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Floor Debate
February 02, 2010

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the eighteenth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Father Brendan Kelly from the Blessed Sacrament Church here in Lincoln, Nebraska, Senator Coash's district. Would you all please rise.

FATHER KELLY: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Father Kelly. I call to order the eighteenth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Mr. President, a notice of hearing from the Natural Resources Committee, those signed by Senator Langemeier, as Chair. And I have an amendment from Senator Avery to LB190 to be printed. That's all that I have at this time. (Legislative Journal pages 415-417.) [LB190]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We'll now proceed to the first item under General File, LB200. [LB200]

CLERK: Mr. President, LB200, a bill introduced originally by Senator Janssen. (Read title.) Bill was discussed yesterday, Mr. President, at which time Senator Janssen opened on his bill and presented an amendment that was under consideration when the Legislature adjourned. [LB200]

PRESIDENT SHEEHY: Senator Janssen, would you refresh us on where we left off yesterday. [LB200]

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SENATOR JANSSEN: Thank you, Mr. President, members of the Legislature. I would like to start off by thanking the body for a good and respectful debate yesterday on LB200. We refrained from wild statements and stuck to the facts. I appreciate the safety arguments made, while I also appreciate the debate on personal freedom, individual liberty, and increased opportunities for Nebraska. At present, we are considering AM1644. This would eliminate the fiscal note by amending the proposal to include only motorcycle and moped riders and passengers over age 21. No cash fund impact will occur. There was never any General Fund impact at stake. I've had the opportunity to review amendments both offered and suggested between our last meeting, and intend to substitute a collection of those ideas for AM1644. It is a white copy designated AM1720. The substitute amendment would do four things. First, it would require all motorcycle and moped riders to wear eye protection. Second, it would restrict the choice of whether to ride...excuse me, second, it would restrict the choice of whether to ride a helmet...ride, a helmet at all times at all places and at all speeds to only those who are 21 years of age or older. Third, it would require proof of a \$1 million or greater medical reimbursement insurance coverage when registering a motorcycle. By paying the required registration fees, every person whose name appears on the registration of the motorcycle certifies that a current and effective liability and health policy will be in place. Fourth, it would establish a five-year sunset provision so that the Legislature can reconsider LB200 if they so choose. Essentially, I am working with senators who have come to me and asked for certain provisions to be added for their support to this. I'm respectful to their cause. I appreciate them coming to me and asking to work on this in a meaningful manner to make this a better bill and one more palatable to them. I intend to support this amendment, of course, with their ideas involved in it and would hope that the debate continues to stick to the facts like we did so great yesterday. With that, Mr. President, I'd like to substitute AM1720 for AM1644. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Janssen would like to withdraw AM1644 and substitute with AM1720. Without objection, so ordered. Mr. Clerk. [LB200]

CLERK: AM1720. (Legislative Journal pages 417-421.) [LB200]

PRESIDENT SHEEHY: Senator Janssen, you're recognized to open on AM1720 to LB200. [LB200]

SENATOR JANSSEN: I think I pretty well explained what AM1720 does and basically I just wanted to put myself out there to say I am willing to work with anybody on this bill in a meaningful way to allow this bill to pass. I think the fact that the motorcycle riders, moped riders out there, although no moped riders have actually come up to me, admitted to it just yet this morning, the motorcycle riders, while not happy about that, understand that. And what they're saying to me is, you know what, Senator Janssen, if you can get some people to come over to our side and say that this is the way we'll do

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it, we'll do it for five years, let us prove that what we're saying is true, let us prove to you that we will exercise our freedom and our choice in a reasonable manner, in a safe manner, and we believe, like the other 30 states, we should have that choice. And they think they'll do better with that choice from a safety standpoint. I know from a revenue standpoint, we'll get a chance to look back and see if the tourism has increased in Nebraska. I think it will. I think we'll be able to point to that in five years. I hope to be here in five years, and at that point in time I think we should look at repealing it or putting it back on the books. And that was something that was brought to me by Senator Price. We talked it over and I agreed to do that. Some of you may be familiar with the \$1 million medical reimbursement. This is very similar, if not exactly the same to what Senator Rogert ran two years ago when we last debated this on this floor. With that, I'll be happy to answer any questions that may arise and I look forward to a hearty debate. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. You have heard the opening of AM1720 to LB200. Members requesting to speak: Senator Rogert, followed by Senator Price, Senator Lathrop, Senator Gloor, Senator Krist, Senator Janssen, and others. Senator Rogert, you're recognized. [LB200]

SENATOR ROGERT: Thank you, Mr. President. Good morning, members. Day two of our maybe longest debate of the year so far. I fully expect to have another fun today with Senator Lathrop and some others. AM1720 is an amendment that I dropped on LB253 two years ago and it was adopted with 25 votes, and I believe that this is probably a good idea regardless. There have been many folks that have stated their concerns on what happens when the motorcycle rider crashes and they end up in the hospital and become a ward of the state. This provision requires that they have a minimum amount of insurance that will cover them, cover those costs for most of the time. It's one of those things we don't like to talk about but it's one of those things that happens, and it's one of those things that happens whether this bill is in place or not. Motorcycle crashes happen. Senator Lathrop mentioned yesterday, and I fully agree, that it is almost never their fault, almost never their fault. It's most of the time a driver that turned left and they hit the car on the side. Somebody didn't see the motorcycle, somebody didn't see the bicycle, somebody didn't see them and they turn and they hit them. So what are we doing? We're penalizing folks who want to ride motorcycles because the public is uneducated and unaware of their presence. If that were the case, we should be requiring bicyclists to wear helmets on the highway as well. We do not. I wear one. I ride a bike. I wear one. That's my choice. A lot of folks don't. We need to educate the public on the presence of these smaller vehicles. Senator Avery mentioned yesterday, he wanted to know what the public purpose was of this bill. I maintain to you that the public purpose of this bill is drawing a line in the sand where we stop to take...start to take away the freedoms of the people of the state. A couple years ago we put into place a smoking ban. A lot of us maintained--I voted for it, by the way--a lot of the folks in this room maintained that it was an infringement upon the freedoms of the

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citizens of Nebraska. The proponents maintained the reason that that was a reasonable law was that the effects of secondhand smoke on other people are proven. I can't see what the effect on other people of a motorcyclist not wearing a helmet is. That's the part that doesn't make any sense to me. It's also been asked, why does this keep coming back every couple years, for the past decade? Since it's been put into place in 1989, it's been on this floor, it's been a bill introduced into this Legislature every single year and it's been up every couple years. It seems to me that there's a large amount of everybody's constituency that wants it gone. And I'm here to fight for those folks that aren't in here that want to have their voice heard, every single day. I think we should have it lifted. I think we should look at the things that cause the state of Nebraska to lose money to our neighboring states. Yeah, this isn't what's putting us into a high-tax state, but it's this along with 20 other things that we continue to do that are different than our neighbors. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Rogert. (Doctor of the day introduced.) Mr. Clerk, do you have a floor amendment to AM1720? [LB200]

ASSISTANT CLERK: Mr. President, Senator Coash would offer FA60 to the Janssen amendment. (Legislative Journal page 421.) [LB200]

PRESIDENT SHEEHY: Senator Coash, you're recognized to open on FA60 to AM1720. [LB200]

SENATOR COASH: Thank you, Mr. President. Good morning, members. We've had a lot of talk over the last couple days about freedom. We've talked about personal responsibility. We've talked about economic development. Before I get to the floor amendment, I am going to talk about economic development for a moment. I happen to have grown up about 20 miles south of the South Dakota border in a town that intersected two major highways. Saw a lot of riders, but they weren't in Nebraska. They were going around. I can tell you, members, this does happen. And let me get back to my floor amendment here. I appreciate Senator Janssen bringing AM1720. The provision to add \$1 million of insurance coverage is a good one. I will tell you, members, that \$1 million is not enough. In my work with people with disabilities, I've worked with a lot of people who have brain injuries. Let me tell you what happens when you get a brain injury so you can kind of understand this. First of all, when you wake up in the hospital two or three days later, you may remember what happened, you may not, you may have an understanding of what happened, you may not, but your life is changed forever. And a week later the \$1 million coverage that you have purchased is gone. It doesn't take long to eat up \$1 million when you add surgeries and care. So my amendment, FA60, adds to the requirement of insurance for long-term care insurance, because once the \$1 million is gone and your life is changed forever, you need care. And if you don't have long-term care insurance, the taxpayers of Nebraska are going to pick up that cost. So I offer FA60 to remedy that. Long-term care insurance is not

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expensive. Whether you ride or not, you should have it. Whether you wear a helmet or not when you ride, you should have it. So I'm going to ask the members to support this floor amendment so that we can assist riders in their responsibilities, as we've talked about, not only to their families but also to the taxpayers. I believe this is a prudent move and I would ask the body's support of FA60. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Coash. You have heard the opening of FA60 to AM1720. Members requesting to speak: Senator Price, followed by Senator Lathrop, Senator Gloor, Senator Krist, Senator Janssen, and others. Senator Price, you're recognized. [LB200]

SENATOR PRICE: Thank you, Mr. President, members of the body. First and foremost, when I punched my light, that was after AM1720 by Senator Janssen which incorporated my desire to have a five-year sunset, and I just wanted to express my appreciation to Senator Janssen for being willing and open to that provision and I'll be waiting and listening to hear the debate on the long-term healthcare requirement that Senator Coash has now offered on the floor amendment. And with that, Mr. President, I would yield my time to Senator Lautenbaugh, if he should so desire. [LB200]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded just over 4 minutes. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Price. I do again rise in support of the underlying bill and I do applaud Senator Janssen for bringing his amendment. I haven't seen Senator Coash's amendment so I won't mention it. But I will tell you a story of an encounter I had last night. I ran into an old friend of mine, Gil Cohen, who somehow is involved in tourism promotion in Omaha, and some state people were up there trying to help Omaha with tourism, and what he said was, among other things, very few ideas he gave them but one of them was, but I do know two weeks a year where we're giving away millions of dollars by sending people around the state of Nebraska instead of through the state of Nebraska. And the interesting thing was the people he was speaking to knew exactly what he was talking about. The economic development aspects of this, that's not something that Senator Janssen dreamt up to try to sell you on an otherwise freedom-oriented bill. They're very real. We are forgoing millions every year by forcing motorcyclists to either bring a helmet or go around us, because a lot of them, I believe, opt to go around us. We can't afford to keep passing that up, especially now. We can't afford to leave aside economic development. I like the five-year sunset. Initially, I thought it wasn't a good idea, now I do because at least then we'll have some experience of our own to rely upon here. This bill doesn't tell people you cannot wear a helmet. It says you can forgo one if you choose to. And I worry. We've had this debate on a variety of things. Once we provide some sort of healthcare for people, we're suddenly able to control their lives. We argue it that way. The smoking debate: Well, we don't want to be stuck with the expense of those smokers

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so we should just make it as difficult for them to smoke so maybe they'll quit. Used to be a self-regarding choice. Senator Rogert started talking about secondhand smoke this morning. I think he was just trying to upset me and I won't rise to that bait. But the helmet law, this is the ultimate in self-regarding choices. And if we're going to say, well, we have a right to tell you what to do because we might have to foot the bill, that, my friends, never ends. You've heard people argue about fatty foods and unhealthy life choices like that, and we all roll our eyes and say it's absurd that anyone would try to regulate something like that. Well, there are absurdities going on all around the country regarding trans fats and whatnot. It's coming. And we need to ask ourselves if just because we're providing some measure of health insurance or covering some measure of health costs if we've actually bought ourselves. We all belong to each other now in one large collective. I don't think that's where we live and I don't think that's what we signed up for. You could argue about secondhand smoke if you want. It has nothing to do with this issue. Helmets are a very firsthand issue and we need to get out of these people's lives. The insurance... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President. The insurance provisions address some of those concerns but, at a core level, I find them offensive because we're requiring people to do these things in their own personal lives because we stepped into their lives and agreed to provide some sort of healthcare coverage and cost coverage. If that's a bargain, that's not the bargain I struck. And this is a good bill. It was a good bill two years ago. I don't want it to be a good bill next year. I want this to end. And I urge you to vote for the underlying bill, especially with Senator Janssen's gracious and thoughtful amendments, because I think they go a long way to addressing a lot of the voiced concerns here and at this point we need to let people be free to do as they desire in this area. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Lathrop, you're recognized. [LB200]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I'm standing in opposition to these amendments and again to LB200. I want to talk about these amendments first. The idea that we are going to make this all okay by requiring everybody to run around with enough insurance misses the point. It does make people okay with this and it does make you a little more comfortable with it, and I appreciate the thoughtfulness of my colleague Senator Coash, but what these...what these types of amendments do to these bills is it makes people okay. Well, the problem will go away. Everything that Lathrop is talking about, these people that are getting brain injuries, we're going to take care of them on the back side, after they get the brain injuries and with this requirement. The problem is, the problem is these people aren't going to carry this insurance. They're not going to keep it up. Most of the time in Nebraska people ride

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a motorcycle for about three or four months out of the year. The rest of the time they park it in the garage and they don't keep it insured. So the second year they ride the bike, they're not going to buy these policies. And the police aren't going to have any way to find them. Here's the reality of LB200. It isn't about the insurance and it isn't about the cost, okay? It's because we stand here today defending and representing people who don't know they're about to get in a motorcycle accident but we do, because we can look at the statistics and 600 people next year will be in an accident. And if we repeal the helmet law, half of them won't be wearing helmets by this time next year. And when they're not wearing helmets, they're three times more likely to get in an accident or get into an injury that will either leave them brain injured or cause them to die. And I'm going to tell you something about brain injuries. If you haven't been around someone who has been...suffered a brain injury, you would...you should before you vote on this bill. These aren't headaches. This isn't...we're not talking about a concussion. We're talking about a force applied to the brain with sufficient force to cause it to swell or to crack the skull so that the neurons are sheared and parts of the brain don't speak to other parts of the brain, and the human being we are now ready to give up for economic development is going to spend the rest of their life at Quality Living or a nursing home or in somebody's basement. The one thing, I've handed out the statistics, I've handed out the statistics and you should read them before you vote on this. They'll tell you, we'll have 600 accidents every year, motorcycle accidents, and half of those people won't be wearing helmets. And what we should do is imagine the families up in that balcony right there five years from now who come back and say, my son would have lived through this accident but for your concern over a helmet bill pitched as economic development. These are Nebraska families. We're consigning 50 kids a year, 50 people a year or more to brain injuries and death by repealing this in the name of economic development no one can quantify. It is bad policy. It is bad policy and we need to think beyond our tribes and our friends and who we like and who we work with on this floor and make good policy and talk about this. These amendments that require insurance are cold comfort to the families who will sit in that balcony five years from now with dead children and dead husbands and brain injured children they are taking care of. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LATHROP: This state doesn't have the resources to take care of the brain injuries that we'll see. I urge you to vote against the FA60, AM1720, and ultimately against LB200. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Gloor, you're recognized. [LB200]

SENATOR GLOOR: Thank you, Mr. President, members of the body. I want to express an appreciation for Senator Janssen to try and address what I have vocally pointed out, and that is there are dollars involved in this that we as taxpayers will be responsible for.

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I wonder if Senator Janssen would yield for a question. [LB200]

PRESIDENT SHEEHY: Senator Janssen, would you yield to Senator Gloor? [LB200]

SENATOR JANSSEN: Yes. [LB200]

SENATOR GLOOR: Senator Janssen, was there any formula that was used to come up with the \$1 million or, as you said, was this modeled after Senator Rogert's approach towards this several years ago? [LB200]

SENATOR JANSSEN: This was modeled exactly after Senator Rogert's. I spoke to Senator Rogert about it. And any formula that was put together, quite frankly, the formula was to get to 25. And I also, in looking over the floor amendment, I did talk to Senator Coash this morning about this, doing a lot of this on the way in to work this morning. But I'm supportive of his amendment, his FA60. Again, it's not my favorite thing in the world but I think I trust the riders of Nebraska enough to go through these hoops and, because they want it so badly, I will support it. [LB200]

SENATOR GLOOR: Thank you. That answers my second question. I do think Senator Coash's approach towards this is also a thoughtful approach towards trying to address some of the unintended expense here. Senator Lautenbaugh's discussion about individual freedoms is an appropriate reminder to us about using restraint when it comes to legislation that we pass here, but Senator Lathrop's comments are a quick reminder to me that after years and years and years in healthcare I can recall no instances where I had someone, in a lifetime of experience, of people who, because of smoking, because of not watching their weight, because of not paying attention to their blood pressure, ended up with debilitating illness or life-ending illness, and none of those individuals and none of those families felt they deserved to have that happen to them. And yet once they did, they all seemed to have a degree of recalcitrance. Healthcare is different. When you lose your health, you spend a lot of time reflecting on what you could have done differently, and you also, very quickly, throw yourself at the system: Somebody help me, I have something very precious to me, I now recognize; why didn't somebody tie me down and make me change my lifestyle? People just react that way. It's human nature. And healthcare is different and the health of people, whether it's trying to prevent injury to them through physical accidents, like motorcycle helmets, or trying to prevent injury to them internally, like smoking, healthcare fits in a different category because people lose the sense of independence the minute they lose their health for actions they take, and it's different. And it's different for their families. And they throw themselves at us in society and say, why didn't somebody do something and, please, somebody do something now. Although I like the fact that we have a dollar amount we're talking about here, I agree with Senator Coash. Even when it comes to long-term care, \$1 million is probably quite a shortfall, quite a shortfall. But more importantly, I still think there's a societal issue here. I don't think it's manipulative. I don't

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think it's yanking away individual freedoms. I think it's addressing the reality that when it comes to our health we have expectations that someone... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR GLOOR: Thank you, Mr. President. We have expectations that somebody should have done something, somebody should have parented us and somebody has got to help us, somebody has got to help us now. And they turn to us for that. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Krist, you're recognized. [LB200]

SENATOR KRIST: Thank you, Mr. President. I think the amendments that have been put up are thoughtful and I thank the senators and I thank Senator Janssen for bringing them forward. But my personal view is they're warm and fuzzy additions that make you feel good about something that the real issue needs to be asked, and the issue for me is personal liberties. I've heard the debate and it's been a thoughtful debate on both sides. Most of them are personal experiences in lifetimes. And there's nothing worse than following a trial lawyer because Senator Lathrop did such a great job of telling us about his experiences. But you know, life is about risk and it's about risk management. If you want to stay safe completely, surround yourself with pillows and stay in your bedroom because everything you do puts yourself at risk. I went to a homeowners' association last night. I conversed with several of the people who had sent me e-mails, not the canned e-mails but the e-mails that came and said please support, please don't support, and I'll talk about that here in just a second, but here's some of the things that I heard last night and it supports, I understand, my argument about a libertarian viewpoint--don't take my personal liberties away from me. But just hear them and realize that these are real people who are asking me the question so I can ask you the questions: What's next? Bull riders in a rodeo? Look at the statistics on people who fall off of a bull or a horse and have head injuries. Jet skis, Jet Ski riders, 70 miles an hour on water, you know what that will do to your brain? Snowmobiles, water-skiers, snow skiing. Sonny Bono is dead because he hit a tree without a helmet on. Flying, my personal favorite, are you going to require me to put a helmet on to go fly in an airplane with my daughter? It's risk management. I take every precaution I can, I do everything that I can, and then I make a personal choice. I make a personal choice to go out and do something. The argument has been made about seat belts. I think you need to separate those two things out. If you are driving a vehicle that's older than the Lee Iacocca--designed Mustang, most of those vehicles were designed with air bags and systems around them that if you don't have your seat belt on you're three times as likely to be killed. So the seat belt argument, besides the fact that it's the only federal mandated argument, should be dismissed. Seat belts are a whole different issue. I'll leave you with my favorite quote and it's been attributed to John Wayne and it's been

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attributed to a lot of...a lot of famous Americans but, you know, it's pretty straightforward: Life is tough; it's tougher when you're stupid. But it's everyone's right, as I've been reminded many times, to take a calculated risk, to (inaudible) risk management and do what it is that you feel that you can do. Now I've said that to my motorcycle friends: What are you doing riding without a helmet? And the response is, you know, today, for whatever reason, I decided not to do that. And you know what? That's their right. So far, I can guess...I can imagine that you will guess which way I am convinced to vote. I hope that...I will listen to the debate and I hope that someone has something that will tell me...something that I've not heard yet, but to me it comes down to one thing only and that's civil liberties. Thanks for your time. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on FA60 to AM1720, we have Senator Janssen followed by Senator Carlson, Senator Schilz, Senator Dierks, Senator Campbell, Senator Avery, and others. Senator Janssen, you're recognized. [LB200]

SENATOR JANSSEN: Thank you, Mr. President, colleagues. Again, the debate is going great this morning. I appreciate that. I did want to, although I already mentioned this, I do support FA60 added to AM1720. And I do agree with Senator Krist, it is warm and fuzzy to add to it financially. I certainly see that side of it. It really removes the state from the liability on this. If you want to take it even further, perhaps people driving cars, autos, should also have this extended policy because the cost is far greater to the state of Nebraska for brain injuries due to auto accidents than motorcycles, whereas, it's very obvious there are many more cars on the road than there are motorcycles on the road. So long-term care I think is a good idea for anybody, regardless if you're riding a motorcycle or a Jet Ski or a car. And I want to point out again, this is not a debate against the helmet. I pointed out several times I don't ride, I don't intend to ride. If I did ride I would wear a helmet. That's not what it's about. It goes back to my freedoms and my rights. I touched on it yesterday. Eighteen years old, I was fighting for my country, I was fighting for those freedoms, I was fighting for those rights, and at present 30 other states trust their citizens enough to give them the responsibility to make a choice on whether or not to wear a helmet or not. I want to give Nebraskans that same choice and I'm willing to do it for only five years so we can wait and see. Senator Lathrop and I respectfully disagree on what will happen. We do agree that there will be accidents and there will be brain injuries. I have never gotten into the fight on the healthcare aspect of this. I've simply stuck to the freedom issue and, oh, by the way, there is a revenue tangent or aspect to it as well. To the argument of they're not going to keep up this insurance, it's do-nothing, I don't buy into that. Will it happen? Yes. Does it happen right now with automobiles? Yes, people do it all the time. They go in, they get their liability insurance, they get their car registered, they walk away, they drop that policy. We have no way of chasing them down, at least no way that we have initiated to chase them down other than when we pull them over, ask for proof of insurance and find out that they no longer have the coverage. But to say not only to our motorcycle riders of

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Nebraska right now that we don't even trust you to make that decision, make the responsible decision when to ride with or without a helmet, but not only do we not trust you, we're also going to insinuate that you're going to deceive us and break the law that we put before you. So guilty without a trial to the motorcycle riders of Nebraska is what I just heard. I just heard that you were going to go in and deceive the government and that's why we should not vote for this bill. I don't buy that. In fact, I think motorcycle riders are among the most responsible of our citizenry when it comes to the Rules of the Road, and I think we can back that up. It was noted that accidents many times are not the motorcycle rider's fault, as Senator Haar pointed out yesterday, car turned in front of him. Right now I see ABATE, I just got an invitation to a motorcycle rally, not so surprising, by the way, I just got an invitation but it was about...not about the helmet issue. It was about safety. It was about share the road. It's safety measures. And I...grant me this. If this bill passes and we do a five-year...basically, it's a five-year study to see the effectiveness of this bill in Nebraska, I think and I feel that the motorcycle riders of Nebraska and surrounding areas, ABATE of Nebraska will mobilize one of the most proactive safety efforts... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR JANSSEN: ...that you've seen--thank you, Mr. President--and they'll do this because they know they have something they can lose now. They'll follow this. They'll track this. They'll be open about it. They'll be honest about it. They'll share with you their...what they have found out from their members, things that we need to do as motorists and as automobile drivers, things that we need to do that will educate us on the safety aspects of sharing the road with the motorcycle riders. This is something that's important to our state. I was honored last night to get a call from our Representative from the 3rd District. Representative Smith called me up, applauding my efforts. He thinks it's obviously a good bill. He ran it a number of years ago. Some of you are still here. He wanted to focus on the revenue aspects out west and told me if he could do it again, do it over again, he certainly would have touched on the freedom issue. I'm glad that's important to one of our Representatives out in Washington; it's certainly very important to me. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR JANSSEN: Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Senator Carlson, you're recognized. [LB200]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The longer we serve in the Legislature, I think the more opportunity we have to consider issues that are uncomfortable. This is an uncomfortable issue for me because I hear the

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argument for freedom of choice and I also hear the argument for certain injuries that will occur. I can tell you that prior to our session two years ago I had a young man and his parents come in to talk to me in my office at home about wanting me to support the repeal of the helmet law. So I sat at my desk and I thought to myself, okay, I'm going to put forward something that will probably take care of it and will allow me to vote against the repeal, so I said if you put \$1 million worth of medical coverage on yourself and any passenger, because I understand the freedom of making a choice to roll your head on the highway but, to be honest with you, if that occurs I don't want to pay for any of it. And so if you put \$1 million of medical coverage on you and any passenger that's with you, then I'll support the issue. And of course, Senator Rogert was carrying the bill and, to my surprise, that rider got put on as well as long-term care. And I voted for the bill. Now I'm back in the same position. And if these amendments become a part of the bill, I want to consider myself a man of my word and I will vote for the bill. I'd like to address Senator Janssen with a question, if he would yield. [LB200]

PRESIDENT SHEEHY: Senator Janssen, would you yield to Senator Carlson? [LB200]

SENATOR JANSSEN: Yes. [LB200]

SENATOR CARLSON: Senator Janssen, I think that my question has maybe been answered but I want to make sure with you. You've tailored this after the amendment that Senator Rogert had two years ago which is \$1 million worth of medical coverage on the rider and any passenger. Is that correct? [LB200]

SENATOR JANSSEN: Yes, I did. I tailored... [LB200]

SENATOR CARLSON: Okay. [LB200]

SENATOR JANSSEN: ...it exactly after Senator Rogert's and it was enhanced with FA60. [LB200]

SENATOR CARLSON: Okay. Thank you, Senator Janssen. I'd like to address Senator Lathrop. [LB200]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Carlson? [LB200]

SENATOR LATHROP: Yes, I would. [LB200]

SENATOR CARLSON: Senator Lathrop, you gave a very good argument in your 5 minutes on the mike. You handed us out...handed out some information to us, told us to read it. I'd like you to refer to page 3, if you would. [LB200]

SENATOR LATHROP: Okay. [LB200]

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SENATOR CARLSON: And that's got the pie chart there. [LB200]

SENATOR LATHROP: Um... [LB200]

SENATOR CARLSON: Nebraska cost estimate for motorcycle crashes in 2008. [LB200]

SENATOR LATHROP: I don't think I copied the backside of everything so... [LB200]

SENATOR CARLSON: Okay. Well, let me ask this. [LB200]

SENATOR LATHROP: ...I'm looking at it. Okay. [LB200]

SENATOR CARLSON: Okay. In that, in that chart there, type of crash--death; number, 20; cost per type of crash, \$1,130,000. Are you following me with those figures? [LB200]

SENATOR LATHROP: I'm trying to find it because I'm looking at my copy. Let me just reach over. Okay. Okay, I got it in front of me. [LB200]

SENATOR CARLSON: Okay. Death, 20; cost, \$1,130,000 for each crash. [LB200]

SENATOR LATHROP: Yes. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR CARLSON: I may know, but if we have a crash and somebody dies, why do we have all that cost? [LB200]

SENATOR LATHROP: Up right above the chart it says that they are including in that list of costs per crash productivity losses, administrative expense, motor vehicle damage, and employer costs. So it is broader than simply the cost of burying somebody or the medical care they have immediately before they finally pass away. [LB200]

SENATOR CARLSON: Okay. I understand that and I understand why you would bring that into an argument. I think it is important information from the standpoint of medical cost what that might be per crash. May change somebody's mind; it may not. I don't know if you have that information. If you do, I'm not asking you right now but I'd like to know what that might be. But... [LB200]

SENATOR LATHROP: The medical cost of care? [LB200]

SENATOR CARLSON: Yes. [LB200]

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SENATOR LATHROP: If you... [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR CARLSON: Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Thank you, Senator Lathrop. Senator Schilz, you're recognized. [LB200]

SENATOR SCHILZ: Thank you, Mr. President, members of the body. Good morning, everyone. Another day, another debate. (Laugh) I sat here yesterday and listened to the debate and it's been good on both sides. It's issues like these that really bring out the different philosophies and the different ideologies that people have and what they believe in and how it goes. I think that Senator Haar yesterday was exactly right. It is about priorities. And as I see it, the question comes down to is it between safety or freedoms, and can you look at it that way, and I think you can. And I guess I come down on the side of freedom. The question that I have for everyone is do you believe in the government or do you believe that a government can keep you safe, or is it just a perceived safety, sense of safety that you have when something gets put into place? Remember, if just...if we could just save one life, okay, apply that to anything, guys. I mean that argument is so hollow it...I mean, okay, sure, but you can't, and every one of us that gets out of bed every single day risks not getting back into bed that night, if you know what I mean. You might end up six feet under. Well, that's why it's called life and that's why, if you don't take those risks in life, you're really not living. So I believe...I believe in people. I believe that people know enough to make these decisions themselves. So, you know, as I look at this, that's where I come from. Back in, I think it was '89 when the first bill was passed, everybody talks about, you know, how much, how much we're going to save in insurance costs. Has anybody done the studies? Did insurance costs, when that happened, go down? Did they go up? I don't know. I'm just asking. My guess is they probably didn't. I mean I know for a fact that if you...that if you go out and you buy insurance and you say you ride a motorcycle, your insurance isn't any cheaper because Nebraska has a helmet law. It's not. So I guess...I guess the insurance companies don't look at it as a big deal either way. You get on a motorcycle, it's more dangerous inherently. It just is. But so is riding a Jet Ski probably, if you look at it. What's the difference? Oh, how about a horse? I ride a horse. Should I wear a helmet when I ride a horse? Probably so, but we're not required. So I look at this and I, you know, I'm willing to go along with some of these amendments here, but it is a big question of mine, is do we tell people every day or is it right for us to tell people, hey, you need to have this insurance or that insurance. I guess that's up for us to decide. But I think in the general thought here of mine is that, you know, let's move forward. Let's not become even more of a nanny state than we are already. Enough people tell me what to do every day, you know? I got enough of that going on. Let's not...let's not have our government coming down with heavy-handedness and forcing us to do stuff.

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Remember, even if this law is repealed that doesn't mean that it is not...that's it's mandatory not to wear helmets. I mean...and for education, that's what needs to happen. People need to be educated on these facts,... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR SCHILZ: ...not told what to do. Thank you very much. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Schilz. Senator Dierks, you're recognized. [LB200]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, we're talking about personal freedom, personal satisfaction. Personally, I think that personal responsibility trumps personal satisfaction. We're seeing amendments now to make a bad bill look better. Over the years, I've seen this happen so many times. The bad bills don't get better, folks. They're still bad bills. You can do anything you want to them with amendments but the bad bills are still bad bills. All those millions of dollars, that Senator Lautenbaugh was talking about, that we are losing do not justify the loss of even one life, not one life. Friends, this really is not a good bill. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Dierks. Senator Campbell, you're recognized. [LB200]

SENATOR CAMPBELL: Thank you, Mr. President. As I listened to the discussion yesterday, I thought one of the most interesting questions was Senator Avery's and that is, what is in the public interest? To me, what is in the public interest is the health component of this issue. I'm sorry but you cannot take it away. It has to be looked at. To me, the potential health costs outweigh the tourism argument and, to me, we have figures that should give us great pause about whether we should repeal this. All of us should have received a letter from the State Board of Health, and I would refer you to the second paragraph of that letter. The helmet law was instituted in Nebraska in 1989. Prior to that time, motorcycling fatalities averaged 24.8 per year. In the period from 1990 to 2008, fatalities averaged 11.05. Though the number of licensed drivers and motorcycle registrations in the state increased, fatal injuries from crashes have decreased. We don't need to wait five years to know what the figures are. We need merely to read the letter from the State Board of Health who has gathered these statistics. As a county board member, unfortunately, I saw firsthand what the cost to the taxpayer can be of a catastrophic accident. And while the accident was not motorcycle related, I would give you that, the citizen had no insurance. The citizen had few resources. The citizen was waiting for eligibility for categorical coverage. Who stepped in at that point to provide the payment for those costs was the county taxpayer through general assistance. We only need one of those to really know that the dollars that would be expended on such an accident will far outweigh the dollars that we get in tourism. I

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voted twice in committee against this bill and I will vote against the bill again. There are no amendments that can address and change the underlying public interest that is in this bill. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Campbell. Members requesting to speak on FA60 to AM1720, we have Senator Avery, followed by Senator Lautenbaugh, Senator Hansen, Senator White, Senator Rogert, Senator Nelson, and others. Senator Avery, you're recognized. [LB200]

SENATOR AVERY: Thank you, Mr. President. I've listened carefully to the debate about the economic development elements of this bill and I am unpersuaded. I don't think that we can show any clear and compelling evidence that bikers shun Nebraska. In fact, if I'm not mistaken, there is an annual biker rally that occurs in the Sandhills for bikers on their way to Sturgis. But I can tell you the type of bikers who do shun Nebraska. One of those groups of bikers is called the Sons of Silence. The Sons of Silence are part of what they refer to as the "one-percenters." Who are the "one-percenters"? The "one-percenters" are that 1 percent of bikers known to be lawless, known to be involved in drugging, distributing drugs, firearm violations and various other kinds of illegal activity. The Sons of Silence have chapters in Arkansas, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, North Dakota, and Wyoming. Why? They don't have helmet laws. The Sons of Silence don't like helmets so they don't spend much time in states that require that bikers wear helmets. You don't see Nebraska on that list. You don't see Missouri on that list. So I think that it's important for us to take a very good look at this and ask ourselves who are the bikers that are shunning Nebraska. Now I probably would agree that there are some who are so committed to not wearing a helmet that they will try to get to Sturgis without coming through Nebraska, but I would submit that that's not a large number. Because those who come to us from the south have to go through Missouri, because most of them are going to go up I-29, not because it goes through Iowa that doesn't have a helmet law but because I-29 is the most direct and fastest way to get there. But they have to go through Missouri. Missouri has a helmet law and they wear their helmets in Missouri. When they get to Iowa, they may take them off, I don't know. But I can tell you that there are groups that do shun the state of Nebraska and I think that if you look carefully at the kind of groups that do shun Nebraska you might be happy that the Bandidos don't spend much time in Nebraska, and the Hells Angels don't spend much time here, and the Mongols don't spend much time here, and the Sons of Silence and the Outlaws don't spend much time here. I'm not unhappy about that. I don't think you are either. I oppose this bill and I will continue to do so this year and next year and the next year, if I'm still here. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Lautenbaugh, you're recognized. [LB200]

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SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I had some comments written down and suddenly I had to hastily revise them. Thank you, Senator Avery. If Senator Chambers was here, he would sing "Somewhere Over the Rainbow," but I don't sing and I won't subject you to that. But now I understand the helmet law more clearly than I ever have before. It's an anticrime provision. So I would suggest that we throw an amendment on here that every time we parole someone we make them wear a helmet so they will flee the state and our costs will plunge dramatically. Folks, please, (laugh) I'm not even going to belabor that. The people who ride around the state are not all of the criminals we're worried about. They are good taxpaying citizens who don't want to be told what to do too. And I never anticipated that argument would come up and I'm glad it did right before I got to speak. One of the other arguments we heard was that we are standing here to protect those who don't know they need our protection. That's a good demographic to speak for because you can say anything you want and no one knows who you're talking about necessarily. That's the silentest of silent majorities. I don't presume to do that. I will speak for the people who need protection from us and they're pretty identifiable. They're everywhere. They are us. And we need to not be paternalistic and not think we can presume to treat our fellow citizens like children. This law does not apply to children. And how dare we stand here and say we're protecting people who don't know they need our protection. They're not asking for us to do that either, I don't believe, and I cringe when we go down that road. I made the economic development argument but this is not an economic development bill. That's one of its salutary effects, but that's not what this is about for me. It remains, at its very heart, a freedom argument and that's something I hold dear, as do we all in varying amounts. And I took Senator Gloor's comments to heart about how when people are injured they want to know right away why didn't someone protect me. Well, that's human nature for people to react that way in a time of tragedy. I don't think we want to base policy decisions on how people are thinking at a time of tragedy. I think we should catch us when we're normal, rational adults and when we can say, look, yeah, it might have been nice if someone protected me or, as Senator Gloor said, tied me down and kept me from doing whatever it is, but that's not what America is about. We don't tie people down and protect them from themselves, all other things being equal. And make no mistake, I think I said to the committee the other day the slippery slope argument is always invalid unless I'm the one who's making it. But I believe in this area it applies because we are sliding. Everything that relates to health in any colorable way some of us feel it's okay to regulate. And I mentioned fatty foods earlier and some of you may be thinking, yeah, you could use some regulation, Mr. Lautenbaugh, but there are cities that are doing that now, that are banning trans fats. Ten years ago did you ever think you would see the day that we would think that was okay in America, to tell people how to make food, for crying out loud? But it's a health argument and, by God, if you're going to have a heart attack and... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

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SENATOR LAUTENBAUGH: ...we have to pay for it, we have a right to tell you how to live. We've taken compassion, which is making sure that we take care of people who need our assistance medically, and turned it into, well, sort of a slide towards tyranny, I would argue. We don't live in a tyranny. We don't have a tyrannical government. But for crying out loud, if we're going to regulate food, if we're going to regulate adults wearing helmets, I'm not going to mention smoking again, but there has to be a point at which we say enough on some of these self-regarding activities. And because we've been compassionate enough as a people to provide some medical coverage doesn't mean we should be tyrannical enough as a people to presume that that means we can control the lives of the citizens in every possible way. And if we're worried about their food and we're worried about their helmets and we think we have a right to have some say in that, there are no limits anywhere anytime. We all own each other in some giant collective. [LB200]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lautenbaugh. Senator Hansen, you're recognized. [LB200]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I've not talked on LB200 yet but I thought it was time to stand up and speak my piece anyway. I do favor LB200 and I will vote for Senator Janssen's bill, and he has accepted some of the amendments that I have thought about and probably all right. The five-year sunset that Senator Price spoke about yesterday is fine. I won't be here to talk about it but there will be another group of senators here that will have a new view, and maybe the numbers then at that time may tell us something different. I think making it mandatory for all of those riders, new riders, young riders under 21 I don't think is all bad either, and I do think that some insurance should be probably...it should be required for all vehicles, all motorized vehicles no matter what they are, to a point. And then I'll get to the floor amendment in a moment. But there's a little bit of...we talk about a little bit of economics. We talk a little bit about safety. We talk a little bit about control. I think this is an issue of personal freedom and personal responsibility. And when we talk about the public good compared to the private good, I think the private responsibility and the private freedoms that we're losing in this country and in this state are becoming an alarm, and I think we should pay attention to those. I think it's important that we have the freedom to choose. We have the freedom to choose to be responsible adults. We are not repealing the helmet wearing. You can still wear a helmet. I've seen motorcycle riders wear the little skullcaps that provide very little help in the case of an accident, and I've also talked to one that says that they're probably not DOT approved. They may be made by a company named DOT in order to get that label in the back of their helmet, but it probably is not the best helmet to wear in case of an accident, but they are trying to abide by the law. I did see a DOT experiment with a new helmet, a new helmet design, and it was kind of another alarming thing to see that process where they put the weight of a head in a helmet, dropped it from a certain height to hit a block of steel, and it approached...when it hit that block of steel it was going 18 miles an hour. That's the

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only requirement for a helmet is that it provides protection at 18 miles per hour. So maybe helmets are a little bit overrated also. Helmets are heavy. They can cause neck fatigue, impair vision, and impair sound around the rider. I do...would like to ask Senator Coash, I did warn him that I was going to talk about the floor amendment, and I would like to ask Senator Coash a couple of questions if he would yield. [LB200]

PRESIDENT SHEEHY: Senator Coash, would you yield to Senator Hansen? [LB200]

SENATOR COASH: Yes, I will. [LB200]

SENATOR HANSEN: Thank you, Senator Coash. I think that we should all have the long-term care insurance, I agree with that, but not just for motorcycle riders. I think that that's too...you're picking out a group of people and picking on them and I think if it's more broad it would be better. Would you amend your amendment? You can't do it right now but later can we put cars in there too and can we put bikes? And I hate to do it, but I think we should have it on horses, too; anyone that rides horses should have that long-term care, and Rollerbladers. I mean I've seen some terrible accidents on Rollerbladers without, you know, kids that wear...that Rollerblade without the arm protection, elbow, knees, helmet,... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR HANSEN: ...the whole ball of wax, and snowboarders, snowboarders especially. I've seen some of the Warren Miller...I mean we don't have that big of mountains in Nebraska but snowboarders, Lincoln and Omaha have some hills and, you know, we should protect those people and those parents with long-term care insurance if their kids do snowboarding. Would you agree to all those too? [LB200]

SENATOR COASH: No, Senator, I wouldn't. [LB200]

SENATOR HANSEN: I thought probably not. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Hansen. Senator White, you're recognized. [LB200]

SENATOR WHITE: Thank you, Mr. President. This is one of those bills where I will divide away from many of the people who I ordinarily find myself in agreement, and it seems again reasonable to explain why I am taking that position. But before I do that, I want to tell you that I, like Senator Lathrop, have worked with head injury survivors, both mild, which can be completely devastating, causing divorce, bankruptcy, ruin, and it's a mild head injury, to profound. I would urge anyone who contemplates riding a motorcycle without a helmet to visit Quality Living. Quality Living is in my district. It's considered the foremost rehabilitation facility for people who have suffered head

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injuries. It is one of the most sobering sights you can see. If anything, Senator Lathrop understated the devastation. And yet, I will vote to repeal this law. On a broader, philosophical level, I find myself a believer in government and I will use government when problems that are too big for the individual confront society. And then I will use government aggressively to try to solve those kinds of problems that the individual cannot comprehend or make or cope with. And I'd ask you to contemplate something: Seriously, what makes life worth living? If it is that we do not want, as Senator Gloor who has spent his life seeing the consequences of bad decisions and wanting to prevent that because he has seen the pain they cause, but what caused those lives to be worthy of living in the first place? If we really are concerned about head injuries and really are concerned about medical bills, truly what we ought to do is ban motorcycles entirely. There is no good reason for a motorcycle other than it causes joy. They are far more dangerous than automobiles, whether you have a helmet or not. I ride a horse. I ride a hunter jumper horse, and that means...and he's 17 hands high so my head is about 12 feet off the ground before he jumps, and I put him over 4-foot jumps at a gallop--far more dangerous than riding a motorcycle. I do that because those moments give me great joy and meaning to my life. Does it make any sense? Absolutely not. Have I paid a price for it? Yeah, I have nine toes because I'm devoted to horses. It is essential to the American character that we find those things that give us joy. It's embodied in our inaugural documents. It's called the pursuit of happiness. And if you listen to that basic theme, which is a person needs to find a reason to wake up in the morning, and while that may lead me to a bad end on my horse or bad end on a chopper, that's what it's about. I get to decide, as an American, what it is that gives my life value. And it's not just a pursuit of happiness in the Declaration of Independence or it's not just found there. If you look at our national anthem, have you ever wondered why land of the free and home of the brave are put right next to each other? Because the first thing people will do that want to enslave a people, a government will do, is make them afraid. You make people afraid and they will trade away their freedom. If people are brave...and in bravery is a lot of foolishness, folks. I mean you can look back at Medal of Honor winners and it's pretty hard to tell... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR WHITE: ...if they were brave or they were crazy. But embodied in a free society are people who will take risks because they give them joy or because they believe they're important to some other cause. And we really creep over the line when we say the bitter experiences that I have seen and had to bind up those wounds, like Senator Gloor or Senator Lathrop, outweigh your right to seek joy and meaning in your life. I cannot tell you how much I respect what Senator Gloor and Senator Lathrop have seen. I have seen it myself. But I cannot vote to maintain laws that take away that essential American right, which is to define what is valuable to me even if you think it is foolish. Thank you, Mr. President. [LB200]

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PRESIDENT SHEEHY: Thank you, Senator White. Members requesting to speak on FA60 to AM1720, we have Senator Nelson, followed by Senator Fischer, Senator Harms, Senator Christensen, Senator Stuthman, Senator Karpisek, and others. Senator Nelson, you're recognized. [LB200]

SENATOR NELSON: Thank you, Mr. President, members of the body. We've heard a lot of wonderful comments here this morning, many of which I probably would have made but I'm not going to repeat them. I will have to say that up to this...up to today or last night, in any event, I was opposed to repeal of the bill, but I've had what we might call an epiphany. I have come to change my mind on this. Last night I spent a great deal of time going through the material that Senator Lathrop gave us yesterday and I think what we got this morning is pretty much the same thing. Two thousand nine there were 83,000 licensed motor drivers here in Nebraska; 53,000 registrations. Out of that number, there were 15 fatalities. That's .0018 percent. There were 600 injuries. That's .007. That's an infinitesimal amount of deaths and injuries compared to the number of riders, motorcycle riders, that we have. In the sixties, the government, federal government, mandated that we would have to wear helmets, or motorcycle riders wear. In 1976 the repealed that and a large number of states then, I think 27 in number according to this material, did repeal; so did Nebraska. In 1989, Nebraska elected to reinstate the motor helmet requirement or the helmet for motorcycles and, personally, I've come to view that as a mistake. There's not much detail in this material about the actual cost. They talk about \$22 million, but it's pretty hard to figure out how you arrive at that figure, and it also includes loss of income, disability, and all that sort of thing. But for me, it comes down, just as many others have said here this morning, it's a matter of individual freedom and responsibility. I voted for the smoking ban last year. That was a hard decision but I did so...or whenever I voted, when, maybe two years ago, I did so because of the harm that could be caused to others by secondhand smoke in the families. Here with the...in the case of motorcycle drivers, we may have 15 deaths and, yes, Senator Dierks, if we could avoid 1 death that would be fine, but out of those 15 deaths, probably half of them were caused with helmets on. You can't protect yourself 100 percent. And deaths are unfortunate but at least the death were brought on...the death in each instance was brought on by the irresponsibility of the motorcycle driver. They made that choice. Certainly difficult for their families and the grieving, and in some instances, yes, there's going to be permanent disability and a lot of expense. But, members of this body, that happens in a lot of situations, mainly in automobile accidents and use of poor judgment and speed and things of that sort. And so we have disability and we have deaths and we have grieving families. I don't think that's any reason to impose these requirements on motorcycle drivers, even though they're driving probably a more dangerous machine. I think that we should be able, in this instance, to live our lives as we choose, so long as we are not basically injuring others. I, too, am concerned about the increasing intrusion of the government into our lives. I think about the long-time employees of Enron who had all of their money invested in Enron and then you know what happened there. They were left with very little to live on. Should we

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then... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR NELSON: ...pass a law to say you've got to diversify, that you can't put all your money in just one stock or in bonds or in something like that? I don't think so. There are a lot of instances. I think it's time to repeal the law. I'm going to support LB200. I think it's good to have the amendment on, on the insurance. I'm not so sure about whether we need to go so far as to require that we have a long-time care insurance. I do have a question for Senator Coash perhaps. You said it wasn't very expensive. Would you yield, Senator Coash? [LB200]

PRESIDENT SHEEHY: Senator Coash, would you yield? [LB200]

SENATOR COASH: Yes. [LB200]

SENATOR NELSON: You said it wasn't very expensive. My impression is that as you get older it becomes pretty expensive, to the tune of perhaps a premium of \$2,000 a year or \$3,000. Now we have a lot of older motorcycle riders. Do you have any comment on that? [LB200]

SENATOR COASH: Yes. My understanding, a long-term care insurance premium is going to be tied to your age. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR NELSON: Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Nelson. Senator Fischer, you're recognized. [LB200]

SENATOR FISCHER: Thank you, Mr. President and members. This is the third debate that I have heard on this issue since I've been here, and I have not participated in previous debates but I felt the need to stand up and say a few things this year. First of all, if motorcycles are so dangerous, why do we even allow them on our roads? If riding a bike is so dangerous, are we going to require helmets for that? Are we going to require helmets for a lot of the activities that people choose to do because they enjoy them, like water-skiing, like snowboarding, Senator White with his horses? Where do we...where do we draw the line? Where do we stop on this? With all due respect to my colleagues, I've listened to the discussion about safety and I understand where you're coming from on that. I've listened to the discussion about cost and I understand where you're coming from on that. I've listened to the discussion on economic development and, believe me, I understand where you're coming from on that, because I have

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several counties along the border with South Dakota in my legislative district and I hear from my constituents on the need to repeal this bill so that my small communities can have some of those riders, those hundreds of thousands of riders that go to Sturgis, South Dakota, every year, to have them stop in Bassett and have them stop in Ainsworth and have them stop in Valentine instead of going a few miles north into South Dakota. But that doesn't have anything to do with this discussion, in my opinion, so we can bring up those points all we want. But what this boils down to, in my opinion, is philosophy and where each of us are with our philosophy on what is the purpose of government. And I believe in limited government. I believe in the rights of individuals. I don't believe that government can protect us on everything, nor should it. We have the responsibility to make choices in our life. We have the responsibility to use that God-given freewill to make those choices. So we can stand up and argue and discuss and debate this issue, but in my opinion it comes down to the role of government and where you believe government should be in the lives of the citizens of this state. We all take risks. I slid on the ice this morning walking over to the Capitol. We all take risks. But when do we take responsibility for those risks? Senator Lathrop mentioned that this bill is bad policy. I think our current law is bad policy. I think it's bad policy to continue to give government more say in our lives. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR FISCHER: So am I conservative? Yes. Am I a libertarian? Probably I'm bordering on it right now. But I think we should be careful in how much government we want and where we want it because, in my opinion, that is bad policy. I support Senator Janssen's amendments, I support this bill and I urge you to do the same. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Christensen, you're recognized. [LB200]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, I like this amendment to add the insurance requirements on it. I worked with Senator Rogert a couple of years on this. And at that point in time I said, you know, I got to have that to support this bill. You know, I'm not even there anymore. I support the bill with or without it. I do think it's a good addition to it. But again, as you're going to hear me say, I think there needs to be a lot of personal responsibility. You should put this on without being required by the state. You know, it's...I get tired of state and federal mandates that get shoved down onto us. Putting this insurance on there which, as I said, I was one of them that spoke adamantly for it two years ago. But I get tired of everyone telling me how I'm going to act, how I'm going to walk, what I'm going to do, and it gets difficult. Yet that's what we do as legislators. Unfortunately, that is what we do. We've got Senator Lathrop smiling at me. I know he's going to talk to me but, you know, that is what we do in this body and I think we need to think about this a lot. There is things that we need to require and I

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don't disagree with this insurance. I think it's a good thing. But at the same time, I think you need to have personal responsibility with what you're doing. I understand a lot of the wrecks are not due to the riders themselves. It's people that didn't see them, weren't paying attention, wasn't thinking about being on the road, and that's the sad part about it. But you know, if we're going to look at all the risks and why we want to require helmets, then we better look at the risks of the helmet. There's a lot more neck injuries, if you go look at the statistics when there are helmets on. There's a lot more fatigue. I've had a personal experience wearing a helmet because I thought it was good safety for me going down the highway. I was rubbing the sweat out of my eyes when I hit a hole. Almost wrecked. I was right near a bridge and a big creek. It would not have been pretty. And the whole issue was, I was trying to wipe the sweat out of my eyes, took my eyes off the road momentarily, and missed a pothole in the road. I don't know if you have any potholes in Lincoln and Omaha but there's a lot of them in western Nebraska. There's even a lot of severe cracks that can throw a bike, can throw an ATV. You've got to be watching the road all the time. So I just like to bring out some of the other things that we look at. You know, what all do we want to protect against? I know Senator Krist dealt with it, several others have too. But I'm going to tell you I've been at far more risk on a snowmobile than I probably have on a motorcycle, by my own choice. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR CHRISTENSEN: I have been at, I know, more risk downhill skiing because I love to race. I've hit trees. I've hit a number of things because I do go fast. But that's, again, my choice and that's on skiing and I sure don't want to wear a helmet skiing downhill, or water-skiing. Just a year ago on Lake McConaughy Senator Schilz's son and I both got flipped several times on the water. We had a new tube. Someone told us we couldn't flip it. But you know what, my wife was driving the boat and she flipped both of us. And I was pretty sore afterwards. And it could have been pretty dangerous. It could have caused a lot of harm. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR CHRISTENSEN: But it was a lot of fun and I'd do it again. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Stuthman, you're recognized. [LB200]

SENATOR STUTHMAN: Thank you, Lieutenant Governor and members of the body. As Senator Carlson said, you know, this is a very uncomfortable bill, kind of in an uncomfortable situation. But I have heard this bill, you know, almost every year that I've been down here. The thing about it is, you know, in the hearings that we had on this bill, there's one question that I have always asked. And the fact is it's in the information that

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was given to us by Senator Lathrop. And it is, you know, the helmet use decreased following the change of the helmet laws in Arkansas and Texas. And there it states, you know, that the fatalities in Arkansas increased by 21 percent, in Texas it increased by 31 percent as compared to the previous year. But that's only a part of the story. And I tried to get information to get more information. Yes, I am very concerned about, you know, the fatalities that had increased and stuff like that. But the increase in fatalities, you know, how many more registrations were there, how many more motorcycles were there on the road that year, how many more licenses were given to motorcyclists, how many more people had accidents? I want to know how many people had accidents that survived the accidents, what percent or how many more were there in...that had brain injury and were put in long-term care because of the repeal. Did that decrease because of the fact that the fatalities increased? That is the situation that I would like to have the information on. Yes, I'm very concerned about, you know, and I hate to see more fatalities. But were there more accidents? Were there more people with severe brain injury that needed long-term care? Or was that decreased because of the fact of the fatality? I have never, ever been able to get that information. It seems like this information is one-sided. They won't give you the rest of the story. Did those in long-term care, did that decrease or did that increase also? So, but I always say, that in order to make a good decision on some type of bill, especially like this one, you have to have all the information. And I was...I'm unable to receive all that information. So with that, you know, I do support the amendment and I'm not positive on the total bill yet at this time. But the fact is, I would like to get that information, you know, so I can make a comparison. I'm very sympathetic to the fact that there were more fatalities. But I'm also concerned about the fact that, you know, it's a personal freedom, it's a risk. Everything is a risk. And I'm probably in one of the riskiest businesses of anyone here, livestock feeder and farming. Very risky. So with that, if someone could give me that information I'd appreciate that. But I don't know if I'll ever receive that. Thank you, Mr. Lieutenant Governor. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Stuthman. Members requesting to speak on FA60 to AM1720 we have Senator Karpisek, followed by Senator Carlson, Senator Pankonin, Senator Krist, Senator Janssen, Senator Schilz, and others. Senator Karpisek, you're recognized. [LB200]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I would also like to echo Senator Stuthman's remarks. I'd like to know, too, how many more riders were there when we had an increase in fatalities. Maybe there were a lot more motorcycle licenses put out. I think that he's right on the money. We need to hear both sides of this argument, not just one. The main reason I got up to speak is on the sunset. I guess I don't know that that's a great idea, if that's what we have to do to try to move this bill over the finish line, I'm in favor of it. But since Senator "sunset" Pahls isn't here with us today, I thought I'd just do a little bit of sunset campaigning for him. It is a good idea to look at sunsets on some things, take a look at what they've done, what they can

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do. Again, I don't know that it's a great idea on this bill. Anybody could come in next year and try to repeal this law if we add it. Again, if that's how we need to move it over to the finish line, I'm for it. The personal freedoms issue is very big with me. Senator Lautenbaugh, I will bring up the smoking ban. Seems like every day in here we are taking rights away from someone or protecting someone and I'm getting very tired of it. The public good. Sounds a lot like a dictatorship to me, communism. I'm in favor of LB200. I don't think it's going to be the end of life as we know it. Let's give it a try. Let's see what happens. By God, maybe some of our small towns might even benefit from it. Maybe we can increase some tax revenues. I agree with the insurance part in the amendment. I agree with most of these things. Again, if that's what we need to get it over the finish line, I'm in favor of it. Mr. President, I'd like to yield the remainder of my time to Senator Lautenbaugh. [LB200]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded 2 minutes, 40 seconds. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President and thank you Senator Karpisek. We have had some very eloquent defenses of liberty here today. Senator Fischer, Senator White made excellent points. I can't hold a candle to that and I probably won't even try. I don't think...Senator Karpisek mentioned some sort of a slide towards communism or tyranny and so did I. For clarity sake, we aren't there yet. But the America that I know aspires to be quite the opposite of that, not on some slippery slope one way or the other. And again, if we're looking at regulating what we eat, regulating whether or not we individually wear helmets, regulating any of a number of things that used to be considered self-regarding acts and beyond the pale and beyond the reach of the state, well, we're heading in the wrong direction. And let me point this in yet another direction bringing it sort of back to the economic argument with a difference. If you are uncomfortable taking this step back and restoring this amount of personal liberty or removing this level of interference from individual lives, you aren't going to like the next two years, because we don't have any money. And next year we're going to have less, if you can have less than none, and we will. So I see this as a step out of an area where we should not be involved in regulating in the first place. And coming down the pike are a lot of stepping backs, if you will, withdrawing from areas where we shouldn't be involved as a government. This is one of those that doesn't come with a cost on the front end, a current cost unless you count the law enforcement cost. But it also comes with the lost revenue. The current law forces us to lose revenue. We can quibble about the amount but no one denies the effect. And again, I categorically reject that the people we're keeping out are the outlaw bikers that don't want to wear helmets. That was a remarkable argument this morning. [LB200]

SPEAKER FLOOD PRESIDING [LB200]

SPEAKER FLOOD: Thirty seconds. [LB200]

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SENATOR LAUTENBAUGH: Thank you, Mr. Speaker. This is a liberty issue at its very basic level. And it's time we started stepping back from some of these unwarranted intrusions in people's lives. We've offered to take out the financial cost to the state and that's still not enough. I would question then what the issue is. [LB200]

SPEAKER FLOOD: Time, Senator. [LB200]

SENATOR LAUTENBAUGH: Thank you. [LB200]

SPEAKER FLOOD: Thank you, Senator Lautenbaugh, Senator Karpisek. Senator Pankonin, you are recognized. [LB200]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. I obviously think we're going to be on this for a long time and I have enjoyed and appreciated the discussion and respect all opinions. There's been some wonderful speeches today and yesterday that I've sat back and thought about as much as I can because I may have been brain injured when I was seven, and I'll tell you about that in a minute. But anyway to talk about what Senator Krist brought up about risk management. This is kind of the direction I'm heading is, you know, we make choices here and which ones do we make, which ones are important enough for us to intercede on personal freedoms. The smoking issue was an easy one for me. For those of you that were here a couple of years ago I talked about both of my parents died at relatively young ages. I think smoking was a direct or indirect, no doubt about it, and I saw the collateral damage there and that was a relatively easy decision. This one is a little tougher. I think the statistics, whether it was the editorial in the Omaha World-Herald, or our State Board of Health letter, are important and I agree with those. But probably what means more to me is I've got two brothers-in-law that are doctors and both of them do surgery work. One is a general surgeon in the Oklahoma City, Norman, Oklahoma, area, does a lot of emergency room work. And I respect both of those individuals as friends but also respect their professional abilities and they have both talked to me about this one and have said this is an important one. Now when you measure relative risks, they've both ridden my Jet Ski. So apparently, they think that high speed on concrete or speed on concrete must make a difference in injuries that they've seen in operating rooms and emergency rooms. They've looked at those different risks and decided that this one is one that concerns them enough from what they've seen in their professional lives. So I think that has something to say about where I'm at on this one, because I think it is a higher risk because it's unlike on water. And I understand you can have these same type of injuries on horseback or a Jet Ski, but I think being on concrete, being between the white lines that we regulate is something that does make a difference. Now to my little own experience on a bicycle. When I turned seven, my birthday is in December, I received for Christmas that year a bicycle. That's many years ago and, of course, we didn't start out with small bicycles. They went right to the 24-inch or whatever it was, as

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tall as you were. And the weather had been bad and the first day that we could get out in our town of Louisville, it's got a lot of hills for those of you who have been there, was on New Year's Eve. And I rode my bike down one of the hills and had a fairly good sized crash, broke my jaw, knocked out all these teeth permanently, and went to the hospital. And when my grandfather from Sutton, Nebraska, came to visit me, he cried when he looked at my face. So I knew that it was probably pretty serious. And maybe that's why I'm brain injured today, I don't know, but...or could be. But anyway, I rode bikes again. I think I learned from the experience and whatever. But one of the other speeches on this floor that had an impact on me was Senator Utter talking about his experience, his battle with cancer several years ago. He had been a smoker and he had had...and I think he liked doing it. I think he stated that he really enjoyed smoking, but once he had that cancer battle, he had a different view. And I think we have a situation here where if there are a large number of people and you know what happens to their families and to themselves, you know, sometimes they would say, I wish you would have regulated us because we did so much harm to ourselves and collateral damage to our families and to... [LB200]

PRESIDENT SHEEHY PRESIDING [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR PANKONIN: ...our system that, you know, we would have made a different decision if we would have known the outcome because I think it is human nature to think and hope that it won't happen to us. So I know it's been kind of a roundabout way to come to a decision but I'm going to stay with my position that I had two years ago to be against this concept. I may vote for some of the amendments because I think there's, you know, there's good momentum on this floor for this bill and I do think that it probably adds some safeguards. But the concept itself, I'm sorry, I can't support. I think there's been a lot of great speeches back and forth, but it comes back to me with a couple of brothers-in-law that have seen these type of injuries. You know, they take risks in driving and some other activities, but they think this one is important enough that that means something to me. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Krist, you're recognized. [LB200]

SENATOR KRIST: Thank you, Lieutenant Governor. I just...back on the subject of life being tough and making our own decisions and the risk analysis that we go through on a daily basis to keep ourself and our families safe from harm. A lot of the discussions...a lot of the folks at the mike have introduced discussion that would imply that at some point in our life we would have wished that someone would have taken us aside and told us what was right and what was wrong. That happened to me. It's called family. It's called friends. It's not called government. That's still the way I stand. There's statistics

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on both sides and I just...to tell you what I think a slippery slope this might be, there were 351,922 sports-related brain injuries in 2008. And of those, bicycling and football, U.S. style football, not soccer, were at the top of that list. Do we need to regulate that? There were 20 percent of the boxers developed traumatic brain injury and that's as of September 2006 issue of the Archives of Neurology. We should probably have them wear their sparring helmets every time they get in the ring in the state of Nebraska. Three out of five equestrian accidents and deaths are the result of head injuries. That's Neurosurgery Today, 2007 edition. And as much as I hate to admit it, here in this ag state we enjoy the rodeo. Ninety-three percent of bull riders will suffer a brain injury in their career and yet the Professional Bull Riders Association is reluctant to do any sanction because of the history of independence in the sport. I'm not suggesting that not wearing a helmet is a smart thing. I've said it before. What I'm suggesting is that we cannot regulate every hazard, we cannot mitigate every risk. We need to draw a line some place. I'd like to yield the rest of my time to Senator Lautenbaugh. [LB200]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded just over 2 minutes. [LB200]

SENATOR LAUTENBAUGH: Well, thank you, Senator Krist. I actually wasn't prepared for that but, you know, why waste a time at the mike. And I do appreciate Senator Krist's clear, levelheaded comments today. If he could take it up a few decibels, he would remind me of a friend I used to have here in the body. I really appreciate the sentiments. Again, this is, at its very core, an issue about where we draw the line. How much intrusion is too much? And everything we do here every day is about drawing the line somewhere. What level of support do we give someone, what level do we tax some activity at, everything is about where you draw the line. And I think, and I will tell you and have told you, that when we drew the line and said if you're going to ride a motorcycle in Nebraska you have to wear a helmet, we were wrong. We were just plain wrong. We went too far. And don't mistake what I'm saying here. If I rode a motorcycle and it may surprise you to know that I'm not a biker, but I'm not, but were I, I would wear a helmet. And someone asked me but, Scott, you can't smoke a cigar with a helmet and I said, oh, contraire, if you don't have the face mask and use the goggles, you could, hypothetically, smoke a cigar while riding your bike, so that's good. But I would wear the helmet just the same... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LAUTENBAUGH: ...because it just seems like a risk that I'm not willing to bear. But that should be the end of the inquiry, whether or not I'm willing to bear that risk. We've added amendments to take care of the costs so what are we really talking about here? Again, I don't understand Senator White's passion for horseback riding. I'd probably be terrified jumping with horses. I wouldn't do it. I'd break my neck. But I would stand here and throw a fit if we tried to tell him he couldn't do it without a neck brace on

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or without some special padding or whatever because that's his choice and that's his right. And we used to understand that, more of us. And I think at some level we all do but we're just trying to decide where to draw the line. None of us here says freedom is a bad thing. I recognize that. None of us are bad people. None of us is a bad person, I should say, grammatically, correctly. But we need to err on the side of freedom. We always need to err on the side of freedom unless there's a compelling reason not to. [LB200]

PRESIDENT SHEEHY: Time, Senator. Senator Janssen, you're recognized. [LB200]

SENATOR JANSSEN: Thank you, Mr. President. I'd like to...again, the debate is great and I see both sides of this issue. I'm sticking with the freedom. I appreciate Senator Krist's comments, Senator Lautenbaugh's comments. I echo those. I also have spoken to the opponents of this and I see their side of it as well. For me it just comes down to a choice issue. I believe it's a little unfair to paint motorcycle riders as villains, Sons of Silence. It's the only thing that I kind of think we went off course with today by throwing one class of Nebraska citizens into a group and saying that because of the helmet law, we have gangs in Nebraska that do this bad thing, drugs. I heard several things pointed out that's just...does that happen? Possibly. Would it happen with or without a helmet bill? Yes, absolutely. So I don't think that really had any relevancy in this discussion but I appreciate the other things brought up during this. Senator White brought up a good point. He says he enjoys riding horses and jumping with horses and that's what he does for joy. That's what he has for pleasure. For some people it's riding motorcycles. I understand that that's enjoyable to them. I don't ride horses or motorcycles. I probably would wear a helmet if I did either one. But what's next? If you enjoy water-skiing, should we regulate that? Snowboarding? We could regulate that. Jet Skiing, certainly we could regulate that. As Senator Krist pointed out, flying, skydiving, parasailing, it just goes on and on. At the very core here we're voting about a personal freedom. And, oh, by the way, we've also added FA60 and AM1720 further insulating the people that have chosen this activity for pleasure, most probably do for pleasure, some do for transportation. It is less expensive to drive at least fuel wise with a vehicle...excuse me, with a motorcycle than it is a vehicle. Today I'd like to thank you for the thoughtful debate. I hope that you will support FA60 and AM1720 and, of course, LB200 when we get to it. I do appreciate certain senators that have reconsidered on this bill overnight and have looked at both sides and have decided that freedom wins out on this one, because that is a powerful message that we can send to all of Nebraska as their elected body that freedom has won out on the floor of the One Hundred First Legislature. And with that I yield the balance of my time. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Members requesting to speak on FA60 to AM1720 are Senator Schilz, followed by Senator Coash, Senator Lautenbaugh, Senator Flood, Senator Lathrop, Senator Gloor, and others. Senator Schilz, you're recognized. [LB200]

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SENATOR SCHILZ: Thank you, Mr. President and members of the body. I know we've gotten a little bit off track here, but given the opportunity I can only remember things for so long so as I get there I need to know about it. Senator Avery yesterday was asking about public good. In my neighborhood out there, out west, economic development when Senator Fischer was talking about the folks that would go through Valentine and Ainsworth, well, it's exactly the same out in Keith County and the Sandhills there north of my district. The riders will be there. The numbers will be there. Senator Karpisek said, you know, we are losing population in our small rural communities. We need to find ways to do this. I see this as one step to see if it works. But let's take a chance. Let's try it. So with that, anything that can help western and rural Nebraska economic developmentwise, we need to give it a try. And with that, I would yield the rest of my time to Senator Coash. [LB200]

PRESIDENT SHEEHY: Senator Coash, you're yielded 4 minutes and you're next in the queue. [LB200]

SENATOR COASH: Thank you, Mr. President. Thank you, members. I'm going to go back to the floor amendment, FA60. I want to let you know why I brought this. I reached out to people. I reached out to riders. I reached out to nonriders. Let me tell you what the nonriders told me. I don't care. Let them ride without a helmet. Just don't make me pick up the bill when they scramble their brains. So I bring FA60. This is an attempt to say, if you ride without a helmet, you scramble your melon, you don't have to worry about the taxpayers picking up the tab. I do want to address something someone said and they said, if you don't like this bill, it doesn't mean you're not for freedom. I don't buy that argument. If you don't like this bill it may mean you just think you know better. We all the time in this body think we know better. This is about drawing a line in the sand. How far do you go as a government to protect the people from themselves? I thought about that. And I think I have an answer. We draw the line and we protect people to the point where they need protection from the other people as far as it takes to protect me from your decisions. And I believe FA60 protects me from your decisions. Senator Lathrop mentioned, do we think of the families? And that is something I have thought about. My father is a rider. Let me tell you what this guy does. He rides 30 miles up to South Dakota border and then he takes off his helmet. Not a good decision. I know he's watching. I wish he'd put his helmet on. So this is a little bit of a self-preservation. I want to make sure he has coverage because if he scrambles his melon, I get to pick that up. So with that, I wish that the body, and my hope is the body will decide that FA60 is a good addition to the bill. I do believe that we can make this bill better even if we don't like it. And I do believe we can draw a line in the sand. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Coash. Senator Coash, you were next in the queue. [LB200]

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SENATOR COASH: Thank you, Mr. President. I'll call the question. [LB200]

PRESIDENT SHEEHY: There has been a call for the question. Do I see five hands? I do. The question before the body is, shall debate cease? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB200]

CLERK: 27 ayes, 3 nays to cease debate, Mr. President. [LB200]

PRESIDENT SHEEHY: Debate does cease on FA60. Senator Coash, you're recognized to close. [LB200]

SENATOR COASH: Thank you, Mr. President. Members of the body, I think I used the last time as my closing. So at this point, I'll request a call of the house and a roll call vote. Thank you. [LB200]

PRESIDENT SHEEHY: There has been a request for the call of the house. The question before the body is, shall the house be placed under call? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB200]

CLERK: 39 ayes, 0 nays, Mr. President, to place the house under call. [LB200]

PRESIDENT SHEEHY: The house is placed under call. All unexcused senators please report to the Legislative Chamber. All unauthorized personnel please step from the floor. The house is under call. Senators, please record your presence. Senator Heidemann, Senator Cornett, Senator Campbell, Senator Haar, Senator Loudon, Senator Ashford, the house is under call. Senator Conrad, would you check in. Senator Cornett, would you please check in. Senator Heidemann, please check in. Senator Ashford, the house is under call. Senator Coash, all members are present or accounted for. Members, you have heard the closing of FA60 to AM1720. There has been a request for a roll call. Mr. Clerk. [LB200]

CLERK: (Roll call vote taken, Legislative Journal page 422.) 30 ayes, 11 nays, Mr. President, on the amendment to the amendment. [LB200]

PRESIDENT SHEEHY: FA60 is adopted. The call is raised. We will now return to AM1720 to LB200. Members requesting to speak: Senator Lautenbaugh, followed by Senator Flood, Senator Lathrop, Senator Gloor, Senator Council, Senator Gay, and others. Senator Lautenbaugh, you're recognized. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President and as I've spoken amply, I would yield my time to Senator Council. [LB200]

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PRESIDENT SHEEHY: Senator Council, you're yielded just under 5 minutes. [LB200]

SENATOR COUNCIL: Yes, thank you, Mr. President and thank you, Senator Lautenbaugh. I had every intent of weighing in on this debate earlier but I inadvertently did not double-check to see that my button had been hit. So I'm here and I've had that opportunity to listen with great interest to the debate that has occurred on this subject. I must say I was first struck by the fact that some don't see the hypocrisy in debating the repeal of the helmet law when this body has declined to do so on numerous of occasions, yet take the position that we shouldn't consider repeal of the death penalty because the body has spoken before on this subject and there is nothing going to change. Yet we go...come forward year after year talking about the helmet law. I was next struck by the fact that some don't see the hypocrisy in supporting a smoking ban yet support repeal of the helmet law. Why does one personal freedom trump another when both purportedly involve harm to someone in addition to the person engaged in the activity? Well, with that said, I think there is a consensus that riding a motorcycle is an inherently dangerous activity. The dispute is over how to allow this activity. Because someone mentioned earlier, it's so dangerous, why don't we ban it. We're not considering banning it. So the question is, how do we allow this dangerous activity without unduly restricting personal freedom while protecting others from the cost associated with motorcycle injuries? I have listened to the arguments over which of these interests should prevail. Some are compelling, while some simply aren't. The least compelling of the arguments I've heard during this debate is that there is some tremendous economic cost associated with maintaining the helmet law. I am certainly not convinced that a great number of cyclists on road trips avoid Nebraska because of the helmet law or that those who do represent some significant loss of revenue to the state. Now I have traveled interstate highways across this nation, I-80, I-70, I-40, I-55, I-35, I-29, and I can't recall an occasion where I've seen a motorcyclist on a road trip that wasn't wearing a helmet. Now maybe on some of the smaller highways that may occur, but that certainly has not been my experience. I also question those who base their argument on statistics showing an increase in the number of motorcycle accidents after other states have repealed the helmet law. Quite frankly, I've wracked my brain trying to figure out what the relationship is between not having to wear a helmet and more motorcycle accidents. Does hair blowing in the wind account for an increase in accidents when there is no requirement to wear a helmet? I doubt it. I suspect rather that the increase in accidents is due to the simple fact that there are a great number of people who prefer to ride a motorcycle without a helmet. And when they are allowed to do so, more of them purchase motorcycles, more of them register motorcycles, and when that occurs, there is a corresponding increase in accidents because there are more people riding motorcycles. You can see that correlation... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR COUNCIL: ...in almost every instance. So does increased ridership on the

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other hand have a positive economic impact? I submit that it does. Simply, more registrations, more revenue. More motorcycles being purchased, more revenue. More gas being purchased, more revenue. Now let's look to the issue of helmets and head trauma. There's no question that if your head hits the pavement without protective head gear, you will more than likely suffer a brain trauma related injury, which will, in fact, require very costly treatment. However, we haven't really discussed the fact that if you hit the pavement wearing a helmet and not having any other protective body wear, you're still going to suffer tremendous debilitating injuries that are very costly. I recall hearing in previous debates...I believe it was my predecessor that said if we're serious about this... [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR COUNCIL: I think I'm next in the queue. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Flood, you're recognized. [LB200]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. I am supportive of LB200. I want to thank Senator Rogert. I want to thank Senator Janssen. This has been here for a while. And let me tell you why I'm supportive of repealing the motorcycle helmet law in Nebraska. And for all of us it goes back to who's in our district. And when I go to the American Legion in Norfolk and I meet with those men and women and I walk in and there are 15 to 30 motorcycles out in the parking lot, I'm talking to the very people that fought to defend the freedoms that I enjoy. I'm talking to the very people that have laid their life on the line, most literally, either at the American Legion or the VFW, to live in the country that we live in. They aren't "one-percenters," they aren't Hells Angels or Sons of Anarchy or whatever the latest show you're watching, Senator Avery, on A&E is. These are men and women that pay taxes, have grown businesses, and they've raised wonderful families. And this is something they enjoy doing. And most of them tell me that if they have the opportunity, they'll still wear a helmet but they want the right to choose. And they're the elders of a lot of communities in this state. We always talk about less government. I didn't support the statewide smoking ban. I didn't think government had a place to walk into a business and tell somebody how to run their business or who could or who couldn't smoke. But that issue is a little different. Even though I didn't support it, there was the issue of secondhand smoke. We're talking about an individual's own health here, compromising their own health if they don't wear a helmet. You can talk about brain injuries, and I will concede that is a possibility that is much greater and the risk is much greater without a helmet. But why don't we get rid of rodeos? I love going to three nights of rodeo at the Madison County Fair. I always talk to the EMTs that are standing by that usually take some cowboy unwillingly to the hospital. But we all love it. We all watch them. At least in rural Nebraska I'm pretty sure we make our fair share of rodeos a year. What about water-skiing? What about football with

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concussions? And they wear helmets. What about any athletic activity? What about getting behind the wheel of your car and driving home at the end of this week? You always take a risk. I'm interested in having discussions about a sunset on this to get the data for five years. I'm interested in talking about insurance. But at the end of the day, let's respect those folks in this state that want to ride without a helmet if they so choose. And I understand it's emotional and I understand that there are people on the other side, and I don't begrudge them. And it's hard for me to look folks in the eye that work in the Faith Regional emergency room, but I bet you some of those would never let their son or daughter water-ski given some of the injuries they've seen or rodeo, given some of the injuries they've seen. Is it our place? Do we have a seat at the table? Arguably, yes, on the other side. I think this is one where we can let the citizens decide whether or not they want to wear a helmet and I support their decision to make that choice. And I'm going to vote for this bill and I look forward to it passing. Thank you, Mr. President.
[LB200]

PRESIDENT SHEEHY: Thank you, Senator Flood. Senator Lathrop, you're recognized.
[LB200]

SENATOR LATHROP: Thank you, Mr. President and colleagues. There's been a lot of discussion since I was last up and I do want to take an opportunity to talk about a couple of subjects that have been brought up and some thoughts that I have. I don't know if you guys just noticed what we did, but in the name of personal choice and liberty we've just imposed a mandate for insurance. Right? So the bill mandates goggles, so apparently that one is different and the mandate of \$3,000 a year in coverage, \$3,000...no, you think these people are going to get \$3,000 a year coverage so they can ride their motorcycle for four months? You're not doing them a favor with this. We've just made a bad bill worse. There is a difference between trying to decide what we would let our son or daughter do. My daughter wants to get on a motorcycle, she comes to me and she says, you know, I'm riding with somebody, he's careful, I'll wear a helmet. That's different than making policy. When we make policy, we should look at those statistics. We should look at the fact that there are 600 accidents. And that we are going to allow more Nebraskans, a lot more, probably 100, 100 Nebraskans a year to get brain injuries and die so some people can have a personal liberty. I understand the personal liberty but for us to get there, we've now imposed a requirement that they wear goggles, that they get insurance most of these people can't afford. And, you know what, through this debate we've put the face of the motorcyclist as these guys up here. Right? The folks that are standing behind the glass and the guys that are up in the gallery and they're all middle-aged folks, right? But that's not who jumps on these motorcycles all the time. It isn't the vet up in Norfolk who jumps on the motorcycles. In my district, in urban areas, it's young kids getting on crotch rockets, right? They get on crotch rockets and the people that are going to get hurt will include daughters that took a ride home from high school. And if we want to know what will happen in five years, look at the information I passed out, what happened in Florida.

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The deaths and the brain injuries went up immediately. If you want to know what will happen in the next five years, we will add to the dead and the brain injured enough people to fill both galleries. And they will be people who are not paying attention to this debate today. They are people that have no reason to think their daughters might take a ride home with a young boy that doesn't have a helmet. And they are people that never expect this will happen to them. But we know as policymakers there will be 600 accidents and we will brain injure and kill 100 more people a year so that some, who may choose to wear helmets anyway, have that choice. As policymakers our role is different than as parents. We make a decision about what's good for our kids. As policymakers we can't ignore the fact that we have a certain number of accidents and a certain number of them will die or have brain injuries if we pass this bill. These people that we're talking about are not middle-aged people who have fought in wars. They are kids. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LATHROP: They are people that will jump on the back of a motorcycle for a ride. They are...I was driving down Q Street, which is in my district, the last time it was warm out, and I watched a kid on a motorcycle, one of those Samurais, the crotch rockets, do a wheelie down Q Street. Now do you think that kid...do you think his mom thinks that's a good idea? Do you think his parents think it's okay that he does that that they're delegating to this kid that he make this choice? What if he has a girl from high school on the back seat with him and he's giving her a ride home and trying to impress her? That the people who will die are not paying attention to this. The families who will care for the brain injured are not paying attention to us. They expect us to enforce and to enact good policy to take care of the safety of their sons and daughters. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Gloor, you're recognized. [LB200]

SENATOR GLOOR: Thank you, Mr. President and members of the body. I have enjoyed some of the discussion, some I found relatively filled with humor. I used to water-ski quite a bit, including slalom skiing and those of you who slalom ski know you can get up to pretty good speed with a single ski. I also used to Jet Ski and I have taken numerous tumbles both ways at what I would consider to be relatively high rates of speed. And to equate what happened to me when I fell off a road bicycle at 15 miles an hour to tumbling across the water at speeds of 35 to 40 miles an hour, I'm telling you there is no comparison. And yes, people may say you can't tell the difference but we can. But the reality is there is no comparison there. I do find that somewhat humorous. I also have noted that quite a few of the proponents are younger senators--and I would include Senator Lautenbaugh in that category also--younger senators who in their young lives I can see, as I almost would have to agree, felt bulletproof about injuries

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and things that could happen to them or their friends. And then all of a sudden Senator Nelson jumps up. And with all due respect to Senator Nelson, who I respect, he probably doesn't fit in the category of those senators. And certainly I know in discussions with him he does not feel bulletproof. I wonder if Senator Nelson would yield for a question. [LB200]

PRESIDENT SHEEHY: Senator Nelson, would you yield to Senator Gloor? [LB200]

SENATOR NELSON: Yes, I will. I managed to get out of my chair to talk with you. (Laughter) [LB200]

SENATOR GLOOR: Senator Nelson, I remember a specific beautiful spring night last year where you and I were out for dinner and I happened to have a very old Miata that I offered you an opportunity to drive around Lincoln. Do you recall that night? [LB200]

SENATOR NELSON: Yes, I do. [LB200]

SENATOR GLOOR: I have to tell you, Senator, you took to that Miata like a duck to water. I believe in another life you may well have been a bootlegger in the back roads of Kentucky. I was stunned. You broke the stereotype. However, Senator, you will recall we did attach seat belts, did we not when we were driving that Miata? [LB200]

SENATOR NELSON: Yes, we did. [LB200]

SENATOR GLOOR: And is that...is it safe to say that's appropriate minimum level of protection in riding in a vehicle like that or any vehicle for that matter? [LB200]

SENATOR NELSON: As I recall, your vehicle is a convertible, is that correct? [LB200]

SENATOR GLOOR: Correct. [LB200]

SENATOR NELSON: Well, then it was even more essential to have a seat belt on, yes. [LB200]

SENATOR GLOOR: And I would agree. The problem, Senator, when we talk about motorcycles is we do not have the option for seat belts. And, in fact, the minimum level of protection we provide in motorcycles is currently, under law, just a helmet. Under that context, do you think it wise to maybe reconsider your position on some level, some minimum level of protection that we seem to offer to all other vehicles? If we strip away helmets, there is no protection of any kind that I can recall that is available to motorcycle riders. [LB200]

SENATOR NELSON: If your question is, will I reconsider? I would have to answer, no,

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Senator Gloor. I've weighed the pros and cons there and still have to stand on the side of those who argue that we ought to let people choose and be responsible, and certainly people make bad choices. But I think this is where I have come down on and so in answer, I don't think I...you make a strong argument. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR NELSON: I'm not going to change my mind. I'm a water-skier too. I've ridden horses. I've taken lots of risks. It's a wonder that I'm standing here today in light of some of the things that happened to me. But I value the opportunity to take those risks. [LB200]

SENATOR GLOOR: Thank you. And I respect your stand. I know you've thought through this. And I would also tell you I appreciate your sense of humour in dealing with the questions I put to you and I would tell you, I'm not teasing when I tell you how impressed I was with your ability to maneuver that Miata, all the time maintaining speed laws, I would like to pass along to the wider body. But my point would be, there is a minimum level of protection we expect in most vehicles. We would strip away the only level of protection we provide to motorcycle riders were we to remove the helmet requirement. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Council, you're recognized. [LB200]

SENATOR COUNCIL: Thank you, Mr. President. And before I continue with the direction I was moving in when I was first on the mike, I must comment on the point that Senator Lathrop just made with regard to the amendment that was just passed. I did not vote for that amendment and I did not vote for that amendment because I didn't want anyone inside or outside this body to misread a vote that I would have cast on that amendment. And if you look at what the amendment provides for, it provides for long-term care insurance. For how long? At what level of coverage? That was, I agree with you, Senator Lathrop, the ultimate example of feel good that you add long-term care insurance that...I mean, I don't know how the Department of Motor Vehicles would determine whether the long-term care insurance certificate that is provided is adequate or sufficient. But moving past that, getting back to the point I was making when I was on the mike earlier, it dealt with the whole issue of head trauma. And I don't take that concern lightly. Brain trauma injuries are extremely debilitating, costly to treat. But I submit to you that a spinal cord injury that would result from someone hitting the pavement, wearing a helmet, and striking their spine the wrong way, we're talking about an inherently dangerous activity riding a motorcycle. And the point that we're talking about, the helmet, well, some may walk away thinking that provides some degree of comfort to their concern about brain trauma injury. But I submit to you that I don't believe that there's any greater likelihood of someone suffering a brain trauma injury

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wearing a helmet, without a helmet as wearing a helmet. And someone mentioned football. I think some of the senators have mentioned football. I watch football a lot. I used to referee football, refereed football for almost 13 years. And I've watched over those years safety improvements being made to football helmets. Year after year after year there are new improvements made to football helmets to protect the participants from brain injuries. Yet, if you watched football this last season, despite all of those safety improvements in football helmets, more and more and more and more athletes suffered brain concussions. More and more suffered concussions despite the increased safety improvements in helmets. And the people playing football aren't moving at 35 miles an hour when they collide, yet we still have concussions resulting from engaging in an activity wearing a helmet. So you get back to the point one of my colleagues made earlier, if you want to prevent any possibility of someone suffering a head injury from riding a motorcycle, you need to ban motorcycles. Because I submit to you that if your head hits the pavement, and you're going at any rate of speed, you're going to risk suffering some serious brain injury with or without a helmet. Now the discussion it seems to boil down to... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR COUNCIL: ...personal freedoms versus protecting the interests of others, particularly those in the state who may end up having to pay the cost of a debilitating brain injury suffered by a motorcyclist. While I do not agree that personal freedoms don't have to yield to the interest of government in some instances, I don't believe that this is one of them. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Council. Senator Gay, you're recognized. [LB200]

SENATOR GAY: Thank you, Mr. President. With that amendment that we just passed, if I were against this bill, which I am, I'd really be against it now because what I think we just did is we just added long-term care insurance to 53,171 riders, because you've just told them to get long-term care insurance and it's not cheap. I got a bill that I can't even pass to promote long-term care insurance. It's so expensive there's a credit to encourage them to do this. So I don't know how we're going to get this done. I don't see it. I voted against it. I was going to speak and we called the question, but I just don't know how you do this. How do you prove they have the long-term care insurance? We'd better look at that and say, where are we going to fit that in to make sure they have it? Do they get the policy, get it underwritten, which you do have to get underwritten in most cases, and then drop the policy after they get it? Because if you're going to ride a bike around here for four or five months maybe, and I know some do longer, it's expensive. Senator Flood talked about the good people. I think we all agree on that. There's a lot of good people. We can't pigeonhole somebody into a way. I've got good friends in their forties and fifties and they always...you know I told you that yesterday,

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they said, Tim, you know, we'd like that choice but, you know, whatever. We'd leave it at that and we'd move on. But now what I just told to my friends is, oh, by the way, you've got to go get long-term care insurance to ride your bike. Now they're really going to be upset. I guarantee you that. So I don't know the intent of that, if we can clarify this more or what we need to do. But I think we just did a disservice here. Now if there's more information on how this will be done, I'd like to hear it. But this is a simple...it's a simple...seems like a simple thing and it's not. Senator Carlson is not here but he knows what this requires. He's been helping me on long-term care bills and things like that. But I think we just did a big disservice here. So when we look at that and I get my facts from who is going to do that. I just looked in this book that you all have and last year in 2008 there were 53,000 motorcycle registrations. So now they got to go to their insurance agent, they got to get underwritten, and they got to go buy a policy. And the fact is, if you're going to buy long-term care insurance and they had any medical history that's bad, let's say it's an older rider and they can't get underwritten on insurance, you've just now, can they not ride a bike? So not only can they...they can't even enjoy riding the bike. This is a safety issue and I know we want to make this better and try to do some protections and make this feel better about a vote, but the fact is, it is what it is. You're either going to let them ride and take the risk that they will be safe, that they're not looking to get in an accident, we all know that. But now we've got this to deal with, so I think when we look into this a little more and it comes out, there may not be a fiscal note to us but there certainly will be to the public. So unless there's more information and anyone wants to give me more information how we're going to implement that, I'd like to hear it. Because what I think what you need to do now is look back and say, is this what I wanted to do for those riders? And I could be wrong. Check this out for yourself. But I just tried to pull up a quote on myself on long-term care, couldn't do it because you have to go through all these hoops to do it. But I will do that and see what it is. But as we age, those get more expensive. And then are they getting long-term care forever or they just getting a five year, are they getting home care, are they getting nursing home care? Because, you know, there's a lot to those policies as well. So what seems simple to make this a better bill I think just really hindered the bill in a major way. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Gay. Members requesting to speak on AM1720 to LB200: Senator Fulton, followed by Senator Janssen, Senator Utter, Senator Harms, Senator Sullivan, Senator Christensen, and others. Senator Fulton, you're recognized. [LB200]

SENATOR FULTON: Thank you, Mr. President and members of the body. I have been paying diligent attention to the debate, though not on the floor, I have been listening on the TV when not here on the floor. In the past I have been opposed to this repeal and if I had to take a vote right now I still would be. But the discussion has been fruitful for me personally and the amendments, I think, serve to lessen the blow. However, I want to point out something that I'm observing here in the body. And this is something,

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incidentally, that I observed the first day that I came into the Legislature. We tend to gravitate toward principles which each of us have found some familiarity with. It's the nature of being human beings. We go to that place most easily because we have gone to that place before. The arguments of personal freedom is on one side of this issue. The argument of the public good is on the other. Now the reality is that both of these principles need to be invoked because both of these principles are operative and that's why internally each of us is having some, oh, difficulty in coming to a given position because each of the arguments have weight. If you're honest with yourself, when Senator Janssen or Senator Lautenbaugh gets up and talks about the importance of personal freedom and the merit in fighting inordinate government intervention, if you're honest with yourself, you will be persuaded at least somewhat because there's weights to that argument, because there is some truth in that principle. Likewise, if you're honest with yourself, you'll see that there is some persuasion to be done when we're talking about the overall benefit to society of having this in place and not repealing it. That's what's occurring on General File. I'm observing this by paying close attention to the words coming out of individual senators and also having some knowledge, having been in this body now and worked with many of you fine people for a number of years, I know you. Now we have to get past the finding of principle and get to the creation of legislation. Now that last vote, the floor amendment, I was in favor of it. And I was in favor of it because the principle lessens the blow. In the event that LB200 goes forward, it lessens the blow to us who might be footing the bill...or footing the bill. That's why I voted for it. But I will tell you right now that Senator Tim Gay is right on the money. If we pass this bill in its present form, there will be chaos across the state when it comes to motorcyclists. I'm thinking now of my father who loves to ride his bike and in order for him to ride his bike he will have mandated long-term care insurance. My father is about 60 years old. It's going to cost him a lot of money. Now there's an interesting thing that I perceived here. I don't like mandates but I accepted this mandate because it lessened the blow of LB200 in the event that we repeal it. The irony here, the bitter irony, is that we would be repealing LB200 in the interest of personal freedom, but to get there we restricted personal freedom. Now I fully admit I voted for this but I submit to you that we have done this because we are grasping for principles. And this may not be...I may not have the stature to do this, but I implore you to get your principles. But before we move forward on this bill, if it indeed becomes law, we have a lot of work to do. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR FULTON: We do not talk about how much long-term care insurance nor how long, and other mandated insurances that have to do with driving on our roads do that. We have not talked about the effect that this has on bikers across the state. In the name of personal freedom we have invoked a mandate on a majority of people that we have not heard from. Let us bear this in mind. Now right now, I have to tell you that if we are able to invoke some of these principles that eliminate the fiduciary responsibility that I and others have to pay for an accident for someone that didn't have a helmet on, that

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makes the bill better. But right now in its form, we have a lot of work to do before this is ready to become law in the state of Nebraska. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Fulton. Senator Janssen, you're recognized. [LB200]

SENATOR JANSSEN: Thank you, Mr. President and members of the body. And thank you, Senator Fulton. We agree on a lot. Was I wild about FA60? I wasn't wild. Is there a lot of work to do? We agree on that too. There is a lot of work to do. There is some definitions to be explained. As we grasp...as you talk about, as we grasp for this, though, we need to work through those issues. Because it is, in the end, when you go all the way to the top, we get all through this, LB200 is a freedom issue and it's a very important one. And it's a very important message to send. Now we can have numbers thrown around and there are going to be a lot of numbers thrown around because that's what you do if you're against something, you throw around numbers. And I've done it and all of us will. Senator Gay threw out numbers. I've never shopped for long-term care insurance. I walked out to the Rotunda. One of the bikers here today told me, yeah, I have it right now, it cost me \$800 a year. I called down to my office, did some quick research. I said how much would it cost an 18-year-old? Said \$21.71 a month depending on your policy, how it goes. And there's some explanations that go with this on insurance. Am I not willing to look at this? Absolutely, I want to look at it. I want to look at long-term care. This is part of a five-year plan. I think that's very important in this amendment, which AM1720 has in it. This gives us five years to look at this. That does not mean we can't tweak it between General and Select, which we probably should. That does not mean we can't tweak it next year in the One Hundred Second Legislature or the second half of the One Hundred Second Legislature and it goes on and on. We see something, we change it if we don't like the effects of it, we change it back or modify it. We do that all the time here. But at the core of this issue is bikers who have been down here every year saying we want to exercise our personal freedom to ride on the highways, express our happiness in our activity and passions, something that we have joy in. Just like Senator White said, with horses. That's his particular deal that he likes. Water-skiing, you name it. I urge you to vote for AM1720 and urge anybody that meaningfully wants to work with this on me to vote it through General and we'll work for it on Select. And with that, I'll yield the balance of my time to Senator White. [LB200]

PRESIDENT SHEEHY: Senator White, you're yielded just under 3 minutes. [LB200]

SENATOR WHITE: Thanks so much. Thank you, Mr. President. Thank you, Senator Janssen. I would like to point out a couple of points on insurance and it may be that another amendment needs to be made. Senator Fulton is concerned that we have just laid on unfunded mandate on all motorcycle riders. Let's talk about a couple of possibilities. First of all, Senator Gay's position that this is very expensive insurance is accurate but it is driven by a lot of conditions that won't be associated with a motorcycle.

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Health insurance costs attached to auto policies are fairly common and relatively inexpensive, even though healthcare insurance has rocketed in cost. The reason is, they only have to pay for those conditions caused by the use of the automobile. They don't cover a heart attack. They don't cover a stroke. They don't cover cancer. Therefore, the risk is much lower and the cost is much lower. So if it is not clear, it needs to be made clear that the long-term care we're talking about would only be caused through the use of the motorcycle. It would not include the most expensive aspect of long-term care which is Alzheimer's. Alzheimer's is a huge driver of costs because people live a long time and they're healthy other than their mind is deteriorating. Well, obviously, that would not be borne as part of the risk of using a motorcycle. So if we haven't done it properly, what we need to do to make sure it's reasonable, is say, look, the med pay provision of a motorcycle policy shall include long-term health coverage and/or we could even say... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR WHITE: ...if the driver wishes the option of driving without a helmet, then the policy has to have this kind of insurance in it, giving the motorcycle operator the choice. You know, I always drive with a helmet, therefore, I don't have to buy long-term care. But if I choose to drive with a helmet, yeah, I'm not going to dump my risk out on the public. That's not what this is about. This is about me having the right to be responsible for my own decisions, including if they're a bad one. And so I do still support the concept. If we do need to tweak that, I support that as well. It should only be long-term healthcare caused by...need, caused by use of the motorcycle, not if I have a heart attack, not if I have a stroke, not if I develop Alzheimer's. And it should be very affordable under those circumstances. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator White. Thank you, Senator Janssen. Senator Utter, you're recognized. [LB200]

SENATOR UTTER: Thank you very much, Mr. President and good morning, colleagues. I have resisted for a considerable period of time over two days rising to discuss this issue, partly because I've discovered in this body a long list of surprisingly good orators who have been very persuasive and been very passionate, and I hated to show all of you, I ain't one of them. And I've got another problem. I have waited here very patiently for my seatmate here, Senator Rogert, to move his stuff away from here because I'm afraid that I'll probably slip in and out of my speech. (Laughter) Take it all. (Laughter) I guess for me, folks, and I'm looking at the Missouri Motorcycle Safety Program report that I've had access to and I think it's of fairly recent vintage, and I guess for me it boils down to the first paragraph of this report and I would just like to read it to you: Helmet laws reduce public payout. Helmet laws significantly reduce the strain on public resources. Unhelmeted riders cost more to treat at the hospital, spend a longer time in rehabilitation, are more likely to require some form of public assistance to

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pay for medical bills and rehabilitation. And I think that's boiled down to, with me at least, all through this discussion. I appreciate very much Senator Gay's admonitions with regard to the health insurance and Senator Fulton also added to that. And I think it resonates with me and I voted for that. I'm not sure I would do it again now after listening to those two presentations, because it is a mandate and it is a restriction on freedom and it is going to apply only to those who can afford it, depending upon where their age is and what the requirements are going to be. So we can talk about this personal freedom thing, I think, on both sides of this issue a little bit. And I guess for every individual it kind of depends on where we draw the line in the sand beyond which we don't think we'll go. And I've weighed this back and forth and I've had considerable help in my weighing decision by a great number of you in this body. And I guess for me it comes down to the fact that imposing additional costs on even helmeted drivers is a mandate, is an infringement on freedom, too, and I guess for me I'm going to have to come down on the side of not supporting LB200. Thank you very much. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Utter. Senator Harms, you're recognized. [LB200]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition of this amendment to LB200. I have done this for the fourth year. I'll continue to do it. I think Senator Gay is right on target when he says, quite frankly, we're going to have an issue with insurance and cost. And I listened to the argument about, well, the insurance is cheap, \$26. Well, what's the coverage? If it's cheap, what's the coverage? And most likely I've not seen anything at all in the insurance world that's cheap that's worth the paper that it's written on. So let's compare it. Let's find out exactly what those costs are, what the coverage are. If you have an accident, are they going to pull the insurance from you because it's cheap? I don't know what the answer to that is. But I want to share with you...first of all, I'd like to ask you the question, what are the people that you represent thinking about this issue? What are the people thinking of a district that you represent, the majority of them, what will they say to you when you go home in regard to the coverage...in regard to this issue? Let me share something with you. AAA of Nebraska did a study in 2004. I'm sorry it's not a later date. And they show that 87 percent of those questioned said, absolutely do not allow people to go without a helmet. Ask the question about, what do you think about making an adjustment in the age from 21 years or under? What do you think about that? And they said, absolutely not. These are the people that we represent. And I'll bet today if you did a survey and were to have a study, you're going to find the same thing. Let me give you another example. A study was done by the Lincoln Research Association and they said 79 percent, don't mess with it, leave it alone. It has an impact on our families. Folks, think about this. Think about what other people are saying. Think about the people that you represent. Nebraska is not there and I don't believe it would be to our advantage to pass this bill. We could do this and extend it out for five years. My question to you then is, after we do the analysis and the study, are we going to say, my there have been 25 or 30 deaths?

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Or there have been 150 or 200 major injuries? What do we do? What has happened here? And the fact that this is an economic boom, you got to be kidding me. I don't see in western Nebraska that helping us at all. I don't see it a major influence in money and in our economy. What are we talking about here? I think we need to think about this very, very carefully because quite honestly I don't think we belong here. This is a great public policy discussion, but think about the impact, think about what it does. Let me share just one quick one with you. I had a very good friend, motorcycle rider, coming back from the University of Nebraska, his daughter on the back of his motorcycle. Late at night, fell asleep, had an accident, severed his leg, threw his daughter into the borrow pit. She was still conscious enough to get up and see what happened to her father. His leg was severed, he was bleeding. She put a tourniquet on it, she flagged down a truck. We were fortunate that they were able to airlift him to Regional West to save his life. And when I talked with him I asked him about his experience. He said, you know, I was fortunate, John. I may have lost my leg but I didn't have brain injury. I still have an opportunity for my family. I can still be able to raise my daughter. I can still provide income for them to go to college. I still have a family. I'm still able to do the things I want to do. I was fortunate. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR HARMS: What I'm asking you to think seriously about this, don't fall asleep on this issue of five years from now we're going to evaluate it. Think about what's going to happen in this whole term with the people that are going to not wear these helmets, people that will defy that and just do what they want to do with it. I think it's the wrong thing to do, and I would ask you to think about the people that you represent. Be very careful that it's not a small segment. If we can find another study that's been done, you know, I might change my views here. But I think you can draw an inference from this. I think you can tell that the people that you still represent still feel the same way. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Sullivan, you're recognized. [LB200]

SENATOR SULLIVAN: Thank you very much, Mr. President and colleagues. We have certainly been on a journey this morning. I suspect it has been a journey of trying to change our minds. But we in the process, oh, it's a tangled web that we weave. I voted against that floor amendment in part because of Senator Hansen's comments. I thought we were singling out one entity in requiring them to have long-term care insurance where there are others we aren't requiring. And then I'm finding in further discussion that it's even more tangled than that. So I think this complicates the entire bill and I would assume that in this whole journey and process that we're going to untangle that just a little bit. I wasn't here when this bill was presented in other sessions. This is my first experience with it. I don't like motorcycles. I don't like to ride them. It was just

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common sense to me that you would wear a helmet. Duh. And common sense is what I always try to interject in the process of my decision making with bills such as this or any legislation for that matter. I look at statistics. I look at information that's presented to me. I look at personal experiences. You look at statistics that probably can bore out feelings on either side of this issue. I look at situations that have happened in my district. In fact, one stretch of highway between Cedar Rapids and Primrose was the site of two very awful motorcycle accidents. One ended in a fatality. The other, interestingly enough, the couple was riding on their motorcycle and hit a deer. Obviously, the deer was killed. Fortunately, the people riding it weren't. You can take...move the statistics either way you want in these situations, so I use those statistics and circumstances only in part for my decision making. I don't like to put a dollar sign on this conversation either. And while I have seen in my district, I think, a great increase in the number of motorcyclists enjoying riding bikes, I looked in the file and interestingly enough I haven't had a lot of them weighing in one way or the other. The ones that have, have been in full support of the repeal of this legislation. So I'm taking all of this in. And you may have suspected from my earlier comments that I would be not in favor of this legislation. As I said, I wasn't in favor of the floor amendment for the reasons I mentioned. But I am rising in support of the repeal of the helmet law because at the end of the day, I have decided that government cannot be everything for all people and we have a government by the people and for the people and we balance that and I've decided that this legislation does that. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Sullivan. Senator Christensen, you're recognized. [LB200]

SENATOR CHRISTENSEN: Thank you, Mr. President. You know, I think it's easy to believe that helmets are safe because we're conditioned to believe that at a very young age. We see football players, race car drivers, bicycle riders all wearing helmets so we perceive they're safe today. I can tell you from personal experience having my own son playing football take a very severe concussion with a helmet on. Helmets don't create safety. Motorcycle helmets have no statistical significant effect on the probability of a fatality. If you go look at some of these studies, helmets reduce the severity of head injuries, or that the past critical impact of speeds of 13 miles per hour, helmets increased the severity of neck injuries. There are so many ways that you can interpret and look at this information that is given to us from different studies. You know, a lot of people go back and quote the Hertz study and that's where they started this requiring helmets. But literally, if you're driving much speed at all, you don't need the...helmets become less and less valuable. You increase neck injuries and other things. I think there's a lot of things I'd like to draw on here but at this time I'm going to pause and hold the rest of mine for tomorrow and yield my time to Senator Janssen. [LB200]

PRESIDENT SHEEHY: Senator Janssen, you're yielded just over 3 minutes. [LB200]

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SENATOR JANSSEN: Thank you, Mr. President. Thank you, Senator Christensen. I can certainly echo some of the words that you were speaking to earlier. I was on that boat that Mrs. Christensen flipped the inner tube over this summer at Lake McConaughy and it was kind of funny to watch Senator Christensen go flying through the air at that particular time. He came out unscathed, however. We kind of shifted the debate here and I think we're getting caught up in this insurance aspect of FA60. Certainly, there's some work that needs to be done with that. There's some interpretations that need to be done with that. I agree with Senator White. I'm going to be working on this overnight. I'm going to be working with Senator Coash. I've spoken to him. I've spoken to others to nail this down exactly what we're doing with FA60, and even the relevancy of having it in with AM1720. It's my understanding that nothing's off the board yet. But I'm not going to sit here and tell you that I don't want this to pass through to Select File, but I do want to clean it up as much as I can. I think I owe that to the people that have been supportive of me, that have been on the fence for this, to clean this up on General File and to move it forward to Select as clean as we possibly can. And that's going to be my goal for tonight is to get that done. And again, I want to work with anybody meaningful in this debate, anybody that meaningfully wants to come to me to work on this to make the bill better. I think Senator Coash was on to something. Sometimes we move a little quick and there's some unintended consequences and this is the time to look at it and we're going to look at it. I saw insurance numbers all over the board. We've all become insurance agents here this morning, late this morning, on how much it cost. And I've heard varying ranges for this or that. What types of policies are available. Frankly, I don't know. Never applied for it. Don't even ride a motorcycle as I've pointed out many times. That said, there should be some additional assurances, I think. I've agreed to put it on to LB200 that they will have the insurance similar to Senator Rogert's bill. I'm good with that. It may be unfair to riders. Riders have said, yes, they want to do it. I don't think the riders would be as excited about FA60 and I don't blame them. I wasn't excited about it either and that's why I think we need to look at it and possibly even take it off. But I still urge your support of AM1720. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR JANSSEN: Thank you, Mr. President. I'll come back tomorrow morning. I'm not sure where we're going to take up debate on this. Again, though, I appreciate all the debate on this. And, again, I just want to bring it back to a freedom issue and anything we can do to clean up, I'm open. My office is open to you. Thank you very much, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Thank you, Senator Christensen. Mr. Clerk, do you have items for the record? [LB200]

CLERK: I do, Mr. President, thank you. Your Enrollment and Review reports LB743, LB871, and LB749 to Select File. Your Committee on Government, Military and

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Veterans Affairs chaired by Senator Avery reports LB686 to General File with committee amendments. General Affairs Committee chaired by Senator Karpisek reports LR277CA to General File. And Health and Human Services Committee chaired by Senator Gay reports LB146, LB214, LB247, LB291, LB319, LB444, LB519, LB541, LB590, LB610, LB656 and LB790, all of those reported indefinitely postponed. Appointment letter from the Governor, an appointment to the Public Employees Retirement Board. New A bill: (Read LB650A by title for the first time.) Senator Ashford offers LR308; Senator Coash, LR309. Both will be laid over. (Also Senator Avery has an amendment to LB200.) Name adds: Senator McCoy to LB88; Senator Lathrop LB571; Senator Langemeier, LB696; Senator Fischer, LB697; Senator Langemeier, LB751; Senator Pirsch, LB752; Senator McCoy, LB762; Senator Avery, LB826; Senator Pirsch LB890, LB891, LB892; Senator Langemeier, LB912; Senator McCoy, LB966; Senator Coash, LB1103; and Senator Krist, to LB1103. (Legislative Journal pages 422-426.) [LB743 LB871 LB749 LB686 LR277CA LB146 LB214 LB247 LB291 LB319 LB444 LB519 LB541 LB590 LB610 LB656 LB790 LB650A LR308 LR309 LB88 LB571 LB696 LB697 LB751 LB752 LB762 LB826 LB890 LB891 LB892 LB912 LB966 LB1103 LB200]

Mr. President, a priority motion. Senator Flood would move to adjourn the body until Wednesday morning, February 3, at 9:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Wednesday, February 3, at 9:00 a.m. All those in favor say aye. Opposed, nay. We are adjourned.