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Judiciary Committee
February 24, 2011

[LB301 LB463 LB669 LB670]

The Committee on Judiciary met at 1:30 p.m. on Thursday, February 24, 2011, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB669, LB670, LB463, and LB301. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Colby Coash; Brenda Council; Tyson Larson; Scott Lautenbaugh; and Amanda McGill. Senators absent: Burke Harr.

SENATOR ASHFORD: (Recorder malfunction)...started with some of the ground rules. We don't have a lot of members here yet, me I guess, but Senator McGill is here.

SENATOR MCGILL: I'm here, but I have another hearing to go to.

SENATOR ASHFORD: Okay. We can't officially start until we have a couple more, but welcome everyone to the Judiciary Committee. My name is Brad Ashford. I'm Chair of the committee. We have five bills today, starting with LB669 and then LB670. Are those...I thought we were...is that...we're going to have...

STACEY CONROY: You said you didn't want them together.

SENATOR ASHFORD: No, I know I did, but they're together here.

STACEY CONROY: No, no.

SENATOR ASHFORD: Yeah, they are.

OLIVER VANDERVOORT: Well, Flood has to go first or he requested to go first.

SENATOR ASHFORD: Oh, I see, okay. We're going to have two bills by Senator Flood. Let me ask, how many are here for LB669? And LB670? Larry, are you here for those bills?

LARRY GENDLER: LB669 and LB301.

SENATOR ASHFORD: And LB301, okay, and that's at the end and LB669 at the beginning. Judge Gendler is nice to...patient judge. Well, do you have to go right now?

SENATOR MCGILL: I do.

SENATOR ASHFORD: Okay. We're going to have to wait. If you see any of your colleagues out there...

SENATOR MCGILL: Okay. (Laugh)

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SENATOR ASHFORD: Senator McGill will be back.

SENATOR MCGILL: They're always late.

SENATOR ASHFORD: We have some, those of you who have not been here before, most of you have, but we have a light system that is on the front of the desk and we ask you to confine your comments to three minutes. We'll have a yellow light that will come on when we ask...when we'd like to have...at that point like to have you sum up your testimony. The three minutes doesn't include questions, so obviously there may be questions. Is Mike coming?

OLIVER VANDERVOORT: Yeah, he's being called down.

SENATOR ASHFORD: See how much respect I get? It's 1:30 and there isn't one single member in this place except me. Matt, can you start calling the offices and see where they are. I'm the only person that can have a cell phone. Everybody else has to take them outside. I'm kidding. Speaker Flood, when you get finished with your testimony, it may be necessary for you to sit here as a committee member in order for us to proceed.

SENATOR FLOOD: And deputize me?

SENATOR ASHFORD: I'll deputize you. Let me introduce my colleagues that are here. Amanda McGill from Lincoln was here earlier. Tyson Larson, our newest member from O'Neill, Nebraska, so welcome, Senator Larson. Scott Lautenbaugh from Omaha, and Brenda Council from Omaha. Ollie VanDervoort is our committee clerk; and Stacey is our, Stacey just got married and I can't say the words, is our committee counsel. So why don't we get started. Speaker Flood, I think we can...do we have five? Do we need five or can we start?

STACEY CONROY: I think it's okay if you're not at five.

SENATOR ASHFORD: Why don't we start, Speaker Flood.

SENATOR FLOOD: Okay. Good afternoon, Chairman Ashford, members of the committee. My name is Mike Flood, F-I-o-o-d. I represent District 19 which includes Madison County, all of it, and the city of Norfolk specifically as well. As you know, a bill enacted last year, LB800, made reforms in the juvenile justice system. Among other things, it provided a process for the sealing of juvenile records which is now found in Section 43-2,108.01 through 43-2,108.05. The changes proposed in this bill are the result of several discussions with county judges and court officials in my district and would amend the statutory sections I mentioned. I appreciate that the interested parties have been discussing the changes that are both in this bill and LB301, which comes up

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later today. A dialogue has begun between the Minority Justice Task Force, our judges in the county level at Norfolk and Madison County, and other members of the court community. I do think, however, there is still work to be done and hope this bill and hearing provides momentum to get that done. Some of the remaining questions for discussion that I see at this time are, first, what offenses should be eligible for sealing? Game and Parks offenses, city or village ordinance offenses that do not carry a possible jail sentence, I question whether they should be eligible. Who should receive notice of the order to seal the record? I think all of the parties agree that the notification section could be refined. And who should have access to the sealed records? And when I come at that last point, who should have access to the sealed records, I do believe that an individual applying for a job in law enforcement or possibly the health profession, that there should be some access to those records given their connection and nexus to public safety. I'm sure there will be other questions that involve the treatment of transferred cases, extension of hearing deadlines in the sealed record process once a juvenile completes his or her commitment at the Youth Center in Kearney. I think these are some of the important questions that need to be addressed and resolved through these bills, specifically LB669 and LB301, and appreciate the fact that this committee worked on this over the summer. I communicated often with Senator Ashford. I think that LB301, which was introduced as a result of your efforts, has merit. I think some of the points that I raise in LB669 should add to the discussion. And I am going to waive closing but I'm very interested in this committee making progress on this issue this session. [LB669]

SENATOR ASHFORD: Thank you, Mr. Speaker. Just one question. You have to leave right away. Is Matt going to introduce the next? [LB669]

SENATOR FLOOD: If that's okay. [LB669]

SENATOR ASHFORD: That's fine. Senator Lautenbaugh. [LB669]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you for coming today, Speaker Flood. The existing law, without either of these bills, is it causing problems for the county attorneys in some of the smaller counties throughout the state? [LB669]

SENATOR FLOOD: Not so much the county attorneys but the clerk magistrates and the county court staff. In Stanton County, Phyllis Cleveland over there spent five hours on one juvenile's case records in order to seal them, and while I think that's something that you need to know about, I do acknowledge the fact that if it serves an important governmental interest, you know, the time alone shouldn't be a deterrent. But it is taking a significant amount of time to do this. I think there are benefits to LB800. I just think we need to maybe take a more 30,000-foot view as to exactly what our end goal is. But, yes, and Judge Stoffer is here. He's a county court judge in the judicial district I work in, in Norfolk, and he can tell you firsthand some of the concerns that clerk magistrates

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have. [LB669]

SENATOR LAUTENBAUGH: Thank you. [LB669]

SENATOR ASHFORD: Thanks, Senator Lautenbaugh. Thank you, Speaker Flood. [LB669]

SENATOR FLOOD: Thank you very much. May I be excused? [LB669]

SENATOR ASHFORD: Judge, do you want to...and those who want to testify on LB669, and Marty may want to, are you going to come up? Come up to the front if you want. Judge, welcome back. [LB669]

ROSS STOFFER: Thank you. Senator Ashford, members of the committee, my name is Ross Stoffer and I'm one of those judges that Senator Flood just referred to that...up in his area, and I believe that I'm basically speaking neutrally in regards to both of these bills at this point because, as Senator Flood has indicated, there are discussions that are going on, trying to take care of the problems that exist. As Senator Flood indicated, it has created quite a burden upon the court magistrates and the court system. One of the things that I think that needs to be addressed, or I shouldn't say addressed but needs to be brought out, is that the county judges with juvenile jurisdiction, which I'm one of, are different than some of the Separate Juvenile Court judges. The Separate Juvenile Court judges, of course, have...that's their only thing that they're working on is juvenile issues. County judges with juvenile court jurisdiction have additional issues that they work with: probate, civil matters, adult criminal matters, things of that nature as well. And also Separate Juvenile Court judges also have additional personnel that are available to them, court reporters and bailiffs and things of that nature, that we do not have available to us to help us with the sealing process. So we have to take people that are in the process of working with all of these cases, working with all these files, and take them off of those cases and put them on to these other things, which, as Senator Flood has indicated, in Stanton County, for example, took five hours with one juvenile who had three cases. And I think as Senator Flood indicated, there are a lot of different ways that we can address those issues. Cutting back on the number of people who have to be notified of the sealing is certainly one area to do that. In the way the bill exists or, excuse me, the way the law exists at the present time, the clerk magistrate has to go through...individually go through the file to figure out different, the way the statute is written right now, they have to figure out all the therapists, all the different agencies that have been involved. I think that both of these bills that are starting to address that issue with limiting that, because of HIPAA and things of that nature that those people cannot get those records anyway, and limiting it to the Department of Health and Human Services and some other areas as well. And then on the other end of it, limiting the number of cases that the court has to start the initiation process on as well, because right now with it being such a large number of cases, anything from dog

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at large all the way to possession of marijuana or theft cases, things like that, I think that we can cut back on those numbers as well without having to have, for example, the dog at large things, being automatically sealed by the court. But yet leaving open that possibility that there are those areas where someone may need to have that case sealed for employment or educational purposes, the individual will still have the right and the ability to come in and ask for that to be done as well without cutting that process off. So those are the things basically that I wanted to bring to the committee's attention about those particular areas that are causing problems and also that we are working on those things, trying to get those things resolved as well between the two bills. [LB669]

SENATOR ASHFORD: Judge, did you...you're here on LB301 as well, I assume. [LB669]

ROSS STOFFER: That's correct. [LB669]

SENATOR ASHFORD: And it's not...if you wish, we can apply your comments to LB301, you don't have to wait around, but it's up to you. Do you... [LB669]

ROSS STOFFER: All right. I would appreciate that. And I probably will be around for a little while yet as well,... [LB669]

SENATOR ASHFORD: Okay. Any... [LB669]

ROSS STOFFER: ...because I will be talking about... [LB669]

SENATOR ASHFORD: Any questions of the judge? Okay. Good points. Thanks, Judge. [LB669]

ROSS STOFFER: Thank you. [LB669]

SENATOR ASHFORD: Any other proponents on LB669? Marty? Not one of your better ties, not bad. [LB669]

MARTY CONBOY: It's a little skinnier anyway. [LB669]

SENATOR ASHFORD: Yeah. [LB669]

MARTY CONBOY: Makes me look bigger. [LB669]

SENATOR ASHFORD: Usually it has more red in it, but... [LB669]

MARTY CONBOY: Thank you. Good afternoon, Mr. Chairman, Senators. My name is Marty Conboy, C-o-n-b-o-y, the city prosecutor in Omaha. I'd like to, first of all, thank

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Speaker Flood and echo some of his comments in regard to the efforts made by this committee over the last year or two, look at how the LB800 process was unfolding and some of the comments, and attempt to adjust the law to accommodate that, and this is a package of bills here today I think that, from different perspectives, do that very well. LB669 addresses one issue that is of concern in Douglas County perhaps more so than in others. We do, traditionally have done about 2,000 cases of what would be legally juveniles in adult court. We've cut that number down by more than half voluntarily, but the problem it creates in that system is the way the law is currently worded, and I would call your attention to the portion on page 4 of LB669, approximately lines 7 and 8 which are redacted. It virtually requires that in every case where the adult or person becomes 17, which really applies to pretty much everybody that's been in adult court, almost at the time they show up in court, that that record would be automatically sealed, and it isn't clear whether that's prospective in terms of the cases that since this passed or if it would go back to cases that historically have been in the courts, which I think would probably make more sense that anybody that felt that at what ever time they were in that court as a juvenile that they want that record sealed. Unfortunately, those people aren't getting these automatic seals. It really, as a practical matter, has kind of come down to where it's either all or nothing. Either the court is going to have to bring all these cases forward and try and somehow identify them and follow this law to its letter or not do any of them, which I'm afraid is probably...unless somebody requests them. This bill I think would at least require that request be made so that in adult court at least, and juvenile court I realize is very different, but in the case where you have a separate adult court for these kids that they would have...just like they have the opportunity to request the case be transferred. As I've said many times in this room, at some point, you know, we are almost unique in this state in that adult court handles juvenile cases in original current jurisdiction, and that is problematic. In most states they start in juvenile court where the analysis to make it an adult case is done by people probably best suited to do that in juvenile court, and then at that stage it would become a matter of potential permanent record. In most states, those juvenile courts are automatically sealed and so they are not a court of record where this problem exists. So our problem in Nebraska is kind of unique and our attempts at solution are going to always be fraught with some difficulty because of that. I would echo those comments also for LB301 and LB463 as well, which are results of I think this group's attempt to try and make this law achieve its goal and still satisfy some of those problems, and particularly in those issues of who can get these things. I think it was mentioned law enforcement applicants, corrections, which is a problem, and some of those other groups which have expressed frustration because they're afraid not only that they might get these but they might somehow let them fall into observation of somebody who's not entitled to see them. I would also mention that LB669 makes it a contempt of court very clearly for somebody to violate that. That makes sense and I think that was probably presumed, but now it's very clear in the statute. So that's, I think, an important clarity as well. I'd be happy to answer any questions. [LB669]

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SENATOR ASHFORD: Thank you, Marty. Any questions of Marty? A couple things: First of all, on your efforts with the county attorney to file these cases in juvenile court is an immense piece of work and a promise kept because that's something that you indicated a year and a half or so ago that you would be able to accomplish in collaboration with the county attorney, and that's a major accomplishment so I congratulate you for that. Secondly...and the county attorney...LB...well, also your work. You came, spoke to us this summer after having spent a lot of time on this issue, so that spurred us into action because we knew you'd be back. So thank you for... [LB669]

MARTY CONBOY: And I should say at that time I was representing the Criminal Justice Management Council of Douglas County and their concerns, which they've asked me to express here, and I, again, on their behalf, are grateful that those things have been recognized. And I don't think I'd need to testify, if it's all right, on those later bills. [LB669]

SENATOR ASHFORD: Fine. We'll just assume that your testimony applies to those other bills as well. [LB669]

MARTY CONBOY: Thank you. [LB669]

SENATOR ASHFORD: Thanks, Marty. Any other proponents? Opponents? [LB669]

KATIE ZULKOSKI: Good afternoon, Senator Ashford, members of the Judiciary Committee. My name is Katie Zulkoski, Z-u-l-k-o-s-k-i. I'm testifying today on behalf of the Nebraska State Bar Association. As you all are aware, the Nebraska State Bar Association, through the Minority Justice Committee, has been working on this issue for over the past year and we continue to believe that the process being started automatically for these juveniles is in the best interests of all of these kids. And that being said, we are very sensitive to the time constraints facing the courts and the county attorneys, and we know that there are some improvements that can be made and we are committed to continuing to work on those. We think that LB301 and some of the issues contained in LB669 can address that, and we hope to keep working. [LB669]

SENATOR ASHFORD: Thank you. Any questions of Katie? Seeing none, thanks, Katie. Judge. [LB669]

LARRY GENDLER: Larry Gendler, G-e-n-d-l-e-r, Juvenile Court, Sarpy County. I'm going to be brief. I have to laud the county judges. You know, I had mentioned a couple weeks ago, as chair of The Eyes Initiative, I work with these folks. Judge Stoffer runs a terrific team. They do terrific work. Every time I go out there I learn something, and I think we have to keep that in mind and keep it within that context. My point here this afternoon really is that we put a high bar up for these youngsters on probation. We have

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a lot of expectations of them and we want them to achieve, not just to get by. So my question to all of you is, shouldn't we give it our best effort as well, as a system? And that's where I think our discussion ought to be, and our best effort I think is to ensure that these records get sealed. So my concern is that we make it too easy to keep them unsealed. I don't know how else to put it. And that's really the gist of my concerns here. I think if we set a high standard for these youngsters, we need to set a high standard for ourselves. [LB669]

SENATOR ASHFORD: Thank you, Judge. Any questions of Larry? Thank you for everything you do, as we always tell you, because we mean it. Thank you. Next proponent...opponent. Sorry. Neutral? Matt, we waive closing on that, so let's move to LB670. [LB669]

MATT BOEVER: Good afternoon, Chairman Ashford, members of the Judiciary Committee. My name is Matt Boever, B-o-e-v-e-r. I'm in Senator Speaker Mike Flood's office. LB670 is almost identical to a bill Senator Flood introduced here last year, LB936. This bill, LB670, would provide the juvenile court with specific statutory authority to fashion a more meaningful probation order. It would allow the juvenile court to place a juvenile on probation under the conditions necessary to ensure that the juvenile will lead a law-abiding life and to place a juvenile on probation under conditions reasonably related to the juvenile's rehabilitation. The list of new conditions begins on page 6 of the green copy and continues on to page 7. An example of the new conditions is in subsection (A), page 6, "To obtain employment, attend school, or pursue a prescribed secular course of study or vocational training." The subject of this bill was brought to Senator Flood's attention following the 2008 Nebraska Supreme Court case In re Dustin S. That's at 275 Neb. 655. In this case the court found that the juvenile court lacked the statutory authority to order a juvenile to spend time in detention. Much of the discussion last year focused on whether the court should have this authority to place the juvenile in detention facility. Senator Flood made a change with this bill specifying that it's staff secure detention, and this authority is in subsection (B) on page 6. You know, there are concerns placing a juvenile in detention and detention is often not the best way to rehabilitate a juvenile offender; however, there are understanding judges and caring caseworkers in the juvenile system. They want to have juveniles...they want to help juveniles and have the juveniles' best interests in mind. They don't exercise their authority without due deliberation. LB670 would allow the court some needed authority in these special situations. Thank you for your consideration of LB670. [LB670]

SENATOR ASHFORD: Thank you, Matt. Any questions of Matt? Does it require staff secure? Is that what it says? So... [LB670]

MATT BOEVER: Yes. [LB670]

SENATOR ASHFORD: ...in those counties that don't have a staff secure facility, that

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option would not be available. [LB670]

MATT BOEVER: Right. [LB670]

SENATOR ASHFORD: So Douglas County would not be available. [LB670]

MATT BOEVER: That's my understanding. [LB670]

SENATOR ASHFORD: Right. Okay. Thank you. [LB670]

MATT BOEVER: May I be excused? [LB670]

SENATOR ASHFORD: And do you want to waive closing or do you wish... [LB670]

MATT BOEVER: Yes, that's fine. [LB670]

SENATOR ASHFORD: Okay. How about proponents on LB670? It didn't work. I thought I'd fake you out and get you out of there after the first bill. [LB670]

ROSS STOFFER: Yeah. (Laugh) Nice try. I'm Ross Stoffer again, S-t-o-f-f-e-r, and I'm a judge up in the northeast part of the state and I think Matt basically went through a lot of what we were talking about in regards to LB670. That particular case came about and said that juvenile courts are courts of limited jurisdiction and that we can only do what the Legislature has allowed us to do. And the present language that deals with juvenile probation basically says that the court can place a juvenile on probation under the supervision of a probation officer. So at the present time there's nothing that allows us to set those terms and conditions. We are doing it, but technically I think if someone were to appeal that, potentially that could be thrown out because it is not something that we have the power to do under the statute. So that's what we're asking for, the possibility of having those things enumerated so we don't face those issues. In regards to the staff secure detention situation, I know that there's a lot of controversy about the detention situation and, basically, as Matt indicated as well, I've seen some real changes in juveniles who have been in staff secure detention for a day or two, and that's...really, that's kind of the thing that I'm looking at more than...I'm not looking at anything of putting a juvenile in detention for 30 days or 60 days or anything like that, like an adult might be put in jail, but more to get the juvenile's attention so they know that we're serious and they know that they have to start changing things. I've had individuals who had quit school, had quit their extracurricular activities, done all kinds of things that they had quit doing, and they spent one day or one weekend in staff secure detention and they got back in school. They're doing fine now. They're getting good grades in school. They just really found out that we were serious about wanting to make sure that they had those things happen, so that, along with the clarification of making sure that we have the ability to do some of those things we're doing right now anyway

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so that the...to take care of that part of the cases that have been decided that said we can only do those things that are allowed by statute. So that basically is the position that we've taken in regards to this. Does anyone have any questions? I'd be sure happy to answer. [LB670]

SENATOR ASHFORD: Any questions of Judge Stoffer? I think it's very clear-cut. Thank you, Judge. [LB670]

ROSS STOFFER: Thank you. [LB670]

SENATOR ASHFORD: Any other proponents of this bill? Opponents? Neutral? Okay. And Matt waives closing so we'll go to LB463 which I will introduce. [LB670]

SENATOR LAUTENBAUGH: Please proceed, Mr. Chairman. [LB463]

SENATOR ASHFORD: Thank you, Mr. Vice Vice Chair. [LB463]

SENATOR COASH: Is it Vice or Vice Vice Vice? [LB463]

SENATOR LAUTENBAUGH: I think I'm Vice Vice Vice. [LB463]

SENATOR ASHFORD: (Exhibit 1) Good afternoon. My name is Brad Ashford. I represent District 20 and I am here to introduce LB463 on behalf of Governor Heineman. I do have a letter from the Governor which I will not read but would ask that it be placed in the record. Last year the Legislature passed LB800 to provide for early intervention with at-risk youth. This committee and committee staff and many of the people in this room spent endless hours working on this issue. It is a major accomplishment for this committee and all of its members and staff. The bill focused on keeping nonviolent offenders out of detention and ensuring that those in detention do not remain there unnecessarily. It created greater flexibility within the juvenile justice system to address delinquency and truancy. It also created a clear and comprehensive process for sealing juvenile records to help remove barriers to success caused by involvement with the juvenile justice system. And I especially would like to thank Senator Council for her insights into the sealing of the records issue. LB463 which, as I mentioned, I'm introducing on behalf of the Governor, is a follow-up to LB800, and it's designed to enhance efforts towards early intervention with at-risk youth to make the reduction of excessive absenteeism a priority and to make technical changes in LB800. In response to requests from law enforcement, the bill does allow access to sealed records to law enforcement agencies for purposes of considering applications for employment. The bill also reflects the numerous comments that I and my colleagues have received from parents of students who have been absent from school because of a prolonged illness. The bill would require school districts to develop, in collaboration with the county attorney, policies regarding absenteeism. And I know Kevin Riley is here

representing the 11 metro area superintendents, and he may comment on that part of the bill. With my proposed amendment to the green copy, LB463 will facilitate the implementation of a comprehensive, multidisciplinary plan in the metro area to reduce excessive absenteeism, improve educational outcomes, and prevent unnecessary involvement in the juvenile justice system for at-risk youth. The plan that is the hallmark or the fulcrum of this bill has been and will be developed over the next several months by the 11 superintendents of the metro area school districts and will be implemented on or before August 1 in collaboration with the Douglas County and Sarpy County attorneys and local juvenile justice agencies. The bill includes funding for the implementation of the plan in the amount of \$250,000 for a grant to the county attorney of Douglas County each year for the two years of the biennium. An additional \$100,000 each year for two years will be appropriated to the Department of Education to assist school districts across the state in developing strategies to reduce excessive absenteeism and to review school districts' policies on excessive absenteeism. There is no question that excessive absenteeism is a major issue across the state with last year's numbers indicating that 23,000 students in the state of Nebraska were absent more than 20 days. The superintendents' plan we are asking must include a coordinated effort to share information regarding at-risk youth with agencies and organizations serving youth in the metro area, pursuant to a memorandum of understanding or other documentation that will be in place before August 1 of 2011. The information will be shared using the Nebraska Criminal Justice Information System, NCJIS, and the baseline source of date and point of exchange. The at-risk youth targeted by this information-sharing initiative include those involved with the juvenile justice system, probation, Health and Human Services, or who have been absent from school for more than ten days for reasons other than serious illness. There are representatives of these agencies here. I will mention that all the state agencies and the school districts in the metro area have been working throughout the summer and the fall to develop this information-sharing initiative. The exchange of information is a progressive step towards improving cooperation and coordination at the administration and service delivery levels for the benefit of children and their families. Essentially what this means in real terms is that when a child who is at risk reaches a certain level of absenteeism, that information as to the at-risk factors involving that child, whether it's contact with the juvenile justice system, HHS, or probation, that information is made available in real-time to the school district so they can, working with the county attorney in the metro area, they can then decide what sorts of resources are necessary to address the problems of this particular student. Much work has been done on this information-sharing initiative, and you'll hear more about it in the testimony. Real-time data is critical to an effective juvenile intervention system. One example to illustrate the importance of interagency communication is Nebraska Juvenile Service Delivery Project, a collaborative program between the Department of Health and Human Services and probation. This program serves Douglas County and is focused on retaining juveniles in their home communities rather than in state court, the juvenile justice system. More than 500 juveniles in the Douglas County juvenile justice system have been served through this project. Currently

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95 percent of the juveniles active in the project are participating in an approved educational program. These are dramatic improvements for these young people. This project outcome is due in part to the intense case management, open dialogue, and sharing of information that has occurred with the schools in Douglas County, probation, Department of Health and Human Services, law enforcement, and other engaged agencies. I want to thank, as I mentioned earlier, Kevin Riley, the superintendent of the Gretna Public Schools, who has represented the 11 superintendents in developing this plan for information sharing and for providing for early intervention for young students, young people who have exhibited risk factors. I also want to thank Bob Beecham from Building Bright Futures and Avenue Scholars Foundation. Bob has worked throughout the summer and fall with...on this information-sharing initiative with John Tuell from the Georgetown University Center for Juvenile Justice Reform and a board member of the MacArthur Foundation and John is here today to talk about information sharing. I want to also thank Mike Overton from the Crime Commission for all his work in developing the NCJIS database over the years. It is really, as we found out earlier today in some discussions, the NCJIS database, which has information involving juveniles in our state, is at the very top of the heap as far as first-class data systems. We are where we need to be in our baseline data, thanks to Mike Overton and Mike Behm from the Crime Commission. Ellen Brokofsky from the Probation Department; Kerry Winterer of the Department of Health and Human Services; and Roger Breed of the Nebraska Department of Education and their teams have been working throughout this period of the interim in addressing this initiative. This convergence of the juvenile justice system and the education system is critical to keeping our kids in school and safe from harm. Again, I want to thank this committee for committing its time and efforts and its priorities in bringing this issue to this place. We have a bit of a ways to go, and I hope LB463 will move the ball forward. Thank you. [LB463]

SENATOR LAUTENBAUGH: Thank you, Senator Ashford. Does anyone have any questions for Senator Ashford? [LB463]

SENATOR ASHFORD: Oh, the Vice Vice... [LB463]

SENATOR LAUTENBAUGH: The Vice Vice Chair. [LB463]

SENATOR MCGILL: I know, I said, ooh, the VVC. Senator Ashford, can you talk about the amendment and why we've chosen to fund it through learning community dollars? [LB463]

SENATOR ASHFORD: The...why we chose to fund it through the learning community dollars? [LB463]

SENATOR MCGILL: Yeah. [LB463]

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SENATOR ASHFORD: That was a decision that was made with the Governor's Office early on in the process. [LB463]

SENATOR MCGILL: Do you feel comfortable with taking that much money from them? [LB463]

SENATOR ASHFORD: I do, I do. [LB463]

SENATOR MCGILL: Okay. [LB463]

SENATOR LAUTENBAUGH: Which one of us is doing this now? Is it you or me? [LB463]

SENATOR MCGILL: Oh, I'm sorry. [LB463]

SENATOR LAUTENBAUGH: Oh. No. I have a question if no one else does and it's sort of in the same vein. Are you worried that some might see this as kind of mission creep on behalf of the learning community and there might be some resistance in that regard? [LB463]

SENATOR ASHFORD: I think what we...the better way to do this in answer to, and if I might elaborate on Senator McGill and your question because it's a key question, one of the frustrations that I have had in working over the last year on this issue is the lack of collaboration between the learning community and the 11 superintendents working together. I think in their own areas I think they've done fine. But the collaboration has not been there. It is critical that the metro area and the superintendents have made truancy their number one priority moving forward. I would encourage the learning community to do the same thing. And I know that they're here today to talk about some changes they've made in some of their priorities, and so we'll listen to what they have to say. Clearly the best answer to Senator McGill's point is that these decisions and these efforts be made on the local level with whatever assistance we can make on the state level, especially in the area of collaboration with HHS and probation. But that hasn't been there and we need to encourage that so. [LB463]

SENATOR MCGILL: I'm just concerned. I'm concerned that we're taking away about a third of their operating budget because you know I'm totally on board with this issue and you know that. And I want to see more of that cooperation too. I just want to make sure that we're not hindering their ability to exist, you know, at the same time. [LB463]

SENATOR ASHFORD: Well, and I think the learning community may come up today and talk about how this impacts their budget. I think it's clearly an issue that the committee needs to be aware of. [LB463]

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SENATOR MCGILL: Yeah. [LB463]

SENATOR ASHFORD: And we can think about funding as we move forward. [LB463]

SENATOR MCGILL: Okay. [LB463]

SENATOR ASHFORD: But it is my hope and my plea really that the learning community, working with the 11 superintendents, can prioritize truancy and excessive absenteeism at a very high level and that the necessary resources be placed at this problem. Right now this is the best solution I could come up with. We tried others, but this is the best one I could find. [LB463]

SENATOR MCGILL: All right. [LB463]

SENATOR LAUTENBAUGH: Any other questions for Senator Ashford? I'll ask how many proponents do we have? How many...that are going to testify I should say. How many opponents? And we've now been joined by the Vice Vice Chair so I'll hand the meeting back over to her. [LB463]

SENATOR MCGILL: Well, I think the Chair is coming back around the table so I'll hand it off to the Chair. [LB463]

SENATOR ASHFORD: I can if I decide to. Why don't we start with the proponents. We have a list of proponents somewhere and are on somewhat of a time frame and have given to me. John Tuell first and then John Cavanaugh, Kevin Riley, Mike Behm, Don Kleine, Warren Whitted, and Roger Breed and then we'll go through the remainder of the proponents. So let's start with John Tuell. [LB463]

JOHN TUELL: Good afternoon, Senator Ashford, distinguished members of the committee, appreciate the opportunity to talk with you today. Some time back I was invited in September, as Senator Ashford has alluded to, to help frame a method by which Nebraska could improve information shared across education and primarily in Ralston and Omaha Public Schools, probation, Health and Human Services, and very importantly, the Nebraska Criminal Justice Information System as he stated, to reduce excessive absenteeism and further identify those absentees who are deemed high risk due to their involvement in probation or child protection system. With that representative leadership group, I've been privileged to work with those folks to help develop over the past five months a memorandum of understanding that articulated the purpose and goals of this collaborative entity and define a process by which agencies can lawfully share information, lawfully share information and data elements that will trigger an understanding that those youth with at least ten days of absenteeism are at high risk because of their involvement with probation or HHS and significantly identify the data repository for information about these high-risk youth which we have learned quite

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capably exists with the Nebraska Criminal Justice Information System. LB463 requires, as Senator Ashford had stated, that a plan be developed by school superintendents to reduce excessive absenteeism. It necessarily recognizes that to do that you have to share information across these systems. Unfortunately, HIPAA, the Alcohol and Drug Abuse Patient Records Act regulated by Title 42 of the Consolidated Federal Regulations, and the Family Education Rights and Privacy Act, FERPA, make that difficult proposition frequently. So there is significant work to be done and historically, that's not just a problem unique to the state of Nebraska. As a result, I had the privilege of working with colleagues in the models for change initiative sponsored by the MacArthur Foundation to develop an information-sharing tool kit which I hold here, and we've used this framework to really identify in this pilot effort a set of questions about what we need to know when we're talking about sharing information, what purpose we're sharing and using this information, at what key decision points, how will the information be stored, and then very importantly, how will we protect this information? I think this effort has significantly enhanced the preparation of Nebraska to provide support for LB463. I believe at this point out of this work that this group of devoted Nebraska professionals have created a properly protected pathway for lawfully sharing information that will systematically identify Nebraska's highest-risk youth and permit knowledge of the prevalence and characteristics of these youth in the spirit of LB463. I believe Nebraska is close to endorsing a model process. And once this process is in practice, school superintendents can effectively collaborate the Office of Probation Administration, Department of Health and Human Services as a matter of routine to satisfy the mandate of LB463. I've had the privilege of working on some of these initiatives around the country. I had the privilege of authoring some legislation in federal statute that mirrored what is being put forth in LB463. I believe this particular legislative bill provides the proper balance on guidance and mandate for localities to move this initiative forward. And I actually would argue that it is not just a fiscal imperative, but that it's a moral imperative to do this to provide better service. [LB463]

SENATOR ASHFORD: Thank you, John. Do we have any questions of John? John, just would you just very quickly, on the federal confidentiality rules and federal statute, and I know you've looked at Nebraska law as well, the idea that you've come up with is to share data at certain trigger points. Ten days of absenteeism is one of those trigger points and then matching that with data in the NCJIS system to identify the most at-risk children, young people, and then get them help. How would you rate our NCJIS system with other systems around the country? And are we poised to get this done effectively quickly? [LB463]

JOHN TUELL: The answer to the latter is, yes, absolutely because of NCJIS. We witnessed the demonstration this morning and all the five months of work that we've been doing on this issue has allowed us to understand the capacities of NCJIS. While NCJIS will probably need some additional support to develop some additional capacity for some of the information that's going to come into it, at this point I've not seen a

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system that I've worked with in my history of working on these issues across the country that is any more capable of taking on this issue and being a really excellent repository for this data and this information. [LB463]

SENATOR ASHFORD: And then just lastly, what other states...you work with other states. What other states are doing similar types of projects that you can identify for us? [LB463]

JOHN TUELL: Well, I've been supportive of work in Cook County, Illinois; in the state of South Dakota where legislation was passed that mirrors this kind of effort; in the state of Washington. Last week I was in the state of Florida. There are a number of others historically that I've worked with, some local jurisdictions as well. Again the key, members of the committee, is to really take a solid look at the statutory frame in Nebraska and statutory frame on the federal statutes and do a complete compilation and analysis so that this bill provides for an opportunity to lawfully share that information that will still permit the kind of exchange that is contemplated in the bill. [LB463]

SENATOR ASHFORD: And in your opinion, LB463 gives...is a foundation for doing that. [LB463]

JOHN TUELL: It is absolutely the foundation. It's a very strong foundation. And it still provides latitude for each of the individual agencies to have control over the information that is unique to their agency. [LB463]

SENATOR ASHFORD: Thanks. Thanks, John. Thank you for coming. [LB463]

JOHN TUELL: Thank you. [LB463]

SENATOR ASHFORD: John Cavanaugh. John. Then Kevin Riley after that. [LB463]

JOHN CAVANAUGH: (Exhibit 2) Thank you, Mr. Chairman. John Cavanaugh, executive...J-o-h-n C-a-v-a-n-a-u-g-h, executive director of Building Bright Futures, 1004 Farnam, Omaha. Mr. Chairman, I appreciate the opportunity of being here today and to support this important legislation as a continuation of really the landmark legislation, LB800, which this committee courageously led and the Legislature implemented. That is really a game-changing piece of legislation. Building Bright Futures, as you know, is a comprehensive, not-for-profit, private sector initiative to improve educational outcomes and specifically to attack the education achievement gap that we see in our schools, and particularly in the metropolitan area. Among the issues identified directly affecting academic achievement is school attendance. And focusing on that issue as you did last year became critically important and at a critical time because last year, and I think the county attorney will be here, we saw a transformation in the number of students referred to the county attorney for excess of 20 absences, going from less than 200 to more than

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1,000, and revealing a much more extensive attendance problem where we have about 6,000 students a day in the metropolitan area not attending school. And Commissioner Breed has further explained that this is not simply a metro issue; it is a statewide issue. And when we look at the attendance figures across the state, it is without doubt the single greatest impediment to our achieving academic excellence for all of our students. What I've provided the committee this afternoon is our response--the Building Bright Futures response--and I want to commend Dr. Rachel Wise, who is the director of our program operations and directly supervising our attendance program. But what we did here basically was take LB800, take the response to LB800 by the metropolitan area school districts, and among the elements within LB800 was for each school district to submit a plan to the county attorney, take the best and consistent elements across those school districts, their response to your initiative, and then create a community response. So what you see here are the intersects between the school, the community, and where those intersect. And then we diagram that plan and get the summary on the back page which is of the narrative, but chose the types of interventions and the time and places of interventions that are necessary to effectively change outcomes. What I want to say...leave this committee is a sense of real achievement in the sense of the response to LB800 by the school districts and Kevin Riley, leading the metropolitan school districts' superintendents, who's done an outstanding job of moving this to the next level. And I think he'll describe the culture change that the superintendents see as necessary to change outcomes. But I think that you can take tremendous credit in this committee and you particularly, Mr. Chairman, for your perseverance, your insight, and your initiative in addressing this...not only addressing this problem but through LB463 continuing the involvement and identifying what further needs to be done among which is information sharing among the critical agencies serving at-risk populations. So we're here to support your legislation and commend you for your tremendous efforts. [LB463]

SENATOR ASHFORD: Thanks, John. Any questions of John? And thanks to Bright Futures for your support of these efforts and your kind words. Kevin Riley. [LB463]

KEVIN RILEY: Mr. Chairman, committee members, my name is Kevin Riley. I'm superintendent of the Gretna Public Schools, testifying in support of LB463 and its subsequent amendments. Superintendents would like to thank Senator Ashford and the 2010 Legislature for the passage of LB800. This law has set in place a series of meetings and collaborative efforts that will have a long-lasting effect on school attendance in this state. This past June the superintendents of the learning community met. One of our statutory responsibilities is to make recommendations to the learning community coordinating council on improving academic achievement. Our first recommendation is to improve student attendance. It is well documented that truancy is a gateway to delinquent behavior and is indicative of family dysfunction on a larger scale. To accomplish this, we knew that we needed to assemble representatives from a number of public agencies. We also knew that the collaboration and cooperation among these agencies would be the determining factor in our success. As we were making our

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plans, we were informed that Senator Ashford was working with some of these very agencies to improve attendance. We communicated with the senator and since December superintendents representing their respective school districts have been meeting regularly with Douglas and Sarpy County judges, county attorneys' offices, HHS, juvenile probation, law enforcement, Building Bright Futures, learning community representatives, and Avenue Scholars. Our work has resulted in a plan or a framework at this point of how we will move students with poor attendance through levels of interventions, services, and preventions. Our plan allows us to respond before the 20 absence threshold for those that need immediate intervention or services. We are currently developing protocols that will be in place for every public school building in Douglas and Sarpy County. We see, as the superintendents, the key elements of this legislation as follows: (1) The statutory language that allows agencies to share information. The lack of such language in the past has been a major hurdle for the agencies listed earlier. Remember, the collaboration and cooperation of these child-serving agencies will determine our success. (2) We don't have to wait 20 days to intervene. (3) There are exceptions for students with serious illness. There are some families right now that we should be leaving alone. (4) It's based on a plan developed by the superintendents because if you don't have the schools involved, you'll never solve this problem. And (5) resources for agencies that need to add staff. This has the potential to be something very, very powerful. And I've never seen 11 superintendents more excited about something than they are about this. Thank you. [LB463]

SENATOR ASHFORD: Thank you, Kevin. And it hasn't been just since December. You've been working almost full time as far as I know over the summer and fall of building collaboration amongst the 11 superintendents and it's really an incredible effort. So thank you for your personal commitment. Any questions of Kevin? Thank you very much. I'm going to ask Warren Whitted to come up because he has to leave, from the Bar Association. If that's okay, Mike, and then we'll go on. [LB463]

WARREN WHITTED: (Exhibit 3) My name is Warren Whitted, W-h-i-t-t-e-d. I'm president-elect of Nebraska State Bar Association and I'm here to testify in support of this bill. The children of our state are our most valuable resource. And if we have 10 percent of one school district and a high percentage of many school districts that aren't attending it's critical the development of that resource. We believe, in the Bar Association, that immediate efforts and resources need to be invested on the front end to both prevent truancy and to intervene early on in the process when it occurs. Beginning last fall, the Nebraska State Bar Association, in conjunction with Senator Ashford, began to look at innovative ways to...that bar associations across the country have participated in efforts to reduce truancy in their communities. The Nebraska State Bar Association also highlighted efforts being made in Hastings and Grand Island through the use of lawyer volunteers and some paid lawyers to participate in programs to intervene in truancy situations. We believe that these programs show positive impacts that can be achieved when county attorneys and local lawyers are involved in

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the truancy prevention process and intervention. While there are different methods used throughout the country, we believe that early intervention in these programs is critical for their success, and we laud the efforts of the committee and the people that we've heard from previously. On December 10, 2010, the Nebraska State Bar Association's House of Delegates approved a resolution to encourage the involvement of Nebraska lawyers with schools and this body in attempting to address the truancy problem. We're not necessarily involved in the policy level, but we're willing to be involved to the extent that we can make our services available where the rubber meets the road or we actually have to talk to the kids. So we at the Nebraska State Bar Association support LB463 and pledge our continued and expanded efforts of lawyers to participate in this process. [LB463]

SENATOR ASHFORD: Thank you, Warren. I, too, would like to thank....I failed to mention Jane Schoenike, as well, who has helped us get this lawyer initiative started and to getting the thought process started. And thanks for your help as well, Warren. Any questions of Warren? Seeing none. [LB463]

WARREN WHITTED: Thank you for taking me out of order. [LB463]

SENATOR ASHFORD: That's all right. Mike and then Don Kleine and Roger Breed is after that. [LB463]

MICHAEL BEHM: (Exhibit 4) Good afternoon, Senator Ashford and members of the Judiciary Committee. My name is Michael Behm, B-e-h-m. I'm the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, commonly known as the Crime Commission. I'm here today to testify in favor of LB463. This legislation identifies the need to share information to ensure timely and effective interventions for children. Having information available in a timely manner is critical to make effective decisions for both criminal justice and juvenile justice. The Nebraska Crime Commission has been involved with data sharing for over ten years. The Nebraska Crime Commission...we offer the Nebraska Criminal Justice Information System or NCJIS, which is a secure data portal providing access to critical information for state, local and federal users. LB463 identifies the interactions between probation, the Department of Health and Human Services, and the schools which can be improved by sharing accurate data and collectively overseeing troubled youth. We certainly support the overall goals of LB463 as well as the identified need to improve data sharing. The Crime Commission has been involved with a data sharing committee targeting this specific need. The discussions have resulted in proposed data sharing process that would rely greatly on NCJIS. The Crime Commission sees this as a logical and efficient manner in which to share the data, and we will work with these agencies to find viable solutions. NCJIS already includes probation, DHHS, and the Omaha and Ralston School Districts as data providers and data consumers so this provides a good extension of existing capabilities while also providing the potential for extending to other areas of the state.

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The proposed solution would have NCJIS be the central hub to share data as well as trigger certain reporting. This will expand the availability of data and the level of detail as well as provide consistent views of data for all of the key participants: the schools, probation, and DHHS. The schools will send attendance information to NCJIS and when a student hits ten absences, a report on their probation, DHHS, and related activity would be provided to the schools. This would be proactive instead of relying upon school staff to do searches or watch attendance thresholds. Even basic information such as a caseworker contact data would be provided to help manage situations. Data can be matched to be sure schools are aware of which students have probation or DHHS activity. This will not only assist the schools but probation officers as attendance information is critical to the supervision of a juvenile. I'd like to thank you for the opportunity to testify today, and I'd be happy to answer any questions. [LB463]

SENATOR ASHFORD: Any questions for Mike? And please thank Mike Overton as well. To see this system and to see that it is one of the very top systems in the country and it's just sitting there for us to tap into is very laudable. So thanks for all your efforts. [LB463]

MICHAEL BEHM: Thank you, Senator, I will. Thank you. [LB463]

SENATOR ASHFORD: Don Kleine. [LB463]

DON KLEINE: Good afternoon. My name is Don Kleine, K-I-e-i-n-e. I'm the Douglas County Attorney. I'm here as a proponent on behalf of Douglas County and also Douglas County Attorneys Association. I really don't know quite where to start here. There's so much we could talk about. But there's an impressive group of people that are proponents of this bill, and I've seen such a change over the last couple of years with regard to collaboration and cooperation and sharing of information, which is critical for this to work: Building Bright Futures, the superintendents, the Crime Commission, the Bar Association, the county attorneys, the judges that are involved. If you look back two years ago, as Mr. Cavanaugh stated, we had I think 239 truancy referrals in Douglas County for the year. So we knew something was wrong. Those numbers were not accurate. Last year we had 1,073 referrals. This year we already have 887. We had 340 referrals in the last 30 days. So I would imagine our numbers will be pretty close to 2,000 by the end of this year, at least with regard to truancy referrals. Our goal obviously is not to have these students in the court system, to be proactive with the superintendents and all the different agencies to try to do whatever we can to prevent these kids from being in the juvenile court system. With that regard, we've met with the superintendents. We meet with Building Bright Futures regularly. We meet with the different parties involved. We do a 10-day letter now that the superintendents have asked us to do that comes from my office to the families of people who have missed 10 days to say if they miss 20 days they're going to get referred to our office. On a weekly basis, every Thursday, today included, for a couple of hours we hit the referrals for this

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last week. I think we have about 70 kids that were in today, 70 cases that we review, and we have a multidisciplinary approach in looking at those cases, those referrals. We have HHS there, we have the different agencies HHS contracts with, we have the superintendents of all the schools there are represented, we have probation there, we have law enforcement there, members of our office are there and we have an open discussion about not just...sometimes obviously the problem isn't just the person missing school, if there's an underlying issue and how can we best serve this child in looking at all the issues that are involved with this person missing school and get them back in the system and do that maybe without filing a case in the juvenile court. I guess I just would answer any questions that you might have. [LB463]

SENATOR ASHFORD: Thanks, Don. And thanks to Nicole Goaley, who I believe, well, I know is doing a lot of work in this area and has done for quite a while. [LB463]

DON KLEINE: Absolutely. And... [LB463]

SENATOR ASHFORD: How do you do it actually? I mean... [LB463]

DON KLEINE: We need...no. I guess that's...you know, when you talk about a couple of files and new referrals coming in, we are absolutely swamped. We have people working very late at night every day, and the weekends just keeping up on what we're trying to do here. So when you talk about a system where you're getting, you know, a couple thousand new referrals, that's a lot of cases. And so we need help sorting through these cases. We need the resources to deal with these cases, these kids the way we should to get them back to school, get them the help they need, put them in the right situation for whatever problem is causing them not to get to school so we get them back in that school system. [LB463]

SENATOR ASHFORD: And I also...the fact that the confidence that you built up with the superintendents is an amazing piece to this. The fact that you're getting these cases, it's obviously it's a big chore. It's a horribly difficult job. But the superintendents have confidence in your office that they're going to be processed as they have been. And that's really...it's an immense achievement. [LB463]

DON KLEINE: Well, we have great communication. Like I said, there's a real team effort here between all the people involved in this room, I think, to get the right thing done. And we realize that there's a problem here. And this dovetails with everything that we do in the county attorney's office. You know, we just got a grant with regard to the Crime Commission with regard to fighting violent crime that's kind of modeled on Operation CeaseFire. You know, these are kids that aren't in school obviously. These are kids that at one time were truants. So, you know, everything we do dovetails with everything else, and this is a very important part of the process to keep these students in school. [LB463]

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SENATOR ASHFORD: Thanks, Don. [LB463]

SENATOR MCGILL: This just makes me excited to know where we'll be in five years and how much different our system will be and our children will be, and I'm just excited. [LB463]

DON KLEINE: So are we, so are we. [LB463]

SENATOR ASHFORD: Yeah. And, yeah, yeah, it's just... [LB463]

DON KLEINE: Thank you so much for everything you're doing. [LB463]

SENATOR ASHFORD: Well, thank you for what you're doing. Thanks, Don. Roger, I know he's...I didn't...snuck in the back. Welcome to the Judiciary Committee, Roger. I know that's not...we're pretty nice people, though. (Laughter) [LB463]

ROGER BREED: (Exhibits 5, 6) I'm glad you explained that. I was at the Appropriations Committee Tuesday and I can't say the same. (Laughter) I do have handouts as an appropriate educator. I need to clarify the position under which I testify. First of all, I am Roger Breed. I'm the Commissioner of Education, R-o-g-e-r B-r-e-e-d. The State Board of Education, my employer, has taken a position of neutrality and offered staff to provide technical testimony. So I am appearing in that role. But I have brought with me some specific data with regard to student absences that I think is pertinent to the committee's work. In 2009-10, well, first of all, LB800 asked the department to gather from each school district this year the sort of a rolling attendance/absence count on a monthly basis. And we have diligently done that. And as per the directions of LB800, we will be meeting with representatives of probation and HHS to offer a package of information and recommendations to the committee at the end of this school year. But we also had the capacity to look back a year. And this gives, I think, a sense of the problem that we face. In 2009-10, we had 282,000 public school students in Nebraska K-12. Of those 282,000, 82,000 missed more than 10 days; 40,000 missed more than 15 days; just under 22,000 missed more than 20 days. And most disturbing to me because I have grandchildren in this range, 1,500 students in grades 1 and 2 missed more than 20 days. Now I don't know if you have children or grandchildren in 1st and 2nd grade, but for the most part, they'd rather be at school than with their parents and I don't blame them. My own grandchildren I can understand quite well why they would want to be in school rather than with their parents. I didn't want to be with them either. (Laughter) But the point of it is that that's an adult problem. This is an adult and community problem that interferes with student attendance at school. And it will require an adult and community solution involving all of the parties at hand that have testified before me: the superintendents, the judiciary or judicial process, law enforcement, probation, HHS, and so forth. The other question that comes before me is, does attendance matter? You

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know, and all of us know somebody that probably got to school and did well, maybe didn't attend well. So we used our data from last year and we asked a simple question: On the NeSA-R assessment to 11th graders, if you attended less than 20 days, what was your NeSA-R score? If you were absent less than 20 days, what was your NeSA score? And if you were absent more than 20 days, what was your NeSA score? We created two groups and we asked a simple question: Does attendance matter? And the answer is pretty clearly, yes. If you were an 11th grader absent less than 20 days, you had a NeSA score on the average of 102, if you were an 11th grader absent more than 20 days last year, you had a NeSA-R scale score of 72, that's a standard deviation difference between the two scores just on the basis of attendance. The other point that I would like to emphasize is that this is...and I know the focus of this is to attend to the problem in the metropolitan area and that is a good starting place, but I hope it would not be the last place that we go. Attendance tends to be a statewide issue and absences at school are a problem in many districts, large, small, rural, and urban. And with that, I'll conclude and respond to any questions that you might have. [LB463]

SENATOR ASHFORD: Thanks, Roger. Any questions of Commissioner? Thank you very much. [LB463]

ROGER BREED: Okay. Thank you for the work on LB463. [LB463]

SENATOR ASHFORD: Thank you. Senator Coash has joined us. I don't think I introduced you. [LB463]

SENATOR COASH: Been here awhile. [LB463]

SENATOR ASHFORD: You've been here awhile? And Senator Lathrop so let's...as well. Let's move to the further proponents testimony. Lorraine. [LB463]

SENATOR LAUTENBAUGH: Are there opponents? [LB463]

SENATOR ASHFORD: I'll ask. Are there opponents to this measure? A couple. Okay. Thanks. [LB463]

LORRAINE CHANG: (Exhibit 7) My name is Lorraine Chang, C-h-a-n-g. I am the vice chair of the Learning Community of Douglas and Sarpy Counties as well as the chair of the elementary learning center task force of our council. And I thank the Judiciary Committee for inviting us today. I'm pleased to be testifying today on behalf of the Learning Community in support of LB463. Others have testified to the growing magnitude of the truancy problem in our state and in our two-county area. It is clear that a more intentional and more collaborative approach with improved information sharing is urgently needed. There's no doubt that school attendance is a key factor in school achievement, and education is a key means for keeping our children out of the juvenile

justice system. The Learning Community supports a research-based collaborative approach to address excessive absenteeism and truancy issues. In fact, on February 17 our council passed a resolution to that effect supporting formal recommendation from our superintendents' advisory committee, as Dr. Riley has testified, that student attendance be our first area of collective focus for closing the achievement gap as we move ahead. The Learning Community's inclusion in this effort is consistent with our statutory charge to collaborate and support efforts to close that achievement gap. One key component of this effort is our elementary learning centers which serve as resources for enhancing the academic success of elementary students, particularly those challenged by high poverty, lack of English speaking skills, and high mobility. From the outset, the plans of our elementary learning centers have recognized that increasing student attendance is a priority. The high level of absenteeism at the elementary grades is alarming and demands urgent attention. By engaging elementary students at an early age and working with their families to establish a habit of daily attendance and a love of learning, the research clearly shows that students will be less likely to be absent and less likely to drop out in a later grade. Since May of 2010, we have appropriated almost \$2.4 million of our ELC funds to our member school districts and community partners for summer day programs, after-school programs, and academic skill development efforts, all of which are designed to inspire children to be excited about learning and to provide the skills necessary to be successful in school. The handouts provided show that as we continue with our RFP processing for summer and fall 2011 program, our programs addressing attendance issues will receive priority funding support. Another priority effort through the elementary learning centers is the creation of family support liaisons who will be embedded in high-priority elementary buildings in north and south Omaha and Bellevue. Using our elementary learning centers' operating levy, we are collaborating with third-party agencies in the Omaha and Bellevue Public Schools to implement this program. We have contracted with Lutheran Family Services of Nebraska to provide these services. And Amy Richardson from Lutheran Family Services will be speaking more specifically to have a family support liaison will work to ensure that attendance issues are given the priority in the school interventions that we work with. [LB463]

SENATOR ASHFORD: Thanks, Lorraine. Any questions of Lorraine? And thanks for your leadership on the truancy issues. Senator McGill. [LB463]

SENATOR MCGILL: Can I just get your input on how this is going to be funded? I know it's going to take money out of the Learning Community so do you have any input you'd like to share on that? [LB463]

LORRAINE CHANG: I appreciate your question. There's no question that our council supports addressing the attendance issue as our highest priority as it relates to improving student achievement. But we do have some concerns about the effect that the redirection of our operating funds would have on our daily ability to meet our

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statutory responsibilities, especially because of the restricted nature of our funding streams. We do believe, however, that our elementary learning center levy operating funds have the potential for serving as a means for addressing the truancy issue and is an alternative, more appropriate, and perhaps even more robust source of funds for this purpose. And as I explained in our testimony, our elementary learning center area is where we are best suited as a learning community to really address truancy and prevent the kind of student attendance that will happen in the later ages. [LB463]

SENATOR ASHFORD: That's a good answer. Thanks, Lorraine. Any other questions? Thank you. Amy. [LB463]

AMY RICHARDSON: Good afternoon. I'm Amy Richardson, A-m-y R-i-c-h-a-r-d-s-o-n. I'm vice president of program for Lutheran Family Services. Thank you, Mr. Chairman and committee members, for your time today. Lutheran Family Services of Nebraska is a 118-year-old statewide not-for-profit providing a vast array of human care services impacting over 35 (sic) people a year from more than 32 offices located throughout Nebraska. Lutheran Family Services carries out our mission through three broad categories: behavioral health services, community services, and children's services. We have committed dollars and resources in developing early intervention programs that will truly have impact on school attendance and achievement. We know the kids have to be in school and have to have regular attendance in early elementary years for success in the future. The family support liaison program would feature these guaranteed services. Once children who may need help that are identified (inaudible) educators, they will receive an assessment. The assessment will identify barriers that could damage achievement and/or regular attendance. The assessments can also be used to set priorities. We are expecting that children who are showing attendance problems will be the first we serve. After the assessment, the family support liaison staff will build an individualized service plan to address needs, immediately engaging the parents and drawing them into the planning process. Specific goals will be set for the child, including academic, attendance, and a goal to lower the amount of stressors that is measured in the initial assessment. Barriers to these goals will be defined. The liaison staff, with parental involvement, will recommend ways to overcome these barriers. A team meeting with family educators, liaison staff, and the child will be held to develop strategies and agreed-upon plan to alleviate the barriers to attendance and school achievement. Once a plan is agreed to by everyone and put into motion, assessments will be administered on a regular basis to track the child's level. Liaison staff will monitor the child's progress, meeting with the child's parents or educators frequently. Youth receiving services will have family support liaison constantly monitoring attendance and immediately reacting to their assigned youth if they are not in school that day. The liaison staff will close the service case and offer aftercare through the liaison, keeping in touch with the family. LFS supports LB463's recognitions of the importance of a collaborative approach to addressing chronic issues such as excessive absenteeism. And the reality there are oftentimes many other family factors such as drug, alcohol

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abuse, parents that had poor school experience, trauma, or child abuse that is really causing this attendance problem. LFS is currently engaged with over 160 pregnant and parenting teens in Omaha and almost all had attendance problems early on in their elementary school. We understand how important being in school is. We look forward to working with the Learning Community school districts in what we feel is a proactive approach by allowing family support liaisons to work with school staff at the elementary level before student attendance issues become chronic or reach the level of trancies or dropout. Thank you. [LB463]

SENATOR ASHFORD: Thanks, Amy. How many children are you serving? I didn't catch it. [LB463]

AMY RICHARDSON: We have 35,000 families right now that we're serving. And then in our north Omaha office we have 160 teens that are either teen parents or are pregnant. [LB463]

SENATOR ASHFORD: But the truancy part of this is... [LB463]

AMY RICHARDSON: That one we will serve...I'm not sure what our projected number is. I think maybe (inaudible) can answer that. They'll carry caseloads of up to 20 in each of the schools that are identified. [LB463]

SENATOR ASHFORD: Okay. Thanks, Amy, very much. Thank you. [LB463]

AMY RICHARDSON: Thank you. [LB463]

SENATOR ASHFORD: Any other proponents? [LB463]

JERRY HOFFMAN: Chairman Ashford, committee members, my name is Jerry Hoffman, J-e-r-r-y H-o-f-f-m-a-n. I'm here representing the Nebraska State Education Association in favor of LB463. We were here last year in favor of LB800 and, of course, support any efforts that reduce the truancy of students and get them in schools as a way to not only better their lives but close the achievement gap as well. I'd be able to answer any questions that you might have. [LB463]

SENATOR ASHFORD: Any questions of Jerry? No. Thank you. Thanks for all your support last year. [LB463]

JERRY HOFFMAN: Thank you for your work. [LB463]

SENATOR ASHFORD: Okay. Katie. [LB463]

KATIE ZULKOSKI: Good afternoon, Chairman Ashford and members of the Judiciary

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Committee. My name is Katie Zulkoski, Z-u-l-k-o-s-k-i, testifying today on behalf of the Millard Public Schools. And I do want to congratulate the committee. The first thing I want to point out is LB800 has helped to improve student attendance at Millard Public Schools and we are thankful for your efforts on that front. Second of all, we do appreciate that the changes in LB463 would allow considerations for the medical-related absences and we think that is an important change. Thirdly, we do think also that the sharing of information between the different groups will really help in these efforts. And finally, superintendents have had extensive input into these plans and so they appreciate the proposed amendments that would allow them to continue working.
[LB463]

SENATOR ASHFORD: Thank you, Katie. Thanks for your comments. Any other questions of Katie? Seeing none, thanks. Any other proponents? Opponents? Do we have people who don't like this? Come on up. Don't like my bill (laugh). Welcome.
[LB463]

AUTUMN COOK: (Exhibit 8) Chairman Ashford, members of the committee, my name is Autumn Cook. I am the mother of four children, and I live in Millard Public School District. It's really intimidating to come up here after that big long list of state agencies, and I have to wonder did you guys talk to the parents about how they felt about this? I have a number of concerns with the bill. I have a number of friends, as you can see, with me here and we have a lot of friends who feel the same. I haven't talked...I talked to 15 or 20 parents specifically about this, and only 1 said, oh, I think that might be okay. She's an attendance secretary so the rest of us are thinking this is a bit scary to us. I'll share with you my feelings on the legal consequences this bill requires to be used against students and, therefore, against parents after ten days' absence in a school year. I feel the consequences are too severe for the offense and they will overburden county resources and most importantly they will burden families and expose us to undeserved and inappropriate scrutiny. Some of my concerns may arise because I don't fully understand the legalese that's contained in some of this bill, so perhaps you can clear that up for me if it's warranted after I tell you my thoughts. As I understand it, this bill opens families up to investigation after only ten days of absences in a school year. This is too high of standards. My own children have exceeded ten days of absence in the past due to my taking them out of school for an extra day of recuperation after illness, after the birth of a sibling, to take an educational family field trip, and for a family wedding. They all add up to more than ten days, but they've never struggled in school. At page 25, line 2 it reads, "Nothing in this section shall preclude a county attorney from being involved at any stage in the process" and here's a spot I may not understand and it's not new to the statute, it's old language, but it bothers me in light of the new truancy standard. If we should have occasion to take our children out, my husband and I, for more than ten days in the future, would we be opening ourselves to investigation and referral to Health and Human Services? That's what I'm wondering. Chief Justice Heavican recently warned against a heavy-handed approach to improving truancy rates.

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He said...he was quoted in the World-Herald saying "courts cannot handle a continued flood of cases" and perhaps this bill is actually meant to stem that. And as I listened, maybe that's kind of the approach. I'm not sure. But I completely and earnestly agree with him that we need to offer innovative diversion programs. To really help students whose academic performance suffers in connection with their absenteeism, you've got to take a relationship-based approach, not a punitive approach. There's a fabulous article in the World-Herald, you guys probably all read it, a couple three weeks ago talking about a program being used at Omaha Northwest High School. And Judge Crnkovich was quoted as saying, "Confrontation doesn't translate into problem-solving and helping these kids change." I agree with her and I would add relationship-based approaches protect families from inappropriate and undeserved scrutiny--to have to account for our personal choices when our children aren't struggling when we're taking them out for good reasons for our family. So I'd ask you to please consider the effect that this bill would have on families and whether efforts to help students with real problems might be better spent on organizing and encouraging more of these relation-based intervention programs. Thank you. [LB463]

SENATOR ASHFORD: That was great testimony. [LB463]

SENATOR MCGILL: It was, it was. [LB463]

SENATOR ASHFORD: I think you hit a great point and we're...this committee has been in LB800 and continue to be focused on intervention with at-risk children as early as possible so that they don't get into the juvenile justice system. And as we write these bills and think about how we're going to best do that and get help to those, as you suggest, those young people that need the help, that's our goal. And so...and we have...we are...we continue to work on language that addresses your concerns. [LB463]

AUTUMN COOK: Yeah. Because the one thing that I picture from my... [LB463]

SENATOR ASHFORD: And the Chief Justice, we agree with the Chief Justice as well in the eyes of the children, through the children initiative, which we also support. So you're right on. Go ahead. [LB463]

AUTUMN COOK: I was going to say what I picture coming, you know, my neck of the woods and the problems that my kids face or the type of situation we have in our school district or our area is, you know, we're humans. And the attendance secretary that has a vendetta against a perfectly fine mother but decides her kids missed 11 days. I'm going to see what I can do about this. You know what I'm saying? And you just don't want to leave that open. [LB463]

SENATOR ASHFORD: I do because I have a 13-year-old and I...I have a 13-year-old and I get calls from the Westside Middle School attendance officer from time to time and

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it...I certainly get your point and it's very well taken and thoughtful. And we will...we're going to address your concerns. [LB463]

AUTUMN COOK: Thank you. And then a few other points. Go ahead. [LB463]

SENATOR MCGILL: Yeah. I would just, you know, elaborate on that a little bit further. You know, we know, as you've heard, that truancy tends to be just a beginning for a lot of kids to end up dropping out. And we're trying to get to that population as quickly as we can to discourage them from missing school, but we are perhaps casting a net so broad that we're catching... [LB463]

AUTUMN COOK: That's my fear, we'll get pulled up into it, yeah. [LB463]

SENATOR MCGILL: And go Millard. I'm a Millard grad so (laugh). [LB463]

AUTUMN COOK: Woo-hoo. Thank you. [LB463]

SENATOR ASHFORD: Thanks, Autumn, very much. Next opponent. [LB463]

BETH MEYER: (Exhibits 12 and 13) Hi. My name is Beth Meyer. I'm a parent. I'm really nervous so bear with me. Okay. I'm not totally against the law. I do understand it's needed. My point is that you have legitimate children who have legitimate excuses that shouldn't be involved in this. My daughter, unfortunately, is one of those who hits the 20 days due to illness. I just don't feel...she's not a high-risk student. She has no behavioral issues, no issues with school. Teachers love her. But, you know, we're in that category of the truant child and technically she's not really truant. And I don't think we should have to go to court. Maybe if the bill could give the schools the decision to maybe decide if they really need to go to court. [LB463]

SENATOR ASHFORD: And that's what our... [LB463]

SENATOR MCGILL: Can you tell me why she was truant that long? Was she sick? [LB463]

BETH MEYER: Illness. Illness. [LB463]

SENATOR MCGILL: Okay. [LB463]

SENATOR ASHFORD: In our bill with the amendments we'll address that and give to the school districts the authority to make those rules so that's what it will specifically do. [LB463]

BETH MEYER: And then one other thing I'd like to address that I don't think anybody

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ever takes into consideration, what are the schools doing? In my case alone, we've been...this is her third year of missing 20 days. We have never once met any school official regarding her attendance. We've never had a meeting, nothing. So what are the schools doing on their part? [LB463]

SENATOR MCGILL: So you never got a...you got a call from the county attorney's office and not the school or... [LB463]

BETH MEYER: I got a letter from the school district. [LB463]

SENATOR MCGILL: Okay. [LB463]

BETH MEYER: And then the... [LB463]

SENATOR MCGILL: But the school itself never called you or reached out. [LB463]

BETH MEYER: No, no. [LB463]

SENATOR MCGILL: Okay. [LB463]

BETH MEYER: No. So I think there should be more done on the school side too. [LB463]

SENATOR ASHFORD: I think you're right and that's why we're all here, I think, to address those needs that you're expressing. They're... [LB463]

BETH MEYER: I haven't heard those addressed yet so. [LB463]

SENATOR ASHFORD: Well, I think the collaboration is intended to address those needs where the school district will address these problems when they occur. [LB463]

BETH MEYER: I'm not saying it's going on in any school district. It's on my personal basis. [LB463]

SENATOR ASHFORD: Right, right. No, I think it goes on and I think we have to correct all these things and move forward. There's no question. [LB463]

BETH MEYER: And then on the five days I think that's a little too soon. Example, my daughter had the flu two weeks ago. She was out five days. Am I going to be turned over to court for that? [LB463]

SENATOR ASHFORD: I understand. Thank you. [LB463]

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BETH MEYER: Thank you. [LB463]

SENATOR MCGILL: Thank you for coming. [LB463]

STEPHANIE MORGAN: (Exhibit 9) Good afternoon. [LB463]

SENATOR ASHFORD: Good afternoon. [LB463]

STEPHANIE MORGAN: Senator Ashford and members of the committee, my name is Stephanie Morgan. I am a mother of two children and I live in the Millard School District in Omaha, Nebraska. I have some serious concerns about this bill and specifically I'm going to address some related to Section 8. It's just the funding mandate in this bill. The funding mandate and you again can correct me if I'm wrong. I've read the bill like dozens of times trying to make sure I understand as much as I can about it. I'm not a lawyer. That the funding mandate requires 50 percent of state Learning Community funds to be used only for truancy intervention until the truancy rate is reduced by 50 percent. And then after the truancy rate is reduced by 50 percent, it then has a long list of uses for that money already appropriated for that money afterwards. It seems to me that this section micromanages a large portion of the Learning Community budget and holds this portion of the budget in reserve until the school district aggressively enforces a steep mandate to reduce truancy by 50 percent. Even after the reduction of truancy is reached, these funds are then still restricted for prescribed uses. It is this control from the Legislature over our local schools that concerns me. This section takes decisions away from our local boards, I believe, and usurps the role that we elected them to fulfill, and it diminishes my influence as a parent. As a parent, it's far easier for me to advocate for my child's education when I can simply attend my local school board meetings rather than driving all the way down here to Lincoln in a snowstorm. When these policies are managed here in Lincoln, the government...it becomes very cumbersome for us parents when we have a problem like we do today. So I would prefer that these types of decisions be made at the local level. I would ask you to consider the importance of keeping it that way because I believe that's how it's been traditionally. If Section 8, which is mainly the funding I've been talking about, is not removed from the bill, I believe it will lead to the aggressive prosecution of this new tougher truancy policy and result in harassment of functional families and average students. The bill states that for purposes of Section 8 "truancy means the students who are absent for more than ten days in a school year." I believe this is what it is saying, that truancy means that students are absent for more than ten days in a school year and then requires that the annual rate of truancy be reduced by 50 percent based on that new higher standard, increasing the number that has to be reduced sharply. With approximately 22,000 Nebraska students reported absent more than 20 days last year, which represents 8 percent of the total student population, but when you apply the higher standard of 10 absences a year, the percentage of students considered truant will rise significantly, which I don't have exact numbers. This requirement that the

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truancy rate be reduced by 50 percent based on ten absences in my estimation will result in schools pressuring with aggressive investigation of students and their families after only five absences, which is also in the bill. And I'm concerned that it will put significant pressure on mothers and fathers to curtail their responsible choices and make ordinary parents the undeserved object of scrutiny. [LB463]

SENATOR ASHFORD: Thank you, Stephanie. Any comments? [LB463]

STEPHANIE MORGAN: I'm sorry. [LB463]

SENATOR ASHFORD: No, the bill...we'll talk, we can talk about it later and if you have some time we can talk on the phone but certainly that's not the intent of the bill and it has changed dramatically since that language and we should be getting...you should have had better opportunities to see the changes before the... [LB463]

STEPHANIE MORGAN: It has changed... [LB463]

SENATOR ASHFORD: Yeah. [LB463]

STEPHANIE MORGAN: ...compared to what's on-line this morning? [LB463]

SENATOR ASHFORD: Uh-huh. [LB463]

STEPHANIE MORGAN: Okay. [LB463]

SENATOR ASHFORD: But we'll talk...but we'll going to talk to you, but I'd like to spend time with you and explain it to you because you raise great issues and you need to have that ability to talk to us and sorry you didn't have the information. [LB463]

SENATOR MCGILL: Now I just want to say, since we do have such a great turnout of everyday people, because this doesn't always happen so I really appreciate all of you mothers coming down because we don't get to hear from people like you enough. [LB463]

STEPHANIE MORGAN: Well, I have dozens of friends who are glad I'm here today. [LB463]

SENATOR MCGILL: I'm sure you do. Exactly, and what happens is on-line they have the original bill that we introduced, but we, as senators, often work on amendments in between when we introduce them and when we have a hearing like this, and unfortunately those amendments don't get put on-line, and maybe that's something, if an introducer is seriously thinking about should be put out there,... [LB463]

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STEPHANIE MORGAN: It would help. (Laugh) [LB463]

SENATOR MCGILL: ...because we, you know, we're aware of some of these concerns and try to fix them. But you all have brought to light some other things, too, which I appreciate. [LB463]

STEPHANIE MORGAN: Okay. Thank you. [LB463]

SENATOR ASHFORD: Good points. Thanks, Stephanie. Any other opponents? [LB463]

CHRISTY HALL: (Exhibit 10) It's not every day you get to be in this seat, I'm sure. Easier for you to sit there than me here, but I really just wanted to take the opportunity to, like my fellow parents here, stand in the place where a lot of moms can't come to be because they're home with their kids. So, Senator Ashford, members of the committee, my name is Christy Hall, H-a-l-l. I am the mother of six children and I do live in the Millard School District. I share the other concerns that have been and will be voiced today. I would like to share one of the two major concerns that I have with Section 6 of the bill, specifically, the consequences mandated after only five absences. I believe they are much too stringent and that they place an unnecessary burden on school administrators and attendance offices but, most importantly, they carry the potential for invasive action against ordinary families whose students are not struggling in school. The bill requires that after a student reaches five absences, they must meet with school...parents must meet with schools to investigate the absences and the causes for them and educationally evaluating and counseling the student. I know that these measures are aimed at students from families with real problems and I like that this bill aims to help them sooner than the current system does. But I am concerned that there is not adequate protection for the ordinary family. It does not seem right to burden my principal or the attendance secretary, not to mention myself, with a meeting where I've already been in communication with them about the child's absence. I would ask you to take a close look at how the language in Section 6, combined with the pressures of 7 and 8, will affect the application of this law in ordinary homes like mine. I'm concerned that parents and students will become subject to inappropriate and maybe undeserved scrutiny. On page 23 it reads, "School districts may use excused and unexcused absences for purposes of the policy." This seems to provide that leeway that you had mentioned that will be given to the school district in how they implement this lower bar of only five absences. As far as I can see, the mandate in Section 8, which aims to reduce the truancy rate to ten days per year, is the only way to meet this steep reduction is to prosecute every absence, both excused and not excused. The law would vastly be improved by changing the line at the top of page 23 which reads "Such services shall include" to "Such services may include." This change will ensure that truancy policy after five absences would be drafted at the district level. Please consider the effect this bill, as currently written, will have on regular families in Nebraska and oppose it unless amended to protect us from undeserved scrutiny. Thank you. [LB463]

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SENATOR ASHFORD: Thank you, Christy. And just so you know, the language you're talking about is the law as it existed prior to last year's passage of LB800. So...but it is still in the law and, as we take a look at changes going forward in this bill, we will think about those comments. But that was the way the law was before we passed LB800. [LB463]

SENATOR MCGILL: It just wasn't probably being followed and so... [LB463]

SENATOR ASHFORD: It wasn't being followed so I think...and I think that's really part of why we got into the issue in the first...but you've raised great points and we will definitely consider them. Thanks. [LB463]

CHRISTY HALL: Thank you. [LB463]

SENATOR ASHFORD: Yeah. [LB463]

CRYSTAL YOUNG: (Exhibit 11) I'm Crystal Young, C-r-y-s-t-a-l Y-o-u-n-g. I live at 7191 South 240th Street in Gretna, Nebraska, and I'm the honored mother of ten lovely children ages 21 years to 20 months. Thank you for allowing me to come and speak at this hearing of LB463. I am pleased to make your acquaintance. [LB463]

SENATOR MCGILL: Well, it's nice to meet you. [LB463]

CRYSTAL YOUNG: At the best parent teacher conference that I ever attended, the teacher informed me that my child had not mastered one of the required sight words for that grade level. In the exchange, I came to understand that it was my responsibility to see that my child learned that word at home. The teacher's lesson has not been forgotten. Educational systems that support the parent as an ultimate authority boast the highest test scores. For evidence, look at any Asian community. In contrast, communities where the family unit is weakened, test scores are lower. For example, Omaha Public School District has higher test scores in the western schools and lower test scores in the eastern end of the district. The district employs the same talented teachers and uses the same curriculum in both areas. The difference is in the east. In the east, the fathers have been subsidized out of the home by a government welfare check, and the mothers are quickly being replaced by breakfast at school and a snack pack program providing kid-friendly foods over the weekend. Family responsibilities to feed, house, and educate their children have been overtaken by the government and well-intentioned entities. The children have lost their parents and parents have lost the chief motivation to model education which is...provides food and shelter for their children. Similarly, this legislation undermines family authority. Here are two of many case studies available to substantiate this point. One, a family experienced the death of a baby during a late term pregnancy. In the difficult days following the tragedy, while

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making funeral arrangements, waiting for grandparents to arrive and grieving their loss, the mother kept her young daughter home from school. This warranted a truancy letter which added insult to their pain. Secondly, a little girl with an inoperable heart condition has missed several days of school due to illness and then a grandmother's death followed by a preplanned family vacation. She is well over the 20 days absence allowed. This child is excelling in her studies and yet this grieve-ridden mother will have to defend her parenting decisions that protected her child and their family unit. It is impractical and irresponsible for the State Board of Education to override parental discretion, even in poor homes. It is my hope that this committee will seek to strengthen the family and to the end of protecting educational excellence by respecting and encouraging the parent's responsibility to educate their children in or out of the classroom. It's my opinion that LB463 does not strengthen the family and thereby weakens education in all strata of our society. Thank you for your attention, and does anyone have any questions? [LB463]

SENATOR ASHFORD: Thanks, Crystal. No, thank you though for your thoughtful comments. Any other opponents to this bill? Neutral? Matt. [LB463]

MATT RAY: Thank you, Senator Ashford and Senators, for giving me this opportunity to provide testimony regarding LB463. My name is Matt Ray, and that's R-a-y. I currently serve as the director of student community services with the Omaha Public Schools. I'm speaking neutrally regarding LB463 today and want to emphasize the current superintendents' plan, the goals plan. I had an opportunity last year...and a lot of this is an echo of what Don Kleine and Kevin Riley spoke of. Last year I had an opportunity to work with Nicole Goaley, the Juvenile Assessment Center, HHS regarding those numbers of trancies, referrals that were referred to earlier, and a multidisciplinary team approach to addressing excessing absenteeism. The superintendents' plan mirrors that approach that's currently going on in Douglas County. It allows schools, families intervention before the 20-day mark. It will allow an evaluation of what works and maybe doesn't work. The goals plan empowers schools to continue to be proactive by engaging the entire community to meet the needs of kids. As part of LB463, an at-risk students is defined, as it has been defined several other times in this testimony, for one aspect of that is any student that has been absent from school for more than ten days per year or the hourly equivalent for reasons other than serious illness. We must be cautious that we do not rely solely on a ten-day milestone. Some students come to school at risk. Some students will not be at risk at ten days of absence, and I believe that was some of the references that were made recently from the Millard parents as well. We must consider the totality of the issues facing students, not solely on a ten-day marker or milestone. OPS is committed to working with the committee on efforts to address excessive absenteeism and believe that the goals effort and the goals plan will allow the continued multidisciplinary approach on a case-by-case basis. [LB463]

SENATOR ASHFORD: Thanks, Matt. Matt, does OPS...what is OPS's position on using

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ten days as a trigger to access information in the information loop that we've been talking about? [LB463]

MATT RAY: Well, it's similar to what I just referred to, is I hate to rely strictly on a ten-day milestone. I mean there was some testimony earlier that ten days doesn't necessarily mean that you're at risk. You can be at... [LB463]

SENATOR ASHFORD: Right. But I mean I agree that there are many ten-day absences where the children are not at risk, but what we've been working on with OPS all summer and fall is using ten days as a trigger to at least access data to get the at-risk information or get information on children who are at risk so that we can have early intervention. What is OPS's position on that? [LB463]

MATT RAY: Well, currently, what we use is the release that we get from, well, previously was JAIBG and at this point, you know, that would be an excellent starting point to start with that group where they qualify more under these other criteria that you establish, not strictly on the ten-day equivalence. [LB463]

SENATOR ASHFORD: So OPS would suggest that...right now OPS puts names into the NCJIS database through NDEN. [LB463]

MATT RAY: Uh-huh. [LB463]

SENATOR ASHFORD: Correct? [LB463]

MATT RAY: Correct. [LB463]

SENATOR ASHFORD: And is there...is OPS saying that matching that data at ten days of absence with current juvenile justice, probation, and HHS information and sending that back to OPS in the form of an alert, that that's problematic for you? [LB463]

MATT RAY: With the students that are already involved with those? [LB463]

SENATOR ASHFORD: Right. [LB463]

MATT RAY: No, it's not problematic. [LB463]

SENATOR ASHFORD: Okay. So if we... [LB463]

MATT RAY: But the 50,000 or whatever kids within the district that may not be involved within the system would probably be problematic. [LB463]

SENATOR ASHFORD: But there aren't 50,000 kids that are... [LB463]

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MATT RAY: No, I'm sorry, 50,000 was the total population, but all students that meet ten days shouldn't necessarily be part of that system. [LB463]

SENATOR ASHFORD: So you're putting all the names into the NCJIS system. [LB463]

MATT RAY: Currently, no. [LB463]

SENATOR ASHFORD: What are you putting into... [LB463]

MATT RAY: We're putting...well, we are putting all students names with school,... [LB463]

SENATOR ASHFORD: Directory information. [LB463]

MATT RAY: ...with school information, what school they're attending. The ones with the releases signed we're putting more details in right now. [LB463]

SENATOR ASHFORD: But the absence information is getting into NCJIS through NDEN. [LB463]

MATT RAY: With the releases, yes. [LB463]

SENATOR ASHFORD: Okay. So...but...so you don't see a benefit then, or I'm putting words in your mouth. At ten days there's a trigger, that the way the information sharing initiative we've been working on suggests that at ten days there should be a trigger wherein that will alert the school district to theoretically alert the school district or practically alert the school district when there is someone who is in the system at the ten-day point. You're saying that does not necessarily help you, is that what you're suggesting? [LB463]

MATT RAY: If a student is involved in the system, yes, I think it's helpful to know that. [LB463]

SENATOR ASHFORD: It is. Okay. But your point is that if it...the ten days of absence, in and of itself, or those individuals with ten days of absence should not necessarily be matched up with the juvenile justice information in order to trigger some kind of a response? If we take all of the...if the...it's my understanding that the school plan--this is not a gotcha question--the school plan is going to design some sort of common definition of what an absence is... [LB463]

MATT RAY: Correct. [LB463]

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SENATOR ASHFORD: ...and that if the information sharing initiative is based upon some commonality, ten days of absence or whatever other common standard is used by the superintendents, that that can then be matched by NCJIS with children who are at risk because of certain risk factors, juvenile justice or whatever it is, and then alert, the school district is alerted at ten days. Is that problematic to you? [LB463]

MATT RAY: Well, I would believe if it was all the assistant superintendents or whatever majority is needed, if they agreed to that I don't believe it would be, as a learning community,... [LB463]

SENATOR ASHFORD: Okay. [LB463]

MATT RAY: ...a problem. [LB463]

SENATOR ASHFORD: Okay, but that would be something that...that's what we've been talking about all summer. [LB463]

MATT RAY: Uh-huh. [LB463]

SENATOR ASHFORD: But you...generally that's okay as long as the superintendents have a plan that guides that system. Is that... [LB463]

MATT RAY: I wouldn't...I'd hate to speak for all superintendents but it would seem to me that... [LB463]

SENATOR ASHFORD: Well, for you then. [LB463]

MATT RAY: ...it would seem to me that if all the superintendents agreed to that as part of the goals initiative or the issue to address truancy then I would believe that would be acceptable. [LB463]

SENATOR ASHFORD: Okay. Okay. I think I get the difference. [LB463]

MATT RAY: Uh-huh. [LB463]

SENATOR ASHFORD: Thanks, Matt. [LB301]

MATT RAY: Uh-huh. [LB463]

SENATOR ASHFORD: Any other questions of Matt? Thank you. Thanks, Matt. [LB463]

MATT RAY: Uh-huh. [LB463]

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SENATOR ASHFORD: Thanks for all your work on this. [LB463]

MATT RAY: Thank you. [LB463]

SENATOR ASHFORD: Any other neutral testifiers? Okay, I think I'll just introduce...conclude, and we have one last bill to do today. What is the number on it? LB301. So thank you. Brad Ashford, Legislative District 20, and I'm here to introduce LB301. [LB463]

SENATOR LATHROP: Welcome. [LB301]

SENATOR ASHFORD: Thank you. It's great to be here, Mr. Vice Chair. The real Vice Chair is here. [LB301]

SENATOR LATHROP: The real Vice Chair. [LB301]

SENATOR ASHFORD: Senator Larson. LB301 is a cleanup bill to address the process for sealing juvenile records. The Judiciary...and this is a bill, a companion bill, to the other bills involving sealing of the records. The Judiciary Committee held hearings in Omaha and in Grand Island on the implementation of LB800 from 2010. Much of the testimony at the hearings was directed at technical problems with the implementation of these provisions. LB301 would provide the following changes. It removes the age 17 trigger for the automatic initiation of the sealing process. It initially did that but then, upon further discussions, it was suggested that we put it back in. So actually, this amendment, though it takes it out, we're putting it back in again eventually. It provides for juvenile records to be sealed where a juvenile was taken into custody or arrested and charges were filed but later dismissed. It extends the time frame for hearings on a motion to seal the record from 30 days to 60 days. It limits the agencies and treatment providers to which notice of the sealed record must be sent, which has been an issue that has been identified to us on many occasions as a problem; provides that when a case has been transferred to a separate court notice of the sealed record must be sent to the transferring court. It expands the instances in which a sealed juvenile record may be accessed and it requires the Office of Juvenile Services to provide notice to the committing court when a juvenile is discharged from its care and custody or is discharged from parole. And again, I don't know if Liz Neeley is here, but as I've done so many times thanking her and the Minority Justice Committee for their work on this matter and other matters. [LB301]

SENATOR LATHROP: Terrific. Any questions for Senator Chairman Ashford? Seeing none, first proponent of LB301. Your Honor, good to have you here. Looks like we got a little gun power or fire power from Sarpy County today. [LB301]

JOHN IRWIN: Yes. (Laugh) Good afternoon and thank you for allowing me to be here.

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My name is John Irwin, I-r-w-i-n. I come today to speak on behalf of the Minority Justice Committee. I was here last year when LB800 was being discussed and there was a much bigger crowd here, as I recall. But that's the way things go. First thing I would like to say is that words are important to you. I know they're certainly important to me. And I think one thing that needs to be...if not corrected but highlighted, this is not an automatic sealing bill. This bill is about an automatic notification process, because not being notified created huge problems, these unintended consequences. So that's what's going on. It's a very rigorous process, in the legislation as it currently stands, that a juvenile must comply with and go through before being allowed to have his or her record sealed. And I think I would jump off with Judge Gendler's earlier remark and that is these folks, these young folks who made mistakes, they did make mistakes, they've been asked to do some very serious things. They have to do them successfully before they can ever be allowed to apply for a sealing process. And I come here today to, I guess, just remind us all, and I know we're all well-intentioned here, what this is about is helping juveniles avoid those collateral and unintended consequences later in life. The record from last year on LB800 is full of examples. They're not here today, but I would just refer back to that record. And in a nutshell, I think what my observation is, is this; that whenever you have new legislation there's always a capacity issue. People have to deal with the statute, and I understand that. I think I have some...if I have any value to add to the conversation, I would remind the attorneys in the group. As they know, I was one of six original appointees to the Court of Appeals. We built a court. I have been there ever since. I know what it is to run a court. I was a chief deputy, as was Judge Gendler at one time, so I know what these things are about. I think what needs to be done and is being done, I'm sure, but needs to be focused on is how can we make this work as opposed to why can't it work. I think we need to think about new strategies, new ways of doing things. That's what's going on all around us. And I know everyone here appreciates that and wants to do that, but I just encourage folks to keep that in mind that there are ways to do things with the capacity we have. That's just the way it is nowadays and we can't change that. So I would ask again that we government, we the courts keep our promises to those young people that work so hard to do what we ask them to do and they want to be good citizens and avoid those consequences that we all know too well can happen in an unintended fashion. If there's any questions, I'd be happy to answer. [LB301]

SENATOR LATHROP: Great. Thanks, Judge. I see no one with questions. You must have been perfectly clear. [LB301]

JOHN IRWIN: Okay. Thank you. [LB301]

LARRY GENDLER: (Exhibit 15) Larry Gendler, juvenile judge, Sarpy County. I'll be brief here. Echo everything that John...Judge Irwin has said. Judge Irwin, Liz Neeley and others have done great work on this bill last year and this year. These proposed changes I think are important and helpful. What I really want to talk to you about is the

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perspective in Sarpy County of how this process has worked, and it's worked well. Going to leave you just a couple examples. We had a youngster named Jonathan this week who came through court. He failed outpatient treatment. He failed inpatient...intensive outpatient treatment with electronic monitoring. We eventually got him in residential care. As he sits here today in my courtroom he has a 3.8 grade point average. His prior average was roughly 2.0. He's got scholarship applications pending. I did six sealings Tuesday morning. Every one of those youngsters is either going on to college or going into the work force. This bill makes a difference. It works. The process in Sarpy County has been fairly seamless. We haven't had that many issues implementing this bill. So I thank this committee for supporting this bill last year. I encourage you to support the amendments that have been proposed in this legislation, LB301, and I'm happy to answer any questions you might have. [LB301]

SENATOR LATHROP: Judge, I don't know that we ever have anybody come in and say something like that, so...you know, tell us that we've done...we did a great job on something. Usually people are coming back going, you know that thing you passed last year, no, you missed something. (Laughter) So it's good to have you come back and reaffirm what we're doing here and certainly Senator Ashford has been committed to this concept of closing records or sealing records to give juveniles a second chance as they go into adulthood. So any questions for Judge Gendler? I see none. Thanks. [LB301]

LARRY GENDLER: Thank you. [LB301]

SENATOR LATHROP: Good to see you again. Any other proponents? [LB301]

NICOLE GOALEY: Nicole Goaley with the Douglas County Attorney's Office, Juvenile Division. We have worked hard in Douglas County. We have a few more complications, it hasn't been seamless, with the volume that we have and the different agencies that we've been working with, but all the agencies have come together to try to make sure that we're following the statute as closely as possible. We work on a daily basis with our law enforcement data review to make sure that the right charges are being sealed. We often have juveniles who may have ten counts on one petition, and perhaps it's five different incidences that were put together on one position (sic) to save the cost of additional filing fees. And we've had to look at some other ideas, for instance, filing five different petitions as opposed to one, to help the clerk's office or the court administrator's office keep straight exactly what it is to be sealed. We worked closely with law enforcement's data review to make sure that cases that have been transferred back and forth from other counties that we're not able to view exactly what the charges were, that we contact those counties and ask them to provide information so that our law enforcement's data review, again, are clear. This does take up much time on a daily basis to keep this all straight. There are well over 3,000 open dockets in Douglas County Juvenile Court and they are routinely being sealed. In addition, we've been

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given some new programs to access in Douglas County. So, for instance, some of the screens that are used are accessible to the public, so those have had to have been closed. So that even though statutorily law enforcement, judges, and county attorneys are to be able to see the record, we can't because of the fact that some of those screens have to be erased because of the public access. So there's new programs being given to us that we can access from our computers that does take additional time to reach, but at the same time we're being given access to those information. We're very excited about some clarifications in this bill with regards to dismissals, with regards to notice that's being given to prosecutors. For instance, we have a judge that provides notice by way of a disposition order that in six months, if and when the child completes, this is your notice now. We're very supportive of the intent and, as I said, again excited for the clarifications because of the...everybody wants to follow the statute and comply with it. [LB301]

SENATOR LATHROP: Terrific. Any questions? I see none. [LB301]

NICOLE GOALEY: Thank you. [LB301]

SENATOR LATHROP: Thanks for what you're doing up there. I know it's not always easy and it's not always seamless, but it's important, so... [LB301]

NICOLE GOALEY: I appreciate that. Thank you. [LB301]

SENATOR LATHROP: Yeah. Thanks for your work. Any other proponents? Any opponents? (See also Exhibit 14) Senator...and anyone in a neutral capacity? Senator Ashford has waived closing so that's going to close our hearing on LB301 and that will do it for the day I guess. [LB301]