

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

Floor Debate
February 10, 2010

[LB106 LB200 LB226 LB650 LB650A LB696 LB698 LB706 LB721 LB722 LB726 LB731
LB738 LB743 LB749 LB766 LB791 LB798 LB814 LB828 LB841 LB871 LB890 LB893
LB972 LB987 LB1103 LR271CA LR276CA LR286CA LR317]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-fourth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Senator Stuthman. Would you all please rise.

SENATOR STUTHMAN: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Stuthman. I call to order the twenty-fourth 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, your Committee on Enrollment and Review reports they've examined and engrossed LB226, LB650, LB650A, LB698, LB721, LB722, LB731, LB738, LB798, and LB814, all those reported correctly engrossed. Revenue Committee, chaired by Senator Cornett, reports LB972 to General File with amendments; LB893, LR271CA, and LR276CA indefinitely postponed. Health and Human Services, chaired by Senator Gay, reports LB706 to General File, LB766 to General File, LB726 to General File with amendments, and LB828 to General File with amendments. Natural Resources Committee, chaired by Senator Langemeier, reports LB696 to General File with amendments attached. Transportation Committee, chaired by Senator Fischer, reports LB841 and LR286CA to General File. Notice of hearings from Health and Human Services Committee, and a confirmation report from the Health and Human Services Committee. That's all that I had, Mr. President. (Legislative Journal pages 509-517.) [LB226 LB650 LB650A LB698 LB721 LB722 LB731 LB738 LB798 LB814 LB972 LB893 LR271CA LR276CA LB706 LB766 LB726 LB828 LB696 LB841 LR286CA]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. We will move to first item under General File, 2010 senator priority bills, Krist division, LB200. [LB200]

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CLERK: Mr. President, LB200, a bill originally introduced by Senator Janssen. (Read title.) The bill has been discussed on the floor as recently as February 3. Prior to a motion to bracket, there had been a motion to reconsider a Senator Coash amendment. That motion to reconsider prevailed. Pending to the bill at this time, Mr. President, is Senator Janssen's AM1720. [LB200]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Janssen, would you like to brief us on the base of LB200 in your amendment, AM1720. [LB200]

SENATOR JANSSEN: Thank you, Mr. President. Good morning, colleagues. I never wish ill will on any of my colleagues, but if there was a day for one of my colleagues to call in sick today, I was hoping Steve...Senator Lathrop might feel that today, but (laughter) I see he has made it here today once again. LB200 is a proposal to repeal the mandatory motorcycle helmet law in Nebraska for insured adults, 21 years of age or older. Last week we had a good and thorough discussion on the merits of this idea. Freedom, liberty, tourism, responsibility, we discussed all those topics at length. I have worked since February 3 with supporters and opponents to reach a good compromise on LB200. I have introduced and intend to substitute AM1796 to put the results of that work before us. So again, I have already introduced AM1796 and I hope to replace AM1720 with AM1796. I'll continue on with what AM1796 would do. It would do four things. It would require eye protection for all motorcycle and moped operators and passengers. It would require all persons under 21 to wear a motorcycle or moped helmet. [LB200]

PRESIDENT SHEEHY: Senator Janssen, we will wait until we take official request to make the change from...to substitute AM1796 with AM1720. So if you want to...do you want to move forward on that? [LB200]

SENATOR JANSSEN: Yes, absolutely. [LB200]

PRESIDENT SHEEHY: Mr. Clerk. [LB200]

CLERK: Well, Mr. President, then AM1720 is pending. Senator Coash, I understand you want to withdraw the amendment that was reconsidered. Is that right? [LB200]

SENATOR COASH: Yes, Mr. President, I'd like to withdraw FA60. [LB200]

PRESIDENT SHEEHY: FA60 is withdrawn. [LB200]

CLERK: Mr. President, Senator Janssen would then request that AM1796 be substituted for AM1720. [LB200]

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PRESIDENT SHEEHY: Without objection, so ordered. [LB200]

CLERK: Senator Janssen, AM1796. (Legislative Journal pages 518-519.) [LB200]

PRESIDENT SHEEHY: Senator Janssen, you are recognized to open on AM1796. [LB200]

SENATOR JANSSEN: Thank you, Mr. President, colleagues. Sorry for getting a little ahead of myself. Getting pretty excited this morning about the whole issue. Again, I'll go back into AM1796. Like I said, I met with many opponents and supporters of this bill to get ideas and compromise. My goal was to put a clear bill in front of you. AM1796 essentially becomes LB200. Going through it again, it requires eye protection for all motorcycle and moped operators and their passengers; requires all persons under 21 to wear a motorcycle or moped helmet; requires persons who are 21 and over and not, I repeat, not wearing a helmet to have a current and effective medical reimbursement insurance coverage of not less than \$1 million and have proof of the insurance with them while operating a motorcycle or moped. And again, as indicated before, in working with my colleague Senator Price, I agreed to the sunset provisions of LB200 in 2016. I believe this gives us a good and thorough look and gives us a chance to basically prove that Nebraska riders are more responsible riders than possibly their peers in other states. I think this is a good compromise. We are providing adult insured motorcycle riders with the option to wear a helmet. It's important to point that this is an option for them. Again, nothing against the helmet, they can still wear the helmet. This is not an undue burden on those that choose to still ride and have a...and ride with a helmet. Before the argument was now you're punishing riders that if this law passes they still have to carry this additional insurance. That is no longer the case. If you are under age 21 or do not carry a health insurance policy for yourself and your passengers, you and your passengers simply have to wear a helmet. This is not a health insurance mandate. We're talking about health insurance, a lifetime cap on health insurance. Mine is...I met with Blue Cross Blue Shield. They have policies of \$2 million, \$5 million, and \$10 million lifetime caps. Many are unlimited in the caps. There are very few policies that are less than \$1 million and if somebody has a policy of less than \$1 million they simply must wear a helmet, although those are very rare and don't exist in some states at all. Medical reimbursement coverage is standard health insurance that most Nebraskans already have. This is not a rider. This is not an umbrella. This is not long-term insurance that we threw around here last week. This is very straightforward and very simple health insurance that most of us have. I hope we can reach an up or down vote on this in the near future. We have had a good debate. I think we've had an excellent debate. Good points have been made. What I ask my colleagues is that we give the people that showed up today and the people of Nebraska an up or down vote on AM1796 and eventually the passage of LB200. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. (Doctor of the day and visitors

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introduced.) Returning to floor discussion, you have heard the opening of AM1796 to LB200. Members requesting to speak: Senator Lathrop, followed by Senator Gay, Senator Carlson, Senator Janssen, and Senator Sullivan. Senator Lathrop, you're recognized. [LB200]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. As you might expect, I'm standing in opposition to the AM1796 and would like to make a couple of observations this morning about the changes. The one thing I notice is that we're still mandating. In the name of freedom of choice, we're still mandating eyewear. I think we recognize, by mandating eyewear, that this is a high-risk activity and that safety precautions like eyewear should be mandated. And the distinction between mandating eyewear and a helmet I don't think hold up to scrutiny and support a repeal of the helmet law. The other thing that I notice about the amendment is that we've taken out the long-term care. So those people who will suffer brain injuries and who will go into long-term care or into a nursing home, to provide for them for the rest of their life they will end up having their bills paid by Medicaid; not by the guy who rides and decides, but by us, the taxpayers and the people. But there is a requirement that you have a health insurance policy and the suggestion that everybody has a health insurance policy. Well, they don't. They don't have health insurance and when I look at the...when I look at the amendment, you should notice that there's no penalty if you don't, right? So if the police pull you over and you don't have a health insurance card like you're supposed to, it doesn't matter. There's no consequence. We don't make it a class anything misdemeanor to not do it. So it's a little bit, in my judgment, window dressing and trying to make you all feel good about moving this, that we've taken care of what it will cost to take care of these people. Since this bill was bracketed, I had some information that came to me from the folks over at the Med Center. And what we learned is that those people who have in the last ten years been involved in motorcycle accidents with no helmet, and there's still some people doing this, the people that have gotten in accidents with no helmet are way more likely to not be insured. You think about it. The people that are more cautious in their lives are more likely to have insurance and more likely to be wearing a helmet. So the people who are most likely to not have insurance are going to be driving down the street without a helmet. And I'll talk more about that later. The folks who are...and the experience at the Med Center was that about 42 percent of the people who do not...have not worn a helmet and been in an accident and gone into either Creighton Medical Center or the University of Nebraska Medical Center, 42 percent of them either had no insurance or had Medicaid, 42 percent in the last ten years. Now we are in a session dominated by our budget and I'm going to tell you that these people who do not have insurance, 59 percent do and they're the people that are most likely to be wearing a helmet; 42 percent don't. We are either going to pass the cost of this care for these additional brain-injured Nebraskans on to our... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

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SENATOR LATHROP: ...hospitals and the trauma centers, like Creighton University, in Nebraska, or we're going to pass the cost on to the taxpayers who will pay it through Medicaid. If we are truly fiscal conservatives, we would look at the fiscal impact of repealing the helmet law and come to the conclusion, as I think we must, that we cannot let those...we cannot repeal the helmet law and turn the cost of this care over to the hospitals and the state of Nebraska because some of the people end up having a health plan who are involved in this activity and injured. Again, I oppose AM1796 and certainly oppose LB200. Thank you. [LB200]

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

SENATOR GAY: Thank you, Mr. President. I was looking at the amendment and I know this is anyone under 21 years of age shall not operate...they must wear a helmet, the way I'm understanding it. But then I further read into it on page 2 that it's a secondary offense. So I guess I'm wondering how law enforcement enforces this. Senator Lathrop just talked about there's no penalties that I see on here, even if they do enforce this. But when I read "enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when an operator or passenger has been cited or charged," at that point it's like a little bit after the fact. Maybe it's a little preventive, but even when they do that I don't know what the penalty would be. So I'd like to understand that, get a little more clarity, because I don't see it in here. So if I'm a law enforcement officer, I see someone going down the road, sure looks 18, 19, or 20, or 21, how do they distinguish this? I've heard from law enforcement on other issues and I didn't ask anybody on this helmet thing. I'm trying to use a little sense. And they say, you know what? A lot of these laws you pass, Senator, they're very hard to enforce; we don't quite know what you meant. Well, this one, I don't get it, a secondary...and how do you distinguish whether that rider is 21 or younger? I mean some we're going to give a look and say, yep, that guy or gal is under 21. So I don't understand that. On the insurance portion of it, if Senator Janssen would yield to a question? [LB200]

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

SENATOR JANSSEN: Yes. [LB200]

SENATOR GAY: Senator Janssen, on the insurance, did I understand if you're not wearing a helmet do you need the \$1 million policy, you need to carry that with you? [LB200]

SENATOR JANSSEN: If you are not wearing a helmet and you're 21 or above, yes, you have to have, just like I have in my pocket right now, your insurance card with you, just like you have to have your proof of insurance for registering a vehicle right now. [LB200]

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SENATOR GAY: Okay. And if...so if you get pulled over for an offense, speeding, reckless driving, careless driving, whatever the case may be, an officer sees you, they pull you over and you're not wearing a helmet, you pull out your card, correct? [LB200]

SENATOR JANSSEN: Yes, the same exact way. [LB200]

SENATOR GAY: And it shows (inaudible). What's the penalty then for not having that card on you? [LB200]

SENATOR JANSSEN: The same as it would be...it's basically just like not wearing the helmet. It would be a secondary offense or a misdemeanor. I'm sorry. [LB200]

SENATOR GAY: So do you lose points? [LB200]

SENATOR JANSSEN: I'm not certain. I can look into that for you. [LB200]

SENATOR GAY: So I guess we'd never know that until the rider is...actually put themselves at greater risk. First of all, you have to be seen putting yourself at greater risk or doing something to put yourself at risk without a helmet on, and then if law enforcement is around, they'll pull you over, ask for that card. If you don't have that card, you get a few points off. I'm not so sure how many people will be carrying the card. If you're under 21, do you need the...Senator Janssen, if you're under 21, do you need the policy if you're under 21? [LB200]

SENATOR JANSSEN: If you're under 21, no, you would wear a helmet at all times. [LB200]

SENATOR GAY: And then you don't need the policy. [LB200]

SENATOR JANSSEN: You would not. [LB200]

SENATOR GAY: Okay. Thank you. So...but I guess, to me, just the clarifying of it is kind of...is vague, in my mind. I did notice on page 2, they talked about the helmet. And it's kind of interesting, I thought, that these protective..."such protective helmets shall be designed to reduce injuries to the user resulting from head impacts and shall be designed to protect the user by remaining on the user's head, deflecting blows, resisting penetration, and spreading the force of impact." And then it goes on to explain what a helmet is. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR GAY: But that's interesting when we list all the things that can happen right

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in the bill, that could happen if you're not wearing the helmet. But another question. We had talked earlier about individual liberties and public safety and just traffic safety. I found it interesting, I was handed something. The military...the military makes people, whether you're in uniform or not, on base or off base, you must wear a helmet. That's in the military rules, so...and I know, you know, they're the ones defending our freedoms, but if they have that in the rules, the military is usually pretty cutting edge on safety things. They've got a lot of young men and women to protect. But they've found it that they need to put that in their rules. I think that's very interesting and I just wanted to add that for the members' knowledge. Thank you, Mr. President. [LB200]

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

SENATOR CARLSON: Mr. President and members of the Legislature, I'd like to address Senator Janssen, 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 want to make a statement here and then ask you a question about the required medical coverage. In my original conversation with a family where I put out the challenge that if you took care of your medical costs yourself so that I don't have to pay for any of it, then I would vote for the bill. And at the time, I said that there are roughly 59,000 licensed motorcycle riders in Nebraska. That should be the pool upon which this medical coverage is written, this \$1 million medical coverage. And if that were done, then it's the motorcycle riders that are pooled together and the insurance company determines how much cost is involved to provide this \$1 million of coverage. The riders are paying for it themselves. Now I don't think that's what's in your amendment, because your amendment simply says that you have to show that you have \$1 million worth of medical coverage. Is that correct? [LB200]

SENATOR JANSSEN: I think you're still covered on the way you had said it, Senator Carlson. I am requiring that you have at least \$1 million of coverage, which is identical to the other bill for a policy that you talk about that just simply does not exist for motorcycle riders only. [LB200]

SENATOR CARLSON: No, but you're the rider and I'm not, so you have to prove that you've got a \$1 million major medical policy is what it amounts to. You're going to buy that from an insurance company, that in the pool of determining premium for that policy are also going to include people like me that don't ride. Would you agree? [LB200]

SENATOR JANSSEN: They do not ask you specifically if you do ride a motorcycle, but

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we would be in the same pool whether we chose to ride or not. [LB200]

SENATOR CARLSON: Be in the same pool. Now that was my original argument. I don't want to pay...I don't want to pay for your foolishness of not wearing a helmet, but if you want to do it that's your freedom. As long as you can have a policy that pays for your added risk and I don't pay for it, I'm okay with it. Now that's not the way this is written and I don't want to make a big issue of that because your amendment simply says you need a major medical policy. So both you and I are in the same pool. You're going to get the policy but I'm also included in there on the cost of the policy. But there's two problems with that. First of all, not everybody can qualify for that policy. That's a problem. And if somebody doesn't qualify, they can't ride unless they have a helmet. Okay. Now the other thing that I have a problem with, after I made my original statement, was that if only the licensed cyclists had the policy and it only includes that group of people, then those who choose to wear a helmet anyway, they're paying a higher price for their insurance because of those that choose not to wear the helmet. Now...and I think that's the same thing in the way your bill is written because would you say now that everybody, whether they wear a helmet or not, has to have this medical coverage? [LB200]

SENATOR JANSSEN: No, I'm not saying that at all. You do not have to have this insurance if you choose to ride, just like we don't make people that have auto...that drive cars, we don't make them have healthcare insurance. We don't make them do that. I could argue that you're actually assuming more risk, and you are actually, I'm not arguing, it's a fact, there is more risk with somebody driving a car because we have no guarantee that they're insured. When they get in that wreck, that's costing you, Senator Carlson, that's costing me. People that are in the same pool with you and I fly airplanes for fun. People in the same pool with you and I ride horses for fun. We're not requiring that they actually have health insurance. For these people to participate in a legal activity and take their helmet off, we're simply asking that you prove that you do have insurance of \$1 million, and honestly most of them are \$10 million and several are unlimited. [LB200]

SENATOR CARLSON: Okay. I'm seeing that, that if you're pulled over and stopped because you don't... [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR CARLSON: Thank you. [LB200]

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

SENATOR JANSSEN: Thank you, Mr. President, colleagues. I'd like to just touch on a

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few things. Are we ever going to completely remove the risk of it may cost somebody, some actuarial code down the way, some money if somebody got in a wreck with or without a helmet? It's so minute and it will probably be kicked all over this floor by my opponents today that your insurance is going to go up, up the roof...through the roof, and it's just simply...it's just simply...I won't say it's not true. When there's a greater risk to a pool, yes, you could, you could have insurance rates go up. There are 30 states that have it right now that allow this to happen. Why are we choosing one segment of our population, which is very small, in a very, very small segment in Nebraska where I don't even know when the last time a rider could ride on our streets with the snow that we've had this winter. So we actually have less risk. Placement of eye protection on the bill, it was there before, it's there now, we've kept it there. If Senator Lathrop wanted to run...that's one amendment I probably would support if he wanted to remove that. I'd be more than happy to do that but I feel that actually I can get more support with that on there. I thank...I don't know who it was for mentioning that those without a helmet are less likely to have insurance. I appreciate that because that's exactly what the amendment does. It says if you're going to ride without a helmet, you've got to have insurance. So now we're covering that segment that is at a higher risk, so the amendment does just what we want it to do. It ensures that the people of Nebraska and Senator Carlson and I are minimizing our risk in that pool. And actually I'd make the argument we're lessening the impact to that pool because now these people have...they have to have that insurance to ride this way. We don't require people that have to have that insurance to drive motor vehicles, airplanes, horses, Jet Skis. We don't require it. We don't even require people to wear a helmet on all-terrain vehicles if it's passed through a city or county ordinance. ATVs. It was voted by members of this...many that are still here, those can go up to 29 miles an hour, helmets only protect you at 13, I think, but we passed that on the floor, this body, with some support of some people here that are opposing that bill--my bill. And the argument about the military and how the military does things, I've lived under the UCMJ before in my eight years of service, four active, four inactive. If Senator Gay wants to talk about living his and all Nebraskans' lives by the UCMJ, I think we would have a fun time going through some of the stuff that's involved in the UCMJ. So to pick that one thing out is probably not a fair representation of what the UCMJ is trying to do. With that, Mr. President, again I want to reiterate that my goal is to have an up or down vote on the bill today and I'm hopeful that we can do that, and I'll yield the balance of my time to Senator Lautenbaugh.
[LB200]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're yielded 1 minute 30 seconds.
[LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Janssen. I think we've heard a new phrase today: the eyewear mandate. We now have a bill that has an eyewear mandate. And I would make a bargain. If we could just stop with all the other mandates that we see fit to foist upon ourselves in modern day society, I'd wear

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eyewear. Gladly, I would take that. But thinking about this, the eyewear makes sense because that protects the other people on the road. If you're riding a motorcycle and something gets in your eyes, you could cause an accident. That protects others. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I don't believe that the risk pool effect is going to be some significant cost that's going to see our premiums go up if we allow this to go ahead. The pool is large enough and the actual number of people that will be making claims will be small enough. But I think what we're getting down to here, I want this repeal to pass without the healthcare mandate and everything else. I think this is an example of the tyranny of the majority. We don't understand motorcyclists, most of us don't ride, so we can't relate and we don't want to relate. It's just them; why do we care? It is another little freedom that we can give back to people and it's within our power to do. I do want the up or down vote today, too, but I think we should remove the talk of insurance and just repeal the bill, repeal the law. Let them decide and stay out of it. [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR LAUTENBAUGH: Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Thank you, Senator Janssen. Mr. Clerk, do you have an amendment on your desk? [LB200]

CLERK: Senator Lathrop would move to amend AM1796. (AM1832, Legislative Journal page 519.) [LB200]

PRESIDENT SHEEHY: Senator Lathrop, you're recognized to open on your amendment to AM1796. [LB200]

SENATOR LATHROP: Thank you, Mr. President and colleagues. My amendment would strike from AM1796, Section 4, found on page 2, which makes this a secondary offense. What we are sliding toward as we amend this bill on its way to an attempt at repeal is this. We are going to mandate that people have insurance without a penalty. Then we're going to turn it into a...then we're going to make a distinction between people who are under 21 and those who are over 21, and then we are going to make it a secondary offense. And the consequence of this approach to the helmet law is that it will become virtually unenforceable, because right now when you have a helmet law as we do in this state, when you have a helmet law the police can look at motorcyclists as they go by and say, that guy doesn't have a helmet, I'm pulling him over, right? It's black and white. As a consequence, we have about 98 percent compliance. So 98 percent of the people

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that are riding motorcycles are now wearing helmets. That's because you can't very well hide on a motorcycle without a helmet from law enforcement and so people wear them. When you make it a secondary offense and you have some people that are wearing helmets and some people that aren't, and somebody comes by and he's 16 and he doesn't have a helmet on, the police can't pull him over, right? The only time they can pull him over is if he speeds or does some other kind of violation of the law. So what happens? Now we have 16-year-olds that know that they're not going to get pulled over as long as they're not breaking the law, right? So compliance even among those under 21 goes down. And as long as we're at it, since we can't pull anybody over for the obvious wearing a helmet and not wearing a helmet, why do I have to carry insurance? Why would I...why do we expect that these people will carry insurance if law enforcement cannot stop them when they see somebody not wearing a helmet that ought to be wearing one? The secondary offense is a perfect way, it is a perfect way to let people pass. Indeed, and I'm not advocating that we make a primary offense out of the seat belt law but that's exactly where it's a case study. When we made the seat belt law, the law in Nebraska, we made it a secondary offense, right? That means that law enforcement, if they drive by in the other direction and they see your seat belt flapping around behind you in the wind, they can't pull you over for that. And as a consequence, our compliance is not as high as it would be if it were a primary offense. And the same thing is going to happen with motorcycle helmets. If it is not a primary offense, something that the law enforcement can pull you over for, no one is going to comply with it. There will be those who say, let me ride and decide, and I'm going to ride and decide whether I carry health insurance because it's never going to happen to me, no one is ever going to pull me over, because that's their mind-set. If it wasn't their mind-set, they'd put a helmet on. Ultimately, the cornerstone of the problems with AM1796 are found in the secondary offense language that stops law enforcement from enforcing the helmet law. I think that provision of AM1796 should be stripped from the amendment and that's what AM1832 would do, and I urge your support. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. You've heard the opening of AM1832 to AM1796. Members requesting to speak are Senator Campbell, followed by Senator Gloor, Senator Dierks, Senator Christensen, Senator Wightman, and others. Senator Campbell, you're recognized. [LB200]

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, colleagues. I stand in opposition to the helmet law and have repeatedly said that. To me, this bill is not about insurance. It is about injury and fatalities. Prior to 1989, motorcycle fatalities averaged 24.8. In 1990-2008, the fatalities averaged 11.05, a difference of 13 people--a difference of 13 people. How important to the state of Nebraska are those 13 people? The facts in Nebraska are very clear. The average decrease: 13. That's a lot. If it was only one person it would be important, but 13. In 2008, a total of 19 motorcyclists died in Nebraska on Nebraska roads. Of those, 16, or 84 percent, were not wearing helmets.

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We have the facts. We have the data. As a Legislature who in cases has the power to decide which of the laws that we pass we will mandate for the sake of safety, for the sake of saving lives, we need to not repeal this law. Thank you, Mr. President. [LB200]

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

SENATOR GLOOR: Thank you, Mr. President, members of the body. I don't believe that there is an amendment that I can support that would underline the basic LB200, which I do not support. I am a bicyclist and I am pleased that Senator Janssen recognized the importance of eyewear as it relates to motorcycle riders, although motorcycle riders that I have visited with, and there have been no small number during this particular debate and prior to that, seem to wear eyewear anyway because they recognize the fact that it doesn't take much to be kicked up by passing vehicles to, in fact, injure you if it hits you in the eye, and it is not an uncommon occurrence. I am a bicyclist and not a motorcyclist, but a bicyclist. Enjoy long bike rides, 40 to 50 miles sometimes on nice summer days. And during the early stages of doing that did not wear eyewear, didn't seem to see the need. Thought it might, in fact, be an affectation and so did not wear eyewear until cycling with a friend of mine. A large rock got picked up by a passing vehicle and struck him just below the eye. And as Senator Lautenbaugh points out, that could have been a hazard had he been on a motorcycle because he came close to losing control and swerved on his bicycle before he brought it to a stop. The welt underneath his eye was significant, and as a result of that we began wearing eyewear to protect our eyes. I would tell you, though, that it isn't a far reach or a big jump, I don't believe, to talk about that same rock whacking somebody in the head who is not wearing a motorcycle helmet. It's clear to me that there are a number of people who ride motorcycles, and bicycles for that matter, who are hardheaded enough not to want to wear helmets, but in reality they, too, become a safety hazard when hit in the head, not the eye, with what gets kicked up. Wearing helmets is an important thing and I would not ride a bicycle without wearing a helmet. I have shared with you, some of you, my experience taking a tumble riding a bicycle a couple of years ago on a country road, hitting the ground so hard, going at the slight speed of 15 miles an hour but hitting the ground so hard that my head, in a helmet, which hit the dirt on the side of the road, left an imprint that included the logo of the helmet that was still there two days later when I rode by again. Had I not been wearing a helmet, I would be in serious trouble to this day, if even alive. And it's instances like that, that have me more than ever committed to the fact that we need to make sure that there are helmets on motorcycle riders. Someone will probably challenge me and say, why not bicyclists? And it is certainly within reason to think at some point in time we'll talk about that. But at this point in time, at higher speeds, at this point in time with the issue in front of us, I continue to be very much in support of helmets, opposed to the amendments, and opposed to LB200. Thank you, Mr. President. [LB200]

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

SENATOR DIERKS: Thank you, Mr. President, members of the body. I think it's been pretty well articulated by those of us who are not favoring the bill. I'd just like to remind you one more time that when you talk about personal freedom, which I guess means letting the air blow around your face when you're riding, I think that it doesn't even compare to the personal responsibility that you have not only to protect yourself but to protect your families and the caregivers that you might run into. So please, stick with us and let's just vote this bill down. Thank you. [LB200]

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

SENATOR CHRISTENSEN: Thank you, Mr. President. Now I think we got, when we're looking at this bill, we got to look at other items the same as we'd look at a motorcycle. Has anybody went and looked at how many accidents occur from falls, like coming off of a ladder, off the edge of their house? Two hundred and seven deaths due to falls; motorcycles, twenty. If we're worried about the safety issue and we're worried about 20 deaths or whatever the numbers are--none of us like deaths--what are we going to do about people falling off their home, off of a ladder, off their garage or in their house, falling off of scaffolding, whatever it might be? I think we really need to look at this because it is impossible for us to try to protect citizens from every possible danger, evil, whatever you want to say. It isn't our job to try and run every step of somebody's life. You know, this is an interesting debate and I'll take part of the blame for it from the standpoint of the insurance part. I was very much for the mandate of insurance in 2007, '08 when we was looking at this, and I'm not now. And I was one of the pushers for that. Fact is, we don't force insurance on them ladders, we don't force the insurance off of every other instance. How many pedestrians get hit and killed? You know, we just can't legislate protection over everything. It is absolutely sad. You know, you look at the whole United States as a whole, 59 percent of the deaths occurred to people who had helmets on, 41 percent didn't have helmets on, you know. And I look at the statistics of deaths dropped after we put the helmet law on, but registrations dropped. The amount of miles rode in the state dropped. Number of people using the state dropped. You know, unfortunately the statistics that we have don't tell the whole picture. We can all use them to try to fight for our angle, our position of it, but there's a lot more behind the facts or a lot more to the facts behind the whole situation. Again, I ask you, are we...if we're going to require insurance here, if we're going to require...try to get rid of the deaths from motorcycles, are we going to look at Jet Skis? Are we going to look at downhill snow skiing? Are we going to look at water skiing? People falling off their roofs? I mean where do we stop? Where do we...what do we pick to defend and what don't we? You know, if we're worried about a few deaths in the state of Nebraska that come off of motorcycles, then maybe we better--19 on this sheet, 2008--you know,

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maybe we better start looking... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR CHRISTENSEN: ...where deaths are occurring in all these other situations. Kind of lost my train of thought there. But, you know, I really just challenge you to think about where all do you want to step in and force issues on the public? How do you protect the pedestrian? How do you protect the snow skier or the water skier in this state? Not much snow. You know, think about that issue. How are you going to protect them? Are you going to force insurance on them? What are we going to do? Because the real fact comes down, we can't protect everybody from everything. Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Members requesting to speak on AM1832 to AM1796, we have Senator Wightman, followed by Senator Avery, Senator Hadley, Senator Langemeier, Senator Janssen, Senator Fulton, and others. Senator Wightman, you're recognized. [LB200]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I do rise in support of AM1832, which would make this a primary offense as opposed to a secondary offense. I certainly agree with Senator Lathrop that if we leave it as a secondary offense and considering much of what is in AM1796 at the present time, if it isn't totally unenforceable where it's a second offense and where we have people...everybody you stop may or may not have the insurance. If Senator Janssen is here, I would, if he would yield, would ask a question or two of him. [LB200]

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

SENATOR JANSSEN: Yes. [LB200]

SENATOR WIGHTMAN: Senator Janssen, it was discussed earlier that there were no penalties provided for under AM1796. Is that correct or...? [LB200]

SENATOR JANSSEN: I don't believe that to be correct and I'll get the specific penalties for you after I get a chance to get off the mike. [LB200]

SENATOR WIGHTMAN: Okay, AM1796 itself doesn't provide any penalties. Is that correct? [LB200]

SENATOR JANSSEN: The penalty is still in force for not wearing a helmet. It's the same penalty that we have presently for not wearing a helmet. [LB200]

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SENATOR WIGHTMAN: Okay. One other question I'd ask while you're at the mike, and I think I may have asked this earlier but I've never received an answer: Are there any polls, scientific or otherwise, among motorcyclists as to what percentage do support the helmet bill and how many are opposed to the helmet bill? [LB200]

SENATOR JANSSEN: I think, to answer that question, I don't know. I think there's probably polls on both sides and you've got to consider the source of the information when you're doing that. I think there's bad science on both sides of that argument though. [LB200]

SENATOR WIGHTMAN: But you don't have any figure at this point. Is that correct? [LB200]

SENATOR JANSSEN: I could get a figure of how they would respond to it. It would probably come from a pro-bikers' place, so I imagine it wouldn't prove the point that you're trying to prove. [LB200]

SENATOR WIGHTMAN: Might be skewed a little, huh? [LB200]

SENATOR JANSSEN: It might be, just as it would be skewed coming from the health side of issues as well. [LB200]

SENATOR WIGHTMAN: Thank you, Senator Janssen. I know it's been stated previously that about 80 percent of Nebraskans favor the helmet law or retention of the helmet law. I don't know the exact figure, whether it was 78 percent or 87 percent, but it was somewhere around the 80 percent figure. I certainly do think enforcement would be an absolute nightmare if this is a secondary offense or even if it's a primary offense, probably as long as you wouldn't have to wear a helmet if in fact you had the required medical insurance. Because, first of all, you'd have to stop a driver if he had no...so even if it's a primary offense it's going to become almost impossible to enforce because how many would you stop and how many would not have the insurance? I haven't heard anything about whether that insurance would be required to be on the person of the operator. If it was not, certainly he could say he had it. It would be a matter of his then producing the insurance contract later perhaps. I just don't know how it is going to be satisfactorily enforced under AM1796. So as I say, I do stand in opposition to...stand in support of AM1832, in opposition to AM1796, and certainly the underlying bill, LB200. Thank you, Mr. President. [LB200]

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

SENATOR AVERY: Thank you, Mr. President, colleagues. I wonder if Senator Janssen would yield to a question or two. [LB200]

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

SENATOR JANSSEN: Yes. [LB200]

SENATOR AVERY: Senator Janssen, I'm looking at your amendment on page 2. And in line 3, you used language "effective medical reimbursement insurance coverage." Would you be willing to explain to me what you mean by effective medical insurance? [LB200]

SENATOR JANSSEN: Yes. Thank you for the question, Senator Avery. By that I mean medical reimbursement insurance coverage is standard health insurance. It's health insurance that most Nebraskans currently carry. [LB200]

SENATOR AVERY: And this amendment would only be a secondary offense, right? The failure to have insurance would be a secondary offense? [LB200]

SENATOR JANSSEN: Failure to have insurance would be a secondary offense, just like our seat belt law that we have in the state of Nebraska. [LB200]

SENATOR AVERY: So in order for us to...for the police to know whether a rider has the required insurance, there would have to be another violation. They could be stopped for that violation. Then they could be asked for the insurance proof. [LB200]

SENATOR JANSSEN: That would be the exact same way we pull somebody over on a seat belt infraction. There is...it's a secondary offense. So, yes, it makes the law consistent in Nebraska. They haven't had enforcement issues with the seat belt law. I don't see that the issues being brought up today are any more relevant to motorcycle riders than they would be to automobile drivers. [LB200]

SENATOR AVERY: Seems to me that this secondary offense issue is important. If someone has no insurance and there is an accident, it's too late. If the police can't check to see if you have insurance unless you have another violation first, we run the risk that our state will have numerous riders without insurance, riding through the state without protection and subject to accidents that would put the state in jeopardy of long-term costs that would affect all the ratepayers. I think there's an issue here also about out-of-state riders. How can we require out-of-state riders to carry a \$1 million health insurance policy? They aren't subject to our law until they come here. Are we going to have insurance stations at the state line and say to these cyclists, line up here and buy your insurance before you ride through the state of Nebraska? No, we're not going to do that. That would be silly. What's going to happen is you're going to have out-of-state riders coming in the state of Nebraska, they're not going to have the required insurance. They have an accident, they're not going to be wearing a helmet,

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and the cost to the taxpayers will be high. This is too much. What happens also when a \$1 million policy is exhausted? After a severe brain injury or severe spinal injury, you can eat up \$1 million in coverage pretty quickly. Chances are these people then will become wards of the state. That's too much of a risk. I'd like to ask Senator Janssen another question, if he would yield. [LB200]

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

SENATOR JANSSEN: Yes. [LB200]

SENATOR AVERY: Why, if the helmet law is so onerous and such a burden and such a terrible infringement on personal liberty of the people in this state and people who visit our state, why would you put a termination date of January 1, 2016, in the law? [LB200]

SENATOR JANSSEN: Thanks for the question, Senator Avery. I put that in there, one, as a concession to Senator Price. I did not like that, at first, but after I looked at it I thought, you know what, this would give us a great chance... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR JANSSEN: ...to look at the issue and look at the public policy of Nebraska and see how it works to see how our riders react to it. And like I said, I think our riders will mobilize, ABATE will mobilize, and we'll have one of the most concentrated safety efforts... [LB200]

SENATOR AVERY: Thank you, Senator Janssen. You're eating up my time. [LB200]

SENATOR JANSSEN: ...that you've seen riders ever have. [LB200]

SENATOR AVERY: I'm looking...I'm looking at the paragraph here on that termination date and you're making the argument in that paragraph for why we have a helmet law now. It seems very, very inconsistent. And I'll have more to say about inconsistency in this proposal before the day is over if you get to me again, and it will have to do with the eyewear protection, which seems to me to be the ultimate irony. You're talking about personal freedom not to wear a helmet, and then you're going to mandate eye protection? How silly is that? If it's all about personal freedom, then why should you have any requirements? [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

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

PRESIDENT SHEEHY: Thank you, Senator Avery. Senator Hadley, you're recognized.

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[LB200]

SENATOR HADLEY: Mr. President, members of the body, I rise in support of AM1832, in opposition to LB200. Would Senator Janssen yield to a question? [LB200]

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

SENATOR JANSSEN: Yes. [LB200]

SENATOR HADLEY: Senator Janssen, I was going to follow up on Senator Avery's line of questioning. On the medical coverage, if part of the reason we're doing this is for economic development to get more riders traveling through our state from other states, will there be a problem of only requiring medical coverage for Nebraska riders? [LB200]

SENATOR JANSSEN: No, there's not a problem. They're subject...if you ride through our state, you're subject to our laws just like if you drive a motor vehicle through our state. Whether you come from a state that wouldn't have certain restraint laws for seat belts that might be a primary offense there, a secondary offense here, the law will apply to that person when they come here. [LB200]

SENATOR HADLEY: Thank you, Senator Janssen. I want to follow also up on the cost. I think it was Senator Lathrop was talking about the cost of trauma care. As I mentioned last time I talked on this, we have EMTALA, which means that every emergency room must take people, must take patients without asking about coverage of medical insurance or ability to pay. The state of Washington did a study on their trauma centers in the state of Washington. And in total, their trauma centers last year lost \$300 million on covering trauma accidents. Overlake, which is their level one trauma center, lost \$100 million alone on trauma accidents. The reason they do this is because trauma accidents generally happen to younger people who have a tendency to be underinsured or not insured. So those are just facts about trauma accidents. And I think a motorcycle accident would be considered a trauma accident. Secondly, I want to talk about seat belts. There was someone who testified before our committee that was asked about wearing seat belts and he made the comment he thinks that is an infringement on his rights and we ought to do away with the seat belt law. Well, I looked at that. We could be like New Hampshire. New Hampshire: live free or die. New Hampshire does not require seat belts. They have made an economic decision that \$5 million in road funds is not enough to require seat belts. Georgia doesn't require seat belts on pickup trucks. They give up \$20 million a year in road funds. Why don't we do the same thing? If we're so hot about individual rights, let's not require seat belts. Let's give up the federal highway funds. Third, I question 21 years old. Can you imagine being a parent and your child is 20 years and...20 1/2 and they have to wear a helmet and they're saved, and then another child is 21 and 3 days and doesn't have to wear a helmet and something happens to them? What's magic about 16 to 21? I don't think there's anything magic.

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When they hit the pavement, I think they're the same whether they're 45, 25, 21, or 16. Lastly, and Senator Christensen talked about the continuum of rights. Obviously we can go from laissez-faire where we let anybody do anything they want, to a complete state's rights where the state tells us exactly what we have to do. I think this issue falls in the middle. We're talking about 50,000 riders in Nebraska. We're not talking...I don't know, there might be 50,000 Jet Skiers in Nebraska, I don't know; 50,000 people that ride horses, I don't know. But we do know there's over 50,000 motorcycle riders in Nebraska and there we quantify the number of deaths that we have. And I know, we can come up with statistics on both sides, and I've seen them all,... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR HADLEY: ...but I go back to the concept, if we can save a few lives by requiring a helmet, I am in favor of that. Thank you, Mr. Speaker. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Langemeier, you're recognized. [LB200]

SENATOR LANGEMEIER: Mr. President, members of the body, I turned my light on so long ago that we're on to a total different subject. I guess I would ask if Senator Janssen would yield to a question. [LB200]

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

SENATOR JANSSEN: Yes. [LB200]

SENATOR LANGEMEIER: Senator Janssen, I'm going to go back to AM1796 because that's where I formulated these questions, and then I'll turn my light on again and we'll get to AM1832 in a separate occasion. But on page 2 of your amendment, you talk about any operator or passenger must have an effective medical policy. And my question was, it says shall show proof of such insurance. And you and I had a little discussion off the mike. As I sat here and waited, I got tired so I just went and asked you the question there. Is this shall show proof, we provide in our automotive policy, everybody has a policy, but yet they provide us a separate proof of insurance that we carry within our automobile. Is it your intent that in this language that the insurance company would have to provide an additional coverage document, or would the insurance card that I have in my wallet that I've taken to my local physician be the ample proof? [LB200]

SENATOR JANSSEN: Yes, Senator Langemeier, the insurance card that you and I have, I don't know if we're in the same company, would be ample proof. And I'd point to several studies right now. I don't think that it would be necessary for an additional step

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for the insurance companies. Only 1 percent of employer-offered group plans, the largest health insurance segment, had caps as low as \$1 million last year, and that's according to a survey by the Henry J. Kaiser Family Foundation. [LB200]

SENATOR LANGEMEIER: And that gets to my next question, is with that card, and I looked at my card and you showed me your card, it doesn't say anything on it about my coverage. So would they have to put that on a card or who's obligation, if I get pulled over and I can produce a card, maybe I only have half of this amount, at what point do I have to prove that I have the \$1 million? I mean does the officer stop me and I got to call my agent and the agent tells him that, oh yeah, you have it? Or, I mean, are we leaving the discretion up to the officer to just look at the card and say, oh, if he's got a card, he must have the insurance? I don't want to leave that confusion out there. And so that was my only question as far as AM1796, and I would yield the rest of my time to Senator Janssen if he'd like it, and then I'll come back on AM1832. [LB200]

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

SENATOR JANSSEN: Yes, Senator Langemeier, currently that discretion would be up to the officer. Like I said, it's less than 1 percent right now that have caps like that. Similarly, we leave that discretion up to the officer for auto insurance right now when we register our vehicle and we have to have the minimums on that. If somebody were to come out of state, that discretion is left up to the officer as well. I thank you again for your time and want to cover a few other things. Currently, you do not have to make that determination on age, so we're blurring the topic again. I certainly do not support AM1832 and let me tell you why. One, it was very well documented on this floor that I was going to, if the bill was bracketed, which I appreciate my colleagues working with me on. I opened up my doors to work with anybody on this issue. Some of you came; some of you did not. Senator Lathrop did not come to me with this idea and we didn't talk about it. Obviously, I feel that it's put there to stop the bill, which is very much well pointed out that we're at opposite sides on this, so I do not support that. I want to bring us in line with the way we trust our automobile drivers. We ask them to make it a secondary offense. I don't see the difference in this, making it primary or secondary offense. If you want to do that, Senator Gay was talking about how much he thought about it should be a primary offense. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR JANSSEN: Well, we have I believe LB106 Senator Harms ran last year to make the seat belt law from a secondary to a primary offense. I haven't heard anybody yelling in Transportation Committee that we need to kick that bill out and vote on that. I believe, in fact, it came up. It didn't have the support so we didn't vote for it out of committee at that point in time. I can't tell you how I would have voted. I can just tell you that there was no raucous made on whether or not we should do it or not. Again, if

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riders come to our state, they have to show proof of insurance like anybody else. Everybody knows ignorance of the law is not an excuse. It's not an excuse for automobile drivers and it's not an excuse for us. The ultimate...you know, I think I'll save that for later. Thank you, Mr. President. [LB200 LB106]

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

SENATOR JANSSEN: Thank you, Mr. President. I guess I didn't have to wait real long for that next chance. I want to talk about the ultimate irony that Senator Avery was talking about with eyewear as opposed to helmets. The ultimate irony. Well, the ultimate irony I found in this is that Senator Avery supported people not wearing helmets on all-terrain vehicles. He supported people not wearing helmets on all-terrain vehicles. I got his vote right in front of me. So it's okay to drive an all-terrain vehicle on a county or city roads under 29 miles an hour. In Senator Avery's opinion, it's okay without a helmet. But it's not okay to ride a motorcycle on a county or city road at under 29 miles an hour, although studies have proven that a helmet only protects you at 13 miles an hour. So he's mitigated the risk between 13 and 29 is okay. I find that to be somewhat of the ultimate irony in all of this. I guess what we're saying to our riders in Nebraska now is you are guilty until you prove yourself innocent, something we don't tell the majority of us who drive our cars down here to Lincoln every day. We don't pull people over. I won't even get into the profiling side of this, pulling people over just because. The 21-year-old makes no sense in this situation. Senator Hadley was asking about that. Yeah, there's no difference when a head hits the concrete, but there is a difference in experience of the riders. The more experience they have, the least likely they are to get in a wreck. And oh, by the way, let's don't forget, it's not the riders that are out there running into trucks. It's not the riders out there that are running into cars. The riders have to look out for us. We're the ones that don't see them. We merge into them on the blind spots. They're the ones that are on the defensive and they're the ones that have come to me and said, Senator Janssen, I think I should have the freedom to choose whether or not I wear a helmet. So we're going to sit here for awhile longer today, I assume through the end of today, and we're going to talk about health issues. There's going to be stats. There's going to be figures. There's going to be insurance. But what we have done, in reality, if you pass my bill without AM1832 but with AM1796, what you have done is you have ensured that motorcycle riders in the state of Nebraska will have health insurance. Will some people try to go around the system? Yes. They currently do in their cars all the time, but I don't see people up here, anybody yelling and railing about that. How do we take care of people that come in and get their insurance on their car only to cancel it so they can get their car registered? It happens. It does happen. What are we going to do about it? When we figure that out, let's apply that to the motorcycle riders as well, but let's don't go to our motorcycle riders first and say we choose to step on your freedoms because we don't understand what you do. We don't ride. We don't understand it. Eighty percent of people in Nebraska, which is also a little bit of a misguided number, say they

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support the helmet law. That was a MADD survey. And how was that question asked? I can only imagine how that question might have been put forth to somebody. And people that don't ride generally say, yeah, wear a helmet, it makes sense. I can point out facts and figures to you all day long. The fact is, 59 percent in 2008...according to the National Highway Traffic Association, in 2008, 59 percent of the fatalities were people that were wearing a helmet. I'm not certainly standing on this floor and saying it's safer to ride with or without a helmet. I'm saying it should be the motorcycle rider's decision. I'm encouraging you to vote down AM1832. Let's move on to this debate. Let's vote for AM1796 and ultimately LB200, and again I would like to get an up or down vote on this. And thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Janssen. Members requesting to speak on AM1832 to AM1796: Senator Fulton, followed by Senator McCoy, Senator Lautenbaugh, Senator Gloor, Senator Lathrop, Senator Avery, and others. Senator Fulton, you're recognized. [LB200]

SENATOR FULTON: Thank you, Mr. President, members of the body. When I last spoke on this bill, had some concern with the way that it was drafted and this was about a week ago. Since then we've taken a bracket motion and we have before us an amendment. I'm not speaking specifically to AM1832, albeit I will be opposed to that, but I'm speaking more specifically to AM1796. I have been opposed to repeal. I was when Senator Rogert brought this bill and I have been consistently in surveys and in interviews and whatnot. But I have been willing to take a look at other ideas and Senator Janssen has brought forward some other ideas. And I want to share with you why I've been willing to take a look at this. Now I brought forward last time I spoke this concept of philosophical conservatism, which I think many in here would identify themselves as. In a pure form to be philosophically conservative, I don't want to change anything. I'd like to allow things to continue as they are because I don't see a pressing problem or need on behalf of the entirety of the public, and I would therefore not want to repeal the helmet law. Now follow me though. There's also this reality that we have some responsibility. There are 49 of us and only 49 of us of the 1.8 million in this state who have the responsibility for listening to our constituents and forming policy. And you have experienced this just as I have experienced it. I want to share with you what my experience is because it actually helps me to come to a decision on what I'm going to finally do on this, but it may also help you. I've been contacted by members of ABATE and others also, and they have come respectfully and they have utilized the process to make their voices heard, to make a request, and that request is to enjoy or to grasp a certain freedom, in this case to decide whether or whether not to wear their helmet. I've also experienced some of these riders, don't know if they're ABATE members or not, outside the confines of the Legislature. My kids and I were at a parade. I've been doing parades, some of you know, in the past some months and we experienced something at a parade up in Bellevue which my kids asked about. I think they're called the Patriot Guard Riders. There was a long line of them and they were there on behalf of our

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veterans, of which my dad is one. My kids know their grandpa is a veteran. And the kids asked questions: Why are these people doing this? And I explained to them. It was a teaching moment. And it occurs to me, as I reflect on this bill, that this whole experience is a teaching moment for each of us because some day we're not going to be in this body, we're not going to be 1 of the 49. The process has been invoked properly. We may not like to have this debate over and over again, but the citizens have a mechanism by which they're heard, and these members of ABATE have utilized the process correctly and in a way that has caused me to say, all right, I'll sit down and listen on LB200. And so what did I say to Senator Janssen? I said if we can find a way to recognize and respect the freedom of some individuals who want to choose whether they wear a helmet or not wear a helmet, I'm open to that. I think I ought to be open to that. We all have to be open to that. Where I run into a problem is when that decision infringes on the status quo for the rest of us. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR FULTON: Specifically, if the decision of one causes me or, more appropriately, somebody who wants to leave things alone to have to pay more money in Medicaid or in health insurance costs or what have you, I'm not going to be in favor of it. So Senator Janssen listened to that concern and he's brought forward an amendment which I'm still thinking through, but it appears to me that this at least mitigates the responsibility of the many while respecting the request of the few who, again, have invoked the process properly. That's a good thing. So I don't mind having this debate. I understand it's chewing up time and it might end up pushing some of our bills back, but this is what we're supposed to do. For me, it comes down to if this insurance policy, if this holds the rest of the state harmless so that we aren't going to have to pay for some guy's decision to scramble his melon, as Senator Coash, my neighbor and colleague here says, then that's appropriate. So I'm willing to listen. I just want you to pay attention to how this has unfolded... [LB200]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Time, Senator. [LB200]

SENATOR FULTON: ...because it's done well. Thank you, Mr. President. [LB200]

SPEAKER FLOOD: Thank you, Senator Fulton. Senator McCoy, you are recognized. [LB200]

SENATOR McCOY: Thank you, Mr. President and members. I stand in opposition to AM1832 but in support of AM1796, and I would yield the remainder of my time to Senator Janssen if he would so wish. [LB200]

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SPEAKER FLOOD: Senator Janssen, 4 minutes 47 seconds. [LB200]

SENATOR JANSSEN: Thank you, Senator McCoy, Mr. President. I would like to expand a little bit what Senator Fulton was talking about, and I appreciate people coming to me and asking for ways I could work with them, some ways. Sometimes you can't; sometimes you can. I felt in the case with Senator Fulton I was able to do that. He talked about mitigating risk. Will we ever completely remove the risk of it possibly somehow, in some small way, raising the insurance pool? I don't think that could ever happen. I also don't think the insurance rates went down in Nebraska when we enacted the helmet law. Not for sure. Somebody can Google it and look them up. It might have. I just, standing here, looking at my insurance premiums over the years, I don't think they went down as a direct result of Nebraska enacting the helmet law in the pool of risk that we're in. So we have mitigated the risk out of this. I believe...and I used Senator Fulton's idea. He wrote it down on a piece of paper to me and he said, how can we do this where it doesn't affect the rider that still wants to ride with the helmet on? It allows a person to exercise their freedom, protects our youngest riders, and mitigates that risk to all the rest of us, and I put that forward in AM1796 and it was well thought out and I think we should pass AM1796 based on those merits. So I'll continue on with this fight and it appears we're going to continue on through today and stay around and available for any questions. But again, I encourage you to oppose AM1832 as it was never brought to me or ran past me on my priority bill, certainly a courtesy I would have expected, and support AM1796 and LB200. [LB200]

SPEAKER FLOOD: Thank you, Senator Janssen. Thank you, Senator McCoy. Senator Lautenbaugh, you're recognized. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. Make no mistake, I am helping at this point by speaking, probably helping a filibuster that's underway on this bill, and I don't know that the body is listening. There's one senator I always get eye contact from when I speak and she's turned her back on me. Oh wait, there she is. But honestly, I don't think we're changing any minds at this point. Oh, I picked up another one. I stood up here a little while ago and explained why the goggles make sense because if something gets in a motorcyclist's eyes he could become a threat to the rest of us, a direct threat to the other motorists, which is different from the purpose of a helmet. And I waited a few minutes. Another senator stood up and said, oh, this whole goggle thing makes no sense, we're hypocrites. Well, no, we've addressed that, and we'll probably have to keep addressing it and addressing it until we bring this bill to a vote. I don't trust the studies on this. And if we have to veer into smoking, as we always do, we will. Everybody loved the smoking ban, everyone loved it, according to the studies. But then if you ask people, well, do you think smoking should be allowed in cigar bars, majority always said, well, of course, that's what they're there for; we didn't think you banned it there; that would be foolish. Well, we did, and we had to undo it. Similarly with helmet laws, I don't trust the polls. And again, I think a

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substantial element of it is the fact that most people aren't bikers. And as it's presented, I don't know that we're getting an honest response. And I referenced a concept earlier of the tyranny of the majority, and we have laws and we have customs and we have a constitution that is supposed to protect the rights of a minority against the whims of a majority that may not understand why they want to do a thing. And to stitch everything up with our memorable floor debates, we can go back to roadside trapping where we had someone say these trappers haven't come to us and told us why they want to trap in a ditch so we're not going to let them, and my response was that's absolutely 180 degrees the wrong way of looking at it. They shouldn't have to justify why they want the freedom; we should have to clearly justify why we're taking it away. And we couldn't do that, I believed and the majority believed. It's the same with this. We have studies, we have statistics, we have competing studies, but in the end, as I think was so eloquently expressed last time around by Senator Fischer, this is a personal choice. And we've decided to be a compassionate society and help people with their medical bills, but the problem is now we feel that we have the right to control everything we all do. Senator White goes jumping on horses, he said a couple days ago. I may think that's foolish and risky, but I'll fight for his right to do it. I don't understand it. Roadside trapping, I didn't trap in the ditches, I never have, I never will, but I fought for their right to do that. Cigar bars, well, I understand that product better than roadside trapping. But again, to me, that came down to a personal liberty, a personal choice, and I see this as a very similar thing, another intrusion we've made on someone's lives and now we're asking them to justify why we should take it...why we should step back from this. I think that's the wrong way to look at it. If we're going to step into this area and require helmets here, we should do it for horse jumping, we should do it for moped riding,... [LB200]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LAUTENBAUGH: ...we should do it for golf carts, we should do it for every conceivable risk we can think of because there are no limits. If you're willing to step into this and affect this minority--bikers--whose rights are you willing to trample on next? Because there always will be a next thing, I promise you that. Whose rights do you trample on next? Can we at long last leave these people alone and pass this bill? Even as amended, with the exception of this amendment, I'll support it because I just want to restore that right. I don't favor the insurance requirement but if that will help some along, anybody who's still listening, I'll vote for it. Thank you, Mr. President. [LB200]

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

SENATOR GLOOR: Thank you, Mr. President, members of the body. I wonder if Senator Janssen would yield for a question. [LB200]

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

SENATOR GLOOR: I will launch ahead with some comments anyway, and if Senator Janssen comes back perhaps we can visit with him. The dollar amount that we're talking about here of \$1 million is a good start, I think, towards trying to address the issue that Senator Fulton brought up: mitigating the impact on the many. But I should relate a specific instance of a patient that we cared for at my former institution who was injured in an accident. Not a motorcycle, I want to make it clear. It was a motor vehicle accident, uninsured. For a variety of reasons, some legal, some ethical, we continued to provide care to that patient for a period of time that wasn't just months but, in fact, ended up being years. Over two years but I believe under three years. This individual was debilitated not because of head injuries. In this case it was because of spinal injuries. But the care to this patient by the time he eventually left our care was--and this is a cost, I want to make it clear that this figure is not charges but is a cost--was just under \$300,000 for less than three years of care, and for the level of care that I would tell you is not as significant as the kind--the cost of care, again not the charges but the actual cost of care--for somebody who has something as serious and as debilitating as head injuries. It doesn't take long at a cost of well over \$100,000 a year, with inflationary impacts that continue to go up and up and up, to eat up the \$1 million we're talking about someone having to carry here to cover those healthcare expenses. In fact, I would tell you that that \$1 million is a small fraction of the overall cost to care for somebody in a lifetime; somebody who is in mid-level of life in their forties or fifties could reasonably be expected, even with serious injuries, to live for another 20 years or more; someone who is far more youthful, somebody in their twenties or thirties could reasonably be expected to live for another 30 or 40 years of life, even with debilitating injuries. And so that \$1 million we're talking about will long since be history. One million dollars, although an attempt to do as Senator Fulton says, mitigate the impact on the many, isn't going to go very far. It's an important consideration if what you're interested in, if what you're concerned about is the burden that it will eventually put on the taxpayers of the state of Nebraska. Because make no bones about it, someone who is seriously injured, the inevitability of somebody being seriously injured is there, and that impact ultimately will be borne by the taxpayers. We can talk about personal freedoms all we want. But when I go door to door campaigning, what people tell me is control the cost of government, control the cost of government, control the cost of government. This is one of the ways, one of the ways that we can honor their concerns controlling the costs of government. Thank you, Mr. President. [LB200]

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

SENATOR LATHROP: Thank you, Mr. President and colleagues. I wanted to respond to some of what I've heard this morning and some of the comments of my colleagues,

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and beginning with Senator Janssen. And it may be because I was here during the Senator Chambers era, the last two years, I got an idea of what the courtesies are around here. And believe me, courtesy doesn't require that I come down to your office, Senator Janssen, to talk to you about what should be clear from my remarks. There is nothing you can do with this bill that will make me okay with repealing the law. You call it a personal freedom issue, and I'm worried about the people who will die and the people who will have brain injuries when this is over. There is little you and I could talk about to resolve our differences, unless you're ready to pull this bill, nor do I believe that a senator owes it to another senator to come down when they're filibustering the bill and tell you how I intend to do it. That is not a courtesy, nor would I give a strategy away. But so that we are clear, my friend, I intend to stand here and talk about this bill and offer amendments until it is exhausted and perishes. We can stand up and talk about personal liberties and try to frame this any way you please, any way you please, but when it comes down to it we're talking about trading lives, trading lives for a repeal of the helmet law. We know there will be more people that will die and we know there will be more people that will get brain injuries. And I'm not standing up here, this is not a partisan thing. I care about those people. And Senator Fulton said, well, the guys at ABATE have availed themselves of the process and been courteous and came to him. Yes, they have. I know some of these people. I've talked to some of them. He is exactly right. They've done what they have every right in the world to do. Here's the problem. Here's the problem with this subject matter is that the mothers and the widows and the sisters and the brothers of the dead don't know it's going to happen to them. No one thinks this is going to happen to them. And indeed what occurs to me, frankly, is that those who advocate for this, those who come and lobby you and say I want the right to choose, believe this will never happen to them and don't care about the people it will happen to. I do. I have watched people bury their children and I have watched people in the intensive care unit and at the rehab hospital with the brain-injured. No one ever thinks it's going to happen to them. And it isn't about people being courteous and availing themselves of the process and contacting us in a courteous way. We are making policy here. We cannot ignore the 600 motorcycle accidents that we will experience in 2010 and '11 and '12, and the 700 in 2020. We can't ignore that. Nor can we ignore the fact that if we repeal the helmet law that we are going to have more brain injured and more dead. And while we're talking about it and talking about the policy of this argument, we cannot ignore that 42 percent of these people cannot pay from a private policy. They are going to walk out on the trauma centers in this state or they're going to turn their bills over to Medicaid. And believe me, I've watched this happen. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR LATHROP: You have somebody with a significant brain injury, \$1 million isn't going to get them out of Creighton University ICU. They will have exhausted that before they go to the rehab hospital, and all their rehab and all of their long-term care is

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going to be on us. Senator Fulton, you talked about being a conservative. I can tell you that as a fiscal conservative we cannot ignore the cost to the state and to the taxpayers by repealing this. If you are not moved by the families who don't know this tragedy is coming their way with a repeal, then you at least could be impressed by the additional expense to the taxpayers and the people of the state of Nebraska who will be picking up the tab for those who choose to ride without a helmet. Some accidents it doesn't matter if you have a helmet on or you don't. And I'll grant you, if you lose control on the interstate... [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

SENATOR LATHROP: Thank you. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Mr. Clerk, do you have a motion on your desk? [LB200]

CLERK: Senator Lautenbaugh would move to bracket the bill until April 14, 2010. [LB200]

PRESIDENT SHEEHY: Senator Lautenbaugh, you're recognized to open on your motion to bracket until April 14, 2010. [LB200]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I rise in opposition to my motion to bracket and I urge you to vote no on this. But this is a means of finding out where we are on this, because as you just heard from the debate there is nothing we can do that will change the minds of some. So I put up a bracket motion and there is a method to this. But I'm urging you, if you support this bill, to vote no on the bracket motion. This is not a motion to carry it over to another day so that we can tweak the bill, because as you have just heard there is nothing we can do for the opposition. Whatever is done, whatever is proposed will not be enough for some. And so we're fooling ourselves and helping the filibuster by talking about this ad infinitum. So I again, to be perfectly clear, I urge you to vote no on the bracket motion when the vote comes. But it will at least be a demonstration of where we are. And I think we do have the votes to pass this, and more importantly I think we should pass this bill. I've said why. And yes, as with everything in life there is a risk. Everything. We almost, and I wasn't driving this time, almost had an accident on the way down here yesterday. I was a frightened passenger instead of a frightened driver. But we don't have helmets in the cars and we didn't hit anything this time. But that's life. And again, I've gone through the litany before of Senator White and his horse jumping, and Senator Gloor and his bicycling, and Senator Price and his "astronauting." And everything is a risk. Everything is a risk and that's just part of being in a free society and I don't apologize for that. And I come down on the side of this individual liberty, I guess. And I've given you the reasons why and I'll yield time to Senator Janssen at this point. [LB200]

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PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Senator Janssen, you're yielded just over 7 minutes. [LB200]

SENATOR JANSSEN: Thank you, Mr. President, Senator Lautenbaugh. I, too, oppose the bracket motion and will vote no on the bracket motion. It was brought, obviously with my blessing, to see where we're at on this. I agree with Senator Lautenbaugh, we are not going to change any minds on this issue. I put forth to the people that wanted, with my amendments. I worked the bill, I believe, to assuage their concerns on the insurance issue. And point being, there will never be enough insurance for the opposition. I removed everything...if I put guarantees out there that there would be insurance forever, there are some out there that just fundamentally cannot get past the point of not wearing a helmet. And that's fine, that's their opinion. They've got facts and data to back it up. I've got facts and data to back it up. It's their opinion, I'm not going to change that. I can't change that. So we'll move forward. Maybe we'll get to a vote today on this bracket motion. I'm hopeful that the vote, if it does come on a bracket motion, comes in the manner of which would be support of the underlying bill, LB200 and AM1796, which would say...not to confuse anybody, what we're doing here is we want a no vote if you support the freedom to not wear a helmet in Nebraska. We need a no vote on the bracket motion. And I will encourage that if we get to that today, and we'll see where we're at in this debate. Thank you, Mr. President. I'll yield back any time to Senator Lautenbaugh if he wants it. [LB200]

PRESIDENT SHEEHY: Senator Lautenbaugh, 4 minutes. [LB200]

SENATOR LAUTENBAUGH: Thank you, Senator Janssen. And I'll be brief and I do want to be clear. I believe that the bill, LB200 with AM1796, is a good bill, and we are not walking away from that and we are not giving up on it. This is a way of measuring support for this. And I think it's a reasonable bill, and I think steps have been made to address some of the concerns regarding additional insurance, additional expense, etcetera, and the amendment addresses that. We heard discussion last time, what about the 16-year-old daughter who goes for a ride on the back of a motorcycle? Well, under this law she would have to wear a helmet, just like existing law. So I think the amendment is a good faith attempt to address reasonable concerns that were expressed. I would have favored a straight up repeal, but I understand this. So don't mistake, please, the filing of this bracket motion as sort of a weariness on the side of the proponents of this bill. That is not the case. And I would urge you again to support LB200, support AM1796, not support AM1832, and vote against the motion to bracket. Thank you, Mr. President. [LB200]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. You have heard the opening on the motion to bracket LB200 until April 14, 2010. Members requesting to speak: Senator Avery, followed by Senator Gay, Senator Haar, Senator Nelson, Senator

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Langemeier and others. Senator Avery, you're recognized. [LB200]

SENATOR AVERY: Thank you, Mr. President. Seems to me we have a lot more talking to do. I want to just address the two main arguments that have been raised in support of repeal of the helmet law. I thought we could put to rest the personal freedom issue, but it seems that personal freedom to many people in this body is absolute. And I've tried to make the case many times in here that it is not. Personal freedom has never been absolute. The Founding Fathers did not consider personal freedom to be absolute. In fact, if you read "The Federalist Papers," you will find frequent reference to the public good and the private interests always have to be balanced against the public good. So the question here is, what is the public good? If you can identify the public good in having a helmet law, then balance that against the private argument or the privacy argument or the personal liberty argument. The public good is to protect public safety, to protect the taxpayers and the ratepayers in this state from an undue burden. When these unhelmeted cyclists have accidents we know that the chances are very high that they will have catastrophic injuries, if not death. In fact, I'm looking here at some statistics that I just received that deaths are more likely to occur for nonhelmeted riders: 10 percent are likely to die, whereas helmeted riders only 4.5 percent. Severe head injuries: 11 percent for helmeted riders, 27 percent for nonhelmeted riders. Neck fractures: 12 percent for helmeted riders and 32 percent for nonhelmeted riders. What's going to happen to those injured people? The ones that are not dead are going to wind up in long-term care and we are going to be footing the bill. That is not in the public interest. And personal freedom has to end where the public interest begins. So ask yourself, where can we draw the line here? I think you have to agree that personal freedom is not absolute. The other argument that is being made is that this is an economic development argument or issue. Well, if what we're trying to do is attract motorcyclists to the state of Nebraska, let's look at how many motorcyclists we already have traveling through Nebraska. We've heard a lot about the traffic that goes to Sturgis and how they're all avoiding Nebraska. Well, if you go to MapQuest on your computer and you try to find the most efficient route to Sturgis from most of the major cities around the country, you're going to find that south of Nebraska most of those routes are recommending that you go up I-29. The reason for that is that's the most efficient, the fastest and safest way to get there. We don't have a north-south interstate in our state and that's the principal reason why cyclists go up I-29. The truth is that the recommended routes are the quickest and safest along these major highways. Maybe that's an argument for a north-south expressway. If you do a MapQuest, you'll also find that those living in Omaha and Lincoln will receive a recommended route that leads them... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR AVERY: ...to Sturgis, not through Nebraska, but up I-29. In fact, the AAA organization issues an annual alert providing information during the Sturgis Rally period

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recommending motorists in the state of Nebraska be aware of the increased motorcycle traffic on our highways. Well, if the motorcyclists are avoiding our state because of our helmet law, why is it that we have to be warned about the increased motorcycle traffic in the state during the Sturgis Rally? There is a notable increase in motorcycle traffic. The AAA organization recognizes that and they warn us to be careful about it. I think that we need to stay on the issue. Let's quit talking about personal freedom because if you do that then you ignore the public interest here and the public... [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

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

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

SENATOR GAY: Thank you, Mr. President. I just wanted to say when we're asking questions to improve bills or clarify language or make correct decisions, we're asking to get relevant issues out there so we can make an informed decision. And I think we've done that. If senators want to use other methods to discuss a bill, that's fine. But I've heard a lot of relevant discussion here. Now we're getting back to the...I still think the core is, you know, wearing the helmet or not. All these other things, I do think this is unenforceable for somebody under 21 years of age, how you enforce that I just still...but that's why you ask the question. I think that long-term care proposal is an excellent example of what can happen in the interest of I need to get something done. We had to go back and fix that. But in the interest of taking care of the constituents there I think we are doing them more of a disservice. So I encourage the debate. As far as the bracket, I will vote to bracket this because I think this bill still needs work. Maybe, as Senator Lathrop says, we're just not going to come to some conclusion. I think many of us have our mind made up on this issue. But maybe there are others out there who want to hear statistics. And if you want to talk about statistics, there's a whole pile in favor of why you wear a helmet. Then we talked about the liberties and we talked about the military, how they even make you wear a helmet and a vest, a safety vest when you're out on the road is what you're supposed to be doing. One thing I did want to bring up though, Senator Avery brought this up too, and there is...I was handed this and I assume that you all have this, too. AAA, who they're in the tourism business as well, trying to help promote tourism and safety and other things. But they issued a letter here on February 2, just of this year, talking about some of these issues. And they handed out a colored copy here. It says all roads don't lead to Sturgis through Nebraska. If you go on the Web site or MapQuest, many states around us, this doesn't even take you through Nebraska to get to Sturgis anyway. So I think that we're going to lose all this money in tourism is a little misguided. Omaha and Lincoln actually, it takes you up I-29 and over. So a little bit, that argument, I'm not so sure even that carries weight. They also included a portion of a young man who suffered a brain injury, and it talks about the cost and some of those

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things. But I think when we ask these questions and discuss this bill, they're important questions. Everyone knows when you bring a bill like this to the floor you're going to have debate. It's not supposed to be easy, and there are legitimate issues on both sides of this debate and strong feelings either way. But kind of as I was watching this progress I think the idea that those of us who oppose this bill shouldn't ask relevant questions, and we have every right to, so I wanted to touch on that. Another thing, too, now with...we're seeing fuel prices went down. As fuel prices go up, and they probably will again, I think more and more riders were looking to say, hey, they're getting out those bikes and they're getting on them, inexperienced drivers who haven't been driving again. If that happens again, we got more inexperienced drivers on the road now down the road, no helmets on, whatever the case may be. That's a little bit scary to me because we do have to look into the future, how is this going to work. I don't want to get too far ahead because we do have a bracket motion, but I know there's a serious amendment to put a five-year sunset on this. You know, I would hate to be the one in five years, and I won't be, but to come back and say, look at what happened in five years. [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR GAY: And then are you really going to go back and say, oh yeah, I guess we were wrong, I better repeal this? I mean, I think that's...I'm not in favor of that as we get along. But I think that deserves serious discussion. Now we're going to bracket this bill or have a...I assume we're doing a vote count here with voting on this bracket motion. I'm voting to bracket it because we should bracket it. So if we're doing that, there's an excellent opportunity now to bracket this bill. Let more work be done if it can be done. I'm not so sure at this point that we don't have our heels dug in and we are where we are, but I can't speak for everyone. Maybe there's members out there still who are deciding. Yesterday, in committee, we heard some texting bills. All the statistics said, and I don't want to get into it, were in favor of...they brought this to say you shouldn't be texting. All the statistics, not one person really was opposing these bills. But we use statistics many times. And I don't think, you know, to your favor or against you. But when... [LB200]

PRESIDENT SHEEHY: Time, Senator. [LB200]

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

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

SENATOR HAAR: Mr. President, colleagues, I guess I will vote for the bracketing motion because I'm against LB200. And I would like to talk a little bit about the concept of freedom because I think it's really easy to toss that around and convince or to accuse

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people who would not favor repeal of the helmet law as limiting freedom. Well, freedom is a continuum. And it goes all the way from anarchy on one end, which is total freedom, to tyranny, which is a total lack of freedom. The phrase tyranny of the majority is rather interesting. But tyranny really means dictatorship, a lack of freedom. I see that in society we have to decide on a balance. You know, if people are out by themselves and they affect nobody else, give them the freedom. I...for example, Senator White is riding his horse, that's fine, it doesn't affect me. If somebody is out skiing, and in fact I had a friend in high school whose son then got killed in a skiing accident, but that was his decision and it didn't affect anybody else. And I'm very sorry about that. Rodeo is another example. If people are out there earning money and they're...you know, they want to get into the rodeo ring, that's their decision. I think that's where you give a lot of freedom, a lot of freedom. But when it gets to the road, you're dancing with other vehicles. And we have so many examples of that. For example, we do, and maybe not everybody agrees on this, but we do have seat belt laws. I suspect one day soon we will have a law against texting. We have signals at railroad crossings, for gosh sakes. We have speed limits on the highways. All these things are examples of where we as a society have decided to mitigate, or I'm sorry not...to limit freedom because you're on the road with somebody else. So again, I would say, you know, if you want freedom, go out in the middle of a field and do whatever you want. But if you're interacting with other people, and that's what society is about, in an organized society then we decide on balance. And I found a really good quote that I think talks about this. It's from a Web site called QuoteGarden, and here's the way it goes. "The fact, in short, is that freedom to be meaningful in an organized society must consist of an amalgam of hierarchy of freedoms and restraints." Really important here that in an organized society you have to have a combination of both freedoms and restraints. Without it we have anarchy, and obviously if we have too much we have freedom. The First Amendment is a good example of that one. First Amendment will always be argued, as it should be, one sentence...but the freedom, for example, in the First Amendment is not absolute. And we all know this example: you can't yell fire in a movie theater. But there are other places where freedom, where total freedom of speech is absolutely appropriate. So all these freedoms, I think, this discussion of freedom is based on a balance. We're in an organized society... [LB200]

PRESIDENT SHEEHY: One minute. [LB200]

SENATOR HAAR: Thank you. And one of the obligations, and it's a very serious obligation that all of us in this Chamber have, is to understand and realize, and I think we do, that we are the organizers, in many ways, of our society. We are the people that develop the laws for the state of Nebraska. And so the debate is great. We're not going to have absolute anarchy. We're not going to have absolute total freedom. We don't want tyranny, which is total lack of freedom. And what's interesting and the big responsibility that we all share is that we're the deciders in this case. Thank you very much. [LB200]

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Transcriber's Office

Floor Debate
February 10, 2010

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

CLERK: I do, Mr. President. Enrollment and Review reports LB890 to Select File with E&R amendments attached. Enrollment and Review also reports the following bills correctly engrossed: LB743, LB749, LB791, and LB871. I have a new resolution by Senator Sullivan, LR317. That will be laid over. Hearing notice from the Judiciary Committee. It's offered by Senator Ashford as Chair. Senator Heidemann, an amendment to LB987 to be printed; Senator Avery and Lathrop, amendments to LB200 to be printed. And one name add: Senator Harms would like to add his name to LB1103. (Legislative Journal pages 519-522.) [LB890 LB743 LB749 LB791 LB871 LR317 LB987 LB200 LB1103]

And a priority motion. Senator Flood would move to adjourn the body until Thursday morning, February 11, at 10:00 a.m.

PRESIDENT SHEEHY: You have heard the motion to adjourn until Thursday, February 11, 2010, at 10 a.m. All those in favor say aye. Opposed, nay. We are adjourned.