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Transcriber's Office

Floor Debate  
February 21, 2008

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SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this, the twenty-eighth day of the One Hundredth Legislature, Second Session. Our chaplain for the day will be Pastor Doyle Karst from St. John's Lutheran Church, Sterling, Nebraska; Senator Heidemann's district. Would you all please rise. []

PASTOR KARST: (Prayer offered.) []

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

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

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

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

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

CLERK: Mr. President, priority bill designations: Senator Fulton, LB765; Senator Ashford, LB958; Senator Engel, LB878; and Senator Kruse, LB810. An announcement, Mr. President: the Business and Labor Committee will meet in room 2022 at 10:30 this morning. And that's all that I have at this time. (Legislative Journal page 637.) [LB765 LB958 LB878 LB810]

SENATOR LANGEMEIER: Thank you. Mr. Clerk, we will now proceed to the first item on the agenda, motion to withdraw LB1149. [LB1149]

CLERK: Mr. President, Senator Johnson would move to withdraw LB1149. [LB1149]

SENATOR LANGEMEIER: Thank you. Senator Gay, on behalf of Senator Johnson, you are recognized to open on the motion to withdraw. [LB1149]

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SENATOR GAY: Thank you, Mr. President. Senator Johnson is feeling ill and he asked me if I would make this motion for him. But it is a bill that he's working on that he felt needed a little more time to get together some more groups. And in the interest of the Legislature, he thought it would be in the best interest to withdraw this bill. If there are any questions though from some member, I would be happy to answer that the best I could. But this is just something that needs a little more time. Thank you, Mr. President. [LB1149]

SENATOR LANGEMEIER: Thank you, Senator Gay. You have heard the opening on the motion to withdraw LB1149. The floor is now open for discussion. Seeing no lights on, Senator Gay, you are recognized to close. Senator Gay waives closing. The question before the body is, shall LB1149 be withdrawn? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1149]

CLERK: 26 ayes, 0 nays, Mr. President, to withdraw LB1149. [LB1149]

SENATOR LANGEMEIER: LB1149 is withdrawn. Mr. Clerk, next item, General File, LB766. [LB1149 LB766]

CLERK: Mr. President, LB766, a bill by Senator Cornett. (Read title.) The bill was introduced on January 9 of this year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are Judiciary Committee amendments pending. (AM1865, Legislative Journal page 620.) [LB766]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on LB766. [LB766]

SENATOR CORNETT: Thank you, Mr. President and members of the body. With the increase in the demand for copper, aluminum, brass, stainless steel, and other metals, the high cash price paid in return, metal theft has become a serious problem. As a result, thieves have been targeting businesses, public and private utilities, homes, schools, and churches and even nonprofit organizations stealing millions of dollars' worth of metal. I am going to go ahead and open on the committee amendment when I am done explain what the bill basically does. Metal has been stolen from industrial yards, copper gutters, downspouts on churches, and even aluminum handrails. There are just a couple of examples that have recently occurred in Nebraska. First, just a couple of weeks ago in Grand Island, thieves stole more than \$3,000 worth of metal, copper from Southern Power. As a result of the loss, utility officials speculated that the cost for services would likely go up if the thefts continued. Second, in Omaha thieves stole four tons of copper from a Kiewit construction lot, a home for sale in July lost an air conditioner, and in May a Habitat for Humanity house lost \$50,000 worth of copper. This is also a problem across the country where the beer industry loses an estimated

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300,000 kegs every year, costing the industry \$50 million each year. Cell phone companies have lost millions of dollars due to metal thefts from cell towers and landlines. Realtors have cited that thieves set up appointments to tour houses only to return to strip them of their copper wiring. Schools under construction have lost materials and even local baseball fields have electrical circuitry ripped out, disabling their pitching machines and snack bars. These metal thefts also create a serious public safety issue. Thieves have been targeting infrastructure items such as guardrails on highways, light posts, manhole covers, railroad tracks, and stadium bleachers. Thieves have stolen 500 feet of copper wire from Union Pacific tracks, 1,200 feet of copper wire from Omaha streetlight project in August. Thieves stole copper gas line from an Onawa, Iowa, home which led to the explosion and the killing of an unsuspecting 80-year-old owner. In the attempt to prevent metal theft, LB766 is a bill that establishes a recordkeeping requirement for scrap metal businesses that engage in the purchase of regulated nonferrous metals and stainless steel beer kegs with the general public. For those of you who may not be familiar with the different types of metal, ferrous metals and alloys are iron-based materials such as alloy steels, stainless steel, and cast iron. Nonferrous metals do not contain iron, such as aluminum, tin, copper, and brass. As all of you know, working on a bill is very similar to working on a house or a garden--it is a work in progress. This bill is no different. In working with the parties who will be affected by this bill, we have basically rewritten the bill and given the amendment to the Judiciary Committee, who were kind enough to pass it along with this bill. Having spoke to Senator Ashford, I will take the time to explain the amendment, the committee amendment. The committee amendment would require scrap metal businesses to maintain a record of all purchases involving nonferrous metals and beer kegs. For these transactions, scrap metal businesses would be required to record certain information relating to the purchase--for example: the name and address of the recycler; the name and signature of the individual entering the information; the date and time of the transaction; weight and grade of the regulated material; description of metal purchased; amount of consideration, the amount of consideration must be in the form of a check unless the purchase is less than \$25; name, signature, date of birth, and address of the vendor of the metal; operator's license number, state identification card number, or other government ID issued of the person delivering the regulated material; a photocopy of the identification card; a fingerprint from the person delivering the regulated metal; and a photograph or video of the regulated metal. This information must be retained by the scrap metal business for not less than one year after the date of purchase. Law enforcement would retain the right to inspect the regulated metal property or records maintained by the scrap metal business during usual and customary business hours. No purchases of regulated metal could be made from any person under the age of majority, any person who does not possess a valid form of identification, or beer kegs which the serial number has been defaced. LB766 exempts purchases of a manufactured, industrial, or commercial vendor, property in the form of beverage or food cans, and certain recycling programs. This bill will also allow for the cities to have stricter ordinances than the state law if they feel this is needed. Failure to follow this act is a

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Class II misdemeanor. Twenty states have already passed laws in 2007 to try and squelch the sales of stolen ferrous and nonferrous metal property. I would note this legislation is similar to Nebraska's pawnbroker statutes, which also require the owner of the pawnshop to keep ledger and allow law enforcement to examine records and property retained. I will ask you for the support of the bill and the amendment. Thank you. [LB766]

SENATOR LANGEMEIER: Thank you, Senator Cornett. As the Clerk has stated, there is committee amendments offered by the Judiciary Committee. Senator Ashford, as Chair of that committee, you're recognized to open on the committee amendments. [LB766]

SENATOR ASHFORD: Thank you, Mr. President. And quite frankly, Senator Cornett has laid out the committee amendments. This bill was passed out of Judiciary Committee without any objection. It is an important issue. There was good testimony on both...well, testimony on both sides of the issue, quite frankly. There was some issues that were raised. But the parties got together and the committee amendments reflect that. I don't believe there's any reason to rehash that. I know Senator Stuthman has an amendment dealing with fingerprinting and we can discuss that when the amendment comes up. But I think Senator Cornett and her staff have done an excellent job of bringing to the Legislature an issue which is serious. And quite frankly, I didn't realize how serious until the committee heard the bill. So with that, Mr. President, I would support, or move the committee amendment, AM1865. [LB766]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Mr. Clerk. [LB766]

CLERK: Mr. President, Senator Stuthman would move to amend the committee amendments with AM1966. (Legislative Journal page 635.) [LB766]

SENATOR LANGEMEIER: Thank you. Senator Stuthman, you are recognized to open on your amendment. [LB766]

SENATOR STUTHMAN: Mr. President and members of the body, my amendment deals only with the fingerprinting part of the amendment to the green copy, and it is on page 3, line 4 after the semicolon. It really takes everything out, line 5 through line 8, "a fingerprint from the person delivering the regulated metals property. The fingerprint shall be taken from the right index finger, but if the right index finger is missing, the fingerprint shall be taken from the left index finger." I am making an attempt to remove this part of it mainly because of the fact that I think that we are asking the scrap metal dealers to do a lot more. They have done a lot already. The fingerprinting of it will create a lot more paperwork, a lot more accountability from the scrap metal dealers. They have already installed surveillance equipment. The yard in my district has spent \$35,000 in equipment. They take pictures, they take pictures of the vehicles coming in, the license

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plates. They have the material brought to their yard that is dumped then in a big pile of scrap. I think that there are instances when it's very possible that a fingerprint would help identify the individual. But when law enforcement comes out to the scrap metal dealers to identify...and I'll give you an example. An example would be that if irrigation pipe were stolen from my yard, they stole six-inch pipe with Lindsay ends on it and they take it to the scrap metal dealer, they sell it; but before they sell the material, the pipe there, they cut it in half, they chop the ends off, and then it's delivered there. When law enforcement comes to me or when I go to them and say my pipe was stolen, they say can you identify your pipe. And I will go to the scrap metal dealer to identify my pipe but they're not 30-foot lengths anymore, they're 15-foot lengths. They don't have the Lindsay end on it anymore. So I really can't identify my pipe. Yes, I know it's my pipe, but it don't have my name on it, it don't have the ends on that I thought it should have on. And then law enforcement will not prosecute because I can't identify the product that was stolen. We all probably know that that is the product that was stolen, but to prove that that is mine, I can't do that, I won't be able to do that. Even if you have the fingerprint. So I think we're trying to ask the scrap metal people to do more things and that they will have to keep a record of that fingerprint. And is that going to be of any value down the road to getting my pipe back? I just really don't think so. So I don't think there's any value in fingerprinting and adding another thing for the metal industry people to do when we can't get law enforcement, judges to prosecute the people that have stolen. The majority of the people, you know, are doing a very good job--99.9 percent of the people that are bringing stuff to these scrap metal dealers are honest people. But we're going to make those scrap metal dealers do one more thing so we can hopefully catch that one person. And it's going to take some time. The scrap metal dealer in my area has between 100 and 200 customers a day come in there. So that's...it's going to involve a lot more. It's going to take more time. We're asking more of them to try to catch these people. But when we think we have them caught, they're not prosecuted anyway. That is the issue that I have a concern with. I'm going to listen to the debate but I would like to remove that fingerprinting process out of the bill. Thank you, Mr. President. [LB766]

SENATOR AGUILAR PRESIDING [LB766]

SENATOR AGUILAR: Thank you, Senator Stuthman. (Doctor of the day introduced.) Senator Cornett, you are next, you are recognized. [LB766]

SENATOR CORNETT: Thank you very much, Mr. President. What I'm going to do is walk the body through what this IdentaPrint means and how long it will take, and that this isn't a burden any more than filling out a receipt. On the police department or at banks, if you've gone there recently to cash a large check, before you can cash a check they take what's called an IdentaPrint. It's your one index finger, either on your right hand or your left hand depending on if you're missing a digit on your right hand. They come in a little tab on a large roll, like stamps. If you go through the receipt book, you

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take the tab, you peel it off, you slap it on the receipt. You go through the whole book. That won't even take you two minutes to fill out the book with these little tabs. When the person gets a receipt and signs their receipt, you have a little tub that looks like a tub of Sortkwik. It's clear liquid, it's a gel. You put your finger on the gel, you put your finger on the tab, and that is it. That is the IdentaPrint. It doesn't even take two seconds. We did this all of the time on the police department for criminal citations and for traffic citations when someone did not have ID on them. The importance of the fingerprint is identity theft. It's the same reasons that if you go into a bank today to cash a large check, they fingerprint you with an IdentaPrint. I'm going to bring up an example, and this is just one of thousands literally that we experienced on the police department. There were two sisters. They looked very much alike; they were twins. The one sister had a large criminal record, the other sister had no criminal record. The sister with a criminal record, every time she got arrested or stopped, would use her sister's name. So her sister that had never done anything kept popping up with warrants for her arrest. And the only way that person could be cleared was the IdentaPrint, a single fingerprint from one finger with a clear liquid that does not stain clothing, that does not even take two seconds to do. This is very important because the fingerprint is the only true way of identifying the person that has sold the stolen material. You may have a photograph of someone. But as been pointed out, you can come in wearing a baseball cap, sunglasses. We're not requiring the scrap metal dealer to tell the person to remove hats or sunglasses or glasses. Appearances can be deceiving and people will go out of their way to change their appearance, but they cannot change their fingerprint. Part of...one of the places that we got some of the foundation for this bill was the U.S. Department of Energy's report in April 2007 dealing with copper wire thefts and how they were increasing throughout the country due to the rising prices in copper. And one of their recommendations as a countermeasure for copper theft was tracking transactions, add additional cameras at the scale or the cashier--which the bill requires--and tracking the payment by check and by taking this fingerprint. It is a very important part of the bill and it will prevent people from being wrongly accused or wrongly prosecuted for theft. Thank you very much. [LB766]

SENATOR AGUILAR: Thank you, Senator Cornett. Senator Burling, you're next and you're recognized. [LB766]

SENATOR BURLING: Thank you, Senator Aguilar, members of the body. I stand in support of Senator Stuthman's amendment and I thank him for bringing it. I had a speech similar to his prepared but he said all the right things that I wanted to say, too. And I just think that...I understand the problem. And Senator Cornett is right, there is a problem out there. I just don't happen to think that this is the solution. I think there's a better solution than this, but this is an attempt to address the problem. But I think it puts a lot of responsibility on the secondary recyclers. They are people that did not cause this problem. They had nothing to do with this problem of theft. They're a legitimate business that's serving the society and I think that this is just too much responsibility on

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them. I think they have plenty of information to go by without the fingerprinting. And as has already been stated, the problem of prosecuting is because of inability to identify the product after it's been altered and to prove that it is stolen property. So I don't think the fingerprinting part is necessary. I do hope that if the bill advances it does help some with the problem, but I think there's a different approach that might be better. But I will support AM1966. Thank you, Mr. President. [LB766]

SENATOR AGUILAR: Thank you, Senator Burling. Senator Fulton, you are next and recognized. [LB766]

SENATOR FULTON: Thank you, Mr. President. Would Senator Cornett yield to a question? [LB766]

SENATOR AGUILAR: Senator Cornett, would you yield? [LB766]

SENATOR CORNETT: Yes. [LB766]

SENATOR FULTON: Senator, the...well, to provide some background to the body, this is something that I had worked on previously. I became aware that you were interested in it also and we collaborated on this bill and then you very graciously took it and prioritized it. As I understand it, there was an accord struck and that accord is reflected in the bill that you brought forward...actually, in AM1865. Is that an accurate assessment? [LB766]

SENATOR CORNETT: Yes. There were a number of people that came down and testified in favor of the original bill, but there were also a lot of opponents. Senator Ashford asked myself and my staff to sit down with the lobbyist for the scrap metal dealers and the larger dealers and work out an agreement. In general, the amendment is in response to the scrap metal dealers. There were only a couple smaller dealers that were opposed to the fingerprint part, but because it is so necessary in regards to prosecution we had to leave that in the bill even with their objections. But it is just a single IdentAPrint; it is not a full set of fingerprints, you don't have to be trained to take it, and it only takes about two seconds total to do. [LB766]

SENATOR FULTON: Okay. It seems to me that if part of...thank you, Senator Cornett. It seems to me that part of what's going on here is trying to slow the process. I'm in favor of Senator Cornett's bill and I'm also going to be in favor of AM1865. I have reservations about AM1966, however. Let me, if I could for the body, explain what's going on here. If one is stealing metal, they're stealing the metal because there's a price attached to it. There has been a proliferation in the pricing of precious metals, and there are reasons for that. But that's why metals are what we're talking about here, because they are valuable. There's a higher value today than was the case maybe 10 or 15 years ago. So those who steal the metals want to get money for the metal. And the primary place

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where they're able to get money for the metal would be at a scrap metal dealer. It would be in the interest of the thief to get the money and to be out without any identification. This bill sets up a sort of deterrent as well as a mechanism by which these thieves can be identified and prosecuted. So it seems to me that having this fingerprint model in place--which according to Senator Cornett is not overly onerous and which apparently was part of the accord that was struck in moving this bill forward--this seems reasonable. If you can't identify the thief, you can't prosecute the thief, and that's part of what we're trying to do here. We're trying to set up mechanisms by which the thieves have a harder time stealing metal. So for that reason I'm going to be against AM1966 and I will listen intently to the remainder of the debate. Thank you, Mr. President. [LB766]

SENATOR AGUILAR: Thank you, Senator Fulton and Senator Cornett. Senator White, you are next and you are recognized. [LB766]

SENATOR WHITE: Thank you, Mr. President. I rise in opposition to the amendment to take out the fingerprints and I'd respond to Senator Stuthman's legitimate concern. One of the great frustrations for law-abiding citizens, especially those who are victims of crime, are recognizing that they found their property, they think they know who did it, but there's no prosecution, or if there is there's not a conviction. And of course the part that is ironic is Senator Stuthman wishes to remove the most effective aspect of this bill to ensure prosecution and conviction, which is a fingerprint. Now I understand it's burdensome; I truly do understand and I don't like to unduly burden any industry. But we are facing a potential crisis. As copper, aluminum, steel, iron continues to increase in value, opportunistic thefts are going to increase as well. NPPD, OPPD just spoke to me again and reiterated that this is going to be a serious--not only economic crime. People are going to be injured or killed because of the theft of these metals. This is a serious matter. We need to stop it now. And if it does discourage the fast disposal of scrap metal, I would submit that's not entirely a bad thing given the reality that increasingly a lot of it is stolen. And I appreciate Senator Stuthman's concerns, but if we want effective prosecution conviction and if we want to stop what will become a real crisis in the early stages, this is a reasonable and effective means to do so. Therefore I urge you to vote no on the amendment but to move the bill forward as the committee has put it out. Thank you. [LB766]

SENATOR AGUILAR: Thank you, Senator White. Before we go on, I'd like to recognize the Speaker for an announcement. [LB766]

SPEAKER FLOOD: Thank you, Mr. President, members. We do have a quick reminder today. Prior to adjournment tomorrow is the deadline to designate senator and committee priority bills. Again, both my office and the Clerk must receive a copy of your designation letter prior to adjournment tomorrow on Friday. Also prior to adjournment tomorrow is the deadline to submit a letter requesting a Speaker priority bill designation.

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It is my intention to hold firm with the deadline being adjournment, so please keep this in mind. We did turn away two people last year. With respect to letter of request for a Speaker priority designation, this is a primary source for me when I review the bills over the weekend. So please, if possible, outline in your letter the rationale as to why you want me to pick any particular bill as a 2008 Speaker priority. After reviewing the bills and the request letters over the weekend, I will notify everyone on Monday of the 25 bills that have been picked as Speaker priorities for 2008. Just a quick reminder: tomorrow at adjournment is the deadline. Thank you. [LB766]

SENATOR AGUILAR: Thank you, Mr. Speaker. We're now going back to debate on AM1966. Senator Wallman, you're next and you're recognized. [LB766]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, support Senator Stuthman's amendment. It seems like there's lots of thefts going out in the country, whether it's fuel, whether it's irrigation pipe. But we can't put a finger on whose it is. So it's going to get sold by somebody. And the scrap metal dealers are doing, I think, about the best they can. And so why make it any tougher on the small-time scrap dealers? They know who brings in the junk or scrap. So I would urge you to support Senator Stuthman's amendment. Thank you. [LB766]

SENATOR AGUILAR: Thank you, Senator Wallman. Senator Stuthman, you're next and recognized. [LB766]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have been listening very closely to the debate this morning and been thinking about the process, the process of taking the fingerprint of the individual, then they say they can identify the thief. Yes, that may be true. But how are we going to identify the product that the thief has taken when that has been dumped in the barrel of copper with everybody else's copper that they brought in? Are we going to get to the point where we're going to have to tag and identify every individual's that brings it in so we got to hold that for three days or a month with a tag and identification on it because that was the product that he brought in? I just feel that this is not going to help in the fact of prosecution. Yes, it will identify the individual. But when you bring the evidence to the law enforcement, to the courts when he's being tried and they will say, is this your copper that was stolen from the person that had some stolen. And he'll say well, I don't know for sure, it looks like it but it don't have my name on it. It's not identified; it's in the bucket or the barrel with the rest of the copper. They're going to say well, it's probably in there but we really can't say for sure that this individual with a fingerprint has stole that copper from me. I just received word this morning that six miles of copper was stolen in Hawaii from streetlights. You know, that's a lot of copper. Now I would say the streetlights probably did go out for a while and they maybe could identify it. I visited with our county attorney about how many cases have been prosecuted. And she says yes, there are several, but I'll tell you why they got them prosecuted: it was some copper

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stolen from a business, it was wet, the ground was wet, footprints were taken, they were perfect, the product had the name of the person on it that it was stolen from. So it had an identification. When they steal this copper wire from high line poles, how are you going to identify it? How are you going to identify it even if you have the person with the fingerprint on there that was stolen? I think it's going to be thrown out. I think it's going to be thrown out. And I just...I'm so concerned that we're going to put another burden on the scrap metal people, which they already have spent thousands of dollars on trying to curb this problem. I just have a real concern with that. I don't think we're going to accomplish what we really want to get, and that is the prosecution of the people that are stealing this copper wire or aluminum or the precious metals. I just...I have a real concern that we're adding something to it. And then I would also like to add, too, that...how many people have seen people come to these scrap metal places and sell their material? What do their hands look like? They usually got grease on them. When you take the fingerprint it's going to have grease. Is that going to be official? [LB766]

SENATOR AGUILAR: One minute. [LB766]

SENATOR STUTHMAN: Is that going to be official? Are they going to be able to take that? Are they going to identify that guy's fingerprint? This is a real concern that I have. I just think that we're putting another burden on the scrap metal people that they have to do and it will be to no avail in the prosecution of the individual. And I ask your support on this amendment. Thank you, Mr. President. [LB766]

SENATOR AGUILAR: Thank you, Senator Stuthman. Senator Kopplin, you are next and you are recognized. [LB766]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. I believe Senator Cornett has brought a good bill. I'm going to support it. I'm going to support the committee amendments. I'm also going to support Senator Stuthman's amendment, perhaps for different reasons than some of you may have. I don't have any scrap metal for sale, I don't intend to get any scrap metal for sale, and I sure don't intend to be fingerprinted for anything. Little by little our personal freedoms are disappearing. And we've heard talk this morning about, well, this is an ideal way to catch a thief. I am not a thief. I don't need my fingerprint taken. Why? So that we can help law enforcement say okay, we found the guy that...we have the fingerprint of the guy that has brought this scrap metal in. Well, you also have 99 fingerprints of people that did absolutely nothing wrong but were forced to give a fingerprint. That just strikes me as wrong. It's an invasion of my own personal feelings about liberty and how I need to conduct my life. I am not a thief, I don't need to be fingerprinted. Even though I don't have scrap metal for sale, it could apply to anything. It's a personal thing for me. I'm going to support Senator Stuthman's amendment. And if it passes or doesn't pass is irrelevant really because I will end up supporting the bill. Thank you. [LB766]

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SENATOR AGUILAR: Thank you, Senator Kopplin. Senator Langemeier, you are next and you are recognized. [LB766]

SENATOR LANGEMEIER: Mr. President, members of the body, would Senator Cornett yield to a question or two? [LB766]

SENATOR CORNETT: Yes, I will. [LB766]

SENATOR LANGEMEIER: Thank you. I just have some clarifying questions. In Schuyler we have a recycling center where we take newspapers, we take plastics. And as part of that, we have a big building, and that's expanded, where we now have a bay where people can come drop off tin cans, aluminum cans, metal. We even get copper dropped off--people have a little piece in their basement. So when they bring us their pop cans and they bring us their plastics and their newspapers, they drop that off. Would we have to start fingerprinting and going through this process to those people that come on Saturday morning and drop stuff off? [LB766]

SENATOR CORNETT: The bill works on exempting recycled materials in the form of beverage and food cans and certain recycling programs. I would have to look at your individual recycling company to see if it fell in the plan or not. [LB766]

SENATOR LANGEMEIER: Okay. That's a concern I have. It's a nonprofit. My wife happens to sit on the board. I donate the building that they do it in. [LB766]

SENATOR CORNETT: I was going to say, we worked with the recyclers on this also. [LB766]

SENATOR LANGEMEIER: That's a concern I have. And then to follow that up, as being the spouse of a board member I get the opportunity once a month to bail all that stuff up and haul it to Columbus to the recycling center. So if I get over there and tell them I don't know where it came from, all I know is somebody dropped it off on every other Saturday when they come and drop it off, and we bail it together when I have enough for a pickup load and I haul it over there. So where it came from I don't really know. I doubt people are stealing it and dropping it off at us, because they don't get anything for it. It's just something they drop off on Saturdays. I have a concern that this outreach is farther than we need to go. I do recognize the problem with the theft. I know I just built a new house myself and that was a concern, as I put my own copper pipe in. Everybody said, oh, aren't you scared somebody is going to steal it away from you. And so we guarded that pretty heavily when we built the house. As a matter of fact, I have a bucket of copper that were spare parts as I did that adventure, as I screwed things up and had to start over. I have a good five-gallon bucket full of little pieces myself. I look forward to go selling and get my money back. So that's a concern I have, is that we, in doing a good deed with this, that we don't get too overreaching and reach out there and have

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unintended consequences that are beyond our control. Thank you, Senator Cornett. [LB766]

SENATOR AGUILAR: Thank you, Senator Langemeier and Senator Cornett. Senator Cornett, you are next and recognized. [LB766]

SENATOR CORNETT: Yes. Again, I want to stress how easy of a process this is. Senator Stuthman keeps talking about the burden we're placing on a scrap metal dealer. This is a tab that would go right on the receipt and would be restored with the receipt. It will not take time to do, it will not take any extra storage to do. In regards to his concern about having any other materials on their hands, as long as there's a fingerprint; having come from a criminal justice background, you can get a fingerprint off of a lot of different items or in different materials or if something is on someone's hand. With that, though, and with my concerns in wanting to protect people that have not stolen material and someone might be using their name or identification, would Senator Pirsch yield to some questions, please? [LB766]

SENATOR AGUILAR: Senator Pirsch, would you yield? [LB766]

SENATOR PIRSCH: Yes, I would. [LB766]

SENATOR CORNETT: Senator Pirsch, you were a prosecutor, am I correct? [LB766]

SENATOR PIRSCH: That's correct. [LB766]

SENATOR CORNETT: Isn't it very common for someone to use someone else's name when they are given a criminal citation? [LB766]

SENATOR PIRSCH: Yeah. With the volume that we have, especially in Douglas County, in does happen. [LB766]

SENATOR CORNETT: And how do you clear the person whose name was used wrongly? [LB766]

SENATOR PIRSCH: At the same time that the ticket is written, the officer will take a fingerprint. And when the identity is in question, then the fingerprint will be examined. And that really is a unique identifier and lets the authorities know that that was the individual or it wasn't. [LB766]

SENATOR CORNETT: Do you see the fingerprint as an important part of this bill in regards to prosecution? [LB766]

SENATOR PIRSCH: Well, I think it's important to make sure that you have the right

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individual. And with respect to the fingerprint, that is, as I said, a very unique identifier. No two fingerprints are the same. And a good source of ensuring, especially when it comes to prosecution, that the individual in question that you're prosecuting is in fact the individual who did commit the crime. [LB766]

SENATOR CORNETT: Senator Pirsch, in your experience at the prosecutor's office, did you see a problem with metal theft? [LB766]

SENATOR PIRSCH: Oh, sure. Quite a significant number of metal thefts over the years, you bet. And it really was before this escalation in prices. I practiced as a prosecutor for about a decade, and so...resigned in '97 (sic) when I was seated here. But yeah, even at that point in time...and a number of different situations including new home construction, as Senator Langemeier had touched upon, in that context. [LB766]

SENATOR CORNETT: Thank you very much, Senator Pirsch. I understand some of the concerns that Senator Stuthman has brought up, or the points that Senator Wallman brought up. But they're looking at it from a small scrap metal dealer's perspective. The larger scrap metal dealers are not going to know the people that come in. They're not going to say, oh, I see him every week, oh, I know who he is. They have to have...and the police have to have a way of identifying the person and identifying the person correctly. And it is not just copper wire theft we're talking about. [LB766]

SENATOR AGUILAR: One minute. [LB766]

SENATOR CORNETT: There is a large amount of copper wire theft, but I have photographs that I'd be happy to copy and pass around. The theft has gotten so bad in the metro area that they're stealing brass grave markers. These are identifiable. They try and break them up. If someone comes in and tries to sell a brass grave marker that has been broken, obviously the scrap metal dealer should question that to begin with. But if they don't, that is something that the family can identify. Thank you very much. [LB766]

SENATOR AGUILAR: Thank you, Senator Cornett and Senator Pirsch. Senator Fulton, you are next and you are recognized. Before he starts talking, I'd like to announce that the apples being distributed right now are in honor of Senator Hudkins' birthday. Senator Fulton. [LB766]

SENATOR FULTON: Thank you, Mr. President. That's hard to follow. The fingerprinting element of this bill, Senator Kopplin raises a very good point. And that is that we're going to be taking fingerprints of people who have done nothing wrong, and that could be construed as an invasion of someone's personal liberty. It could be construed such, but there are plenty of examples and precedents by which we take fingerprints in order to have a proper mode, a mechanism by which we can identify people. The conceal and

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carry bill that was passed here sometime before I was in the Legislature, I believe that was part of the remedy. So law-abiding citizens who want to be permit holders for conceal and carry of a firearm have to be fingerprinted. So these are people who have done nothing wrong, yet still have to give a fingerprint. And that was part of...I don't know if it was a negotiation or what it was that went forward, but there we have an example of individuals who are fingerprinted who have done nothing wrong. We go through all types of identity processes in order to get driver's licenses, for example, Social Security cards, what have you, benefits from the state or from the federal government or what have you. So, I mean, I recognize Senator Kopplin's argument here and it's one that we should all be sensitive to. But let's take a look at what has occurred by way of precedent. We're not asking any more of citizens than what is asked in other venues where there have been concerns about the proprietary nature of the actors involved. Conceal and carry is the prime example. I just talked with Senator Hansen and he indicated that when he got his permit, he had to get fingerprinted. There has to be a way in order to positively identify one who has done wrong. If this industry weren't the venue by which these criminals are finding their money, then there would be no concern. But the reality is that those who have stolen metals go through these salvage yards or through the secondary metal dealers. And so it doesn't seem unreasonable to me that we have some way of identifying the bad guys. So with that, I'll continue to be opposed to AM1966. I do thank Senator Kopplin because he brings forward a legitimate argument. I just think that by way of precedent the argument is not such that we shouldn't...or that we should vote for AM1966. I think that we should oppose AM1966. Thank you, Mr. President. [LB766]

SENATOR AGUILAR: Thank you, Senator Fulton. (Visitors introduced.) Senator Stuthman, you are next and recognized. [LB766]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have a little bit of a concern of some of the comments that were made by Senator Cornett, and the fact that it's going to be very simple to take the fingerprint. Yes, I can see that. But I don't know whether she's ever been at one of these scrap metal places and the amount of people that are there. The one that I have in my community, in my district there, there are probably 3 or 5 people waiting in line standing there to get their money from their scrap metal, 100 to 200 people a day. And if you have to add the next process of fingerprinting them, which they already have identification because anything that is \$20 or less is cash. Over \$20 is paid by check, you have to show your driver's license in order to get the check. You have to give your identity. It was brought up, well, some people give the wrong name. Well, they may do that, they may give the wrong name. But do they have their wrong name guy's or gal's driver's license with them, too? I mean, they're doing that already. And I would like to engage in a little conversation with Senator Pirsch, if he'd answer a question or two. [LB766]

SENATOR AGUILAR: Senator Pirsch, would you yield to a question from Senator

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Stuthman? [LB766]

SENATOR PIRSCH: I would. [LB766]

SENATOR STUTHMAN: Senator Pirsch, as far as prosecuting a person or a crime and you have the individual identified with the fingerprint and he stole copper wire from a power company, do you have to have the identification of that copper wire? Does the power company have to prove that the copper wire is theirs that's in that big pile of copper wire, otherwise it's possible that they won't be prosecuted? Or do they prosecute them just because they think it's in that pile? [LB766]

SENATOR PIRSCH: Well, I think in the context that we're talking here today about crimes, someone taking this material and attempting to get cash value out of it, typically the crime that would be looked at here would be...not the charge of theft, but rather receiving or possession of stolen property, unless there's some sort of video tape or some sort of eye witness that can testify as to the original theft of it, which typically there...I guess we're assuming in this scenario there's not. This is just where someone appears at a recycler to redeem metal for cash. In that case, with respect to looking at receiving stolen property or possessing stolen property, you would have to demonstrate, it's an element that you'd have to prove beyond a reasonable doubt, that the property was the stolen property or belonged to another. So yeah, that would...you would have to demonstrate that that property was stolen property. [LB766]

SENATOR STUTHMAN: And that would be enough evidence to convict the person that they have identified of his fingerprint, just because that there's, you know, 20 pounds of copper wire in that pile of 40,000 pounds of copper wire, the court system or the judge is going to say yes, that is in that pile? Is that enough evidence? Is that enough evidence to prosecute the individual when you have the fingerprint of that individual? I'm not talking about prosecuting the scrap metal dealer for receiving stolen property. I'm talking about being able to prosecute that individual for bringing that there when he really...when the individual, like myself, cannot identify my copper wire in that big pile. [LB766]

SENATOR PIRSCH: Right. I think that there would have to be identification of the goods as being stolen goods. It's...I mean, the fingerprint really goes to speak to who the individual who brought it in was so that, you know, oftentimes people deny that they were the ones who brought it there. And so the fingerprint goes towards identity of the individual who brought in the material. But you would have to establish that the goods were taken from the... [LB766]

SENATOR AGUILAR: Time. [LB766]

SENATOR STUTHMAN: Thank you. [LB766]

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SENATOR AGUILAR: Thank you, Senator Stuthman and Senator Pirsch. Senator Cornett, you are next and recognized. [LB766]

SENATOR CORNETT: Thank you, Mr. President. Senator Stuthman, I want to walk you through a little bit of, we'll say, maybe criminal procedure. Very few people in this society commit crimes. There are a large number of crimes. When you have a rash of burglaries in an area and you have no idea who has done them but you catch, you get a fingerprint--that fingerprint isn't in the system--at one of the residents that there is a burglary at. The police get a call for a burglary in progress and they catch an individual burglarizing a house. That person's fingerprint now has been found at all of these other locations that were burglarized and they can establish or have credence to the fact that he was at the other homes that were burglarized and you can clear a large number of these. Even if the theft that...the copper that is being brought in can't be immediately identified as the stolen property, if they catch a person in the process of committing a copper theft, they go back and they check the records. They have, at the scrap metal dealer, this person bringing in repeatedly copper wire, ferrous and nonferrous materials, and they have their fingerprint on file. Now that will not establish guilt, but it is one more step towards prosecution. The most important aspect though of the fingerprint is for the innocent. It is not for the guilty, it is not for prosecution. I'm going to give you a little story. Brenda and I have been friends for years, my LA. The other night we were at a function in my district. Somebody comes up to me and says have you played racquetball lately. I don't play racquetball. We looked similar enough that we are confused for one another on a regular basis. Brenda has access to my purse, my wallet, my Social Security card, all of my identification. Identity theft is a huge problem in this country. It is very easy to get a driver's license or Social Security card under someone else's name. I know Senator Pedersen has a twin brother. Senator Pedersen's brother looks enough like him that I have mistaken, and so have other people I know, his brother for him. His brother has all of his information. He could get a driver's license, most likely, under his brother's information. How do you tell one person from another if they have identification on them? How do you protect the innocent person that has not went in and sold the stolen material? The only way to do that is this fingerprint. And yes, I understand the lines and the number of people that come into these facilities. But again, I want to remind the body--all this is, is picking up your hand, dipping it on a pad of gel, and moving it over to a piece of paper. It's a one-step process. It will not even take as long as signing their name. Thank you. [LB766]

SENATOR AGUILAR: Thank you, Senator Cornett. (Visitors introduced.) Continuing debate, Senator White, you are next and you are recognized. [LB766]

SENATOR WHITE: Thank you, Mr. President. I was moved by Senator Kopplin's comments. I find myself in sympathy. But I also have to deal with the reality of how commerce is increasingly done today. It is really common for people signing checks,

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entering into different transactions now to also provide fingerprints. They are also starting to do electronic fingerprinting where you, if you have a cash debit card, you put that in and you put a fingerprint. That's just starting to happen. I don't know that I like it. I'm not comfortable with it. I, like Senator Kopplin, much prefer my privacy. But I have to tell you, commerce is doing it anyway. And while I respect a distrust to government--having spent my life representing people in civil rights cases, I understand it--I also know that the people that are losing out in this are all of us, the victims, because if our public power systems are stripped of copper we will directly, each and every one of us, pay for it. Farmers are some of the biggest victims because of the theft of irrigation pipe. We can stop this. We can stop this by finding fingerprints at the scene, comparing them to the database of fingerprints in recent large sales of scrap in our area, and we will catch these people and we'll put an end to it. Or we can choose to let it grow into a larger and larger crisis. I recommend that we look at this as we do DNA. Originally people thought DNA would be a horrible invasion of privacy, that it would be bad for people accused of crimes. Just the opposite. The increase in accuracy in the criminal process actually promotes civil liberties. We catch and jail the guilty. The innocent are never investigated, accused, or inconvenienced. Thank you. [LB766]

SENATOR AGUILAR: Thank you, Senator White. Senator Ashford, you are next and recognized. Is Senator Ashford on the floor? We'll go to Senator Nelson. Senator Nelson, you are recognized. [LB766]

SENATOR NELSON: Thank you, Mr. President, colleagues. I wanted to direct some questions to Senator Cornett, but I don't see her on the floor right now. Let me just make a comment perhaps while she's returning. I listened to Senator White's comments just about irrigation pipe and I've had some experience with that. And I just, I seriously question...you take a farm, you've got a bunch of irrigation pipe out there. Someone can come by cover of night. I seriously question whether you're going to find any fingerprints on that pipe. You may, I mean, if there are some, yes, you might be able to find it. But anybody working with that heavy iron or material is going to wear gloves anyway. And so we come right back to the problem: how are you going to identify the property? Would Senator Cornett yield to some questions? [LB766]

SENATOR AGUILAR: Senator Cornett, would you yield? [LB766]

SENATOR CORNETT: Yes. [LB766]

SENATOR NELSON: Senator, I hope and pray that Brenda never becomes a criminal and starts giving your name when she's caught for driving drunk or something of that sort and cause you all sorts of problems. I share Senator Kopplin's sentiments. I'm a great one for privacy and I resist at every effort having someone take my fingerprint if it's not absolutely necessary. I see in the bill here that they're going to be required to take a photograph of the operator's license. Isn't there a photograph on the license itself

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of the individual? [LB766]

SENATOR CORNETT: Yes, but I don't know about your photograph on your driver's license, but mine is not that wonderful. And by the time you photocopy it, it's going to be very indistinct. Plus, most photocopies are black and white; you wouldn't be able to tell eye color or hair color. People wear contact lenses to change the color of their eyes all the time. [LB766]

SENATOR NELSON: But certainly there's other information on that operator's license. The image may not be very good, but at least you've got a photocopy of that and the license contains other information that would lead the law enforcement officer to be able to locate the person whose idea it was. Would that be correct? [LB766]

SENATOR CORNETT: What if that ID is stolen or the identification of the person has been stolen and a driver's license or a state ID card has been issued under that stolen identification? [LB766]

SENATOR NELSON: All right, I will grant you that. Is taking someone's fingerprint going to solve all of that, if you can't find fingerprints on any of the stolen property? [LB766]

SENATOR CORNETT: Again, I'm going to stress the fact that the fingerprint is not necessarily for prosecution. It can be a component of prosecution, but it is to protect the innocent person whose identification may have been stolen. There has been a significant link between methamphetamine use and copper wire theft. A lot of the people that engage in...who are drug addicts also engage in identity theft for check cashing and for other means to feed their habit. So they have multiple IDs on their person. And it is to protect the person whose ID may have been stolen. [LB766]

SENATOR NELSON: Thank you very much, Senator Cornett. Would Senator Pirsch yield to a question or two? [LB766]

SENATOR AGUILAR: Senator Pirsch, would you yield to a question from Senator Nelson? [LB766]

SENATOR PIRSCH: I would. [LB766]

SENATOR NELSON: Thank you, Mr. President. Thank you, Senator Pirsch. I'm not downplaying the seriousness of this at all. I think we have a grave problem here, especially with the theft of copper wire and other ferrous materials, irrigation pipe and everything. But we're putting the scrap dealers to a great deal of trouble here of all the things that we're requiring in this bill. And to what end? I've heard that prosecution doesn't happen very often because it's difficult, and I take it you've been involved, Senator Pirsch, in prosecution of people who allegedly have stolen these materials. Is

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that correct? [LB766]

SENATOR PIRSCH: Yes, I have been involved in the prosecution of such individuals. [LB766]

SENATOR NELSON: It seems to me that if you don't have fingerprints or some way of identifying the material, the irrigation pipe or something which may have been chopped up, that you've got a real serious problem of trying to prosecute anybody. Is that correct? [LB766]

SENATOR PIRSCH: Well, thankfully there does have to be evidence of a nexus between the stolen property and that property which we can tie to the individual. I mean, that's clear. And to be quite honest, to talk about measures that... [LB766]

SENATOR AGUILAR: Time. [LB766]

SENATOR NELSON: Thank you, Senator Pirsch. [LB766]

SENATOR AGUILAR: Thank you, Senators Nelson, Pirsch, and Cornett. Senator Rogert, you are next and you are recognized. [LB766]

SENATOR ROGERT: Thank you, Mr. President. Members of the Legislature, I want to rise in support of this amendment...or excuse me, in support of the fingerprinting provision and in support of this bill as a whole. I live in a district that is 45 minutes in most of my areas from a major scrap dealer; either in Norfolk, Sioux City, or Omaha. My hometown has had 40 break-ins in as many months, and many of these intrusions have dealt with copper being stolen from farm sites, out of buildings. And in my particular case, I have a warehouse that was broken into four times where the perpetrators cut the cable going to the buildings at the ground and they got about six foot in about ten different places of high-grade copper cable; probably about \$300 or \$400 worth of money on the scrap pile. It only cost us \$30,000 to fix, because we had to run brand new lines from the road back up to the buildings. Anything we can do to deter this operation is a plus. The folks that are doing this are looking for quick cash. They...\$300 or \$400 will buy them a lot of whatever they're looking for. They will not do it if they have any idea that they're going to get caught and put in prison for doing it. So fingerprints, waiting periods, putting them on record are all good things. We need to reel these guys in. I've heard some concerns about putting the scrap metal dealers through a lot of extra work. I don't know if you guys know too many scrap metal dealers, but I don't think they're hurting. They're doing a good job and they have a good business, they make a lot of money and it doesn't hurt them to have a little bit of regulation. Thank you, Mr. President. [LB766]

SENATOR AGUILAR: Thank you, Senator Rogert. Senator Louden, you are next and

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recognized. [LB766]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I read this bill, why, I think I would support this amendment to do away with the fingerprints on it. But I question the whole bill, what we're trying to do here. We're trying to regulate a whole industry and this is, you know, this is a junkyard industry or scrap metal or whatever you want to call it. Have any of you ever been to very many scrap metal lots or junkyards or whatever you want to call them and looked at the way they have a bookkeeping and what they do? I'm wondering if there's a problem out here and people are stealing this copper, as you're mostly saying, and perhaps aluminum, because it must be aluminum when you're talking about the beer kegs. Perhaps those should be classified as more of a precious metal and those should be regulated on how they're bought and sold rather than doing the whole bailiwick of scrap metal that comes along. I think we're starting to probably put a lot of work on an industry that usually is working on the very edge of profit the way it is. If we make it too hard on these scrap metal industries to do what they're doing, why, they'll go out of business and then there won't be any place for miles around to do anything with scrap metal. At the present time usually every community has something that's buying this metal and selling it again. And of course, iron and everything else is a lot higher priced than it used to be. As you look at the bill, when they mentioned, I think, on the first part of it when you talk about anything...any nonferrous metal, are you talking about old tractors and metal and you classify them with beer kegs, because this is all scrap metal that can be sold. Now a lot of those old machines like that have copper in them. So they can be just hauled in and sold to a scrap metal dealer. And consequently when you do that, why, then you have to have descriptions of what it was, you have to have the weight, you have to have your driver's license. There's a whole lot of hoops that you have to jump through just to sell a pickup load of iron. I'm wondering, and I'm not familiar with laws, but how are pawnshops regulated? Where are the difference in the regulations between pawnshops and what you're trying to do here? That's what I would like to see discussed, is if there's a problem like this perhaps it should be...those particular metals should be described and be regulated such as they are in pawnshops. Because if a pawnshop receives stolen property, why, they're usually the ones that are hung out to dry. So I'm wondering if this is the right way to go about this. I realize there's a problem out there because copper is high priced, so is iron a high price, shredded iron especially, and that's how these junkyards make their money is buying this material in the big squares and cut it up into little-bitty pieces so that they can sell it to something like Nucor there in Norfolk or someplace that's paying somewhere around \$280 to \$300 a ton for shredded iron so they can run it through their smelters. So I think we have to be very careful here because I think we're going to be putting some undue burdens on an industry that's been doing quite well over the years and it just so happens here in the last few years that there's been a case where copper and some of these metals have gotten high priced with your aluminum. There always has been times, I remember when aluminum was only about 20 cents... [LB766]

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SENATOR AGUILAR: One minute. [LB766]

SENATOR LOUDEN: ...a pound. We were still...you'd still have aluminum irrigation pipe stolen. But it doesn't matter the price. If there's somebody that wants some money and they figure they can get away with it, it'll probably be stolen. But I would like to see a different method done than what we are here where we're putting a whole blanket on one particular industry. Thank you, Mr. President. [LB766]

SENATOR AGUILAR: Thank you, Senator Louden. Senator Wallman, you are next and recognized. [LB766]

SENATOR WALLMAN: Thank you, Mr. President. I'd yield my time to Senator Stuthman. [LB766]

SENATOR AGUILAR: Senator Stuthman, you have 4:53. [LB766]

SENATOR STUTHMAN: Thank you, Mr. President and thank you, Senator Wallman. I just have a real concern that we're trying to, you know, identify the thief. Yes, we maybe can identify the thief with that fingerprint. You can identify the individual to that fingerprint. But I think it's got to go a lot further than that with the fact that once you have that individual identified and you think he brought in that copper pipe and there is a picture of the vehicle that he brought the copper pipe in, but when the judge gets...or law enforcement comes out there and wants me to identify my copper pipe, maybe I will have a fingerprint on my copper pipe or my aluminum pipe. That's going to be hard to find. Maybe there's going to be somebody else's fingerprint on that pipe. I just think that we're not going to be able to prosecute the individual and put him in prison for stealing that copper pipe. I know Senator Rogert said that, you know, there's a lot of stealing going on over there. Does he believe that with this fingerprint they're going to catch them all, catch half of them, and put them in prison? I would like to engage in a little conversation with Senator Rogert. [LB766]

SENATOR AGUILAR: Senator Rogert, would you yield to a question from Senator Stuthman? [LB766]

SENATOR ROBERT: You bet. [LB766]

SENATOR STUTHMAN: Senator Rogert, with having this next step of the fingerprint, how many times do you think the court systems will prosecute individuals by that evidence only? Do you think it will be... [LB766]

SENATOR ROBERT: By that evidence only? Not very many, but it will be another piece of the pie in the whole process. If we've got folks that we just need one more tie-in to

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catch them in on what they're doing when they're stealing this stuff, if we've got a fingerprint at the scene that matches a fingerprint at the recycler, we got enough to go in and check them out. [LB766]

SENATOR STUTHMAN: But right now at the present time, like a \$340 item that you mentioned in your statement before, we have the guy's driver's license. We have the number on the receipt already, in my scrap metal dealer there in Columbus. Anything over \$20, you have to give an identification. What is going to be the benefit of a fingerprint more than that identification? [LB766]

SENATOR ROBERT: Well, I guess you can't fake a fingerprint. You could have somebody else's driver's license. A lot of times they're stealing a whole bunch of things. I've had my driver's license stolen, and I'm sure it's been used for these...they stole my vehicle, they stole everything out of it, they write checks, they had my driver's license. They can do the same thing. Can't fake a fingerprint. [LB766]

SENATOR STUTHMAN: Well, yes, I will agree with that. But I just feel that we're not going to be able to deter this stealing by just adding this fingerprint. And what that's going to do is ask those metal scrap dealers to do another job when the outcome is not going to be any different than we have right now. I think those people that are doing that are going to continue to do it, and they're going to make sure that they've got grease on their hand when they have to do the fingerprint. I think that's going to be one of the things. I just am so concerned that we're going to be asking people to do more... [LB766]

SENATOR McDONALD PRESIDING [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR STUTHMAN: ...and we're not going to get any benefit out of it and we're not going to catch or prosecute the individual. I think I have had law enforcement in my community tell me that they work many hours, get everything right when they catch someone, make sure they got all they're T's crossed, their I's dotted. But then when it gets to the courts, they dismiss it. That is what I am really concerned about. It's not going to make any difference when you have that fingerprint. Yes, you can identify the person. But in the end result, I don't think it's going to make any difference and we're adding more work for the metal industries. Thank you, Mr. President. And thank you, Mr. Wallman. [LB766]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Fulton, you are next, and this is your third time. [LB766]

SENATOR FULTON: Thank you, Madam President. I will yield my time to Senator

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Cornett. [LB766]

SENATOR McDONALD: Senator Cornett, you have 4:50. [LB766]

SENATOR CORNETT: There are two points that I want to answer to Senator Stuthman. Again, this is only one step in a prosecution procedure. If you have a rash of copper thefts or you have a large amount of copper stolen at one time, you go in and look at the records. You see if a person has been pawning more than one time in a row or a lot of small amounts or one large amount if you've had a large theft. You have 25,000 feet of copper wire stolen and you have someone come in and no matter what condition that wire is in, whether it's defaced, cut up into little pieces, and they're selling a large amount, then you can go as a police officer and interview the person that came and sold that item. The other point that I would like to make, and it was reiterating what I had said earlier, and Senator Pirsch and I have discussed it, that you only look at that as a piece in making a case. You don't look at it as the end-all, be-all in a guilty verdict. It is just one more piece to a puzzle. And when you talk about why would you want the fingerprint or why is it necessary, if you have a person that has stolen copper wire or ferrous or nonferrous material and they have a stolen ID, why in the world wouldn't they walk in and say I want to sell it? They know it's not their identification, they know it's not their name, they know there's no way to link it to them. But if they have to be fingerprinted, then they know that there is a way to track them. Even if they've used someone else's name, that is proof positive that that person came into that dealer with stolen material, no matter what name, no matter what identification they used. That will stop them from bringing in the material. These people that have committed theft don't want to be fingerprinted because that is a way to prove it. They're not going to be as readily, or want to come in and say here's my stolen copper wire. Because if you don't have a means of proving it's them, what is there to stop them from doing it? Going back to Senator Louden when he was talking about he thinks that...isn't sure this, measures are necessary. I again will go back to a study done by the U.S. Department of Energy in April 2007. They did a comprehensive study on how to stop the theft of copper wires and other metals. And they made several suggestions, not just to the scrap metal industry, but to utilities, but to law enforcement, to prevention methods. But I'm going to go over what some of those suggestions are. Scrap metal dealer countermeasures to counter copper theft. The Institute of Scrap Recycling Industries is assisting the scrap metal industry in identifying stolen material through its scrap alert system. This is a system that law enforcement and the scrap dealers will work with together. And we are working with the scrap metal dealers to set up that relationship right now. [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR CORNETT: But some of the measures that they say are: one, develop working relationships with local law enforcement, utility industries, and municipalities. Identify the sellers. Again, an asterisk: identify the sellers. Collect information on the

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sellers: driver's license, ID, vehicle license plate. Unique identification for each customer. Unique identification for each customer. How more unique can you be than a fingerprint? Seller's signature, track your transactions, consider payment by check, ATM with vendor's name on it, receipts and cash transactions...and receipts for cash transactions. I'm also going to speak to Senator Louden's point on pawnbrokers. Pawnbrokers have similar measures in place on them already. It was enacted years ago. They have to follow these procedures. Senator Fulton had originally drafted a bill addressing this. [LB766]

SENATOR McDONALD: Time. [LB766]

SENATOR CORNETT: Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator. Senator White, this is your third time. [LB766]

SENATOR WHITE: Thank you, Ms. President. Just several points to Senator Stuthman: Senator Stuthman, I want you to imagine, for example, when your irrigation pipe was stolen. One of the first things a competent investigator would do is go to local scrap dealers and say, who sold large amounts of aluminum pipe, either shredded or intact in long sections? They would say, well, we don't know. But under this bill they'd say, well, he gave us this ID and here's their fingerprint. They then could go to other scrap dealers in the area and see if the same person is selling, the same fingerprint, is selling large quantities of scrap. At that point they get an ID and whether they have a previous criminal background off the fingerprint. Are they using a false ID? Are they using multiple false IDs to sell that scrap? At that point then they can go to the suspect and say, where did you get that aluminum; we now know from your fingerprint you have sold 2,000 pounds of aluminum; where did you get it? If that person cannot give a lawful and reasonable explanation, they become a prime suspect. At that point in time, the police can also go to known associates and say to them, for example: We know this guy is dirty, we know that he's stealing scrap; we got you on this embezzlement; we got you on this burglary; roll on him and we'll cut a deal with you; we already know what's going on; what's he doing? It allows the police to immediately and absolutely identify a primary suspect and one of the ways you can convict him is if somebody is selling hundreds of pounds or thousands of pounds of scrap and cannot possibly explain a lawful source for that, you can convict them. And the fingerprints can absolutely show you, because what can happen is the police can say they cannot, we've gone to these places, he sold it, he has no explanation for it, he cannot explain it or he will not explain it and we have all these thefts. And then they do metallurgical comparisons and you start making it extremely difficult for these people to do what they're doing now; that is, victimizing all of us. And I understand and respect many people in the rural areas who are speaking, Senator Stuthman, like yourself and others, Senator Louden, but the primary victims of these crimes are in the rural areas and they're selling the scrap in Omaha and in other

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cities. I hope that we can stop this and we can act to stop it. I yield the rest of my time to Senator Cornett. [LB766]

SENATOR McDONALD: Senator Cornett, you have 2 minutes and 10 seconds. [LB766]

SENATOR CORNETT: Thank you very much, Senator White. Let me go back to where I was when I ran out of time before. Senator Fulton, independent of my office, his office was working on a bill addressing this issue and we came together about the time session started and he had a bill drafted that had actually drafted it to the pawn broker section of our state statute, with the same requirements of a pawn broker. Basically, it has the same elements as our bill. We just drafted it to a different section of state statute, which shortened the bill down and made it more concise. We are not requiring the scrap metal dealers to do anything we do not ask other industries to do also, and other industries are doing on their own. Again, I go back to if you go into a check cashing business, they require an IdentaPrint now. If you go to cash a large check even at your bank, they require a fingerprint in the metro area. [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR CORNETT: I refinanced my house recently and had an escrow check from the bank that I had my home loan through. To be able to cash that escrow check, I had to be fingerprinted at my own bank. This is not something that is uncommon. It is not an onerous requirement on the scrap dealers. It only takes a few seconds. The fingerprint does not take up any more room than the receipt. It can be done right on the receipt. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Cornett. Senator Kruse. [LB766]

SENATOR KRUSE: Question. [LB766]

SENATOR McDONALD: Senator Kruse, you are the last one. Senator Cornett, you are recognized to close on your...excuse me. Senator Stuthman, you are recognized to close on your amendment. Sorry about that. [LB766]

SENATOR STUTHMAN: Thank you, Madam President, members of the body. I just feel that what we're trying to do here is to make them...the amendment that I'm trying to put there is to remove the part of the fingerprinting. I think this is an act that is not necessary. It creates a burden without a real result, because they do have identification already. And I think that if we make them do the fingerprint also, it's not going to help in the end result. There's no need for that. And we're asking the metal industry people to do another step so that we can maybe catch the people, but when we catch the people they're very seldom ever prosecuted because of the fact that I maybe can't prove the pipe that was stolen. I won't be able to prove that it's been stolen. And it will come down

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to, well, if that individual's fingerprint is on that pipe maybe then we can cross that over, and we got another method to catch the guy. But I don't think, you know, that's going to happen. We have a method in place already with the cameras. They try to catch them. They do catch some, do all of the paperwork, and they're not prosecuted anyway. I just...I just think that here's an example of trying to make people do more with no good end result. I think we're trying to catch the people and we're doing that already, but the fact is, are we prosecuting them? Are we putting them in prison? No, it's hardly ever happening. And we're adding another thing for our scrap metal people to do to hopefully solve the problem, which will not solve the problem. So I respectfully ask for your support for this amendment. I think this is something that is not needed in the bill. And I'm in support of the bill, but I need to have this portion taken out and I ask for your support on this amendment. And I would ask for a call of the house. [LB766]

SENATOR McDONALD: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB766]

CLERK: 30 ayes, 0 nays, Madam President, to place the house under call. [LB766]

SENATOR McDONALD: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Janssen, Senator Pedersen, Senator Synowiecki, Senator Chambers, and Senator Ashford. All members are here. Senator Stuthman, how would you like us to proceed? [LB766]

SENATOR STUTHMAN: Roll call vote, please. [LB766]

SENATOR McDONALD: A roll call vote has been requested. Mr. Clerk. [LB766]

CLERK: (Roll call vote taken, Legislative Journal page 638.) 13 ayes, 27 nays, Madam President, on the amendment. [LB766]

SENATOR McDONALD: The amendment fails. I raise the call, please. Mr. Clerk, items for the record? [LB766]

CLERK: Thank you, Madam President. Priority bill designations: Senator Fischer, LB846; Senator Janssen, LB965; Revenue Committee, chaired by Senator Janssen, LB916 and LB964; Senator Nelson, LB1165. Enrollment and Review reports LB268, LB624, and LB782 as correctly engrossed. Committee reports: Natural Resources Committee, chaired by Senator Loudon, reports LB798 and LB1131 to General File with amendments; Urban Affairs, chaired by Senator Friend, reports LB1056 to General File and LB1072 to General File with amendments; Judiciary, chaired by Senator Ashford,

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reports LB764, LB844, and LB958 to General File with amendments; Agriculture Committee, chaired by Senator Erdman, reports LB789 to General File with amendments; and Natural Resources reports LB1049 to General File. New resolution, LR243, by Senator Fulton; that will be laid over, Madam President. (Legislative Journal pages 639-652.) [LB846 LB965 LB916 LB964 LB1165 LB268 LB624 LB782 LB798 LB1131 LB1056 LB1072 LB764 LB844 LB958 LB789 LB1049 LR243]

Madam President, I now have...Senator Fulton would move to amendment with FA178. (Legislative Journal page 652.) [LB766]

SENATOR McDONALD: Senator Fulton, you are recognized to open on your amendment to the committee amendment. [LB766]

SENATOR FULTON: Thank you, Madam President. This amendment is something that in the original form of this bill, way back when I was working on this bill, we took a page out of a similar ordinance that exists in Lincoln, and I want to share with you what the amendment is and then give you the rationale for it. Then I will also give you some rationale that would work against it, and then I'll try to answer the rationale that would work against it. The amendment itself reads, page 4, line 5, amendment to the committee amendment, AM1865: page 4, line 5, following the period we would insert the language, "The redemption check shall be issued only after 72 hours have elapsed from the time of the recorded transaction." Basically, we're going to wait. We're going to ask people who are bringing scrap metal in to wait for three days until they can collect their check. Here's some reasoning why I am putting this forward. The bad guys that are coming in to redeem stolen metal want to get in and out without being identified and they want to get cash in their pocket and get away. They want to do it quickly. It seems reasonable putting in a provision of 72 hours that we would be slowing them from reaching their intention. They want to get in, get the money and leave. We're telling them, if you want to transact in this industry, you need to wait 72 hours. That's the main reason we're putting this forward. The whole idea is to slow the process down such that we can stop bad guys. If there are individuals that are thinking they can get quick money and they come to realize that they can't get quick money, then there will be: number one, a deterring effect on their activity; number two, this gives law enforcement the opportunity to catch up. Something is reported, law enforcement has the ability to catch up with people who are trying to make out with quick money. That's the reasons for this and that's ultimately the reason why I bring this floor amendment forward. There will be, I would imagine, a legitimate argument against this, saying that this could be onerous on those who make their living in dealing with scrap metal. There could be companies who deal with scrap metal from consumers and then turn around and sell scrap metal to larger dealers, so in a way entities that act as middlemen whose main livelihood is the processing of scrap metal, and that is a legitimate concern. So that will be a concern, I think, that could be raised against this amendment. However, responding to that, if we look at the committee amendment, AM1865, there's a section

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which I hope people will bear in mind as they contemplate my floor amendment, FA178. Section 7 says basically that this bill doesn't apply to "purchases of regulated metals property from a manufacturing, industrial, or other commercial vendor that generates or sells regulated metals in the ordinary course of its business." So those companies that exist in Nebraska strictly as scrap metal dealers who will resell metal are exempted under this bill. And so one of the arguments that could be used against FA178 I do not believe is valid. That has been contemplated in the introduction of FA178. Steve...Senator Lathrop actually brought this to me and I believe that that argument is rectified in Section 7 of the committee amendment. So therefore, I bring FA178 to you as an added measure of reason and as a way, a means by which we can put pause to the conducting of selling scrap metal, with the hope that this will deter and help law enforcement identify those malefactors who are using this industry. So I hope you will vote favorably on FA178. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Fulton. Senator Rogert, followed by Cornett and then Stuthman. Senator Rogert. [LB766]

SENATOR ROBERT: Thank you, Madam President. Members of the body, I rise in support of FA178 and Senator Fulton. I believe that this is an even better way to control this problem in addition to the fingerprint. Right before we went under call, I was out in the hall talking to my local sheriff and he reiterated to me that the fingerprinting issue was a...was going to be a super help to him and that if we could find a way to make this three-day waiting period go through it would be even greater, not in the form of necessarily catching anybody but it would deter them from doing it. In my district, 90 percent of these incidents are committed by individuals that are looking for money to buy methamphetamines and they need their money today. They don't want it in three days; they want it right now so they can turn around and go buy the materials that they want. By putting this three-day waiting period in, it will give them less reason to try and to go steal things and take them down and get the money for them. With that, I would yield any time that I have left to Senator Fulton. [LB766]

SENATOR McDONALD: Thank you, Senator Rogert. Senator Fulton, you have 3 minutes and 49 seconds. [LB766]

SENATOR FULTON: Thank you, Madam President. Thank you, Senator Rogert. I'll just reiterate that FA178, it, again, it brings an element of reason that the elapsing of time is a remedy here. It serves, I think, two functions. There could be more, but the way I see it there are at least two functions. There is a deterrent and there is also time for law enforcement to catch up to the bad guys, and that ultimately is why we're moving this bill forward. So thank you, Senator Rogert. Again, I'll advocate in support, in favor, of FA178. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Fulton. Senator Cornett, you are next.

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[LB766]

SENATOR CORNETT: Thank you, Madam President. I rise in reluctant opposition to this amendment. The amendment was covered in the original bill that we introduced. At the hearing we had both sides come in and testify to their opinions on the bill, and Senator Ashford charged me with sitting down with both sides and working out a compromise, and part of the compromise with the scrap metal dealers was the removal of the 72-hour hold, and they did have some legitimate concerns with it. I do believe the 72-hour hold would aid law enforcement in being able to have that catch-up period from the time of theft to the time that the metal is melted down, and would further prosecution. But it does put a heavy burden on the scrap metal dealers because they would have to hold each metal for each day in separate piles, not to mention the fact of the one big area where they would melt them down. And a lot of the dealers, particularly the larger ones, came in and said, you know, Nucor calls us and says, we need metal, we need it now, and they have it sitting on their property in piles with a 72-hour hold. And it would put a hardship on the scrap metal dealers to have that 72-hour hold. To offset removing that from the bill, we did add to the bill ordinance authority of the state. The city of Lincoln...or the counties, pardon me. The city of Lincoln and the city of Omaha both already have some legislation or city ordinances in regards to scrap metal in place. Under the bill and the amendment that you read or have in front of you, or my...the committee amendment, that the cities, if they find that they need that 72-hour hold, can do that on their own through ordinance authority. That was part of the compromise. We left in ordinance authority for the cities, but removed the 72-hour hold at the state level. Thank you very much. [LB766]

SENATOR McDONALD: Thank you, Senator Cornett. Senator Stuthman, you are next. [LB766]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. Here we are again, making something more difficult for the scrap metal industry and their workers, and I'll give you the example of CMI in Columbus. A hundred and fifty to two hundred people a day go through there bringing scrap metal. If they have to hold it for three days, the third and fourth day there's going to be the 150 to 200 that are there selling; there's going to be the 150 or 200 that brought stuff from two, three days ago to receive their check. Or are they going to have to mail them out? I don't think everyone probably has a mailing address of those people that are bringing scrap metal, so they're going to come there as an individual to pick up their checks. I just don't support this. I think we're trying to make it really hard on an industry that is trying to do the right thing, and we're not going to solve the problem of catching the individual. That individual is going to go elsewhere with it. They're going to find a way to get around it. Maybe they'll send someone else in with it, but are they going to have to identify the fingerprint to the individual, to the person that comes and picks up the check? Are they going to have to put a fingerprint on the check when he gets it or on the receipt of the check? Because

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that might be a different person coming in to pick up the money. I might send the boys in to pick up the money for the aluminum pipe that I sold, didn't need anymore. I think we're just opening up a can of worms that we don't need to do. And I think the scrap metal industry agreed upon taking that part of it out. And I think I can't...if this amendment passes, I can't support the bill at all, I will not support the bill and I will take every effort possible to make sure this bill does not take place. I think we've got plenty time this morning. We need to discuss this. We need to debate this. But this is just another thing that we're trying to add on to the workload of the people working at the scrap metal places that are working hard, handling a lot of scrap, and they've got to do another job. Because, you know, when there's five waiting in line to get a check, there's five waiting in line to pick up their receipt but they can't pick up their check. So there's going to be ten of them in that little cubby hole. What this...I can't...I just can't support this. But I'm going to listen to the discussion. I'm very concerned about this. I'm concerned about the fact that they're going to come pick up the check three days later. The industry has done a lot more work. It's going to be presented as evidence to law enforcement and the judge is going to say, well, we'll plea bargain it down, we'll just say you better not do that next week, and let it go. That's the concern that I have. I'm just really concerned that we're going down the wrong track to try to solve a problem that is not going to be solved, and people are going to be burdened with another duty that's not going to...there's not going to be an end result... [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR STUTHMAN: ...to solve it. I ask that you not support this. I will not support this amendment at this time. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Fulton, you are next. [LB766]

SENATOR FULTON: Thank you, Madam President. This needs to be pointed out. We're not asking the scrap metal dealers to hold the product. We're asking them to hold the check. So let me try to make this simple. Someone comes, if I'm a scrap metal dealer, someone comes with metal and they want to receive payment for it, I can take their metal but I tell them, according to law I can't pay you for three days. Okay? Scrap metal dealer can do what he wants with the metal. He can move the metal and, in fact, the scrap metal dealer is exempted in Section 7 of this bill, so he can actually have receivable on the same day. He can make money off of that metal on the same day without having to pay for the metal he just received. This actually gives three days...this works in favor of a scrap metal dealer. Okay? So this is the issuance of the check. So would Senator Stuthman yield to a question? [LB766]

SENATOR McDONALD: Senator Stuthman, would you yield to Senator Fulton? [LB766]

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SENATOR STUTHMAN: Yes. [LB766]

SENATOR FULTON: Senator Stuthman, did I...maybe I misrepresented. Do you understand that this is requiring the check to be held for three days, and are you aware of that? [LB766]

SENATOR STUTHMAN: Yes. Yes, I am aware of that, the holding of the check, and that's the main concern that I have. [LB766]

SENATOR FULTON: What would be the concern? How would this hurt the scrap metal dealer? [LB766]

SENATOR STUTHMAN: The scrap metal dealer, have you ever been at a scrap metal yard? [LB766]

SENATOR FULTON: Yes. [LB766]

SENATOR STUTHMAN: And have you delivered product there, where there's five people waiting in line to get their check... [LB766]

SENATOR FULTON: I haven't, but... [LB766]

SENATOR STUTHMAN: ...at the present time? [LB766]

SENATOR FULTON: No, I haven't, but I've been to a yard. [LB766]

SENATOR STUTHMAN: But the concern that I have is that their...the scrap metal dealer is to hold that check for 72 hours. After that 72 hours, that group of individuals that can receive their check, they're going to come there to get their check. They're going to get their check, they want their money, but it's going to be 72 hours later. [LB766]

SENATOR FULTON: Well, Senator, my question is, and I'm sorry, I've used the wrong terminology. To be consistent with the bill, secondary metals recycler, so the secondary metals recycler doesn't have to pay for three days. He gets to hang on to his money for three days. It seems to me that works in his benefit. I don't see how he is getting hurt. [LB766]

SENATOR STUTHMAN: What I feel is there's going to be just that many more people in the office that's going to have to employ another individual to hand out those checks that third day when there's those 150 to 200 people there getting their receipt on that day for their product that they have brought in, and there's going to be the ones from three days ago are going to be coming in there to pick up their check. So do you think

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they have enough time? Is that...they're not...we're not going to allow cloning or anything, so they won't be able to clone some of those individuals so they have two people doing the job. But it's just something that's going to be twice the work. Because when they hand them a receipt...at the present time now they hand them the check with the receipt--done, end of story. Now they're going to have to give them a receipt and say, Joe, you got to wait three days to come back, then come back in three days, see you in three days and you can pick up the check. And they're going to have to go through the pile of checks, 200 checks, going to have to go through them and hand them... [LB766]

SENATOR FULTON: Well, thank you. Thank you, Senator Stuthman. I do understand what you're saying, that this adds another element of time. We are in agreement, we both don't like cloning. (Laugh) I think we can agree on that. But as far as the...thank you, Senator Stuthman. I'll continue to make the argument. If someone comes and wants a check immediately,... [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR FULTON: ...okay, there's a certain amount of overhead and activity and energy and thought that's associated with handing out a check immediately. We are simply saying that they can't hand the check out immediately. They can hand out the check in three days. It's no different than handing it out; it's just it occurs at a different point in time. And it seems to me, I could be wrong, I don't own a secondary metals recycling business, but it seems to me this works in their favor. They receive product that they can move, because they are exempt under Section 7 of this bill. They simply don't have to pay for three days. And, in fact, they have, quote, unquote, an excuse. They can tell whoever is coming, we can't pay you for three days. They're picking up three days of the ability to move this. And so I would say that any type of difficulty in holding on to their check for three days is offset by the fact that they have money that they can move for three days free. So I hope you'll vote for FA178. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Fulton. Senator Cornett, followed by Gay, Rogert, Stuthman, Loudon. Senator Cornett. [LB766]

SENATOR CORNETT: Yes, I rise to apologize to the body. There were two possible amendments that I was shown before session this morning. Both had been in the original bill. One was a 72-hour hold on the metal being sold, and the other one was a 72-hour hold on the money. I committed the sin of not reading the amendment and assuming it was the metals amendment, and again, I will explain why I rise in opposition to this. It was part of an agreement struck between myself and the scrap metal dealers and the recyclers and the industry and law enforcement and the cities. There were a number of people that were interested in this bill and each had their own concerns. And

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to be able to move forward with a workable product, there were certain areas that we conceded on. The scrap metal dealers felt this was not in their best interest and we conceded on the 72-hour hold on both metal and the money. Law enforcement was very much in favor of the 72-hour hold. Again, this issue is solved to a certain extent by allowing under the proposed...or the committee amendment, ordinance authority by the cities. The city of Lincoln has ordinances in place currently in regards to the regulation and dealing of scrap metals and they wanted to keep that authority, as did the city of Omaha and the cities involved in this. I do not feel that it is a bad amendment. I see law enforcement's perspective in how holding the money will help deter crime, but I also am sympathetic with the scrap metal dealers on this in they feel this is an additional burden. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Cornett. Senator Gay. [LB766]

SENATOR GAY: Thank you, Madam President. I rise opposed to this amendment at this point because this bill is intended to prevent vandalism, thieves from coming in and engaging in activities which none of us want, of course. But it is a difficult discussion here. We're adding some more burdens on a small business. Maybe larger businesses can handle this, but there's many of these scrap metal dealers out there. The problem we're asking is to hold the check for 72 hours? Senator Langemeier brought up the fact that he may want to use this. He's no criminal. He says he only has a five-gallon bucket. I bet he has more, but if he...if a legitimate person comes in and you have some scrap metal, why should he not be paid promptly if he is now going through these extra hurdles to clear...you know, there's a certain limit here where we need to just think about who is going to do this. Senator Stuthman, I've never been through a scrap metal yard, but if there's 200 people a day coming in, I doubt they're all criminals. So somebody is coming in and why should the burden be that they cannot get paid for three days? That's...I don't...I think that's unfair and unnecessary, so I'm going to oppose this measure at this point, unless I could hear something otherwise. But I think what we're doing is getting legitimate consumers, good people who need to engage in this process, and now we're burdening them because we're trying to solve some criminal activity. But...so I think we're getting a little bit carried away here, so I'm going to oppose this amendment. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Gay. Senator Rogert. [LB766]

SENATOR ROGERT: Thank you, Madam President. Members of the body, once again I'm going to reiterate that the reason for this is exactly why some of the other folks are opposing it. It is to curb a criminal activity. A couple of the things I've been listening to on the opposite side of this are: so there are legitimate people trying to come in and get their money; why shouldn't they be paid that day. Those folks that come in every day or every week or every month bringing their scrap metal in that day as part of a business or part of a cleanup of their farm or of their business site, they're going to be down there

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on a regular basis. It's not going to bother them at all to have to wait a few days for their payment. As far as not having a mailing address, I'm not sure why anybody would not have a mailing address unless they're an illegal immigrant or a fugitive. Bring them...bring a self-addressed stamped envelope, leave it with the guy; he'll mail you your check. It's really not that big of a deal. I don't think it creates any extra burden. I think it creates a reasonable step towards curbing this illegal activity of stealing these metals and taking them down and getting your cash right away so you can go buy drugs. You guys really want to take some efforts towards trying to stop meth use in Nebraska? Here's a good step to do it. Think about what the ramifications have of this amendment, and it's really not very much. It doesn't cause a huge amount of extra work for those recyclers. I'm sure they were against it and I'm sure they struck a deal to take it out. I would probably think of that, too, if I was a scrap dealer. It doesn't create a lot of extra work--three days, mail them the check. Those who are doing nothing wrong and just bringing their metal down will be doing this on a regular basis anyway. Just be a few more days, that when they come back to give their next load, they can pick up their check the next time, whatever. It shouldn't be that big of a problem. Think about what this does and try to help curb some meth use in the state of Nebraska. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Rogert. Senator Stuthman. [LB766]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I do agree with the comments that were made by Senator Gay. What we are doing with this is penalizing those 99 percent of the people and making them wait the three days to get their money. I don't know. You know, a lot of people don't realize, you know, what the process is when you deliver scrap, scrap metal, to the scrap metal place. You're weighed, you're "videoed." Everything is on video. They keep the videos for years of the pickup, the license number, the car, anything like that. That is already taking place. You unload the scrap, you come back, you weigh empty, you go back in to get your receipt. On the receipt, it's all with a computer. You give your identification. They write down the license number of your driver's license. You give your identification. The check is printed right on the receipt and you get the check. That is something that the people want and it takes place. The scrap metal dealer, that transaction is complete. They don't worry about it anymore. But if this 72 hours takes place, they're going to have to go through the process, get the identification, make out a receipt without the check on it, give you the receipt. Then, in 72 hours, are they going to have to mail that out, those 200? Are they going to have to mail them out? Or are the people asked to come in and get their check? Or are the people going to have to bring a self-addressed, stamped envelope along when you haul your junk in to the junk dealer and hand them that so, here, in 72 hours please put the check in this self-addressed, stamped envelope and send it to me? I think this is absolutely ridiculous when we're trying to catch one person out of the group of a lot of honest people. I just...we're putting another burden on, on that industry that's trying to do something to clean up the areas. A lot of people are bringing scrap in

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now. Scrap metal is worth a lot of money, old machinery worth a lot of money. They bring it in and I think there would be a real uproar if they have to wait three days for that check unless they're regular customers that bring in a load every day, but they're going to have to say, ooh, here's your receipt and, let's see, wait a minute, I think you brought some in three days ago, let me find your check. Takes three minutes to find their check. That's going to slow the process down when you got five people waiting in line to get their receipt. I think we're just putting another burden on. Something that I've heard comments that we're trying to stop this meth user from selling some stuff, but I'll tell you, I think we better be doing something else for that meth drug addict and not go at it this way by not...by keeping the check for 72 hours. [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR STUTHMAN: They will figure out a way to get some money quicker than in 72 hours. I just feel that we have methods in place already with the system, that we're doing. Received a call from the local sheriff; said that they're in very good working relationships with the scrap metal dealer. When they see someone that brings in a large amount of aluminum pipe or copper wire, they notify law enforcement right away. They know who's doing it. But the fact is does anything ever get prosecuted? Does that individual quit his meth addiction? Is he going to go off of meth when he can't get the check for 72 hours; say, by golly, I can't use meth this week, can't get the check for 72 hours? They're going to figure something out that they're going to get their money for the meth. So with... [LB766]

SENATOR McDONALD: Time. [LB766]

SENATOR STUTHMAN: Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Stuthman. We have Senator...Senator Louden is next, followed by Fulton, Wallman, Hansen, and Pedersen. Senator Louden. [LB766]

SENATOR LOUDEN: Thank you, Madam President and members of the body. As I look at this amendment, I always have a problem with whenever you're going to sell something and somebody is going to hold the money for a period of time or 72 hours or something like that. I was wondering if Senator Fulton would yield for questions, if he would, please. [LB766]

SENATOR McDONALD: Senator Fulton, would you yield to Senator Louden? [LB766]

SENATOR FULTON: Yes. [LB766]

SENATOR LOUDEN: Have you looked into this, if the check or money is held for a

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period of time then, what...do these people get a warehouse receipt or what do they get when they bring those products in and sold? They need to get something to show that they sold it. What do they get? Do they get a warehouse receipt? [LB766]

SENATOR FULTON: Well, that would be...I think that would be left to the volition of the company. That's not something that I believe is provided for statutorily, but I would assume that it's some kind of receipt. But again, we're not forcing that. [LB766]

SENATOR LOUDEN: Well, you'd have to get something because, you know, what I'm wondering is, what's the difference between bringing in a truckload of scrap metal or bringing in a truckload of grain? Now if you bring in a truckload of grain, you're supposed to get a warehouse receipt, and then when you start doing that then the Public Service Commission gives a license for those people. Now are we working around to where all the junkyards are going to be under the jurisdiction of the Public Service Commission in order to buy scrap metal? [LB766]

SENATOR FULTON: No, I don't think so, Senator. I think the main difference to draw here versus grain or metal is that the theft of metal has proliferated. [LB766]

SENATOR LOUDEN: Well, so has the theft of grain because nowadays, to get by with the theft of grain, they put these little stars in it that's got numbers on them. They mix it in with the grain so that you can tell the grain. That's how you got around that. So I'm wondering if there's something is...but I...thank you, Senator Fulton. I have a problem with whenever you have somebody that's going to hold a check and you put in statute they're going to hold the money for 72 hours, because there's various reasons. First of all, if the outfit goes belly up in the meantime, you're holding the sack because you didn't get paid for the product you brought. Same way as hauling grain into an elevator or even taking cattle to a slaughterhouse or something like that. They...if you don't get paid soon afterwards then you always are liable to be on the outside looking in if something happens. So I don't think I can support this amendment. I think by progressing with this amendment that we will be getting into something that is going to cause a lot more problems than what we were anticipating. Because I think you're going to have to have some kind of a receipt. And when you start handing out receipts, then somebody is going to have to see to it that those receipts match the amount of product that they have on the premises, and someone has to investigate that and keep track of it. So I think just to try to curtail some theft of metals, I think there's better ways to do it. I stated before, why don't you declare some of those metals precious metals and regulate on how they're sold with just them rather than hit the whole bundle of scrap metal from old wrecked automobiles or whatever to any kind of metals that's loose. Now the other thing that bothers me on 72 hours, just plain, is if I have to go back and get my check, where I live, the closest junkyard is over 50 miles away, so you're going to have to make a trip. If you're going to have to be fingerprinted, then I suppose you got to go and receive it personally, or can they mail you the check? Nothing is stated in here. If you're

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going to just hold the check, and mail it, for 72 hours then you probably haven't done it...  
[LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR LOUDEN: ...because you have the address on...whether it was someone that stole it or what. So I don't...this sounds nice, but I don't think this is the way to go. I think there's better ways of doing this than what we have. Thank you, Madam President.  
[LB766]

SENATOR McDONALD: Thank you, Senator Louden. Senator Fulton, you are next.  
[LB766]

SENATOR FULTON: Thank you, Madam President. Senator Louden actually raises a good point, and there's a point that I'd like to draw from the point that he brings up. If there are other commodities or items that are...that are undergoing theft, in this case it was grain that Senator Louden brought up, there are some controls in place for that, as I understand. I guess I should clarify that. Would Senator Louden yield to a question?  
[LB766]

SENATOR McDONALD: Senator Louden, would you yield to Senator Fulton? [LB766]

SENATOR LOUDEN: Yes. [LB766]

SENATOR FULTON: Senator Louden, for grain, there are some structures in place that are required by law or that are governed by law with regard to selling grain. That's correct, isn't it? [LB766]

SENATOR LOUDEN: You mean to sell grain? [LB766]

SENATOR FULTON: Yeah. You'd mentioned that grain is something... [LB766]

SENATOR LOUDEN: I don't think there's anything to sell grain. You can sell grain any place you want to. Where the law comes in is these elevators that have the grain, that buy it, have to be under the packers...or the Public Service Commission and they have to keep books to show that the amount of grain they have out on warehouse receipts matches the amount of grain that they have stored in the elevators. [LB766]

SENATOR FULTON: Right. Okay, so that's...what I want to draw from that--thank you, Senator Louden--is that there is some element of governance. There is an element of regulation such that we have...so there are controls within the sale of grain. Right now, there isn't an element of regulation, at the state level anyway, with regard to metals, to copper particularly, but for secondary metals. So what we're trying to do here is to

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determine what's prudent, what's appropriate. Because we...it seems that we have some agreement there should be at least some regulation because it is through this industry that the sale of metals is being effectuated by...or through people who are stealing metal--thieves. So I want to draw out something to...by way of an analogy. Now awhile back there was a bill to make the sale or the purchase of pseudoephedrine more onerous. Do you remember that? I think we had...we dealt with it a little bit last year, but certainly in the past few years buying cold medicine became a lot more difficult. Why? Well, because cold medicine happens to be the matter that is in demand for those who are making methamphetamine. Could it be construed that law-abiding citizens were being penalized simply because they wanted to buy cold medicine? So when I go and buy cold medicine now, it's a little more onerous for me. I'm not making meth. I think certainly it could be argued that we were adding hurdles to the purchase of cold medicine. Now ultimately I think many people, while recognizing that we are, indeed, introducing hurdles to an otherwise innocuous transaction, still voted for the pseudoephedrine bill, recognizing that a certain amount of regulation is necessary. So that being the case, we have a...we can establish that there needed to be some regulation necessary. The question was, what is the prudent and appropriate amount of regulation that's necessary? So if the argument is given that we shouldn't be tinkering with this process because it is legal otherwise, then I can point back to precedent with pseudoephedrine, I believe that was the name of the drug, but cold medicine. We made the purchase of cold medicine more onerous because of the realities surrounding that product. That same analogy holds true for what we're talking about today. We're trying to add an element of regulation to this industry, recognizing that it is going to have an effect on law-abiding citizens, but with enough prudence and foresight to understand... [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR FULTON: ...that we could be taking steps to rectify a problem. In my opinion, it is reasonable to move forward with this bill and it seems reasonable to me that we slow the process down by requiring this 72-hour wait on the issuing of a check. And my question remains, how does this hurt a secondary metals recycler? It seems to me that it helps him. I truly don't understand that. Perhaps someone can explain to me how receiving a metal that you can then make money off of, you don't have to pay for three days. It seems to me that the metals...the secondary metals recycler actually comes out ahead on that deal. So I continue to advocate for FA178. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Fulton. Senator Wallman, you are next, followed by Hansen, Pedersen, and Langemeier. [LB766]

SENATOR WALLMAN: Thank you, Madam President, members of the body. I think we forget we're dealing in a culture here. Kids, farm kids, they take their junk; they expect

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some money right away. Farmers send their young teenagers to clean up the places; they want their money right away. These are not criminals. So we're dealing with a whole culture here. When, like, Senator Stuthman takes a load of junk to the junk...or scrap metal to the dealer, he expects his money. So why put this another 72 hours? Another...we got fingerprints, we got this, we got license plates, we got driver's license, we got all kinds of safety things in place. Seventy-two hours, maybe it is in favor of the scrap dealer but it's not in favor of the customer, so we're picking on another business here what cleans up our farmsteads. So I don't understand why we want to keep doing this, so I'm against this amendment. And thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Wallman. Senator Hansen. [LB766]

SENATOR HANSEN: Thank you, Madam President. I think that this amendment that Senator Fulton has, is trying to add to LB766, is probably going to make this a little better bill than the last amendment we did pass. But I do have a couple of questions for Senator Fulton, if he would yield. [LB766]

SENATOR McDONALD: Senator Fulton, would you yield to Senator Hansen? [LB766]

SENATOR FULTON: Yes. [LB766]

SENATOR HANSEN: Thank you. Senator Fulton, can you come up with any other industries, any other businesses that would be required to hold checks for 72 hours? Is this something new or something that you may have gotten from another industry? [LB766]

SENATOR FULTON: Well, where we got this originally is from an ordinance that seems to be working in Lincoln with regard to the same subject matter--scrap metals, secondary metals recyclers. That's where we got the idea. As to whether this applies to other industries, I'd have to think about it. I can't give you any specifics just because it's off the top of my head. I can't. I can come up with some I would imagine, though. [LB766]

SENATOR HANSEN: Okay. So Lincoln has handled this through a city ordinance? [LB766]

SENATOR FULTON: Yeah, there was a city ordinance put in place here in Lincoln, and we did have the opportunity to meet with some...with some secondary metals recyclers who own businesses that do this and, from what I understand, it actually...it's actually working in Lincoln, so... [LB766]

SENATOR HANSEN: Okay. Are there scrap metal dealers not in the city limits of Lincoln then? Is that where you're concerned, more in Lancaster County? [LB766]

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SENATOR FULTON: Well, yeah. I tell you, the reason why we decided to move forward with this, okay, I'm a senator from Lincoln. We have an ordinance in place in Lincoln. Why would I want to move forward with this? We were getting feedback from law enforcement that what's happening is that they're going outside of Lincoln, so that there's thievery that occurs in Lincoln and then they go outside of Lincoln to sell. And so that's part of the reason why we wanted to make this consistent across the state. [LB766]

SENATOR HANSEN: Okay. That's all the questions I have for Senator Fulton. Thank you very much. I know when we sell cattle, we have to receive a check within 72 hours. This looks like we're going to hold the check for three days and then, if someone says, well, I'll bring you in a self-addressed envelope, which I doubt very much if a scrap seller...you know, the 99 percent that Senator Stuthman refers to, those 99 percent of the legal sellers of scrap iron, part of them, a lot of them are not going to remember to take their check. So they don't want to come back to town so they'll say, well, just mail it out and take the proceeds out of my check or something like that. Three days, plus two days in the mail is five days before they get their check. When we sell cattle, we can't do that. We prove ownership, we check to make sure the brands are right, make sure the ownership is right. We take out...a lot of feedlots take out the last feed bill so they're assured that they're going to get their payment, and then the check is sent, probably within a day, within 24 hours, and they have to get that check to us within 72 hours by the Packers and Stockyards Act. I can't think of a...this has already been voted on but just going back to the last amendment, I can't think of any industry either that takes fingerprints. I mean, if we're going to go pick up pseudoephedrine from the drug store, I don't have to fingerprint myself to do that either. But we're asking people to...sellers to take fingerprints now and the only group that I know that takes fingerprints is probably law enforcement. Now we're asking these people to hold checks, and that sounds like bankers, without giving them some type of receipt for their check. If they're holding a check for three days, they become bankers. So we're talking we have metal cops and metal bankers now. I don't think I can...I don't think I can support Senator Fulton's amendment. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Hansen. Senator Pedersen. [LB766]

SENATOR PEDERSEN: Question. [LB766]

SENATOR McDONALD: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB766]

CLERK: 25 ayes, 0 nays to cease debate, Madam President. [LB766]

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SENATOR McDONALD: The debate does cease. Senator Fulton, you are recognized to close on your amendment. [LB766]

SENATOR FULTON: Thank you, Madam President. I want to make a clarification. It was pointed out to me here just now that this...the Lincoln ordinance is actually a hold on the metal, okay, so that's...I'm not being...I was not entirely accurate. The 72-hour hold on the check is not in the Lincoln ordinance. It actually is a hold on the metal, as I understand it. What I am bringing forward here is a hold on the issuance of the check. Now I believe it's possible to establish that there should be some means of regulation on the industry, recognizing the reality that this is the industry through which thieves are accomplishing their thievery. I made the example that we've done this with cold medicine. We've introduced hurdles into the purchase of cold medicine, understanding that this is a prudent response on the part of society to mitigate the proliferation of methamphetamine. I submit to you that this is a similar analogy. By way of analogy, I suggest to you this is a similar activity. We are introducing what I believe to be prudent, reasonable measures into the purchase or selling of scrap metal. The arguments that I have heard against have to do with how this affects the industry, how this affects the secondary metals recycler. It seems to me that if a secondary metals recycler doesn't have to pay for what he receives for three days, he comes out ahead. And so I do not see how this affects the secondary metal recycler insofar as cash flow works. Maybe it could be argued there's an administrative hurdle here, but I'd submit that it's the same administrative hurdle that exists anyway. They have to pay for what they receive. We're saying they don't have to pay for three days. There is an element of deterrent. There's a deterring element so there's some element of deterrence. There is also an element, by this floor amendment, by which the law enforcement officials can catch up to the bad guys. So I won't take any more time on this. I'll ask for your vote. Vote yes for FA178. Thank you, Madam President. [LB766]

SENATOR McDONALD: You've heard the closing on the amendment. The question is, shall the amendment to the committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Senator Fulton. [LB766]

SENATOR FULTON: I'd request a call of the house. [LB766]

SENATOR McDONALD: There has been a request for the call of the house. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB766]

CLERK: 35 ayes, 0 nays, Madam President, on the motion to place the house under call. [LB766]

SENATOR McDONALD: House is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your

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presence. All unauthorized personnel please leave the floor. The house is under call. Senator Chambers. Senator Chambers. We're waiting for Senator Chambers. Senator Fulton, how would you like to proceed? [LB766]

SENATOR FULTON: A roll call vote, please. [LB766]

SENATOR McDONALD: A roll call vote has been requested. Do you wish to wait for Senator Chambers? Thank you. Go ahead, Mr. Clerk, please. [LB766]

CLERK: (Roll call vote taken, Legislative Journal page 652.) 13 ayes, 20 nays, Madam President, on the amendment. [LB766]

SENATOR McDONALD: The amendment fails. I raise the call. [LB766]

CLERK: Madam President, I do have another amendment to the committee amendments; Senator Langemeier, FA177. (Legislative Journal page 653.) [LB766]

SENATOR McDONALD: Senator Langemeier, you are recognized to open on your amendment. [LB766]

SENATOR LANGEMEIER: Madam President, members of the body, my amendment is fairly simple. If you look at the committee amendment on page 2, line 22, in the requirement of (2) it requires a number of things: name, signature, address, copy of a valid driver's license, and it also requires the date of birth. My amendment would just strike out that you need the date of birth. I think once you get the driver's license, the driver's license number and a copy of the driver's license, the relevance of putting the date of birth on another line I think is repetitive, pointless, and just more opportunity for data to go astray. So with that, I would ask for your support to take out the word "date of birth." You're going to gather than when they make the photocopy of the driver's license. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Langemeier. Senator Cornett. [LB766]

SENATOR CORNETT: I rise in support of Senator Langemeier's amendment. It does strike redundant language. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Cornett. Seeing no other lights on, Senator Langemeier, you're recognized to close. Senator Langemeier waives. You've heard the closing on the amendment. The question is, shall the amendment to the committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB766]

CLERK: 35 ayes, 0 nays, Madam President, on adoption of Senator Langemeier's

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amendment. [LB766]

SENATOR McDONALD: The amendment is adopted. [LB766]

CLERK: I have nothing further pending to the committee amendments, Madam President. [LB766]

SENATOR McDONALD: Is there any further discussion on committee amendments? Senator Stuthman, your light is still on. [LB766]

SENATOR STUTHMAN: Thank you, Madam President. I put my light on again. It wasn't on before, so am I recognized to have my five minutes? [LB766]

SENATOR McDONALD: Yes. [LB766]

SENATOR STUTHMAN: Okay. Thank you, Madam President, members of the body. I would like to try to clarify something for the record, but I would like to engage in the conversation with Senator Fulton, if he would be available. [LB766]

SENATOR McDONALD: Senator Fulton. [LB766]

SENATOR FULTON: Yes. [LB766]

SENATOR STUTHMAN: Senator Fulton, I know...I realize your amendment failed, but I think in the debate you had stated that Lincoln, the scrap yard in Lincoln, holds the check for 72 hours, and I...is that correct? [LB766]

SENATOR FULTON: I did state that, but that was an erroneous statement. That was wrong and I corrected that in my closing of the amendment. They don't hold the check for 72 hours; they actually hold the material itself for a period of time. [LB766]

SENATOR STUTHMAN: Okay. Thank you, Senator, Senator Fulton. I'm still not in support of this bill and especially in support of the Judiciary Committee's amendment, and the reason for this is that I think there are methods in place already to try to solve what we're doing. We're asking, you know, people to be fingerprinted. We're going to ask one more thing for the people to do, to be fingerprinted when they come down, and the example would be that whenever you get fingerprinted, yes, it's for identity, but there are a lot of other places where you don't have to be fingerprinted. And we're going to...we're going to ask the honest person that comes down there, that's trying to clean up the place, trying to make Nebraska beautiful, but you have to be fingerprinted before you can get your check, you have to be fingerprinted when you bring some scrap down there. And I'm really concerned that it's not going to ever make a difference to the fact that we're going to catch another individual, an individual that is stealing some of this

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copper wire or aluminum pipe. And I want to give you a little bit of information that I received from my local law enforcement department. They say that when a product is brought in, and I'll use the example of copper wire, copper wire has insulation on it. When it was stole from my barn, it had insulation on it. It got to the scrap metal dealer with no insulation on, because it was burned. And law enforcement says there's no way in the world they can prove that that copper came from my barn, even if they've got the fingerprint from the individual. They've got his fingerprint, they caught him, but law enforcement will not be able to prove that that was the copper wire that came out of my old barn. So the case will probably be dropped. I'm sure it will be dropped. But we made all of the 99 other people have their fingerprint taken. We put another burden on the honest person when we're not going to catch the guy anyway. Or I should say we may catch him, but we're not going to prosecute him. They're going to let him go. They're going to say: you know, sure looks like that copper wire came out of your barn, but you lit a fire under it, burned all the insulation off; I don't think that maybe is the right copper wire; we can't positively identify it. [LB766]

SENATOR McDONALD: One minute. [LB766]

SENATOR STUTHMAN: I think we're just adding another burden onto a business that's doing an honest day's job. And 99 people are also doing an honest day's job, cleaning up the community, trying to make Nebraska more beautiful, utilizing the scrap metal, making something out of that stuff. I think there's agreements already with law enforcement and scrap metal dealers. When they see something happening, when they see a large amount of something coming in, they immediately call law enforcement--has there been any reports of a theft? They communicate. Scrap metal dealers know which ones are probably the shady ones. But they can't prove it when it comes down to the prosecution part of it. Thank you, Madam President. [LB766]

SENATOR McDONALD: Thank you, Senator Stuthman. Senator Cornett, you are to close on the committee amendments. [LB766]

SENATOR CORNETT: Thank you. I believe the Vice Chair of the committee is going to close on those. He just spoke to me. [LB766]

SENATOR McDONALD: Thank you, Senator Cornett. Senator... [LB766]

SENATOR LATHROP: Lathrop. [LB766]

SENATOR McDONALD: ...Lathrop. (Laughter) [LB766]

SENATOR LATHROP: Thank you, Madam President and colleagues. A good discussion today, as we had a terrific hearing on this in Judiciary Committee and heard from both sides, and I think Senator Cornett has done a wonderful job of addressing the

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concerns of the industry, of law enforcement and the municipalities in AM1865, and we'd encourage you to support and move AM1865. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Lathrop. You've heard the closing on the committee amendments. The question is, shall the committee amendments be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB766]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of committee amendments, Madam President. [LB766]

SENATOR McDONALD: The amendment passes. Now we're open for discussion on advancement of the bill. Seeing no lights on, Senator Cornett, would you close? [LB766]

SENATOR CORNETT: Yes, thank you. I want to urge the body to support this bill. The rise in metal thefts in our state and around the country have been dramatic in the recent past, and it is a very serious issue, not just economically but for safety issues. I pointed out the case of the one man in Iowa that was killed due to piping being stolen in his house and a subsequent explosion. Senator Stuthman says he doesn't feel these measures are...will work and he feels that there are already things in place to deal with this. That is not true. The city of Lincoln enacted ordinances to address this issue and immediately saw a reduction in the number of copper thefts and saw an increase in the number of prosecutions. The city of Omaha had similar results. This is not going to cure the problem by itself. It is a step in the process and it is a means of reducing the number of thefts and helping catch criminals. He also points out again that the fingerprint is not going to lead to prosecution, and I again point out, Senator Stuthman, the fingerprint is to protect innocent people who are the victims of identity theft. It is only a tool, a step in the prosecution process. It is not the only thing used to prosecute a person. But it will help protect the innocent. Thank you. [LB766]

SENATOR McDONALD: Thank you, Senator Cornett. You have heard the closing on the advancement of LB766 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB766]

CLERK: 31 ayes, 2 nays, Madam President, on the motion to advance LB766. [LB766]

SENATOR McDONALD: LB766 passes. Mr. Clerk. [LB766]

CLERK: Madam President, LB855 is a bill by the Banking Committee, signed by its members. (Read title.) Introduced on January 11 of this year; at that time referred to Banking, Commerce and Insurance for public hearing; advanced to General File. There are committee amendments pending, Madam President. (AM1832, Legislative Journal page 570.) [LB855]

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SENATOR McDONALD: Senator Pahls, you are recognized to open on LB855. [LB855]

SENATOR PAHLS: Thank you, Madam President, members of the body. LB855 was introduced by the Banking, Commerce and Insurance Committee at the request of the director of the Department of Insurance. The committee amendments become the bill. They contain the underlying provisions of LB855, and the provisions of three other insurance-related bills: LB779, LB853, and LB854, and the committee amendments to them. These bills make up the year's version of the Banking, Commerce and Insurance Committee's insurance package. All these bills have been voted out of committee with no dissenting votes. The committee amendments contain the provisions of the underlying bill, LB855, which bring Nebraska's group life standards in line with standards established by the National Association of Insurance Commissioners. The committee amendments would amend existing Nebraska group life insurance statutes based on the NAIC model acts in this area. Changes were made to our employee-sponsored group life insurance section in 2006 to accommodate specific changes requested by the domestic insurers. In particular, the employer-sponsored group life policies were allowed to offer plans in which the entire premium was completely paid by the insured. The department is asking to finish the job completely in this area by moving the NAIC model as a whole, rather than on a piecemeal, as requested, basis. These amendments would bring all of the statutes into line with the current group life standards and thereby making compliance with the law easier for insurers who are doing business on the 50-state basis. Group life standards have been a national focus with insurance regulators, insurance...insurers seeking to bring all states on board with the NAIC group life insurance definition and group life insurance standard provision model act. These amendments would benefit policyholders by allowing life insurers to offer their products more efficiently on the nationwide basis. That concludes my opening remarks. [LB855 LB779 LB853 LB854]

SENATOR LANGEMEIER PRESIDING [LB855]

SENATOR LANGEMEIER: Thank you, Senator Pahls. As the Clerk has stated, there is a committee amendment, offered by Banking, Commerce and Insurance Committee, and Senator Pahls, as Chair of that committee, you're recognized to open on the committee amendments. [LB855]

SENATOR PAHLS: Thank you, Mr. President, members of the body. The committee amendments also contain the provisions of LB853, introduced at the request of the director of the Department of Insurance. These amendments contain the committee amendments' version of LB853 and, therefore, there are no provisions relating to viatical settlements in these amendments. The LB853 portion of these amendments address a variety of topics. With these amendments, the Department of Insurance is asking for a grant of authority to promulgate regulations to implement the Military Personnel

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Financial Service Protect Act. Congress requires states to shield members of the United States armed forces from abusive and misleading sales practice. A model law has been developed and the department needs rule-making authority. The amendments include a request to conform Nebraska prelicensing and continuing education standards to the amount set in the uniform resident licensing standards, and would adopt statutory changes necessary for the department to streamline and simplify the fees charged to insurance producers. Under the federal Gramm-Leach-Bliley Act, the states were responsible for adopting standards for insurance producers, producer licensing, and education that were uniform or reciprocal. The states adopted reciprocal standards--that is, we'll take yours if you take ours--in order to abide by these uniform standards and simplify the administration. These amendments would adopt the uniform major lines of authority. In addition to these amendments, it would repeal statutes referencing to limited lines of licensing, such as fidelity and assessment association lines. Most of these licensees hold other lines, making the existence of these limited lines redundant. This reorganization would allow administration of out-of-state licenses. For prelicensing, the Department of Insurance proposes to standardize education requirements to 20 hours for 6 major lines of authority. The department also proposes to add additional designations to those already waived for the education to comply with the uniform standards. For continuing ed, required hours would be reduced from 24 hours for all lines to 21 hours. In addition, licensees would be given explicit permission to retake a course as long as it is not taken within a two-year period. Because under current law the department collects a long list of fees from the insurance producers, the director is asking for these fees to be streamlined, and the fees for prelicensing and continuing education be rolled into licensing fees. These amendments would also remove the distinction between resident and nonresident fees. This is an effort to streamline the accounting of the department and is intended to be revenue neutral. In an effort to meet the challenges proposed or posed by international commerce, these amendments would grant the Director of Insurance rule-making authority to establish a system that would allow Nebraska domestic insurers to submit to regulations of group supervision under the European model of supplemental group supervisions of conglomerates with insurance components. American insurers who do business in Europe are currently subject to dual regulation--supplemental supervision by their domestic regulators and the E.U. regulators--because of the perception by E.U. regulators that U.S. regulation is insufficient in the area of group supervision. In the U.S., regulators review the insurer, and the capital flows in and out of the insurer. But in the E.U., European regulators seek to prevent poor controls at the group level from spreading to the insurer and the group. Under these amendments, the director would adopt standards to allow Nebraska to be the sole regulator for such a conglomerate, with a Nebraska domestic insurer component within it at the option of the conglomerate. The department is asking for repeal of an outdated requirement that companies indicate on the page of an insurance policy whether the company is a stock, mutual, or fraternal company. Nebraska is the only state with this requirement and it usually requires the company to have a form that is unique to the state of Nebraska. The only time for this requirement remains relevant

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is for the coverage issued by an assessment insured, for which the insured is responsible for the assessments in the event of a loss. The amendment would maintain the requirement or assessed requirements. The department proposes to clarify that the mandate in Section 44-789 only applies to TMJ. The statute applies to the coverage of treatment for the bones of the neck, face and jaw. Originally, it was designed to cover TMJ; however, a closer look at the statute by the department revealed that it covered much more than the treatment of TMJ. A literal reading of the current statute would allow for other related coverages to be limited to \$2,500. These amendments would eliminate this possible unintended result. The committee amendment also contains the provisions of LB854, introduced again at the request of the director of the Department of Insurance. The LB854 portion of the amendment is based on the National Association of Insurance Commissioners model Discount Medical Plan Organization Act. Currently, Nebraska has no law on the books to regulate this business activity. Discount medical plans are on the rise, due to increasing numbers of uninsured people. Lacking insurance, these people are required to pay the full price for medical services. Discount medical plans allow the uninsured population to obtain a discount from a medical provider. These plans represent an important, although limited in scope, stopgap solution for people who cannot afford health insurance; however, there have been abuses associated with these plans, including misleading advertisement and, in some cases, outright fraud. The purpose of the proposed Discount Medical Plan Organization Act is to establish standards for discount medical plan organizations to protect consumers from unfair and deceptive marketing, sales and enrollment practices, and to facilitate consumer understanding of the role and function of discount plan organizations in providing access to medical services. These amendments would define a discount medical plan as an arrangement in which a business entity, in exchange for fees, dues or charges, offers access for providers of medical insurance...of medical services and to provide, too, discounts on these services provided from these providers. The committee amendments also contain the provisions of LB779, which would amend the Multiple Employer Welfare Arrangement Act in order to streamline compliances required for MEWA. A MEWA is a provider of a health benefit plan that is not fully insured and is sponsored by an association of employers. The MEWA act requires MEWAs to make applications for a certificate of registration accompanied by an initial \$1,000 fee and various organization and trust documents, and there, after making a series of annual reports to the Department of Insurance, including the filing of a financial statement and certification of compliance with state laws. The MEWA act currently requires all board members to attest to the financial statement filed with the department. In addition, each board member must certify that the activities of the MEWA have been conducted in accordance with provisions of the Nebraska laws. These amendments would streamline reporting requirements by reducing the number of board members who must attest to the financial statement and who must execute the certificate of compliance relating to conducting activities in accordance with the provisions of Nebraska law and regulations. In each case, the amendments would only require two members of the board, one who must be the chairman or president of the board of trustees,... [LB855 LB853 LB854

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LB779]

SENATOR LANGEMEIER: One minute. [LB855]

SENATOR PAHLS: ...to satisfy these requirements. Finally, these amendments would provide that the certificate of compliance shall be filed with the director within 90 days after the last day of the fiscal year of the MEWA. The amendments would apply the same requirements to the financial statement and to the actuary statement, which are currently required only to be filed on an annual basis. That concludes... [LB855]

SENATOR LANGEMEIER: Thank you, Senator Pahls. You have heard the opening on LB855 and the amendment, AM1832. The floor is now open for discussion. Seeing no lights on, Senator Pahls, you are recognized to close. Senator Pahls waives closing. The question is, shall AM1832 be adopted to LB855? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB855]

ASSISTANT CLERK: 27 ayes, 0 nays on the adoption of committee amendments. [LB855]

SENATOR LANGEMEIER: The committee amendments, AM1832, is adopted. Return now to discussion on LB855, the bill itself. Seeing no lights on, Senator Pahls, you're recognized to close. Senator Pahls waives closing. The question before the body is, shall LB855 advance? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB855]

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB855]

SENATOR LANGEMEIER: LB855 does advance. Mr. Clerk, items for the record. [LB855]

ASSISTANT CLERK: Mr. President, a series of items: Your Committee on Enrollment and Review reports LB279, LB280, LB280A, LB500, LB609, LB609A, LB623, LB668, LB715, LB790, LB896 all as correctly engrossed. Your Committee on Judiciary reports LB606 to General File with amendments; LB700, indefinitely postponed. Committee on Education, whose Chair is Senator Raikes, reports LB977 to General File with amendments. Priority bill designation: Senator Gay, LB895; Senator Christensen, LB1094; Natural Resources, LB1065. Amendments to be printed: Senator Karpisek to LB395. Additional priority bill designation: LB1116 and LB1027 by the Ag Committee; Senator Langemeier designates LB606. Have a notice of committee hearing from the Education Committee. An announcement that Judiciary Committee will hold an Executive Session at 1:00 in Room 1113. Name add: Senator Howard to LB606. (Legislative Journal pages 653-657.) [LB279 LB280 LB280A LB500 LB609 LB609A

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LB623 LB668 LB715 LB790 LB896 LB606 LB700 LB977 LB895 LB1094 LB1065 LB395  
LB1116 LB1027]

Priority motion: Mr. President, Senator McDonald would move to adjourn until Friday,  
February 22, 9:00 a.m. []

SENATOR LANGEMEIER: You've heard...thank you, Mr. Clerk. You've heard the  
motion to adjourn until Friday, February 22, at 9:00 a.m. All those in favor say aye. All  
those opposed say nay. We are adjourned. []