

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
April 23, 2009

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SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixty-seventh day of the One Hundred First Legislature, First Session. Our chaplain for today is Father Paul Rutten of Lincoln, Nebraska, Senator Fulton's district. Please rise. []

FATHER RUTTEN: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Father. I call to order the sixty-seventh day of the One Hundred First Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record. []

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

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

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

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

CLERK: Mr. President, your Committee on Agriculture, chaired by Senator Carlson, reports LB224 to General File with committee amendments attached. I have received three reports in the Clerk's Office that will be available for member review, and a report of registered lobbyists, as required by statute. That's all that I have at this time, Mr. President. (Legislative Journal pages 1171-1175.) [LB224]

SPEAKER FLOOD: Thank you, Mr. Clerk. Members, we now proceed to the agenda, Select File, 2009 senator priority bills, Sullivan division. We begin with LB98. Mr. Clerk. [LB98]

CLERK: Mr. President, LB98. Senator McGill, I have Enrollment and Review amendments, Senator. (ER8057, Legislative Journal page 994.) [LB98]

SPEAKER FLOOD: Senator McGill for a motion. [LB98]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB98]

SPEAKER FLOOD: Members, you heard the motion. All those in favor say aye. Those

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opposed say nay. The E&R amendments are adopted. [LB98]

CLERK: I have nothing further on that bill, Senator. [LB98]

SPEAKER FLOOD: Senator McGill, for a motion. [LB98]

SENATOR MCGILL: Mr. President, I move LB98 to E&R for engrossing. [LB98]

SPEAKER FLOOD: Members, you've heard the motion. Senator White, you are recognized. [LB98]

SENATOR WHITE: Thank you, Speaker Flood. And I have a question, if Senator Carlson would yield. [LB98]

SPEAKER FLOOD: Senator Carlson, will you yield to a question from Senator White? [LB98]

SENATOR CARLSON: Yes, I will. [LB98]

SENATOR WHITE: Senator Carlson, do you think it's divine providence that I'm dead beat and my voice is shot when your bill came up or skillful scheduling by the Speaker? (Laughter) [LB98]

SENATOR CARLSON: It could be either thing. We have a lot of confidence in our Speaker. (Laughter) Whatever works, works. [LB98]

SENATOR WHITE: Well, everything I've had to say on this bill we've all heard. It's not going to change a vote and so, therefore, I will have nothing further to say on it. Thank you. [LB98]

SPEAKER FLOOD: Thank you, Senator White. There are no other members wishing to speak. Members, you've heard the motion. Shall LB98 advance to E&R for engrossing? All those in favor say aye. Those opposed say nay. LB98 advances to E&R for engrossing. One scheduling note: As we await a technical amendment from Bill Drafters on LB159 and LB159A, that bill will be held until the amendment is present. We may be passing over that bill should the amendment not arrive in a timely fashion. Mr. Clerk, LB98A. [LB98 LB98A]

CLERK: I have no amendments to LB98A, Mr. President. [LB98A]

SPEAKER FLOOD: Senator McGill for a motion. [LB98A]

SENATOR MCGILL: Mr. President, I move LB98A to E&R for engrossing. [LB98A]

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SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB98A advances to E&R for engrossing. Mr. Clerk, LB420. [LB98A LB420]

CLERK: LB420, Senator, I have Enrollment and Review amendments. (ER8058, Legislative Journal page 1000.) [LB420]

SPEAKER FLOOD: Senator McGill for a motion. [LB420]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB420]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB420]

CLERK: I have nothing further on that bill, Senator. [LB420]

SPEAKER FLOOD: Senator McGill for a motion. [LB420]

SENATOR MCGILL: Mr. President, I move LB420 to E&R for engrossing. [LB420]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB420 advances to E&R for engrossing. Senator Gay, would you please approach the Chair? Members, as we await an amendment on LB159, it is my intention to pass over LB159 and LB159A until further notice, but it will come up yet this morning. I will advise you very clearly as to what time that will happen as soon as that amendment is received. Mr. Clerk, for that reason, we now proceed to LB489. [LB420 LB489]

CLERK: LB489. Senator McGill, I have Enrollment and Review amendments. (ER8060, Legislative Journal page 1000.) [LB489]

SPEAKER FLOOD: Senator McGill for a motion. [LB489]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB489]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB489]

CLERK: I have nothing further on the bill, Senator. [LB489]

SPEAKER FLOOD: Senator McGill for a motion. [LB489]

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SENATOR MCGILL: Mr. President, I move LB489 to E&R for engrossing. [LB489]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB489 advances to E&R for engrossing. Mr. Clerk. [LB489]

CLERK: LB489A, Mr. President. Senator McGill, I have no amendments to the bill. [LB489A]

SPEAKER FLOOD: Senator McGill for a motion. [LB489A]

SENATOR MCGILL: Mr. President, I move LB489A to E&R for engrossing. [LB489A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. LB489A advances to E&R for engrossing. Mr. Clerk, we now proceed to Select File, 2009 committee priority bills, the Adams division. We begin with LB679. Mr. Clerk. [LB489A LB679]

CLERK: LB679. Senator McGill, I have Enrollment and Review amendments. (ER8051, Legislative Journal page 928.) [LB679]

SPEAKER FLOOD: Senator McGill for a motion. [LB679]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB679]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The Enrollment and Review amendments are adopted. Mr. Clerk. [LB679]

CLERK: Senator Harms, AM1120. I have a note you want to withdraw, Senator, the amendment. Senator Harms, right? [LB679]

SENATOR HARMS: Yes. Yes, I do. [LB679]

CLERK: Okay. I have nothing further on the bill, Mr. President. [LB679]

SPEAKER FLOOD: Senator McGill for a motion. [LB679]

SENATOR MCGILL: Mr. President, I move LB679 to E&R for engrossing. [LB679]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB679 advances to E&R for engrossing. Mr. Clerk. [LB679]

CLERK: Mr. President, LB198. E&R amendments first of all, Senator. (ER8053,

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Legislative Journal page 928.) [LB198]

SPEAKER FLOOD: Senator McGill for a motion. [LB198]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB198]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. All those opposed say nay. The ayes have it. The E&R amendments are adopted. [LB198]

CLERK: Mr. President, Senator Stuthman would move to amend, AM1179. (Legislative Journal page 1168.) [LB198]

SPEAKER FLOOD: Senator Stuthman, you're recognized to open on AM1179. [LB198]

SENATOR STUTHMAN: Thank you, Mr. Speaker and members of the body. After this bill was debated and passed, we had some individuals, the Attorney General and the State Fire Marshal, had some concerns with it, so I have submitted this amendment. I'm going to give you the highlights of this amendment, what the changes are to this, to the committee amendment. It changes the definition of a cigarette to that in Section 77-2601. This change was needed to make sure cigars were not included in the definition of a cigarette. You cannot place a thick band of paper in a cigar leaf like can be...like you do with the paper used in cigarettes. It would be unrealistic to include cigars in this such legislation. Another item is...allows the State Fire Marshal to accept alternative standards from different states if a manufacturer of a cigarette cannot be tested in accordance with the test method prescribed in this section. This change will allow the manufacturer to present to the Fire Marshal an alternative standard in the event the manufacturer produces a new or better product than could be tested under the New York standard. Another item: the Fire Marshal may adopt a subsequent American Society of Testing and Materials Standards Test Method for Measuring the Ignition Strength of Cigarettes upon the finding that such subsequent method does not result in the change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with the American Society of Testing and Materials Standards and the performance standard in Section 3. This will allow the state...the Fire Marshal to adopt standards similar to the New York standard, also allows the Tax Commissioner or duly authorized representative to seize noncompliant cigarettes. The Department of Revenue will be checking for stamps indicating that the cigarettes are compliant. Should the cigarettes not be compliant, this change will allow the Tax Commissioner or duly authorized representative to seize the noncompliant cigarettes along with law enforcement and the State Fire Marshal. It makes sense that the Tax Commissioner have this authority, since they are making sure that the cigarettes are compliant. We also wanted to change the operative date to January 1, from July 1 to January 1 of 2010. Currently, wholesalers and retailers have to store

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compliant and noncompliant cigarettes separately. This change will move the operative date from July 1, 2010, to January 1, 2010, so that only cigarettes sold in the state are compliant. This will ease the burden of storing separately compliant and noncompliant cigarettes for the wholesalers and retailers. It removes references also to the Fire Marshal in regards to court actions. This change removes the Fire Marshal from filing any action in court for this is duly the authority of the Attorney General. With that, I ask that these...this amendment be adopted, and I think it clarifies the fact of what are the duties of the Tax Commissioner, what are the duties of the Fire Marshal, and I think this clarifies it a lot. So with that, I ask for your support on this amendment. Thank you, Mr. President. [LB198]

SPEAKER FLOOD: Thank you, Senator Stuthman. Members, you've heard the opening. Senator Howard, you're recognized. [LB198]

SENATOR HOWARD: Thank you, Mr. President and members of the body. With my apologies to Senator Stuthman, I'm going to use his bill to address a previous issue. I was a bit late getting on the floor this morning because I was at a meeting regarding safe haven. But in looking at the bills that we just advanced, the bills from Select File under Sullivan division, I'd like to point out to the body that we have advanced over \$4 million worth of legislation this morning. I'd like to keep that in mind, I'd like all of us to keep that in mind as we look at our funding for education and say to ourselves, is this...is this amount or these bills that we've advanced, and one of these bills I signed on to and believe in, but is this money that we've advanced, is this money that we want to spend here money that we're not able to spend on education? I appreciate you listening to this and thank you very much for your time. [LB198]

SPEAKER FLOOD: Thank you, Senator Howard. Members, you've...there are no other lights on. Senator Stuthman, you're recognized to close. Senator Stuthman waives his opportunity. The question before the body is, shall AM1179 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB198]

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB198]

SPEAKER FLOOD: AM1179 is adopted. [LB198]

CLERK: I have nothing further on the bill, Mr. President. [LB198]

SPEAKER FLOOD: Senator McGill for a motion. [LB198]

SENATOR MCGILL: Mr. President, I move LB198 to E&R for engrossing. [LB198]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye.

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Those opposed say nay. LB198 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB322. [LB198 LB322]

CLERK: LB322. Senator McGill, I have no amendments to the bill. [LB322]

SPEAKER FLOOD: Senator McGill for a motion. [LB322]

SENATOR MCGILL: Mr. President, I move LB322 to E&R for engrossing. [LB322]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. LB322 advances to E&R for engrossing. Mr. Clerk, LB549. [LB322 LB549]

CLERK: LB549. Senator, I do have Enrollment and Review amendments pending. (ER8056, Legislative Journal page 953.) [LB549]

SPEAKER FLOOD: Senator McGill for a motion. [LB549]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB549]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB549]

CLERK: I have nothing further on the bill, Senator. [LB549]

SPEAKER FLOOD: Senator McGill for a motion. [LB549]

SENATOR MCGILL: Mr. President, I move LB549 to E&R for engrossing. [LB549]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB549 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB246. [LB549 LB246]

CLERK: Senator McGill, first of all on LB246 I do have Enrollment and Review amendments. (ER8061, Legislative Journal page 1001.) [LB246]

SPEAKER FLOOD: Senator McGill for a motion. [LB246]

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

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB246]

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CLERK: Mr. President, Senator Dubas, I have AM964 with a note that you'd like to withdraw AM964. [LB246]

SENATOR DUBAS: Yes. [LB246]

SPEAKER FLOOD: AM964 is withdrawn. [LB246]

CLERK: Senator Dubas would move to amend with AM1195. (Legislative Journal page 1176.) [LB246]

SPEAKER FLOOD: Senator Dubas, you're recognized to open on AM1195. [LB246]

SENATOR DUBAS: Thank you, Mr. Speaker, members of the body. This amendment just cleans up the language dealing with how the money is handled, the fund is handled. We have agreed to remit \$100,000 to the State Treasurer for credit to the Biotechnology Development Cash Fund. This fund can receive gifts, bequests, contributions or donations from public and private entities and then, within five days after the State Treasurer has received the \$100,000 from the nonprofit corporation, the Treasurer then shall transfer the \$100,000 from the General Fund to the Biotechnology Development Cash Fund and then we are changing the \$100,000 to insert \$200,000. This allows that cash fund to hold up to \$200,000, which would be the combined total of the donations, private funding, and General Fund dollars. [LB246]

SPEAKER FLOOD: Thank you, Senator Dubas. Members, you've heard the opening on AM1195. There are no members wishing to speak. Senator Dubas, you are recognized to close on AM1195. Members, the question before the body is, shall AM1195 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB246]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Dubas' amendment. [LB246]

SPEAKER FLOOD: AM1195 is adopted. [LB246]

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

SPEAKER FLOOD: Senator McGill for a motion. [LB246]

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

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB246 is advanced to E&R for engrossing. Mr. Clerk, we now proceed to LB440. [LB246 LB440]

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CLERK: LB440. Senator McGill, I have no amendments to the bill. [LB440]

SPEAKER FLOOD: Senator McGill for a motion. [LB440]

SENATOR MCGILL: Mr. President, I move LB440 to E&R for engrossing. [LB440]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The ayes have it. LB440 is advanced to E&R for engrossing. Members, as previously advised, we will now return to LB159. We do have an amendment that has been filed. Mr. Clerk, LB159. [LB440 LB159]

CLERK: Mr. President, no E&Rs. Senator Wightman would move to amend the bill with AM1193. (Legislative Journal pages 1176-1177.) [LB159]

SPEAKER FLOOD: Senator Wightman, you're recognized to open on AM1193. [LB159]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. I discussed the possibility of filing this amendment when the bill was being considered on General File. With regard to the bill itself, as you'll recall, it provides a \$250 credit on long-term health insurance that's purchased by a taxpayer and it just provided that it would start at \$250. And under a joint policy, it would provide for a \$500 credit. And it had a fiscal note of about \$1,080,000, as I recall. LB...or AM1193 would provide a phase-in on that to take out part of the fiscal impact during the first two years. You may also remember that it did not have any fiscal note for 2009-2010, so it had a \$45,000 fiscal note, I think. That had to do with some expenses that would be paid in changing the state income tax return, as I recall. That would have been the only fiscal note. Fiscal note then the second year would have been \$1,080,000. What AM1193 seeks to do is to phase this in over a period of three years so that in the year 2010-2011 that credit or the cap on the credit would be limited to \$300 on an individual...or \$150 on an individual return, \$300 on a joint return, and the second year it would be \$200 and \$400, and then it wouldn't reach the level that was provided under LB159 until the third year, at which time it would become \$250 and \$500. As I indicated before, I do like the long-term effect of LB159. I think we've got to do everything we can to get Medicaid under control so that it isn't growing as rapidly, and certainly one of these ways is for a greater share of our population to have long-term care insurance. So that part I do like. I think that we're looking at short-term costs as opposed to long-term benefits. I think down the road those long-term benefits could be quite substantial, and I'm not talking \$1 million a year. We could be talking \$10 million or \$20 million a year. So all I'm doing with LB...or AM1193 is trying to reduce that fiscal impact during the second year of our biennium, in which we're now setting the budget. It would also continue and have a decreasing effect on that impact even on the first out-year of the next biennium. So with that, I do urge your support of LB159. Thank you, Mr. President. [LB159]

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SPEAKER FLOOD: Thank you, Senator Wightman. Senator Gay, you're recognized. [LB159]

SENATOR GAY: Thank you, Mr. President. I'd just like to rise and thank Senator Wightman; Senator Coash, who prioritized the bill; and then Senator Lathrop, who had worked on this yesterday. We had a meeting. And thank you, Mr. Speaker, for bearing with us. This amendment, we had a meeting yesterday, Department of Revenue, we had legal counsel for the Revenue Committee and those senators I had just mentioned, and what we did, this is a much better...this is an amendment we had discussed on General File and now on Select File this is the amendment we're bringing. This also has a sunset date because we've heard so much about these things and we agree that there should be a sunset date and if it has merit, we'd, you know, let other people decide. We would still be here to decide if we wanted to continue this on after five years. So I think we've heard the wishes of the Legislature. This amendment goes a long ways towards that. Like we said, this lowers the fiscal note 40 percent. The A bill is actually \$45,000. It's a computer program to reprogram the computers that Senator Wightman said. So I'd urge the body's support. I think it goes a long ways, as we had discussed yesterday about looking at long-term opportunities, to think...be a little forward-thinking. I think LB159 can do that. Thank you, Mr. President. [LB159]

SPEAKER FLOOD: Thank you, Senator Gay. There are no other lights on. Senator Wightman, you're recognized to close on your amendment. Senator Wightman waives his opportunity. Members, the question before the body is, shall AM1193 be adopted? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB159]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Wightman's amendment. [LB159]

SPEAKER FLOOD: AM1193 is adopted. [LB159]

CLERK: I have nothing further on the bill, Mr. President. [LB159]

SPEAKER FLOOD: Senator McGill for a motion. [LB159]

SENATOR MCGILL: Mr. President, I move LB159 to E&R for engrossing. [LB159]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. I'm sorry, the Chair could not hear audibly whether or not the body wanted to proceed with LB159. Members, you've heard the motion to advance LB159 to E&R for engrossing. All those in favor say aye. Those opposed say nay. LB159 advances to E&R for engrossing. Mr. Clerk, we now proceed to LB159A. [LB159]

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LB159A]

CLERK: LB159A, Mr. President, I have no amendments to the bill. [LB159A]

SPEAKER FLOOD: Senator McGill for a motion. [LB159A]

SENATOR MCGILL: Mr. President, I move LB159A to E&R for engrossing. [LB159A]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. LB159A advances to E&R for engrossing. Returning to our agenda, Select File, 2009 senator priority bills, White division, we begin with LB430. Mr. Clerk. [LB159A LB430]

CLERK: Senator McGill, I have Enrollment and Review amendments first of all. [LB430]

SPEAKER FLOOD: Senator McGill for a motion. [LB430]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB430]

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB430]

CLERK: Mr. President, the first pending amendment I have this morning, Senator Christensen, AM1105, but I have a note, Senator, you want to withdraw AM1105. [LB430]

SENATOR CHRISTENSEN: Correct. [LB430]

SPEAKER FLOOD: It is withdrawn. [LB430]

CLERK: Mr. President, then the next amendment I have to the bill, Senator Christensen, AM1132. (Legislative Journal page 1149.) [LB430]

SPEAKER FLOOD: Senator Christensen, you're recognized to open on AM1132. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President and members. AM1132 is an amendment that furthers the purpose of LB430 as a whole. It clarifies and creates a consistent policy concerning the concealed handgun permitholder when traveling throughout the state. In particular, it creates a clear and consistent policy that would allow a permitholder to drive into or onto a parking lot area used by a prohibited location listed in 69-2441, part (1)(a), and not violate that section of the act if they leave their handgun in their vehicle. Currently because of the structure of 69-2441(2), the exception

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for going into or onto a posted place and leaving the handgun in the vehicle may or may not apply to the one of the expressly prohibited places like bank, hospital, police station, because they may or may not post. This is the interpretation put into the Nebraska State Patrol regulations, entitled 272 Chapter 21, Article 18.05. It is my desire with AM1132 to make it a clear policy that a concealed handgun permitholder can go into a parking area, leave their handgun in the vehicle and not violate the act. AM1132 also requires the permitholder, if parking in the area used by the prohibited location, to make sure upon exiting the vehicle that the handgun is locked inside the glove box, trunk, or other compartment of the vehicle; a secured box securely attached to the vehicle; or, if the vehicle is a motorcycle, a saddlebag or compartment securely attached to the motorcycle. Moreover, AM1132 harmonizes the policy in Section 28-1204.04 by amending Senator Avery's AM993, which is already adopted on Select File. Section 28-1204.04 prohibits unlawful possession of firearms at school. My amendment would add another exemption into law to allow a concealed handgun permitholder to leave their handgun in the vehicle while parked at school. My amendment would not allow this exemption where it is prohibited by federal law, such as elementary schools, middle schools, and high schools. I met with the university and Senator Avery and they are both okay with the language in AM1132. Therefore, I would encourage you to the adoption of AM1132 and advance LB430 to Final Reading. Thank you. [LB430]

SPEAKER FLOOD: Thank you, Senator Christensen. Members, you've heard the opening to AM1132. Senator Nantkes, you are recognized. [LB430]

SENATOR NANTKES: Thank you, Mr. President. I was hoping that...and, members, be clear, I rise in support of the underlying legislation. I have been and always will be a strong proponent of our Bill of Rights, including the Second Amendment, not just limiting that support to the Second Amendment. And with that, this is a serious topic, though, and I think it does deserve to have a clear record made. I was hoping that Senator Christensen would yield to a question. [LB430]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator Nantkes? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR NANTKES: Senator Christensen, it's my understanding that really the main point behind LB430 is to protect the rights of those citizens who...in regards to concealed carry permits. Is that correct? [LB430]

SENATOR CHRISTENSEN: Correct. [LB430]

SENATOR NANTKES: And can you tell me, do you believe that those are fundamental rights that we're talking about? [LB430]

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SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR NANTKES: And where do those rights emanate from? [LB430]

SENATOR CHRISTENSEN: Well, from the Second Amendment. [LB430]

SENATOR NANTKES: And where in the Second Amendment does it say that citizens have the right to carry a concealed weapon? [LB430]

SENATOR CHRISTENSEN: Well, the Second Amendment just deals with the right to bear arms and then this is just the interpretation that we are going to allow as a State Legislature. [LB430]

SENATOR NANTKES: So would it be fair to say that, on its face, the Second Amendment in fact does not specifically authorize these types of activities as a fundamental right? [LB430]

SENATOR CHRISTENSEN: Well, it would fall as a right under the right to bear arms, but concealed itself is not listed there. [LB430]

SENATOR NANTKES: So, Senator Christensen, I'm really just trying to be clear here for the record. Would it be fair to say that the Second Amendment itself is insufficient to encapsulate all of these different gun-related activities and, thus, we have to rely on the judicial system to tell us a little bit more broadly about what those rights may mean. [LB430]

SENATOR CHRISTENSEN: Well, I guess it comes down to what people want as a state. We have the right to bear arms and if we're going to restrict any, which has been done, and now we're opening up a uniform pattern across the state, I guess I'm not sure where you're trying to lead here. [LB430]

SENATOR NANTKES: Well, I guess, to be clear, the Second Amendment itself says, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed." In fact, many legal scholars and many courts have interpreted that to mean (A) that it only applies to the militia rather than general citizenry as a whole. I'm not saying I agree with that proposition but that's been debated by the courts. And then further, that the very first component of the constitutional amendment, which you believe stems...underlies the public policy contained in this bill, talks about a well-regulated set of laws in this regard. And so really I think I just want to be clear that we are all on the same page, that the Second Amendment itself does not provide a broad right in all circumstances for all citizens to bear arms without regulation or restriction. Is that right? [LB430]

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SENATOR CHRISTENSEN: What...I'm not sure I agree that it doesn't give us the broad right to carry, but we are dealing with interpretation of courts and what the original intent of this law is, so I think that's why we're here clarifying. [LB430]

SENATOR NANTKES: Senator Christensen, would you commit on the record to supporting all fundamental rights as guaranteed by the constitution with the same level of vigor as you seek to in this legislation? [LB430]

SENATOR CHRISTENSEN: Well, I'm not sure... [LB430]

SPEAKER FLOOD: One minute. [LB430]

SENATOR CHRISTENSEN: ...where you're trying to lead this, that...my concern. I stand up for the rights that's in the Bill of Rights in the constitution. I just try and be careful here that I don't go down a path that I'm not trying to. [LB430]

SENATOR NANTKES: Well, and exactly. I just want to make sure for consistency and for public policy sake, if the reason people feel very strongly about this is because it's about protecting fundamental rights, I want to make sure that we're going to be vigorous in defending all fundamental rights as afforded by the Nebraska and federal constitutions, like the rights to privacy, for example. [LB430]

SENATOR CHRISTENSEN: I understand the rights to privacy and I think I know what you're trying to drive at. But, you know, every one of us has different passions about different parts, so it's hard for everybody to stand up and have equal passion about every part but, yet, there is the fundamental rights that we have to protect. [LB430]

SENATOR NANTKES: So your position essentially would be that some rights afforded to us under the constitution mean less than others? [LB430]

SPEAKER FLOOD: Time, Senator. [LB430]

SENATOR NANTKES: Thank you. [LB430]

SPEAKER FLOOD: Thank you, Senator Nantkes. Senator White. Oh, before that, Mr. Clerk, there's another amendment? [LB430]

CLERK: Mr. President, Senator Christensen would move to amend his original amendment with AM1192. (Legislative Journal page 1177.) [LB430]

SPEAKER FLOOD: Senator Christensen, you're recognized to open on your amendment to the amendment. [LB430]

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SENATOR CHRISTENSEN: Thank you, Mr. President. What this amendment does is just clarify the language a little bit so it reads more smoothly. When we got it drafted, it just wasn't quite as clear. So all we're doing is striking the "person who is" on page 1, line 22, and then on page 2, line 1, strike the first comma and insert the word "and," just so when you're reading it, it flows well. This is just a clerical cleanup on this bill. Thank you. [LB430]

SPEAKER FLOOD: Thank you, Senator Christensen. Members, you've heard the opening to AM1192 to AM1132 on LB430. We now continue with discussion. Senator White, you are recognized. [LB430]

SENATOR WHITE: Thank you, Mr. President. Would Senator Christensen yield to a question, please? [LB430]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator White? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR WHITE: Senator Christensen, I read your amendment and I want to make sure I understand it. Let me give you a hypothetical so that we understand what we're permitting here. Let's assume I carry a big .45 concealed weapon under my coat. I come into the grade school to pick my child up. Kids are all lined up outside of the school. I park my truck. I walk out. I pull my gun out, displayed openly, walk around the truck, open up the box, and I can put the gun into the box and lock it. Is that permitted, as you understand it, under your bill? [LB430]

SENATOR CHRISTENSEN: Correct. [LB430]

SENATOR WHITE: Do you think it's a good idea that in a parking lot full of young children somebody can take and openly display a handgun during that period of time when he's walking from the cab of his car around to put it away? I mean do you think, given Columbine and everything else, that's good policy? [LB430]

SENATOR CHRISTENSEN: Senator White, remember, federal law prohibits this at schools, elementary, high schools, so you couldn't do it with young kids. This would apply like in college campus. [LB430]

SENATOR WHITE: Do you think that's a good policy, given the recent problems we've had with shootings in universities too? As a matter of fact, one of the first modern mass murders was in Texas. And I want you to know, Senator, by the way, remember, I supported your bill and the underlying bill. I just have got a question whether this is

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exactly what you think we should permit or is there a way we can reasonably accommodate legitimate concerns that people who are licensed to carry concealed handguns to do their business without unduly displaying firearms and/or frightening people in public places? [LB430]

SENATOR CHRISTENSEN: Well, the intent is so that you can lock it up. If you prefer it in the trunk or the glove box, you know, it could be limited to inside the car. But what do you do on that motorcycle? That compartment is there. It's still going to be able to be seen. If you've got a pickup and you want to put it in the attached toolbox, put it in there, there comes the difficulty. How do you take care of all vehicles and not let it be seen? If it was just a car, you could say the glove box or lock it inside the vehicle. A pickup you could do it inside vehicle. Motorcycle is a little more problem. That's what I'm trying to address, Senator. [LB430]

SENATOR WHITE: No, I do, and I understand that and I do understand the intent and I don't object to the intent. What does concern me is we are specifically permitting something that could literally cause a lot of people a lot of anxiety and is it necessary that it be done in this way? Is there any language, for example, that could say that they shall not unduly alarm or display the weapon while they are stowing it; they must promptly do it, they can't delay? I mean, all I have to do, if you have a police officer, for example, I stand out there with my gun and I stand out there for four or five minutes, ten minutes holding a gun openly in a parking lot in the university, causing a lot of people to be very concerned, but the police officer comes up and I said, no, I'm concealed carry permit, I was just exiting my vehicle, I'm in the process of stowing my weapon, even though it's taken me five minutes to do that. That's my concern, Senator. I mean it's simple. I don't know how to fix it. I do understand your problem. I'm not hostile to what you're intending to do. I'm just a little concerned. [LB430]

SENATOR CHRISTENSEN: Senator, if you have wording that says that...they quickly, you know, upon exiting they must immediately hide, you know, I wouldn't oppose that because that still takes care of my concern. [LB430]

SENATOR WHITE: I guess what I would suggest to you is, you know, that they must promptly... [LB430]

SPEAKER FLOOD: One minute. [LB430]

SENATOR WHITE: ...upon exiting stow it away, making a minimum display to the public, something to indicate they can't make a big deal about it, they can't take a long time and they can't alarm...unduly alarm people in the process. I mean if what they want to do is discreetly stow their weapon to be in compliance when they walk into a place, I get that. It's just the way it's worded right now it's pretty loose. [LB430]

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SENATOR CHRISTENSEN: You know, I think if I'm up, I'm fine with trying to put some prompt language right in there. We can try and work on that. You or I, either one, here quickly. [LB430]

SENATOR WHITE: Thank you, Senator. [LB430]

SPEAKER FLOOD: Thank you, Senator White. Senator Avery, you're recognized. [LB430]

SENATOR AVERY: Thank you, Mr. President and colleagues. I was a part of the work that went into this amendment and I want to commend Senator Christensen and his staff for the good work that they did. I think that I can clarify the question that Senator White raised. If you read the amendment on the second page, it reads that upon exiting the vehicle the handgun is locked inside the glove box, trunk, or other compartment of the vehicle. It's very clear, I think to me, that you have to have it locked before you exit the vehicle. So if you want to put it in a toolbox, you do that before you enter the parking lot and exit the vehicle. In most cases, people will simply lock it in the glove box. If you're on a motorcycle, you have to have it locked in the compartment before you exit the vehicle. That means that you have to have done that before you enter the parking lot. I don't believe this needs any additional language or any clarification. We talked about this rather extensively in the various negotiations. I don't believe, however, the people that needed to hear this are actually listening. With that, I will end. Thank you, Mr. President. [LB430]

SPEAKER FLOOD: Thank you, Senator Avery. Senator Gloor, you're recognized. [LB430]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I wonder if Senator Christensen would yield for a question. [LB430]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator Gloor? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR GLOOR: Senator Christensen, I'd like to continue with some real world scenarios here. If an individual is brought by ambulance to a hospital and, in treatment, was discovered they had a concealed handgun, staff removed the gun, give it to a family member and ask them to take it out in a car and lock it in the glove compartment, has anybody broken the law in this scenario or does this tweaking of LB430 help clarify that someone hasn't broken the law? [LB430]

SENATOR CHRISTENSEN: I do not believe that that would be changed in

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interpretation here. It'd still be the same. You know, if somebody happened to have one on them, they went into that emergency room, that's not allowed but I don't think anybody is going to write anybody up because they didn't willfully do that. And so I don't know if there's something that you're concerned about having addressed in here, but I think it comes down, they didn't willfully do it because they come in by ambulance. And so I don't think there would ever be a problem but if you want to discuss this, I'm sure willing. [LB430]

SENATOR GLOOR: Well, I've been ruminating about this. Senator Avery's example of locking it in the glove compartment before they exit the vehicle in this scenario obviously is not going to occur. I don't think anybody has any intent of breaking the law here either, but want to make sure that we have legislation tight enough so that this doesn't end up being a complication at some later date. And I realize that your amendments are an effort to try and make sure that we don't put people who are legally carrying concealed handguns at some degree of risk. I also appreciate it because there is a real world scenario here that if someone were to be discovered of having a concealed handgun and, as a hospital, I know from my real world experience what the staff of that institution would likely say is take it out and lock it in your car. If your legislation, as I interpret it, in fact is intended to make sure that that scenario can happen without anyone being in fear that they have steered somebody wrong, then I'm certainly in support of both the amendments as well as the underlying legislation, LB430. So I appreciate your answering the question and, again, I believe, based upon the response I've gotten from Senator Christensen, I am supportive of his amendments and the legislation. Thank you. [LB430]

SPEAKER FLOOD: Thank you, Senator. Senator Haar, you're recognized. (Doctor of the day introduced.) Returning to discussion, Senator Haar, you are recognized. [LB430]

SENATOR HAAR: Mr. President, members of the body, I'd like to ask Senator Christensen a couple questions, if I could. [LB430]

SPEAKER FLOOD: Senator Christensen, will you yield to a question from Senator Haar? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR HAAR: Okay. I just can't help but ask this question. The purpose of this is so that we don't trap concealed carry holders. Is that correct? [LB430]

SENATOR CHRISTENSEN: What the idea was, make sure that we got a uniform passage across the state that we don't have people unwillingly become law breakers by coming into a town with a different ordinance or into a place or for the amendment today

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can drive up and pick up their daughter or son at a college and never leave the vehicle and still not be breaking the law, because we add the words "area" in Senator Avery's amendment, where if you look at all the other wording that where it's stated financial institutions, it stated where sporting events were held, things this way, it was a defined location and once you go to an area you have streets involved, you have parking involved. And, yes, so it was to make sure that they are protected. [LB430]

SENATOR HAAR: Okay. Thank you. Just several years ago I would have voted against this kind of legislation but one son of mine has gone through concealed carry training in Arizona and Texas and really convinced me that people who have gone through this training are well prepared. One other question, Senator Christensen, if I could. [LB430]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: Senator Christensen, would you yield? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR HAAR: I'm sorry, I wasn't quite done. The only thing that would concern me a little bit about the thing of a motorcycle and a locked saddlebag, a leather saddlebag is really something that would be really easy to break into or, you know, all you have to do is take a knife and cut it. Would that be a concern at all? [LB430]

SENATOR CHRISTENSEN: I guess let me look at the wording. I believe it has to...the way it is worded with the attachment, see where I laid my amendment, I believe it talks about being...maybe it's just permanently held. Where's my amendment at? All right. Says if the motorcycle or saddlebag or compartment securely attached. I guess we could define a leather one as securely attached. I understand what you're saying there. If we want to work on that we can. I don't think it's an issue but understand what you're saying, if somebody seen them put it in there, you know. [LB430]

SENATOR HAAR: Yeah, I will vote for the bill and so on, but I think some clarification there might be helpful because, as a former biker, I know how easy it is to...for people to get into those saddlebags. So thank you very much. [LB430]

SENATOR CARLSON: Thank you, Senator Haar and Senator Christensen. Senator Nantkes, you are recognized. [LB430]

SENATOR NANTKES: Thank you, Mr. President. Senator Christensen, number one, I do want to thank you. The last time that this bill was on the agenda you acted in a very statesmanlike manner to ensure that we had time to work with interested parties and to work with bill drafters to fully appropriately amend or not amend this legislation as we move forward. So number one, again, I want to thank you for that. Mr. President, I was

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hoping Senator Christensen would yield to a question so that we could continue our dialogue. [LB430]

SENATOR CARLSON: Senator Christensen, will you yield? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR NANTKES: So, Senator Christensen, just to kind of go back to where we left off when time was called earlier, would you agree that there's fundamental rights provided for all Nebraskans, in fact all Americans, through the federal and state constitution and the Bill of Rights contained therein? [LB430]

SENATOR CHRISTENSEN: Well, sure, there is. [LB430]

SENATOR NANTKES: Thank you, Senator Christensen. And the question that we left on was do you believe that certain of...certain rights contained therein rise to a level of more importance than other rights contained therein? [LB430]

SENATOR CHRISTENSEN: And I think that comes back to what I said before. Each individual looks at things a different way and just...so it's become a different importance level to each individual. But when we're looking at the Bill of Rights as a whole, they have a lot of common importance. [LB430]

SENATOR NANTKES: So, for example, you would say that the rights to free speech, no matter how distasteful we might find them as a body, are just as important as the rights contained in the Second Amendment. Is that right? [LB430]

SENATOR CHRISTENSEN: I think that's the way everybody tries to interpret it, yes. [LB430]

SENATOR NANTKES: And you would say that the rights afforded to citizens as the very clear and distinct right of privacy is just as important as is the Second Amendment rights afforded to us. Is that right? [LB430]

SENATOR CHRISTENSEN: Again, I think it all comes down to we may disagree on the importance of one more than the other. [LB430]

SENATOR NANTKES: Senator Christensen, is the right to privacy afforded to us in the constitution as important as the rights afforded to us under the Second Amendment, yes or no please? [LB430]

SENATOR CHRISTENSEN: I agree. [LB430]

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SENATOR NANTKES: Okay. Thank you very much. Senator Christensen, thank you for your time. I think I'll just go ahead and wrap up some dialogue here in this regard. Assuming, for the sake of argument, which I think it has to be just that, for the sake of argument, because the courts that have looked at these issues have not found any consensus in terms of what broad rights are available to citizens under the federal or state constitution in this regard, I would argue, in fact, that the Nebraska State Constitution provides a much broader grant of authority and rights to its citizens in regards to the right to bear arms than does the federal constitution. But nonetheless, assuming for the sake of argument that these issues are in fact a fundamental right, they conflict with so many of the issues that we frequently hear politicians in this body talk about, like the right to local control, which I think is interesting and which is contained directly within the context of this legislation. This legislation says, local communities, you cannot actually have any local control over these issues and the state is going to, instead, make those decisions for you. So I think that's something that's important to note, that there is a tension in those fundamental public policy principles at play under Senator Christensen's bill. I think that it would be a good day in Nebraska if politicians who support this type of legislation would also fully support public policies that protect all of our constitutionally granted rights, like the right... [LB430]

SENATOR CARLSON: One minute. [LB430]

SENATOR NANTKES: ...to privacy and public policies contained therein. Otherwise, we know that by not taking consistent actions we're seeing nothing but rhetoric, which could demonstrate hypocrisy. But I know that the senators in this body are committed to being consistent and committed to upholding our oath to protect all the rights afforded to all citizens under the state and federal constitutional Bill of Rights. Whether they emanate from the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, or Tenth Amendment, all of those rights are precious, all of those rights deserve protection, and I imagine that we'll have a long debate about some of those issues later on in the session. So with that, thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Nantkes and Senator Christensen. Those still wishing to speak: Senators McGill, Nelson, White, Friend, Nantkes. (Visitors introduced.) Senator McGill, you are recognized. [LB430]

SENATOR MCGILL: Mr. President, members of the body, I do not support LB430 as was evident with my "no" vote on General File. I don't want to stand here and so much go after the details of this bill and concealed carry because I do, to a support...or to an extent, understand why supporters of a bill like this want concealed carry in order to protect themselves. I get that and I get the travelling between different parts of the state and wanting that uniformity. But what I want to talk about is the really warped perception that we have in America when it comes to violent crime. I was at a neighborhood association meeting two nights ago and Lincoln Police Chief Casady was there talking

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about how Lincoln's crime rate and crime rates across the country and the state, are going down. Crime rates are going down and yet our perception of violence is warped by what we see on TV and many of these mass shootings that we're seeing now that are happening across the country and the randomness of those. But even if the crime rate weren't going down, violent crimes are committed either by people who know the victim or they're committed in this mass sense and random sense where the killer is expecting to kill himself. And therefore, having concealed carry would not deter the crimes that they're plotting to take place. I mean when you...when you look at violent crime, whether it be gangs or domestic assaults, which, you know, in our state make up the majority of that violent crime, you're looking at people who...I'm not an expert on gang mentality but they know they're putting their lives on the line by becoming members of gangs and those gang...the gang violence is very targeted in nature. They aren't random shootings; they're targeted in nature. And domestic assaults, of course, are, you know, the in-law or the ex-wife or just the "druggie" friend that someone may have that's trying to break into their house or harm them in general. And I don't see how a person carrying a concealed weapon will really help in any of those instances, prevent those crimes when they're targeted and they're someone that you know. And when it comes to the mass shootings, almost all of them, including the ones in churches, are done by people who are putting their lives...well, I don't want to say putting their lives on the line. They're expecting to kill themselves or be shot by someone in the act. The thought of someone having a concealed weapon in Von Maur would not have stopped that young man from going in there and shooting a dozen people. I feel like bills and legislation like this only perpetuate that culture and perception of extreme violence in our country and in our state and, therefore, I cannot support this bill. Thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator McGill. Senator Nelson, you're recognized. [LB430]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to ask a question or two of Senator Christensen, if I may. [LB430]

SENATOR CARLSON: Senator Christensen, would you yield? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR NELSON: Senator, I just want to come back to your amendment and let me say that I support the amendment in principle and also the technical amendment correcting some of the language, but I wanted to ask you to explain just a little bit about what your intent is. You've already stated that this wouldn't apply to elementary schools up through high school, those parking lots, because of the federal law. Is that correct? [LB430]

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SENATOR CHRISTENSEN: Correct. [LB430]

SENATOR NELSON: So are we looking at college campuses here, for instance, and what other type of parking lots that are open to members of the public? [LB430]

SENATOR CHRISTENSEN: Well, in the Avery amendment, yes, we're applying just to colleges because we had heard from professors and we had heard from parents that wanted to be able to drive across the state with their gun, be able to drive on to the campus, pick up their daughter or drop them off and be at school and be able to leave again, so. [LB430]

SENATOR NELSON: Well, if there is a problem with displaying a weapon in a parking lot, do you see any reason why that situation cannot be addressed prior to entering the parking lot by the permitholder? [LB430]

SENATOR CHRISTENSEN: No, I don't. [LB430]

SENATOR NELSON: Well, let me suggest language like this and for your consideration. If the permitholder, prior to exiting the vehicle, has placed or locked the handgun inside the glove box, in other words, they knew they were headed for a parking lot and they wanted to pull over somewhere on the street, then they could do it at that time so that when they come into the parking lot that's already been taken care of at the time that they exited the vehicle. And the other observation I would make, that do you really want to lock something in a glove box where you might have to get at it in a hurry? Perhaps we could give them the option of placing it in the glove box or locking it in there, depending on what they felt was most secure or safe. Would you comment on those proposals. [LB430]

SENATOR CHRISTENSEN: Well, I would...I appreciate what you're saying and agree with you, but that's where we come into the negotiations with the university and they wanted it locked in something, and that's where we come to an agreement there so that's why we have it worded that way. [LB430]

SENATOR NELSON: All right. Well, if that's part of the agreement, fine, and that's acceptable certainly to me. But there is still a possibility that you could take these measures before you enter the parking lot and then we don't have to get into that area of displaying a weapon in open view of college students or wherever else you happen to be. [LB430]

SENATOR CHRISTENSEN: Yes. Correct. [LB430]

SENATOR NELSON: All right. Thank you, Senator Christensen. Thank you, Mr. President. [LB430]

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SENATOR CARLSON: Thank you, Senator Nelson and Senator Christensen. Senator Friend, you're recognized. [LB430]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. We're going to have this conversation right now? Is that what we want to do? All right, let's have it--the right to privacy; compare and contrast the Bill of Rights; compare the constitution and what we think is fundamental and what the court has interpreted as fundamental. Giving weight to what the constitution says fundamentally and giving weight to a court decision are two totally different things, absolutely, and Senator Nantkes, and I'll say this on the record, is wrong. Let me tell you why. Let's talk constitution Bill of Rights. Anyone ever heard of Roe v. Wade? Thank you, one person. Supreme Court decision, 1973, where the court, in a majority decision, came out and said, all right, here's the situation. And of course I'm...they didn't really say this, but this is...this is what...this is what the majority decision implied. We consider these things we call the penumbras, we consider all of the Bill of Rights lumped together to give our citizens a fundamental right to privacy. That was the decision and that's what they wanted us to understand, that there is a fundamental right to privacy. So Senator Nantkes isn't off base there. The interpretation is there. But the problem is, do we understand that since 1973 we've been having a furious and fiery and on-fire debate, a constant debate about how that court decision was wrong? We're not talking about the Third Amendment here. We're not talking about the Fourth Amendment. We're not talking about the First Amendment, which are spelled out for us and we can make a decision on our own what these amendments mean. I think it's offensive to the sensibilities to think that someone can stand up, anyone can stand up and say there...because there has been such debate and furious debate about it and someone can actually tell me to my face that there's a fundamental right to privacy, the constitution, in my view, has never provided for that. It was a court decision that said this is the way things should be. And I disagreed with that court decision. I was 12 years old when they made that decision. I didn't know anything about it. Well, guess what? I know a little bit about it now and I think it was a flawed decision to this day, and there are court members on...in the Supreme Court right now who would agree with what I'm saying, and more eloquently, by the way. Why do you think we fight over Presidents appointing Supreme Court justices? Because they legislate from the bench. You think George Bush doesn't want John Roberts to legislate from the bench even though he says he doesn't want him to? He does. He wants him to get rid of Roe v. Wade. He didn't tell him to get rid of the Third Amendment. You know why I'm fired up? I've never forced a member on this floor to answer a question yes or no. That's offensive to me too. Maybe it was just yesterday and all the things were happening that I warned everyone about, and maybe I'm part of the problem. But you know what? You got me and you got me for two more years, one at the very least and if somebody wants to try to censure me or impeach me, let them try. [LB430]

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SENATOR CARLSON: One minute. [LB430]

SENATOR FRIEND: My sensibilities, I evidently can be violated very quickly. And if we want to go down this road and we want to talk about LB430 for 5 hours, 10 hours, 14 hours, 20 hours, I'll do it, and we'll talk about the penumbras, we'll talk about constitutional law, because you didn't have to go to law school for three years to figure out what the Supreme Court did. And all you have to do is ask the Congress, you have to ask the Senate, you have to ask Presidents, and you have to ask your next-door neighbor what they feel about Roe v. Wade to figure out exactly where this discussion is going. Let me sum it up. We can answer questions about fundamental...what I consider and others consider to be fundamental answers to Bill of Rights questions, but when somebody tells me that there is a fundamental right to privacy dictated by the constitution in the Bill of Rights, I will argue that that is false and that is wrong. [LB430]

SENATOR CARLSON: Time. [LB430]

SENATOR FRIEND: Thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Friend. Senator Nantkes, you are recognized. [LB430]

SENATOR NANTKES: Thank you, Mr. President. Thank you, Senator Friend, for your comments added to the dialogue this morning. This, like most issues, has piqued a passion for you, so it's always good to hear your thoughts on it. And I think to be quite clear, members, I've let Senator Christensen know I'm supportive of these amendments and I'm supportive of his bill, but I think because these involve such important social issues that we need to have a dialogue about them and we need to build a record about them. My point is quite simple: Read the Second Amendment to the Constitution of the United States: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed." Nowhere in there does it say on its face that the people have a right to carry a concealed weapon in a church, on a college campus or, really, in any environment. Next, let's look at the Constitution of the State of Nebraska. Section 1, statement of rights, middle of the paragraph: the right to keep and bear arms for security or defense of self, family, home, or others, and for lawful common defense, hunting, recreational use, and all other lawful purposes. Those rights shall not be denied or infringed. I agree with Senator Friend in some regards, but the way that we can tell whether or not, again, in this language there is not afforded to anyone a constitutional, fundamental right to carry a concealed weapon in a church, on a university campus, or any matter for that...in any environment, for that matter. Thus, we have to rely on the courts to give us a further definition of what those rights mean and that's a process called judicial review that we, our country, our state has engaged in for the entire course of its history, and it applies to all laws, including constitutional provisions. And so that process of judicial review further spells

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out what those rights, those few simple words, on their face can mean and not mean. And I think to be clear, since Senator Friend would have to agree, on its face the Second Amendment to the United States Constitution, the first amendment to the Nebraska Constitution doesn't specify a right to carry concealed weapon in any of the places that we're talking about contained within the proposed legislation. So in order to assume that those are fundamental rights, we have to engage in a process called judicial review where judges tell us if, in fact, that is a broad application of rights. And again, courts are really not at a consensus in that regard. I support this legislation. I support the Bill of Rights. I support all of the different policies that are contained therein and I respect the judicial branch as a separate and distinct branch of government that when minority rights are threatened or are trampled upon have to be there within our system of government to provide protection. Whether it's distasteful to Senator Friend or Senator Christensen or any member of this body, I think that it's...it doesn't add to the public dialogue to criticize another branch of government like the courts that is critical to our system of checks and balances, and the process of judicial review is key there within. It will happen on the federal level, it will happen on the state level, and that's an important part of our governmental structure. Then again, colleagues, to be clear, on its face, neither of these constitutional provisions grant specific rights in regards to this bill. We know that these rights are contained therein, but it's only through the process of judicial... [LB430]

SENATOR CARLSON: One minute. [LB430]

SENATOR NANTKES: ...review that we know that. Thank you, Mr. President. With that, I thank you. [LB430]

SENATOR CARLSON: Thank you, Senator Nantkes. Those still wishing to speak: Senator Schilz, Fulton, and Friend. Senator Schilz, you are recognized. [LB430]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. I stand in support...to rise up in support of the amendment. I think that it does make sense. And as I'm thinking back over my...over my high school and college days, I probably broke the law a time or two by having a rifle or a shotgun or a pistol sitting right on the front seat of the pickup so...and I left it there all day, probably unlocked in Ogallala actually. I mean that's just the way...just the way we are out there I guess. And nobody got hurt. I mean, people understand what that's about. I think, as Senator Nantkes said before, the question is are all rights the same, and I think, yes, in the ideal they are, but in practice, you know, probably not every time. And so, you know, depending...it depends on who's defending those rights and the political situation you find yourself in, so this is just one of those rights that I stand up to defend and will work to make sure that we keep this right to bear arms for all of us and that we don't impinge upon it, and that's how I was brought up, that's what I believe and that's what I'll support. So thank you very much. [LB430]

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SENATOR CARLSON: Thank you, Senator Schilz. Senator Fulton, you are recognized. [LB430]

SENATOR FULTON: Thank you, Mr. President, members of the body. Senator Christensen, I believe, has filed an amendment, a clarifying amendment, which will be coming up and, to that end, I want to say that I support both of these amendments and the underlying bill. Indeed, it is my priority bill. I echo Senator Friend's concern when we have a member of the body who is trying to put another member of the body on the spot. Now if it is with regard to the subject matter at hand and it's something that we can learn from, if it's something that will clarify and illuminate the debate, so be it. But how do we inject abortion into a concealed carry bill? I don't understand that. I don't know that we should be injecting abortion into a concealed carry bill. We dealt with education yesterday. We're dealing with guns now. We throw abortion, we might as well throw them all, all the controversial topics in. Now Senator Nantkes started with a clarification of support. In her opening she clarified her support for Second Amendment rights. In the second time that she spoke, she said that it is not a constitutional provision, that the rights that will be...if we move LB430 forward, the rights enjoyed by citizens with regard to concealed carry is not provided via the framework of the constitution. And then she turned around and brought the constitution in to this discussion as it relates to abortion, so there is an inconsistency there, beyond the inconsistency of the subject matter that we're talking about. The question is a good question as it relates to concealed carry and I would like to elucidate what I think...where I think philosophically these rights come from. Conceal and carry, the rights for individual Nebraska citizens to carry a concealed weapon, come from the statute, okay? It can be construed, in my opinion, from our state constitution, it could be construed or an argument could be made from the Second Amendment and, even further, it would seem that those could be construed by an individual's right to defend himself, which I think if we were to go back, I don't know this, I'm not a lawyer but I've studied a little philosophy, it would seem that the Second Amendment exists as a guarantee of individuals to defend themselves, if not explicitly then at least philosophically. So if we utilize that frame of reference, then it is entirely consistent for the state to put forward a concealed carry statute and if, indeed, the concealed carry statute is somehow unconstitutional or flies in the face of the constitution or what have you, then let that challenge come forward. But I dare say that's not going to happen. So I'm not certain what the intention was. Senator Nantkes indicated in her opening, in her first time of speaking, that she wanted to clarify the record. She said that she was in support of the amendments and I assume that's going to be the case. But in clarifying the record, the record seems to have become confused. So hopefully we can stay on this debate. If we want to talk about abortion, I guarantee there will be that opportunity later in the session, but for now we're dealing with concealed carry, and so I speak and stand and hope that we can all support the amendments and LB430 going forward. Thank you, Mr. President. [LB430]

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SENATOR CARLSON: Thank you, Senator Fulton. Those still wishing to speak: Senators Friend, Nantkes, Stuthman, Lautenbaugh. Senator Friend, you're recognized. [LB430]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Senator Nantkes should be...should know that she's done something that Senator Chambers has hardly ever been able to do and that's bait me. I took the bait and now we're going to be on this awhile. Can't have it both ways, it's impossible. Let me tell you why. Second Amendment to the Constitution of the United States: A well regulated Militia, we've already read this into the record, being necessary to the security of a free...a free State, the right of the people to keep and bear arms shall not be infringed. In 2008, Supreme Court came in and decided, by a vote of 5 to 4, it was in regard to a Washington, D.C., ban on the private possession of handguns. Justice Scalia authors the majority opinion. Majority opinion, Justice Scalia, what a lot of people would consider a pretty conservative justice who probably shares the thought process that there isn't a specific and inherent fundamental right to privacy, authored this decision. Here's the thought process that came into it. You're trying to figure out if the Second Amendment deals with that well-regulated militia and doesn't deal with an individual right. Supreme Court said, no, it is an individual right. Supreme Court said it's not affiliated with any state-regulated militia but who wished to keep handguns and other firearms for private use in their homes, question mark, should that be allowed? Is that what the constitution fundamentally allows? We as the Supreme Court are asking that question. The court concluded that the Second Amendment does establish an individual right to keep and bear arms for self-defense and hunting. She's wrong. According to the court that she believes created the fundamental right to privacy, according to that same court X amount of years later, that conclusion is wrong. So I'm not just being loud and mean. I'm saying she's wrong. We can...I can continue to talk for four hours about how she's wrong, if you guys would like, but let's talk about the personal aspect of this. Let's separate it all out, okay? The personal aspect is we are a legislative body and a lot of times we make personal decisions that drive our policy decisions. We make personal decisions that drive those policy conclusions. Why? Why in the world would we have to stand up and even act like a court? It's not our job. We can quote the constitution till the cows...till the proverbial cows come home. You know what? Just to waste time, I can go through every one of these, every one of these amendments in the Bill of Rights and you, when we read it back, when we read it back, you tell me where it says we have a fundamental right to privacy, a fundamental right to privacy. Tell me when I'm done where it says that. All right, Friend, yeah, we get the point. Do you? Do we? I didn't bring this up; I'm finishing it when I feel like it. People give me...in my district I get criticized because people say... [LB430]

SENATOR CARLSON: One minute. [LB430]

SENATOR FRIEND: ...some, you were friends with Ernie. First of all, go ask Senator

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Chambers. He did not consider me a friend, all right? You want me to tell you something I admired about it? When this place blew up, and he blew it up, it blew up. People find it offensive that I raise my voice. You haven't heard a raised voice yet. That's why I threw a sine die motion in, because Senator Chambers raised his voice. I got tired of hearing it. Quite frankly, he was good and, quite frankly, I think that this is the type of stuff we can waste time on. We were worried the last few days because we spent too much time on TEEOSA. [LB430]

SENATOR CARLSON: Time. Thank you, Senator Friend. Senator Nantkes, you're recognized. This is your third time. [LB430]

SENATOR NANTKES: Thank you, Mr. President. Thank you, Senator Friend, for making my point for me, that on its face neither constitutional provision in the federal or the state specifically grant these rights. And then Senator Friend made the point by quoting from a recent Supreme Court decision in that regard, saying that these are individual rather than states' or collective rights. So that's my point. Judicial review helps us to further elucidate what is in the text itself. That's it. It's that simple. I don't know if other members are feeling particularly defensive about their positions this morning or not, but I never once mentioned a court case. I never once mentioned another piece of legislation. I rose simply to ensure that we had a good dialogue on an important issue. I think that there's no secret about my feelings in regards to other issues, but I am focused on this bill and I do plan to support it. To clarify the record, Senator Fulton, if I at any point said that there isn't rights related to the right to bear arms afforded in the Second Amendment to the constitution of the federal government, or the first amendment of Nebraska's Constitution, that was not my...what I meant to say by any means, if I did in fact say that. There are rights afforded under there in relation to the rights to bear arms, but on its face there are no rights to carry a concealed weapon in a church or a college campus or to prohibit a local government from making those kinds of decisions. That was simply the point. There are rights related to guns in both the federal and state constitution, absolutely no disagreement about that. I wanted to clarify the record in that regard. But those rights, on their face, are not fully elucidated and that's why we have to utilize the process of judicial review, as Senator Friend was happy to help make the record in that regard, and that's the only point that I wanted to make. I plan to support the amendments. I'm going to support the bill. I think that we always come from different points of view in regards to why we may or may not support a certain piece of legislation. I am supporting this legislation because I do believe that there are rights afforded to individuals under the Second Amendment and the first amendment of Nebraska's Constitution, but it's also because, coming from a strong hunting and fishing family and a father in law enforcement, I believe gun owners are responsible stewards of their environment and of the awesome responsibility that comes with carrying a weapon, concealed or otherwise. I believe that gun owners are very important contributing members of our society and I have great faith in the kind of people who are going to take the time to go through a concealed carry class and meet

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all of those requirements. Those are responsible citizens and they should have a framework in place that ensures that they aren't maybe unintentionally breaking the laws or otherwise, and that's what Senator Christensen is trying to do with this bill and this amendment, and I applaud him for that. So I think to be clear here we can find common ground on certain votes, on certain bills, and maybe we have different motives or different beliefs that get us to that point, and that's okay. With that, thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Nantkes. Senator Stuthman, you're recognized. [LB430]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. Several years ago, you know, I was in total opposition, which I'm still in total opposition of concealed carry, but the fact is, you know, it did pass by the majority of the legislative body. And we have found, since that time, and I have many constituents that have talked to me about this, is the fact that, you know, with the opportunity for communities to opt out. And what these amendments do, you know, does make the bill a lot better and I do support them. And we've found that, you know, by passing that concealed weapon, concealed carry bill, the fact is, there were some things that were not addressed in it and some things that needed to be modified. And I do support that part of it even though I am totally against the concealed carry. But the fact is, you know, I do agree upon, you know, making the bill better. And I think these amendments do that and I truly support that. So I just feel that, you know, this is an opportunity for us to improve a bill that was passed. And I think we need to do that all the time, you know, if a bill is passed, and we find, you know, in the workings of the bill, in the people that are in the trenches that affects it, that affects them, you know, we need to respond to their concerns, and I think this does address that. So with that I do support the amendments and the bill. Thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Stuthman. Senator Fulton, you're recognized. [LB430]

SENATOR FULTON: Thank you, Mr. President and members of the body. Would Senator Nantkes yield to a question? [LB430]

SENATOR CARLSON: Senator Nantkes, would you yield? [LB430]

SENATOR NANTKES: Yes, of course. [LB430]

SENATOR FULTON: Senator, I'm still concerned that we are talking about a right to privacy on the concealed carry bill. [LB430]

SENATOR NANTKES: To be clear, Senator Fulton, I wasn't trying to make any sort of

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record in regards to the fact that the constitution... [LB430]

SENATOR FULTON: Senator, did you... [LB430]

SENATOR NANTKES: ...in any way affects the right to privacy contained in this bill. [LB430]

SENATOR FULTON: ...if...we're on my time, Senator. [LB430]

SENATOR NANTKES: Okay. No, I wanted to clarify the record. [LB430]

SENATOR FULTON: Did you ask Senator Christensen whether he supported a fundamental right to privacy? [LB430]

SENATOR NANTKES: I asked Senator Christensen whether or not he felt that the Second Amendment fundamental rights were more important than other rights elucidated within the constitution? [LB430]

SENATOR FULTON: I think you mentioned a right to privacy, though, didn't you? [LB430]

SENATOR NANTKES: I did, as one of them. Yes. But not in the context that this is based on the right of privacy for citizens to carry a concealed weapon. That's not...that was not my intent. [LB430]

SENATOR FULTON: Well, that's what my question is. What does the right of privacy have to do...perhaps I'm missing something here. Perhaps the right to privacy does have something to do with our concealed carry statute. Where...what was your rationale in leading Senator Christensen down a line of questioning that had to do with the fundamental right to privacy? [LB430]

SENATOR NANTKES: Well, I wanted to make sure that we had a clear record available about really what these issues were related to. And I've heard you say in the previous debate and Senator Christensen say that this is about protecting fundamental rights. So I thought it was important that we have a broader dialogue about fundamental rights. [LB430]

SENATOR FULTON: Thank you, Senator. It's...it has been, it was, and I think it always will be somewhat disturbing to me when we try to pigeonhole members of this body. Senator Christensen has brought a number of bills and he's developed somewhat of a reputation for coming with guns ablazing, if you'll pardon the pun, but I don't think that that gives one the right to try to pigeonhole him on an issue that doesn't have to do with the issue before us. I mean, I have to tell you, in hearing the line of questioning, I was

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hearing that it's inconsistent for a person to be pro-life and pro-gun at the same time, which defies reason, in my opinion. Now be that as it may, it's over and done, and Senator Nantkes does not want to engage in this line of questioning any more, and I'm thankful because we have before us this particular amendment which is attached to LB430, and I'm hopeful that we can move both of them forward without bringing in other elements of our debate that may happen...that will happen in the future to this particular issue. And I hope that we can stay on that with respect to each of our colleagues, the respect that each of them deserve. Thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Fulton and Senator Nantkes. Senator Friend, you're recognized. This is your third time. [LB430]

SENATOR FRIEND: On this amendment. Thank you, Mr. President and members of the Legislature. I made absolutely no point for Senator Nantkes. I drove her point into the ground. I don't need to quiz people and answer questions and then come up with some sort of resolution based on their answer, because I'm a politician and I'm a policymaker. I have ideas. I think about what's right and wrong and then I preach about it. And members of the Legislature, that's what you getting right now. And I used to apologize for that but I will not now because the can of worms has been opened up and I may just talk about AM1132. I may talk about LB430. We may not get to anything else today. I made absolutely no point for her. This debate is over. I win. What a surprise. You know why? Because it's political. The constitution isn't political. You know what is political? A Supreme Court. A Supreme Court is picked. A Supreme Court makes political decisions. Even though you don't think you like to hear that, that's what it does, based on their feelings, based on their views, and based on what they consider to be their interpretation. Presidents pick Supreme Court members because they think or they know that that Supreme Court member is going to feel the same way that that political animal president feels about it. Tell me I'm wrong. Somebody tell me I'm wrong and then I'll rip your argument to shreds. Judge Bork. Anybody remember that one? The famous line is that he got "borked." Yeah, he got "borked." You know why? He didn't like Roe v. Wade and he had the gall to come out and say that he didn't. Here's why it's flawed and here's why I win. There is nothing in the Bill of Rights that guarantees a fundamental right to privacy. The court, a political court, made it up. They grabbed the Bill of Rights and they said here's our decision; here is our decision. The reason I brought up the decision in 2008 and the reason that I said it was political, by the way, is because Scalia is the one that made the majority opinion. It was a political decision. Here's what's not political. Here's what the Third (sic) Amendment says: A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed. What if me and ten guys want to create a militia and we want to keep and bear arms? Do we have that right? According to the Third Amendment, a fundamental reading, I do. We do. Go into fundamental readings of each of those amendments and give me your fundamental understanding. But if you want to take all the amendments and lob them together, which is what the 1973

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Supreme Court did with Roe v. Wade, and say here are the penumbras. Here's what they meant. All of these Bill of Rights, put together, is a fundamental right to privacy. That is an age-old constitutional argument and it always will be. You know what else is? Dred Scott. Was that a correct decision? Human beings were property according to the Supreme Court. That's summing it up. Isn't that it? Horrible decision. Not 200...not 150 years ago or 160 years ago it wasn't. Not according to the people who were making decisions... [LB430]

SENATOR CARLSON: One minute. [LB430]

SENATOR FRIEND: ...in state houses, it wasn't. I don't make other people's points for them. I make points. I win. I don't need to ask questions to come to conclusions about how I feel about stuff I've been thinking about for 20 years, 30 years of my life. Oh, Friend is loud; that's how he wins arguments. No, no, no. I'm loud and I can be loud for a long time, a long time. That's how you win arguments. You know why the argument wasn't won yesterday? I took ten minutes. I told you why it wasn't going to be won. Nobody cared to listen. It was not won yesterday because we weren't willing to go the nine yards. We decided to cloture something that didn't need to be clotured. Debate,... [LB430]

SENATOR CARLSON: Time. [LB430]

SENATOR FRIEND: ...deliberation. Thank you. [LB430]

SENATOR CARLSON: Thank you, Senator Friend. (Visitors introduced.) Senator Price, you are recognized. [LB430]

SENATOR PRICE: Question. [LB430]

SENATOR CARLSON: The question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Has everyone voted that wishes to vote? Record, Mr. Clerk. [LB430]

CLERK: 26 ayes, 3 nays to cease debate, Mr. President. [LB430]

SENATOR CARLSON: Debate does cease. Senator Christensen, you're recognized to close on AM1192. Senator Christensen waives closing. The question is, shall AM1192 be advanced? All those in favor vote aye; all those opposed, nay. Record, Mr. Clerk. [LB430]

CLERK: 37 ayes, 0 nays, on adoption of the amendment to the amendment. [LB430]

SENATOR CARLSON: The amendment is adopted. We return discussion to AM1132.

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Mr. Clerk for an amendment. [LB430]

CLERK: Mr. President, Senator Christensen would move to amend his amendment with FA31. (Legislative Journal page 1178.) [LB430]

SENATOR CARLSON: Senator Christensen, you're recognized to open on FA31. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. Thank you, colleagues. What FA31 does is very simply it addresses the concern that Senator White had, that Senator Haar had. It just says prior to exiting you've got to conceal that weapon. That takes care of Senator White's complaint. And first, on Senator Haar, it just...I strike the language "saddle bag" and insert "hardened" compartment for the motorcycle. That takes care of anybody being able to get into a leather bag. So it's a really pretty simple amendment, just clarifying and taking care of concerns to make sure everybody is on the same page here. And I just ask for the advancement of FA31. [LB430]

SENATOR CARLSON: You've heard the opening on FA31. Senators wishing to speak: Senator Council, Senator Langemeier, Senator Friend. Senator Council, you're recognized. [LB430]

SENATOR COUNCIL: Yes, thank you, Mr. President. I pressed my light because I thought we were going directly to AM1132, and it seems that the order of the day is to make the record. So in terms of making the record, I just want to rise and--and I know some will be surprised--to applaud Senator Christensen for introducing AM1132. And I do that because when we were originally debating LB430, I made the point that the current state of the law allows a carry concealed weapon permitholder to drive from one community to another community, on the byways and highways, without violating any local ordinance. Apparently, that gave rise to the question of, well, what if I drive from one community to another and drive onto the parking lot or through the drive-through of an entity that is expressly excepted from the places where you can carry a concealed weapon? And if you look at the language of AM1132, it's essentially drafted in accordance and consistent with the language in the current statute that speaks to the freedom to travel across the highways and byways. So I'm just rising to make the record that the current law did what I represented to this body that it did, and that is to allow people to freely move from one community to another without being subject to violation, but that once they entered upon the property of an entity that carrying a concealed weapon was prohibited, some action needed to be taken. Senator Christensen recognized that; introduced AM1132. Now with that all said, I will not support AM1132 or the underlying bill. [LB430]

SENATOR CARLSON: Thank you, Senator Council. Senator Friend, you're recognized. [LB430]

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SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. Senator Nantkes ably and thankfully told me that I had said the Third Amendment. Sorry about that. When I start rolling, the facts are almost irrelevant, aren't they? I wonder what would happen if I threw a bunch of amendments on this and Senator Christensen would try to cloture it? And I hate to dig up old wounds but they're not that far removed, and you have a weekend to deal with them. Why...and I feel angst about cloture. Why? If I wanted to filibuster this bill, just hypothetical, and I threw 20 amendments on it and I was fixing commas and fixing grammatical errors, and I came out, right out of the gate, and said I'm going to filibuster this bill, after eight hours I'd probably be the only one talking and you would say, we're going to cloture Friend. He's a blowhard. We need this over with. We've had enough. Can somebody please tell me, with 20 lights in the queue yesterday by the end of the day, we set a deadline for the end of debate and we decided cloture was appropriate. I told myself this morning I wasn't going to come in and say I told you so, but you know what? Maybe I'm the only one upset about this. Maybe all you guys are all friends again. You don't use cloture like that. You don't do things like that because it ends up causing this: a petty person like Mike Friend standing up and saying I told you so. And people coming by my desk and saying, oh, we're doing dangerous things; this is dangerous. What happened to the person that used to like cloture, Mike Friend? I'll tell you what happened to him. He left when Senator Chambers left. That person left. I don't need cloture any more. Why would I cloture one of you guys? Let's have the debate. Let's have it for 20 hours. If you want to filibuster something of mine, let's talk about it for 30 hours. You think the Speaker, you think our leader might get mad at you? You're not here for the leader. You're not here for Mike Flood. What if you believe in something? Shut up, Friend; quit preaching to us. Too late, isn't it. The Second Amendment to the Constitution of the United States is specific and people read it specifically. The penumbras are not. All right. You know what? We can...somebody says, well, what do you want, Mike? Somebody might say that. What do you want? What's going to put salve in your wounds? What can heal you? Nothing. I'm a creature of floor debate. I like to yell. I like to preach. And all it takes is one light... [LB430]

SENATOR CARLSON: One minute. [LB430]

SENATOR FRIEND: ...and one particular person trying to bait it, especially when they're wrong. You can't take what I would consider a political body, what I would consider a political body like the Supreme Court, and I made that point and I think it's appropriate. You can't take them and equate that to legislation and you can't equate it to a fundamental reading of our constitution. If 1973 in Roe v. Wade and 2008 and this decision don't prove that, then nothing ever will. Thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Friend. Senator Stuthman, you're recognized. [LB430]

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have a little question for Senator Christensen if he would be willing to answer. [LB430]

SENATOR CARLSON: Senator Christensen, will you yield? [LB430]

SENATOR CHRISTENSEN: Yes. [LB430]

SENATOR STUTHMAN: Senator Christensen, in your amendment it states, "...upon exiting the vehicle, the handgun is locked inside the glove box, trunk, or other compartments of the vehicle." So in other words, does this mean that it will be in those compartments when your foot steps out of the door? Or can you exit the vehicle, walk around the vehicle, and put it into that compartment? [LB430]

SENATOR CHRISTENSEN: Well, I would assume it would be before you exit the vehicle, especially with the new language, because it says "prior to," exiting. [LB430]

SENATOR STUTHMAN: So in other words, before you exit the vehicle that act would have to take place of concealing it in another compartment. [LB430]

SENATOR CHRISTENSEN: Correct. [LB430]

SENATOR STUTHMAN: Okay, thank you, and thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Stuthman and Senator Christensen. Senator Haar, you are recognized. [LB430]

SENATOR HAAR: Mr. President and members of the body, I'd just like to thank Senator Christensen for the amendment and I will support this. Thank you. [LB430]

SENATOR CARLSON: Thank you, Senator Haar. Senator Nantkes, you're recognized. [LB430]

SENATOR NANTKES: Thank you, Mr. President. Thank you, members, for indulging in what should be a thought-provoking dialogue. I think that we've had a great dialogue in that regard. As I mentioned to Senator Fulton, off mike, when this bill came up on General File I was actually meeting with some parents from BSDC so I didn't have a chance to engage in the dialogue. I wish we could have gotten it out of the way a little bit earlier but I know that there was a lot of discussion about fundamental rights on General File. That was only my intent this morning, when I hit my light, to talk about fundamental rights, and there's nothing wrong with asking senators what their position on issues is, whether it's on the mike or off the mike. We all fill out, you know, I don't know, maybe hundreds of questionnaires in the course of a campaign. We fill out

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questionnaires, pre-session, for the media. There's nothing wrong about asking senators what their position is. And that's what's part of our process here. And also part of our process is to be thought-provoking about broader issues, and that's all that my intent was this morning. Thank you for the floor amendment. Senator Christensen, thank you for allowing us time to debate these issues, and with that I again want to support the amendments, want to support the underlying bill. And Senator Friend mentioned he's got...you know, if he wanted to he could take four hours to talk about how I was wrong. Well, I guarantee you, colleagues, you can ask my mom; it doesn't take four hours to prove how Danielle Nantkes is wrong on a daily basis. So with that, I want to leave in good spirits for the weekend and I think Senator Friend and I are in those good spirits, and thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Nantkes. Senator Karpisek, you are recognized. [LB430]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I'm going to try to take this back to the bill and see how that goes for awhile. (Laughter) I just had to rise when all this other stuff happened, that's far over my head when we start talking about constitution, all those sort of things, and those questions. I don't think that Senator Nantkes tried to bait Senator Friend. I've...if it would have been me, you bet. I like to yell too; I don't like to preach because I'm often wrong. But I do like to yell and I'm baiting him a little bit now if he's within earshot. I would like to talk about AM1132. When the whole concealed carry issue came up, I was running for this position. Senator Combs was the introducer and she was my opponent. AM1132 is exactly what I think should have been done and I feel was the real problem. People would put their weapon in a glove box and it could be concealed, considered concealed. That's ridiculous. They're just trying to not get it stolen. There's no...there may be some intent by someone to do something wrong but they're just trying to keep it out of the public's eye. I have a little bit of problem with having it on your person and having it concealed. We're past that. I've given that up. That's fine. I'd rather see it on someone's side and I don't mind seeing that. Somebody come in...in my previous business I'd have hunters come in; they've had a knife on their side. And if they would have pulled a pair of sweatpants over that knife it would have been concealed. Of course that's not concealed. They're not trying to hide it from anyone. Same way with the glove box issue. I think that's fine. And I don't mind if I see someone walking around. Heck, we have kids that shoot trap a lot, especially out...well, not I shouldn't say even especially in the rural areas; everywhere. They carry their shotgun around. You know what it is. That's great. And those kids are very good kids and they're learning a lot. I think that's one of the best things we've got going. But I like to see the weapon. Anyway, I do, just wanted to comment that AM1132 is exactly what I, when I consider a concealed weapon that we shouldn't worry about, because it is put away. I do want to thank Senator Christensen for hitting on the nose where I'm coming from. If that's part of, in my mind, the compromise that, well, if it's not concealed in a glove box, it's not concealed in your pocket either, I can live with that.

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And I would like to get back on what we're talking about here. It's been a long week. We've ruffled each other's feathers a little bit. I think Senator Friend and I are friends, whether he likes it or not. So thank you, Mr. President. [LB430]

SENATOR CARLSON: Thank you, Senator Karpisek. There are no other lights on. Senator Christensen, you're recognized to close on FA31. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'm just going to ask everybody vote for FA31 and get these corrections made. Thank you. [LB430]

SENATOR CARLSON: You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all voted that wish to vote? Record, Mr. Clerk. [LB430]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Christensen's amendment. [LB430]

SENATOR CARLSON: The amendment is adopted. Mr. Clerk, for a motion. [LB430]

CLERK: Mr. President, we're back to consideration of Senator Christensen's amendment, AM1132, as amended. [LB430]

SENATOR CARLSON: Okay. The floor is open for continued discussion on AM1132. There are no lights. Senator Christensen, you're recognized to close. [LB430]

SENATOR CHRISTENSEN: Thank you, Mr. President. AM1132, I believe, corrects a lot of misunderstandings that we had. It just makes the bill where we wanted to go with it. I'd just ask everybody to vote for this and get ready to vote on LB430 after it. Thank you. [LB430]

SENATOR CARLSON: You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed, nay. Record, Mr. Clerk. [LB430]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Christensen's amendment. [LB430]

SENATOR CARLSON: The amendment is adopted. [LB430]

CLERK: I have nothing further on the bill, Mr. President. [LB430]

SENATOR CARLSON: Senator Christensen, you're recognized. [LB430]

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SENATOR CHRISTENSEN: Thank you, Mr. President. When we quit debate last time on LB430, I had some meetings with Lincoln and Omaha and the university, and I have agreed to read some legislative history in. And I'm going to do that right now, read what we discussed to make sure that we were all on the same page previously. And the parties involved were the city of Omaha, Lincoln, League of Municipalities. Senator Ashford, Senator Fulton and I have come to an agreement with the current language in Section 5 as amended on General File will accomplish the intent of narrowing the preemption section to concealed handgun permitholders only. To make it as clear as possible, under the current language in Section 5 as amended in ER8052 and the harmonizing sections, if you are not a concealed handgun permitholder, as authorized in the Concealed Handgun Permit Act, you will not be able to carry a handgun concealed. You will be breaking the law and local ordinances against carrying of concealed weapons. However, if you have a valid concealed handgun permit you will be able to travel throughout the state, and local ordinances pertaining to concealed handguns will not apply to you. Again, these local ordinances will still apply to those people who do not have a concealed handgun permit. For example, if I have a concealed handgun permit and I travel from Imperial to Lincoln for a Husker game, and then onto Omaha to visit family, ordinances in Lincoln and Omaha that go beyond the state requirement would not apply to a valid concealed handgun permitholder. Since there are currently 4,569 permitholders, this works out to be about one out of every 400 citizens. Moreover, the current law allows owners of property including property directly controlled by the city and villages to oppose prohibiting valid permitholders from concealed carry on their property, LB430 does not change this provision that is currently in law. This is found in Section 69-2441(1)(a). This point is expanded upon the footnotes on page 7 of the Attorney General's Opinion 09001. Thank you. [LB430]

SENATOR CARLSON: Thank you, Senator Christensen. Senator McGill. [LB430]

SENATOR MCGILL: Mr. President, I move LB430 to E&R for engrossing. [LB430]

SENATOR CARSON: You have heard the motion. All in favor say aye. All opposed, nay. LB...the bill is advanced. Next bill, Mr. Clerk. [LB430]

CLERK: Mr. President, the next bill, LB551. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8049, Legislative Journal page 884.) [LB551]

SENATOR CARLSON: Senator McGill. [LB551]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB551]

SENATOR CARLSON: You've heard the motion. All in favor say aye. All opposed, nay. Amendments are adopted. [LB551]

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CLERK: Senator White would move to amend with AM1039. (Legislative Journal page 1063.) [LB551]

SENATOR CARLSON: Senator White, you're recognized to open. [LB551]

SENATOR WHITE: Thank you, Mr. President. AM1039 is an amendment that has gone through probably 20 or more draftings. It has gone through...and counsel for all of the major interested insurance companies. They've been wonderful to work with. I want to make it clear, I brought this bill to them but they have been very helpful in making sure that the bill does what we represented. Now one of the things that's been interesting in this bill and some concerns Senator McCoy has raised, is what impact would this have on state insurance funds? The first thing I want to let you know is the biggest employer probably most heavily hit is the university. They too have been wonderful in working with this. The university recognizes there may be some more paperwork that they're not pleased about but they have no objections to the bill. They have no objections to the bill. Now I want to talk about the concerns on whether or not this will secretly increase costs to the state in some way because we are adding more people onto the insurance pool, and we need to talk about this because of the fiscal note. The fiscal note doesn't have any numbers showing any adverse impact. And in fact, the other states that have done this have found just the opposite. This has saved states money. It has lowered the cost of insurance to the state. Let me tell you why. The parent that does choose to add their child to this, pays both the state's share of the premium and their share. It pays both shares. Okay? So the additional cost of putting the person on from an administrative point of view, what does it cost to add them on? That's embedded in the premium. In our case, Blue Cross Blue Shield handles that, and when you pay the premium, embedded in that is the administrative cost of adding them to the pool. So that is being paid for by the family. Second, the people you are adding to the pool are age 20-29. That is without question the healthiest, most desirable demographic there is. These are the folks who subsidize people who are my age, 52, 54, or 60, 65. They have more...they will have claims because of this but the claims in the main will be far less serious, the money and the premiums will result in their claim history for a profit that will be used in general insurance experience to subsidize the cost of a person who is older and more likely to have serious ailments. Insurance is an organized sharing of risk. Young and healthy people subsidize older and less healthy people. Now it is possible that a young person could have a catastrophic claim. It's possible. But statistically, actuarially, that has been far less likely that they will not, and that they will actually add money to the pool rather than pull more money out of it. So what we are talking about here is the option to add the youngest, generally the healthiest people, at 100 percent of their family's expense, and every actuarial study says these are the people you want in your pool because they tend to add more than they take out. Now one of the questions asked to me, is, well, what happens if you have a sick kid and they're just doing this to keep them on longer and it's going to drag down the costs and increase our expenses on the state's half? What I can tell you is this. The law out there already protects them.

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The first thing will happen is, when they are no longer eligible on some level, they'll go to COBRA, which means that's the same thing you got here. And when COBRA is exhausted, they will go to CHIPS, which we subsidize as a state. And if CHIPS is exhausted, they'll go to Medicare and Medicaid. Actually, if anything is likely to occur, we are going to save money. Now if you look at your fiscal note, they cannot point to any kind of loss, nor, if you read the actuarial studies that back these kinds of cases or the experience from the states that have passed this, in fact, these bills have resulted in savings--in savings--because, again, we are getting the healthiest people who have the right to come into the plan. And therefore, I urge the adoption of the amendment and I urge adoption of the bill. Thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator White. You've heard the opening on AM1039. The floor is open for debate. (Visitor introduced.) Those wishing to speak: Senators Gay, McCoy, and Wallman. Senator Gay, you're recognized. [LB551]

SENATOR GAY: Thank you, Mr. President. I rise in support of the amendment and the bill. I think it's a good bill. Senator White alluded to this population that's...I guess they're the invincibles. They don't want to buy insurance because they don't think they need it. So this I think actually could really help the situation, and he described that earlier. I did have a few questions for Senator White if he'd yield. [LB551]

SENATOR CARLSON: Senator White, would you yield? [LB551]

SENATOR WHITE: Certainly. [LB551]

SENATOR GAY: Thank you, Senator White. Like I said, I do support this amendment. The question would be, if a child...this continues on through college, for sure...but let's say in a situation a child or somebody falls under hard times, they're still young, moving back with parents or whatever, can you get...if you were off the policy, can you come back on then? [LB551]

SENATOR WHITE: Yes, but as we understand it from working with the insurance industry, there are protections in the amendment as drafted that allows self-selection. Self-selection is the concept of, I don't need insurance; I'm healthy. Then I get seriously sick. I develop cancer. Now I want insurance. Well, there are protections. We've worked extensively with Blue Cross Blue Shield, other insurers, to make sure they cannot self-select in. You've got to otherwise be insurable and have the right to come on in. [LB551]

SENATOR GAY: So there...what you're saying, they look at their insurable, just like anything. They get it underwritten. And it's like, hey, you...you know, we've discovered, by the way--let's say 26 years old or 27--by the way, since the last time you were on this policy you have a few underlying conditions. We're going to charge you X amount more.

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We'll take you back in but they look at the insurable interest and say it's going to cost you a little more. [LB551]

SENATOR WHITE: I don't...there's two ways they can do this. They can either do a continuous coverage thing so you don't self-select because you have the right to come back in, and then there's an insurability testing where they separately do it. I'll be honest with you, I think they went the former way, but the provisions in it, Senator Gay, are to protect someone from self-selecting. And that...it's a very technical area and I'll be honest with you, I'm not competent to tell you. All I can tell you is those problems were expressly worked through, through revision after revision, to make sure it cannot be abused by people self-selecting who refuse to buy coverage, got sick and then came in. [LB551]

SENATOR GAY: Okay, thank you, Senator White. And I just...we had just passed or advanced the long-term care bill and I, too...I think it's important you work with these insurers. Could you kind of tell us a little bit about who might have been involved in drafting those amendments? [LB551]

SENATOR CARLSON: Senator White, you're still asked to yield. [LB551]

SENATOR WHITE: Yes, sir. Sorry. [LB551]

SENATOR GAY: Did you...who...I think it is important to get everybody involved that's going to have to implement these strategies. But who was kind of at the table? And you went from 23 to now 30. Why and who was involved in that? [LB551]

SENATOR WHITE: Yes. Okay, first of all, when we brought the bill, we talked to Mick Mines who has some insurance companies. We've talked to Galen Ullstrom who represents Mutual of Omaha. We've talked and worked with, extensively, Jan McKenzie who has been wonderful, and the Blue Cross Blue Shield. We have worked with the Rich Pahls and his counsel on Banking and Insurance, extensively. And the commitment was this: We don't want to overburden plans. We don't want to put costs on somebody else. If a family that wants to pay the full cost, let them get into insurance. They all worked through plan after plan to make the amendment the way it is. I'm assured that it's acceptable to industry with exactly the concerns you've raised. Nobody was shut out. Everybody...everybody was asked to come. The plans...the amendments were circulated to anybody who was concerned. I think Senator Pahls can confirm that it was as open and broad a participation as you could possibly expect. [LB551]

SENATOR GAY: Thank you, Senator White. I commend you for this. Again, this is kind of the...how much time do I have, Mr. President? [LB551]

SENATOR CARLSON: One minute. [LB551]

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SENATOR GAY: Okay. When we were looking at...this summer we're going to look at healthcare, and of course healthcare reform is happening, and I think that's going to need to involve the Insurance Department, the Health Department, Appropriations, and kind of work together. But these are the kinds of things, I think, if you can get...find some opportunities here to change an existing law or just tweak something a little bit, you can go a long ways. And I think this amendment does this and this bill does this, and I'll leave it at that. I support the amendment and the bill and commend Senator White for putting the hard work into this. Thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator Gay and Senator White. Senator McCoy, you're recognized. [LB551]

SENATOR McCOY: Thank you, Mr. President and members of the body. I'd like to engage Senator White in a couple of questions if I could, please? [LB551]

SENATOR CARLSON: Senator White, would you yield? [LB551]

SENATOR WHITE: Certainly. [LB551]

SENATOR McCOY: Thank you, Senator. First of all, I'd like to state my admiration for the hard work that you put into this bill and also to Senator McGill for prioritizing this piece of legislation. [LB551]

SENATOR WHITE: Well, thank you, but a lot of the hard work is to your counsel on the Banking and Insurance Committee and Senator Pahls, and then the industry. I mean, I facilitated but the real heavy lifting was done there. [LB551]

SENATOR McCOY: If I could I'd like to raise a couple of concerns, I guess, if I could on the latest revised fiscal note. Could you address, please, the potential increase and higher insurance costs for the state and employees under this proposed plan? [LB551]

SENATOR WHITE: Sure. I mean, insurance, my nature, is a risk against the unknown, you know, and that's the nature of it. I don't believe there are any because the other states that have done this have actually resulted in savings, not only in their policies but in Medicare and Medicaid, later, by getting people insured. But one point...there's two possible ways that expenses could go up. One is administrative costs. Well, it's administrative...our policies in the state...and remember, this doesn't just apply to the state; it applies across to all policies that are non-ERISA. The cost of administration is buried in the premium, and if you're going to add one of these people that's eligible, you're paying that entire cost because you're paying both sides of the premium; both the employer's side--the university's, for example--and the individual's. So the administrative cost is being paid and is buried into the premium being paid. So that isn't accurate. If

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anything, there's economies of scale in something like that, that do result in savings. Second, is it possible that you could get a healthy person who's 25 years old, they get in a wreck, and now they've got huge catastrophic insurance losses and, you know, it costs you money? Yeah, absolutely. That's the point of insurance. But the study of actuarial risk analysis takes those risks, spreads them across the pool. And what they will tell you, generally, is, one, if you have a true pool and the bigger it gets, the lower the individual cost. Second, the most desirable actuarial group for those kind of catastrophic...or any kind of risk, is the area we're talking about, this very demographic. So actuarial studies would indicate by adding people between 20 and 30, you are actually reducing the cost or the potential exposure of a catastrophic hit. It's much more likely a person my age or older could have a stroke that would be devastatingly expensive than somebody at 20 or 29. Similarly, heart attacks, cancer, and other problems. [LB551]

SENATOR McCOY: Thank you. I guess my...I just think in the current fiscal environment that we're in, in our state, it's incumbent upon us that we take into consideration, very carefully, any potential increased cost to the state for any item, however well-intentioned that it may be. And I appreciate that answer. I guess if I could engage Senator White. How much time do I have, Mr. President? [LB551]

SENATOR CARLSON: A minute and 20. [LB551]

SENATOR McCOY: Okay. If you could quickly, Senator White, address, if you could, the reason that a healthy person in this age demographic, the reason that they might enter into such an agreement, either their parents paying the premium or themselves paying the new premium, if on the open market they could go out and get coverage to avoid being uninsured, however it may not have the bells and whistles and the benefits that a plan such as this, a parents' plan may have. What would be the reason that a healthy individual like that would have to pay a higher premium? [LB551]

SENATOR WHITE: Well, first of all, I assume if they can get coverage of...I mean, you know, apple-to-apple coverage...if they can get apple-to-apple coverage, less, they'll go to where it's less. That's the marketplace and that's healthy. The thing is, that with groups, it's not apple to apple. There are a number of huge advantages to buying insurance in large groups, a couple of them. One is you generally will get access to healthcare at a much lower cost. A group will negotiate...a large group will negotiate prices with hospitals and doctors that can run as much as 50 percent less than what they charge an individual paying cash. Second, they negotiate similar deals with pharmacies, the big pharmaceutical companies. You can buy pharmaceuticals much less expensive by buying in bulk through a large group insurance plan than you can individually. Therefore, generally speaking, if it's a well run group, you can get better coverage for the same dollar or for less money by buying in a large group than you can... [LB551]

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SENATOR CARLSON: Time. [LB551]

SENATOR WHITE: Thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator McCoy and Senator White. Those wishing to speak: Senators Wallman, Louden, Pahls, White, and McCoy. Senator Wallman, you're recognized. [LB551]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I'd like to engage also with Senator White in a little dialogue here, if I may? [LB551]

SENATOR CARLSON: Senator White, would you yield? [LB551]

SENATOR WHITE: Certainly. [LB551]

SENATOR WALLMAN: Senator White, if I have a special needs child, would this also apply to that? [LB551]

SENATOR WHITE: Yeah, I mean, to the extent that he would otherwise qualify, yes, it would. The thing is with the special needs child though, in many cases it wouldn't add additional costs to the state if it was in a university of something like that, because the costs are already going to be borne. You're looking at special needs children who would qualify for Medicare, Medicaid, if they don't have adequate insurance for that need. They'll qualify for CHIPS, they'll qualify for other programs. So what this does is actually you're going to have to help pay more than you would otherwise, probably, for this child's health. [LB551]

SENATOR WALLMAN: Yeah, thank you. I appreciate that. I think it's a good bill, a good amendment. Health insurance is a big thing for even young farmers, you know. If they're single and they still farm maybe with mom or dad, my insurance agent said some of them can't even afford insurance. So if they can't get on with mom or dad, this would be at least help them for a little while. Thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator Wallman and Senator White. Senator Louden, you're recognized. [LB551]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this bill and this amendment, I've had some experience with health insurance like that. I was wondering if Senator White would yield for questions, if he would, please? [LB551]

SENATOR WHITE: Certainly. [LB551]

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SENATOR CARLSON: Senator White. [LB551]

SENATOR LOUDEN: Yes. Senator White, is this legislation directed for what I would say privately owned policies that people have to purchase it themselves or more for any employee/employer-type health insurance policy? [LB551]

SENATOR WHITE: Really more for probably privately held, but employer, too, if they're not ERISA plans. A lot of the big plans now are actually controlled by the federal law and they preempt this field, Senator, so it doesn't apply. So if you're looking like a big employer, their plan is likely to be ERISA. [LB551]

SENATOR LOUDEN: Would...as you mention now, like for instance if it's a privately held insurance policy and these children can be up to 30 years old or whatever, and, you know, it wouldn't be uncommon for a family to have three kids, 26, 27, 28, and 29 years old that could be on this policy. Now would there be additional premiums have to be paid or will that all go as the same family policy? [LB551]

SENATOR WHITE: Oh, no. Oh, no. There are definitely additional premiums. And if you had it...like, for example, my firm has a policy. We're a small group. And you had three children. You know, one of my employees had three children on that, they'd have to pay my firm's part for all three of them and the part that they pay for all three of them. [LB551]

SENATOR LOUDEN: Now, having, you answered that, my question is, is the experience I have had with it, if they go off...if you go off of the...you've got your three kids or whatever at that age group and you go off the family policy, which is a high-priced policy, and put them all on single persons, which their premiums are quite low usually, at that age group anyway, are they actually saving any money by keeping them on or would this family be just as far ahead to buy those individual policies for each one of those kids? [LB551]

SENATOR WHITE: Probably. It just depends, Senator. But I could tell you--and probably we've got the wrong guy in the chair at the moment because he knows a lot more about this stuff than I do--but probably it would be cheaper for them individually to buy a policy than throw in with you. You know, if they're throwing in with an old dog like me, right, and you've got a 23-year-old kid, he's going to be paying more, not because he's the risk but because I am. And so he probably could do better buying a solo on his own. Now that may change if there's a bigger policy group, you know. [LB551]

SENATOR LOUDEN: But a young buck like you, once you get off of that, you and your wife could split that up as each single and your premiums would be considerably cheaper than they are as a family policy. Is that...that would be true. [LB551]

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SENATOR WHITE: I can't answer that. I don't know the economics of the market and when they would split up or not, Senator. I cannot give you an answer. I don't know. I do know, generally though, that young people get better prices than old people, and, you know, group insurance is one of those things where old people have tricked young people into to joining because it helps pay our medical bills. [LB551]

SENATOR LOUDEN: I will support your bill. I think there's no doubt some good for it in there. The experience I've had over the years--thank you, Senator White--is that as you get your kids out of your family policy and it was probably cheaper to go ahead and buy them individual insurance for one of two reasons: if there ever comes a special need that they would have, they were already on the insurance. And if you take them from your insurance policy that you have or the insurance company, they probably won't be waived out of that company. So it's something that will probably be an instance or so where it works but there are ways that if someone's working on health insurance, that you really need to look at how your policies are set up, and the insurance companies, how they handle. But I will support this and I think there are some good uses for it. I question whether it will be a panacea for anyone's health insurance. Thank you, Mr. President. [LB551]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator White, you're recognized. [LB551]

SENATOR WHITE: Thank you. Senator McCoy, I had a question and I'm struggling to answer right now. Senator McCoy, would you yield? [LB551]

SENATOR LANGEMEIER: Senator McCoy, would you yield? [LB551]

SENATOR McCOY: Yes. [LB551]

SENATOR WHITE: Senator, what is the question that you had? [LB551]

SENATOR McCOY: The question I had is, currently it's my understanding, under the state's insurance plan, that during open enrollment we're not able...folks are able to come into the plan with preexisting conditions. So my concern would be, are we adding to the risk by a loophole under that situation? [LB551]

SENATOR WHITE: Thank you, Senator. You know, my understanding is we had talked about that and that that was actually provided for in the bill, the technical manner in which they did that. One of the ways we had talked with Senator Carlson was that could we expand it and have a physical examination to show insurability before they were accepted back on. And I understood they didn't go that way but there are other

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protections embedded in the bill. If you give me a moment, I'll try to find the answer and we'll get back to you on that. Again, this bill is intended to get people back on insurance and not to cause additional costs to the employer, other than all parts of it should be covered. With that, Mr. President, I yield the rest of my time. [LB551]

SENATOR LANGEMEIER: Thank you, Senator White. Senator McCoy, you're recognized. [LB551]

SENATOR McCOY: Thank you, Mr. President. While I wait for the information that Senator White is checking on, I guess I would reiterate my concern, and that would be that we add folks with a higher risk to the pool in a shared self-funded plan, and that that would result in a higher cost of overall insurance obviously we help allow for. And if I may ask Senator White a question if he would yield? [LB551]

SENATOR LANGEMEIER: Senator White, would you yield? [LB551]

SENATOR WHITE: I will. [LB551]

SENATOR McCOY: Would you...I assume...it looks like you may have found an answer to that question. Would you address that please? [LB551]

SENATOR WHITE: Yeah, we did, and we asked them about that and we had offered to add the insurability test, and they worked through that concept and instead what they found is that, yeah, it's theoretically possible somebody could come in that way, but it's also theoretically possible you hire a new employee and a kid comes on with preexisting. So they wrote it with that risk in but they also noted that the costs of those people are already being borne in other policies: either CHIPS, which we pay for, or other kinds of situations. So, yes, theoretically that is possible apparently, but I guess the option to endure that was less onerous and expensive than having everybody come in and prove insurability. So it was considered. The industry worked through it. They worked the actuarial aspects of it out, Senator McCoy. [LB551]

SENATOR McCOY: All right. Well, I appreciate that, Senator White, and again that would be just maybe a better understanding of that would be necessary to know, for sure, that we're not involving a higher cost of insurance. And I understand that that cost would hopefully be paid for through the premium. My fear would be, however, that through what we just described, through open enrollment with preexisting conditions, that we may have claims that would rise above what we're able to compensate for with those premiums in a self-funded plan. With that I yield the remainder of my time. [LB551]

SENATOR LANGEMEIER: Thank you, Senator McCoy. Senator Carlson, you're recognized. [LB551]

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SENATOR CARLSON: Mr. President and members of the Legislature, I want to chime in a little bit with some things that I've been listening to. Senator Louden had a question and I don't see him. I think the overall concept and reason for this bill is the right thing and I voted for it, to begin with, and I'll vote and support AM1039. And I think what really may happen in regard to the cost of such a thing, certainly there are dependent children that have insurability problems, and most parents would want to keep them on the plan for as long as they can. Now many companies have a conversion plan that they can go to on their own and that has a separate premium. I don't know that that makes a whole lot of difference in terms of overall cost, whether the child takes the conversion plan and goes to that, or whether they stay on the original plan. It could make some difference on a self-funded plan. But the, perhaps, balancing part of this, when we go to age 30, for those that are still students, I think there are a lot of times when people of that age, 20 to 30, they're invincible. They don't get sick. They don't intend to get sick. They don't need insurance. Mom and dad know better. And so for convenience sake, rather than have a separate individual policy, the parents would decide, we'll just pay for it and keep them on our plan. They're healthy. They're a benefit to the pool of insureds; not a detriment. And I think there is some balancing there, and that could have an effect and overall help the fiscal part of this bill and not be a real difficulty. So I do support LB551 and I support AM1039. Thank you. [LB551]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator White, you're recognized, followed by Senator Pankonin. [LB551]

SENATOR WHITE: Thank you, Mr. President. Senator McCoy, did you...if Senator McCoy would yield? [LB551]

SENATOR LANGEMEIER: Senator McCoy, would you yield? [LB551]

SENATOR McCOY: I would. [LB551]

SENATOR WHITE: Senator McCoy, those are legitimate questions. They're good questions to ask. What we have discovered is we're not the first state to do this, and our research has indicated, from talking to other states, they've saved money. This has actually saved money for the reason Senator Carlson just explained. Young healthy people benefit the pool has been the statistical experience. So the thing with insurance is it's predicting the unknown in the future. That's the point of it. Is there a guarantee it won't cost the state any money? No. But is it more likely it will save us money? Yes; that has been the history in other places. If you have any other questions, Senator, I'd be...yield some time to you if you need any more. Do you need some time? [LB551]

SENATOR McCOY: Yes. [LB551]

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SENATOR WHITE: I yield the rest of my time to Senator McCoy. [LB551]

SENATOR LANGEMEIER: Senator McCoy, 4 minutes. [LB551]

SENATOR McCOY: Thank you, Senator White. I guess a further question that I would have would be what those...if there has been a savings to those states that have enacted this, using the same age group that we are, going to age 30, or whether that's been age 25. [LB551]

SENATOR LANGEMEIER: Senator White, would you yield? [LB551]

SENATOR WHITE: Yes. Age 30 has been the preferred date, and here's the irony. Because this is a healthy demographic, they wanted to push it out bigger, because the more you can get in that range--they're healthy--it helps. So the savings come...the bigger demographic in that area, the healthier your pool, the lower your per person costs. [LB551]

SENATOR McCOY: Because it's been my understanding that one of our neighboring states, the state of Iowa, has enacted this legislation; however, their cap is age 25. So my concern, I guess, would be the states, as we talk about this age 30 versus age 25, I understand that certain states have dealt with us... [LB551]

SENATOR WHITE: Um-hum. [LB551]

SENATOR McCOY: ...are we all talking about relatively the same age or how many numbers of these states, if you know the answer to this question, have been to age 30? [LB551]

SENATOR WHITE: I don't know the specific numbers. I do know that the trend has been to extend it to higher numbers for the reason that we've described--that's the healthier demographic--but also because of the change in the nature of our citizens. It is not unusual for people to graduate from college at 22, go to work for a year or two. Maybe they lose their job; go back to get a master's and have that process continue up to 30--actually beyond. But 30 seems to be the number that has been adopted increasingly by the states, both to accommodate what is the reality of younger people kind of bouncing in and out of school, but also the demographics are attractive because that's the healthiest-based population and it helps the pool. I assume at some point it's like life insurance. You know, you start getting older, it costs more money because your risks are higher, and the same is true for health insurance. [LB551]

SENATOR McCOY: I guess I would continue to have a concern that we've had enough time. If certain states have enacted this legislation that deals with age 30, how many of those states are we talking about and how have we been able to actually see if they've

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achieved a cost savings or if it really hasn't dealt with enough time. That would be my chief concern. [LB551]

SENATOR WHITE: Yeah, and I can tell you on Iowa, Senator McCoy, they...this is moving through a lot of other states legislatures right now, but in Iowa they did it to reduce Medicare costs to the state. I mean, that was their point, is to try to get more people on insurance to reduce the burden on the state through the Medicare/Medicaid, and it's actually being used as a cost-savings mechanism in those states. So I understand your concerns, but after people who have studied it, actuarially, and the experience has been it saves the state money. [LB551]

SENATOR McCOY: Thank you, Mr. President. [LB551]

SENATOR LANGEMEIER: Thank you, Senator White and Senator McCoy. Senator Pankonin, you're recognized. [LB551]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. As I've listened to the discussion today, it's a good discussion. I think this is a measure that deserves support, and I'll tell you why from my own personal experience, and I discussed this at the committee hearing. I'm of the age...I have two children that are in their twenties, and you know, things are different than they were maybe a generation ago. My son started out after graduating from UNL in Colorado Springs; then he comes back and went to work for the family businesses, and so that turned out fine. My daughter spent two years in Spain. Comes back and has had a couple of jobs, and now she has moved to Hastings because she's getting married this summer, and we have paid her health insurance at different times because of the moves and her employment and that sort of thing. And I can tell you, we talk about personal responsibility, and probably the point that just made the most sense to me, you know, she could have gone without insurance and as long as she's in the United States she would have coverage. It's called Medicaid. They don't have assets, much of their own. They would go through those assets fairly quickly and the state would pay; well, it would pay a portion along with the federal government. So, you know, I think the issue is here, we hopefully get more people on insurance. A lot of times the young adults don't maybe feel the need, but I think responsible parents know that it's important for not only the type of coverage they would have that, let's face in our system, private insurance is still probably better than Medicaid if you do have a problem, but also the fact that they do have insurance--it's called Medicaid--if we don't have it. I appreciate Senator McCoy's questions and I value them, as well, and this is why we discuss these things. But I do think that the costs are uncertain. I don't know that we can maybe prove out because the people that aren't on insurance, they're covered another way. But I can tell you as someone who has children in this age group, this sort of thing would have been valued by us at certain times and I think is the reason that different states are looking at it. The industry, obviously, for maybe obvious reasons, the insurance industry thinks it's good.

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At our committee hearing, if the state government or the university had problems, unfortunately they didn't show up. And I know there's a lot of bills and may have not had a concern at that time, but it would have been helpful if they would have been there if they had numbers and figures and concerns. But I appreciate the dialogue; appreciate the concern of Senator McCoy to make this a better piece of legislation, and good questions. But I appreciate Senator White bringing this to our attention. Thank you. [LB551]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. Senator Pahls, you're recognized. [LB551]

SENATOR PAHLS: Mr. President and members of the body, I do want to make it clear what Senator Pankonin said. We had no one--no one--testify against this bill. The quality and the types of questions that Senator McCoy is asking is tremendous. But I'm a little disappointed that we did not have some of these things brought forward, not by the Senator, but by anybody from the state of Nebraska who had concerns about this bill during the committee hearing. As you can see, we had a lot of support from the committee on this bill. It does seem to have a potential. The more people and young people that we have insured, the better off we will be. I could read you a couple statements from an actuary...the American Academy of Actuaries. I'll just read something even though it's out of context, just to give you an idea. If premiums are charged on a tiered basis, such as an individual plus one individual plus two, etcetera, then the addition of another dependent would be captured in the premium for that particular family. In this case, since the young person may have very low claim costs, the addition of the new dependent may decrease the average premiums for that overall family. A similar set of possible outcomes exists for individually underwritten plans due to variations and premium structures. They are using the word "may" but they are telling us the potential for savings is there. So I do understand that we have to be cautious that we are not causing the state of Nebraska any more additional monies. But I'm also saying nobody was there to testify against the bill. Thank you. [LB551]

SENATOR CARLSON PRESIDING []

SENATOR CARLSON: Thank you, Senator Pahls. (Visitors introduced.) Senators wishing to speak: Senator Nelson and Senator Utter. Senator Nelson, you're recognized. [LB551]

SENATOR NELSON: Thank you, Mr. President and members of the body. I'd like to ask Senator White a question or two if he will entertain them. [LB551]

SENATOR CARLSON: Senator White, would you yield? [LB551]

SENATOR WHITE: Sure. Certainly. [LB551]

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SENATOR NELSON: Thank you, Senator White. I thought maybe I'd be the last one on this, but Senator Utter is in line, as well, and I want to thank you for bringing this. I'm in a position where I have a couple of children in their twenties, and who knows? One of them might, because of loss of a job or something, have to come home. I want to just be sure that I understand this. The committee statement talks about unmarried dependent children. Is that the class of persons we're talking about here, and who decides whether they're dependent children or not? Could you talk about that just a little bit? [LB551]

SENATOR WHITE: Yeah. The dependent children is a term of art defined by the law and in the insurance code, and that's one of those technical aspects of who is eligible, Senator, that I relied on the industry and counsel for the Banking and Insurance Committee. Generally speaking, it's defined, I think, in the policy and statute. Other than that I'm not capable of giving you a more specific definition. [LB551]

SENATOR NELSON: But my concern is, if you've got someone out making a good living who just happens to return home and live there for whatever reason prior to age 30, are they going to be eligible to be on the parents' policy and take advantage of those premium rates? [LB551]

SENATOR WHITE: I don't know the answer to that, Senator. I assume that if they're eligible and making good money, they're probably going to be eligible under their own employer's policy and that would be more attractive than paying both the employer and the employee's side. [LB551]

SENATOR NELSON: All right. Thank you (inaudible). [LB551]

SENATOR WHITE: I mean, I think this would be very tough to abuse because you've got to pay both sides. [LB551]

SENATOR NELSON: All right. Okay, thank you for those answers, and thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator Nelson and Senator White. Senator Utter, you're recognized. [LB551]

SENATOR UTTER: Thank you, Mr. President and colleagues. I just want to call...I'm a member of the Revenue Committee and, of course, this thing met with, this bill met with considerable enthusiasm when we heard it in the Revenue Committee, with no one testifying against us. I remember there might have been one neutral testifier. But I do want to calla to your attention the fiscal note that was issued April 3. We heard this bill on February 10; the fiscal note issued on April 3. Let me just read a couple sentences to you. It says, "The bill will not have any fiscal impact for the state if premiums paid for

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additional dependents covered pursuant to the bill offset the annual administrative and claims expenses. However, since the state health insurance plan is self-funded by employees and state contributions, claims in excess of premiums paid may ultimately result in higher insurance costs for the state and employees in the plan in the future." Moving on down where they're talking about the Department of Administrative Services, it says, "The average claim and administrative expense for a state employee in the plan was \$4,210." The important sentence is this one. "If the dependents seeking coverage pursuant to the bill are average risks, then the bill should have no fiscal impact because premiums will cover the administrative claims and expenses." If they turn out to be otherwise, of course, why, there will be an impact this...you would assume this is. "However, it is assumed that a majority of persons, who would continue coverage as a dependent through age 29, may be in a higher risk category or they would seek individual coverage elsewhere at a lower premium cost. It is estimated that members of the state plan who are in the high risk category have claims that average about \$16,720 per year. The fiscal impact of the bill for the state plan will depend on whether a significant number of high risk individuals with substantial claims seek coverage pursuant to the bill. If so, then it is assumed the overall premium costs for employees and the state for insurance coverage will increase in the future pursuant to LB551." As it turns out, this is a bill that isn't without some risk to the state for increasing health insurance coverage and costs, and that's clearly pointed out, I think, in the fiscal note that's attached to this. Thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator Utter. Those still wishing to speak: Senators Gloor and White. Senator Gloor, you're recognized. [LB551]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I've been making some phone calls within the healthcare and insurance industry to try and get a handle of some of what has been kicked around here in the debate, and, in general, I have been supportive of LB551 as it stands. I would share information and that is, Iowa did institute a program like this for dependents up to age 25. That went into place last summer. As we are debating, they are debating the opportunity for that to not be continuous coverage, which is what it was previously, but to, in fact, open it up and allowing reenrollment, which is the same debate that we're having right now. There is an important component to this that is worth some discussion, and that is that there can be tax consequences for the parents--unintended consequence here. If after age 19 that dependent is no longer a student, full-time student, there can be income consequences borne by the parents as a result of that coverage under that plan, and in some cases it's been up to \$200 to \$300 a month. So I share what I've found so far as relates to our discussion and debate on this topic. Thank you. [LB551]

SENATOR CARLSON: Thank you, Senator Gloor. Senator White, you are recognized. There are no other lights. You may speak or you may use this to close. [LB551]

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SENATOR WHITE: I'll use this to close. I really appreciate Senator Utter's thoughtfulness but I would point out that fiscal note has been superseded, and that is the nature of insurance. This, however, is not a group of average risk. This group demographically is a much lower risk. This is the most desirable demographic group that you can insure. You can ask any insurance person, if you had a choice of insuring a hundred 20- to 29-year-olds or a hundred 50- to 60-year-olds, they would take the 20- to 29-year-olds overwhelmingly. The opposite is also true of the fiscal note, Senator, and that is that if, as is statistically overwhelmingly the case, they have fewer claims because they're younger and healthier, then we save money. And that has been the experience in the states, thus far, that have enacted this. Iowa, having enacted it, wants to liberalize it. Other states have moved it to 29 and 30 because it works. That's the experience and that's the thing about insurance. It is not an individual case. It is a group experience across a large number of people. And what has been the industry experience, state experience, is this makes the group, as Senator Carlson so properly noted, healthier and younger, and that reduces costs. So I'd ask the body to carefully consider what also Senator Pankonin said because he made a great point: Young people have insurance because generally these folks don't have assets. It's called Medicare and Medicaid and we pay it. What this does is gives the families a vehicle to conveniently add insurance for young people, thereby reducing our overall costs, and also, if something catastrophic happens to them, relieving the burden on the state, because they will burn through their assets. Generally, young people don't have a lot of assets and then we end up eating the costs. I do think this is a good bill. I think it helps everyone involved and I would greatly appreciate your support for it. Thank you, Mr. President. [LB551]

SENATOR CARLSON: Thank you, Senator White. You've heard the closing on AM1039. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Are there any others wishing to vote? Record, Mr. Clerk. [LB551]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator White's amendment. [LB551]

SENATOR CARLSON: The amendment is adopted. [LB551]

CLERK: I have nothing further on the bill, Mr. President. [LB551]

SENATOR CARLSON: Senator McGill. [LB551]

SENATOR MCGILL: Mr. President, I move LB551 to E&R for engrossing. [LB551]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, nay. The bill is advanced. Items for the record, Mr. Clerk. [LB551]

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CLERK: Mr. President, new resolutions, LR95, LR96, LR97, all by Senator Pahls, all calling for interim studies. All three will be referred to the Executive Board. Amendment to be printed, LB633, Senator Mello; Senator Ashford, LB63 and LB63A. And your Committee on Agriculture reports LB71 to General File with committee amendments; that signed by Senator Carlson as Chair. (Legislative Journal pages 1178-1186.) [LR95 LR96 LR97 LB633 LB63 LB63A LB71]

Mr. President, the next bill, LB56. Senator McGill, I have no E&Rs. I do have other motions, however. Mr. President, Senator Dierks has motion 38, which was a motion to indefinitely postpone but, Senator, I have a note that you'd like to withdraw and substitute, as an alternative, FA32. [LB56]

SENATOR DIERKS: That's correct. [LB56]

SENATOR CARLSON: Are there any objections to withdrawing that motion? Hearing none, so ordered. [LB56]

CLERK: FA32, Senator. (Legislative Journal page 1186.) [LB56]

SENATOR CARLSON: Senator Dierks, you're recognized to open on your floor amendment. [LB56]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. We've managed to work out an agreement today with this piece of legislation that I think that we can try to live with for awhile. I just want to bring you up-to-date a little bit on the bad actor provisions that have taken place in this state. The original bad actor provisions were included in LB1209, which was passed in 1998. Between 1998 and 2004, DEQ did not file any actions against the bad actor provisions. The original bad actor language was stricken and replaced by new language in 2004, under LB916, which amended the Livestock Waste Management Act. LB916 narrowed violations of the bad actor provision to include only discharges into the waters of the state. There are only four actual strikes between the years 2006 to the present, and I've passed out a chart that you can go over and it gives you that same information. I asked Mr. Mike Linder, the DEQ director, how many discharges there were last year. He said that number would be between 75 and 100 and the discharges depend on the amount of precipitation we are receiving. We don't know how many of these discharges were investigated because it takes an average two years from the date of the violation to the final decree. I think that the main thing I've always had a concern for is maintaining the quality of our rivers and streams and that's primary, and then secondary is the...as far as I'm concerned is the feeding operations if...the first thing we have to take care of is the water and the next thing we take care of is the people that have the swine confinement operations, the feedlots. And so that's always been my position and will continue to be. I think that we have, with the

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legislation we have, we have adequate protection and care for our ground water and our surface water, so I doubted from the beginning that we needed any changes in them. So with this amendment we're changing the strikes that were in the committee amendment from five to three. And if you look on...if you look on page 7, line 22, you can see where the committee amendments put...change the three to five separate discharge violations, and we're going to change that back to three and that is...with this amendment, and that is what the amendment does, nothing more, nothing less. I would like to ask Senator Fischer a question, if I could, please. [LB56]

SENATOR CARLSON: Senator Fischer, would you yield? [LB56]

SENATOR FISCHER: Yes, I will. [LB56]

SENATOR DIERKS: Senator Fischer, on page 7, line 6, we change the language from "shall" to "may," and I wondered if you could explain to me just why we needed to do that. [LB56]

SENATOR FISCHER: Senator Dierks, there is...you're on page 7, line 6, correct? [LB56]

SENATOR DIERKS: Yes. [LB56]

SENATOR FISCHER: And the "shall" to the "may." Right now, DEQ applies the standard of negligence currently, but they also have provisions and the state of Nebraska has provisions in other statutes that allows them to take a permit after one discharge. It's not...the penalties for this are not all within the Livestock Waste Management Act. The state of Nebraska can go in, handle what is called a bad actor after one discharge, and I do support that. I support your comments about the waters in this state being the most important priority we have in this regard too. But we have to keep in mind that that is available in other statutes. Also, it was the feeling that this would give DEQ some discretion and that they could use discretion in order to do this, and I think that helps with a common sense approach to how this law would be applied, because we all know that there are certain instances where, just like when you're taking care of your car, you can take care of the equipment that is used to spread the waste from a feedlot and use care, you follow the proper maintenance, and there can still be an accident, just like when we drive our car. You can change your oil, you can take care of your car, you can follow your maintenance schedule, and there could still be an accident. This allows that discretion, I believe, to DEQ when it would be helpful for them to take into consideration different events that would be taking place in a situation and allow them to make those decisions based on the events that have taken place. [LB56]

SENATOR DIERKS: Thank you. I believe that will close my opening, Mr. President. Thank you very much. [LB56]

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SENATOR CARLSON: Thank you, Senator Dierks and Senator Fischer. Those...the floor is now open for debate on FA32 and those wishing to speak: Senators Fischer, Langemeier, Karpisek, and Haar. Senator Fischer, you're recognized. [LB56]

SENATOR FISCHER: Thank you, Mr. President and members. As you remember, LB56 only amends what falls under the scope of the Livestock Waste Management Act. It's not going to eliminate, it's not going to diminish any environmental protection law. It's not going to eliminate or diminish any regulation. It is not going to decrease in any way the civil penalties for violating the act. I do support Senator Dierks's amendment and I have spoken to Senator Langemeier, Chair of the committee, and Senator Haar, who came to us with the idea for the committee amendment that changed it from three to five, and I believe they are also in support of Senator Dierks's amendment. In my original bill, I did leave it at three strikes. I believe if there are bad actors out there, they need to be dealt with. As Senator Dierks said, this is a situation that we all need to be concerned about. If something does happen, there are laws in place, there are regulations in place to handle it. And I do appreciate Senator Dierks coming forward with this amendment and I think this change is appropriate. Thank you, Mr. President. [LB56]

SENATOR CARLSON: Thank you, Senator Fischer. Senator Langemeier, you're recognized. [LB56]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of FA32 offered by Senator Dierks. I want to thank him for the discussion that has taken place on LB56. I don't think anybody out there wants to allow a bad actor to be a part of the state of Nebraska in the livestock industry and they're pretty good at self-policing. And we don't want to make this an unachievable goal and so I rise in support of FA32, Senator Dierks's amendment, and ask the body to do the same. Thank you. [LB56]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Karpisek, you're recognized. [LB56]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I also support FA32. I think it really helps the bill. I'm going to try to go through a scenario to make sure that I understand this. I think I'll ask Senator Fischer if I could ask her a question or two, please. [LB56]

SENATOR CARLSON: Senator Fischer, will you yield? [LB56]

SENATOR FISCHER: Yes, I will. [LB56]

SENATOR KARPISEK: Thank you, Senator Fischer. Okay, so right now in statute,

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anyone has three strikes, correct, no matter how many different operations they have?
[LB56]

SENATOR FISCHER: Only three, yes. [LB56]

SENATOR KARPISEK: Okay. So now with the amendment, just say if they had ten different operations would it be possible they could actually have 30 strikes? [LB56]

SENATOR FISCHER: The bill, as it is standing right now, and this amendment does not change that, the bill as it stands now is facility by facility how DEQ will treat those. And if you remember our conversation on General File, the reason for that was a number of young farmers have different partners in different sites and we felt that it was needed that they have that protection because, truly, there's liability in anything and that is true with these instances as well. And as I said, there is...the regulations, the laws, nothing has been lessened by this, but it will be facility by facility now so that you would not be blamed. I believe Senator Carlson had the tractor example which was helpful when he brought that forward on General File. And it's so you won't be blamed for something that maybe you're in partnership with me but I'm in partnership with somebody else and something happened at that site B that I'm in partnership with somebody else. [LB56]

SENATOR KARPISEK: Okay. But what if I...what if I'm just a standalone farmer but I have three different facilities? That would still only count per facility, correct? [LB56]

SENATOR FISCHER: Right. It's facility by facility, Senator Karpisek. [LB56]

SENATOR KARPISEK: I guess it...so, in my mind, we're still tripling the amount of strikes that an operator could have. [LB56]

SENATOR FISCHER: I don't view it that way. I view it that you have...you have three strikes per facility. [LB56]

SENATOR KARPISEK: Okay. Okay, thank you, Senator Fischer. That's a little bit of my concern, that it seems that we're giving, if there is a bad actor, that they could have three strikes at each facility and opens that up. And I have talked to the Attorney General and they have...their office and said that they have worked on this bill and they intend to prosecute bad actors in a quicker...I think you're still...go ahead, Senator Fischer. I'm still asking you questions. [LB56]

SENATOR FISCHER: (Laugh) Thank you, Senator Karpisek. I was contacted by the Attorney General's Office, too, and I was told that they do fully support the bill as it is from an enforcement aspect because they feel that the changes made here will protect innocent people. They have ways, they have means to go after those bad actors. So I guess I'm thinking, if there's a bad actor out there and, to use your example, if they have

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three sites,... [LB56]

SENATOR CARLSON: One minute. [LB56]

SENATOR FISCHER: ...you're tripling, I guess, their strikes that they can get, I don't think they would ever get there. [LB56]

SENATOR KARPISEK: And I think that's what I've been told by the AG's Office also. I still do have some reservations on the bill. I think going down to three is much better and I appreciate that compromise. I will listen to debate. I still don't know, when we don't have anyone over one strike currently, why we have to meddle with this, but maybe you feel to get new farmers in. Thank you, Mr. President. [LB56]

SENATOR CARLSON: Thank you, Senator Karpisek and Senator Fischer. Senator Haar, you're recognized. [LB56]

SENATOR HAAR: Mr. President, members of the body, I rise in support of FA32 and LB56, and I want to thank Senator Fischer and Senator Dierks for amending...for this current amendment. I think it's a good deal. I would like to ask Senator Fischer a couple questions, if I could. [LB56]

SENATOR CARLSON: Senator Fischer, will you yield? [LB56]

SENATOR FISCHER: Yes, I will. [LB56]

SENATOR HAAR: Okay. I hate to speak to...have you speak to my back but... [LB56]

SENATOR FISCHER: That's fine. [LB56]

SENATOR HAAR: ...a couple questions. The way it looks to me now is with this amendment, if it passes, really the only thing that's changed about this, the bad actor bill, is the facility portion. Is that correct? [LB56]

SENATOR FISCHER: There is a change on the facility portion, Senator Haar, and there is also the change with the word "negligence" in there. [LB56]

SENATOR HAAR: Okay. Now it was my understanding from when in committee that the word "negligence," though, describes the way DEQ is dealing with things now. Was that your understanding too? [LB56]

SENATOR FISCHER: Yes, it is, from the testimony we heard. And I also have an example of a show cause order that DEQ issued to someone and on that show cause order--let me see here, Senator Haar, I can read it to you--the word "negligence" is used

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on there. It speaks, the director may consider whether the respondent deviated from the standard of care that a reasonably careful person engaged in. It goes on to speak to, therefore, be negligent in allowing the discharge to occur. So, yes, from the committee hearing and from examples such as this, it was believed, I believe by the entire committee, it was the reason I introduced the bill, was that that is how it is being administered right now and DEQ would appreciate the clarity that this bill would bring to them. [LB56]

SENATOR HAAR: Okay. Thank you very much. Yeah, and it's again kind of a simple definition. Negligence means you should have known better. And I think in terms of this law, to begin with, there has to be diligence on the part of people because any time you can go and find out who has gotten strikes and then do a little bit of research, and I think that's the way we'll find the bad actors. And then finally I'd just like to say that as I go through these various bills and so on, I keep coming back to the common principle that we're one state, we all work together. We know that Omaha is important, Lincoln is important. We know that all the...that Senator Schilz's cattle farm is really important. We're one state. Clean water and clean air is not a urban issue, it's not a rural issue. It's something that we all care about and that we all are interested in working towards and that's very encouraging to me and I just want to recall that again. We're all in this together. We all want clean water, we all want clean air, and I think LB56 does that. Thank you. [LB56]

SENATOR CARLSON: Thank you, Senator Haar and Senator Fischer. Senator Schilz, you're recognized. [LB56]

SENATOR SCHILZ: Thank you, Mr. President and members of the Legislature. Like to thank Senator Haar for those kind words or whatever. I appreciate the sentiment. And you know, right here today I stand speaking as a livestock producer, livestock feeder that, you know, our industry wants everybody to know that Senator Haar was exactly right. We do care about the environment. We care about what goes on every day in our state because that's what makes our living. If we don't have good water, if we don't...if we, you know, if we contaminate that in some manner or something, it doesn't work. If we contaminate the ground, there's problems there too. And that's why a lot of these laws are in place. The monitoring is in place. The procedures that you have to go through are in place to make sure that this stuff doesn't happen. And I'm, you know, looking out there, I'm guessing that there's 99 percent of all the producers out there that feel exactly the same way that I do, that this is all very important. Every once in awhile you do run into someone that is out for profit and out for greed more than anything else and just doesn't care or doesn't know. And as we've heard before, there are ways to deal with those folks. I made the analogy and I asked the question, exactly what does baseball and livestock feeding have to do with each other? It's the only place I can figure out where three strikes come from. (Laugh) And I think that that was...that was one of the things. I'm not opposed to going to three strikes, if that's what the body wants

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to do, but as Senator Karpisek said before, and I think you can take this both ways, in the time since this law has been enacted we've had basically people that have received one strike and that's it. And so the question is, do you really need that? Is that's what's going on? And I think the attempt and the decision to go to five by the committee was where we were coming. So with that, I just wanted to lend a little clarification and say that I think we've...I think we've made a better bill. If we pass this, it will be a better law than we had before. So I'm still trying to figure out if I'm for or against the amendment, but thank you very much. [LB56]

SENATOR CARLSON: Thank you, Senator Schilz. There are no more senators wishing to speak. Senator Dierks, you're recognized to close on FA32. Senator Dierks waives closing. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who wish to vote? Record, Mr. Clerk. [LB56]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Dierks's amendment. [LB56]

SENATOR CARLSON: The amendment is adopted. [LB56]

CLERK: Senator Dierks, Senator Dierks, the others go away then, Senator? [LB56]

SENATOR DIERKS: Yeah, take the rest of my amendments away. [LB56]

CLERK: Okay. Thank you. Mr. President, I have nothing further pending on the bill. [LB56]

SENATOR CARLSON: Senator McGill. [LB56]

SENATOR MCGILL: Mr. President, I move LB56 to E&R for engrossing. [LB56]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. The bill does advance. Mr. Clerk. [LB56]

CLERK: LB162, Mr. President. Senator McGill, I have E&R amendments. (ER8065, Legislative Journal page 1048.) [LB162]

SENATOR CARLSON: Senator McGill. [LB162]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB162]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. Motion carries. [LB162]

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CLERK: I have nothing further on that bill, Senator. [LB162]

SENATOR CARLSON: Senator McGill. [LB162]

SENATOR MCGILL: Mr. President, I move LB162 to E&R for engrossing. [LB162]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. The bill does advance. Mr. Clerk. [LB162]

CLERK: Mr. President, LB436. Senator McGill, I have E&R amendments first of all. (ER8062, Legislative Journal page 1021.) [LB436]

SENATOR CARLSON: Senator McGill. [LB436]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB436]

SENATOR CARLSON: You've heard the motion. All in favor say aye. Opposed, the same. Motion carried. [LB436]

CLERK: Mr. President, Senator Haar, I now have AM1065. (Legislative Journal page 1059.) [LB436]

SENATOR CARLSON: Senator Haar, you're recognized to open. [LB436]

SENATOR HAAR: Mr. President, members of the body, LB436 again is the net metering bill. And for the first time it provides a statewide net metering bill. I understand...I want to make one apology and that's when I talked about this last time I was rather flippant in saying almost everyone in the universe agreed. That was not a statement of arrogance. That was an expression of relief after a long negotiation process. And I would just like to clarify that. I realize that it's not a perfect bill, but it certainly is a starting point. And to quote the person who I sit next to in committee hearings, in Natural Resources, Senator Schilz, you have to crawl before you walk, and I think LB436 is a beginning to that. Also just to let you know that on some of the issues where people are not satisfied in terms of limits and so on that I will be working this summer with the public power groups to discuss those issues. So I guess with that I would close my opening and answer any questions that people might have. [LB436]

SENATOR CARLSON: You've heard the opening on AM1065. Senator Langemeier, you are recognized. [LB436]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise in support of AM1065. It was brought to Senator Haar by Bill Drafting so it was a technical change

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that came through the E&R process. That's how we got to that so that is what AM1065 is. And for the record, Senator Schilz talked about baseball and agriculture and three strikes. You know, three strikes in bowling is a turkey so just to add some more sports analogy to that. At this time would Senator Haar yield to some questions so we can clarify the record? [LB436]

SENATOR CARLSON: Senator Haar, would you yield? [LB436]

SENATOR HAAR: Yes. [LB436]

SENATOR LANGEMEIER: Senator Haar, I have a couple of questions that are regarding Section 5 of the bill, and we're doing this to make sure our record is clear here. Section 5 creates a reporting requirement for the utilities on their net metering customers. My question is, Senator Haar, what and how are the local distribution utilities required to report? [LB436]

SENATOR HAAR: Thank you, Senator Langemeier. Section 5 requires that each local distribution utility publish and report on its Web site and also submit that report to the Power Review Board. We also added language that would allow the utility to keep a copy of the report in their main office for utilities that do not have Web sites. [LB436]

SENATOR LANGEMEIER: Thank you. So for the purpose of reporting we can either check for the Power Review Board to get the reports from all the utilities or we can check their Web sites for individual utilities to see what their net metering and how it's being used? [LB436]

SENATOR HAAR: Correct. Only if they don't have a Web site would you have to go to their office, but you could still get the reports, all of the reports from the Power Review Board. [LB436]

SENATOR LANGEMEIER: So how would the utilities without the Web sites make their reports available? Do they have to post it on the wall like we do for open meetings? We have to post those rules on the wall at the office. [LB436]

SENATOR HAAR: No. It would not have to be posted on the wall. They would simply have to make the report available to any interested parties that inquire for it. [LB436]

SENATOR LANGEMEIER: Thank you. One more question: What if the utility does not have any net metering customers? Do they still have to produce the report? [LB436]

SENATOR HAAR: Yes. They would still have to make a report so that we know which utilities have customers and which do not. We want to make sure that we're not missing anyone so that we can see how successful net metering is. [LB436]

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SENATOR LANGEMEIER: So requiring utilities that have no net metering customers to file a report, is that a little erroneous? [LB436]

SENATOR HAAR: No, I don't believe so. If they have no net metering customers, their report could be as simple as a postcard to the Power Review Board stating so. Thank you. [LB436]

SENATOR LANGEMEIER: Thank you very much as we wanted to get that in the official record as far as reporting. Again, I rise in support of AM1065. That did come from E&R, Bill Drafters, as a correction and we'd ask that you adopt AM1065. [LB436]

SENATOR CARLSON: Thank you, Senator Langemeier and Senator Haar. Speaker Flood for an announcement. [LB436]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members, or good afternoon, members. You'll note on the agenda 12:30 we're going to be taking up every Select File bill listed on the agenda above that does not have an amendment other than E&R. After that, we will return to discussion, following along on our agenda, working throughout the rest of the day. So we probably will quit sometime before 2:00 p.m. Thank you, Mr. President. []

SENATOR CARLSON: Thank you, Speaker Flood. There are no more lights on. Senator Haar, you're recognized to close on your amendment. [LB436]

SENATOR HAAR: Thank you very much, Mr. President. Again, AM1065 is just a cleanup from the Bill Drafters. It's got a few little grammatical changes and so on. So I would urge that you support AM1065. [LB436]

SENATOR CARLSON: Thank you, Senator Haar. You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Has everyone voted that wishes to vote? Record, Mr. Clerk. [LB436]

CLERK: 36 ayes, 0 nays on adoption of Senator Haar's amendment. [LB436]

SENATOR CARLSON: The amendment is adopted. [LB436]

CLERK: Mr. President, the next amendment I have, Senator Giese, AM1032. (Legislative Journal pages 1186-1188.) [LB436]

SENATOR CARLSON: Senator Giese, you are recognized to open on your amendment. [LB436]

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SENATOR GIESE: Thank you, Mr. President and members of the body. AM1032 would amend a bill I introduced earlier in this session, LB411, into LB436. That bill brought on behalf of the State Electrical Board would update the State Electrical Act to reflect changes in the National Electrical Code and was advanced to General File on a unanimous vote by the General Affairs Committee. Historically when the National Electrical Code is updated every three years, a bill is passed by the Legislature to update references to these standards in Nebraska statute. Since the current State Electrical Act was adopted in 1975, these bills have come at regular intervals and have faced no opposition at any level, no opposition testimony at the committee hearing, and no opposition on the floor. Many of these new bills either made it out of committee quickly enough to be adopted the first few weeks of session or were placed on the consent calendar. But in 2008, something funny happened. Senator Engel introduced LB723 which would have updated the State Electrical Act from the 2005 to the 2008 edition of the code, just as it has been done every three years for the past 30 years. At the hearing on LB723, the homebuilders opposed a single provision of the code, the requirement that new residential constructions use arc fault circuit breakers in certain rooms. This was the first opposition that an electrical code update bill had faced in over 30 years. Because of the opposition, LB723 was not eligible for consent calendar and Senator Engel and McDonald introduced LR344 to study the process and standards used to update the State Electrical Act. Over the interim, the General Affairs Committee met with the homebuilders, the State Electrical Board, and other industry experts to discuss the current surrounding arc fault circuit breakers. Following this meeting, the General Affairs Committee found that the State Electrical Act could be updated...should be updated to the 2008 version of the National Electrical Code, including the provisions on arc fault circuit breakers. Even without adopting AM1032, many construction projects are already required to use arc fault circuit breakers. On October 31, 2008, Governor Heineman signed to change to Rule 18 of the Nebraska Electrical Code which would require the use of arc fault circuit breakers in bedrooms beginning on November 5, 2008. Several Nebraska municipalities have also chosen to adopt the 2008 code as well. The city of Hastings has adopted the 2008 code in its entirety, and the city of Omaha has adopted the 2008 code without the arc fault circuit breaker requirement. For 30 years the bill adopting the updated version of the National Electrical Code was a foregone conclusion in the Legislature. A new edition of the code is published every three years by the National Fire Protection Association. And only after all of these interested parties have the opportunity to support or oppose these changes, electricians, engineers, contractors, suppliers, city and state inspectors, and, yes, even homebuilders have a say in developing the National Electrical Code. The code is designed to be a comprehensive set of regulations that lay out the minimum standards for safe electrical installations, and many states have an automatic process for updating their state codes that don't require a passing of a bill every three years. Failure to adopt the 2008 code or adopting the 2008 code but opting out of certain provisions sets a dangerous precedent for the body. When we start letting special interest groups come in

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and delay the code or carve out little exceptions, we place our citizens, our safety at risk. As I'm sure the members are aware, I am not an electrician, and I wouldn't trust myself to install the electrical wiring in my own home. These type of decisions should be made based on the technical expertise of the electrical industry and the State Electrical Board, not as a part of the political process. I would urge the body to support and adopt AM1032 and keep politics out of public safety. Thank you. [LB436 LB411]

SENATOR CARLSON: Thank you, Senator Giese. You have heard the opening on AM1032. There are senators wishing to speak: Senators Rogert, Stuthman, and Schilz. Senator Rogert, you're recognized. [LB436]

SENATOR ROGERT: Thank you, Mr. President. Good afternoon, members of the body. That was one of the quirkiest comments I've heard today: Keep politics out of public safety. We just as well go home. (Laugh) This bill was LB411. It came before us early in the year in General Affairs, and I asked quite a few questions to the members or to the testifiers on several of the aspects of the electrical code that was to be adopted. What the major things that are being adopted in this amendment and through LB411 are as such. The arc fault circuit interrupters would be required on basically the rest of the outlets in the house that they're not required at right now. You got to have GFIs, those are those little ones that they got a button that has test and reset on them. You see them in bathrooms and kitchens now, requiring those still to be in areas such as where there's...water could be, kitchens, bathrooms, the arc faults are required in bedrooms right now. This would put them in new construction only into some of those...some other of those places. One of the other things that is being required by this code upgrade are tamper-resistant receptacles in dwellings and houses. We all remember as kids, and if you got kids now you probably got a wooden nickel or a plastic plug stuck in an outlet to keep kids from sticking their fingers or some piece of wire in there and getting electrocuted. These tamper-resistant receptacles are actually pretty neat. You can't get anything inserted into them unless you have equal pressure into both of those holes. You have to push a...it actually has to be a plug from an electrical lamp or something to go in there to get them to work so that's kind of a nice upgrade and a benefit of technology that we didn't see before. It costs about an extra 50 cents a receptacle. Another thing is all nonlocking 15 and 20 amp, 125 and 250 volt receptacles, which would be just the regular ones we really have, they have to be listed as weather-resistant type. So we're kind of upgrading from the 12-cent receptacle in a house to something that's a little bit better. The numbers that were brought to us in terms of dollars from a gentleman that has been teaching at the Northeast school in Norfolk, and I trust him. I've known the guy and I know a lot of people that have learned how to be electricians through him, what they do is they build a house every two years, the construction management guys build the house and the electricians come in and do the electrical and then the plumbers come in and do the plumbing. They estimated on a 1,500 square foot house where the cost of the total materials on average is about \$55,000, that would be about a \$120,000 to \$150,000 house. The total cost of these

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upgrades is going to be about \$325. The homebuilders have come to us and said that that is probably low to quite a bit low. I'm certain you can buy different grades of all these things. You can spend 50, 60 bucks on an arc fault receptor or you can spend \$25 on an arc fault receptor. So those numbers are going to be a little bit objective. At the bare-bones minimum of the ones...the cheapest stuff you can buy at Home Depot it's probably going to be about a \$500 increase in cost, most of which is being borne by the addition of the arc fault receptors. I encourage the adoption of Senator Giese's amendment, AM1032 and then decide for yourself on what you want to do on the amendment coming from Senator Coash to take out the arc fault receptors. So if you have any questions on what some of this stuff does or what the code has done or what we had heard in the bill, feel free to ask myself or Senator Karpisek or Senator Giese. We were in that committee and we asked a lot of questions and we'll try to answer those. But I encourage the adoption of the amendment at least and then decide what you want to do... [LB436 LB411]

SPEAKER FLOOD PRESIDING []

SPEAKER FLOOD: One minute. [LB436]

SENATOR ROBERT: ...on Senator Coash's amendment and we'll make that decision there. Thank you, Mr. President. [LB436]

SPEAKER FLOOD: Thank you, Senator Robert. Senator Karpisek, for what purpose do you rise? [LB436]

SENATOR KARPISEK: Thank you, Mr. President. I would like to challenge the germaneness of the amendment to the bill. The bill itself, LB436, is in Chapter 70 and the amendment would be in Chapter 81. I would ask the Chair to rule on germaneness. [LB436]

SPEAKER FLOOD: Senator Giese, would you like to respond to Senator Karpisek's point of order? [LB436]

SENATOR GIESE: Yes, I would, Mr. Speaker. Thank you. I believe the issue is germane and on page 3, lines 17-23 of the committee amendments, LB436 specifically references Section 81-2104 of the State Electrical Act as well as the National Electrical Code. [LB436]

SPEAKER FLOOD: Gentlemen, would you please both proceed to the Chair. Senator Haar, would you proceed to the Chair, please. Senator Karpisek, after reviewing LB436, the committee amendments, which have been adopted and are now incorporated in LB436 and a review of Senator Giese's AM1032, it is the position of the Chair that AM1032 is germane to LB436. I would specifically point out that on page 3 of the

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committee amendment that was adopted and has now been incorporated into LB436, Section 81-2104 was specifically referenced. That alone is not enough to make it germane. However, in reading the amendment that Senator Giese proposes and the entirety of LB436, looking at subject matter, it is the ruling of the Chair that AM1032 is germane. Mr. Clerk for an amendment. [LB436]

CLERK: Mr. President, Senator Coash would move to amend Senator Giese's amendment. (AM1199, Legislative Journal page 1188.) [LB436]

SPEAKER FLOOD: Senator Coash, you're recognized to open on your amendment. [LB436]

SENATOR COASH: Thank you, Mr. President, members of the body. I do appreciate Senator Rogert kind of giving an update about what the entire AM1032 amendment does. My amendment to this amendment does one little thing. It doesn't derail the whole electrical code for 2008. It takes out one little part that is, as Senator Giese and Senator Rogert pointed out, the arc fault circuit breaker requirement. Currently, if you're building a home, you've got to put the little GFICs in any outlet that has a potential for electrocution due to water. So you've got those in your kitchen, you've got them in your garage, you've got them in your bathrooms. In '05, the code said you also need to put this circuit fault breaker in the bedrooms. It's kind of interesting to note that although that was implemented in the '05 code, nobody started doing it until just last year. But what this amendment does is say that we...you don't need to put these circuit fault breakers in bedrooms--I'm sorry, not bedrooms because that's already in there--dining rooms, living rooms, libraries, dens, sunrooms, and rec rooms. As Senator Rogert pointed out, depending on how expensive of these arc fault breakers you buy, there is some discussion about how much that can cost, anywhere down from \$500 up to \$1,000. That's just for the materials. Beyond that you've got the labor to do that. All I'm saying, colleagues, is that this raises the cost of building new homes, and this may not be the time to be raising the cost. I don't want to delay the entire code. It's not my intent. I want to improve it. I want to make sure that we can keep homebuilding costs down. As Senator Giese mentioned, Omaha also has decided as a city to adopt the entire code with the exception of this requirement. I think they were forthright in thinking that also that now isn't the time to say let's not increase the cost of a new home. So with that, I would encourage your support for AM1199. Thank you, Mr. President. [LB436]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Thank you, Senator Coash. (Visitors introduced.) You have heard the opening on AM1199 offered to AM1032. The floor is now open for discussion. Those wishing to speak, we have Senator Stuthman, Gay, Dubas, Fulton, White, Karpisek, and others. Senator Stuthman, you are recognized. [LB436]

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to ask Senator Giese a couple of questions. [LB436]

SENATOR LANGEMEIER: Senator Giese, would you yield? [LB436]

SENATOR GIESE: Yes, sir. [LB436]

SENATOR STUTHMAN: Senator Giese, on this electrical code and with these arc fault circuit breakers, explain to me in the construction and the electrical construction of a home, is there electrical wiring to every outlet in the house then or is it just dealing with the outlet? And what I'm referring to, from your breaker box, from your panel, does there have to be a separate wiring to every outlet in the house? [LB436]

SENATOR GIESE: Senator Stuthman, I believe that there does not have to be. This deals with the...it works...in your current circuit breaker and these new circuit breakers fit in exactly where the ones you have now in your panel that you would have in your home. And I apologize, I'm not an electrician. Somebody can probably answer that better, but I do not believe that each one has to have a separate one, as you mentioned. [LB436]

SENATOR STUTHMAN: Okay, thank you. I would like to ask Senator Coash a question. [LB436]

SENATOR LANGEMEIER: Senator Coash, would you yield? [LB436]

SENATOR COASH: Yes, I will. [LB436]

SENATOR STUTHMAN: Senator Coash, we visited off the mike before and you heard the question. Could you give me an answer. Have you had any experience with electrical wiring in a home with that same situation? [LB436]

SENATOR COASH: I'll try, Senator Stuthman. I don't have any experience wiring in a home. Could you repeat the question? [LB436]

SENATOR STUTHMAN: The question is that if you have five outlets in your bedroom, are there five breakers from the panel, are there five wirings to that bedroom or is there just one wiring to the bedroom and has the five outlets in the bedroom? And the reason I'm asking that is, you know, is there...it's the additional cost of running those additional wires, the expense of that or is it just dealing with the outlet? [LB436]

SENATOR COASH: It for sure, Senator Stuthman, is dealing with the outlet. Different outlets would have to be put in each of those five bedrooms. I will find out about how it's wired to the box for you. [LB436]

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SENATOR STUTHMAN: Okay. Okay. I mean that's the question. Maybe there is an electrician, you know, in here that has the experience there. That is the concern of mine because I have had electricians, you know, call me and say that it is a real additional expense, and which has been addressed here that it could cost up to \$1,000 more per home or \$500 or \$200. I do not know. But I would like to know, you know, is there for the five outlets in one bedroom are there five sets of wiring that goes to that bedroom? Or is there one set of wiring that goes there and each outlet has the breaker portion to it that would kick it out when there's too much pull on that one outlet? So with that, maybe someone will punch their light and give me some of that information. Thank you, Mr. President. [LB436]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Gay, you're recognized. [LB436]

SENATOR GAY: Thank you, Mr. President. I'd like to ask Senator Giese a few questions. [LB436]

SENATOR LANGEMEIER: Senator Giese, would you yield? [LB436]

SENATOR GIESE: Yes. [LB436]

SENATOR GAY: Thank you, Senator. Senator, my electrical ability is probably comparable to yours. I don't attempt to do it myself so I'm not going to ask you those questions. But I wanted to get to a little bit you laid out this nice format of where we've come with electrical code, and it sounds like it's been pretty routine for all these years. But then it kind of ran into a glitch and this was that glitch. But when they meet, can you describe who that is? Who meets together? Can you describe the committee. And what I said, when they meet as a group, whatever this group is called, is it a majority vote of that group or do the rules and regs have to be unanimous? How do they come to these conclusions and then we just kind of stamp our seal of approval and they move on? Is it unanimous, majority, can you explain that process a little more? [LB436]

SENATOR GIESE: Senator Gay, I can't address those specific how they have their board structured. But as I mentioned in my opening, the State Electrical Board, Northeast Community College, and other parties, and homebuilders as well are all involved in the process and with the rules and regulations every year and the code updates, the updates that they do. And how that vote is, whether it's a unanimous vote or has to be...I'm assuming it's not but... [LB436]

SENATOR GAY: I'll do some checking on that. And then it looks like...so then it showed in 2000...well, here we are on this, but they said, well, bedrooms only. We're going to do bedrooms only, and this got hooked up the arc circuit breaker. Why did they just...do

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you know why they just chose that, why bedrooms and not, at that point? Do you know enough on that? [LB436]

SENATOR GIESE: I don't, but the problem has always been, Senator, it's from a cost standpoint. That's always been...it seems like that's where we hit the wall when we were updating codes. We didn't know exactly how much they cost, these arc fault circuit breakers. There was...in the hearing last year and the reason why the bill didn't make it to the floor was because there was...we couldn't get the costs narrowed down. It was anywhere from \$2,500, \$3,000 was mentioned so that's why the bill did not get updated last year. This year we have more costs. We had a better handle on the costs. We had testimony in the committee hearings from Randy Anderson who is at Northeast Community College (sic) on actual specific costs. There are an average of roughly seven or eight circuit breakers, and this is only on new homes. This is not retroactive. It's only on new homes that are going to be built or if you add on to your home now. But it is not retroactive and doesn't go back. So it's only on new... [LB436]

SENATOR GAY: Okay. Did you mention that cost earlier? Did I miss that? How much is the cost? [LB436]

SENATOR GIESE: The costs are about the...the arc fault circuit breakers are about I'm going to say \$50. They're about \$25 difference in a regular circuit breaker. And there's, as I mentioned, each home has about roughly...let's say ten. If you have ten new arc fault circuit breakers in your home, \$250 is going to be your additional cost. If you have 20, obviously, it's \$500. [LB436]

SENATOR GAY: Okay. Then I think I heard you mention that Hastings has adopted the 2008 code. So did they go ahead and just adopt that code... [LB436]

SENATOR GIESE: Yes, they did. [LB436]

SENATOR GAY: ...and then Omaha, okay, and then something about Omaha has decided to...parts of it? [LB436]

SENATOR MCGILL PRESIDING []

SENATOR MCGILL: One minute. [LB436]

SENATOR GIESE: Senator, I have to check on the Omaha. [LB436]

SENATOR GAY: Okay. And then while you're checking on that, another thing that gets to me is the different planning and zoning agencies in the state. Some have them, some don't, but building inspectors, whatever. The consistency of this is how they can opt out and take pieces of it and not take other pieces kind of concerns me long term. I don't

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know where I'm at on this...either of these amendments, but that does kind of concern me that they can pick and choose what they want. Maybe that's good, maybe it isn't. But I just wondered if you've accounted for Lincoln versus my county could be...there's five communities in my county and the county each doing something. So all these other people what they're incorporating is interesting, and I'll do some checking into that, too, and maybe add it if I can find out anything. So thank you for answering those questions. Thank you, Mr. President. [LB436]

SENATOR MCGILL: Thank you, Senator Gay and Senator Giese. Senator Dubas, you are recognized. [LB436]

SENATOR DUBAS: Thank you, Madam President, members of the body. I've been on the General Affairs Committee since coming down to the Legislature, and we've talked about this I think every single year. As I hear from my electrical contractors back in the district, they're very, very frustrated. They...we need to adopt this code. This is their guidelines for how they do business. And it's this arc fault plug-in that seems to be our biggest stumbling block. You know, and I can't disagree with the fact that we need to pay attention to cost, but at the same time, this doesn't seem like cost that would absolutely stop a project. So I truly hope that the body gives this particular amendment, Senator Giese's amendment, AM1032, very serious consideration because our electrical contractors are almost in a state of limbo as far as how they're operating. And we really do need to take some action and move this forward. So I again strongly ask the body to give this serious consideration. Thank you. [LB436]

SENATOR MCGILL: Thank you, Senator Dubas. Senator White, you are recognized. I'm sorry, it's Senator Fulton. [LB436]

SENATOR FULTON: Thank you, Madam President. You are not Senator Friend. Now is...I'm going to make a point here on AM1199 specifically and first of all, as I stated on another bill, I think it was LB160, mechanical engineer, okay, I chose mechanical because I didn't like electricity and I didn't do electrical engineering. So I might be able to talk around the periphery of the specifics of this bill, but, no, I'm not going to be able to enlighten everybody on what, you know, arc sparks are and whatnot. But what we are dealing with today is a decision that would promulgate a code that's been enacted at the national level, the 2008 code. And it's been suggested that we should utilize that code in its entirety and just move it forward because it has been discussed in another venue. But I submit to you that if we, as a Legislature, are going to promulgate something within the statute then it ought to be as open as any other process or any other bill that we put forward. Now I'm faced with the 2008 NEC, with the National Electrical Code, as promulgated by the National Fire Protection Association. And I'm going to be making a decision as to whether or not to amend that into LB436. Okay? I will venture a guess here that none of us have read through NEC as promulgated by NFPA 70-2008. That's a guess. I was able to get my hands on the code itself. The book is about that thick. And

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yet we are expected to cast a vote on AM1032. Now I'm not suggesting that it's impossible to do, but that's what we are doing. We do it occasionally on other bills, taking the advice of trusted groups. But when somebody brings a legitimate concern within that bill or within this amendment I guess, that that does rise to the level of public policy. And when we're talking about the cost of building a home, I think that's legitimate discussion for public policy considering the state of our economy and perhaps what caused our economy to get to this state, certainly it had to do with home ownership in the United States, I think it's legitimate to consider. And so I'm in favor of AM1199 until one can say that this is not going to be an additional cost on future homebuyers. And it would be a cost on homebuilders, yes, but that's going to be homebuyers. So would Senator Giese yield to a question? [LB436 LB160]

SENATOR MCGILL: Senator Giese, do you yield? [LB436]

SENATOR GIESE: Yes. [LB436]

SENATOR FULTON: Senator, I've heard figures thrown out about how much this is going to add to the cost of a home. I'm just going to ask point blank is it your understanding that AM1032, without AM1199, would that cause the cost of a home to increase? [LB436]

SENATOR GIESE: The answer to your question is I think it would be less, yes, but there are...I've handed out other materials, Senator Fulton, that will show you other states that have adopted the national code and their state codes and the arc fault circuit breakers are not going to go away. I think it's not a question of if but when we get on board and pass our State Electrical Code and those costs as well. I realize that it is a cost to the homeowner, builder as I mentioned before. But we've got a better handle on the cost... [LB436]

SENATOR MCGILL: One minute. [LB436]

SENATOR GIESE: ...this year than we did last year. [LB436]

SENATOR FULTON: Okay. Thank you, Senator. The...fundamentally here what the question is, do we statutorily mandate this additional cost through this code that we would be amending into LB436 in the interest of public safety? I mean that's what...if I were arguing against me, that's what I would say is, well, why don't you want to make homes more safe, Senator Fulton? In fact, I may be arguing against myself here. I don't know if anyone else is listening. But my concern here is that we are adding cost, mandating costs on home ownership which didn't exist last year. And so if indeed this provision, defeating AM1199, is necessary for the public safety, then I ask how about those homes that were built in 2006 and 2007? Are they not safe? And so I therefore will stand in favor of AM1199. Thank you, Madam President. [LB436]

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SENATOR MCGILL: Thank you, Senator Fulton and Senator Giese. Senator White, you are recognized. [LB436]

SENATOR WHITE: Thank you, Madam President. And, yes, I am certainly glad you're not Senator Friend and I'm even more happy that Senator Fulton can tell the difference. (Laughter) Madam President, would Senator Fulton yield to a question and Senator Coash, one after another? [LB436]

SENATOR MCGILL: Senator Fulton, will you yield? [LB436]

SENATOR FULTON: Yes. [LB436]

SENATOR WHITE: Senator Fulton, isn't it true that everything in the building codes add additional cost to a structure? [LB436]

SENATOR FULTON: I wouldn't go that far, no, not everything. [LB436]

SENATOR WHITE: But almost everything? [LB436]

SENATOR FULTON: No. [LB436]

SENATOR WHITE: You can build buildings a lot cheaper but they're not as safe, reliable, durable and that's what the code is there for, correct? [LB436]

SENATOR FULTON: I...generally speaking, yes, there will be added cost because of the code. But there are elements of the code, and mind you, this is just the electrical code. There are numerous other codes. [LB436]

SENATOR WHITE: I agree. For example, we don't allow certain types of cheap pipe be used for potable water because though it adds cost to use copper or an approved pipe, it saves lives, it saves poisoning and saves fire risk, things like that. Correct? [LB436]

SENATOR FULTON: Yes, and that...yes, I agree with that. [LB436]

SENATOR WHITE: Well, these arc protectors also have the potential to save lives, money, property, and cost. Correct? [LB436]

SENATOR FULTON: Yes, I would...yes. [LB436]

SENATOR WHITE: All right. So if we're ever going to talk about an equation of added cost to a building, we ought to balance it. There's savings too. And these went through vetting at the national level and were deemed to be valuable enough in saving of life

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and property that they should be included in the national code. Correct? [LB436]

SENATOR FULTON: At the national level, that is the assumption that one would make. [LB436]

SENATOR WHITE: You've gone through ANSI standards and you've gone to ANSI meetings I assume and different code meetings. They definitely look long and hard at cost versus benefit before they add these things, don't they? [LB436]

SENATOR FULTON: Not in all of the codes, no. And I can't speak with specificity to this code, and that's what causes me the trouble here. [LB436]

SENATOR WHITE: Let me ask if Senator Coash would be kind enough to yield to a question. [LB436]

SENATOR MCGILL: Senator Coash, will you yield? [LB436]

SENATOR COASH: Yes, I will. [LB436]

SENATOR WHITE: Senator Coash, I like...have represented insurance companies and have handled fires for an Indian tribe that lost its recreational hall because of a defective circuit breaker. Okay? That cost, that one fire cost well over a million dollars, well over, and no lives. Do you understand that with the added cost that we may very well have with these arc interrupters there may be huge savings as well? And can you tell the body how much money would be saved in insurance costs if these arc protectors are in place versus not in place? [LB436]

SENATOR COASH: Thank you, Senator White. I guess I can't give you a specific number. I know you're not asking for a specific number. Obviously, the arc faults can prevent a fire, so can smoke detectors. [LB436]

SENATOR WHITE: Which are mandated, are they not? [LB436]

SENATOR COASH: Which are mandated in the code. [LB436]

SENATOR WHITE: Yeah, and... [LB436]

SENATOR COASH: I do have...I'll give you a number here since you asked for it. The Home Structures Fire, a report by the National Fire Protection Association, found that 4 percent of fires involved wires, switching outlets, cords, and plugs so... [LB436]

SENATOR WHITE: And let the body understand what the nature of an arc wire fault fire is. It's deadly quick because it lights up the interior wiring inside of the wall. And you

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catch and get a massive blaze often very quickly fed by high electricity. Arcs, you know, have phenomenal temperatures when they are created. [LB436]

SENATOR MCGILL: One minute. [LB436]

SENATOR WHITE: So I guess, Senator, I appreciate your concerns. But I come from the other side where I've cleaned up, you know, legally cleaned up following big fires caused by arcs. And I can tell you it's a heck of a lot cheaper to prevent them than it is to repair. Thank you, Senator. [LB436]

SENATOR COASH: Thank you. [LB436]

SENATOR MCGILL: Thank you, Senator White, Senator Coash and Senator Fulton. Continuing with discussion on AM1199, senators wishing to speak: Senator Karpisek, Wallman, Schilz, Carlson, Coash, and others. Senator Karpisek, you are recognized. [LB436]

SENATOR KARPISEK: Thank you, Madam President, members of the body. I did just want to give a little bit of history from the committee on this bill. It seems that there is a disagreement on how much these arc fault breakers cost. We've been told that it can add \$2,000 to \$3,000 to a house. We've been told that it could add \$500 to a house. I don't know if that's the breaking point here is the price or not. I expect that it is, and I know some members of our committee have said price isn't the issue, and I hope they stand and voice their opinion. I was not going to vote the bill out of committee because of the arc fault. I did end up voting it out of committee, and I will admit that I felt that I messed up. I didn't feel that I should have voted it out, that we should have worked on it more. So that's why we're here working on it now, and I apologize to the body that we should have worked on it more in committee. It probably should not have come out unanimous. So the issue I think has to boil down to the money. I don't think anybody can argue that they don't do what they do. They do save fires which would save lives. So the issue is the money. Again, we've been told two different numbers or more, but there's quite a gap in there. I think the rest of the code does need to be passed, and this is the sticking point. So I hope that we can get past this point. I will be voting for AM1199 although I did vote this out of committee with it in. Again, I feel that I made a mistake by voting with it still in there, and I just wanted to tell the body why I'm doing what I'm doing and how we've gotten to this point. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Karpisek. Senator Wallman, you are recognized. [LB436]

SENATOR WALLMAN: Thank you, Madam President. Electric arcs, not going to happen on 110 usually. It will happen on the extension cord. Senator White was talking

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about fires in the wall. That's like a 220 or something usually for electric stove or electric dryer, higher voltage fires, and that will be hot. But as far as saving fires, I don't believe that...I'm for Senator Coash's amendment. I don't think we need all these troublesome things in the houses because they give more trouble. They're not as trouble free as a plug-in, as an ordinary plug-in. You get them in your bathrooms and you have to replace them because they don't work. But I'm not a licensed electrician, but I can wire up your house, Senator Price. But don't ask me to. And Senator Christensen, I think, would have a lot of information, too, on wiring. So I would...you know, it's not necessarily about the cost. It's about another change, another change, another change. The contractors, they've always done a good job, and you change things, you change things, you change things and then pretty soon Senator Schilz will be out of compliance because some contractor didn't know the switch date. And so I urge you to support this. I hate to support any more regulations on the contractors. But if this is what we're going to do, but I'm definitely going to support Senator Coash's amendment. Thank you. [LB436]

SENATOR MCGILL: Thank you, Senator Wallman. Senator Schilz, you are recognized. [LB436]

SENATOR SCHILZ: Good afternoon, members of the body and thank you, Madam President. I stand in support of Senator Coash's amendment. Senator Wallman really basically pretty much stole my thunder. I guess, you know, the only experience I have with electricity and wire is smooth wire trying to keep cattle in, and I've "ouched" myself a couple times on that so I should stay completely away from electrician work I guess. But I just wanted to stand up in support of Senator Coash's amendment and for, you know, the opportunity to not put any more regulations on our people out there. Thank you. [LB436]

SENATOR MCGILL: Thank you, Senator Schilz. Senator Carlson, you are recognized. [LB436]

SENATOR CARLSON: Madam President and members of the Legislature, I have concerns with safety. I also have concerns with cost. And I may step on some toes with what I say, and if I'm wrong, at a later date I'll set the record straight. Having a condo in this city so I don't have to name any contractor, I don't have to name any electrical company, but if you drive around and look around at new construction and where the electrical boxes are located, the more ridiculous they look the cheaper it is. And you try and put one in a place that is not going to be seen from the street and it's an arm and a leg. We didn't want it to be seen from the street. We paid several hundred dollars so that wouldn't happen. I think some of these regulations that get passed because we are concerned about safety end up in a license to steal. And you take your breaker box that's inside and you don't want it on the wall that they'd like to put it on so you move it another place where it's not as conspicuous, it's another arm and a leg. And so as we proceed with passing laws that require people to pay more money, I hope that the

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contractors and the electrical companies don't look at this as a license to steal. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Carlson. Senator Coash, you are recognized. [LB436]

SENATOR COASH: Thank you, Madam President, members of the body. I just wanted to mention a few things here. Senator Giese mentioned that, you know, the cost of these. It is about cost. This is what it comes down to. And Senator Giese mentioned that, you know, \$25 is the cost of one of these and if you had 10 outlets, it's going to be \$250. I Googled, with Senator Price's assistance, these arc faults, cost of \$57. That's just the first one that popped up. So there you go. You've doubled the cost right there. Senator Giese also said, well, if you have ten outlets. Well, if you look at all the rooms, family rooms, living rooms, parlors, dens, sunrooms, rec rooms, closets, and hallways, you're going to get a lot more than ten receptacles. And then you get to pay the labor. So I would ask the body to consider that. When you start looking at things in that way, you'll start to see that the cost does creep up quite a bit. I would also just like to take the opportunity to remind the body that places where it is a...there is a high likelihood that there's going to be a fire have protections on them. If there's going to be any water near a receptacle, you're going to have that protection. So your bathroom, your kitchen, your garage, anywhere outside is going to have this kind of protection. So I'd ask the body to keep that in mind. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Coash. Continuing with discussion on AM1199, senators wishing to speak: Senator Stuthman, Fulton, Price, Gay, and Giese. Senator Stuthman, you are recognized. [LB436]

SENATOR STUTHMAN: Thank you, Madam President and members of the body. I would like to ask Senator Giese a question. [LB436]

SENATOR MCGILL: Senator Giese, will you yield to a question? [LB436]

SENATOR GIESE: Yes, I will. [LB436]

SENATOR STUTHMAN: Senator Giese, do you have any information as far as how many fires were started because they didn't have these type of outlets in their home and how much has been the damage? You know, I have that Cigarette Propensity Ignition Act and, you know, we do have evidence there that people have dropped the cigarette and cigarette starts a fire, and we lost several lives this year because of that. Have you got any information as far as how many homes were started because they didn't have this type of an outlet, the breaker on that? And the fact is, you know, all of those outlets do have a panel box and a breaker too. So this is really a double assurance of that. But have you got any information on that? [LB436]

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SENATOR GIESE: Senator, I don't have those statistics handy. I'm sure there are all kinds of statistics that we could get you on that, but I don't have any of those in front of me. So I apologize, I don't. [LB436]

SENATOR STUTHMAN: Well, thank you, Senator Giese. I do realize, you know, that there are fires started because of faulty electrical wiring in homes and stuff like that. But the majority of them are, you know, older homes where, you know, the wiring goes bad. But I'm just concerned with the fact that, you know, we're adding a lot of extra cost on where there already, in my opinion, there are precautions taken because there's a breaker panel that has, maybe has four or five outlets on in a home that is directly connected with a circuit breaker panel. Then there's the size of the breakers for that also. I do realize this, this is probably a safety issue. But I think the fact is that, you know, it's additional cost and I just think right now is not the time to mandate something that has to be done. I mean I'm sure that if there is a homeowner that wants them installed in their home and they're willing to pay for it I have no problem with that. But I do have a problem with mandating that they have to be installed. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Stuthman and Senator Giese. Senator Fulton, you are recognized. [LB436]

SENATOR FULTON: Thank you, Madam President, members of the body. Senator White did a very good job of outlining one of the sides of what this debate is. I mean basically what we're talking about here is should we as a state mandate these arc fault circuit interrupters in the interest of public safety? Okay? Of course it's going to cost more money, which I think I have arrived at with Senator Giese. How much we don't know for certain. But that's what we have going on here. So we as a body are faced with this decision if indeed we choose to put forward AM1032 because I think this is a legitimate concern that's been brought up by homebuilders and I think that average Nebraska citizens would have an interest in. So as I look at this, we have one side is that we shouldn't have this mandate on the homebuilding industry that's going to be paid for by homeowners, future homeowners. On the other side we have the interest of public safety. Avoid the temptation of saying since it's public safety we therefore have to vote for it because we don't know at what level. And we should also likewise avoid the temptation of saying just because it's going to cost more money we shouldn't vote for it. So in order to arrive at a little better understanding and make a more prudentially informed decision on between these two points, the question that comes to my mind is, how many homes in Nebraska suffered damage because there was no arc fault circuit interrupter in the family room? That's the question I think that would probably shine some light on this and allow us to make a more informed decision. My guess is that we're not going to have that. Does anyone have that answer? Would Senator Giese yield to a question? [LB436]

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SENATOR MCGILL: Will Senator Giese yield? [LB436]

SENATOR GIESE: Yes. [LB436]

SENATOR FULTON: Senator, do you have an idea on the answer to that: How many homes in Nebraska last year suffered because there wasn't an arc fault circuit interrupter in the family room or any of the rooms that are being added here in AM1032? [LB436]

SENATOR GIESE: Senator Fulton, I don't but I don't also know how you would quote any statistics on fires that don't start. I mean how do you ascertain that number? [LB436]

SENATOR FULTON: Well, these would be fires that do start because there isn't an arc fault circuit interrupter. So in order for us to arrive at whether or not these are a necessity, we would look at those fires that occurred because they weren't there. So... [LB436]

SENATOR GIESE: I appreciate the question and I don't have numbers for you. [LB436]

SENATOR FULTON: Okay. It's probably a hard number to come by, and we as a body are going to have to make a decision here. I think absent these numbers I look at the course of the past three years, we've operated under NEC's, as promulgated by NFPA 70-2005 with a level of safety. And I'm not certain that this is the time to be adding more mandates on homebuilders. As a matter of prudence, I think we should move AM1199 forward. That's my best run at this. If we have information that would indicate that this is a matter of legitimate public safety in which we should necessitate more costs to building a home, then perhaps we don't move AM1199 forward. But absent that, I think we should move AM1199 forward. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Fulton and Senator Giese. Senator Price, you are recognized. [LB436]

SENATOR PRICE: Thank you, Madam President and members of the body. So along with what Senator Coash had to say, you go out on the Internet you're going to find a treasure trove of information. So first, though, I've taken notes and I want to take them one at a time. Labor costs for installing the outlets--you're going to be paying for labor to install an outlet is an outlet is an outlet. Perhaps there's one more wire and maybe there's a few moments more in the wiring. But if you're going to put...I submit you're going to put outlets in your house so you have to pay for that so which outlet you put in really shouldn't be a driver here. The next thing I want to say is that if you go to the Consumer Product Safety Commission, there you will find the numbers--40,000 fires are

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started annually are attributed to sparks and faulty wiring, 40,000. Three hundred fifty lives are lost each year; 1,400 injuries due to the fires started by electrical sparks, etcetera. This is again from the Consumer Product Safety Commission. Also we're bandying about terms--a ground fault interrupter, that's to handle the situation of shock, electrical shock. An AFCI is there to handle the situation of fire. Both will kill you, different modalities, but they don't always coexist. Now what I also want to talk about and I've been trying to pay attention, but it's been going on today and listening. Another aspect here is we have people when we talk about economic, the economic situation, everybody wants economic development. Well, part of what economic development may be about is people who are building or who are designing buildings. If we can't make a decision and they've been going down a path thinking that we're going to be moving forward to the 2008 code and then we don't go to that code, we revert back to '05, the challenge here is a lot of money been wasted because now you have to go back and redraw some wirings on these larger buildings that are going to employ people and add to our tax base and etcetera, etcetera. So again there is a lot at stake here. People are expending dollars. People are wanting to get on with building, and we need to move forward with a decision here one way or the other. But again, there's a lot of things at play here, and I would encourage you if you want to stop by the desk or Google it or whatever, but again the number is 40,000 fires annually, 350 lives, and 1,400 injuries are attributed to these types of fires. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Price. Senator Gay, you are recognized. [LB436]

SENATOR GAY: Thank you, Madam President. I just a little bit earlier I inquired how the State Electrical Board made their decisions and found out a little information. I'll just share it with the body. The way I understand it, the board meets. They come on recommendations, give it to the state electrical inspector who then goes to a national meeting and puts that input and votes at a national board meeting. So there is no majority or unanimous or whatever the case may be. So that's kind of interesting. Currently right now they're working on the 2011 standard code, and we haven't adopted 2008. So I'm a little concerned as Senator Fulton brought up, I think make a more informed decision would make me a little more comfortable. Also on the cities and counties, it's my understanding that you can adopt or opt out of what the code is, but most people look to the state for guidance and say here's what the code is for consistency's purpose. When we didn't adopt that code in the last year or so, now they're somewhat out there. So I'm concerned a little bit that they're looking for guidance, not from big brother but where is our...where do we go? As Senator Price alluded to, we've got to make decisions. So we're creating confusion for contractors, electrical engineers, all these people that need to be involved in design. And this worries me a little more of what we're doing here on Select File deciding what should or should not be in the electrical code. So I am a little bit concerned. I'm still grappling with a decision of what to do. But I'm looking to try to make a more informed decision, but I

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wanted to share that with other members. That's what I found out from the State Electrical Board member outside and just doing a little bit more research. So share that with the body and continue on with the debate. Thank you, Madam President. [LB436]

SENATOR MCGILL: Thank you, Senator Gay. Senator Langemeier, you are recognized. [LB436]

SENATOR LANGEMEIER: Madam President, thank you. I'd yield my time to Senator Coash. [LB436]

SENATOR MCGILL: Senator Coash, you are recognized. [LB436]

SENATOR COASH: Thank you, Madam President. Thank you, members of the body. I do appreciate the debate today. We are talking about safety. We are talking about cost. I would say that it is our job in this body to address both, that both have implications to our state. As you can see from the debate, there are things to be worked out here. We have to get builders and the Electrical Board to come to some agreement. We have to make sure that things they are already doing they can continue to do and that we are not giving undue burden to the homebuilding industry, as Senator Carlson pointed out, a license to steal. I want to make it clear I don't think the Electrical Board is trying to steal. I don't think the homebuilders are trying to steal. They're trying to build quality homes, safe homes. But with that thought that things need to continue to be worked out, Madam President, I would like to withdraw my amendment. Thank you. [LB436]

SENATOR MCGILL: The amendment is withdrawn. We're back to consideration of AM1032. Senator Harms, you are recognized. [LB436]

SENATOR HARMS: Thank you, Madam President and colleagues. I yield my time to Senator Giese. [LB436]

SENATOR MCGILL: Senator Giese, you are yielded 4:55. [LB436]

SENATOR GIESE: Thank you, Madam Chairman and Senator Harms, for the time. Just a couple of comments if I may. Over 40,000 fires annually as a result of no fault circuit breakers. Those are just some of the numbers that I've got. For your information some of the questions were asked before on statistics, over 40,000 fires annually. It's been talked about or mentioned before by some other senators that these are troublesome additions. They are not troublesome additions. These are part of the State Electrical Code that we are trying to update. Current schools, Northeast Community College is teaching the 2008 electrical code when they teach classes. And also, Senator Coash, I appreciate the concerns and your concerns with AM1199. But if we would adopt 11...if we would have and we can't now, but if we would have adopted AM1199, we would have been going backwards. And I don't think that's a direction that we want to go as a

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Legislature. And this is exactly the reason why the....why we as a Legislature should not decide portions of the Nebraska Electrical Code. The board is better at this and it should be made universal across the state. With that, Madam President, I will withdraw my amendment. [LB436]

SENATOR MCGILL: The amendment is withdrawn. Returning to debate on LB436, Senator Coash, your light is still on. Senator Coash waives his opportunity to speak. Senator Langemeier for a motion. [LB436]

SENATOR LANGEMEIER: Madam President, I move LB436 to E&R Initial...for engrossing, excuse me. [LB436]

SENATOR MCGILL: The question is the advancement of LB436. All those in favor say aye. All those opposed say nay. The bill is advanced. Items for the record, Mr. Clerk. [LB436]

CLERK: Madam President, thank you. Your Committee on Business and Labor, chaired by Senator Lathrop, reports LB267, LB552, LB629 to General File and LB628 to General File with amendments, those signed by Senator Lathrop as Chair. New resolution, LR98, by Senator Pankonin. That will be laid over. Senator Stuthman offers LB198A (Read by title for the first time.) And I have amendments to be printed: Senator Fulton to LB497 and Senator Janssen an amendment to LB497 to be printed. (Legislative Journal pages 1188-1190.) [LB267 LB552 LB629 LB628 LR98 LB198A LB497]

Madam President, I have a priority motion. Senator Flood would move to adjourn the body until Monday morning, April 27, at 10:00 a.m. []

SENATOR MCGILL: The motion before the body is to adjourn. All those in favor say aye. All those opposed, nay. We are adjourned. []