LB800, not being on the committee. I wonder if Senator Ashford might yield to a question or two with respect to a part of this bill. [LB800]

SENATOR JANSSEN: Senator Ashford, will you yield to a question from Senator Pirsch? [LB800]

SENATOR ASHFORD: Yes. [LB800]

SENATOR PIRSCH: This deals with the issue of sealing of juvenile records that I believe becomes a part of the overlying bill by committee amendment. Is that correct? [LB800]

SENATOR ASHFORD: Yes. [LB800]

SENATOR PIRSCH: Okay. And with respect...and this really deals with the technicalities of it, but how would the minor learn of his right to seal a record? Would that be a right that must be explained at the time of rights arraignment, or is that just beyond that there is no duty to inform? [LB800]

SENATOR ASHFORD: Well, I think there is a duty in the act to inform them of the juvenile's right to have the record sealed. [LB800]

SENATOR PIRSCH: Would that be at arraignment then or...? [LB800]

SENATOR ASHFORD: I think...Stacey is trying to fill in my learning gap here. Certainly it is at time of adjudication. They would have to be informed by that time, and possibly at arraignment. [LB800]

SENATOR PIRSCH: Okay. [LB800]

SENATOR ASHFORD: I did hand out a handout that goes through the steps. [LB800]

SENATOR PIRSCH: Oh sure, and I have it and I appreciate that. [LB800]

SENATOR ASHFORD: Okay. All right. Just so long as you have... [LB800]

SENATOR PIRSCH: I have a number of other questions. [LB800]

SENATOR ASHFORD: Just so long as you have that. [LB800]

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SENATOR PIRSCH: Yeah, and I just raise it. There's no need to necessarily answer it here today. I'm just bringing these questions. [LB800]

SENATOR ASHFORD: But it's a good question, whether...it's a good question, Senator Pirsch. [LB800]

SENATOR PIRSCH: Yeah. There's some other questions with respect to the records are used for purposes other than criminal justice. For instance, insurance companies use driving records to effectively rate for the purpose of knowing how much to charge for insurance. They would be precluded is my understanding under this bill, is that correct, insurance companies from learning the driving record or history? [LB800]

SENATOR ASHFORD: Just a second, Senator Pirsch. [LB800]

SENATOR PIRSCH: Sure. Oh sure. Yeah. [LB800]

SENATOR ASHFORD: And you would know this definition better than I, Senator Pirsch, but it would be waivable traffic offenses are not subject to... [LB800]

SENATOR PIRSCH: Would not fall under this purview. [LB800]

SENATOR ASHFORD: Right. Right. [LB800]

SENATOR PIRSCH: So things like speeding,... [LB800]

SENATOR ASHFORD: Right. [LB800]

SENATOR PIRSCH: ...simple speeding and whatnot. [LB800]

SENATOR ASHFORD: Right. [LB800]

SENATOR PIRSCH: But with respect to reckless driving, negligent driving,... [LB800]

SENATOR ASHFORD: Yes. [LB800]

SENATOR PIRSCH: ...drunk...driving under the influence, drunk driving, those would be eliminated from the knowledge of insurance companies though, correct? [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR ASHFORD: Okay. And I guess... [LB800]

SENATOR PIRSCH: And I don't need to have the...okay. [LB800]

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SENATOR ASHFORD: ...I guess these are good questions, Senator Pirsch. [LB800]

SENATOR PIRSCH: Sure. [LB800]

SENATOR ASHFORD: You know, I think...I think this is a little bit...in the driving area, this is a very narrow part of the application of this and maybe we need to get you some information. [LB800]

SENATOR PIRSCH: Sure. Oh, you bet. [LB800]

SENATOR ASHFORD: But the...certainly they are, at the time of the conviction or at the time of the filing of the complaint or whatever, they are public, so insurance companies would have access to that information. It would be at a later time down the road that they could be sealed. But at the time the offense occurs, and they're in court, those records are not sealed. I mean they're obviously public. [LB800]

SENATOR PIRSCH: So, after the fact, an insurance company could learn that one was...a charge was filed, but not necessarily know what the resolution...is that what it is? [LB800]

SENATOR ASHFORD: No, they would know what the adjudication is as well. It's just that we're talking about sealing records that have occurred in the past. When someone is ticketed... [LB800]

SENATOR JANSSEN: Time. [LB800]

SENATOR ASHFORD: ...then... [LB800]

SENATOR PIRSCH: Thank you. [LB800]

SENATOR JANSSEN: Thank you, Senator Pirsch, Senator Ashford. Those wishing to speak: Senator Council, followed by Dubas, and Pirsch. Senator Council, you are recognized. [LB800]

SENATOR COUNCIL: Yes, thank you, Mr. President. And perhaps I can answer some of Senator Pirsch's questions. First, with regard to notifying, the provisions in AM2109 that deal with sealing a juvenile's records were patterned, in large part, after similar provisions in other states--the state of Illinois, in particular, that Senators McGill, Ashford, and myself had an opportunity to visit last summer and get an in-depth explanation of how they handled the sealing of juvenile records. And I would direct your attention to page 40 of AM2109. And as Senator Ashford has indicated, and I stated the first time I was on the mike, that AM2109 replaces LB800 in its entirety. And on page

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40, it makes it perfectly clear that when a juvenile who has been cited, who is...the county attorney has decided to file a complaint or has offered juvenile pretrial diversion or mediation...and as I'm sure you know, Senator Pirsch, that, in particular, Douglas County Juvenile Court is offering more juvenile diversion and mediation. At the time that that's offered, at the time that the county attorney advises that a complaint is going to be filed against that juvenile, that county attorney must provide them written notice, in plain language, that the juvenile does have a right to have his or her record sealed. And I think an important point that needs to be made at this juncture, and it goes in part to your question about insurance, that the juvenile's ability to have his or her record sealed depends upon that juvenile successfully completing all of the requirements of his or her diversion program or his or her probation program. And while I believe that those records, once sealed, should be sealed even from insurance companies, I think in terms of providing any protection, or if that's the purpose of the question is to enable insurers to properly rate a particular proposed insured, that the fact that a juvenile record has been sealed should give an insurance company some degree of confidence that this individual has undertaken whatever rehabilitative steps he or she needs to take to avoid committing that offense in the future. And I would hope that insurance companies would take that in consideration in rating individuals. But it's that issue of truancy that Senator Sullivan made reference to. One of the points that was made throughout last year's study of the juvenile justice system across the state--and, Senator Rogert, I appreciate your comment because these are issues that face juvenile courts. Where there are separate juvenile courts across the state and where there are not separate juvenile courts, the county judges who have to deal with juveniles, is that there was inconsistency in what was considered truancy for purposes of invoking the authority of the county attorneys who get involved. There was no clear, consistent standard. And what AM2109 does is say that 20 days is the threshold. That's the triggering event. And it's 20 days, whether there are 20 excused days or unexcused days. And that was a problem because some districts were reporting after a student was absent 20 times that were unexcused, where that same student could have had an aggregate of 40 absences... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR COUNCIL: ...if 20 of them were deemed unexcused. And the interesting thing is, is that when individuals have difficulty getting their youngsters to school...and it kind of...this responds to, in part, Senator Harms's questions. There are a number of reasons that children in Douglas County are truant. Many are simply disengaged from our educational process. Many are unable to make the connection to the classroom teacher because there are times when the classroom teacher is unable to make the connection to the youngster--and those have to be addressed. But we also have issues of mobility, where children, because of their parents' financial situation, have to move on more than one occasion. And I'm sure if you look at the Department of Education's records, Omaha Public Schools has the highest mobility rate of any school district in this

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state. What that means is that there are children... [LB800]

SENATOR JANSSEN: Time. [LB800]

SENATOR COUNCIL: ...moving from... [LB800]

SENATOR JANSSEN: Thank you, Senator Council. Senator Dubas and Senator Pirsch. Senator Dubas, you are recognized. [LB800]

SENATOR DUBAS: Thank you, Mr. President. Good afternoon, colleagues. Senator Sullivan and Senator Harms both asked many of the same questions that I was going to ask in relation to, you know, are we mandating our local school districts to deal with this. I appreciated Senator Ashford's answer. I do think each school district does need to be managing this in their own particular way of dealing with it. Every school district has its own unique set of circumstances. And so I think we are definitely setting a tone through this legislation, sending out a message to our school districts the importance of making sure that our kids are in school and engaged in what's going on. So I truly do appreciate Senator Ashford's efforts into this particular bill. You know, I firmly believe that the hope of our children, their entire future, lies in their education. And if we can get them off the ground and get that solid foundation built underneath them, with a good education, they stand a much larger degree of success in their lives. Children's issues, children's welfare issues were definitely highlighted during the safe haven debate. We had...actually, we had the floodlights shine on what's going on with the children in our state. We had parents who were simply at the end of their rope, not knowing where to go or who to turn to, to get help. Kids were crying out for help. You know, while it was a very, very tragic and difficult situation to go through at the time, it certainly got our attention, and I think we paid attention to it. And through LB603, I think we've taken some great steps in the right direction to helping. I mean these are kids I know that were dealing with behavioral health issues. But I think that spills over into the school in the truancy and the other issues that our children are facing. I think we also realized, through the safe haven debate and what we put together with LB603, the logic, the plain and simple logic, and the value of spending dollars early rather than later. You know, we're doing a lot of running around and trying to put out little fires, when if we would invest our dollars in a better and more concerted effort up front with these kids and get them the help and the attention that they need early on, we're going to save ourselves a whole lot of money later on. It costs a whole lot more money to incarcerate people than it does to educate them. So I hope that we continue to keep that particular idea in mind as we work on these issues, that if we're going to spend money, let's spend it in a place that has a positive impact and that those impacts will carry on through the future. I mean our communities, our society, and, most importantly, our children are best served when we invest those dollars early on, when we invest them in places that show to us, that have the track record of success. I think this bill, along with LB603 and some of the other things that we've been working on the last few years, go a long way to not just

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trying to gloss things over at the surface, but we're really getting down to the root of where the problems are and how we need to address those problems. It won't be addressed through any one single piece of legislation. It won't be addressed through any one single idea. It's going to take a concerted effort from the local level, all the way to the top, on how we help our children, how we support these families, how we build our communities, how we support our educational system. But I think LB800 is just one more step in how we make sure our kids are going to have that future that will serve them, and ultimately serve our society, in a very good and positive manner. Thank you, Mr. President. [LB800 LB603]

SENATOR JANSSEN: Thank you, Senator Dubas. Those wishing to speak on AM2109 to LB800, Senator Pirsch, you are recognized. [LB800]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. And I realize there are many moving parts of this bill that addresses many different topics, and so, you know, this, like I said, is our first exposure here on the floor to these, and so I'll try to limit my questions. And there is, you know, the question of whether...well, in particular, I guess, the questions that I've been just asking today I'll try to just pose, and I won't ask for any definite answers here today. I just want to put these out there. But again, the underlying idea, in particular, about the line of questioning I was talking about which deals with the sealing of records, the overarching principle is there's something that outweighs, that with respect to as youth go to apply for jobs, that outweighs the right to know, of employers, and that this applicant has been doing all he could do to stay out of trouble and do the right things, as opposed to this applicant has a solid history of reoffending. It could be, my understanding, violent crimes, up through...well, let me ask Senator Council, could you answer, as I try to grasp what the... [LB800]

SENATOR JANSSEN: Senator Council, will you yield to a question? [LB800]

SENATOR PIRSCH: ...how the bill is posed? Would this... [LB800]

SENATOR COUNCIL: Yes. [LB800]

SENATOR PIRSCH: Would the sealing of...would the sealing... [LB800]

SENATOR JANSSEN: Thank you, Senator Council. [LB800]

SENATOR PIRSCH: Thank you very much. Would the sealing of records also apply to violent crimes that are committed by youths? [LB800]

SENATOR COUNCIL: And if I may, Senator Pirsch, direct your attention, beginning...I'll give you the page number of the amendment and what is intended to be covered under the sealing of records, and I don't know for sure whether it's set out in the summary that

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you have. [LB800]

SENATOR PIRSCH: Uh-huh. Well, let me...let me just put it out there, and that's something we can talk about. [LB800]

SENATOR COUNCIL: In the bill itself, it sets out what types of records can be sealed, and it provides guidance on how to respond to the questions about having the record sealed. If you look at...it is a juvenile who is taken into temporary custody but not diverted... [LB800]

SENATOR PIRSCH: What page is this now, of the amendment? [LB800]

SENATOR COUNCIL: I'll give you the specific page of the amendment. Juvenile law offenders, misdemeanor, felony, and traffic, if diverted or filed on in juvenile court, and status offenders; juvenile misdemeanor or infraction offenders except for waivable traffic offenses who are filed on in county court, not felony offenders who are filed on in district court. And that's the critical question, Senator Pirsch. As you know, if you are charged with a violent felony offense as a juvenile, you are tried in district court. This sealing of juvenile records goes to juvenile convictions that are either adjudicated in juvenile court or in county court. [LB800]

SENATOR PIRSCH: Okay. So it would be violent crimes that are filed in the district court, felony court, would not be, but violent crimes in the county court would be then sealable, correct? [LB800]

SENATOR COUNCIL: Violent crimes... [LB800]

SENATOR PIRSCH: Okay. [LB800]

SENATOR COUNCIL: ...that are adjudicated in the county court would be,... [LB800]

SENATOR PIRSCH: Okay. [LB800]

SENATOR COUNCIL: ...and all of those are subject to the juvenile successfully and satisfactorily completing any diversion program or the terms and conditions of any probation program. [LB800]

SENATOR PIRSCH: Okay. And I have a number of other... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR PIRSCH: ...questions in a short bit of time, so maybe I'll just raise the point. What about issues of if someone were to apply for a security position for, say, TSA?

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Would that...now that's not law enforcement. Is the language crafted in this bill deal with, for law enforcement purposes, which would be different than security purposes, possibly? It's just something I pose at this point in time. And then with respect to the insurance issue, if they are precluded, insurance companies, from learning of the rates, then won't it result in a one-size rating for all youth, since there's no logical way to rate individuals? And wouldn't that have an effect of saying that everybody gets the same rate whether you're a good driver or a bad driver? And that's something that we...I'd be interested in knowing in terms of future conversation. So thank you for your time. Bye now. [LB800]

SENATOR JANSSEN: Thank you, Senators Pirsch and Council. Senator Council, you are recognized. [LB800]

SENATOR COUNCIL: Okay. Again, thank you, Mr. President. I rise on the mike in an attempt to make it clear what AM2109 does and doesn't do with regard to the sealing of juvenile records in response to the questions posed by Senator Pirsch. First and foremost, felony offenses that a juvenile is charged with and prosecuted at the district court level, which means they have been deemed not to be eligible for prosecution in the juvenile courts, those convictions are not subject to being sealed under AM2109, and those are the most serious of felony offenses. When a juvenile is not allowed to have his or her offense adjudicated in a juvenile court, and is instead treated as an adult and tried in district court, they are not going to have the opportunity to have their records sealed under AM2109. AM2109 again is designed to deal with at-risk youth who have created offenses that, for the most part, are for nonviolent offenses and status offenses. That's what this is designed to address, those areas, and this does not apply to waiverable traffic offenses. And, you know, waiverable traffic offenses are offenses that an individual, if they're charged with it, has an opportunity to waive their right to a trial and pay a fine. Like your speeding ticket is a waiverable offense. You do not have to appear in court if you are charged with speeding. You have the opportunity to waive your right to a trial and simply pay the fine. So those types of offenses are going to still appear on an individual's record for purposes of insurance rating. So, quite frankly, that is a nonissue. And the point with regard to when they will be sealed, I think it's important to note that the committee was very careful to make sure that this privilege, for lack of a better term, is reserved to the young people who successfully and satisfactorily complete their probation. And you need to understand there's a distinction. The courts can deem someone to have completed their probation, and then there is a category of satisfactorily completing your probation--and those are the individuals who are going to be eligible under this program that's set out in AM2109. And again, just getting back to the truancy issue in the first instance, I actually have practiced, more than I originally planned to practice, in the juvenile courts over the last ten years, and I've had occasion to represent a number of youngsters who have had truancy problems. And, Senator Harms, just to give you an example, one of my last cases where I was appointed as defense counsel for a young man, he was being brought in for a number of status

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offenses, but all of which related to his excessive absenteeism. And what had happened to this... [LB800]

SENATOR JANSSEN: One minute. [LB800]

SENATOR COUNCIL: ...young person was that he was suspended from one school because of an altercation, reassigned to another school, but he wasn't far enough away from this new school to be eligible for district-provided transportation. And his mother could not afford to get him to school every day, and the sad but true was that his mother didn't take advantage of the services and assistance that was available to enable her to get that youngster to school. Well, once I became his defense counsel, I had him reassigned to a school closer to home, and that young man has been attending on a regular basis. So there's a variety of reasons why young people don't attend school, but what is important in this bill is it requires school districts to develop a policy on truancy... [LB800]

SENATOR JANSSEN: Time. [LB800]

SENATOR COUNCIL: ...and to work with the Douglas County Attorney. [LB800]

SENATOR JANSSEN: Thank you, Senator Council. That was your third and final time. There are no other lights. Senator Ashford, you are recognized to close on the committee amendments. [LB800]

SENATOR ASHFORD: Thank you, Mr. President and members. And I...we're having good discussions with Senator Pirsch, and if he has additional questions between...hopefully between now and Select, we can continue to work on it. But Senator Council has very clearly set forth what the bill does, and that is to make a very clear pathway. County attorneys, judges from across the state, have told us that the sealing of the records is a very confusing process and it needs to be clearly set forth. It's obviously a societal problem as young people try to find jobs and get into college and do all those things. Waiverable traffic offenses, the common traffic offenses, are not sealable. If a young person has committed a crime and is convicted in county court or adjudicated in juvenile court, does not successfully complete their probation or their..., those kinds of issues, then those records are not sealed. So...and any significant violence that's tried in district court, that's not sealed. So we're not...this is not some sort of way of getting out from under your obligations. It's trying to give to young people, who successfully do what they're asked to do by the court, the opportunity to find employment and get into college and those things. So that's where we are on that, and we'll most certainly talk about that further with Senator Pirsch and anybody else who would like to do so. I'm going to close on the amendments now, and then we'll wait to see if there's any more discussion on the bill. I would urge the adoption of AM2109. [LB800]

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SENATOR JANSSEN: Thank you, Senator Ashford. You have heard the closing on the committee amendments. The question is, shall the committee amendments to LB800 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Mr. Clerk, please record. [LB800]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB800]

SENATOR JANSSEN: The amendment is adopted. Discussion on the advancement of LB800 to E&R Initial: There is nobody wanting to speak. Senator Ashford, would you like to close on LB800? [LB800]

SENATOR ASHFORD: Thank you, Mr. President. And I, if I could, just very briefly, I do want to, for the record and put on the record, there's so many people that helped in this bill I can't name them all, but I do want to mention a few because there's so much work has gone into this. And I'm going to name the names, and it's obviously dangerous sometimes for those of us in public life to name names because we'll forget somebody, and I apologize to those who are forgotten in my list, but there's so many. But I do want to mention Katie Zulkoski and Liz Neeley from the Bar Association Minority Justice Committee; Chris Rodgers from the county board in Douglas County; Alex Hayes, the Omaha police chief; Tom Warren, the executive director of the Urban League; Judge Crnkovich, presiding judge of the Douglas County Juvenile Court; Larry Gendler, the juvenile judge from Sarpy County; Pat McDermott, county judge; Kim Hawekotte; Kim Culp from the Juvenile Assessment Center in Omaha; Corey Steel from the Probation Department; Nicole Goaley and Don Kleine from the county attorney's office in Omaha; Todd Reckling from HHS; Mark Young, of course, from Grand Island. And so many others. And also Father Steven Boes from Boys Town who was...and Hank Robinson, Brenda mentioned, from UNO, who is really a nationally recognized expert in juvenile justice. Again, there are so many people to thank, but...and many of whom I'm not mentioning--I apologize to them. But most importantly, I want to thank my...the team, the committee and the staff who have made this bill what it is. And let us know if you have any comments or questions between now and Select File, and we'll certainly address them. Thank you, Mr. President. [LB800]

SENATOR JANSSEN: Thank you, Senator Ashford. Members, you have heard the closing on the advancement of LB800 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB800]

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB800. [LB800]

SENATOR JANSSEN: The bill advances. Mr. Clerk, are there items for the record?

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[LB800]

CLERK: There are, Mr. President. Thank you. (Read LB757A and LB880A by title for the first time.) Senator Utter offers LR385; Senator Giese, LR386. Both will be laid over. That's all that I had, Mr. President. (Legislative Journal pages 901-903.) [LB757A LB880A LR385 LR386]

SENATOR JANSSEN: Thank you, Mr. Clerk. We'll proceed on General File with LB849. [LB849]

CLERK: LB849 is a bill by Senator Gay. (Read title.) Bill was introduced on January 11, referred to the Health and Human Services, advanced to General File. There are Health and Human Services Committee amendments, Mr. President. (AM2120, Legislative Journal page 785.) [LB849]

SENATOR JANSSEN: Senator Gay, you are recognized to open on LB849. [LB849]

SENATOR GAY: Thank you, Mr. President. LB849 is the Health and Human Services Committee priority bill, one of our bills. I did hand out...you have a handout in front of you telling about some of the things that are in the committee amendment. The committee amendment actually is the majority of the bill, but we attached it to LB849 as the carrier of the committee bill. Just a little bit I wanted to say on all the bills that were put into the amendment...and there aren't that many, but they've all had public hearings. There's no opposition in any of these bills in LB849, in committee, and there's no fiscal impact at all in any of these that would be on the committee amendment as well, so we probably will not have a consent agenda coming out of Health because many of those are in this bill. I'll start out, Mr. President, with LB849, the actual bill that we have. I'm going to start there, then I'll talk more when we open on the committee amendment. But what LB849 did was introduced, and that changes the state law regarding references to the federal Social Security Act in the state Medicaid statutes, and what we're doing is changing that to January 1, 2010. The statute needs updating. Some federal changes that have been made are incorporated by the reference. It deletes some obsolete language relating to the Supplemental Nutrition Assistance Program or the SNAP program. For example, food stamp coupons that have expired as of June 17, 2009, they don't have those anymore. LB849 deletes the references to the coupons relating to trafficking and legal penalties under the SNAP program. It deletes the December 1 deadline requirement of notification for offset of tax refund for debts involving the department. It changes the state law in regards to developmental disability services regarding the governing board. What we did, this deletes the requirement of having an elected official on the governing board, not for...you can still have an elected official on the governing board, but in many of the smaller communities they had a hard time getting an elected official on the board, so the board can appoint someone who would attend those meetings, so that was taking place. It ends the strict one-third, one-third,

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one-third division representation requirement for membership on these local governing boards or advisory committees. It changes the law relating to the decision-making authority for appeals. Appeals under the amendment will go now to the director of Developmental Disabilities instead of the hearing officer. The director would be, in this case, Jodi Fenner, or somebody from the department who actually deals with this day-to-day. So that is to open on LB849, and I think what I will do is wait for the committee amendment to go over the rest of the bill, Mr. President. [LB849]

SENATOR JANSSEN: Thank you, Senator Gay. As the Clerk has stated, there are amendments from the Health and Human Services Committee. Senator Gay, as Chair of the committee, you are recognized to open on the amendments. [LB849]

SENATOR GAY: Thank you, Mr. President. Then the amendment adds several things, and this is also in the handout, what I gave. I'm just going to go right down the handout. LB25, as amended by the committee amendment AM589, adds children's day health services within the definition of healthcare service under the Health Care Facilities Licensure Act. The amendment defines specialized care and treatment as a period less than 24 hours of continual care in a community-based program, and it has to be for 20 or more persons under 21 years of age. LB702 was put in. That involves medical records. Current law allows individuals to obtain copies or a review of their medical records if requested or authorized in writing. This current request is in effect for 180 days. The bill allows for a longer time frame for the release of records to be in effect, and the amendment clarifies that if a written authorization for the release of the record...it does not contain an expiration date or specify an event that causes the authorization to expire, then the authorization would expire 12 months after the due date that this release was signed. So, for medical records, this clarifies and enhances the ability to do many of the medical records, technological medical records you've heard about--that's Senator Gloor's bill. And he could discuss that as well, as we get to any questions on that. LB726 was included. That's in Section 23. It requires staff training and continuing education for Alzheimer's care. And what the amendment does on that would be it adds four hours minimal annual education for training of direct-care staff regarding the care and treatment under the Alzheimer's Special Care Disclosure Act. This amendment clarifies that four hours of specialized care but it does not increase aggregate hours. So you have hours to do. The four hours is just that you...it has to be in that. So we're not adding hours. Senator Karpisek would talk about this. The amendment removes the portion of the bill required to be...that the department is responsible for the curriculum. So the department doesn't create the curriculum; the curriculum is out there. They just enforce that you took some training in Alzheimer's care. There are many classes and continuing ed hours out there, and what they would do is just make sure that if you're going to call yourself an Alzheimer's care unit, that you take four hours. So we are not adding any more hours to that. And again, that was...there was no opposition to this. LB734 is an amendment, Sections 17 and 18, involves a change in the notification of utility termination. Right now, the bill removes a

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special notification which has to be done by certified mail. The amendment makes it just first-class mail. There's many things that they do right now to notify, but the certified mail is all getting returned. That will save many of their utility providers significant amounts of money. We heard \$50,000 to \$60,000-some per year is spent on that, and most of it all is returned. So that clarifies that, that it can be done in first-class mail, and it doesn't remove any current things that they have to do to notify their customers. Section 25 of the amendment repeals the Nebraska Center for Nursing Act. It was supposed to be repealed in 2010--July 1 of 2010. This amendment removes the termination date for the Nebraska Center for Nursing. The reason for that is because we want to make sure. We still think there's a need for that. This just extends it and does not end that program that was supposed to end on a July 1 termination date of the Nursing Act. On Section 1...AM1732, Sections 1, 2, 3, and 4, over the summer, medical radiographers' responsibilities and training, we found out from CMS that there were certain things that we were not doing correctly. And this clarifies what now needs to be done with patient care and management, redefining of medical radiography, and it changes the specific requirements of the educational program for medical radiographers and limited radiographers under the Medical Radiography Practice Act. It adds to the education program requirements for radiographers. And it states that the examination for limited radiographers shall include, in addition to the current law, quality control and radiographic procedures. What was happening is a radiographer under...when they told us this couldn't happen, they had to have more people in the room, and it changed how they've been doing their practice. We just redefined that to what they wanted to make sure we did, and this is a big convenience to a lot of the hospitals who were upset with that ruling by CMS. And really, like I say, that clarifies how our Department of Licensure is going to look at radiographers, and cleans that up. On Section 13, it changes the law referencing the federal Social Security Act in the state Medicaid statutes, to January 1...well, I went over that one. That was in LB849. I'm sorry. Section 24, 26, and 36 consolidates the Modular Housing Units Cash Fund and the Manufactured Homes and Recreational Cash Fund into a new fund: the Public Service Commission Housing and Recreational Vehicle Cash Fund. What this does, it creates a new fund. Due to the economic decline, there are many people who make modular homes and manufactured homes, and there are two different people who then went and inspected those homes. What we're doing is combining them into one agency under the Public Service Commission. Due to the budget, they've had to lay people off and also furlough people in that division. There's not as much work as there was due to the decline in the economy, so what they asked to do was to merge this into one fund and have more flexibility. It's important that we have that in our language, because if we don't, these manufactured homes and people that are doing that--and there's about seven agencies, seven different companies in the state--would have to call in somebody from outstate, shut down their production, and get an inspector in from the Federal Housing Authority to do these inspections. So in order to streamline the process of what happens in the day-to-day activity, we're just allowing more flexibility with the Public Service Commission so they can go out and inspect these homes. So that's going to clarify the

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convenience of the inspections and also add that flexibility. Sections 8, 9, 10, 11, 12, 27 relates to the Pharmacy Practice Act. And this was a prescription drug or device does not include a device, supplies, and device components that carry an FDA legend which is...it says "Caution: federal law restricts this device to sale by or on the order of a licensed health care provider," and the practice of pharmacy does not include "A business or a person accredited by an accrediting body which or who, pursuant to a medical order, sells, delivers, or distributes or purchases the devices described above to patients or ultimate users." So basically what we're doing is changing that disclosure that's on the Pharmacy Practice Act to those people that deliver different things to, like, home healthcare delivery and things like that, so they don't have to do that. Section 6, 7 adds to the practice of optometry. This allows the optometrist to issue contact lenses with medication in the lenses. Again, there was no opposition to this at all. New technology allows a prescription to be delivered through a contact lens. And the pharmacists are on board and the ophthalmologists are on board as well. But what this does: the dispensing and sale of contact lenses...containing an ocular pharmaceutical agent. The amendment requires optometrists to comply with the rules and regulations relating to the packaging and labeling, storage and drug utilization review adopted and promulgated by the board; adds to the Uniform Credentialing Act that optometrists and ophthalmologists may prescribe or dispense contact lenses that contain or deliver ocular pharmaceutical agents. And that's basically...the reason why is if you went to your ophthalmologist or your optometrist and he gave you this lens, you don't have to go back to the pharmacist, back to the optometrist who prescribed it. They can give it to you right then and there. It's a new practice that will be...we're just being on the forefront of this and kind of getting in front of the...in front of the game doing this. But this is a new...there will a nationwide trend of these new contacts coming out. And then the last, Section 31 sets March 1, 2011, as the deadline when the department must begin reimbursing on a daily rate basis specialized services through community-based developmental disability programs. [LB849 LB25 LB702 LB726 LB734]

SENATOR JANSSEN: One minute. [LB849]

SENATOR GAY: Thank you, Mr. President. [LB849]

SENATOR JANSSEN: Thank you, Senator Gay. Those wishing to speak on AM2120 to LB849: Senator Price. Senator Price, you are recognized. [LB849]

SENATOR PRICE: Thank you, Mr. President, members of the body. I'd like to express my support for what we're doing here and also thank Senator Gay and all those involved in this rather complex compendium of bills that they've put together and put before us. I'd like to ask if Senator Gloor would yield to a question. [LB849]

SENATOR JANSSEN: Senator Gloor, would you yield to a question? [LB849]

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SENATOR GLOOR: Certainly. [LB849]

SENATOR PRICE: Thank you, Senator Gloor. This goes on to what we were discussing a little earlier there on the floor with reference to LB702 and the patient records. I just wanted to give you a moment. First, I want to tell you thank you. I appreciate your concern and your interest and dedication on this issue of patient records, and I just wanted you to talk to me for a moment about the implications this has for HIPAA requirements. [LB849 LB702]

SENATOR GLOOR: Glad to, Senator Price. Actually, this bill was something that I got involved in discussing with Lieutenant Governor Sheehy who heads up our statewide health Information Technology Commission that has an eHealth division. And what HIPAA, the overriding national legislation that deals with patient confidentiality, has done is make it a lot easier for us to share information, so that if you're injured, as an example, in a car accident in one community, your records can be made available to you in other communities. What we've done with this piece of legislation is to bring it in a little better compliance with what HIPAA would allow and make that sharing of information a little bit easier. Specifically, some of the time frames that were restrictive for us can be lifted now, if this bill passes. [LB849]

SENATOR PRICE: Right. And thank you very much, Senator Gloor. And if you would take a moment, I would share with the body, one of the interesting things was my wife had worked in a place where they...she worked with medical records, that's what her profession is. And the idea is that there was a six-month period that you had to...or that you could only get a six-month period. And then what happened, you would have to renew it all the time for continuing treatment--and that got too burdensome. So, Senator Gloor, it's your belief that by having a 12-month period as a minimum if there's no designated period otherwise, this is a helpful thing for those in the medical field, correct? [LB849]

SENATOR GLOOR: Yes, that's correct, that if there is nothing designated, it would, instead of 6 months, it would be 12 months. But one of the better components of this is that you can be in control as a patient of, specifically, the time frame. As an example, if you would like a specific surgeon to have access to your medical records only for the period of time they're treating you, you can specify that. That might be one week; it might be one year. If you're an elderly patient, perhaps beginning to suffer from dementia, you may wish to have a family member have access to your medical records in perpetuity. You could make that decision also. So it really gives the patient, the consumer, more control, rather than having it tied to our current statutes, which is six months, period. [LB849]

SENATOR PRICE: Thank you, Senator Gloor. And I would yield the balance of my time, if it's remaining, to Senator Gloor if he should use it. [LB849]

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SENATOR JANSSEN: Senator Gloor, you're yielded 1 minute 53 seconds. [LB849]

SENATOR GLOOR: Thank you. I would waive. [LB849]

SENATOR JANSSEN: Thank you, Senators Price and Gloor. There are no further lights on. Senator Gay, you are recognized to close. [LB849]

SENATOR GAY: Thank you, Mr. President. As I said in the open, there is no...there was no opposition to any of these bills that were put into the committee. We were very cautious. There also is no fiscal impact to this, and I'd encourage you to support LB849. Thank you, Mr. President. [LB849]

SENATOR JANSSEN: Thank you, Senator Gay. You have heard the closing on the committee amendments. The question is, shall the committee amendments to LB849 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB849]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB849]

SENATOR JANSSEN: The amendment is adopted. Discussion on the advancement of LB849: There is nobody requesting to speak. Senator Gay, you're recognized to close on LB849. [LB849]

SENATOR GAY: Thank you, Mr. President. We were just discussing...I don't see a whole lot of opposition, but we're trying to get a few more votes on this. I saw we had 27, but two of these bills have an E clause on there. I don't know if we need 30 on General File or not, but I'd encourage you...we probably do not. But please support LB849. And thank you, Mr. President. [LB849]

SENATOR JANSSEN: Thank you, Senator Gay. You've heard the closing on the advancement of LB849 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB849]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB849. [LB849]

SENATOR JANSSEN: LB849 passes. Mr. Clerk, we will proceed on General File, senator priority bills in the Harms division, LB510. [LB849 LB510]

CLERK: LB510 by Senator Pirsch. (Read title.) The bill was introduced on January 21 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments, Mr. President. (AM2095,

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Legislative Journal page 758.) [LB510]

SENATOR JANSSEN: Senator Pirsch, you are recognized to open on LB510. [LB510]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. LB510 is my priority bill, and advanced out of Judiciary Committee, as amended, by a 7-1 vote. LB510 is designed to provide additional financial assistance to the most needy of crime victims and their families in Nebraska. As a source of funding, a \$1 court cost will be assessed for a criminal conviction in Nebraska, and up to 5 percent of the net earnings of a work release offender will be utilized. It is very appropriate that the cost of crime be internalized to those who commit criminal acts, and not the taxpayers; therefore, there is no General Fund appropriation associated with LB510. Right now, Nebraska is dead last in the nation in tending to the dire needs of crime victims in covering for funeral expenses, medical expenses, and counselling expenses that occur because of criminal acts. Right now, the family of murder victims, instead of being able to grieve the loss of their loved ones, have to focus their attention to organizing bake sales, car washes, and pancake feeds to raise \$3 here and \$5 there to pay for funeral expenses. There is a committee amendment, and I have a technical amendment after the committee amendment, installing a fund, the Nebraska Crime Victim Fund, in place for administrative purposes--just kind of a technical amendment. I urge your support on LB510. Thank you. [LB510]

SENATOR JANSSEN: Thank you, Senator Pirsch. As the Clerk has stated, there are amendments from the Judiciary Committee. Senator Ashford, as Chair of the committee, you are recognized to open on the amendments. [LB510]

SENATOR ASHFORD: Thank you, Mr. President, members. This is a significant expansion of the Victim Fund. And just as a little history, I recall in my prior years in the Legislature that I was here when Senator Pirsch's mother created the fund in the late eighties. So this is important work. I want to talk just a brief bit about a neat part of this bill in the committee amendments that deals with the...and then I'm going to give my time to...well, he was here, Senator Christensen, but...well, maybe he wasn't here. (Laugh) I saw him earlier...but that creates funding of a program that is going on in McCook with the Work Ethic Camp. And I'm certain most or all of you are knowledgeable of the Work Ethic Camp. I visited it this summer, and I had been there before. It is a facility operated by the Department of Corrections and provides reentry opportunities for young offenders. And part of the program there involves the Mid-Plains Community College. Mid-Plains, in concert with, initially, at its beginning, Valmont Industries, created a welding program that educates up to eight individuals at a time from the Work Ethic Camp, in welding. They've expanded that program to other business technology opportunities as well. Funding for that program ceased. And I felt...and actually Senator Christensen, through his leadership, brought this to our attention in the committee. And I felt, and I think the committee did as well, that this is

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the kind of program that we would like to see, not only in McCook at the Work Ethic Camp, but also...and Mid-Plains...but also across the state, in Omaha and in other parts of the state, utilizing the community colleges. This is another great example of how and why the community college...resolution of the community college issues are so critical to our state, because this Mid-Plains program is a great program. And this amendment would allow...the committee amendments would allow that program to continue. And with that, I would give the remainder of my time to Senator Christensen if he so desires. [LB510]

SENATOR JANSSEN: Thank you, Senator Ashford. Senator Christensen, you are yielded 7 minutes 11 seconds. [LB510]

SENATOR CHRISTENSEN: Thank you, Mr. President and Senator Ashford. Work Ethic Camp has been a very successful program. It's a voluntary program. You have to volunteer to go out there to go into that camp, and, at that point in time, you're expected to work every day. Every day that you're incarcerated, you have duties to perform, which they go out and clean road ditches, they go out and they paint parking stripes. They do a number of very beneficial jobs out there for the community and various towns around. They've worked in a number of the schools. But with this particular funding, it goes into the work training to advance prisoners into a more skilled level, where they can hold down a job, become functional in society. The recidivism rate is very low, people coming out of the Work Ethic Camp. It has been an extremely successful program, and we need to expand this program, even statewide, to allow prisoners to become effective citizens in the state. And I can't say enough about how beneficial the camp has been. I've had letters from parents, as well as inmates, stating how it has benefited them and they have been able to make themselves beneficial in life. I have known some of them have started their own lawn care facilities or worked for them people, tree trimming facilities, welding with Valmont, as well as other industries. This welding technique can be taken all over this state. The inmates come from all over this state and it is a benefit to the whole state. And I encourage you to support this bill and support the education that we are doing for these young people that have volunteered to try to make their lives better and become active citizens in the state. Thank you, Mr. President. [LB510]

SENATOR JANSSEN: Thank you, Senators Ashford and Christensen. Mr. Clerk, there's an amendment to the committee amendments. [LB510]

CLERK: There is, Mr. President. Senator Pirsch would move to amend the committee amendments with AM2136. (Legislative Journal page 878.) [LB510]

SENATOR JANSSEN: Senator Pirsch, you're recognized to open on your amendment to the committee amendment. [LB510]

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SENATOR PIRSCH: Thank you very much, Mr. President. This is just a technical amendment that was brought to my attention by the Treasurer's Office. Helps to make sure everything flows smoothly together. It, for their purposes and administrative purposes, creates the Nebraska Crime Victim Fund. Nebraska Crime Victim Fund puts that in place so that they can accomplish their task through the...as stated in other portions of the bill. So thank you. [LB510]

SENATOR JANSSEN: Thank you, Senator Pirsch. Those wishing to speak: Senator Council, you are recognized. [LB510]

SENATOR COUNCIL: Yes, thank you, Mr. President. I think it's important for me to explain, on the mike, if you look at the committee statement on AM2095, which in that sense replaces LB510, I voted against that measure, and I voted against it coming out of committee for a couple of reasons. I think you need to know that I spent a lot of time working with Senator Pirsch on this bill, trying to put LB510 in a form that I could wholeheartedly endorse. And I want to make this statement perfectly clear: I, probably more than anyone, recognizes the need for us to increase funding to the Crime Victim's Reparations Fund. There are untold numbers of family members in my district who are left struggling, trying to deal with the effects of violent crimes that they have had the unfortunate circumstances to have themselves or their family members involved in. If you look at LB510, where the money comes from as originally proposed, it was originally proposed that all of the money for the Crime Victim's Reparations Fund would come from amounts withheld from individuals--inmates who are on work release. Well, one of the problems that I have with that concept is that a number, a significant number of the individuals who are on work release, are on work release because, in part, due to the nature of the crime they committed. Many of those individuals, if not the majority of those individuals, were incarcerated for what we customarily refer to as victimless crimes. Those are crimes involving drug possession. Those are crimes that don't involve any violence. And so I had a fundamental, philosophical problem with withholding from individuals who had not committed a crime that involved a victim for the Victim's Reparations Fund because my firm belief is that it ought to come from the General Fund. But we understand the situation in the General Fund. And in working with Senator Pirsch, we then moved to the assessment of the \$1 additional cost on everyone who was charged with a crime, and that dollar would be a part of the court costs of prosecuting anyone charged with a criminal offense. That addressed my concern about fairness. And then it was a division of the funds, and Senator Pirsch had agreed that the overwhelming majority of the collective dollars would go to the Crime Victim's Reparations Fund. And if we want to have a real impact on reducing the number of victims of crime in this state, we need to focus more of our resources on crime prevention. So the understanding was that 75 percent of the dollars raised through the additional court costs, as well as the sums withheld from inmates working through the work release program, 75 percent would go to Crime Victim's Reparations Fund, 25 percent would go to the Office of Violence Prevention. Well, right before the measure

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came to a vote before the Judiciary Committee, the Judiciary Committee members were advised of the request by Senator Christensen... [LB510]

SENATOR JANSSEN: One minute. [LB510]

SENATOR COUNCIL: ...to have, instead of the 25 percent go to the Office of Violence Prevention, that the 25 percent would go instead to the reentry cash fund. Please understand that I am supportive of reentry efforts. But unfortunately, currently, we only have one Work Ethic Camp that is operated by the Department of Corrections. There is a movement afoot to establish another one in the Omaha area. But if you look at the individuals who have been eligible and willing to participate in the Work Ethic Camp at McCook, those are people who are in a position where their families are in McCook or they otherwise have the ability to relocate to McCook. I think the money would have a broader impact and affect more people and have a greater impact on reducing... [LB510]

SENATOR JANSSEN: Time. [LB510]

SENATOR COUNCIL: ...crime if it goes to the Office of Violence Prevention. [LB510]

SENATOR JANSSEN: Thank you, Senator Council. There are no other lights on. Senator Pirsch, you are recognized to close on your amendment to the committee amendments. [LB510]

SENATOR PIRSCH: Again, reminding the body this is just a technical amendment that creates a fund so that the Treasurer's Office can administer this. Not too substantive in nature. I'd urge you to vote yes to this amendment. Thank you. [LB510]

SENATOR JANSSEN: Thank you, Senator Pirsch. You have heard the closing on the amendment. The question is, shall the amendment to the committee amendment on LB510 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB510]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Pirsch's amendment to the committee amendments. [LB510]

SENATOR JANSSEN: The amendment is adopted. Continuing discussion on Judiciary amendment AM2095, those wishing to speak: There are no lights on. Senator Ashford, you are recognized to close on AM2095. [LB510]

SENATOR ASHFORD: Thank you, Mr. President. AM2095 essentially doubles the Victim's Reparations Fund to around \$235,000. It funds the...with federal funds, it fully funds the McCook Work Camp program with Mid-Plains Community College. With that, I

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would urge the adoption of AM2095. [LB510]

SENATOR JANSSEN: Thank you, Senator Ashford. Members, you have heard the closing on the committee amendments. The question is, shall the committee amendment to LB510 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB510]

CLERK: 32 ayes, 2 nays, Mr. President, on the adoption of committee amendments. [LB510]

SENATOR JANSSEN: The amendment is adopted. Continuing discussion on LB510, there are no members wishing to speak. Senator Pirsch, you are recognized to close on LB510. [LB510]

SENATOR PIRSCH: Thank you, Mr. President. And again, I would just ask you to support LB510, keeping in mind I believe Nebraska is dead last in the nation in tending to the needs of their crime victims. I think this is an important bill and I would ask for your support. Thank you. [LB510]

SENATOR JANSSEN: Thank you, Senator Pirsch. You've heard the closing on the advancement of LB510 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB510]

CLERK: 35 ayes, 1 nay, Mr. President, on the advancement of LB510. [LB510]

SENATOR JANSSEN: The bill advances. We now continue on General File with LB1070. Mr. Clerk. [LB510 LB1070]

CLERK: Mr. President, if I may, some items before we proceed to LB1070. Senator Nordquist has an amendment to LB1106A to be printed, and Senator Dubas offers LR387-396. All those will be laid over. (Legislative Journal pages 903-909.) [LB1070 LB1106A LR387 LR388 LR389 LR390 LR391 LR392 LR393 LR394 LR395 LR396]

LB1070 is a bill by Senator Adams relating to learning communities. (Read title.) The bill was introduced on January 21 of this year, at that time referred to the Education Committee. The bill was advanced to General File. There are Education Committee amendments pending. (AM2084, Legislative Journal page 747.) [LB1070]

SENATOR JANSSEN: Senator Adams, you are recognized to open on LB1070. [LB1070]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I'm going to keep this introduction very short because there is a committee amendment that follows that

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replaces the bill. But just as a lead-in to that, this summer I was approached by the learning community coordinating council with suggestions for changes in our current language to make their job smoother and better. I reviewed those. We prepared a bill. There was more than one bill, and the committee spent quite a bit of time in Exec Session on exactly how to approach this, and we've actually put a couple of bills together. And the thing that I would say in really kind of ending my introduction here, this is an attempt to help the learning community council, which has been in existence now for only one year, do their job. With that, Mr. President, I will end my introduction because the committee amendment does become the bill. [LB1070]

SENATOR JANSSEN: Thank you, Senator Adams. As the Clerk has stated, there are amendments from the Education Committee. Senator Adams, as Chair of the committee, you are recognized to open on the amendments. [LB1070]

SENATOR ADAMS: Thank you, Mr. President. All of you should have a bullet-point sheet in front of you that outlines the text of the committee amendment, which, let me repeat again, becomes the bill. And let me highlight what's in here. First of all, we have nonvoting members of the learning community. Those were school boards that had no representation. Last year, we allowed them to have representation on the learning community council. What this would say is that if the learning community council decided to pay expenses, which is normal--school boards do that, pay expenses to their members for travel--that they would be allowed to do that for these nonvoting members. And I would tell you that I've heard from several superintendents that they have board members that are participating as nonvoting members in the learning community coordinating council. They spend a lot of time and drive to various parts of the city for their meetings, and this would compensate them for their mileage, as are others that are compensated. The next part is the big part as far as I'm concerned. I was approached by the learning community coordinating council, and their request was this: Under current law, they are authorized to levy up to five cents for focus schools, and they have no levy authority to do anything to garner any monies to be used to provide the services, the wraparound services that the elementary learning centers are to provide. They came in and they asked for money for that purpose because there was nothing designated otherwise for that purpose. The committee decided that the trade-off was this: We would take the five-cent levy for bricks and mortar that the learning community currently has for focus schools, and we reduce it to three cents--from a nickel down to three cents. Two of those three cents would be for focus schools. And remember, that's a fifty-fifty deal: 50 percent of the focus school paid for by the learning community, the other 50 percent from the school district wherein the focus school would have residence. The other penny...the other penny could be used for the wraparound services within the elementary learning centers. Now in the process of working in this direction, we also had conversations with the learning community coordinating council about where they were heading with these elementary learning centers and what they were trying to do. And Senator Ashford joined me in those conversations, and part of

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what we were trying to do was to reach back into our memory banks as to what we were--when we created this, those elementary learning centers--what we were trying to do. And it's a fine balancing act between providing educational services and providing wraparound services. Schools do the educating, but there are things that the elementary learning centers can do to help the learning process. Schools constantly are saying to us: We have a job to do in terms of educating, but there are always these peripheral issues that we need to deal with, whether it's English as a second language, kids living with their grandparents, mobility, all of these different things. The purpose of these elementary learning centers was to provide those wraparound services to help the school. What we attempt to do in this bill, in the committee amendment which becomes the bill, is to provide one penny for that purpose and at the same time more specifically delineate what we're talking about when we say services. And I think the key point is this: We are encouraging the learning community council to go out and use existing services that already are there in the community; not go out and start hiring people and put them on a payroll. And Senator Ashford, coming from Omaha, can better talk to this than I can. But that was our intention from the beginning: Not to create a whole new bureaucracy, a whole new hierarchy of people to provide these services, but the learning community coordinating council was to be a coordinator of existing services and wrap them around these learning centers where they're most necessary in the high-poverty areas. So we go from five cents to three, two of which are for focus schools--which, by the way, I think are a critical portion of what we're trying to do in the learning community--and then one penny goes for these services, and they are to go to third-party providers. Learning community reporting: Aggregation of data from member school districts is shifting from the coordinating council to the commissioner or the Department of Education. You know, the department is collecting all of the data, anyway, and they can provide it back to the learning community. ESUs, here's another important piece: We have taken another bill that was introduced by Senator Lathrop in the Education Committee earlier this year. Currently, 50 percent of the core service dollars that are attributable to the schools in ESU 3 that are part of the learning community goes to the learning community coordinating council for their operation and for providing service. What this will do is say this: If we're going to give a penny to the learning community coordinating council, a penny's worth of levy authority within that three cents...if we take from five down to three, then one of the trade-offs is 90 percent of those core service dollars go back to the ESU and, therefore, will travel back to the participating school districts, 90 percent compared to the 50 percent they're getting right now. The other key component is the 10 percent. Ten percent will stay with the learning community, and that 10 percent is going to be used for two specific things. (A) It will be used by the learning community coordinating council, the Educational Service Unit Coordinating Council, and the state of Nebraska student achievement coordinator, those three entities in common, to evaluate the learning community. And the evaluation will not be done by them. It will be coordinated by them, but the evaluators will be from the outside looking in. Some of that money will also be used for research. And that research, the learning community, there is a tremendous amount of research to be

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done. There is a lot of learning to be done. And even if the learning community some day doesn't get us where we want to go, even then there is research that needs to be done on demographics, on poverty, on the achievement gap, and monies can be used for that purpose. That's what that 10 percent would go for. And finally, the elementary learning center executive director. When we developed the learning community center bill in the first place, we set the bar pretty high for getting rid of that coordinator. And the learning community coordinating council has asked us to reduce the bar and let them handle that the way they would any other contract person, and if they're not getting the job done, let them be terminated. That, in essence, is the committee amendment, and the committee amendment becomes the bill, Mr. President. [LB1070]

SENATOR JANSSEN: Thank you, Senator Adams. Those wishing to speak on AM2084 to LB1070: Senators Ashford and Price. Senator Ashford, you are recognized. [LB1070]

SENATOR ASHFORD: Thank you, Mr. President, and I'm sure you're all, and I am too, tired of hearing me, but this is my priority bill. I'd like to compliment Chairman Adams. He did a great job of explaining this and has done an exemplary job of working with a bill that affects, obviously, the metro area only--but thank him for that. I also want to mention Senator Sullivan. She, throughout this whole discussion on the learning community, has asked repeatedly: How do we know if this is going to work? This is a big shift, at least in the metro area, on how we work with, certainly with poverty students, and with the 11 school districts as well, and how they interface with each other in dealing with poverty issues and the learning gap. So the amendment in the bill that puts quite a few dollars into a fund to evaluate, on a consistent sustainable basis, how the learning community is going--is it achieving its statutory responsibilities in a meaningful manner?--and I think I applaud Senator Sullivan for continuously asking that question, and that is in the bill. It is also important to get this data, because it may be that other districts, like Grand Island we've heard in the past, and other districts have had an interest in looking at the learning community, and this sort of data is going to be invaluable. The focus schools...Senator Adams is exactly right, the two cents of levy would go to the focus schools. The focus schools are the core of the learning community. The idea that a school district, with support from the entire metro area, can develop a program or programs that will attract students of diverse backgrounds to it, is really exciting. There are examples of this already at OPS. I had the opportunity to go to Beveridge Magnet School the other day with Senator Pirsch, and we had about 700 kids there, seventh and eighth graders. And it was one-third Hispanic, one-third African-American, and one-third Caucasian students--I mean, what an exciting deal. It just...and we were there at a pep rally for the CAT test. So all 700 students were in the gym and they were getting going, getting all revved up to take the CAT test. I think our vision in the learning community is to have that kind of excitement and enthusiasm throughout the metro area. Schools like South Sarpy--Chuck Chevalier, a real hero of the learning community in our metro area--a small school district that wants to do a focus school out in Springfield, Nebraska, and attract students from around the metro

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area. That's exciting. It's innovative, it's creative. So the focus schools are critical. And lastly, the idea of the one-cent levy to go to third party, primarily--not in absolutely all cases, but in most cases to third-party providers--I think is a critical change. We have in Omaha, in the metro area, Sarpy and Douglas County, a multitude of providers who can help with learning issues. And literacy, for example, we have numbers of organizations that work in the area of literacy. So getting those dollars out into the community is critical. The learning community coordinating council is in an enviable position to evaluate those needs. [LB1070]

SENATOR JANSSEN: One minute. [LB1070]

SENATOR ASHFORD: So with that, Mr. President, I would urge the adoption of the amendment and the advancement of LB1070. Thank you. [LB1070]

SENATOR JANSSEN: Thank you, Senator Ashford. Those wishing to speak: Senators Price and Gay. Senator Price, you are recognized. [LB1070]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Adams yield to a couple of questions, please? [LB1070]

SENATOR JANSSEN: Senator Adams, would you yield to questions? [LB1070]

SENATOR ADAMS: Yes, I will. [LB1070]

SENATOR PRICE: Thank you, Senator Adams. I appreciate all the effort that's gone into this work of a bill you have here. And just a couple of questions to make sure I understood it completely. The two cents that will no longer be collected...they're not going to be collected at all, the two cents. It's only going to be a three-cent levy now, correct? [LB1070]

SENATOR ADAMS: Correct. [LB1070]

SENATOR PRICE: Great. The other question has to deal with, when we talk about the focus schools that we've been talking about here for the past few minutes, how are those going to be impacted in a learning community, with Race to the Top overlaying the entire education landscape? [LB1070]

SENATOR ADAMS: I think a focus school...Senator Price, you've raised a good question. I think focus schools are critical, particularly in a metro area, but any place. For one thing, they draw academic focus; the other, they draw diversity. You bring students from all over into a location, and you are focusing on a particular subject matter or humanities, whatever it may be. I think they're critical. [LB1070]

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SENATOR PRICE: Okay, great. Now, my other question has to do with, if we're looking at a focus school, does a focus school coincide to a learning center, or is that separate from a learning center? [LB1070]

SENATOR ADAMS: Separate. [LB1070]

SENATOR PRICE: Okay. I thought as much. Now, in a learning center, you've talked about the wraparound services that they're providing. [LB1070]

SENATOR ADAMS: Right. [LB1070]

SENATOR PRICE: And we've talked about ESL and reading skills. Could you list out some of the other things that the one cent would go towards and the third-party contractors would be providing outside of ESL and reading skills? [LB1070]

SENATOR ADAMS: Yes, I can. And my staff is running for the statutory laundry list that is available, but you've hit on some already. It may be a computer lab. It may be interpretive services. It may be a social worker. It might be a healthcare provider. It may be mentoring. There's a host of things there that could be provided. [LB1070]

SENATOR PRICE: Well, I'm glad to hear you say that, because one of the things I was concerned about with the entire wraparound services is what you talked about in the beginning, that there are currently community services provided for a great number of those laundry list items. And we were in the process of recreating that or funding that with a new funding stream, to be honest. And I wanted to be sure that, as you said, we don't have a duplication, particularly in our fiscally constrained times. And with that, Senator Adams, I would yield you the balance of my time if you would like to use it. [LB1070]

SENATOR ADAMS: Thank you, Senator Price. [LB1070]

SENATOR JANSSEN: Senator Adams, you are yielded 2 minutes 17 seconds. [LB1070]

SENATOR ADAMS: And the concern that you raised was exactly the concern that Senator Ashford and I raised as we were listening during the interim to some of the learning community folks and was certainly brought up in committee, that if those services are already available, then what we want the learning community coordinating council to do within these areas where a learning center would be is to go out and contact those folks and bring them in to this central location, which is the essence of what an elementary learning center will be. It's kind of a center where these things can be collected around, and not to create a new school and hire employees with benefits and all that. That's not the intention. But, instead, it's find a location, determine what

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services are necessary for parents, grandparents, kids, to help their education and the surrounding school district, and coordinate those things. Bring them in and coordinate them; not go out and create a whole new business. [LB1070]

SENATOR JANSSEN: Thank you, Senator Adams. Those wishing to speak: Senator Gay, followed by Senator Nelson. Senator Gay, you are recognized. [LB1070]

SENATOR GAY: Thank you, Mr. President. Senator Adams touched on one of the questions I had that Senator Price just asked about: where that extra money could go. And that's fine. I'm not going to say I'm a proponent of the learning community, because I'm not. But my thing was, hey, if this gets...our law; let's see if it works. The question I have, if Senator Adams would yield to a question or two? [LB1070]

SENATOR JANSSEN: Senator Adams, will you yield to a question? [LB1070]

SENATOR ADAMS: Yes. [LB1070]

SENATOR GAY: Senator Adams, by doing some of these focus schools, I had always understood they're looking for schools that maybe we could rehab, whatever. Are we talking brand new schools? And if we do this, are we committing then? What if this doesn't work, and then are we committing that now we can't ever change this learning community because we just built these new schools? [LB1070]

SENATOR ADAMS: No. My first response would be...are we talking about the elementary learning centers or focus schools, Senator? [LB1070]

SENATOR GAY: Either/or, because what I'm worried about, the point I'm getting to is how big a commitment are we making here that, you know, does this tie us up? Because I read a little bit about bonding and some of the bond...reduce required bonded indebtedness. But if we go into bonding, then are those 20-year bonds, 10 years, whatever? I'm just saying, how much more commitment are we going down the road on this bill? [LB1070]

SENATOR ADAMS: Fair enough question. First of all, with the elementary learning centers, there shouldn't be any bonding. For instance, they may go out and rent the church basement. There may be room in the public library in one of the neighborhoods that can be used, and that's what they're encouraged to use, so those things could go away as quickly as they were created. Focus schools become the responsibility of the school district that decides to take them on. So if the learning community went away tomorrow, that would not necessarily mean that the focus school would. It could still be there. For instance, we currently have the Underwood Hills Focus School that exists within the Westside district. And that occurred prior to the learning community. It's still there. Students are coming into it. If things completely change tomorrow, that would be

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Westside's decision as to what to do with that school. [LB1070]

SENATOR GAY: Okay. Thank you, Senator Adams. And like I say, it's not my goal. I'm just trying to get where we're at on this. It's a fairly complex bill, I think. And then another question was, on the elementary learning center executive director, changing those requirements. Is that for the elementary learning center executive director? It's not the overall director, just whoever is going to be... [LB1070]

SENATOR ADAMS: No, that's just the elementary learning center executive director, if one is hired. [LB1070]

SENATOR GAY: Why are we loosening those requirements then, because if you're running this unique program, wouldn't we want...? Why were the requirements put in place that were so strict? Are we, by watering them down, changing the mission? [LB1070]

SENATOR ADAMS: I don't think we're...we are watering them down, in a sense, although I don't know as I'd use "watering them down." What the learning community...the language that currently is in statute makes it virtually impossible, once you've hired somebody, to get rid of them. It is way too tight of language. And so at the request of the learning community council, we're lowering the bar so that it would be equivalent to, for instance, the executive director of or the superintendent of a school district. Otherwise, the bar was set way too high. [LB1070]

SENATOR GAY: So do we still have the term of...is this, this term of office for six years? So you're removing that. That has nothing to do with the learning center person. [LB1070]

SENATOR ADAMS: No. No. [LB1070]

SENATOR GAY: Okay, I'll just disregard that. But I guess on this, would, you know, the focus schools...and I was glad to hear that they are looking for other ways to make that work without building new schools, and I know that's not the intent either. Clarifying that the school district that builds the focus school, I assume would have some kind of need for that in case something were to change. It would probably be in a growing area of the metro area or something like that. Well, they've talked about Chuck Chevalier, if he's going to build one of these schools. It's in a kind of growing area so I could see it being utilized in other places if this were to not be around. The reason I say that, in all honesty, it's like there's a certain point...today, in the paper, they talked about the extra money that's going into this. At some point, if we're squeezing, you know, where do people look down the road? And I think, in all fairness,... [LB1070]

SENATOR JANSSEN: One minute. [LB1070]

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SENATOR GAY: ...if it's two years down the road or longer, if we get our hands tied, as a Legislature, and we can't ever look at this program again, I think that would be making a mistake by the Legislature. And if you'd want to comment on that. I don't mean that as a bad thing. I'm just saying I don't think it's good to tie our hands when this is a new proposal that was initiated. This won't do that, will it? [LB1070]

SENATOR ADAMS: No. The Legislature's hands are not tied in this. This is up to the school districts. If Papillion Public Schools decided they wanted to start a focus school, they could begin the preparation and go to the learning community coordinating council and get the approval, so there would be the shared part of that two cents and the open enrollment, and get off and running. And if the learning community went away, Papillion would still have that focus school. [LB1070]

SENATOR GAY: All right. Thank you, Senator Adams. Thank you, Mr. President. [LB1070]

SENATOR JANSSEN: Thank you, Senators Gay and Adams. Those wishing to speak: Senator Nelson, you are recognized. [LB1070]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question or two of Senator Adams if he would yield. [LB1070]

SENATOR JANSSEN: Senator Adams, will you yield? [LB1070]

SENATOR ADAMS: Yes, I will. [LB1070]

SENATOR NELSON: Senator Adams, as always, I appreciate the synopsis that you put out of the bill. It makes it easier to follow. And I'm looking at that sheet right now, I think it's the fifth or sixth bullet point there: ESU and Learning Community Funds. You see where I am? [LB1070]

SENATOR ADAMS: Right. [LB1070]

SENATOR NELSON: All right. And maybe you covered this and maybe it went by me, but 90 percent and 10 percent division. Is that taking something away from the ESUs and giving it to the learning community, is that what...? Would you explain what we're doing here and what was the original amount that was allocated for this purpose or division for levy, whatever? [LB1070]

SENATOR ADAMS: Senator Nelson, in response to your question, currently, under law, the ESUs, the school districts that are involved within the learning community, 50 percent of their core service dollars rather than going to the ESU, are going to the

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learning community coordinating council. [LB1070]

SENATOR NELSON: All right. [LB1070]

SENATOR ADAMS: And what this will do is to return most of that back to the ESU, which in turn will then trickle back into the school districts that make up the learning community. We will retain 10 percent of it, which will be used for external evaluation and research within the learning community. But, in effect, to answer your question, bottom line, this would be returning money back to the ESU, and the ESU then would be returning the money or can use the money for services and, indeed, will, in effect, go back to the school districts. [LB1070]

SENATOR NELSON: All right. Thank you. Could you explain what you mean: Valuation could not be a consideration in the use of core services received after July 1, 2010. What are we talking about there? [LB1070]

SENATOR ADAMS: What we are, in effect, saying to the ESU is, here comes the money back; now, you have to decide how you're going to redistribute those dollars. And what we don't want you to use is land valuation of a school district as the determining factor. It's nonequalizing, Senator. A school district with high valuation shouldn't necessarily get a high amount of the core services dollars back. [LB1070]

SENATOR NELSON: All right. Thank you. That answers my questions. Thank you very much, Senator. Thank you, Mr. President. [LB1070]

SENATOR JANSSEN: Thank you, Senators Nelson and Adams. Senator Adams, there's nobody else wishing to speak. You are recognized to close. [LB1070]

SENATOR ADAMS: Thank you, Mr. President. Members, the committee amendment here that we're about to vote on does become the bill. There are several things in it, but let me recap what I think are the most significant. It takes a one nickel current law levy for the learning community council and it reduces it down to three cents. Of that three cents, two can be used for focus schools; one will provide the monies that the learning community coordinating council needs to provide the coordinating services on the elementary learning centers. In addition, as I just explained to Senator Nelson, we are also returning 90 percent of the core service dollars to ESU 3. We are retaining 10 percent to be used for evaluation and research of the learning community. In addition, what we're also doing, we're saying that data...as the member schools of the learning community turn in their student data, it goes directly to the Department of Ed, and the Department of Ed will then provide it to the learning community coordinating council. It just smooths out a step. The other thing we're doing, we're saying that nonvoting members of the learning community council should be reimbursed their expenses if the learning community council so chooses to reimburse their expenses the way they would

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any school board member if they were to so choose--travel expenses, that kind of thing. This is not per diem. The other thing that we would be doing here is...well, I guess that pretty well sums it up, as well as some focus school language there that would allow a school to get a focus school started a year in advance, with approval from the learning community, and then they're off and running. With that, Mr. President, that's a summary of the committee amendment, which in essence becomes the bill. [LB1070]

SENATOR JANSSEN: Thank you, Senator Adams. You have heard the closing on the committee amendments. The question is, shall the committee amendments to LB1070 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB1070]

CLERK: 34 ayes, 0 nays on adoption of committee amendments. [LB1070]

SENATOR JANSSEN: The amendment is adopted. Discussion on the advancement of LB1070 will continue to E&R Initial. Those wishing to speak: Senator Pirsch, you are up and recognized. [LB1070]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just am trying to put my arms around...it was quite a lengthy bill, and the amendments, committee amendments are quite lengthy, and so as I attempt to kind of put my arms around what is in the amendment, I wonder if Senator Adams might yield to a quick question or two. [LB1070]

SENATOR JANSSEN: Senator Adams, will you yield? [LB1070]

SENATOR ADAMS: Yes, I will. [LB1070]

SENATOR PIRSCH: And I apologize if there's some overlay with what questions have already been put forward, but it's...could you...is there any part of the committee amendment, which now becomes the bill, which allows for greater taxing power or levying power in any manner or regard? [LB1070]

SENATOR ADAMS: We took it from a...the amendment takes it from the nickel that they currently have, down to three cents. [LB1070]

SENATOR PIRSCH: Okay. And that's all that it does in scope. There's nothing... [LB1070]

SENATOR ADAMS: Well, it also says that within that three cents, two cents can be used for focus schools; one penny can be used...can be levied by the learning community for programming around the elementary learning centers. [LB1070]

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SENATOR PIRSCH: Okay. And previously, with respect to the elementary learning centers, that program...it would allow...that would be a new expansion insofar as programming wouldn't be paid for. It was the... [LB1070]

SENATOR ADAMS: That's correct. [LB1070]

SENATOR PIRSCH: ...building? Or what was it limited to, previously, in terms of what the... [LB1070]

SENATOR ADAMS: All five cents was for bricks and mortar. [LB1070]

SENATOR PIRSCH: Okay. Whether or not that's in focus or elementary learning center, right? [LB1070]

SENATOR ADAMS: It was focus schools. Yes. [LB1070]

SENATOR PIRSCH: And it could be used for either one, up to the five cents? [LB1070]

SENATOR ADAMS: But it could not be used for programming. It was for bricks and mortar only. So this changes that. [LB1070]

SENATOR PIRSCH: Okay. Okay. But bricks and mortar in either respect--focus school or elementary learning center--right? [LB1070]

SENATOR ADAMS: Right. [LB1070]

SENATOR PIRSCH: Up to the full five cents. [LB1070]

SENATOR ADAMS: Correct. [LB1070]

SENATOR PIRSCH: Okay. Okay. Thank you for clarifying that, and I do appreciate that. Thank you. [LB1070]

SENATOR JANSSEN: Thank you, Senators Pirsch and Adams. There are no others wishing to speak. Senator Adams, you are recognized to close on LB1070. [LB1070]

SENATOR ADAMS: Thank you, Mr. President. There's little more that needs to be said. I've summarized the committee amendment which now is the bill, and I would encourage you to support this. Thank you, Mr. President. [LB1070]

SENATOR JANSSEN: Thank you, Senator Adams. You have heard the closing on the advancement of LB1070 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Mr. Clerk, please record. [LB1070]

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CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of the motion to advance the bill. [LB1070]

SENATOR JANSSEN: LB1070 is advanced. The Chair recognizes the Speaker for an announcement. [LB1070]

SPEAKER FLOOD: Good afternoon, members, Mr. President. I wanted to briefly talk about consent calendar for this year. It is my intention to schedule a 2010 consent calendar for the Legislature. As a reminder, the procedures for consent calendar are outlined in Rule 5, Section 6, of our Legislative Rules. I will be passing out a memo that you should be getting right now that clearly outlines how consent calendar will be handled this year. I would encourage you to read it carefully as to the type of bills that I will be considering for consent calendar. If you, as the introducer of a specific bill, would like that bill placed on consent calendar, the procedure for you is to go see the committee chair of jurisdiction where the bill was considered, whether it's still in committee or has been moved to the floor, and get that committee chair to send a letter to me identifying that bill number as a consent calendar request. I will not accept requests from individual senators. Every request has to come through the committee chair of jurisdiction. All of this is outlined in the memo that has been passed out, dated today. If you have any questions, please feel free to contact me or Laurie in my office at 471-2929. Thank you, Mr. President.

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: Thank you, Mr. Speaker. Mr. Clerk, we will proceed to General File, LB1010. [LB1010]

CLERK: LB1010, a bill by Senator Pankonin. (Read title.) The bill was introduced on January 20 of this year, at that time referred to the Natural Resources Committee. The bill was advanced to General File. There are Natural Resources Committee amendments pending. (AM2029, Legislative Journal page 770.) [LB1010]

SENATOR SULLIVAN: Senator Pankonin, you are recognized to open on LB1010. [LB1010]

SENATOR PANKONIN: Good afternoon, Madam President and members of the body. LB1010 was introduced to create procedures for the use of eminent domain by natural resources districts if private property is to be taken for a recreational trail project. My involvement with this issue began in the fall of 2008 and was prompted by a proposed trail project in my district. Since then, I have become very interested in how we can craft a policy to provide greater protection for the rights of individual landowners throughout the state when a recreational trail is proposed. Efforts to develop such a policy began

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last year with the introduction of LB134. The bill proposed to eliminate the power of eminent domain for natural resources districts when its use is for recreational trails or corridors unless the use is associated with a flood control structure. LB134 was my 2009 priority bill. Before the session ended, I asked the Legislature to kill LB134. I made this request because efforts by affected landowners, the Cass County Board of Commissioners, and the Legislature had sparked renewed discussions and possible changes to the original trail plan in my district. LB134 became a bargaining tool in an effort to convince the natural resources district, which planned the original trail route, to agree to a moratorium on the route through the 2010 legislative session. The moratorium was put in place with the understanding that I would kill LB134, and the Legislature's Natural Resources Committee would study the use of eminent domain for recreational projects during the 2009 interim. I am very pleased to report that the moratorium has, to date, been a success. The Cass County board, the Department of Roads, and the Lower Platte South Natural Resources District are collaborating on plans for an alternate trail route. My constituents and I appreciated the willingness of the Natural Resources Committee to travel to our legislative district for the interim study hearing last September. In my office, we invited discussions of this policy issue with others who are also interested about whether we need the policy change I am proposing and, if we do, what specific changes should be made. I owe special thanks to the members and staff of the Natural Resources Committee, Senators Lathrop and White, the Lower Platte South Natural Resources District, and the Nebraska Association of Resources Districts. Our cordial and constructive conversations after the interim study hearing resulted in LB1010. The conversations that followed the hearing on LB1010 produced AM2029. This amendment language would modify some language but preserve the most critical elements of LB1010. I appreciate the committee's adoption of AM2029 as the committee amendment. Legislative Research and my office found that using eminent domain to take private property for a recreational trail can be used in an unlimited way in only 8 of our 50 states; Nebraska is one of the eight. AM2029 to LB1010 would move our state from the list of 8 which allow the use of this power in an unlimited way, to a list of 12 states which allow the power to be used within well-defined limits. AM2029 to LB1010 offers solutions to real concerns that arose from the trail project in my district, and could certainly occur again in other parts of the state. It represents a midrange alternative that will lie between the current unlimited ability of a natural resources district to use eminent domain to take private property for a recreational trail, which may be very desirable but is not absolutely necessary to the basic welfare of society, and the total repeal of that power. I hope this body will consider AM2029 to LB1010 to be an important way for the Legislature to demonstrate its responsibility to protect the rights of private landowners. Thank you. [LB1010 LB134]

SENATOR SULLIVAN: Thank you, Senator Pankonin. As the Clerk stated, there is an amendment from the Natural Resources Committee. Senator Langemeier, as Chair of the committee, you're recognized to open on the amendment, AM2029. [LB1010]

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SENATOR LANGEMEIER: Madam President, members of the body, thank you. The committee amendment, AM2029, revamps the original bill and it actually strikes and replaces the bill, so read the committee amendment. It requires an NRD to give consideration to the following before establishing a trail: its route; the mode of transportation; adjacent land uses along the route and why the route is suitable as a trail; development, operation, and maintenance plans; anticipated problems with the placement of the trail; real property ownership status and potential uses; cost estimates for acquiring the property; real property needed for the trail, and right of way acquisition process and circumstances under which eminent domain will be used. If proper consideration is given, the NRD may move forward with its trail plan by acquiring the needed property through good-faith negotiations with the landowners, or, if unsuccessful, the NRD board may vote to hold a public hearing on the proposed trail with at least 45 days' notice, at which the NRD and the opposing landowners will have a chance to make their case for why or why not the NRD should move forward on the trail plan. The NRD board must find by clear and convincing evidence that this criteria has been met. So this sets out a very nice plan for NRDs to use eminent domain in the creation of trails. If you don't believe NRDs should have any eminent domain, this tightens up how they can use it and sets forth a procedure to clearly set the parameters as to how they're going to use it. If you're one that doesn't think that eminent domain should be out there or should be unlimited, this again sets a criteria so it can be used, if necessary. And I want to thank Senator Pankonin and Senator Haar on the committee that focused in on working this solution out. They were both on dead opposite sides when this started, and they came together with a plan here and introduced one bill last year. We had three bills before the committee this year, and they've worked this out with all the parties and have come to this conclusion. And with that, I would ask for your adoption of AM2029 and then LB1010. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Langemeier. Those requesting to speak on the committee amendment are Senators Gloor, Rogert, Haar, and Stuthman. Senator Gloor, you're recognized. [LB1010]

SENATOR GLOOR: Thank you, Madam President. Good afternoon, members. An interesting thing about recreational trails: The public like them but the landowners are pretty dubious when it comes to these being anywhere near their property, although eventually they seem to be won over. At least, that's been the experience in our community. So I paid a lot of attention to this. I also have a tendency to use a lot of these trails. There's some spectacular ones, around this community in particular. I wonder if Senator Pankonin would yield to a question. [LB1010]

SENATOR SULLIVAN: Senator Pankonin, will you yield for a question? [LB1010]

SENATOR PANKONIN: Yes, I would. [LB1010]

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SENATOR GLOOR: Senator Pankonin, you and I have talked about this the past couple of years, and I know you have worked tirelessly to try and find some sort of middle ground between the different parties, and you're to be congratulated for your tenacity and willingness to take on the extra time. You were brought into this because of a specific trail in your district. Do you believe this solution will be satisfactory as we look at other trails that might pop up or have an interest in popping up across the state, or is this solution, do you think, going to be unique to just your district? [LB1010]

SENATOR PANKONIN: Senator Gloor, I think this will be applicable to statewide situations. And the reason I say that, as you well know, up to now, oftentimes trails were in communities such as yours, or related to a water project, a dam and a lake and around that facility. But as you go across country it becomes tougher, because most of the railroad trails have been developed, and as you go across country now it's going to be trickier with trying to acquire ground. I think this allows landowners to have a level of protection and also a process that they will understand that has to be gone through, and I think it will make the NRDs and other governmental bodies that might be involved to work hard to find feasible trails that don't take very much private property. And really the record has shown that it hasn't been used very often, but eminent domain is a very powerful tool that we should use very carefully, and I think this policy gives that direction to the state and I think it will be applicable down the road. [LB1010]

SENATOR GLOOR: Thank you, Senator Pankonin. I wonder if Senator Haar would yield to a question. [LB1010]

SENATOR SULLIVAN: Senator Haar, will you yield? [LB1010]

SENATOR HAAR: Yes. Thank you. [LB1010]

SENATOR GLOOR: Senator Haar, you and I have talked about this at various times in the past and share a common interest in these trails. You're well aware, I know, of the rails-to-trails initiative. And is there anything about the legislation, the amendment and the underlying legislation in front of us, that would put at risk specific rails-to-trails programs, or does that fall under a different set of statutes or regulations? [LB1010]

SENATOR HAAR: I'm not aware of any problems, but I don't know. I simply don't know. I think this current bill of Senator Pankonin's, though, does a very good job of addressing the issues that we've had. [LB1010]

SENATOR GLOOR: Thank you. I wonder if Senator Pankonin would respond to another question. [LB1010]

SENATOR SULLIVAN: Senator Pankonin, will you yield? [LB1010]

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SENATOR PANKONIN: Certainly. [LB1010]

SENATOR GLOOR: I'm sure you heard my question, Senator Pankonin. I think the underlying question for me is, you couldn't ask for a better layout for a trail than an abandoned rail line, and for someone to be able to put themselves in a position to stonewall the use of that abandoned rail line as a result of this legislation would be frustrating for me. Clearly, everybody, quite frequently, in rails-to-trails would like a piece of that abandoned rail line either for grazing purposes or to expand their backyard or for farming purposes. And perhaps you're not specifically familiar with rails-to-trails, but I wonder if you have any comments on that? [LB1010]

SENATOR SULLIVAN: One minute. [LB1010]

SENATOR PANKONIN: Senator Gloor, I am familiar with it to the extent that I think there's been a lot of good development, and this trail that we're talking about in my district had a section that was removed from the rail, the former rail, and that's why this issue came up. And I think if we are able to utilize those corridors and then know that there may be a spot that we have to go using private property. But I think this will outline a procedure. It will also push NRDs to try to avoid using eminent domain. I think that's one of the things here that they have a process where they can, but it's going to be tougher and the standard is going to be tighter, but it can be used. But I don't think this will necessarily retard trail development, but it will be done very carefully and give equal weight to the fact that private property rights are important as well. [LB1010]

SENATOR GLOOR: Thank you, Senator Pankonin. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, senators. Those requesting to speak are Senators Rogert, Haar, Stuthman, and Carlson. Senator Rogert, you're recognized. [LB1010]

SENATOR ROGERT: Thank you, Madam President. Members, I rise this afternoon in support of LB1010 and the committee amendment. Madam President, I wonder if Senator Pankonin would yield to a couple of questions. [LB1010]

SENATOR SULLIVAN: Senator Pankonin, will you yield? [LB1010]

SENATOR PANKONIN: Yes. [LB1010]

SENATOR ROGERT: Senator Pankonin, I'm looking through the list of proponents and opponents, and you've got a nice list there. And in the neutral folks, I notice you had members of the Sierra Club, Great Plains Trails Network, and Farmers Union. Can you give me a little direction on what they were neutral about? [LB1010]

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SENATOR PANKONIN: Well, I think, quite frankly, Senator Rogert, we had a companion bill that was very like LB134 last year that would have taken this power away completely, and when we presented that, we also said that a majority of the states don't allow this power. So I think the people that were in the neutral realized that this, as I said before, was a midrange alternative. It didn't take the power away completely but it did tighten the procedures and the process for using eminent domain. And so I'm assuming and my assumption is that those folks are saying this is a better alternative than totally banning it, and that's why they probably were in the neutral position. [LB1010 LB134]

SENATOR ROBERT: Thank you, Senator Pankonin. Members, I think it says something really great that this is a hotly contested issue a year ago. There are always troubles when you're talking about taking land and development for recreational purposes, but in the same token, when you have a project that would benefit either the state or a small community by a large scale, and you've got one landowner right in the middle causing problems, you ought to have a process by which you can go forward and finish the project, and this outlines that completely. And I think the fact that you have the manager of the Papio Missouri NRD on record as being in support of this, I think that's great. We got all the sides that came together and developed a process by which we can continue to develop trails and recreational areas. All that stuff has to come from land that was most likely held, at least in part, by private entities most of the time. And we need to be able to have these things in terms of economic development for the people of the state and just keeping the tourism factor going and moving those things forward as we move forward into the twenty-first and twenty-second century. So I applaud the bill and I encourage everybody to support it. Thanks, Senator Pankonin, for doing a great job of getting everybody together. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Rogert. Those wishing to speak are Senators Haar, Stuthman, Carlson, and Loudon. Senator Haar, you're recognized. [LB1010]

SENATOR HAAR: Madam President, members of the body, I would especially like to...first of all, I rise to wholeheartedly support the amendment and LB1010, and I'd like to thank Senator Pankonin. He and I have sort of been in a dance on this for the past two years, and we both came at it from, I think, great angles. His, as many bills, was a concern by constituents, and mine was a concern that trails couldn't be built without eminent domain. And so, as Senator Pankonin said, he withdrew his bill last year that would have removed the eminent domain. And he and I both had bills this year, and his was better. His was better. And so through the hearings, we did have both of our bills...actually there were three bills before the Natural Resources Committee to see what ideas came up. But his was a better bill, and I appreciate that and I want to thank Senator Pankonin for his work on this, and I wholeheartedly support...because it addresses the concern of constituents but leaves NRDs with the right of eminent

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domain wisely used. Thank you very much. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Haar. Senator Stuthman, you're recognized. [LB1010]

SENATOR STUTHMAN: Thank you, Madam Chair and members of the body. I would like to ask Senator Pankonin a question. [LB1010]

SENATOR SULLIVAN: Senator Pankonin, will you yield? [LB1010]

SENATOR PANKONIN: Of course. [LB1010]

SENATOR STUTHMAN: Senator Pankonin, do you feel that with this bill the people that are trying to lay out a trail, a proposed trail, because of the fact that if this bill gets passed will that make a difference to the ones that are trying to propose a trail, because of the fact that they can't just shoot anywhere, taking into consideration that there may be a hearing on where they try to develop a trail? Will this have an effect on them? [LB1010]

SENATOR PANKONIN: Senator Stuthman, I think it will. I think it will cause NRDs, not only the board but their staff, to really look closely at alternate routes, what's feasible, what they can do without using private property, if at all possible, trying to use road right of ways and work with them in those type of situations. In our situation, locally, the county board of commissioners was opposed to it as well. So I think now what you're seeing, because of the bill and the discussion, that the county board is working with the NRD; they're working with the Department of Roads. And I think this bill, if it becomes law, will force those type of discussions early on. There will be a set process that will have to take place that will take that all into account, and then, particularly, it's going to give landowners some final protections in the standard of evidence and the fact that they could take that action to court before eminent domain. As you know, once eminent domain is started, you've lost your property; it's just a question of the price. [LB1010]

SENATOR STUTHMAN: Yes, thank you, Senator Pankonin. I will truly agree with that and I do support this bill. But I think with the fact that we have this legislation, that it's going to give the ones that are trying to develop a trail, you know, they need to have some thought as to where they're going to put the trail. And I think that's very good, instead of just putting a trail wherever they can go from A to B and get some circles and some curves and whatever it is going through private property. I really support this and I'm just happy that we've come up to this type of an agreement. But I'm sure there's going to be some times when, you know, the eminent domain will have to take place, but I don't think it's going to be very often, now at this time. So I do support the amendment and the bill. Thank you, Madam Chair. [LB1010]

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SENATOR SULLIVAN: Thank you, Senator Stuthman. Remaining to speak on this amendment are Senators Carlson, Louden, and Price. Senator Carlson, you're recognized. [LB1010]

SENATOR CARLSON: Thank you, Madam President and members of the Legislature. I simply rise in support of LB1010 and AM2029. I think, in listening and being a part of the hearing in the Natural Resources Committee, that this is a bill that's very thoughtfully put in place. It's very deliberate in terms of how an NRD would move forward on eminent domain. I think the safety features are in there that are reasonable, and I appreciate Senator Pankonin bringing the bill forward and would ask for your support on it. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Carlson. Senator Louden, you're recognized. [LB1010]

SENATOR LOUDEN: Thank you, Madam President and members of the body. Would Senator Pankonin yield for questions, please? [LB1010]

SENATOR SULLIVAN: Senator Pankonin, will you yield ? [LB1010]

SENATOR PANKONIN: Especially for my good friend Senator Louden. (Laughter) [LB1010]

SENATOR LOUDEN: Thank you. As I look at this and you talk about where part of this has been...a railroad right of way has been used for trails, for part of the trail, it's my understanding, and that...and this Cowboy Trail is the same way, and now we're considering eminent domain in there. Is there any consideration given for any of those people that would have property on both sides of that trail, that they would have any kind of a crossing or be able to get across that trail? And I'm wondering...there should be some consideration. And also will those trails be fenced, and, if so, who maintains the fences, and how are you going to get gates and that sort of thing, get across there? Any consideration at all given to that? [LB1010]

SENATOR PANKONIN: Senator Louden, I think obviously it's going to depend on the NRD that might be involved and the local governments and that sort of thing. In our bill, we have where if there are affected parties, there is negotiation, and so that could be part of it, if a landowner has the ground on both sides, that maybe they, in negotiation with the NRD, they can come up with those type of solutions. I think that with this legislation and with NRDs wanting to be good neighbors with, hopefully, the landowners along the way, they'll take that into consideration. It is probably...on the fence question, we don't have anything specifically about fences, but oftentimes they do have them, and I think, there again, that's going to be more of an individual situation, depending on where the trail is and that sort of thing. It may be a little different in western Nebraska on

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the Cowboy Trail versus eastern Nebraska on some of these routes that we have now. But I think all those things will be taken into consideration because now an NRD is going to be forced to go through a process. There's going to be public hearings where affected neighbors and landowners can go to those hearings and bring up those questions like you've raised, and I think those will all become part of the planning. [LB1010]

SENATOR LOUDEN: Okay. But at the present time there's nothing in statute. You're just operating on good faith that you're hoping that, with the negotiations, that something good would come of the project. Is that more and less...because there's nothing in statutes that say who has to maintain a fence or there's nothing in statute says that if they go in there with eminent domain, they still have to give access to the property on the other side of that Cowboy Trail. And that's my concern is that can you go out here and cut someone's farm in two, just like you would with the railroad? And if there isn't a way to get across it, then it's actually cut in two. That's my concern. Are you going to cut someone's property in two with the Cowboy Trail or with whatever you want to call the trail? [LB1010]

SENATOR PANKONIN: Well, I think those questions could be part of the criteria as these projects go forward. There's several times where, there, the public can be involved. And obviously, your NRD board, through the representatives elected by local folks, would be involved, and I think there's many more steps with this legislation than we have now. Right now, there is unlimited power for eminent domain. We're one of only eight states that have it. We're trying to move into an area where that power is restricted to a certain extent. [LB1010]

SENATOR LOUDEN: Do you think those things should be addressed while we're working on this bill, now, rather than wait until a problem arises? Or is there something that could be addressed between perhaps now and Select File or something to address those problems? [LB1010]

SENATOR PANKONIN: Senator Louden, we're going to look at, you know, some suggestions between now and Select, but I think that one, is one that is probably not going to be addressed. And I can tell you, I've been working on this for two years. It's been my priority bill two years in a row. You know, we've had a lot of parties involved, and we'd like to get this one done, and if there's things that need to be done down the road, we'll have to see. I have a great level of confidence that I think will solve a lot of problems... [LB1010]

SENATOR SULLIVAN: One minute. [LB1010]

SENATOR PANKONIN: ...with this type of legislation. [LB1010]

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SENATOR LOUDEN: Okay. Thank you, Senator Pankonin. I guess my concern is still I've been around that Cowboy Trail some up there, and some of it is probably a lot of land that's wasted for nothing. And I don't know what your procedure is with your trail down here in eastern Nebraska, but I notice there's a trail that goes south out of Lincoln here, and I've yet to see anybody on it, walking or riding a bicycle. So I'm wondering how much power we should be giving to someone to have eminent domain with the authority to actually cut someone's land in two and not address that problem for trails that aren't of any benefit to the public. I mean, eminent domain was used for roads, power lines, and canals, and things that are supposed to benefit the public, in general, and I question whether this should have went this far for these bike trails, that sort of thing. This is mostly recreation. I would like to see something... [LB1010]

SENATOR SULLIVAN: Time, Senator. [LB1010]

SENATOR LOUDEN: ...done with this. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator. Senator Price, you're recognized. [LB1010]

SENATOR PRICE: Thank you, Madam President and members. I wonder, would Senator Pankonin yield to a couple of questions? [LB1010]

SENATOR SULLIVAN: Senator Pankonin, will you yield? [LB1010]

SENATOR PANKONIN: Yes. [LB1010]

SENATOR PRICE: Thank you, Senator Pankonin. The question that comes to mind--I was talking with Senator Langemeier off the mike, but just again to ensure--when you have the public meeting and there is some dissent or opposition to the proposal, how is it going to play out for a project to be stopped? How many landowners have to object when a project would no longer go forward? [LB1010]

SENATOR PANKONIN: Senator Price, I would say that, first of all, obviously you have the people that are on the NRD board, and they'll have to consider those folks and what their concerns are. But the affected landowners have some protection, in that this final hearing has status to where there has to be clear and convincing evidence based on the needs that the NRDs talked about, and there's a pretty high standard of evidence. And then later on, those folks, if they're not happy, can take the NRD to court to have that extra protection before eminent domain is used. But we're hoping that really the first step is that the NRD, because we have this...if we do pass this procedure, we get...pass this bill and it becomes law, we'll now have a series of steps to go through that are very much more careful than what we have now. And kind of getting to Senator Louden's question, right now they have unlimited eminent domain power. This bill, if passed, will have a set procedure and a process that will give people more opportunity to protest,

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comment, make suggestions, and allow county governments to have more input than they do now. [LB1010]

SENATOR PRICE: Thank you very much, Senator Pankonin. Because the question that really came to mind is, giving people a voice but yet not being required to take an action on that, because you've listened to them, you've given them consideration, but you don't have something that says if 50 percent of the affected landowners are against it, then it couldn't go forward, you know, then it becomes pretty much a futile effort. And the next question I had is, in that list of elements that would have to be cleared, would pivot wells and stuff like that be one of those things? Because I know I've had to deal with something else, not a trail, but where an eminent domain came into place, and it cut a pivot in half, you know. And so would you view that to be a significant enough consideration? [LB1010]

SENATOR PANKONIN: Senator Price, well, in our local area that's not a...that wasn't proposed. I mean, I can see where your point is, and you would hope that an NRD would take that into account, and I think specifically a court of law might take that into account because of what it would do to that piece of property. I think that's where the standards we're putting in, the procedures we're putting in, will make that more of a tougher case than it was now. [LB1010]

SENATOR PRICE: Well, Senator Pankonin, I really appreciate that because that is a real life situation we have. And I will push a green light to move this forward to the next round. But that, ladies and gentlemen, is a problem I have in my district where a city did go in and wanted to do an eminent domain on a property, and it was going to just take a chunk right out of the middle of a pivot and then make about 25 percent of that land unusable, because they just haven't made pivots to make a lot of right-hand turns in sequence yet, so. Thank you very much, Senator Pankonin and members, and I would yield my time. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Price. Those requesting yet to speak are Senators Cook and White. Senator Cook. [LB1010]

SENATOR COOK: Thank you, Madam President and members of the body. I rise in strong support of AM2029 and the underlying bill, LB1010. I serve on the Natural Resources Committee and had the opportunity to hear, along with my fellow committee members, the impassioned pleas from the property owners. But I also had the opportunity, back in my district and in my hometown, to hear the like impassioned speeches and worried conversations from the--I'll go ahead and say it--city dwellers who look favorably upon trail development. I think, Senator Pankonin, this shows a really great example of how we can come closer together and work together and identify a compromise that is palatable to each side. I also want to add to the record the idea that trails are an economic development engine and that they add community amenities that

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people looking at Nebraska, to move in from another town or perhaps move back to Nebraska from some other place, are looking for, as they are for things such as the arts when they're coming back. So, again, thank you very much for your hard work, everybody on the committee and people who contributed to the development, and I rise in support of the amendment and the underlying bill. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Cook. Senator White, you're recognized. [LB1010]

SENATOR WHITE: Thank you, Madam President. I do rise in support of this bill and I would like to address Senator Louden's concerns. Senator Louden, without question, linear parks and trails are the most heavily used public spaces in the eastern part of the state. You will see trails in Omaha that they literally are now having problems because it's difficult for people riding bicycles and in-line skating to sometimes share the same pathway with people walking, walking dogs. They are so heavily traveled they're literally trying to now figure out right of way issues. As the Cowboy Trail is more broadly recognized and understood and completed, I really anticipate that the Cowboy Trail will become one of the hallmarks of Nebraska tourism. The opportunity, among other things, to recreate a big chunk of the historic Chadron-to-Chicago horse race, which you may have known happened back in the turn of century, will attract a lot of people. As a person who myself have ridden trails on horses, a lot, those trail systems, though they do, I understand, upset adjoining landowners at some points in time, are actually incredible long-term economic development tools. So I appreciate your perception from the folks who live there now, but I think as you find that bikers, horsemen, runners, and others start using those trails, the economic opportunities they will present to your communities will be substantial, and hopefully you will then agree that these are an excellent project. I want to thank Senator Pankonin and Senator Haar. This is exactly how the system should work. This is exactly how we should legislate, and they both should be very proud of their work. Thank you. [LB1010]

SENATOR SULLIVAN: Thank you, Senator White. Additional senator wishing to speak: Senator Louden, you're recognized. [LB1010]

SENATOR LOUDEN: Thank you, Madam President. And I agree that in the eastern part of the state, where the population is quite thick, why, there are very many uses for these bicycle trails. But I still ask when you go out across the countryside, and are you building something that will split someone's property in two, some of the farm ground property, especially if it's been an old railroad line? And when you talk about the Chadron-to-Chicago horse race back in the early days, I want to point out that that was kind of a...there was some sleight of the hand done too, there, because some of the guys loaded their horses up and hauled them on the train most of the way to Chicago. So I (laugh) this is what I'm hoping we don't have: some sleight of hand done here with

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this Cowboy Trail. I think it's probably good to promote these things, but then again we have to look out for the landowners along those trails and make sure that they do have access to their property on both sides of it. Thank you, Madam President. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Louden. Seeing no additional lights, Senator Langemeier, you're recognized to close on the committee amendment. [LB1010]

SENATOR LANGEMEIER: Madam President and members of the body, I'd ask that you support AM2029--it does become the bill--and then support LB1010 as amended. Thank you. [LB1010]

SENATOR SULLIVAN: You have heard the closing on the committee amendment, AM2029. The question is, shall the committee amendment to LB1010 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to? Record, Mr. Clerk. [LB1010]

CLERK: 40 ayes, 0 nays on adoption of committee amendments. [LB1010]

SENATOR SULLIVAN: The amendment is adopted. Seeing no requests for further discussion on the advancement of LB1010, we need...Senator Pankonin, excuse me, (laugh) to close on the bill. [LB1010]

SENATOR PANKONIN: Thank you, Madam President. I just want to quickly thank some of the folks that were involved. And as been mentioned, Senator Haar and I started out on opposite sides on this issue, and we kept talking and working and coming up with ideas. And I really appreciated that, getting to know him better, personally, but also the fact that, as Senator White said, this is the way that we should work to compromise and to come up with solutions, and I appreciated that. Senator White also was helpful in that he had a template, had an idea on a district court situation that would give an extra level of protection. I consulted with him on that idea that he had from last year. Senator Lathrop was helpful on these levels of evidence and liability issues. So there were many people involved, but especially the Natural Resources Committee and Senator Langemeier. You know, the Natural Resources Committee had to sit through three hearings on this issue and very patiently listened to all the testimony and were very helpful in crafting this solution that we have before us today. And one thing I want to close with is that one of the things that influenced my thinking was a January 24 Omaha World-Herald editorial about Nebraska's wind strategy. And with regard to the power of eminent domain, Senator Langemeier said: It, quote, has to be out there but it has to be at a restricted level. I think that was the idea behind AM2029 and LB1010, and I ask for your support today. Thank you. [LB1010]

SENATOR SULLIVAN: Thank you, Senator Pankonin. You have heard the closing on

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the advancement of LB1010 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB1010]

CLERK: 41 ayes, 0 nays on the advancement of LB1010, Madam President. [LB1010]

SENATOR SULLIVAN: The bill advances. We now have before us a motion to amend the permanent rules. The Chair recognizes Senator Avery regarding proposed rule change to Rule 1, Section 19. Senator Avery. [LB1010]

SENATOR AVERY: Thank you, Madam President.

SENATOR SULLIVAN: Excuse me...excuse me, Senator Avery.

CLERK: Senator, let me just acknowledge where we are, if that's okay with you. Madam President, Senator Avery introduced a proposed rules change to the permanent rules found on page 557. Pursuant to the rules, that rules change was referred to the Rules Committee for its consideration. The Rules Committee reported the rules change back to the floor with its report on March 11. Senator Avery, your rules change is found on page 556 of the Journal.

SENATOR SULLIVAN: Senator Avery, you're recognized.

SENATOR AVERY: Thank you, Madam President. Thank you, Mr. Clerk. Earlier this year, the Executive Board heard my bill requiring the Clerk to publish conflict of interest statements in the Legislative Journal. The purpose of the bill, LB717, was to make conflict of interest statements filed by a member of the Legislature more transparent and more available and open to the public. During the hearing on LB717, the Speaker suggested that the provisions of the bill might better be addressed in the rules of the Legislature and not in a statutory change. Because of that suggestion, I proposed the following rule change. This rule proposal is the result of a legislative resolution, LR163. This was part of the Government Committee's interim study relating to issues under the jurisdiction of Nebraska's political Accountability and Disclosure Commission. During the interim, several meetings were held. At one of those meetings, the issue of conflict of interest statements was discussed, and this particular proposal was suggested. The participants in those meetings discussed conflicts of interest statements, and it was the consensus of those present that most people did not know where to find these statements, and they were not readily available to the public or even to other senators. Just for your own information, the current procedure is for a senator who has a potential conflict, to prepare a written statement describing the matter and deliver a copy of that statement to the A&D Commission and to the Speaker of the Legislature. The Speaker then files the statement with the Clerk of the Legislature and it is held as a matter of public record. This rule change that I am proposing requires the additional step of the Clerk to enter an acknowledgement of the conflict of interest statement in the Legislative

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Journal. I've had conversations with the Clerk about this and he does not object to what we are proposing. Entering information about conflicts of interest in the Journal will make them more accessible to the public and make them more easily accessible to the press and to other senators. In current law, legislators are allowed to vote when they have a conflict of interest. Members of the executive branch and local political subdivisions are required to prepare statements of conflicts of interest, and then they are required to remove themselves from deliberations and from taking any action or votes on those conflicts. Since we--legislators--are allowed to vote even when there is a conflict, it seems to me appropriate that the conflict of interest statements be as public as possible. This is a fairly minor rule change, but it has some significance for transparency and availability of information on our conflicts of interest. I would point out that the Rules Committee heard this and voted unanimously to advance it with their recommendation. Thank you, Madam President. [LB717 LR163]

SENATOR SULLIVAN: Thank you, Senator Avery. The Chair recognizes Chairman Lautenbaugh who is Chair of the Rules Committee.

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. As Senator Avery indicated, we did have a meeting of the Rules Committee on this, and we don't meet often, so I remember it well. And I shared a story with Senator Avery and the three or four other people who were present at the time. There was an old man who had two sons. One of them he sent off to sea, and the other one he sent off to be published in the Journal--and neither was heard from again. (Laughter) So that said, I don't know how else you publicize the filing of a conflict of interest. So as indicated, the committee voted unanimously to advance this rule to the floor and we'd urge your approval.

SENATOR SULLIVAN: Thank you, Senator Lautenbaugh. The Chair recognizes Senator Nelson.

SENATOR NELSON: Thank you, Madam Chairman, members of the body. I'm in support of this rule change, but I do have a question for Senator Avery if he will yield.

SENATOR SULLIVAN: Senator Avery, would you yield for a question?

SENATOR AVERY: I will.

SENATOR NELSON: Senator, do you know about how many conflicts of interests are filed within a given year or any period of time? Do you have any number?

SENATOR AVERY: I think the last time I looked there were 12 filed for this session.

SENATOR NELSON: All right.

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March 15, 2010

SENATOR AVERY: Maybe not this session, but for this Legislature.

SENATOR NELSON: All right. Thank you, Senator Avery. I appreciate that response. Thank you, Madam President.

SENATOR SULLIVAN: Thank you, Senator. Senator Avery, you are recognized.

SENATOR AVERY: Thank you, Madam President. I failed to actually refer the body to the actual language on page 557 under Section 19(j). "An acknowledgment"--this would be the new rule--"acknowledgment shall be entered in the daily Journal that a member has filed a Potential Conflict of Interest Statement under the Nebraska Accountability and Disclosure Act, and that such statement is on file in the Clerk of the Legislature's Office." It does not actually reprint the statement, but it is a notification that it is available for public viewing. Thank you.

SENATOR SULLIVAN: Thank you, Senator Avery. Seeing no further lights, Senator Avery, you're recognized to close on your motion to amend the permanent rules, Rule 1, Section 19. Senator Avery waives closing. The question is...you've heard the closing on the motion to amend the permanent rules. The question is, shall the Rule 1, Section 19, be amended as stated? Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Madam President, on the adoption of the proposed amendment to the permanent rules.

SENATOR SULLIVAN: It is adopted. Items for the record.

CLERK: Madam President, an amendment to be printed to LB1018 by Senator Cornett. Senator Council offers LR397. That will be laid over. (Legislative Journal pages 910-911.) [LB1018 LR397]

And I have a priority motion. Senator Conrad would move to adjourn the body until Tuesday morning, March 16, at 9:00 a.m.

SENATOR SULLIVAN: You've heard the motion to adjourn. All those in favor say aye. Opposed, nay. We are adjourned. (Gavel)