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Floor Debate
January 14, 2008

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fourth day of the One Hundredth Legislature, Second Session. Our chaplain for today is Pastor Wayne Hayward, from the Seventh-day Adventist Church of Alliance, Hemingford and Hyannis, Nebraska. This is Senator Louden's district. Would you all please rise.

PASTOR HAYWARD: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Hayward. I call to order the fourth day of the One Hundredth Legislature, Second Session. Senators, please record your presence by roll call. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Thank you. Corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, I have a Reference report referring LB796 through LB850. Priority bill designation: Senator Nantkes has selected LB235 as her priority bill for this session. Notice of hearing from the Agriculture Committee signed by Senator Erdman. And, Mr. President, the lobby report required by statute to be inserted in the Legislative Journal. And that's all that I have at this time. (Legislative Journal pages 173-201.) [LB235]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now proceed to introduction of new bills.

CLERK: Mr. President, new bills. (Read LB901-906 by title for the first time.) That's all that I have at this time, Mr. President. (Legislative Journal pages 201-202.) [LB901 LB902 LB903 LB904 LB905 LB906]

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PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now move to the first item under the agenda, motion to withdraw.

CLERK: Mr. President, Senator Fulton would move to withdraw LB740. [LB740]

PRESIDENT SHEEHY: Senator Fulton, you're recognized to open on your motion to withdraw LB740. [LB740]

SENATOR FULTON: Thank you, Mr. President. Pursuant to Rule 5, Section 12, withdrawal of bills, I respectfully request my colleagues to help me vote to withdraw LB740. [LB740]

PRESIDENT SHEEHY: Thank you, Senator Fulton. You've heard the opening on the motion to withdraw LB740. Any discussion? Seeing none, Senator Fulton, you're recognized to close. Senator Fulton waives closing. The question before the body is, shall LB740 be withdrawn? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB740]

CLERK: 34 ayes, 0 nays, Mr. President, on the motion to withdraw LB740. [LB740]

PRESIDENT SHEEHY: LB740 is withdrawn. We'll move to first item under Select File. [LB740]

CLERK: Mr. President, the first bill on Select File this morning and for this session is LB204. At this time I have no Enrollment and Review amendments. I do have other amendments pending. The first, Senator Burling, AM274. [LB204]

PRESIDENT SHEEHY: Senator Burling, you are recognized to open on AM274. [LB204]

SENATOR BURLING: Yes, Mr. President. I've asked to allow Senator Synowiecki to go ahead of my amendments. [LB204]

PRESIDENT SHEEHY: Senator, we're passing over all three of your amendments. [LB204]

SENATOR BURLING: Yes. [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, you are recognized. [LB204]

CLERK: Mr. President, Senator Synowiecki, AM845. (Legislative Journal page 968, First Session, 2007.) [LB204]

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SENATOR SYNOWIECKI: Thank you, Mr. President, members. And thank you, Senator Burling, for your professional courtesy. Senator Burling has been working with me on this bill since last year. He's been quite the statesman and has shown it again today. As far as an update, members, LB204, the underlying bill, is a bill to change provisions relating to the Contractor Registration Act. The bill was heard by the Business and Labor Committee on January 22 and was advanced to General File with amendments on a unanimous vote. There was no opposing testimony on the bill at the committee hearing. Last session, we debated the General File, LB204, we debated the bill and it was advanced to Select File. Members, I introduced LB204 in response to what is known to be a statewide and nationwide problem and that is contractors are exploiting workers and misrepresenting themselves to consumers by misclassifying employees as independent contractors. They're commonly known as 1099 workers; 1099 is an IRS tax form used to classify workers as independent contractors, thus declaring such workers as nonemployees. This misclassification has substantive consequence relative to both our state coffers and the safety and wellness of Nebraska workers. Not only are workers being exploited, but the problem is compounded with the state failing to collect an appropriate level of taxes. This misclassification allows contractors to avoid obligations to the state by not withholding taxes from the wages it pays 1099 workers. These workers are often unaware of their misclassifications because they are treated as if they are actual employees, and they often fail to pay their required amount of income taxes. Additionally, only after an on-the-job site injury occurs they are made aware that workmen's compensation benefits are not afforded them as well. The current Contractor Registration Act requires contractors in counties with population over 100,000 to register with the state and to provide proof of workers' compensation insurance coverage. This covers contractors in Douglas, Lancaster, and Sarpy counties. According to the Department of Labor statistics, 4,916 contractors are currently registered, 3,942 of these are in the state, 974 are out of state. The current statute gives the Department of Labor the authority and responsibility to investigate contractors that do not follow the law. Given the widespread abuse of misclassification of employees, it is obvious that enforcement efforts under the current statutes have been insufficient. There is currently no monitoring by the department of contractors outside of the three counties, and they are not investigated within these three counties to the proper extent. There have been approximately 400 inspections of potential violations of the act and over 350 citations have been filed between 1994 and 2004, a ten-year period. I think it's imperative that we give the department the tools necessary to confront this problem and to do what is necessary to stop this practice. Contractors that don't play by the rules are exploiting workers, consumers, and the state through this unlawful practice. And therefore, I truly believe that we need to give the Department of Labor the tools necessary to address this problem as soon as we can. After the debate last session, members, you may recall there were substantive questions brought to me by Senator Stuthman, Senator Burling, Senator Carlson, Senator Wightman had several questions. In response to those questions I worked with my staff and I worked with the Department

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of Labor under AM845. Let me go through kind of a thumbnail what this amendment does. And again, this represents my good faith effort to work with those that had concerns relative to the bill following the debate on General File last year. The first definition that was...that came to my attention was that the definition of construction is too broad. Under the proposed amendment, under AM845, the definition of construction is amended to exclude the construction of water wells or installation of septic systems. The second issue brought to my attention was the exemptions from payment of contractor registration fee. Currently, under LB204 a contractor is not required to pay the fee if the contractor is self-employed with a maximum equivalent of one full-time employee in any given time. The act currently states that if a contractor is self-employed and does not pay more than \$1,000 annually to employ other persons in the business, they are exempt. Under AM845 the proposed amendment drops the maximum equivalent of one-time employee at any given time. There was some ambiguity with that. Senator Carlson actually was the one in particular that brought that to my attention. And it reinserts the employee payroll contribution formula. Under the proposed amendment the threshold for fee payment is tripled to \$3,000 annually to employ other people. And if you employ another person and the payroll exceeds \$3,000, you then hit the criteria threshold for registration. Another issue I believe in particular was brought to me by Senator Stuthman was fee collection in terms of the Department of Labor. Under this amendment, AM845, we extend to the Department of Labor the same provisions relative to fee collection that is available under unemployment law. And the registration fee itself, again Senator Stuthman brought this to my attention, had problems with the fee at the \$50 level. Under this proposed amendment, under AM845, the fee under the amendment is reduced to \$40. The Department of Labor reports to me that this is the lowest possible amount to appropriately enforce the act. Finally, I believe it was Senator Wightman had some problems with the administrative penalties; he thought that they were far too punitive and too high. Under this proposed amendment, AM845, the bill is amended to return the penalties to the original amount, not more than \$500 for a first offense, and not more than \$5,000 on a second or subsequent offense. So the amendment essentially returns the penalties to the original level. Again, this amendment reflects my good faith effort to work with individuals that brought concerns to the bill. I'm not at all sitting here today asserting that they are now in agreement with the bill, but it was indeed a good faith effort on my part to remedy some concerns relative to the underlying bill. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. You've heard the opening to AM845 to LB204. Senators wishing to speak are Senator Wightman, followed by Senator Loudon, Senator Burling, Senator Stuthman. Senator Wightman. [LB204]

SENATOR WIGHTMAN: Thank you, Mr. President. I do want to thank Senator Synowiecki for his willingness to work with us to address at least some of our concerns with regard to this matter. At the same time, I do have some questions, if Senator Synowiecki would yield to a question. [LB204]

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PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: Yes, of course. [LB204]

SENATOR WIGHTMAN: Senator, do you have with you any of the sections, some that aren't amended, and one being the definition section, 48-2103? If not, I'll read it to you. [LB204]

SENATOR SYNOWIECKI: I don't have them (inaudible). [LB204]

SENATOR WIGHTMAN: Okay. We have a clause and it's defining contractors. And then it says, the person who earned less than \$1,000 annually, or who performed work or had worked performed on the person's own property shall not be a contractor for purposes of the act. And I don't think you're amending that particular section. Maybe it does amend that section. [LB204]

SENATOR SYNOWIECKI: I'm sorry, Senator, I don't have that in front of me. But perhaps you might be interested to know that if you're speaking about the fee, a contractor does not have to pay the fee. And the only thing that is amended relative to the fee payment and registering as a contractor is an annual payroll from the contractor of \$3,000. As you alluded to, the current statute defines a contractor that must register as one that has a payroll of \$1,000. So essentially what we're doing is tripling that amount as the threshold of the criteria for a contractor to register. [LB204]

SENATOR WIGHTMAN: I'm more concerned, Senator, with the clause that says...it says one who earns less than \$1,000 annually or--and I'm more concerned with the second part--who performed work or has work performed on the person's own property, shall not be a contractor for purposes of the act. Are you familiar with that exception? [LB204]

SENATOR SYNOWIECKI: I'm very familiar with that exception, and that is correct. Senator, if I myself want to do some work on my home, I want to hire some people to come over, do some work, or some buddies to help me out, I would not--and I think Senator Christensen had this dialogue with me as well--I would not, you would not, any of us would not have to register as a contractor to remodel your kitchen or what have you, particularly if you're doing it yourself. [LB204]

SENATOR WIGHTMAN: My question goes more to this, when it says...because if it were your home it would be pretty clear. But it says, performs work or has work performed on the person's own property. It seems to me that is broad enough that we even could have a contractor who buys vacant lots or a whole subdivision, owns a lot and then hires a contractor to work on that lot. Do you think there's an exception there?

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It seems to me there might well be, that somebody could claim that's an exception. He could be a full-time contractor, unless there is something else that takes that exception out of the act. [LB204]

SENATOR SYNOWIECKI: You know, Senator Wightman, I truly...we did not go into this area with this exemption. I thought it was a good exemption. I didn't think that owners of property should be required to register as a contractor, say for example, the example I just gave--if you were going to remodel the kitchen yourself you shouldn't have...be compelled to register as a contractor. So we did not, Senator Wightman, get into any substantive way into that clause or that exemption within the existing language. [LB204]

PRESIDENT SHEEHY: One minute. [LB204]

SENATOR SYNOWIECKI: I think your example is...you know, might be a little far-fetched. I'm not aware of any circumstance such as one that you're presenting right now. [LB204]

SENATOR WIGHTMAN: Well, my thought on that is that generally the law assumes that any regulatory contract will be strictly construed. And if you construe that strictly, it seems to me that there could be a very wide exception there. And I guess I have some concern over that. But I realize that's not part of your amendment. So I thank you, Senator Synowiecki. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Louden. [LB204]

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. As we're starting fresh from where we left off last year, I looked through some of this and I don't think I was here when that was advanced last year. But I have some questions on this thing, especially on the part in the bill that said where you're striking counties with a population of over 100,000 inhabitants. And I was wondering if Senator Synowiecki would yield to some questions, if he would? [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: Yes, of course. [LB204]

SENATOR LOUDEN: Now as I looked at that, when that was in legislation before, that took care of most of your rural counties all over the state of Nebraska. In fact, probably only two counties, that would be Lancaster and Douglas, or whatever, Sarpy, some of these eastern counties are the only ones that this bill pertained to. Now that that's been stricken from the bill, you've got every county in the state of Nebraska. And when you talk about contractors you've got hay contractors, you've got truckers, you've got people cutting silage, about everything. Some outfits have people that operate their ranches

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under contracts. Where all does this fit into this bill? Did you...is this going to encompass all of those people? [LB204]

SENATOR SYNOWIECKI: No. Actually, the passage that Senator Wightman was discussing, if you do work on your own property, Senator, you're exempted from the contractor registration. [LB204]

SENATOR LOUDEN: Yeah, but this isn't doing work on your own property. This is having contractors, because we have to file those, I think you call them 1099s, but...when we file our income tax. We have truckers and everything else that we have to file that under. And these are people that contract work and some of them hire people. So will they be encompassed in this bill? [LB204]

SENATOR SYNOWIECKI: Okay. Senator, if you hire a contractor as a consumer and that contractor has, under the auspices of AM845, if that individual contractor has a payroll in excess of \$3,000 and fits all the other parameters of the bill, yes, that contractor will have to pay 40 bucks and register with the state. [LB204]

SENATOR LOUDEN: Okay. Now you're telling... [LB204]

SENATOR SYNOWIECKI: And it's a one-page form that I have a copy of it for you for your review, if you'd like. [LB204]

SENATOR LOUDEN: Yeah. Now you're telling me then that someone that's contracting hay, to put up hay through the summer, because they'll certainly have a payroll of more than \$3,000, because you hire people to run that machinery, then they will have to register as a contractor and pay in their money and that sort of thing? [LB204]

SENATOR SYNOWIECKI: Senator, I don't believe so. I don't...it depends on how the mechanism...how is this usually set up? I mean, is there... [LB204]

SENATOR LOUDEN: Well, if they're contractors they contract that work to be done. Yeah, there's contracts signed to cut and bale hay or even plant corn. There's all kinds of things that are contracted to done out there...to be done. And this is where I'm...when you took this 100,000 population out of the statutes before, why, you took in the whole state of Nebraska. Up until then it was pretty well just down here in the eastern part of the state, around your metropolitan areas. But now you've got all the rural areas all involved clear across the state. And I was realizing if you...or I'm...I was wondering if you realized that is what you did when you worked this bill over? [LB204]

SENATOR SYNOWIECKI: No. Senator Louden, relative to your specific question on baling hay and that sort of thing it would not apply. [LB204]

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SENATOR LOUDEN: Why not? [LB204]

SENATOR SYNOWIECKI: Let me read to you the definition of construction. Construction means work on real property and annexations, including new work, additions, alterations, reconstruction, installation, and repairs performed at one or more different sites which may be dispersed geographically. And actually,... [LB204]

PRESIDENT SHEEHY: One minute. [LB204]

SENATOR SYNOWIECKI: ...in consideration of concerns that were raised from the rural folks, it does exempt...it goes on. You'll see the new language in the amendment. It exempts construction of water wells or the installation of septic systems. [LB204]

SENATOR LOUDEN: Very true. I see where you have done that construction of water wells, because that would have been quite a deal because of your irrigation wells in places that would be...would come under that. But I'm wondering if that doesn't include agriculture, then why shouldn't it be in the bill or in an amendment someplace to exclude agriculture? And it isn't in there. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Burling. [LB204]

SENATOR BURLING: Thank you, Lieutenant Governor and members of the body. Kind of some more updating since last year. What we're dealing with here, folks, I think is a situation that covers the whole state. I want to thank Senator Synowiecki for this amendment. It has been a good faith effort to address some of our concerns. For me it doesn't go far enough. There are still concerns out there that this doesn't address. And even though there were...there was no opposition at the hearing last year, I'd like to say that we're dealing with communities across the state, we're dealing with a group of people in this state that do part-time construction work. They don't have an organization. They don't have a lobby. They don't know this bill is here. They're out there, good Nebraskans, doing their job, minding their own business. And I think we need to discuss this thoroughly because it will impact a lot of communities in this state and a lot of people. Let me give you some examples. Where I come from, I don't know how it is in your part of the state, but where I come from, in my district it is relatively easy to get a full-time contractor to do new construction. But it's virtually impossible or nearly impossible to get a full-time contractor to do repairs, installations, maintenance on existing buildings. You can wait years to get a repair on an existing building if you're looking at full-time general contractors. We rely heavily on part-time contractors. I'm talking about the person that's got a 40-hour-a-week job and on weekends he does construction contracting. The school teacher does construction contracting in June and July; the farmer who does construction contracting in the winter, like today when the fields are frozen. These are part-time contractors that our rural communities rely heavily on to do the jobs that the full-time contractors won't do. And under this bill they would be

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required to register with the Department of Labor if they do over \$1,000 of work a year, and that doesn't take very long in this day and age. And I'm afraid that some of those people will...either they won't know that the law exists, or if they do they'll ignore it thinking that they are such a little part of the whole piece that it won't matter, or they might say, I quit, I'm not going to do that anymore. And in rural Nebraska we can't afford these people to not...to continue to do these little one-day \$100 jobs that full-time general contractors won't do. And so I just wanted to clarify that and say thank you for this amendment, but I don't think it goes far enough. And I'll continue to listen to the debate and maybe have some amendments of my own farther on. So thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Burling. Senator Stuthman, followed by Senator Gay. Senator Stuthman. [LB204]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. I would like to engage in a little discussion with Senator Synowiecki. [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: Thank you. Yes, I would, Mr. President. [LB204]

SENATOR STUTHMAN: Senator Synowiecki, you had stated and it is true that there was no opposing testimony on the hearing a year ago? [LB204]

SENATOR SYNOWIECKI: Senator Stuthman, the committee statement reflects no opponent as well as no neutral testimony at the hearing that was conducted on January 22, 2007. [LB204]

SENATOR STUTHMAN: Yes. Was there any opposing testimony the year before, when there was a hearing on the bill that...but when it was passed that...just the two metropolitan counties, Douglas and Lancaster counties, were the only ones that had to have this contractor fee? Because we had debated it at that time. It was originally set for the whole state, and then we compromised and put the two communities in that would have to register. Was there any testimony at that time, and I'll give you time to find that information, if there were any contractors that opposed it at that time? [LB204]

SENATOR SYNOWIECKI: You know, Senator Stuthman, I really can't speak to the original...when this contractor registration originally came into law. I've carried this particular bill, I think, pretty much every year I've been down here. And I can't...I don't know. That precedes my time in the Legislature when we enacted the Contractor Registration Act for counties with populations above 100,000. [LB204]

SENATOR STUTHMAN: Okay, thank you. And if you could get me that information at

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some time, I'd appreciate it. The concern that I have is that I think the small contractors that this would affect out in the rural area were not aware of the situation that they're possibly getting into. I do have some...also some concerns about the fact that they have in your compromise amendment, the proposed amendment, definition of construction is amended to exclude the construction of water wells and installation of septic tanks. And you stated that that was on real property. Now what about the individual that does some contractor work and puts in a water retention pond because of environmental concerns? That contractor is going to have to pay a contracting fee. Would that be true? [LB204]

SENATOR SYNOWIECKI: Well, would that fit the definition of construction? Construction means work on real property and annexations, including new work, additions, alterations, reconstruction, installations, and repairs. Let me...you know, before I try to answer, let me talk to some folks. [LB204]

SENATOR STUTHMAN: Okay. [LB204]

SENATOR SYNOWIECKI: I honestly don't know. [LB204]

SENATOR STUTHMAN: I appreciate that, I appreciate that. But those are some of the concerns that I have because of the fact of, you know, the real definition of a contractor. And in my situation on the farm we do contract with people to cut silage. They are neighbors that do that; they contract to do that. And I want to know if that includes those also and they're going to have to pay a fee, a registration fee? Another thing that I have a concern with is the fact that we are trying to get all of the people that do contracting, we want to get them registered. And I think Senator Synowiecki is trying to accomplish the fact that,... [LB204]

PRESIDENT SHEEHY: One minute. [LB204]

SENATOR STUTHMAN: ...the protection of the employee. Is this what your main goal is, is so that all of the employees are being treated fairly and righteously by the employer? [LB204]

SENATOR SYNOWIECKI: Bottom...my interests I'm most sympathetic to would probably be that. There's a wide variety of reasons why I introduced the bill. What's going on, Senator Stuthman, is they'll put in a big box store in Columbus, Nebraska, a Wal-Mart or any number of kind of big box stores. They'll have 25, 30 guys come and put the roof on. [LB204]

SENATOR STUTHMAN: Um-hum. [LB204]

SENATOR SYNOWIECKI: And guess what? They'll have 25 or 30 independent contractors, where you know and I know in having our practical knowledge and

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experience that they're not really subcontractors, they're employees. That's no reflection on the person that hires the crew and so forth, it is the contractor manipulating our... [LB204]

PRESIDENT SHEEHY: Time, Senator. [LB204]

SENATOR STUTHMAN: Thank you. [LB204]

PRESIDENT SHEEHY: (Doctor of the day introduced.) Senator Gay, followed by Senator Synowiecki, Senator Stuthman. Senator Gay. [LB204]

SENATOR GAY: Thank you, Mr. President. If Senator Synowiecki would yield to a few questions? [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: Yes, I would. [LB204]

SENATOR GAY: Thank you, Senator. Following up a little bit on the definition of a contractor, and this is kind of...Senator Stuthman gave me a pretty good segue, I think, into this. The definition of a contractor, you had an exemption on water wells and septic systems and things like that. But does the IRS not give a definition of a subcontractor that you have to follow that they wouldn't be following now? [LB204]

SENATOR SYNOWIECKI: I wouldn't know what that is right now, as far as the Internal Revenue Service. I would suspect that the Department of Revenue would adopt what's currently in statute relative to a definition of a contractor. [LB204]

SENATOR GAY: So, I guess, what I'm looking at, if the people are skirting those current laws, I think they'd be held accountable under other options. The second thing, you said this is already being done and has been being done in the larger communities, larger counties. But earlier you mentioned, and forgive me but I didn't catch it all, you had mentioned the enforcement. Can you just...I'm trying to get my arms around how the whole thing works. How do they currently enforce this bill in the larger counties, and is it being enforced? And then are we getting more revenue from the enforcement of it? [LB204]

SENATOR SYNOWIECKI: As a practical matter, no, it's not. That's why...in part that's why the bill is here. Our enforcement efforts are...enforcement of resources are woefully inept, even for the three counties that are currently covered by this. There has been some kind of sensational cases in the media about some job sites within the city of Omaha where you'll have, you know, 89 contractors on the job site. Well, Senator Gay, you know and I know that those aren't all subcontractors, they're actual employees. And

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what the real problem starts, the real significant problems, the human face of this is when one of those guys falls off a roof and they don't have workmen's comp, they don't have unemployment insurance benefits. And then those families then are put on public rolls for the most part and this sort of thing. So it's a significant problem even in the jurisdictions that it currently applies to. The...I think you'd have to talk to the Department of Labor, but my suspicion is that it's entirely complaint-driven, that you have a legitimate contractor that has legitimate employees, and here's why the contractors are in support of this. It's because you have a...if you have a legitimate contractor that has employees and plays the assorted workmen's compensation, unemployment insurance benefits, Social Security, they're at a disadvantage when they come, Senator Gay--and you know the marketplace--they're at a disadvantage when they come to bid these jobs. When you've got contractor A who has an assortment of so-called subcontractors, but indeed they're actual employees, and then you have a legitimate contractor that plays by the rules, plays aboveboard, they can't get a lot of this work. And so given that, I think, I think that the investigations are mostly complaint-driven. And I would suspect that those complaints mostly rest with legitimate contractors doing business in our communities. [LB204]

SENATOR GAY: Okay. Did...well, I guess on that then, if we're not enforcing or it's complaint-driven currently in the largest counties and now we want to expand it, why would we not go do it right first and then come back and expand it? Why are we looking to expand it now? If there are four full-time employees under the fiscal note and we're not even doing the job now, I don't understand that. I mean, why wouldn't we...and I understand what you're saying as far as fairness and people following the rules, current law. But to me it seems kind of odd. Why wouldn't we just enforce what we're doing now and why aren't we enforcing what we're doing now? [LB204]

PRESIDENT SHEEHY: One minute. [LB204]

SENATOR GAY: It's just a complaint-driven process or why aren't those people complaining, then? [LB204]

SENATOR SYNOWIECKI: We would, with the \$40 fee which is under the amendment, we would be adding substantively to the Department of Labor's investigative arm on this. And quite frankly, the problem is widespread throughout Nebraska. This just doesn't happen here in Lancaster County, it just doesn't happen in Sarpy County, it just doesn't happen in Douglas County. The misclassification on 1099s is throughout the state relative to this misclassification. And those contractors that are legitimate contractors--again, and have employees, real employees with real benefits--are at a huge disadvantage in work in Columbus, Nebraska, York, Nebraska. Throughout the state this occurs. It's not isolated to the three counties in...that are...that's currently applicable to the bill. [LB204]

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SENATOR GAY: Okay. Well, I guess what I want to look into, and I will, is why the Department of Revenue isn't looking into those things now. [LB204]

PRESIDENT SHEEHY: Time, Senator. [LB204]

SENATOR GAY: Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, followed by Senator Stuthman, Senator Wallman, Senator Wightman, and Gay. Senator Synowiecki. [LB204]

SENATOR SYNOWIECKI: Thank you, Mr. Lieutenant Governor and members. I appreciate the questions. I appreciate the dialogue. A couple of things. Senator Burling spoke relative to guys that, maybe police officers, teachers that have a full-time job and they do this stuff, they do this construction work and reconstruction work on their spare time, if you will, kind of their part-time job. Senator Burling, I can assure you that that's not unique to Hastings, Nebraska. Some of my best friends, some of my good friends in south Omaha do exactly that. They do a home remodel job on the weekend, they put up decks, they do reconstruction to bathrooms. And guess what? They don't have to register and they don't register because they don't have to. And neither would those teachers and police officers that do this sort of work and they're part-time, they would not have to register under this act. If you'd read the amendment and if you'd read the underlying bill, I think this has been carried through all along, is that if you're a self-employed contractor, or no employees and no payroll, you don't have to register under this act. Senator Stuthman as well talked about some of the abuses under this 1099 program. And I think Senator Stuthman really wants to advocate for contractors in his district that are treating their employees fairly, that play by the rules, play aboveboard and don't abuse the misclassification. And the fact of the matter is those contractors that actually have employees and pay the assorted unemployment insurance for those employees, and pay the workmen's compensation, Social Security, and that actually value those employees, they're at a disadvantage, Senator Stuthman. They're at a disadvantage when they come to the bidding table to bid some of these jobs in your community when you have these unscrupulous contractors come in with...and they'll put on subcontract or on a 1099 8, 9, 10, 11 guys for a job site. And they'll tell them when to take lunch, when they can come back from lunch, they'll tell them what to do, they'll direct their work activities at the job, they will directly and substantively direct the work activities at the job, tell them when they can do lunch, tell them when they get off, and skirt around all the rules and regs relative to employment law and undercut your legitimate contractors in your community. I don't think that's fair. I don't think these misclassifications are solely taking place in the three counties that this applies to right now. I think we need a level playing field throughout the state and we need to have these contractors registered. And I agree again with Senator Burling. The last thing I want to do is put a guy out of business that does this as a part-time basis on his own, doing home remodels and reconstruction. The bill just simply does not apply

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nor does the amendment apply to that situation, I want to reinforce that. So with that, thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Senator Stuthman. [LB204]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. The thing that does concern me is the fact that some of these small contractors that have, you know, maybe one or two employees, they have to register and pay a fee. And the fact that what and where is this fee going? When I look at the fiscal impact of it, the fees that are collected, because of the fees, what these fees are doing is the fact that they're hiring somebody to look over their shoulders. And I think that is what I feel is something that I'm not real happy with, the fact that everybody has to pay a little bit so that somebody can watch you and check up on you. You know, I think the majority of the contractors, you know, do a real good job and they're very disciplined, pay their fees that are ordered and directed that have to go to the state as far as workmen's comp and everything like that. But he brings up the situation with the subcontractors, and I'm sure that does happen. I don't know how often. But I think when the word is out that these subcontractors are trying to skirt the fact that they should be paying, you know, their workers the workmen's comp and everything like that, I think that word gets around fairly fast. I'm just so concerned that you have a small contractor that, you know, maybe has one or two employees and he would forget to pay the registration fee and he would get fined. I think there is a situation that is really going to happen out there in the rural communities. Yes, we do have it in the two larger communities right now. But I think that in order to police it in the rural areas, like they say, what I fear is going to happen is that we have a fee of, I think it's \$40 right now in the amendment. I think if we pass this bill and there is not enough money to supervise, to administer it, to accomplish what we're trying to do with this bill, I would venture to say that in a year or two the fees will go up to \$50, then they'll go to \$100 and just continue on an upward climb. Seems like every time we start something it seems very workable and doable at the present time. But it continues to climb. So I think the situation that we have right now with the two larger communities that have that contractor registration, I think it's probably working out in those areas. But I'm a little bit concerned about the small guy that has one or two employees and paying the fee, and you know good and well it's going to be higher in the future. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Wallman. [LB204]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I agree with some things that Senator Stuthman said. But if you've ever been in a tornado area and watched these people come in from all over the country and they're not registered, you're going to get taken. And it's happened in my community, it's happened to one of my brothers, it happened to my brother-in-law. And they weren't registered and they're gone. They take your money and they don't do the job. So this fee, \$40...my brothers

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are in the contracting business. They do small contracts through the winter, they put up buildings and things like that, and one of my cousins builds homes. He pays unemployment and everything like that. He goes by the rules. And then these other people come by and shoot them in the foot. So I hate fees, I hate more rules and regulations because I think that's against economic development. But in today's climate with noncitizen labor and wherever they come from, we have problems with our legitimate contractors. So if we have to protect them for \$40 and make sure it gets in the papers, make sure all the small contractors know about it, \$40, you can't even go out to eat on that anymore. And I don't think most of them would object to that myself, but I speak for myself and my family. But that's where I stand. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Wallman. Senator Wightman. [LB204]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I agree with Senator Burling. I have a lot of concerns about how people are going to find contractors for small jobs out in rural Nebraska. He certainly is correct in saying that it's easy for someone, in most instances if they're going to have new construction, if they're going to build a new home, to find a contractor who would do that work. But for the small remodeling job, whether it be a small amount of electrical work, whether it be building a few cabinets, building bookcases, or any kind of an addition to the home, it becomes almost impossible. And he's right when he says you can wait an entire year. I know my son was having some work done this year and it wasn't nearly as big a job as some in the community, and there just was no interest in doing that. A lot of people that promised they would come, but most of them did not arrive, and it wasn't just one or two contractors--it was a number of them. And I think that if we overregulate this in rural Nebraska, we are going to see a drop in those who are willing to do any of that work. So I think that's a big issue here. I think another one is really going to be enforcement. We have a lot of situations with regard to small contractors. There will be a single contractor and then all of a sudden maybe there are two contractors, they get together and do a job. They might hire a high school kid to come out and do some painting for them. They're no doubt going to be subjected to this act. Again, I have some questions with regard to the exceptions under 48-2103 as to whether...if you hire someone to come out and do the work, how broad that is. Does that include a contractor or somebody who should have been a contractor who comes out and does that work, or does it mean what it says, that a person earns less than \$1,000 or who performs work or has work performed on the person's own property shall not be a contractor? But I assume if a person that comes out as a contractor under the definition or the exception, that probably they are going to be subject to the registration. So I'm not as concerned probably over the registration as I am the penalties that the act provides. But I am really concerned over what it's going to do to the average person who wants to have a small job done in renovating or remodeling his home. Thank you, Mr. President. [LB204]

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PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Gay, followed by Senator Carlson, and Senator Burling. Senator Gay. [LB204]

SENATOR GAY: Thank you, Mr. President. I just wanted to get up a little bit on not enforcing the current laws is, I find a little bit troubling. If we have this we're already not doing that. The Department of Labor, I guess, is the one who is responsible for making sure these laws are enforced, and we're currently not doing that. Now we're expanding the scope of their services and we're already understaffed or not prioritizing an existing law. So that worries me that we're then expanding this. I think Senator Synowiecki made some good efforts here and is working hard to make this more palatable to a lot of people. But as we have the discussions there's a few other amendments I see that are going to be coming that would absolutely, I think, need to be added onto this. So there's changes being made, but it still gets back to the point where adding another law, another regulation, another fee that someone has to do. And if we're not enforcing what we have now...I did look up a little bit on the subcontractor. Senator Synowiecki talked about, well, you have...this is happening--I do know and we should look into it--you get a large employer and they're doing this and we know it's happening there and no one is enforcing that. But under the subcontractor there is tax definitions, and there is 20 of them. If they're telling you, you got to show up at 8:00 and you get off at 5:00 and you're following specific rules, there's 20 of them if you'd want to look. But you know, if there is somebody telling you what to do, it's not, you know, hey, get the job done in the next five days and you're on your own. But if you would need to show up at 8:00 and you're off at 5:00 and you get an hour lunch, there are a lot of things in that I know we need to enforce. The IRS enforces whether you can even call yourself a contractor, or subcontractor, or independent contractor. So I think there are specific definitions. So maybe what we should do is find out a way that we could enforce what we currently have before we take that step forward and expand this. So I just wanted to get that out there and put that on the table, too, as we continue the discussion. I think it's a good, healthy debate that we need to have, and I appreciate Senator Synowiecki bringing this up. So thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Carlson. [LB204]

SENATOR CARLSON: Mr. President and members of the Legislature, I would like to address a question or two to Senator Synowiecki, if he would be willing to take the other mike. [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: You don't want me to share with you? [LB204]

SENATOR CARLSON: Well, you don't want to get my cold. [LB204]

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SENATOR SYNOWIECKI: Thank you. Yeah, it's probably better you do use the other mike, given your condition right now, Senator Carlson. [LB204]

SENATOR CARLSON: (Laugh) Thank you. Again, I just need you to clarify this \$3,000, so I understand a little better by example. Senator Synowiecki, I'm a self-employed contractor and I make \$20,000 over the course of a summer in doing some odd work. And you used the example of buddies of yours putting on decks and so forth. So you hire me to construct a two-story deck at your home. Ask me if I can do it, and I say, yes. Now I need some help and I think I need two or more people to do your job, but you nor your son don't have time to spend to help me. So I hire Senator Hansen and pay him \$3,000 for your project. Am I now a contractor under your bill and need to pay the fee? [LB204]

SENATOR SYNOWIECKI: Three thousand dollars or above you have to pay forty dollars and register with the Department of Labor. [LB204]

SENATOR CARLSON: Okay. I think I'm understanding that now. So if I pay him \$2,900 I don't have to register yet? [LB204]

SENATOR SYNOWIECKI: That's correct. [LB204]

SENATOR CARLSON: Okay. [LB204]

SENATOR SYNOWIECKI: And there's an amendment following this that raises that criteria. I believe it's Senator Burling's. [LB204]

SENATOR CARLSON: Okay. And so in that second person that I need, I hire Senator Chambers and pay him \$2,950, because I'm going to pay him more than Senator Hansen. I still don't have to register as a contractor? [LB204]

SENATOR SYNOWIECKI: Well, no, if your total payroll exceeds the amount, the threshold amount of which is \$3,000. [LB204]

SENATOR CARLSON: Okay, okay. That's what I wanted to clarify. So the total threshold is \$3,000? [LB204]

SENATOR SYNOWIECKI: Yeah. [LB204]

SENATOR CARLSON: Now I think you bring forth a real problem when you talk about big construction and a lot of employees and not wanting to put the honest, upright contractors at a disadvantage. And I think your amendment addresses the issue, but it could go a little bit further and still accomplish what you want to accomplish. And I think the purpose would also be served if the threshold were raised higher. I don't think it's a

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money issue. I think it's the number of people. And so whether I do this now--I'll listen a little further to what Senator Burling might bring forth--but I think that threshold needs to be higher. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Burling, followed by Senator Engel. Senator Burling. [LB204]

SENATOR BURLING: Thank you, Mr. Lieutenant Governor and members of the body. I'm just standing now to respond to what Senator Synowiecki said a few minutes ago regarding part-time construction contractors. I understood him to say, if I didn't misunderstand, that part-timers are not included in this act. Well, under AM845, subsection (3), if you'll read that, and that's in statute now, a contractor means a person who engages in the business of construction; includes subcontractor, general contractor, and any person arranging for performance of construction. A person who earns less than \$1,000 a year is not a contractor under this act. So I'm assuming that means a person that earns over \$1,000 a year is a contractor under this act. And these part-time contractors, you take a school teacher that wants to do part-time contracting in June and July, middle of June they've already got their \$1,000, and they've either got to register or quit. So it doesn't take long to get that \$1,000, and unless I've got something wrong here, and somebody help me out if I have, I read this to mean if it's over \$1,000 a year you're subject to this act. I just want to raise that question. And help me out. If I'm wrong with that definition, I'd appreciate an explanation. Thank you very much. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Burling. Senator Engel, followed by Senator Nelson. Senator Engel. [LB204]

SENATOR ENGEL: Am I on? Mr. Lieutenant Governor and members of the body, just a point of clarification. I'm sorry I missed this last conversation, but when I sold insurance for several years and I sold to small contractors only...but the thing is a contractor, so many of the small contractors were utilizing...they were hiring help and they were calling them subcontractors. Well, the thing is, is the definition of a subcontractor. You know, if you tell them what their salary is going to be, you tell them when to come to work, you do this, and this, and this, and this, they're actually employees. And those that played the game, they got burnt. And for example, I'll give you an example, because I always informed my carpenters or electricians, whoever they are, if you do something yourself, of course, you have to carry your liability and so forth. But in fact I always informed my policyholders, if someone comes to do work for you, make sure they have a liability policy. If they don't, tell them to go get one. It's not very expensive anyhow. Because if they foul up, they're going to be...wind up costing you or your insurance company a lot of money, and they might be subrogated against...from the insurance company for something...from one of their actions. So it's just for protection for them, too, and the homeowner. But the thing is, if by playing that game...I had one contractor that didn't listen, and he...first of all a lot of times he'll say, well, those are my friends of mine, they

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will not sue, they will not sue. Well, they won't sue until something happens. And when they lost their livelihood and they have a family to feed, they're going to go after...find the dollars wherever they can find them, and that's the proper place to find them, what the law requires. And so therefore this particular one didn't do that. Well, he wound up going bankrupt because he was covered under the work comp law, and he was his own carrier, regardless of how he felt. So I think there's a clarification that we have to instill in all of these contractors. As far as what Senator Burling is doing, I think that's...there are those handy guys that come around and just fix a screen door or something like that. I think there should be some...and of course they're by themselves, they're not hiring anybody there. I think you are exempt if it's son or a daughter, or something like that. So that's just something that I think...and I'm sure that's probably in here somewhere. But I just wanted to clarify if people didn't pick that up. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Engel. Senator Nelson, followed by Senator Synowiecki. Senator Nelson. [LB204]

SENATOR NELSON: Thank you, Mr. President. Would Senator Synowiecki yield to a question or two? [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: Yes, I would. [LB204]

SENATOR NELSON: Thank you, sir. This carries on a little bit in the same line of questions here by Senator Engel. For years there has been litigation and a lot of controversy with the IRS as to what constitutes a subcontractor. And I would pose this question: Are we here by setting this criteria here as, you know, at a money level, are we automatically, when they register or have to register, taking them out of the category of subcontractor and saying that even though you consider yourself a subcontractor regardless of the amount that you earn, you're going to have to...the overall general contractor is going to have to start paying in workmen comp and unemployment insurance on them? Could you direct your answer to that just a little bit. [LB204]

SENATOR SYNOWIECKI: Senator, boy, I hope I can be a resource for you. Here's how I understand it. If you are a self-employed contractor with no employees, so if you subcontract a lot of your work, those subcontractors are not your employees. And the debate is whether or not they are legitimate subcontractors or not, or if they are employees. If you have employees and you have a \$3,000 threshold, that you go over \$3,000 for salary costs, then yes, you have to register and those employees would be your employees. God, I hope I'm being somewhat responsive to your questions, John. What...the bill is a Contractor Registration Act. It is simply to get people to register that should be registered as contractors. So that folks, when they go to hire a contractor, they can consult the Contractor Registration Act list within their local communities, to

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make sure that that contractor is registered with the state. And they have a...there was a lot of testimony. I know I'm going...digressing from your question. But there was a lot of testimony at the hearing about consumers who had gotten taken by contractors. There would be some level of assurance for consumers that they know that the individual is registered or not and their track history of that registration. And relative to your question, yes, if you have an employee, the threshold goes above \$3,000, you need to register. [LB204]

SENATOR NELSON: Um-hum. Well, I understand that, and I think that's good, and they do have to register. But my concern is a little bit, is once the registration is accomplished as required, then the Department of Labor is going to start insisting that this contractor who has registered is going to have to start paying in work comp and unemployment, isn't...is that correct? [LB204]

SENATOR SYNOWIECKI: I don't know, Senator. You'd have to talk directly with the Department of Labor. [LB204]

SENATOR NELSON: Yeah, but...and my concern is if that's the case, then automatically all of...and you give the Wal-Mart example, where you've got 30 or 40 "subcontractors" who consider themselves and are supposed to be self-insured and take care of it, all of a sudden they're going to be...this big fish net is going to come out and as far as IRS is concerned, they're no longer subcontractors. So I think we have to be a little careful of that and see what we're doing here in trying to protect the public by having this registration. Thank you, Senator. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Synowiecki, there are no additional lights on following you. Do you wish to close? [LB204]

SENATOR SYNOWIECKI: Yeah, I would like to close so we can proceed to a vote. Appreciate the dialogue, appreciate the remarks. Senator Burling, perhaps I was not perfectly clear. The self-employed kind of part-time guys that we talked about can be exempt from the fee, from the registration fee, of which under AM845 would be lowered from \$50 to \$40. I thank the body for your indulgence. I appreciate the questions, I thought they were substantive, I thought they were good questions. Essentially, this is a Contractor Registration Act whereby contractors have to register, if they hit certain criteria. What's brought this bill on? What is the motivation behind this bill? Number one, for the somewhat large construction projects that you may have in your local communities, we have some undercutting going on by unscrupulous, large contractors that hire--and I use that word deliberately--they hire an assortment of subcontractors which are not legitimately subcontractors, they are actually employees, and they run afoul of the intent and integrity of the law relative to classification of employees. On a much smaller scale you might have a one-, two-, three-man shop. We must assure that those employees are treated as such, that they are afforded your basic unemployment

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insurance, workers' compensation and so forth, and that there is a level playing field between the smaller contractors and the smaller scales as well. So that's essentially the two-pronged reason why LB204 was brought. I'd remind you, there was no opposition testimony at the hearing. There was a wide range of support for the bill at the hearing in a proponent capacity. I would appreciate your adoption of the amendment. We are voting on the amendment. Senator Burling has a couple of amendments that I have some interest in. I don't know yet if I would support them, but I would have some interest in them, particularly with the criteria on the dollar amount for employees. I might be interested in that. I would just encourage your adoption of the amendment so we can move forward from here. Mr. President, I would like to have a call of the house. It seems we're lacking a little bit. Call of the house for the vote. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. You have heard the closing to AM845. 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 yea; opposed, nay. Please record, Mr. Clerk. [LB204]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB204]

PRESIDENT SHEEHY: The house has been placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. (Visitors introduced.) Senators, the house is under call. Senator Heidemann, Senator Cornett, would you check in. Senator Pedersen, would you please check in. Senator Schimek, would you please check in. Senator Friend, the house is under call. Senator Synowiecki, while we wait, how would you like to proceed, once he's here? [LB204]

SENATOR SYNOWIECKI: Mr. President, we can proceed, if... [LB204]

PRESIDENT SHEEHY: The question before the body is the adoption of AM845 to LB204. All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB204]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Synowiecki's amendment. [LB204]

PRESIDENT SHEEHY: The amendment is adopted. The call is raised. [LB204]

CLERK: Senator Stuthman would move to amend with AM1497. (Legislative Journal page 203.) [LB204]

PRESIDENT SHEEHY: Senator Stuthman. [LB204]

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SENATOR STUTHMAN: Thank you, Lieutenant Governor, members of the body. I have an amendment that would, on page 2, line 27, strike "one full-time employee" and insert "four full-time employees." And the reason that I had put this amendment in, and I had done so last year, was I felt that those contractors that would employ more than one I thought should not have to pay the fee. And I will put it up at four full-time employees. That would take in the majority of the small contractors. The larger contractors would still be subject to the fee. Since that time, in Senator Synowiecki's amendment he has changed it from \$1,000 to \$3,000 and taken out the number of full-time employees, so that has changed. But the fact is from the \$1,000 to \$3,000 of the amount paid to an employee of a contractor, the \$3,000 is not a very long time when you consider the dollars earned by a contractor's employee. I think that the smaller contractors are really going to be affected by this. As I had stated earlier, the fact that there's a lot of those smaller contractors out there that are not going to be aware of the fact that they have to register. I'm also concerned of the fact that the small contractors are going to have to pay the fee that will establish the fact that they are going to be policed and will have to be monitored for what they are doing. And I think they are doing a good job, these smaller contractors. Also, I had stated that once a fee is started, the fact that I think it is \$40 in the amendment that is proposed, as I had stated, it will probably be increased as time goes on, as need arises to police those individuals. That is what I am concerned with. I would like to hear some of the discussion, the debate on my amendment, and we will go from there. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Senator Synowiecki, followed by Senator Gay and Senator Chambers. Senator Synowiecki. [LB204]

SENATOR SYNOWIECKI: Senator Stuthman, can I ask you a question? [LB204]

PRESIDENT SHEEHY: Senator Stuthman, would you yield? [LB204]

SENATOR STUTHMAN: Yes. [LB204]

SENATOR SYNOWIECKI: The amendment we just adopted went away from the number of employee criteria to the payroll criteria. [LB204]

SENATOR STUTHMAN: Yes. [LB204]

SENATOR SYNOWIECKI: In keeping with that original amendment that has just been adopted, Senator Burling has an amendment that raises that to \$5,000, which I support. Is there interest in perhaps moving in that direction with Senator Burling's amendment? [LB204]

SENATOR STUTHMAN: There...I do have an interest in that, although I would like to see it probably at \$10,000. [LB204]

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SENATOR SYNOWIECKI: I'm just looking at...in the interest of time and the interest of the body's time relative to moving this along, I am going to endorse and I support Senator Burling's amendment to raise the criteria to \$5,000. Currently, it's \$1,000. So we're essentially raising it significantly. And I won't support your amendment, but I am in support of Senator Burling's amendment who...I've been working with both of you gentlemen, been great statesmen relative to this. And I hope that perhaps we can move in the same direction that the current amendment that was just adopted, that we could stay with those guidelines, if you will. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Senator Gay. [LB204]

SENATOR GAY: Thank you, Mr. President. I'm going to support Senator Stuthman's amendment to increase the number of employees. But I got on the Web site, the Nebraska Department of Labor Web site to look at this, and we're collecting \$25 right now from...if you get on the Web site of the Labor Department and click on that, there's a list. And I just keep scrolling and scrolling and scrolling. At \$25 a business to fill out this form, which is a simple one-page form--granted there's a lot on it, we're checking right now to see how much we've brought in from that. But I cannot believe that we're not enforcing the current law now. Where if it's just...if it's complaint-driven, the amount of revenue, it will be interesting to find out that we're not enforcing the current law. And that's really kind of...I think what Senator Synowiecki talks about, I agree on that end of it. But the part that's kind of getting me is if we can't do...enforce what we currently have, how are we going to expand this and go and enforce it in greater Nebraska? So some of these questions, I guess, I'd like to get answered a little bit before we...and I know, you know, that we're moving along. And I apologize to Senator Synowiecki on just, like I say, I was kind of reading through the bills, getting caught up as we get started here and it's like, wow, this is a...as I looked more into it I just, you know, want to make sure we're doing the right thing here. Because, you know, it's pretty...it shows who the contractor is, who should register, the fee, where to send it, the form, the length of the form. It's set up very well to go collect the fees. But then after that we just drop the ball, apparently, if it's not being enforced. So it will be interesting to see how much revenue we've received from this and where it's going. I'd like to know where it's going as well. So I just wanted to bring that into the debate. Thank you, Mr. President. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Gay. Senator Burling. [LB204]

SENATOR BURLING: Thank you, Lieutenant Governor, members of the body. I stand to attempt to clarify what I sense as some confusion here. I've heard it said that I have an amendment coming up to increase the \$3,000 to \$5,000, the \$1,000 to \$5,000. Senator Synowiecki, you straighten me out if I'm wrong again, but we're talking about two different things. We're talking about registration and we're talking about fee payment. The thresholds are different. Senator Stuthman's amendment that we're on

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now deals with who has to pay the fee, the \$3,000. My amendment coming up deals with who has to register. And just as I said a little bit ago, it seems to me that right now we're requiring everybody to register who earns over \$1,000 a year in construction work. My amendment coming up raises that figure to \$5,000 to register; doesn't change the number of who has to pay the fee. Mine would change it to \$5,000 to register. Somebody correct me if I'm not understanding that right, but I just want to explain that rather than address the amendment we're on. That's what mine coming up does. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Burling. Senator Stuthman. [LB204]

SENATOR STUTHMAN: Mr. President, members of the body, I would like to withdraw my amendment. [LB204]

PRESIDENT SHEEHY: Senator Stuthman requests withdrawal of AM1497. AM1497 is withdrawn. [LB204]

CLERK: The next amendment, Mr. President, Senator Burling, AM274. Senator, I have a note you want to withdraw AM274. [LB204]

SENATOR BURLING: That's true. [LB204]

PRESIDENT SHEEHY: AM274 is withdrawn. [LB204]

CLERK: Senator Burling, AM273. Again, Senator, I have a note you'd like to withdraw AM273. [LB204]

SENATOR BURLING: Yes. [LB204]

PRESIDENT SHEEHY: AM273 is withdrawn. [LB204]

CLERK: Senator Burling, AM346; a similar note to withdraw, Senator. [LB204]

SENATOR BURLING: Yes, please. [LB204]

PRESIDENT SHEEHY: AM346 is withdrawn. [LB204]

CLERK: Mr. President, Senator Burling would move to amend with AM1552. (Legislative Journal pages 203-204.) [LB204]

PRESIDENT SHEEHY: Senator Burling, you're recognized to open on AM1552. [LB204]

SENATOR BURLING: Thank you, Lieutenant Governor, members of the body. I feel like

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I've already opened. But I'll talk some more about it here. We've talked a lot this morning about the difficulty in identifying really who is involved in and what is construction labor, what is repair or alteration (sic) of personal property, real property? You know, who qualifies? Who's required to do this and who's required to do that? What type of work qualifies, so on and so forth? And those are all, I think, problems with the bill. But what I was trying to do with this amendment is eliminate a lot of these small part-time, self-employed construction workers from having to register. Most of them work by themselves. They might hire a little help once in awhile. But they work by themselves for a short time. And I just, as I said a while ago, it doesn't take long to earn \$1,000 and have to register. So I am proposing this amendment to raise the threshold for registering to \$5,000. This doesn't change the threshold for paying a fee. If this bill...if this amendment is adopted a self-employed construction worker would not have to register until they reached that \$5,000, and then the level for paying the fee is somewhat above that, as we've already discussed. So, pretty simple bill (sic). It just raises the requirement for registration from \$1,000 to \$5,000. And I ask you for your support. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Burling. You have heard the opening to AM1552. The floor is now open for discussion. Senator Synowiecki. [LB204]

SENATOR SYNOWIECKI: Thank you, Mr. President. I want to thank Senator Burling for bringing this important amendment. I support the amendment. Senator Burling has been working with me on this thing for...since last session. He brings to the table something, I hope, that the members will consider and adopt. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. Further discussion on AM1552? Senator Carlson. [LB204]

SENATOR CARLSON: Mr. President, members of the Legislature, again I'd like to address Senator Synowiecki with a question. [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, would you yield? [LB204]

SENATOR SYNOWIECKI: Yes, I would. [LB204]

SENATOR CARLSON: Again, help me. I can't access yet the...Senator Burling's amendment here. But that takes the amount from your \$3,000 to \$5,000. Is that correct? [LB204]

SENATOR SYNOWIECKI: No, actually Senator Burling is taking the amount, under the definition of a contractor, so that if you make less than \$5,000 a year, you don't have to register, period. I don't want to speak for Senator Burling. Perhaps questions about his amendment may go to him. But he's shaking his head in the affirmative. So if you make

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under five grand a year, you don't have to register. Now if you are a...if you're a contractor, you make in excess of \$1,000 and you're self-employed, you have to register, but you can get exempt from the fee. [LB204]

SENATOR CARLSON: Okay. So this has to do with the definition of a contractor. [LB204]

SENATOR SYNOWIECKI: Correct. [LB204]

SENATOR CARLSON: And it has nothing to do with your amendment and the \$3,000 for an employee. [LB204]

SENATOR SYNOWIECKI: That is correct. I've been straightened out on that by Senator Burling, yes. [LB204]

SENATOR CARLSON: Okay. And we already passed your amendment. [LB204]

SENATOR SYNOWIECKI: Which raised it to \$3,000, right, exactly. [LB204]

SENATOR CARLSON: Okay. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Further discussion on AM1552? Seeing none, Senator Burling, you're recognized to close. [LB204]

SENATOR BURLING: Thank you, Lieutenant Governor. Thank you for the question, Senator Carlson. I hope everybody now understands what we're voting on. We're voting on the definition of who has to register, not on who has to pay a fee. So there weren't any more lights on. I'm assuming everybody understands. I ask for your support of AM1552. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Burling. You've heard the closing to AM1552 to LB204. The question before the body is, shall AM1552 be adopted? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB204]

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Burling's amendment. [LB204]

PRESIDENT SHEEHY: AM1552 is adopted. [LB204]

CLERK: Senator Synowiecki would move to amend with AM1559. (Legislative Journal page 204.) [LB204]

PRESIDENT SHEEHY: Senator Synowiecki, you're recognized to open on AM1559.

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[LB204]

SENATOR SYNOWIECKI: This is a simple housekeeping amendment, Mr. President. It updates the dates. Think originally it has in there...it goes from 2008 to 2009, so this would be effective in 2009. We're already beyond the date where it was originally applicable. It's essentially a housekeeping type of amendment. Thank you. [LB204]

PRESIDENT SHEEHY: Thank you, Senator Synowiecki. You've heard the opening to AM1559. Is there discussion? Seeing none, Senator Synowiecki, you're recognized to close. Senator Synowiecki waives closing. The question before the body is, shall AM1559 be adopted to LB204? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB204]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Synowiecki's amendment. [LB204]

PRESIDENT SHEEHY: AM1559 is adopted. [LB204]

CLERK: I have no further amendments pending at this time, Mr. President. [LB204]

PRESIDENT SHEEHY: Senator McGill. [LB204]

SENATOR MCGILL: Mr. President, I move LB204 to E&R for engrossing. [LB204]

PRESIDENT SHEEHY: You have heard the motion. Senator Erdman is requesting a machine vote on the adoption of amendments. All those...on the advancement of the bill. All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Synowiecki. [LB204]

SENATOR SYNOWIECKI: Mr. President, I'd request a call of the house, please. [LB204]

PRESIDENT SHEEHY: There is a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB204]

CLERK: 41 ayes, 0 nays, Mr. President, to place the house under call. [LB204]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senator Nantkes, Senator White, Senator Ashford, Senator Aguilar, the house is under call. Senator Synowiecki, you can take call-ins or roll calls. [LB204]

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SENATOR SYNOWIECKI: I would request a roll call vote, given them two options. Thank you. [LB204]

PRESIDENT SHEEHY: All members are present. [LB204]

CLERK: (Roll call vote taken, Legislative Journal page 204.) 25 ayes, 20 nays, Mr. President, on the motion to advance the bill. [LB204]

PRESIDENT SHEEHY: LB204 does advance. The call is raised. Next item, Mr. Clerk. [LB204]

CLERK: Mr. President, LB204A. Senator McGill, I have no amendments to the bill. [LB204A]

SENATOR MCGILL: Mr. President, I move LB204A to E&R for engrossing. [LB204A]

PRESIDENT SHEEHY: You have heard the motion for LB204A to advance for E&R engrossing. All those in favor say aye. Opposed, nay. It does advance. [LB204A]

CLERK: LB171, Senator McGill, I have Enrollment and Review amendments pending. (ER8124, Legislative Journal page 1864, First Session, 2007.) [LB171]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB171]

PRESIDENT SHEEHY: You have heard the motion for E&R amendments. All those in favor say aye. Opposed, nay. Motion is adopted. [LB171]

CLERK: I have nothing further pending to LB171, Senator. [LB171]

PRESIDENT SHEEHY: Senator McGill. [LB171]

SENATOR MCGILL: Mr. President, I move LB171 to E&R for engrossing. [LB171]

PRESIDENT SHEEHY: You have heard the motion for LB171 to advance to E&R for engrossing. All those in favor say aye. Opposed, nay. LB171 does advance. [LB171]

CLERK: LB171A, Senator, I have no E&Rs. Senator Kopplin would move to amend with AM1560. (Legislative Journal page 205.) [LB171A]

PRESIDENT SHEEHY: Senator Kopplin, you are recognized. [LB171A]

SENATOR KOPPLIN: The amendment to LB171A simply corrects the date. Since this

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was taken up last year, the dates no longer fit, and that is really all my amendment does. It leaves the amounts the same. Thank you. [LB171A]

PRESIDENT SHEEHY: Thank you, Senator Kopplin. You have heard the opening to AM1560. Is there discussion from the floor? Seeing none, Senator Kopplin, you're recognized to close. Senator Kopplin waives closing. The question before the body is, shall AM1560 be adopted to LB171A? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB171A]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Kopplin's amendment. [LB171A]

PRESIDENT SHEEHY: AM1560 is adopted. [LB171A]

CLERK: I have nothing further on the bill, Senator McGill. [LB171A]

PRESIDENT SHEEHY: Senator McGill. [LB171A]

SENATOR MCGILL: Mr. President, I move LB171A to E&R for engrossing. [LB171A]

PRESIDENT SHEEHY: You have heard the motion to advance LB171A to E&R for engrossing. All those in favor say aye. Opposed, nay. Motion passes. [LB171A]

CLERK: LB177, Senator McGill, I have Enrollment and Review amendments first of all. (ER8125, Legislative Journal page 1869, First Session, 2007.) [LB177]

PRESIDENT SHEEHY: Senator McGill. [LB177]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB177]

PRESIDENT SHEEHY: You have heard the motion for E&R amendments to Enrollment and Review. All those in favor say aye. Opposed, nay. Motion passes. [LB177]

CLERK: I have nothing further pending to LB177, Senator. [LB177]

PRESIDENT SHEEHY: Senator McGill. [LB177]

SENATOR MCGILL: Mr. President, I move LB177 to E&R for engrossing. [LB177]

PRESIDENT SHEEHY: You have heard the motion to advance LB177 to E&R for engrossing. All those in favor say aye. Opposed, nay. LB177 does advance. [LB177]

CLERK: LB246, Mr. President. Senator McGill, I have Enrollment and Review

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amendments first of all. (ER8126, Legislative Journal page 1875, First Session, 2007.) [LB246]

PRESIDENT SHEEHY: Senator McGill. [LB246]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB246]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. Motion passes. [LB246]

CLERK: Senator Johnson would move to amend with AM1519. (Legislative Journal page 121.) [LB246]

PRESIDENT SHEEHY: Senator Johnson, you're recognized to open. [LB246]

SENATOR JOHNSON: Thank you, Mr. President. AM1519 is an amendment to add the emergency clause to LB246. Just a very brief synopsis of LB246, what this did was to require coroners to perform certain duties that would increase the supply of anatomical gifts. Basically said that these would be done in a timely manner, which basically means that it would require the coroner to get out of bed at 2:00 in the morning rather than a convenient time, such as 10:00 a.m. The difference is, of course, is that if the decision is possible to be made at 2:00 a.m. to make sure that we preserve the evidence which would be useful to both prosecutors and to the defendant's attorneys, that this should be done in a timely manner so that if the organs were capable of being harvested, that they could be. We have worked diligently with religious groups and trial attorneys and so on and have their agreement on this. The rules do not change regarding all of these activities, and so it is a matter of making sure that we preserve the evidence but also, as possible, be able to make it so that people in need of lifesaving organs also could benefit. The difference that the emergency clause makes is an estimated 25 to as many as 40 organs if we put in the emergency clause, as opposed to waiting the standard length of time. So with that, I would ask the acceptance of the amendment and advancement of LB246. [LB246]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You have heard the opening of AM1519 to LB246. Senator Chambers. [LB246]

SENATOR CHAMBERS: Mr. President, members of the Legislature, often when Senator Johnson brings a bill, no matter what the subject is, I would have a comment or two, sometimes flippant, sometimes informative. But having been instructed by the World-Herald editorials that we should not engage in banter, that we have too much work and not enough time, that we need to behave ourselves and do exactly as the World-Herald instructs us to do, I am not going to engage in any banter this morning other than to say that the World-Herald ought to have defined that term, because

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originally it had to do with reviling or ridiculing somebody in a very meanspirited way, but now it relates to good-humored raillery or you can use some ridicule but the meanness has been taken out of it. Now if that is deemed to be banter, I offer my most humble and sincere apologies to the editor from having departed from the instructions that we were given. Now I cannot promise that I'm not going to stray from those teachings as the session moves onward, but since I look at the clock and it's not likely we're going to do too much more this morning, I felt I could unburden my soul of this heavy weight that descended on me as soon as I read that editorial. I had the feeling that they were attacking me personally, even though they didn't mention me by name. I think that's all I will say. Thank you, Mr. President, and I support Senator Johnson's amendment, and I'm not going to talk about the difference between fresh meat and stale meat. Thank you. [LB246]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Further discussion on AM1519? Seeing none, Senator Johnson, you're recognized to close. [LB246]

SENATOR JOHNSON: Just ask the advancement of AM1519 and the passage of LB246. Thank you. [LB246]

PRESIDENT SHEEHY: Thank you, Senator Johnson. You've heard the closing of AM1519. The question is, shall AM1519 be adopted? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB246]

CLERK: 41 ayes, 0 nays, Mr. President, on the adoption of Senator Johnson's amendment. [LB246]

PRESIDENT SHEEHY: AM1519 is adopted. [LB246]

CLERK: I have nothing further on the bill, Mr. President. [LB246]

PRESIDENT SHEEHY: Senator McGill. [LB246]

SENATOR MCGILL: Mr. President, I move LB246 to E&R for engrossing. [LB246]

PRESIDENT SHEEHY: You have heard the motion. All those in favor say aye. Opposed, nay. LB246 does advance. We will now proceed to introduction of new bills. [LB246]

CLERK: Mr. President. (Read LB907-932 by title for the first time.) Mr. President, also two new resolutions: Senator Fulton offers LR226, asking the Legislature to recognize the Coalition for Older Adult Health Promotion for its achievements; and LR227 by Senator Fulton, recognizing "The Caregiver Chicks" for dedication and achievements. Both those will be laid over, Mr. President. Priority motion right after I remind the body

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that Reference Committee will meet upon...meet at noon; Reference Committee, at noon. (Legislative Journal pages 205-211.) [LB907 LB908 LB909 LB910 LB911 LB912 LB913 LB914 LB915 LB916 LB917 LB918 LB919 LB920 LB921 LB922 LB923 LB924 LB925 LB926 LB927 LB928 LB929 LB930 LB931 LB932 LR226 LR227]

Speaker Flood would move to recess until 1:30, Mr. President.

PRESIDENT SHEEHY: Motion before the body is to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We stand in recess.

RECESS

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence by roll call. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Any messages, reports, or announcements?

CLERK: One item, Mr. President. A reference report referring LB851 through LB899, as well as three resolutions. And that's all that I have at this time, Mr. President. (Legislative Journal pages 212-213.)

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll move to first item under General File.

CLERK: Mr. President, LB253 is a bill introduced by Senator Rogert. (Read title.) The bill was introduced on January 10 of 2007, at that time referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. I have no committee amendments, but I do have other amendments, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Rogert, you're recognized to open on LB253. [LB253]

SENATOR ROGERT: Thank you, Mr. President. Good afternoon, ladies and gentlemen of the body, and welcome to the debate. The helmet law has a long history in Nebraska Legislature, and what we ask ourselves is this: Why does it keep coming back, and why are people passionate about this, and why do we keep revisiting this issue? The answer is simple. Because there is a large and substantial enough number of citizens in our

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country and in Nebraska who feel that they are directly and consequently imposed upon by universal helmet legislation. Those citizens have a legitimate argument and they deserve to be heard. A little history: In 1986, Nebraska Legislature passed the Motorcycle Safety Education Act, which provided funding, availability, and the administration of motorcycle safety education courses for interested citizens. Originally, Department of Education administered those safety courses. With the passage of the 1986 law, it established that the Nebraska Office of Highway Safety, a division of the DMV, be a central point of administration, program responsibility, mostly because of their expertise and proximity in the subject matter. In 1989, the Nebraska Legislature passed the universal helmet law requiring all motorcycle operators and passengers to wear a protective helmet while operating or riding a motorcycle. Since 1985, we have seen a downward trend for a period of time in motorcycle crash fatalities in Nebraska. This is not necessarily attributed to the helmet law passed in 1989, since we can clearly see that a downward trend began prior to that in 1985. Those statistics can be found in the Nebraska Highway Safety Division. More recently, information from 1997 up to 2004 shows us an increase in fatalities, which I believe is directly attributed to the corresponding rising motorcycle registration numbers. With that being said, there are many factors to consider when looking at numbers just as there are many variables that cause accidents, such as road hazards, driving while intoxicated, lack of skill or training, other distracted motorists, violating the right of way, weather, traffic, age and ability, and the lack of eye protection, just to name a few. Currently the Nebraska law mandates neither eye protection nor motorcycle safety training courses, and aside from providing exemptions to wearing a helmet, these are two of the most important provisions that we are introducing in this bill this session. We also know that proof of insurance, the type of registration, a Class M license, and a protective helmet are required to operate a motorcycle. However, the examination that is required at the DMV to obtain this license may be waived if a person has already taken a safety education course. Under our bill, it's important for me to clarify that LB253 is not an outright repeal of the helmet law. We are still requiring a few things. Those under the age of 21 must wear a helmet as well as eye protection, and this legislation requires eye protection to be worn by every rider. Those who turn 21 on or after January 1 of next year would not be required to wear a helmet when operating, provided they carry proof of completion of a training course and they're wearing that eye protection. Those that are 21 today and until January 1 of 2009 are grandfathered in and exempted from the helmet requirement, provided they have their license before January 1 and they are equipped with eye protection when they ride. We're also raising the fines and violations by a substantial amount in this legislation. Except for the eye protection, enforcement of the act, including the stipulations aforementioned, shall be handled as a secondary action when the operator has already committed another violation. The minimum fine for this violation of this act has been changed from a minimal \$10 to \$75, maximizing at \$100. So we're raising that seven to ten times. In addition, a person who is found to be operating a motorcycle on the road without a motorcycle license, a judge may order the person to take a training course, depending on whether they have already completed one, based on the

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circumstances of the violation and the person's history. We also create a funding mechanism called the Motorcycle Safety Training Fund and here are some provisions on that. We will deposit \$3 into the education fund from every license between now and the end of next year, and after that \$8 from every license we put into this fund. For every motorcycle registration fee, we're also increasing that fee from \$6 to \$11, which...to provide additional funds for the expected increase on registration classes. At this time, \$3.50 collected from each (inaudible) renewal class license during the preceding year will be transferred to the training fund by the Treasurer. We've stricken the details of minimum requirements, safety courses outlined in the statute, and in turn allowed the DMV to set their requirements for courses and instructors. Our bill requires no more than 20 training sites in the state of Nebraska as opposed to the 10 that are currently required. Those current that we have in the state are out in Scottsbluff-Gering, there's one in Hastings, the Columbus area, there's two in Lincoln, two in Omaha, and two in northeast Nebraska. We also seek to include more promotional materials such as billboard, radio, and TV ads, in addition to more brochures, posters, and booklets that can be used to advertise for these courses and raise awareness for motorcycles everywhere. I want to emphasize that individual choice, awareness, promotion, education, training, as well as eye protection are for more effective and proactive than mandating that all riders wear a helmet in Nebraska, when we know that helmets do absolutely nothing to prevent accidents on the road. We want to be proactive and prevent those accidents that may occur and lead to death and/or serious injury, trying to lessen the severity of the injury after the accident has already happened. The irony is that we are currently providing riders with a choice on whether or not to take a motorcycle safety course, and we believe ultimately it saves more lives and prevents more accidents from happening, yet mandating that a rider wear a helmet which may only mean just a few degrees of separation between being permanently hospitalized or uncertain death in a crash. I would like to see Nebraska join the other 27 states that allow for partial helmet laws so that we can reap the benefits of freedom and individual choice, as well as the economic benefits of a new revenue or increased revenue stream. That would be contributed by the motorcycle riders who would then choose to travel helmet-free through our great state with enthusiasm. I'll ask those of you who, like me, are new to this debate to listen to the true facts and the whole debate. I'm not going to lie to you or try to mislead you. Remember those folks outside the glass are paid to do a job and they're paid to get your vote on either side. They probably will not lie to you either, but they may only give you half truths and partial facts. I will tell you that almost everything that they are going to tell you and all the data that they have has some certain merit, but probably only some. My vow is to show you that the studies are only as good as you want them to be. Can helmets save lives? You bet. But do they save enough lives? No way. You may think we are saving motorcyclists from themselves by forcing a helmet on them, but I would say for them it's an ongoing task. You're never going to save a motorcyclist from an oncoming truck, a car changing lanes, or someone running a red light who's late for work that didn't see the motorcycle coming. So read into the information that we provide, listen to the facts and the numbers, and make the

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right decision from your deductions. Helmets don't and never will prevent accidents. Education and awareness will. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the opening to LB253. Mr. Clerk, is there an amendment? [LB253]

CLERK: Mr. President, I do. Senator Rogert, I have AM1525. But Senator, I had a note that you wish to withdraw AM1525 and offer as a substitute AM1551. [LB253]

SENATOR ROBERT: That is correct. [LB253]

PRESIDENT SHEEHY: Without objection, so ordered. [LB253]

CLERK: Senator Rogert, I have AM1551. (Legislative Journal page 213.) [LB253]

SENATOR ROBERT: Thank you. [LB253]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on AM1551. [LB253]

SENATOR ROBERT: Thank you, Mr. President. Colleagues, AM1551 is merely a housekeeping amendment. Since this bill was written last year, it changes the 2007 language to 2008 and the 2008 numbers to 2009. And we changed the dates of who would be 21 for this year versus last. We also came upon some drafting errors on page 23, 22, and 26, and we're just taking some language out and putting...just cleaning it up a little bit. I will mention, though, that I travel across the country quite often for business and pleasure, and I spend a lot of my time in, obviously, eastern Nebraska and western Iowa. And I spend a lot of times in those little towns going up and down the I-29. That's where a bunch of my business is, is on the weekends and the nice days in the summer I see a whole bunch of motorcycles in all those little towns spending their money there and spending their day in those cities, and a lot of them have Iowa plates and a lot of them have Nebraska plates. I just want to make sure that the dollars that are spent are spent in our state, and we have a lot of good reasons to do that. So with that, I render my time. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the opening to AM1551. The floor is open for discussion. We have Senator Johnson, followed by Senator Nantkes and Senator Kruse. Senator Johnson. [LB253]

SENATOR JOHNSON: Mr. President, are we talking about the amendment? [LB253]

PRESIDENT SHEEHY: Yes. Correct, Senator. [LB253]

SENATOR JOHNSON: I'll wait. [LB253]

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PRESIDENT SHEEHY: Senator Nantkes. [LB253]

SENATOR NANTKES: Good afternoon. Thank you, Mr. President, colleagues. I rise in support of Senator Rogert and his efforts today in regards to LB253. I'll keep my comments short and sweet and to the point. I took a strong position on this issue during my campaign and have continued to reaffirm my support of the repeal for two simple reasons: One, I believe that very clearly this is an issue about economic development, which Senator Rogert has eloquently explained. And secondarily, this is an issue of personal freedom. As I look around this body, I've had many in-depth conversations with many of you about the proper role of government in our daily lives. And I feel, in order to be philosophically consistent, there's a lot of places I don't want to see government become involved in when it comes to our personal lives. And as an extension of those beliefs, I feel the same way about this bill. I know many, many avid riders and enthusiasts, and I know them to be responsible motorists. For those reasons, I say let those who ride decide, and I thank all of the people who came down today to be engaged on this issue and for joining us in the Chamber this afternoon. With that, I'll yield the balance of my time back to the Chair. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Nantkes. Senator Kruse, followed by Senator White and Senator Johnson. Senator Kruse. [LB253]

SENATOR KRUSE: Thank you, Mr. President. I also welcome this subject. I think bikers and other citizens that feel that way need to be heard. The public clearly needs an education in this subject, and sensitivity to the question, especially of safety. Most of the critical injuries of bikers is because of the rest of the population, and we need to talk about that. I also speak as one who's glad for bikers. I come from a family of bikers. My dad was almost married to his Indian motorcycle 80 years ago. It was an important thing by which he went out to get the cattle and the horses. When it came time for one of us to be born, my mother did decide that he ought to part with his motorcycle. But she insisted on one final ride on a motorcycle after she was 70. Our daughter has spent...gone thousands of miles on the open road. But all of the family that has it are wearing helmets and will continue to do so. The problem that I have with the bill is not the education--of course, that needs to be emphasized--nor the discussion of it. But rather we simply as a state cannot afford the removal of helmets, and we have to deal with that. We're spending money here if we approve this bill. We're spending big money here if we approve this. And we can say, well, we don't know how much. No, we don't know how much, but it's going to be a lot more than what we guess. A pastor friend I spoke with last night said he is alive because of the helmet that he had this past year. No question about it. I said, kind of playfully, would you be paying taxes if you hadn't been wearing a helmet? He said, no, I don't think I would be. However, and I say this somewhat tongue in cheek but that we all understand, the problem isn't with those that are killed. The problem is with those who are not killed--permanent brain injury. There's

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another person that's close to this pastor who this year was riding with a nonqualified helmet. He was 35 miles an hour. He hit a pothole and his helmet shattered. He will never work again. For the rest of his life he will be our liability. For the rest of his life he will not be paying us taxes. Last year as we were discussing it, I checked with one of our good institutions that cares for people who are with permanent brain damage and asked what would be a modest figure for the annual cost of one of these persons who is caught with that from a motorcycle accident. And he said a very low figure for it would be \$200,000 a year. In 5 years, that's \$1 million. And since the person for whom this bill was created, and because of whom it was created, was 20 at the time, if he lives 50 years that's \$10 million. That's...you know, we cannot project even from all the statistics we have exactly how many it will be, but there's no person on the floor that can guarantee there won't be one a year. So I'm taking that very modest number. [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR KRUSE: One a year. Keeps adding--every year we add \$10 million to our liability. In 10 years, that's \$100 million and it will keep counting. That has to come away from schools. That has to come away from healthcare. That has to come away from our budget. It's real money that we have to pay, and we simply cannot afford to do that. I thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator White. [LB253]

SENATOR WHITE: Thank you, Mr. President. I rise in support of this bill, and I do so from a philosophical point of view. I think the question we should each ask ourselves is, what is it that we do that makes our lives worth living, that even though it may not be advisable, even though it may be dangerous, it causes us to savor the chance to wake up in the morning? There are many things that are extremely dangerous that, "cost society money" but make, to different people, life worth living. If you look at the cost to people who eat raw oysters from getting seriously sick, or people who insist on eating red beef and yet develop cardiovascular disease, or eating bad diets and becoming obese, or riding bicycles or skateboards or going snow skiing or riding on snowmobiles, riding horses, participating in parachuting, there are enormous numbers of activities that any one of us might find a poor risk and ill-advised. But for others, they are the very essence of enjoyment of life. The proper role of government, in my view, is to protect people from other people and from corporations and entities, from unknown risks or risks they cannot control. When, however, government steps in and starts telling individuals that they cannot engage in activity that does not cause harm to others because we know better, then I believe we are on exceptionally thin ice, that in a free society the essence of respect for individuals, for their freedom is to accept they may make decisions you don't agree with but honor their right to do so. So if it is all right to force motorcyclists to wear helmets if they're educated, if they're adults, if we make reasonable provisions so they are not a burden to society, then I ask you to review what

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it is that's important in your own life that you do, from eating hamburgers when you shouldn't to going snow skiing to whatever it is. And ask yourself whether or not the state should be at liberty to take that activity away from you. I submit we should not. I submit that often the cost of a free society is, in fact, some people will die, some people will be injured, some things will happen. But that is the cost of a free society. On the other hand, you end up with a people who are independent, a people who are happy, a people who understand and trust that government will not interfere with their basic pursuit of happiness. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Johnson, followed by Senator Schimek and Senator Rogert. Senator Johnson. [LB253]

SENATOR JOHNSON: It's difficult to follow such an eloquent speech. But let's get back to reality. Yesterday I had a great day. Watched football games all afternoon. Every player had a helmet on. I wonder why. You know how fast a football player can run? The best ones can do just a little bit better than 20 miles an hour. If two of them run together and hit helmets, it might get up close to 45--40 to 45. Now what's the history of football helmets? I was reminded of this the other day when I went to the historical museum, ran into Martin Massengale who a few years ago was the president of the NCAA. Got to thinking about this. How did the NCAA actually even get started? Back 100 years ago, football was a flourishing sport with great numbers of head injuries. The president at the time, certainly one of the heroes of the last century, good old rough and ready Teddy Roosevelt, who certainly respected the rights of all of us to enjoy life as we saw it. There are few people that we could name who would say that he wouldn't be at the top of the list. What did Teddy Roosevelt do? He got the heads of the universities, etcetera, that played football and said you come up with a solution for this or football will be banned. Well, it took a while, and we're going to hear the same argument today about helmets. And by the way, I understand that next year there will be a new and improved football helmet as well. But it took a while. In fact, when I was in high school, the first plastic helmets came out. They didn't have face masks, which may explain somewhat of what I look like. But there's been constant improvement to this point in time. What about the ability of these great athletes to be able to avoid injury? I would think it would be pretty good. They would have just about the best reaction times that you would ever expect out of anybody. But what do pro contracts do? They say you can't even ride a motorcycle, at least I think that's true of many of them, and that there was...the number one draft pick at tight end a couple years ago that did himself a great harm, missed the season, hasn't quite recovered fully since then, who jumped on a motorcycle and had an accident within the first few hundred yards. So the ability of trained athletes, etcetera... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR JOHNSON: ...leaves something to be desired. One of the other things that

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we hear is that helmets make it so you can't see. There was a pitcher by the name of Herb Score trying to be a batter once, got hit in the head and guess what? We now have baseball helmets when people are batting. If you can see a 95-mile-an-hour fastball, chances are you'll be able to see with a helmet on as well. A few weeks ago, if you watched on New Year's Eve night, there was a motorcycle stunt man in Las Vegas that jumped 340 feet. Guess what? He had... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR JOHNSON: ...on the full garb, helmet and everything to accomplish this. Thank you, sir. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Schimek. [LB253]

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I don't really intend to get terribly engaged on this, because over the years I've spoken on the floor many times on this issue. And if anything, I think my position in opposition to the bill is more solidified than ever because of all the new information we have about what's happened in states that have rescinded their helmet laws. But what made me get up today is this handout that Senator "Doctor" Johnson just handed out a little while ago that has the Paul Fell cartoon on it. I just wanted to take a moment to say, I miss Paul Fell. I don't know why he's no longer at the Lincoln Journal Star, but he could put things so well in an editorial cartoon that you could understand without even reading sometimes what it said. And I just wanted to note that. The other thing I thought I would do, and then I'm going to give the rest of my time to Senator Johnson, I would like to call your attention to the committee statement if you haven't looked at that, because this is a broad-based, knowledgeable group of people who came in in opposition to this bill, because they are the ones who deal with the aftermath of the injuries from motorcycle accidents: Nebraska Advocacy Services, Inc., Nebraska County Hospital and the Nebraska Hospital Association, Creighton University; Nebraska Medical Association; Nebraska Chapter of American College of Emergency Physicians; AAA of Nebraska; the University of Nebraska Medical Center; the National Safety Council, Greater Omaha Chapter; the Nebraska Safety Council at large, I guess that is; Madonna Rehab Hospital; Nebraska Brain Injury Advisory Council; survivors of brain injury; Madonna Rehab Hospital; Nebraska Brain Injury Advisory Council. These are the people who convinced me a long time ago that we ought not to do this. Maybe if we were going to do this, then maybe we should require some kind of a signed statement from the people who are riding without, that the state and the taxpayers won't have to pick up the pieces afterwards. I know that's not a realistic expectation, but in light of all the statistics out there I think it would be a practical solution. With that, Mr. Chairman, I am in opposition to the bill, in spite of the fact that I fully empathize with what Senator White expressed so eloquently. I think we do have to be careful what we're doing, but I do believe that the rules of the road are ours to determine and safety is the first concern for all of us. With

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that, I'd like to give the rest of my time to Senator Johnson. [LB253]

PRESIDENT SHEEHY: Senator Johnson, you have about 1 minute, 30 seconds. [LB253]

SENATOR JOHNSON: Thank you. And I think that's what we come down to. Why do we have any laws regarding what we do on the road? Why do we have seat belts? Why do we require our children to have seat belts? It's for a very good reason. One of the things when you are in an automobile accident, if you are thrown out of the car it is approximately a 50 percent... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR JOHNSON: ...mortality rate. On a motorcycle, remember you're already outside. Dress for the occasion, protect yourself, and we will get into the costs of this to society in more ways than money here very shortly. The facts are compelling. It does make a difference. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. We have Senator Rogert, followed by Senator Johnson, Senator Lathrop, and Senator Kruse. Senator Rogert. [LB253]

SENATOR ROGERT: Thank you, Mr. President. Thanks, guys, for this interesting discussion. It's been an interesting start to the day, and I'm sure we'll go on for a little while longer. I have a couple comments that I'll make on the cartoon that we got from Senator Johnson. I agree with Senator Schimek that I do miss Paul Fell as well. He's got some interesting takes on things. The fourth point down it says that studies show that unhelmeted riders involved in crashes are less likely to have insurance and more likely to have higher hospital costs than helmeted riders in similar crashes. I have a study here that in...it's a little older study, but in the nineties the University of North Carolina Highway Safety Research Center, they published this study. It was titled "An Examination of Motorcyclist Injuries and Costs Using North Carolina Motor Vehicle Crash and Trauma Registry Data." The study revealed the following: Motorcyclists admitted to trauma centers for treatment of crash-related injuries were just as likely as other road trauma causes to be medically injured and considerably better insured than nonroad cases. Motorcyclists had the highest insurance payment rate of all groups. Motorcyclists relied on Medicare and Medicaid considerably less than all other groups. Motorcyclists had a higher rate of self pay than any other group. Motorcyclists' average medical costs were less than other road trauma cases. In summary, the North Carolina study, motorcyclists have lower medical bills from accidents and are better at paying with insurance when they do not have...and insurance. Medicaid is less than other trauma victims. On the other point, it says other states that have weakened or repealed helmet laws have experienced an increase in fatality rates. Many of you may have read

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the article about this bill in the World-Herald that was published on, I believe, Sunday. It mentioned in there that in Iowa there were 61 deaths versus our 15 last year for motorcycle crashes. Well, we did a little research on that. And out of those 61, 10 were due to deer, which we feel is a state problem. We have those...we don't have quite the deer situation as you move westward across our state. Nineteen of those had no license, which is about 29 percent. So you take 29 of those total out of the 61 and that leaves us with 32 crashes to our 15. I also did some research. In Iowa, the number of bikes registered in 2007 was 146,000. The number of riders in Iowa was 236,000. A little over three and a half times the number of bikes and riders were registered in the state of Iowa than in the state of Nebraska. So if you look at the crash statistics they're nearly the same, and they have a helmet law and we don't. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Johnson. [LB253]

SENATOR JOHNSON: You know, this kind of reminds me a little bit of two years ago. What we saw then and we're seeing again is little tidbits of information taken out and made into conclusive reports. One of the things, what's the age on this? I think it's about 1991, as I recall. Computers really hadn't come into use then. I don't think we had fought the first Iraqi war. The Soviet Union was still intact. This is the kind of information that we're picking out little bits here and there and drawing conclusions from. I would suggest rather that we go to recent studies, 2007, the report of our own Nebraska Office of Highway Safety. What does this recent report show where there is no bias put into it? When you select out your own reports, you put in your own bias. Now...and then I guess prove yourself right is the next step. But what does Nebraska Office of Highway Safety say? This is brand new. In Nebraska, a study of hospital costs of injured motorcyclists showed a decline in the total acute medical charges of 38 percent after the law was implemented--38 percent reduction. Unhelmeted riders involved in crashes are less likely to have insurance and more likely to have higher hospital costs; again, little different than our 18-year-old study. All states that have weakened or repealed helmet laws have increased...have experienced an increase in fatality rates. All states that did that. Now the...we have a lot of people sitting in the balcony supporting this idea. But what do the people of Nebraska think? And this study is a little bit old. The last one that we could find was March of 2004. Seventy-nine percent of Nebraskans say leave it alone. Leave it alone. Only 15 percent said they wanted it repealed. Where is the mandate? The rest of us care about personal freedoms as well. Now how about that we're going to teach all these young motorcyclists and so on how to drive their motorcycles and be safe? Of the licensed motorcyclists in this state, only 2 percent fit that category. That's what we're passing this law for, is for 2 percent. Let's go on. Let's look at motorcycle fatalities. We had a comment about... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

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SENATOR JOHNSON: ...this in that they were...you say one minute, sir? Thank you. That it already started to decline. Well, yes and no. In 1986 when the law was passed, there were 23. The next year there were 31, but then it dropped precipitously over the next 4 years so it was only 6. So it went from 31 to 6, a pretty good drop. Since then, it has been steady or gone down to the minimum of 3 in the year 2000. Now we've had more motorcyclists and one would expect the numbers to go up somewhat, and they have. But clearly the number of fatalities follows the use of the mandatory helmets. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Lathrop. [LB253]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Today I'm standing in opposition to this bill offered by my good friend, Senator Rogert. And my opposition probably is a function of what I do for a living, which is represent these folks after they've been hurt. And that gives you a unique perspective and that perspective permits me to draw a couple conclusions about motorcyclists and the accidents that they find themselves in. The first conclusion and probably the first truth about motorcycle accidents is it's seldom their fault. Most of the time they are doing exactly what they're supposed to, exactly what a training course would have them do, and somebody turns in front of them, somebody pulls out in front of them. And I tell you that because we're not here to judge the motorcyclists or the way they operate these bikes on the highway, because most of the time it's not their fault. The other thing that I know about motorcyclists and people that get in wrecks generally is that they never think it's going to happen to them. So our friends in the balcony today and those who have lobbied us in the halls to repeal the helmet law, those folks don't come to you today believing that they are prepared to have a head injury for their beliefs. What they believe is that they will fall within that group of people who ride a motorcycle and never get hurt. If they thought they were going to get hurt and knew they were going to get into an accident, they'd wear a helmet. But their perspective is, it's not going to happen to me. And they lobby us as they're allowed to, and we listen to them because they say things like let those who ride decide. If I want to get a brain injury, I want to let the wind in my hair, that's up to me and not you to say. But as a Legislature, I think we have a different perspective, and our perspective, colleagues, is this; that this is a public health issue. It's a public health issue because we can stand here today and know how many motorcycle accidents we're going to have in Nebraska next year and the year after that. The statistics, the law of averages, are going to tell us how many accidents there are going to be. We know. Now the question is whether or not we're going to let the people--they may or may not be in the balcony right now, but they're going to be motorcyclists in these accidents, so do we let them get in those accidents with or without a helmet? Now we're making policy here. We're making policy here, and the issue for us is what costs are we going to incur as a society in order to let those who ride decide, to have that freedom? Well, it's going to cost--I heard an estimate today--\$8 million for Medicaid in the first year to take care of these folks. And you say why is that?

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It's not the death cases that are going to cost Medicaid \$8 million, it's the brain injuries. And if you've ever been around someone with a brain injury, I can tell you that it isn't a skull fracture where someone has a dent in their forehead. It is the person whose brain has been so shaken in an impact that the neurons are sheared, the connections in the brain are lost, and they're left with an incapacity. And it isn't someone who's in a persistent vegetative state, although those are included in these statistics, but it is people who have lost their capacity just enough so that they can't work ever again. Their medical expenses...everyone that I've been involved in with a serious... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR LATHROP: ...closed head injury goes over a million dollars, and we turn to Medicaid to pay for them. So Medicaid will go up. Your auto insurance will go up because you're going to, or people in the state are going to turn left in front of these folks and injure them, and we will have more head injuries and our auto rates will go up. So these are the things that are going to cost our society. These are the things that we should look at as we try to decide this public health issue. And in my judgment, the cost to society is too great, and to the families who we don't know who will get the call from the police that their son or daughter has been killed on a motorcycle accident because they didn't have a helmet, or who was going to be called to Creighton Medical Center to see their daughter or son in the intensive care unit with a brain injury. I would encourage you to vote against the repeal of the helmet law. [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR LATHROP: Thank you. [LB253]

PRESIDENT SHEEHY: Senator Kruse, followed by Senator Chambers, Janssen, Wightman, and others. Senator Kruse. [LB253]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I again will support the amendment and oppose the base bill. I'm responding in part to Senator White's suggestion that we try to give as much freedom as we can. I certainly support that. But he gave the provisos within it that deny that being applied to this situation. We should allow people to act as in their own interests and decisions and opinions, as long as we don't have to protect other people. But here we're talking about protecting other people, including the family members that would be involved. He also said as long as it does not cause harm to others, but causing harm to others is exactly the problem here. It's not a matter that somebody goes out and puts themselves in a position where they're going to kill themselves. I'm sorry about that, but I'm not going to create a law to stop people from being in dangerous situations. But \$100 million is not chump change. And that is clearly a low figure for what we are putting ourselves into a liability for. That does not include lost wages. It does not include the initial hospital thing. You people say, well, the

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insurance will cover some of that. No, our insurance coverage is a cruel joke. Our son was given \$25,000 for his injury. It didn't cover the first night in the hospital. The real problem that I see within this is to recognize what we're buying. We're putting up \$100 million and what are we buying for it? Air in the hair. That's my daughter's phrase for it. I said, what's the point of going without a helmet? And she laughed and she says air in the hair, and reminded me how much I enjoyed going on the motorcycle ride with my nephew who had one of these things, not the big noisy ones--not a chopper--but a quiet thing. It was like a Cadillac. You could not hear it run. We were going down the street and just like floating on a breeze. It was fun. I had a helmet and I still had air in the hair, I would remind you. But why should we spend this kind of money to give somebody air in the hair? That's all we're buying. I can't find anything else in here. There's a little economic benefit. We might collect \$2 apiece from people in gas tax that go across our state, get about 1,000 of them, that's \$2,000. We're not comparing at all to the costs that we are talking about. Finally, I would...I've mixed it up enough with bikers that I hear them talking to each other and they got a kind of whimsical little statement they make to each other. There are only two kinds of bikers: those that have had an accident and those who are not yet. This is a dangerous thing; again, not because they are living dangerously but because the public doesn't respect the danger of it. But it is a danger and we pay for it. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Kruse. Senator Chambers. [LB253]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the Declaration of Independence talks about people having the right to life, liberty, and the pursuit of happiness. It does not attempt to define what happiness is, because happiness means different things to different people. It does not tell you the mode of pursuit you must utilize. You may walk, you may crawl, you may ride skates, a bicycle, a motorcycle, a car, an SUV, a pickup truck, a train, an ocean liner; whatever means you choose is all right for you. I do not smoke. I've never offered legislation to ban smoking, to make it a crime to smoke cigarettes. I want to keep it from certain locations, but I've never tried to prohibit people from smoking even though more people die from smoking than auto accidents. I don't drink alcohol, but I've never tried to ban the consumption of alcohol. I wish my friends and family did not smoke. I wish none of them consumed alcohol. But they live their life the way they want to, I live mine the way I choose. I don't use profanity, but I've never tried to make it a crime for others to do that. So when I lay those things out, you can see that I lead a very boring existence. If people want to do something that others think is foolish, under the constitution they have a right to be foolish. There are certain things that are legal and lawful that we will invite people to do, but tell them you assume the risk. What did I spend a lot of last session arguing about? Making these cities liable when they make available very dangerous activities and invite children to participate when they can count on some children being hurt, but they don't want to be liable. And those are our children. Somebody talked about seat belts and other things that the government will do to protect children. Well, children often have

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fools for parents, so the state steps in to look out for the child. But when the parent wants to be a fool and risk himself or herself, the constitution gives those parents the right to do it. I have prevented this state from adopting a law that would say children could be denied medical attention and care on the basis of the parent's religious belief. I don't care if people who are grown want to try to pray themselves out of cancer or out of tuberculosis or anything else. But don't put that on the children. So the state has a different obligation when it comes to children than it does when it comes to adults. Various states have what is called ignition interlock, which is put on a vehicle and a person who has a certain number of DUIs must have that on his or her car as a condition to being able to continue driving. Prevention, brothers and sisters, is better than cure. So why not require auto manufacturers to put an ignition interlock in every vehicle and prevent somebody from driving drunk the first time? Because you say you don't want to infringe on... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR CHAMBERS: ...people's freedom, that if they violated a law they put themselves in a position to allow certain restrictions to be placed on them that wouldn't be placed on others. So there are certain requirements that relate to safety, not only of that person but the public. When you drive drunk, you endanger everybody on the road automatically. But you don't require an ignition interlock on every car. You allow people to drive drunk until they get caught, and then you put the interlock. Nobody has said that bikers basically are criminals even though in most movies that's the way they are projected--fearsome, terrorizing people who come into your town. (Motorcycle noises.) And everybody runs for cover, except for little children who are fascinated, and maybe the town drunk who can't move fast enough and wishes... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR CHAMBERS: ...he could be on one of those. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Janssen. [LB253]

SENATOR JANSSEN: Thank you, Mr. President. I yield my time to Senator Johnson. [LB253]

PRESIDENT SHEEHY: Senator Johnson. [LB253]

SENATOR JOHNSON: Thank you, Senator Janssen and Mr. President. I see Senator Rogert stepped out. I wanted to ask him a few questions because one of the things that was brought up again two years--oh, thank you for coming back. These aren't very hard questions. We made...you made the statement about the tourism and so on, and that if

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we passed this repeal and so on it would be good for tourism. Are there any studies to show that? [LB253]

PRESIDENT SHEEHY: Senator Rogert, would you yield? [LB253]

SENATOR ROBERT: Yes, I will. Those studies are hard to knock down because we don't know what kind of an impact it would have on our state. We know that we are directly south of South Dakota and we would be on a route from the south directly north to the rally in the summer. I don't have any direct numbers that show exactly how many, but I get e-mails all the time actually from nonresidents of our state from the south that know we're doing this, and they say they would definitely stop going around us. [LB253]

SENATOR JOHNSON: Well, yes. Now let me ask you one other simple question. What's the best route from western Iowa to Sturgis, South Dakota? [LB253]

SENATOR ROBERT: Depends on your definition of best. [LB253]

SENATOR JOHNSON: If you wanted to get there the quickest and safest. [LB253]

SENATOR ROBERT: Well, I'll answer the quickest. The quickest route would probably be from western Iowa to I-29 up to I-90 at Sioux Falls and straight across. [LB253]

SENATOR JOHNSON: Safest? [LB253]

SENATOR ROBERT: I can't answer that. [LB253]

SENATOR JOHNSON: I think most studies will show that the interstate by and large is the safest transportation whether it is in a motorcycle, a truck, or a car. It's just the safest transportation out there. So you know, if I was riding a motorcycle and had the week off, I think I might take that road, and maybe that's the reason that they're in western Iowa thinking of going up there. But you know, that's just kind of my opinion. But let's go back to independent opinions. Here's what the AAA of Nebraska has to say about it. Indicative economic impact to states with a helmet law. They provide information stating that motorcycle sales, ridership, tax revenues dropped in California after the passage of the helmet law. They did not mention that between 1995 and 2004 motorcycle registration climbed from 518,000 to 641,000 in this all-helmet state. So it went up more than 100,000 in those few years, hardly stopping the growth of the motorcycle industry. I'm not for stopping the motorcycle industry. Many of my friends are avid motorcycle riders. There's nothing wrong with these people. I want them to live and have a good life. More importantly, perhaps, I want their survivors, their kids to have a father or a mother to raise them. Well, here's a few other things that they talk about, and I've noticed this driving across South Dakota a year ago. [LB253]

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PRESIDENT SHEEHY: One minute. [LB253]

SENATOR JOHNSON: A very large percentage of people actually put their bikes in a trailer and pull their bikes up to Sturgis and then ride them after they get there. Here's what their conclusions were: The truth is, we cannot measure the economic impact of this law if we don't have benchmarks and we don't have proper studies done. One cannot just pick numbers out of the air like we've seen and call them studies. Let's have real studies if we want to see the economic impact. As state policymakers, we encourage you--this is the AAA speaking--to thoroughly explore all the issues associated with the important piece of legislation. Request information of these studies from independent and reliable... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR JOHNSON: ...sources. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. We will now proceed to introduction of new bills. [LB253]

CLERK: (Read LB933-951 by title for the first time.) That's all that I had, Mr. President. Thank you. (Legislative Journal pages 214-216.) [LB933 LB934 LB935 LB936 LB937 LB938 LB939 LB940 LB941 LB942 LB943 LB944 LB945 LB946 LB947 LB948 LB949 LB950 LB951]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will return to discussion on AM1551. We have Senator Wightman, followed by Senator Johnson, Senator Erdman, Senator White, and others. Senator Wightman. [LB253]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I know there are all kinds of polls going around and all sorts of statistical information that's being passed around to us. I did a poll of my own last night. I called three motorcycle riders that I know. I would not call it a scientific poll under any circumstance, but I did call three. Surprisingly, perhaps, all three of them told me that they thought we would be taking a step backward if we repealed the motorcycle helmet law. One of them told me that he was in an accident that probably would have resulted in his death had he not had a helmet on. Another one of the three told me he'd been in two accidents in which he'd had his head scraped on the pavement, but he had...he did have a helmet on. Didn't think it was lifesaving, didn't think that it would have been a fatal accident. So I think that is indicative that not all of motorcycle riders--and I don't know that they contend that all motorcycle riders would be in favor of repeal of the helmet law. I think there are many people who are motorcycle riders that see the wisdom in requiring a helmet. Another thing that I would bring out--and I guess Senator Rogert is here, if he would yield to a question--he gave us some statistics that I would like to have maybe

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clarified a little bit. [LB253]

PRESIDENT SHEEHY: Senator Rogert, would you yield? [LB253]

SENATOR ROGERT: Yes. [LB253]

SENATOR WIGHTMAN: Senator, we've heard a lot of statistics here today, but one of them you have and I know that Senator Johnson has contended that some of those are maybe pulled out of a larger set of statistics and maybe aren't indicative of what's happening nationwide. But you had one, I think, that--and I don't remember the year. I think Senator Johnson referred to it as being in 1991, but in which 66 deaths occurred in Iowa and 15 in Nebraska. Is that...do you know what year that was? [LB253]

SENATOR ROGERT: That was last year. [LB253]

SENATOR WIGHTMAN: That was last year? [LB253]

SENATOR ROGERT: 61 and 15. [LB253]

SENATOR WIGHTMAN: And then you pulled 29 out of the 61, I think, that were a combination of nonlicensed drivers, and those who were killed in an accident involving deer. Is that correct? [LB253]

SENATOR ROGERT: That's correct. [LB253]

SENATOR WIGHTMAN: Did you pull any similar figures? I assume that out of the 15 deaths in Nebraska, there might have been one or more that were caused also by deer involvement. [LB253]

SENATOR ROGERT: I could probably agree with you, but I don't have that. We didn't get that...this is a last-minute addition because of the article that was yesterday. [LB253]

SENATOR WIGHTMAN: And then I'd have one additional question. With regard to nonlicensed drivers, again, perhaps Nebraska had nonlicensed drivers in their 15. You probably don't know that, do you? [LB253]

SENATOR ROGERT: I don't, but I maybe could get it for you. [LB253]

SENATOR WIGHTMAN: Would nonlicensing...do you think that creates an additional risk factor or would those people have been killed probably even if they were licensed? [LB253]

SENATOR ROGERT: Well, they may have...one of the things that we put in here is that

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in order to be a new licensed motorcyclist after the first of next year, you'll have to take a course. And that has previously not been required. So we're actually trying to train folks that are going to be riding in the future, and so this would be a step into the future. Those that are going to be riding from here on out are going to have to pass a course to get their license. [LB253]

SENATOR WIGHTMAN: Thank you, Senator Rogert. And again, I thank you for bringing this bill. I think it does give the body a real chance to debate this issue, to bring forth those matters they've heard from constituents on one side or the other. I would point out, and it probably runs counter to what... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR WIGHTMAN: ...Senator Chambers said, and that is that I think at the time the founders of our constitution created all of these liberties, set forth our constitution, we didn't have quite the same society as we do today. We have a society of interdependence. We have a society where somebody decides not to wear a helmet and he receives injuries that cost a million dollars, as someone suggested, that there are a number of us out here who are going to share in the payment of that, same with regard to insurance costs. So I think that is a major difference between the country as it existed in the late 1700s and the early 1800s. One other thing I would like to point out, and I was going to say perhaps all mothers across the state of Nebraska would thank us if we leave the motorcycle helmet law intact, but I see a number of women in the crowd and no doubt some of them are mothers. So I don't think it would be certainly unanimity, but I do think that a majority of mothers across the state... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR WIGHTMAN: Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Wightman. Senator Johnson. And this is your third time. [LB253]

SENATOR JOHNSON: Thank you, sir. Well, let's talk about motorcycle training or driver training and so on and how much difference it makes. This was talked about rather extensively two years ago, and what a wonderful panacea this would be. I believe that there are something in the neighborhood of...is it 70,000 registered drivers in the state? This last year we trained the most people ever--1,825. And if you go back just a few years it drops down into the low one hundreds. All of these add up to about 17,000. So if the other number that I'm remembering is correct with it being 70,000, if we go at the rate of 1,825 a year, let's just say we've only got 50,000 to treat, that will make me 95 when we get everybody trained at the rate that we're going. That's with no new applicants. So we've got to do a lot better. I think that the industry, etcetera, does

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deserve some credit. We are making some progress. But we've got a long, long way to go. Now let's go through a few other things. And I want to make sure where I'm getting all this information from. Oh, let's go through this one. This is from Motorcycle Cruiser, the magazine distributed throughout this industry. The deadly dozen: 12 motorcycle safety myths and misconceptions. Well, let's see. Motorcycle helmets break necks. That's one that we commonly hear, that I don't want to lay in a bed with a broken neck all my life. What a horrible existence to go through towards the end of your life. I would rather be killed. Well, let's go back to our football players for a second. We have had one injury where the person now appears that he's going to get back to being relatively normal, fortunately. There was another football player several years back that is still paralyzed and probably this will be permanent. Those are the only two that I can remember. Now maybe there's more. But you know, if we were seeing this commonly with people butting heads, we would be seeing these broken necks here, there, and everywhere, and we'd be, you know, doing something about it. But we're not seeing them. In fact, these studies done again show this same thing, that this is a misconception. You don't get more broken necks and lay there. One of the other things that we hear commonly is... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR JOHNSON: ...that about the cause of deaths. And we'll get into that in just a little bit in the next time. Why do people die in motorcycle accidents? And so we'll talk a little bit about that. And again, it's going to surprise you a little bit if you haven't read about this. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Erdman. [LB253]

SENATOR ERDMAN: Question. [LB253]

PRESIDENT SHEEHY: The question has been called. Do I see five hands calling for the question? I do see a sufficient number. The question before the body is, shall debate cease on AM1551? All those in favor vote aye; opposed, nay. Please record, Mr. Clerk. [LB253]

ASSISTANT CLERK: 28 ayes, 3 nays to cease debate, Mr. President. [LB253]

PRESIDENT SHEEHY: Debate is ceased. Senator Rogert, you're recognized to close. [LB253]

SENATOR ROGERT: Thank you, Mr. President. Once again, this amendment here, AM1551, is a cleanup amendment that...since we wrote the bill last year we've had to move the dates, 2007 to '08 and the dates of when a person turns 21 from 1988 to '89. So I ask your unanimous approval on this one and I thank you, Mr. President. [LB253]

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PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the closing to AM1551 to LB253. The question before the body, shall AM1551 be adopted to LB253? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB253]

CLERK: 34 ayes, 0 nays on adoption of Senator Rogert's amendment. [LB253]

PRESIDENT SHEEHY: AM1551 is adopted. [LB253]

CLERK: Mr. President, the next amendment, Senator Rogert, AM1535. (Legislative Journal page 122.) [LB253]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on AM1535. [LB253]

SENATOR ROBERT: Thank you, Mr. President, members of the body. AM1535 is also basically a clean-up amendment. In the previous draft, we had decided to require the DMV to change the license to where it specifically said helmet not required on the license, which...it causes about \$100,000 in computer changeover fees across the state. We since decided that that was unnecessary and we've taken that out. And basically the requirement now is just that they carry a card, A, that shows that they were 21 before the certain day, which is their license, and then B, if they were...in the latter part of that, they have to carry a card that shows that they passed the test. So I'm going to move on and talk about a few other things as we're standing here as well. I've got some notes that I've been taking for the past hour or so. And I guess I'll go back, and Senator Johnson mentioned some of the conclusions that AAA had had, and I wanted to address a couple of those. Does mention that in addition, a growing number of Sturgis Rally fans haul their motorcycles, utilizing RV units and trailers. And I guess I'd question that, that maybe it's a high possibility that the fact that they're putting their motorcycles in a trailer is because they would rather not drive them north wearing a helmet. A couple other things here. It says even in states...on this AAA it says even in states that do not require helmets such as Florida, Arizona, and South Dakota, a helmet is required for all participants of Harley Drag Racing Association events. That is a moot point, as the association itself, as a part of the rules and regulations of those type of events, require the helmets already and other protective gear. So the association knows and says that, yes, we think that folks that are pushing their bikes and their bodies to the limits ought to often have protective gear for themselves. We are very...we're in agreement that it is hard to measure the economic impact of increased ridership in the state. We also think that no matter where...when we remove these helmet laws, that we have increased ridership. I'll rereference the article in the World-Herald that said since 1997, motorcycle fatalities have increased 127 percent. In Nebraska, we've had increased registration since 1997 of 260 percent. So actually we're doing a good job just of our own of trying to keep those motorcycle fatalities and crashes down. On the questions that were asked to me about the best ride from western Iowa to South

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Dakota--and I don't...when I mentioned earlier that I see a lot of those bikes over there, it wasn't necessarily during the trip from wherever to South Dakota, wherever they happened to be coming from. That's an all summer long thing, starting as soon as it's nice enough to ride to probably past where it's too cold to ride. I see a lot of those motorcycles riding around in western Iowa, and they still got a lot of them with Nebraska plates. And I think a lot of them would say, and I know a lot of them have told me that they think the best ride to Sturgis would be through Senator Fischer's district, which is much more scenic and much more enjoyable of a route than it would be up just the interstate. And I guess I'm not sure if I would agree that 80-plus mile an hour would be safer than 60 as you're going across the interstate versus on one of our highways. So...oh, there was one other sheet here. We got a blue sheet here that mentioned the fatality rates versus when helmet laws were repealed. I've got a few numbers here that say Texas went up 31 percent since their helmet law was repealed. Since their helmet law was repealed, they've increased their ridership almost double from 133,000 to 234,000 motorcycles that are registered in the state. Louisiana went up 48 percent. They've doubled their ridership almost, as well. Kentucky, 37 percent; they've gone from 40,000 to almost 50,000 riders. I guess it just doesn't prove to me yet that just by repealing a helmet law, that itself causes the increased fatalities. It's the fact that once the helmet law goes away, folks start riding through their state, folks in the state start riding again, and it's the inherent danger of motorcycling altogether that seems to be the danger and not the fact that they're wearing a helmet. Thanks, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the opening of AM1535. The floor is now open for discussion. We have Senator White, followed by Senator Rogert, Engel, Chambers, Fulton, and Johnson. Senator White. [LB253]

SENATOR WHITE: Thank you, Mr. President. I'd like to address a number of the issues raised by my friends and colleagues, one of which is Senator Lathrop. He discussed his work as a personal injury attorney and his familiarity with the injuries arising from motorcycles. I do the same work. I've worked with the same problems. I have seen the same issues. What I can tell Senator Lathrop, and I think were he here he would agree, that you cannot justify the existence of a motorcycle on the road in the first instance. Every accident involving a motorcycle will create greater injuries than the same accident with an automobile automatically. So where do we stop? Because I would suggest to Senator Johnson that the AMA would say no motorcycle can ever be justified. And Senator Kruse says, well, should we allow them the liberty of going without a helmet? I would say that puts the question in the exact opposite of the way it should be. I would submit the citizens have the liberty. The question is whether we have the right to take it from them. We should always presume when we legislate that the citizens have the fundamental rights to act as they wish if it does not harm others. And I would suggest to Senator Kruse as well, is it really our business, Senator Kruse, to negotiate the terms of existence between family members? Is it really our business to tell someone, an adult, whether or not they can ride a motorcycle because they might be injured and it might

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cause pain to loved ones? And if that is okay, where do you stop, Senator? Do they want to move to California, but that may cause it; do we stop them from moving? Life is inherently risky. We move in a world full of risk. But the basic presumption in this country has always been the person that is most entitled to make that decision, the person that has the freedom and the right with limited exceptions, is the individual, not the Legislature. We do not get--under the terms of our constitution, or more importantly our traditions as a free people--the right to determine what makes life worth living for other people. Senator Johnson, I would submit to you, in fact, if you studied football injuries, and I have and I've handled lawsuits involved, that in fact the rise of football helmets is closely correlated to increasingly severe injuries, including neck injuries, that in fact you will find less serious injuries in an equally violent sport of rugby. Why? Because they tackle differently. Because the absence of pads causes them to behave differently. Does that mean serious injuries don't occur in rugby? No. But I would tell you there is a serious issue in the NFL today, even with new helmets, that head injuries are increasingly so serious the game may not be able to continue. You look at the number of football players who have been retired by head injuries. Troy Aikman from the Dallas Cowboys, one of the great football players of all time, suffered so many serious head injuries he had to retire, as did Steve Young, the quarterback of the San Francisco 49ers. We cannot stop head injuries. However, if you're serious and if the AMA is serious that the burden of going without motorcycle helmets is so serious, then what justification is there for any ATV? What justification is there for any motorcycle at all? I mean, after all, if the principle is we get to decide as a Legislature, there's no logical place to stop. I would submit to you... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR WHITE: ...we don't get to decide. I would submit to Senator Kruse, though there is grief, and I have seen it, and Senator Lathrop, I have also worked with head injuries and I can imagine nothing worse. And would I drive a motorcycle, I would wear a helmet. But that is not for me to make that call. Senator Johnson, if we're talking about saving money for the medical care, you and I both know that the number one most expensive problem the United States faces is obesity. If we're here about saving money, then let us take on the real health issues that really look to bankrupt our community. Obesity is a much bigger problem than this. I ask all of you again, reflect. All of us engage in activities of some type or another that we cherish, that I could make a legitimate argument burdens society and should be banned. If the motorcyclist, then you too are vulnerable. [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR WHITE: Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator White. Senator Engel. [LB253]

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SENATOR ENGEL: Mr. President, members of the body, of course I've been on the opposite side of this for many, many years, primarily because I was in the insurance business for many, many years. And as Senator Rogert had mentioned...not Senator Rogert, but Senator Lathrop had mentioned, as a lawyer he has ran into this. And he talks about wind in my hair and Senator Kruse talks about air in my hair. Well, that's never been a problem with me on anything. (Laughter) So that's not part of the situation here. But the thing is, I have seen too many accidents where the injuries that have occurred have sustained people in a state where they, like Senator Lathrop said, they cannot support themselves, their families, etcetera. And the thing is, 99 percent of the time they've always been legally right. But being legally right certainly doesn't make them feel any better. So therefore, that's the reason I've always opposed getting rid of the helmet law. Now I insured a lot of motorcycles and insured them with a lot of responsible people. But most of the people that I insured, they...and I always questioned them about that. I mean, not that I...I'd insure them either way because we had a policy available and they had a right to buy it and that was my business. But the only thing is that most of them agreed that they should wear a helmet. So that's where I'm coming from also. So...and this morning, people from ABATE were in my office and we had a good conversation. And they're very sincere about what they're doing here and what they're after, and I enjoyed their viewpoint very much. But I explained mine also. So when we left, we left friends but on opposite sides of a particular subject. So I do believe that in...there's another person in Wayne, Nebraska, who is a broker over there. He's in his probably early fifties, has ridden a motorcycle for many, many years. And about three, four years ago he got in a terrible, terrible accident. He was not wearing a helmet. And he said that as far as he's concerned, he'd come down and testify any time of the value of wearing a helmet because he wouldn't have been injured as badly as he was. He did recover except he had a lot of other injuries. But the other injuries you have...you always have other injuries. You break the legs, you tear up the arms, you know, and your torso and so forth. But most of the times those will heal. But when you get those brain injuries, they do not heal. So therefore I...again, I'm not going to spend a lot of time opposing this, but I just want to let everybody know that I haven't changed my stance. And with that, I would turn over the rest of my time to Senator Johnson if he would like it. [LB253]

PRESIDENT SHEEHY: Senator Johnson, 2 minutes. [LB253]

SENATOR JOHNSON: Thank you, Senator and Mr. President. Senator Rogert listed off a few numbers regarding Texas and so on, and Louisiana having a 48 percent increase in fatalities when they took away their "no helmet" law. I might say that maybe you're not convinced that that is a significant number, but the state of Louisiana was, and they have now put their helmets back on in Louisiana. And so let's make sure that that's clear. One other thing. I was handed a little note that... [LB253]

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PRESIDENT SHEEHY: One minute. [LB253]

SENATOR JOHNSON: ...and I can't tell you the year that this was done, except that a few years ago when there was an attempt to repeal this, Lincoln General Hospital, where the trauma goes in this community, did a study, and found that nonhelmet use and no insurance were fairly synonymous. Eighty percent of the cases, the costs were borne by society at Lincoln General Hospital here in town. So with that, I think my time is about up for now, so thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Chambers. [LB253]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this is the kind of issue where statistics will not change anybody's mind. They mean nothing whatsoever, so I don't give statistics. I'd like to ask Senator Johnson a question or two. [LB253]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB253]

SENATOR JOHNSON: Certainly. [LB253]

SENATOR CHAMBERS: Senator Johnson, is there anything in the law that would say that if I'm going to ride a motorcycle and I've got a helmet, that I cannot ride shirtless? Can I ride a motorcycle without a shirt? [LB253]

SENATOR JOHNSON: Yes, sir. [LB253]

SENATOR CHAMBERS: Can I ride a motorcycle without britches if I have on some other kind of short britches? [LB253]

SENATOR JOHNSON: (Laugh) Yes, sir, I think you can. [LB253]

SENATOR CHAMBERS: Can I ride a motorcycle wearing street shoes and shorts? [LB253]

SENATOR JOHNSON: Yes. Yes, sir. [LB253]

SENATOR CHAMBERS: Tennis shoes? [LB253]

SENATOR JOHNSON: I believe so. [LB253]

SENATOR CHAMBERS: How about socks? [LB253]

SENATOR JOHNSON: I think that that would be an option for you, as well. [LB253]

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SENATOR CHAMBERS: Even barefooted? [LB253]

SENATOR JOHNSON: I think that's correct. [LB253]

SENATOR CHAMBERS: So then as a doctor you would be aware...let me ask it as a question. If I were traveling at a high rate of speed, shirtless, shorts, and barefooted, and I fell on concrete and slid, could I get a kind of injury that might go deeply enough into my flesh to sever an artery? [LB253]

SENATOR JOHNSON: Well, certainly, Senator, and, you know, that's one of the things that we are going to talk about a little bit, and I'll do it the next time. [LB253]

SENATOR CHAMBERS: Okay, but that's all I wanted to ask you right now. [LB253]

SENATOR JOHNSON: You bet. [LB253]

SENATOR CHAMBERS: Thank you, Senator Johnson--Dr. Johnson in this case--so that his word carries even more impact. This Legislature is full of hypocrites. The vast majority of you all voted to allow people to carry concealed firearms. Now, you're going to let people carry firearms and you say they can't ride a motorcycle without a helmet? And you're concerned about safety? That is insane. Those are political posturing positions that you take. It's why I don't think statistics will have anything to do with it. If people want to be fools, let them! The constitution says it. You all believe in the constitution. I'm not speaking as a Libertarian. I'm not speaking as a Populist. I'm an African American. I don't ride motorcycles. You couldn't pay me to ride a motorcycle. You couldn't give me a motorcycle to ride. But I don't put my restrictions and limitations on other people. You cannot make me wear a suit, and some of you all wish you had enough of whatever it takes to come out of those suit coats and neckties. Necktie--the most worthless, foolish-appearing piece of garment that you could have. Look at these men sitting around here with this rag around their neck. What value does it have? A lot of times it doesn't even match what they're wearing. But they wear it. You can't make me wear a necktie. You can't make me carry a leather lunch satchel. But here you are, sitting here saying that you know so much what's best for other people, that unless they do what you want them to do, they cannot ride a motorcycle. You all ought to stop drinking this soda pop. It's known as candy in a bottle. Stop eating Big Macs. Stop eating greasy food. Stop eating bloody meat. You're not going to stop doing that, and you don't want anybody to tell you to stop. You're not going to ban the consumption of alcohol, and look how many deaths result, how many families are broken,... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR CHAMBERS: ...how many fortunes are lost. But you're not going to touch

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that because they have a strong lobby. I think all this posturing is ridiculous. I can ride a motorcycle virtually naked. Think of how many other injuries to other parts of my body that could occur that could result in death. You don't care about that. Anybody who voted for carrying concealed weapons but against the repeal of this law, in my opinion, is a hypocrite. And you know who you are. I'm not going to call you that. I simply give the description; you make the application. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Fulton, followed by Senator Johnson, Senator Rogert, Senator Chambers. Senator Fulton. [LB253]

SENATOR FULTON: Thank you, Mr. President, members of the body. This has unfolded to become what I had envisioned the Legislature to be when I contemplated first becoming involved, and that is, a debate. And I had planned on not becoming involved, but having not made my decision clearly, I'm hoping to engage in a little bit of debate. And I think this is informative, and frankly, this is healthy, I think, for the Legislature going forward. I am not inclined to support the bill, but I haven't settled on that. And I would like to investigate a little bit of the parameters that have been put forward. Senator White and Senator Chambers particularly are making arguments based on one's right to choose, basically, so I wonder if Senator Chambers would yield to a question? [LB253]

PRESIDENT SHEEHY: Senator Chambers, would you yield? [LB253]

SENATOR CHAMBERS: Happily. [LB253]

SENATOR FULTON: Would you say that you would repeal the seat belt law as it exists right now? [LB253]

SENATOR CHAMBERS: Certainly I would. I've stopped them from getting a seat belt as a primary offense. [LB253]

SENATOR FULTON: Okay. [LB253]

SENATOR CHAMBERS: I'm against mandatory seat belts. [LB253]

SENATOR FULTON: But as a secondary offense--it exists presently as a secondary offense--would you support a complete and total repeal of requiring any seat belt use? [LB253]

SENATOR CHAMBERS: Yes, unless you're talking...I'm not talking about restraints for little children. We're talking about seat belts for adults, correct? [LB253]

SENATOR FULTON: Yes. [LB253]

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SENATOR CHAMBERS: Oh yes, right. I wouldn't want the law to say you've got to wear one, as a primary or a secondary offense. [LB253]

SENATOR FULTON: Okay. The...so I'm trying to determine here... [LB253]

SENATOR CHAMBERS: You want to try to catch me in my words, so say on. [LB253]

SENATOR FULTON: No, actually if I were trying to catch you on your words, I'd do some other hypnotism. But this is...I'm actually trying to establish the parameters here. If we go at this with a view that disallows a prudential judgment to be made, then we're operating on principles which, for an individual, shouldn't change. For me, this has moved beyond the question of principle. It seems to me that if we're going to adopt a principled argument, that it would be consistent to say we should therefore ban seat belt...ban a law requiring seat belts also. So in that regard you're being consistent. I wouldn't go that far, and I would venture a guess that most other of my colleagues wouldn't change the seat belt law. So if that's the case, then it seems to me that a prudential judgment is being put forward here. So I'm going to...I think what I'll do is I will put what my position is or what I have arrived at through logic, and then I'm going to open it up to let Senator Chambers have a shot at it. If he can persuade me, maybe he'll pick up a vote here. I come at this with a law on the books. A law is existing. There's a motion put forward by a senator to change the existing law. And so I approach that a little bit differently than I would slapping a brand new law. This is about changing an existing law, and weakening the existing law. So I look at this and say this is...the law already exists. So if we're going to say that we need to adopt a position based on principle alone, we've already adopted a position which would militate against that argument. Therefore, it become a prudential judgment as to whether or not we decide as a Legislature to require helmets. It seems to be we would be drawing the line there. If the argument said, well, then how come you don't ban Big Macs and whatnot, I would say that a prudential judgment has been made on the part of the Legislature. That's why. So if it can be argued that we ought to make the decision based on principle and principle alone, then I would expect those who would vote with LB253 to also vote to allow for seat belts so that we don't have seat belt laws. That's where I'm at logically on this, and therefore I will keep... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR FULTON: ...I would vote to keep this law as it is and vote against LB253. So that being said, I'd like to turn the rest of my time over to Senator Chambers. [LB253]

PRESIDENT SHEEHY: About 50 seconds. [LB253]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Fulton. It's

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foolish to make yesterday's foolishness the rule for today. Fools put that existing law on the books. They originally did it because the federal government said we'll cut off highway funds. That's the only reason they put it on the books. They said they didn't like it, they didn't think they should be done, but they wanted those federal funds. So when you use the word "prudential," I'm going to take it as an application to the insurance company. And the insurance company, Prudential, may not want this. But prudential in the sense of being prudent, wise, and doing what is appropriate under the circumstances, prudence would say we should do away with the foolishness of yesterday and not make yesterday's foolishness today's orthodoxy. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Johnson. [LB253]

SENATOR JOHNSON: Thank you, Mr. President. Let's get back to a few things that we were talking about earlier. And again I would go back, and Senator Chambers is right in many respects. One of the things that I've seen in this body in the five years that I've been here is that people tend to make very little distinction between bona fide studies and where people just throw out numbers. And, yes, people can lie with numbers; it's done all the time. But I think what we have to do is look who is supplying us with the numbers we use. Probably the single best thing that you can do is to get as independent a source as you can. That's what we try and do. The proponents of removing this helmet law talk about "I was walking around in towns over in western Iowa, and I'm sure that there is a reduction of the tourist industry in Nebraska because of that." I would like to see a study to prove that, not just "I think so." Let's go on to all those other things. Again, same type. Everything that I have mentioned here today from a statistical standpoint is an independent organization. Yes, they might also have their biases, and that's where we have to sort those out. The one I'm going to talk about here right now is this, and this is from the Insurance Institute for Highway Safety, I think a generally pretty respected organization. Here's what they say, and they're pretty big numbers: Compared to cars, motorcycles are an especially dangerous form of travel. Per mile traveled, the number of deaths on motorcycles is 34 times the number for cars. Now, if you kind of put those in realistic or numbers where they might shock us a little bit--34 times. How many people do we lose a year in Nebraska? Let's say 300. I think sometimes it's a little bit less than that. So let's multiply that, instead of 34 times, by 30. So 300 times 30, I think is 9,000. That's approximately the same number of people that were killed on Iwo Jima. It's three times the number of people that have been killed in Iraq during the Second Iraq War. If we were talking in these kind of numbers, it would be staggering. Now, these are not the numbers because obviously we don't all ride motorcycles for all of our transportation. But what I'm trying to show here is, yes, there is very significant increase in risk, and I think it is up to us to make that risk as small as we can... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

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SENATOR JOHNSON: ...without impinging on these personal liberties. Over the last two years I have been to meetings, and one in particular was reminiscent to me as this discussion has been going on. The first speaker, who was Hillary Clinton's advisor regarding health matters in the early 1990s, stated that good public health measures that are not restrictive on the public or in the least manner that they can be, are the best money savers to provide the best healthcare in the United States. This is what Senator White is talking about, as well. Newt Gingrich's guy got up and said the same thing. Basically, what you're going to hear from me this session is... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR JOHNSON: ...public health measures save money and provide the best healthcare. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Johnson. Senator Rogert, followed by Senator Chambers, Senator Erdman. Senator Rogert. [LB253]

SENATOR ROGERT: Thank you, Mr. President. Folks, I wanted to go back and just hit on a couple things we talked about earlier that I hadn't rebutted. Senator Johnson mentioned earlier about football helmets, and he mentioned that the fastest and best football players probably run a little over 20 mile an hour. One of the things that is illegal in the National Football League and the NCAA is when you're at full speed, to put your helmet down and go right into somebody else's helmet. It's called ear-holing. And that is because helmets will not protect you at that type of speed. Most of the hits in football are at low speeds, somewhere at 3 to 8 to 10-mile an hour, and they are protected. I also wanted to talk a little bit about...we've had some mentions on seat belts versus helmets. And I just had a quick question for Senator Johnson, if he would. [LB253]

PRESIDENT SHEEHY: Senator Johnson, would you yield? [LB253]

SENATOR JOHNSON: Yes, and I'm sorry, I was doing something with paperwork so you'll have to start from scratch. [LB253]

SENATOR ROGERT: No, no, not a problem. We were talking...we had mentioned seat belts a little bit here today. [LB253]

SENATOR JOHNSON: Yes, sir. [LB253]

SENATOR ROGERT: Do you feel...obviously, seat belts are very effective in saving lives. [LB253]

SENATOR JOHNSON: No question. [LB253]

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SENATOR ROBERT: Do you have any statistics on percentages of those? [LB253]

SENATOR JOHNSON: In Nebraska, the last I saw, we were doing pretty well. I think that we were approaching 80 percent usage of seat belts, and...but I think...and again, these are a little bit fuzzy. I think almost 80 percent of the fatalities are from the 20 percent that don't use them. I'm quite sure that's the case with our teenagers. [LB253]

SENATOR ROBERT: I think you're probably right. Thank you. Oh, I have one more. If we had a law or somebody had a bill before us, as a medical professional, in your opinion, would you vote yes to ban motorcycles on the highways in Nebraska? [LB253]

SENATOR JOHNSON: Absolutely not. [LB253]

SENATOR ROBERT: And why? [LB253]

SENATOR JOHNSON: It is a convenient transportation that uses very small amounts of fuel. And, you know, there's really nothing wrong with having fun. I just want people to have fun and survive and go home to their families. [LB253]

SENATOR ROBERT: But would you agree with me that motorcycling, as a whole, is just inherently probably more dangerous? [LB253]

SENATOR JOHNSON: I don't think there's any question that motorcycling is more dangerous. I think we could all agree on that. [LB253]

SENATOR ROBERT: Yeah, I agree. [LB253]

SENATOR JOHNSON: Yeah. [LB253]

SENATOR ROBERT: I agree. Thank you. [LB253]

SENATOR JOHNSON: You bet. [LB253]

SENATOR ROBERT: And that is my point, that I think we don't want to ban motorcycles, but I think we agree that they are inherently more dangerous, and we don't...we're going about it probably in the wrong way, trying to protect motorcyclists from injuries by banning...or by making them wear them a helmet versus making other folks aware and just trying to see them out on the road and seek them out as they're driving around and avoiding accidents. Mr. President, I'll yield the rest of my time to Senator Chambers. [LB253]

PRESIDENT SHEEHY: Senator Chambers, about 1 minute, 50 seconds. [LB253]

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SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Rogert. Members of the Legislature, the vast majority of you all, over my strenuous opposition last session, voted to help political subdivisions to the detriment of our children. Skateboarding is dangerous, dirt biking is dangerous. Cities were providing facilities for those activities. You all wanted to vote so that if a child were seriously injured, the political subdivision had no liability. If the child had a broken neck--no liability. Fractured skulls, Senator Johnson--no liability. Brain injury, Senator Lathrop--no liability. That's what you all voted for last time, because the political subdivisions came in here and said, our interests are more important... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR CHAMBERS: ...than the welfare of these children. We want to put these dangerous activities out there. You all didn't even want to put a sign up that would notify the public that if a child is injured there is no liability, because you have set in your mind whose interests are paramount. So when you all tell me you're concerned about these adults, I say, piffle, hogwash, nonsense! You don't care about them. You don't care about the children. And if you have a society whose heart is hardened against its own children, you cannot persuade me that those people are concerned about adults. You're being meddlesome. You're being judgmental in a way that you don't want your life to be judged. You don't want your freedom infringed. You happen to not do the thing... [LB253]

PRESIDENT SHEEHY: Senator Chambers, you may continue on your time. [LB253]

SENATOR CHAMBERS: Thank you, Mr. President. You don't do the thing that the people are doing whom you want to regulate and dictate to. I tell you, I would not get on a motorcycle, but I'm not going to say others should not be able to do it. And maybe if I got on a motorcycle not only would I wear a helmet, I would wear armor like the knights wore in the old days. They would know Ernie is coming because I would sound like a miniature earthquake in a junkyard--clattering, rattling--but I'd be safe, I hope and think, and maybe I wouldn't. If a person is moving at a high enough rate of speed and hits an object like a wall or a car, a helmet is not going to make any difference. All of the statistics that anybody will give us will include deaths to people wearing helmets--serious brain injuries, neck injuries, broken bones of every type, kind, and variety. This became a political issue, and that's why motorcycle helmets were mandated in the first place. Had nothing whatsoever to do with safety. And you all are going to stand up at other times and talk about how Nebraskans love personal freedom, personal liberty, and I'm listening to you. But the thing that is more potent than that to me, and I'll say it over and over, I watched what you did where your children are concerned, and I'm going to get that vote. I called that the roster of shame. How many of you all voted to lift liability from political subdivisions if children are hurt at these

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facilities provided by the subdivisions? And it's known that the activity is dangerous, and we're talking about children. And you rolled over for the political subdivisions and forgot about the children. And I say again, now you're going to tell me...look up there at those people. You think they can't take care of themselves? They're the ones you all are so worried about, and you didn't worry about the little children who trust you. My mommy, my daddy, and the legislators and the cities told me that I can go to this activity here, so I'm safe, and if I get a broken neck they're going to take me to the hospital and take care of it. Children are foolish. Children are naive. Children trust adults, and that trust is misplaced. And you all took advantage of the children because some politicians who are with political subdivisions said we don't want liability when children get hurt. And you said, okay, no liability, and you didn't ban the activity either, did you? No. You said you can keep the activity even if children get broken necks, fractured skulls, and brain injuries. You all did that. You all. So concerned about the welfare of people! I'm sure Senator Engel voted that way. That's why I listen to this stuff and I feel like retching, r-e-t-c-h-i-n-g. That's a nice way of saying vomiting. I am disgusted with what I'm hearing after watching what you all do. You think I'm like you. You do something, then you forget it and you don't want it brought up again. But I remember and I weigh what you're doing today against what you did yesterday. You didn't care about the children and you care about adults? Have you seen some of these people walking around here who ride these bicycles? [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR CHAMBERS: Look like wrestlers, linebackers. Walk bowlegged. They look like if they put one of those size-whatever boots they wear on a part of your anatomy, you might not recover. And you're worried about them. You're going to protect them. I wish I could wear a ponytail like some of them, but my hair won't grow long enough. Then we've got the little children, the ones you're supposed to protect. And you thrown them to the wolves and you're going to protect these people that I've described? Hypocrisy, thy name fits the Nebraska Legislature. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Flood. [LB253]

SPEAKER FLOOD: Thank you, Mr. President and members. Just a reminder: Tomorrow morning we are going to go into session at 9:45 a.m. That's a departure from our usual 9 a.m. start time. Again, we're going to start tomorrow at 9:45. The Governor will give his State of the State speech at 10 a.m., and then we will resume debate following the speech prior to lunch, and then continue in the afternoon. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Mr. Speaker. Senator Erdman. [LB253]

SENATOR ERDMAN: Question. [LB253]

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PRESIDENT SHEEHY: The question has been called. Do I see five hands? I do. The question is, shall debate cease on the amendment, AM1535? All those in favor vote yea; opposed, nay. Have all voted who wish? Please record, Mr. Clerk. [LB253]

CLERK: 26 ayes, 4 nays to cease debate, Mr. President. [LB253]

PRESIDENT SHEEHY: Debate does cease on AM1535. Senator Rogert, you are recognized to close. [LB253]

SENATOR ROBERT: Thank you, Mr. President. Once again this is an amendment that reduces the A bill by taking about \$100,000 of expenses out of the original draft by no longer requiring it to stamp "helmet not required" on the license. We are just going to require them to carry proof that they've taken the proper class or the fact that they have their license proving that they were of age and had a license before 19...before this year, and then they are 21 as of now. I also wanted to make just a couple little points that were pointed out to me. I think Senator Kruse mentioned a little bit ago how we don't collect very much in gas tax from a motorcycle. They don't use very much gas, they go through, because they're small vehicles. This is true, however the reason...one of the things that it is because they are small vehicles, they don't carry luggage, or very much, when they're traveling. They need to spend a little more money than maybe a car passenger might because they can't make room for all the necessities to stay if they would happen to stay in a hotel. So they're going to have to stop at the local Target and buy a few things for the evening, and then they're going to probably, because they don't have utensils and supplies, they won't be cooking, so they'll be spending their money in our restaurants and visiting our attractions. And if they have a problem with their bike, they're going to stop and they may need some repairs, all of which the money comes and stays in the state. But we're going to move on with the amendment hopefully, and I ask for your support for AM1535. Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the closing. The question before the body is, shall AM1535 be adopted to LB253? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB253]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Rogert's amendment. [LB253]

PRESIDENT SHEEHY: AM1535 is adopted. The next amendment, Mr. Clerk? [LB253]

CLERK: Senator Rogert would move to amend, AM1547. (Legislative Journal pages 217-220.) [LB253]

PRESIDENT SHEEHY: Senator Rogert, you're recognized to open on AM1547. [LB253]

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SENATOR ROBERT: Thank you, Mr. President and members of the body. Through our discussions this afternoon and with my discussions with colleagues in the past couple days, it has been apparent to me that one of the major concerns with ridership in the state of Nebraska is the fact that they're concerned about the availability and carrying of health insurance by those who ride. We're actually going to go a little bit further than what is normally required, and this bill basically says before they go and register a motorcycle they have to show proof of a health insurance policy that has a cap of a million dollars. A million dollars is a standard number for most health insurance policies. It's usually the top end of what they would pay, and this something that's not required right now by any rider, and so we're going to do this for helmetless or helmeted riders. And to do that they've just got to go get their health insurance. So it's an incentive for those and everyone to have health insurance, which we all think is a very good idea. So with that, Mr. President, I will yield my time. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Robert. You have heard the opening to AM1547. Senator Johnson, followed by Senator Chambers. Senator Johnson. [LB253]

SENATOR JOHNSON: Thank you, Mr. President. One of the questions that I would ask of good Senator Robert here is this, is how are you going to enforce the million-dollar insurance policy? When they show up to get their license and so on, what is to keep them from canceling that ten minutes after they go out the door? [LB253]

PRESIDENT SHEEHY: Senator Robert, would you yield? [LB253]

SENATOR ROBERT: Well, that...yes, I will. And that is an issue that is...in my opinion that's illegal. And so they do the same thing with cars every day, unfortunately, and we don't necessarily enforce that until they get into an accident and we find out they haven't had it. So... [LB253]

SENATOR JOHNSON: And that's a significant problem. [LB253]

SENATOR ROBERT: Yes. [LB253]

SENATOR JOHNSON: And so if you don't have any enforcement mechanism, you won't have any ability to stop a driver who's going down the street, being a law-abiding citizen. The time that you would find it out is after school is out. And...well, enough said about that. Let me go on to a couple other things here. In the literature provided by the proponents of this legislation, here's one of the things that they say: Motorcycle helmets save lives; that's a myth, from Fred Zwonechek, the head of the Nebraska transportation safety people. Recalculating the effectiveness of helmets in preventing accidents using more recent data shows that helmets have indeed improved in this respect: The effectiveness of helmets has increased from 29 percent in 1982 to 37

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percent over the years '93-2002. Unfortunately, the declining rate of helmet use among motorcyclists has contributed to rising numbers of fatalities, despite improving the helmets. Could I ask another question of Senator Rogert, please? [LB253]

PRESIDENT SHEEHY: Senator Rogert, would you yield? Senator Rogert, would you yield? [LB253]

SENATOR ROGERT: Yes, sir. [LB253]

SENATOR JOHNSON: Senator, when you were briefed by the proponents of the legislation that was brought to you, did they mention anything to you about a national conference held in September of 2007 by the National Transportation and Safety Committee? [LB253]

SENATOR ROGERT: The legislation was proposed to me prior to that date, sir. [LB253]

SENATOR JOHNSON: And they haven't brought up anything to you about that since that time? [LB253]

SENATOR ROGERT: I'm not sure. Can you elaborate a little bit? [LB253]

SENATOR JOHNSON: Well, let me read what this...they had this conference. This is what they recommended. Quote, the facts are very clear: Head injuries are the leading cause of death in motorcycle crashes. The NTSB chairman stated the most important step riders can take in determining...protecting themselves and staying alive is to wear a DOT-compliant helmet every time they ride. Universal helmet laws have proven effective in the mitigation of injuries and the prevention of fatalities. Implementing these recommendations will take strong leadership in the states. I hope that all governors and legislative leaders in the states will act promptly and decisively... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR JOHNSON: ...to implement the universal helmet laws recommended by this board today. Require all persons to wear Department of Transportation federal helmets while riding their motorcycle. That is their recommendation to all states. I guess I wonder why they didn't mention that to you. I think they left you high and dry, and I'm embarrassed for them, not for you. [LB253]

SENATOR ROGERT: Can I continue to answer? Is the question still open? The mike's still open. Can I answer you? [LB253]

SENATOR JOHNSON: (Inaudible.) [LB253]

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SENATOR ROBERT: Actually, I have seen the study. I just didn't know which exact...when you mentioned the meeting, I didn't know exactly what you have. I have seen that information. And my answer is that I'm certain that helmets can save lives, and I'm certain that they should be encouraged to do so. [LB253]

PRESIDENT SHEEHY: Time, Senator. Senator Chambers, followed by Senator Lathrop. Senator Chambers. [LB253]

SENATOR CHAMBERS: Mr. President, members of the Legislature, how many of you all would support the requirement that a person licensed to carry a concealed weapon would have to have liability insurance? You'd say, no, no, that's interfering with his right to carry a gun. A firearm is described as a lethal weapon. Lethal means death-dealing, capable of causing or inflicting death. And you're going to allow people to carry such a weapon but not require that person to have liability insurance. You would not consider seriously entertaining anything like what I'm talking about, liability insurance, let alone a million-dollar insurance policy. These types of requirements are preposterous. Nebraskans are the ones who ought to be ashamed. When you run around here, empty-headedly patting yourselves on the back about how freedom-loving Nebraskans are, other people laugh. You are sheep. Somebody can read you a recommendation from some conference where they say you boys and girls out there in Nebraska need to get up here and do what we tell you to do. That is read to you and you swallow it and say that's what you ought to do. Where is your independence of thought? Where is your analytical judgment? You don't have any. Nebraska is not respected as a place where people have intelligence. Every crackbrained notion that somebody wants to get on the ballot to amend the constitution will bring it to Nebraska because Nebraskans are poorly educated. They are sheep. They do not think. They do not read. And what reading they do they don't understand, and they demonstrate it by sending people here who reflect them being unable to think, lacking in analytical judgment. There will be other contexts in which we will discuss the rights of citizens, and everything said will go directly against what those who oppose this bill are recommending. They can compartmentalize and tell you, don't listen to what I said yesterday because that was yesterday, and yesterday is gone, and it's to my political advantage to do differently today. That's why if you are a thinker, if you have a historical perspective, it's extremely frustrating being in a body like this Legislature. There are people who have degrees, people with advanced degrees. But of what value are they? None. All of that goes out the window. We are supposed to make decisions that are in accord with the principles that advance and foster freedom for the people of this state. There are a lot of freedoms and liberties that I as a black man do not enjoy in Nebraska anywhere. But because I find it so hellish, you will never see me trying to get revenge by putting the same wrongful things on everybody that I suffer. [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

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SENATOR CHAMBERS: I want to try to lift it off me and everybody else. And you all who have gone through life on a flowery bed of ease, sit up here without two brain cells working at the same time, saying that you believe in freedom, and then you're against a bill like this. And the only reason helmets were required was to avoid losing federal funds. Senator Fulton said the law is already on the books, therefore, as though its being on the books means it has merit. That is preposterous. He has seen how many things are done on this floor for political reasons. He has seen how lobbyists and special interest groups can tie up this Legislature in knots. So the mere fact that something is on the books means nothing other than at least 25 people voted to put it there and the Governor signed it. But if you've got 25 fools and a jackass for the Governor,... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR CHAMBERS: Thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Lathrop. [LB253]

SENATOR LATHROP: Thank you, Mr. President, colleagues. I wanted to stand up again and maybe talk a little bit more about my opposition to this bill and observe at the outset that it looks like we're past that point where we're arguing about whether helmets are effective or not effective. I think we can agree that all the statistics that we've been provided suggest that helmets are effective. So the question is whether or not it is a freedom to ride without a helmet versus the cost to the people of the state of Nebraska. And I wanted to visit with you about that just a little bit. First, I've heard an awful lot about the freedom to ride and let those who want to enjoy life or to get what's important to them by riding a motorcycle. We're not saying that you can't ride a motorcycle; we're not banning motorcycles. We're only saying with a vote against this bill that the people of the state of Nebraska have a stake in what happens as soon as you lose control of that bike, and in most instances, not because it's your fault. You lose control and now your head is going to hit the pavement, and we have a stake in that. We have a stake in that because it costs us more in Medicaid, it costs us more in auto insurance, it costs us more in our health insurance. Those are just some of the costs that are spread around the people of the state of Nebraska for the additional care required by those who suffer significant injuries. We also lose those people as taxpayers. We lose their ability to participate in society. Those who have brain injuries don't work. Those who have significant brain injuries don't work. They need care and they exhaust their auto policies; they exhaust their health policies. And now they've become the responsibility of the people of the state of Nebraska, and that's exactly why we have a say in whether or not they wear a helmet. I have seen families whose loved ones have been brain injured. I represent a guy right now. He left the state of Nebraska with some friends, wearing a helmet. Crossed the bridge. Took it off in Iowa. Rode through the loess hills. Got in an accident and sustained a brain injury, only because he went over to Iowa instead of

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staying in Nebraska. And so his family will care for him. You know, we can talk about the dollars and cents, what it's going to cost Medicaid, what it's going to cost you in additional health premiums, what it's going to cost you in additional auto insurance premiums. But think about the families, because we know we're going to have more brain injuries and more deaths, and that means more people are going to get that call in the middle of the night about a son or a daughter who's been killed in a relatively minor motorcycle accident when they didn't need to. We are being asked, with this bill, to okay that. This is a life-and-death decision in every sense of the word. Last year we took up LB415; we passed it. It was vetoed; we overrode the veto. That's a safety issue. We wanted our youth to not be texting. We wanted limitations on what they could and couldn't do when they had a provisional license because the state of Nebraska has a stake in safety on the roads, and we have a stake in the people who ride motorcycles and get hurt. And we know it's going to happen. If you repeal... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR LATHROP: ...the motorcycle helmet law, we will have more brain injuries and more deaths, and that, I believe, is unnecessary. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Chambers. [LB253]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Lathrop touched on a notion that most people have when something catastrophic happens. If only I had left home 15 minutes earlier or 15 minutes later there would not have been the confluence of events that led to my serious injury. If I had gone left on O Street rather than right I would not have been shot. That's not what we're talking about at all. Those are matters in the hands of fate--random things. If you could tell the future you would avoid everything unpleasant, but we can't tell the future. It may have been that little fellow who was the scribe at the Constitutional Convention. He said if all men were angels, you wouldn't need laws, or something to that effect. We can come up with all the ifs. If wishes were horses, then beggars would ride. That's not what we're talking about. We would not require a million-dollar policy such as is in this amendment to be carried by people who drive automobiles. When they get injured, the same thing will happen to them that Senator Lathrop mentioned. Their insurance policy covers so much and they've got no more. Everything else they might have is utilized in trying to pay for medical care. That's gone; then it falls on the public. That's the way it goes, no matter what the instrumentality is that a person is dealing with, and an injury occurs. If we are not going to talk about freedom in a legislature, where are we going to talk about it? If freedom is not to be vindicated in a legislature, what is all this yammering about democracy? And you're going to impose democracy around the world by force of arms; then we have people in the Legislature saying freedom is not an important enough issue for us to talk about. You know why? Because insurance companies don't want it this way. Nobody has stood on this floor yet and countered what I said about the Legislature

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acknowledging under my hammering that children can receive life-threatening injuries and be paralyzed on these dirt bike tracks and skateboarding at these facilities that are made available by the political subdivisions. Nobody has stood up and said that I'm lying when the Legislature took away the liability from these political subdivisions, because I'm telling the truth, but they can't deal with that. Look up in the balcony. I wish we had an equal number of little children on the other side, and then I would say the little children are the ones you threw to the wolves. You all have a prayer here every morning. The one you pray to says it would be better for you to have a millstone hung around your neck and you be drowned in the sea than that you offend against one of these children. You all offended against the children last year. You don't care about Jesus. You don't care about Christianity. You don't care about freedom. All of that is nonsense, and that's why I say it ought to stay out of the Legislature. It doesn't govern your conduct. You offend against the children all the time. Then we get some of these rough adults, and you say, well, I'm worried about them; I don't want anything to happen to them; we've got to protect them from themselves. But we won't protect the little children whom we have an obligation and a responsibility to protect. [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR CHAMBERS: The law does not say we stand in the place of adult individuals' parents, but it does give us the right to stand in the place of parents when it comes to children. So you've got it backwards. You don't know the front end of a cobra from the back end, and you need to find out. So hypocrisy is what is ruling here. I'm shocked at Senator Fulton. I'm sorry that he's gone. He always has on his server that screensaver, a woman with a dead body laying across her lap. That's what he has up there. It must have religious significance, otherwise it would be considered perversion. Corpse worship? But where is that religion when time comes to put it into practice and protect the children? Out the window. [LB253]

PRESIDENT SHEEHY: Time, Senator. You may continue, Senator Chambers. [LB253]

SENATOR CHAMBERS: There is a song that slaves allegedly sang, "Oh, freedom, oh, freedom, oh, freedom over me. Before I'd be a slave I'll be buried in my grave, and go home to my Lord and be free." There's no Lord that's going to give you freedom. If you're going to have freedom, you better try to get it here. I never thought the day would...well, that would be an overstatement. I just didn't think about it. Had I thought about it, I would not have thought that a Legislature with people from Nebraska would say freedom is not an important issue. We don't need to resolve an issue on the basis of freedom. Well, see, you all have always had it, so you take it for granted. You can go when you want to, come when you please. Nobody is going to tell you I'm not going to serve you because of your complexion; I'm not going to sell you a house because of your race. I'm not going to put protective covenants that say nobody of your ancestry can purchase this property, and if you have it you cannot sell it to a black person. Those

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covenants still exist in Omaha. They're not enforceable now, but it's not because the Legislature did anything; the courts did. You can't trust legislators. Legislators are like chameleons. Today, you're for freedom; tomorrow, you're not. What business is it of yours? Cars are dangerous. More people are killed in car accidents than motorcycles. That's why I don't even go into those things because they mean nothing, and some issues cannot be resolved on the basis of putting a column of figures on the right-hand side, and another column of figures on the left-hand side, and whichever gives the larger total is the way that you go. Some things are not to be resolved on the basis of a popularity contest. You have laws to protect the minority. You have a constitution to protect the people from extremes that might be imposed by those in government. That's why you have laws. They're for protection. And you only have to have protection if you are unpopular. Jesus even told you all, if you do good to those who do good to you, you've got nothing coming. The worst people do that. You go out here and do something good for the one you don't like. If you're going to speak well of Warren Buffet, so what? If you're going to offer Warren Buffet a bottle of pop, so what? Would you offer a crust of bread to somebody on the street who is hungry and homeless? No. You don't want to be bothered by them. We're not talking about homeless people; we're not talking about hungry people. We're talking about adults who want to do a certain activity which is not illegal. You want to put a restriction on them and then require an insurance policy which will not be required for people who drive instrumentalities which destroy property, destroy lives, which injure. Every kind of injury, every injury people mentioned, that Dr. Johnson mentioned, that can come to a person in a motorcycle accident, can come to a person in an automobile accident. A million-dollar reimbursement medical policy or whatever the language is, you don't require that, and you don't require any kind of insurance policy to be carried by one who is going to walk around armed... [LB253]

PRESIDENT SHEEHY: One minute. [LB253]

SENATOR CHAMBERS: ...with a concealed firearm. You don't do it. And you get mad at me because I call you hypocrites. Okay, I won't call you hypocrites. You are stupid. You can't understand things. You cannot put these principles in place and understand that there is an incongruence here. So which would you rather be, a hypocrite or stupid? In either case, you ought to do differently from what you're doing. I can't make you do anything, but I can make it as difficult as possible for you to do the wrong thing, and to call what you're doing what it is. You know it's hypocritical. Senator Fulton is gone. I wish he would have come back. I thought by me mentioning it, he would have come running up here, because you know he's an engineer. And as I said, you know how engineers go, toot, toot, chuga-chuga, chuga-chuga, chuga-chuga, chuga, and to this date he hasn't told us what kind of engineer he is. I'm going to continue... [LB253]

PRESIDENT SHEEHY: Time, Senator. [LB253]

SENATOR CHAMBERS: ...to speak in behalf of this bill. Thank you, Mr. President.

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[LB253]

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Avery. [LB253]

SENATOR AVERY: Thank you, Mr. President. One of the arguments that is being made today is the personal freedom issue. I remember this was an argument that came up in our debate last year on the smoking ban. I suspect it will come up again later when we get to that issue once more. It is also relevant to debates that we have about mandatory wearing of seat belts. That issue has come up. What we need to do is remember that personal freedom must always be balanced against the public good. It is in the public interest to protect public safety. It is in the public interest to hold down the costs of insurance and the costs of healthcare. So one's exercise of their individual rights cannot be done when it diminishes the public interest. So we must keep our focus on the larger issues in this debate. Personal freedom is never absolute. In fact, the founding fathers generally recognized the need to balance personal liberty against the community good. I believe that this issue is embedded in what we're talking about today. So let's put to rest the personal liberty issue and focus our attention on the public interest. When we do that I believe we must vote against this bill. And the more I listen to the debate, the more convinced I am that I will do that. Thank you. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Nantkes, followed by Senator Fulton. Senator Nantkes. [LB253]

SENATOR NANTKES: Question. [LB253]

PRESIDENT SHEEHY: There is a call for the question. Do I see five hands on ceasing debate? I do see five. The question before the body is, shall debate cease on AM1547? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB253]

CLERK: 25 ayes, 6 nays to cease debate. [LB253]

PRESIDENT SHEEHY: Debate does cease. Senator Rogert, you are recognized to close on AM1547. [LB253]

SENATOR ROGERT: Thank you, Mr. President, members of the body. Just one comment that was made earlier, that it's not enforceable and folks will go ahead and get their insurance and then cancel it the minute they get their registration. I guess that's just assuming that all motorcyclists are bad people and they want to do illegal things, and that comes from a connotation that became negative a long time ago. And I really don't think that anybody in this room resembles that remark, and I don't think that's going to be an issue. What this amendment does is it requires those that go to have their motorcycle registered to show proof that they have health insurance. There is a million-dollar limit in there, it says, but that is a standard number. Nearly every insured

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would have a million-dollar cap on their policy. So I ask for your support of this amendment, and thank you, Mr. President. [LB253]

PRESIDENT SHEEHY: Thank you, Senator Rogert. You have heard the closing to AM1547. The question is, shall AM1547 be adopted to LB253? All those in favor vote yea; opposed, nay. Have all voted who wish? Senator Rogert. [LB253]

SENATOR ROBERT: Can I ask for a call of the house? And we'll accept call-ins when they get here. [LB253]

PRESIDENT SHEEHY: There is a request for the call of the house. The question is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB253]

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under call. [LB253]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Chamber. All unauthorized personnel please step from the floor. The house is under call. Would all senators please check in. The house is under call. Senator Schimek, would you check in. All members are present. We will continue with call-in, Mr. Clerk. [LB253]

CLERK: Senator Raikes voting no. Senator Pahls voting yes. Senator Erdman voting yes. Senator Pankonin voting yes. Senator Stuthman voting yes. Senator Wightman voting yes. Senator Hudkins voting yes. Senator Howard voting yes. Senator Lathrop voting no. Senator Friend voting yes. Senator Louden voting yes. [LB253]

PRESIDENT SHEEHY: Please record, Mr. Clerk. [LB253]

CLERK: 25 ayes, 12 nays on the amendment, Mr. President. [LB253]

PRESIDENT SHEEHY: AM1547 is adopted. The call is raised. We will now continue or proceed with bill introduction. Mr. Clerk. [LB253]

CLERK: Mr. President, a few bills before the next motion. (Read LB952-957 by title for the first time, Legislative Journal pages 220-221.) [LB952 LB953 LB954 LB955 LB956 LB957]

Mr. President, the next motion I have with respect to LB253 is a priority motion by Senator Johnson. He would move to bracket the bill until March 15, 2008. [LB253]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Johnson, you are recognized to open on your motion to bracket. [LB253]

SENATOR JOHNSON: Thank you, Mr. Speaker. I rise to offer the bracket motion for a particular reason. We brought this up in the discussion where I spoke the last time. Let's go back in history a little bit. Could I ask you to please make your (inaudible)? I'll attempt to continue. At any rate, what we have is that if we go back from a historical standpoint, the reason that we have helmet laws in the first place is because of the federal government tying states putting in...I'm sorry, I'm having a difficult time speaking. My...I'm sorry; here we go. The problem was this, is that 20-some years ago the federal government tied funding to highways to the enactment of helmet laws by the states. When this was done, all but three states put in helmet laws. The federal government then reversed themselves and did not tie it to the funding. What we have before us here today, as I read and had the exchange with the good Senator Rogert, is that now, at this September meeting this last year, the National Transportation and Safety Board flat out says that they recommend that all states have helmet laws. In many respects states like Nebraska are the poster child for this effort. My question is this: Is this the time when we should take away our helmet law when the National Transportation people are saying that this is what all of the states are doing? I don't know if the funding is dependent upon this, but to make a decision today rather than to explore this seems to be foolishness when so many of us in this room are concerned about highway funding. Why would we want to get rid of our bill today when in the very next session of the Legislature we will be asked to put it back in or we lose our federal funding? So I'm looking at this just as, is now the time, when we get this strong statement about putting in helmet laws? I think that now is a poor time to make a decision, not putting this off for the rest of the session. I didn't put in the bracket motion to be April 15, you know, or something. Yes, it is going to get crowded at the end, but let's make rational decisions with the best information that we have available to us regarding the federal funding with helmet laws. I think to do otherwise would be a risky business on our part. Now is not the time to do it. Thank you. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have now heard the opening on the motion to bracket until March 15, 2008. The floor is now open for discussion and there are a number of lights on. Senator Fulton, you are recognized. [LB253]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I would like to continue a little bit about the discussion on...by way of principle. If...but I would...before I do that I would like to ask Senator Johnson a question, if I could. [LB253]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB253]

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SENATOR JOHNSON: Sure. I'm sorry I don't know where...oh, I see where the question is coming from. [LB253]

SENATOR FULTON: I'm...well, this would be...this would be one of several items to consider in the bill. It is something that I'm interested in. What is the...can you give a little bit more information as to how we end up losing highway dollars? There has been a decision that has been changed or reversed at the federal level that would disqualify us from receiving some federal dollars if we were to repeal our helmet law. Am I understanding that correctly? [LB253]

SENATOR JOHNSON: Well, Senator Fulton, it's this: I don't know. I found this Saturday morning when I was going through a whole bunch of papers regarding the discussion here today, and so here I'm confronted. I look up the history of this and see that this was, 20-some years ago, tied to the implementation. Will it be again? I don't know, but this is a very strong statement by these people. [LB253]

SENATOR FULTON: Okay, fair enough. Thank you, Senator Johnson. Another element to consider here: I put forward that the law exists as it is now, and that's a little bit different than presenting a new law to say "require" helmets. That already is the law of Nebraska, and so I'll bring a...and I'll ask this question in another way to help us to consider this, and I'd like to hear Senator Chambers' response, so that's what's coming here. [LB253]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB253]

SENATOR CHAMBERS: Yes, I will. [LB253]

SENATOR FULTON: I'll go for about 45 seconds here or so, then I'll turn it over. Let's say that we pass LB253, and then helmets are no longer a requirement in Nebraska. What happens if we come back in a couple of years and pass this law again, saying that helmets are again required? So what I'm seeing here is that potentiality, particularly with term limits, with new ideas coming into the Legislature. At one point in time it was decided that we will require helmets. At another point in time we'll repeal or reverse that requirement. It certainly is conceivable to me, in light of Senator Johnson's suggestion, that we could come back in a couple of years and change again. I have a concern with regard to giving scandal to what should be the law of the land. So is that a legitimate concern? And I think I know what Senator Chambers' response is going to be, but I would like to turn it over just to hear some of his thought process, as to whether that is a legitimate concern. So I'll turn it over to Senator Chambers if I may. [LB253]

SENATOR LANGEMEIER: One minute, 40 seconds. [LB253]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature,

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there's a difference between possibility and concern. Concern means it's a troubling likelihood or a negative if it should happen. Possibility simply means that the Legislature can undo anything that a prior Legislature has done. So that could be an argument against our changing any law or adopting any law, because a subsequent Legislature can completely do away with it, amend it, or whatever it chooses. One Legislature cannot bind another. As far as what Senator Johnson said about federal funds, I don't think that federal funds are going to be implicated in this issue anymore. [LB253]

SENATOR LANGEMEIER: One minute. [LB253]

SENATOR CHAMBERS: That's my opinion. So what we're looking at here is a desperate attempt by Senator Johnson and those who want to keep helmets to throw any and everything into the discussion, which they have a right to do. But some of the things they offer are so preposterous that they're outside the realm of reasonable argument. I'll discuss anything anybody puts on the floor before us because not everybody on the floor is a thinker. So even though it's preposterous on its face, nonthinkers will listen to the tone of voice of the one presenting it and feel that it must have validity or it wouldn't be said. So that's why I have to spend a lot of time talking about and trying to knock down nonsensical statements. But Senator Fulton, I don't think the possibility of the Legislature undoing whatever we do here today is a reason for not adopting this bill. [LB253]

SENATOR LANGEMEIER: Time. [LB253]

SENATOR CHAMBERS: Thank you, Mr. President. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Fulton. Wishing to speak we have Senator Chambers, Rogert, Fischer, Erdman, and Johnson. Senator Chambers, you are recognized. [LB253]

SENATOR CHAMBERS: Mr. President and members of the Legislature, the idea of liberty is something that engages my mind and holds my attention and interest. I say again: Those who have never had to experience the underside of the garment will take a lot of things for granted. They cannot conceive of certain negative things happening because those negative things don't happen to them. A white person would never say, you mean to tell me I'm going to try to buy a house and somebody is going to say because I'm white they're not going to sell me this house? That's not going to happen in America. And it's not. Over 90 percent of the money made available through federal housing programs went to white people. Do you know why? Because much of it was in the form of guaranteed loans. Lenders would not loan money to black people, so white people got it. That was their affirmative action from decades and decades and decades ago. And what is the value of a house? It gives you something tangible that you can pass on to your children. They gave, by way of the government, tangible assets to white

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people that were denied to black people. There were black men who were in the military of the United States who came back as veterans, and they could not get these loans that were made available to white veterans. So white people said, what are you crying about? You always want favoritism. White people have had affirmative action ever since they've been in this country. Everything that's done is done for white people. So when somebody like me talks about freedom, it's easy for you to stand on the floor and say liberty is not implicated here; freedom is not implicated here. What's best for the public or whatever that term was my esteemed colleague used. Do you know why he can say that, the common good? Because the common good means white people's good. It doesn't include black people at all. When Thomas Jefferson wrote all men are created equal and entitled by their Creator to certain inalienable rights, I was not among the men, because Thomas Jefferson was owning black men and women as property, and impregnating young black girls. The rat, the low-down, dirty, raping, un-Christian rat. And he's lionized by white people. But he's the one who talked about all this freedom. So I'm giving back to you what your white fathers of your country talked about, and then you want to tell me that it's not important, because you've got it and it's not going to be taken from you. But there are certain of your kind, certain of those of your complexion who will not have their freedoms protected because they're marginalized. They're on the outside. And you feel that if you move against them, the harm that results is never going to fall on you, your children, and your friends, because you're not in that unpopular group of white people who are going to be messed over. In Omaha, they have people in a part of the town called east Omaha; some of it's in Iowa--white people. They're called river rats. They're looked down on. They're treated very, very contemptuously. They're called trailer trash. [LB253]

SENATOR LANGEMEIER: One minute. [LB253]

SENATOR CHAMBERS: Their little children are ridiculed in school. So here's a little kid who knows that his momma has been called trailer trash by a teacher, and you think that child wants to go to school? So when the child knows that his mother is not respected and he doesn't like the teacher, they blame the child for being unruly, disrespectful, and all these other things, when the child has watched his parents be disrespected by the teacher. So bad things are done to black people and they're done to poor white people. And unless it happens to you, apparently you're unable to understand this. So it's my job to do all I can to bring it to your attention. And even if it's happening to people who are not poor, if they're being treated in a way that I think is unfair, being treated in a way that's unfair by the government, then I'm going to do what I can to stop that from happening. And I do believe this is one of those issues. Thank you, Mr. President. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Rogert, you're recognized. [LB253]

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SENATOR ROBERT: Thank you, Mr. President. Folks, I want to address a little bit of the NTSB issues we talked about today and part of the reasons for Senator Johnson wanting to bracket this, so we can maybe find out a little bit more about what we're going to do with federal funds. I have an article here that came from, believe it or not, it's called the Motorcycle Riders Foundation. They did some research on the NTSB. And since 1975, the NTSB has investigated 124,000 aviation crashes; 10,000 surface transportation crashes, which is rail, pipeline, and mass transit; and then 6 motorcycle crashes. It's a half-dozen motorcycle investigations over the past 40 years, or just .15 motorcycle crashes a year, to put it into government statistic. So I'm not sure how much validity we want to put into what the NTSB says considering motorcycles. And as far as highway dollars are concerned from the federal government, we did...they stopped incentivizing the states to receive federal monies on their highways for helmets back in 1995. President Clinton signed that repeal into law. And they are just about ready to stop giving us all of our money for highways because of the expenses that have gone up in the federal government to situations such as our war in Iraq. So as we look into the future, we're trying to find new ways in this state to fund our roads, because the federal government is stopping giving us money. I don't think there's going to be any more money coming along, and I don't really think it's going to be at all attached to whether we wear helmets or not. With that, who's after me, Mr. President? [LB253]

SENATOR LANGEMEIER: Senator Fischer. [LB253]

SENATOR ROBERT: I will yield the rest of my time to Senator Fischer. [LB253]

SENATOR LANGEMEIER: Senator Fischer, 3 minutes. [LB253]

SENATOR FISCHER: Thank you, Mr. President. Thank you, Senator Rogert. Members of the body, I hadn't planned to stand up and speak on this bill, but a number of you have approached me today because you have heard that our federal funds for highways will be affected if we repeal the motorcycle helmet law. That is incorrect. In 1995, Congress changed the law under the National Highway System Designation Act of 1995, and Senator Clinton signed that act. I'm sorry; President Clinton signed that act. Funding is no longer tied to safety because of that 1995 law. It's similar to what was passed in the '70s, I believe, when we had to lower our speed limit to 55 in order receive federal funding. Obviously, that is no longer tied to federal funding either, our speed limits. I did want to clarify that. Senator Johnson brought it up on the mike, which is why I'm standing up and speaking on this. As for the committee that proposes that possibly funding should be tied to our helmet law and that Nebraska is the poster child in a good way in that fatalities have decreased, I would say that we all deal with committees. I'm sure most of us in here have been on committees, and we have made recommendations to a body of elected officials. It is up to those elected officials whether they're going to act on any of that information that they receive from either a task force or a committee. Congress has not acted on that committee's recommendation; they

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have not acted upon it. If they would happen to act on it,... [LB253]

SENATOR LANGEMEIER: One minute. [LB253]

SENATOR FISCHER: ...which I foresee them doing, if they would act upon it, this body could come back, address this topic again if our federal funds for highways are in jeopardy. As you know, we are receiving less and less money in federal funding for a variety of reasons, which I'm sure we'll have the opportunity to talk about this session, but I would recommend to you that you not be concerned about federal highway funding in connection with this bill. Thank you, Mr. President. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Rogert. Senator Fischer, you are up next. She waives her opportunity. Senator Erdman, followed by Johnson. [LB253]

SENATOR ERDMAN: Mr. President and members of the Legislature, would Senator Johnson yield to a question, please? [LB253]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB253]

SENATOR JOHNSON: Yes, sir. [LB253]

SENATOR ERDMAN: Senator Johnson, your motion before us is to bracket LB253 till March 15. [LB253]

SENATOR JOHNSON: Yes, sir. [LB253]

SENATOR ERDMAN: And as I understand the rationale, as Senator Fischer pointed out, you have some concern about federal funding, or at least the opportunity to research that before a vote would be taken? [LB253]

SENATOR JOHNSON: Yes, sir, that's the intent. [LB253]

SENATOR ERDMAN: Let me ask you: If there was no jeopardy whatsoever that we would lose federal funds by the passage of this bill, would you support it? [LB253]

SENATOR JOHNSON: No, that's not the question. The question... [LB253]

SENATOR ERDMAN: That's my question to you. [LB253]

SENATOR JOHNSON: All right, thank you. You bet. [LB253]

SENATOR ERDMAN: You would not support it even if there was no doubt we would

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lose...we wouldn't lose any federal funds; you still wouldn't support the bill. [LB253]

SENATOR JOHNSON: It's not me; it's the others that might want to make that judgment. [LB253]

SENATOR ERDMAN: But you've offered the motion. [LB253]

SENATOR JOHNSON: That's correct. [LB253]

SENATOR ERDMAN: Okay. I just wanted to be clear. Members, we can be here for 55 more days if Senator Johnson has the stamina, but last I checked there's only one member that has ever successfully pulled that off or at least attempted that to some degree of ability, and last I checked his last name isn't Johnson. So I'm kind of interested to see what Senator Johnson has up his sleeve because I'm reading two things into this motion. I'm reading that Senator Johnson is concerned that there's votes to pass this bill; otherwise, he wouldn't have put the motion up. I think the analogy or the example of the "King Cobra" is fitting here because he wastes no venom on those things that are not--and Senator Chambers, I apologize for annihilating your example here--but if Senator Johnson wasn't concerned this bill was going to advance he probably wouldn't have put this motion up. The other interesting part about this discussion is that we've somehow accepted the facts of one side of this argument as if they are the only facts, as if they are unequivocal. And they're not. The groups that Senator Schimek and Senator Johnson read off have their own interests in this discussion. The groups that Senator Rogert and those of us on the supporting side of LB253 have our own position that we think the facts support. So I'm going to read into what we've got before us. Senator Johnson is concerned. Fine. Let's spend the time on the bracket motion. Let's defeat it. I understand Senator Johnson may even withdraw it. Let's have a discussion on the facts. It's not a fact that motorcycle helmets are completely safe. That is not a fact. It is not a fact that having a law on the books will save people from accidents regarding this activity. And it's not a fact that...and the fact is that Senator Johnson won't even introduce a bill to ban motorcycles because he knows the next step is to ban cars, because they are far more dangerous. There are more people killed or as many people killed in car accidents annually than died in Vietnam. But Senator Johnson is not rushing to the microphone to save us all from our four-wheeled vehicles. All those good people that roamed through western Nebraska on their way to western South Dakota, those that make the effort to go around here, ironically share a lot of the same professions that Senator Johnson has shared in his life. There are probably as many doctors and lawyers that show up at Sturgis than there are any other profession. The people that you're asking or the people who are seeking this opportunity are not second-class citizens. They are not folks who are ignorant. They are informed citizens. And whether they're from Nebraska or whether they're Nebraskans that go to Iowa and get in an accident, I'm still trying to figure out whether we're supposed to sue Iowa on behalf of our citizens for that, but I'm not a lawyer so I

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don't actually think that way. But let's debate the topic here. [LB253]

SENATOR LANGEMEIER: One minute. [LB253]

SENATOR ERDMAN: The state of Nebraska passed a law and said we are going to make seat belts a primary offense. And do you know what the voters did? Ironically, it was the last time the voters did this before Class I legislation, they said, no thank you, Nebraska Legislature. They repealed the law. And as much as it pains me, I think the issue isn't about the facts. I think it's about philosophy. And I, for one, can get into all the details about why I support LB253, but it's been said before. I don't think it's going to change anyone's position. I do recall fondly the last attempt at negotiation that this legislation, not in this forum but that Senator Smith and others tried to negotiate, and that didn't turn out very well. But I'm hopeful (inaudible) sake of the state of Nebraska that we can have a better fate with LB253. Thank you, Mr. President. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Johnson, you're recognized. [LB253]

SENATOR JOHNSON: Mr. President, first of all, let me make sure that everyone knows that I respect our people that happen to be riding and driving motorcycles. To put in some innuendo that that is not the case, they do not know what kind of life I have lived. I wish that you had been with me a few times in an emergency room and see these tragedies. That is what motivates me to do this. I am as deeply concerned about the health of these good people, and I feel this is the best way to maintain it. The other thing that is becoming a national concern is these terrible arising medical costs, and there are innumerable ways or reasons why this is happening. This is becoming a national debate. But the one thing that we are seeing is that we cannot continue with the skyrocketing costs of healthcare. Around the world, what we are seeing is that governments are instituting the public health measures that give the most healthcare and health at the cheapest price. From all indications that we have from independent agencies, this is the case here. We get the best health and we will save money doing it. I am still concerned since this is the way this debate started some 20 years ago, that with the recommendations from the National Transportation and Safety Board, that these will be taken up by Congress, but our Chairman of the Transportation Committee assures me that we have nothing to worry about. I hope that she is right. With that, I withdraw the bracket motion. Thank you. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Johnson. Senator Johnson withdraws the bracket motion. Mr. Clerk for the next. [LB253]

CLERK: I have nothing further on the bill, Mr. President. [LB253]

SENATOR LANGEMEIER: Senator Rogert. Seeing...we return now to discussion on

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LB253, the bill itself. There were a number of lights on. Senator Rogert, you are recognized. [LB253]

SENATOR ROBERT: Thank you, Mr. President. Once again I just want to reiterate as we move through the discussion on this bill that the main reason for us to be here is that we are sitting in the middle of the Midwest. And if you look at that map of the United States that I handed you all a copy to, it's Nebraska and Missouri sitting in a bunch of about 20 states that don't have a helmet law. And we are in the most scenic drive-through portion of our United States, driving through here. And there are folks driving it through every day and they go around us, and they would love to come to Nebraska and spend their money and do the things that they want to do. And we just want to make it fair, and that is why we're here. And it is a freedom of choice, and the guys who are up there in the balcony and their comrades, they have made it very clear that having to wear a helmet is a hindrance; it's uncomfortable. It's not proven to keep our healthcare costs down like seat belts have, and they deserve their freedom of choice. So if that...I just want everybody to think about it real hard as they go to decide whether they're going to vote for this or not. It's an issue that affects people in everybody's districts, and they've been on it for several years and they want to have their chance at it. The federal government has backed off from their requirements, and to me that shows that maybe that there were less reasons for doing it when they had it that way. I guess that's all I...I'll conclude with that and I'll turn it back to the Chair. [LB253]

SENATOR LANGEMEIER: Thank you, Senator Robert. Mr. Clerk for a motion. [LB253]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone the bill. Senator Robert, you'd have the option to lay the bill over at this time, Senator. [LB253]

SENATOR ROBERT: Oh, lay it over? [LB253]

CLERK: You want to lay it over, do you? Is that right? [LB253]

SENATOR ROBERT: Yeah, till tomorrow. [LB253]

CLERK: All right. Thank you, Senator. [LB253]

SENATOR LANGEMEIER: Mr. Clerk, for new legislation. [LB253]

CLERK: Mr. President, I have a new bill to introduce at this time, thank you. (Read LB958 by title for the first time, Legislative Journal page 222.) Mr. President, in addition to those items I have amendments to be printed to LB253A by Senator Robert; Senator Howard to LB205; Senator Robert to LB253; Senator Hudkins to LB663A. A series of names adds, Mr. President. Senator Dwite Pedersen to add his name to LB743;

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Senator Karpisek to LB770; Senator Hansen to LB770; Senator Kopplin, LB807; Senators Schimek, Rogert, and Raikes to LB843; Senator Synowiecki, LB943. An announcement: Appropriations Committee will meet upon adjournment, Mr. President, in Room 1003; Appropriations, Room 1003 upon adjournment. (Legislative Journal pages 222-223.) [LB958 LB253A LB205 LB253 LB663A LB743 LB770 LB807 LB843 LB943]

And a priority motion. Speaker Flood would move to adjourn until Tuesday morning, January 15, at 9:45 a.m.

SENATOR LANGEMEIER: Thank you, Mr. Clerk. You have heard the motion to adjourn until Tuesday morning, January 15, at 9:45 a.m. All those in favor say aye. All those opposed say nay. We are adjourned.