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Floor Debate
January 11, 2010

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SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fourth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Senator Coash. Please rise.

SENATOR COASH: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Coash. I call to order the fourth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SPEAKER FLOOD: Thank you. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Thank you. Are there any messages, reports, or announcements?

CLERK: Mr. President, Reference report referring LB716 through LB793 as well as LR276CA. I have a motion to be printed from Senator Council to LB307. And, Mr. President, the report of registered lobbyists to be inserted in the Journal as per statute. That's all that I have at this time. (Legislative Journal pages 137-157.) [LB307]

SPEAKER FLOOD: Thank you, Mr. Clerk. We now proceed to the first item on the agenda, the motion is to adopt permanent rules. We will open this morning with a motion to amend the motion to adopt permanent rules as advanced by the Rules Committee. Its Chair, Senator Lautenbaugh, is recognized.

SENATOR LAUTENBAUGH: Thank you, Mr. Speaker and members of the body. The Rules Committee did meet and considered rules that were proposed and we offer one proposed amended rule, if you will, dealing with resolutions. The current rule as it exists provides that each member can introduce eight resolutions per session. That also counts resolutions that you cosign, if you will, or cointroduce, so a lot of the members were unaware of that. After the Rules Committee met there were a couple of proposed

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changes to address that and what we put forward is a change that would allow eight proposals, I'm sorry, eight resolutions, if you will, that have to be referenced to a committee. The way the process works, if a resolution is going to require debate, in the Speaker's discretion, it is referenced to a committee. We deemed those substantive when we were discussing them. You're still allowed eight substantive resolutions including ones you sign on to. Resolutions that would not be referenced to a committee, again in the Speaker's discretion, you have an unlimited number of those. So every local individual you want to recognize, every team you want to recognize, that kind of thing as we've traditionally seen, would not count towards your total. That is the one proposed rule change that did come out of the committee and I believe it was unanimous request for your approval. Thank you.

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. There are no members wishing to speak. The question before the body is, shall the Rules Committee motion to amend the motion to adopt permanent rules be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record.

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of amendment 1.

SPEAKER FLOOD: Amendment 1 is adopted. Mr. Clerk.

CLERK: I have nothing further pending to the motion to adopt permanent rules, Mr. President.

SPEAKER FLOOD: We now debate the motion to adopt permanent rules. Senator Lautenbaugh, you're recognized.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'd be remiss if I didn't point out that there were a couple of other rule changes that did not move forward with the committee's blessing, one of which is very near and dear to my heart. And I did want to take some time and discuss it just as a way of an FYI for the membership because there will be something additional done on this. As I said in our committee hearing, I have not...I'm not usually described, I guess, as an environmental activist as the term is currently bandied about, but I am appalled by the amount of paper that we go through in the committee hearing process. Depending on the committee, we're talking reams of paper by the time the session is over. The proposal was to require materials that are to be submitted to the committee, or hard copies of testimony to be submitted to committees, to be submitted electronically. Now, this would require some changes in the way we do business, and some notice to the public so people could prepare for that. I think the vast number of people that come and testify before us would not have a problem e-mailing us their submissions. There would be some, maybe some technological difficulties for some, and there may be some things that we would have to address here within the body with scanners and the like. We did not advance

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that rule largely because, I think, there were a lot of unknowns. And I don't want to speak for the entire committee but I will say I think we all agreed there was problem with the amount of paper that we frankly waste. It goes into, I believe, the storage by the committee clerk and then is eventually microfilmed at the end of the session, which is a costly process and maybe a dying technology in and of itself. So this is kind of like pulling on a thread of a sweater, one thing you unravel might lead to another, might lead to another. So we have some technology issues that we will be addressing. And this started with the proposed rule. We are going to send a letter, I believe, was the solution to resolution we come up with, to the Exec Board asking the Exec Board to help us take a look at these procedures and processes regarding the technology that we use, specifically with an eye towards the paper that we accumulate in committee, but maybe with a larger focus as well to make sure we're doing what we can in the most cost-effective and least wasteful way. Thank you, Mr. Speaker.

SPEAKER FLOOD: Thank you, Senator Lautenbaugh. There are no other lights on. Members, the question before the body is, shall the Legislature adopt permanent rules as amended? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record.

CLERK: 43 ayes, 0 nays, Mr. President, on the adoption of permanent rules.

SPEAKER FLOOD: Permanent rules are adopted. Mr. Clerk, we now move to General File, Revisor bills, LB682. [LB682]

CLERK: Mr. President, LB682 was a bill introduced by Senator Wightman, as Chairperson of the Executive Board. (Read title.) Introduced on January 6, referred directly to General File. [LB682]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Wightman, as Chair of the Executive Board, you are recognized to open on LB682. [LB682]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. Every year the Bill Drafting department and the Revisor of Statutes brings to the Chair of the Executive Board various statutes that have been found obsolete, can be other reasons that language has been declared unconstitutional, correcting internal references, and harmonizing provisions. But the three I bring to you today, the first two will be only to remove from the statutes, at least that's the purpose of the bill, remove from the statutes a particular section because of the fact that it contained language that it was only for a short period of time and that time has now passed. There are probably a number of other statutes that are in the same situation. But at any rate, LB682 is the first of the three bills that I will have, and that would remove obsolete section of law involving the Natural Resources Interstate Water Rights Cash Fund. The fund terminated on June 30, 2003, and that fund was set up to provide some support for interstate water rights

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litigation. The specific section says, the fund terminates on June 30, 2003. It is no longer needed. It is obsolete and it is just adding to our book of statutes or books of statutes that probably are already too long. So I would ask your support in advancing LB682 to Select File. Thank you, Mr. President. [LB682]

SPEAKER FLOOD: Thank you, Senator Wightman. Members, you've heard the opening to LB682. There are no members wishing to speak. Senator Wightman, you're recognized to close. Senator Wightman waives his opportunity to close. The question before the body is, shall LB682 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB682]

CLERK: 45 ayes, 0 nays, Mr. President, on the advancement of LB682. [LB682]

SPEAKER FLOOD: LB682 advances to E&R Initial. Mr. Clerk, LB683. [LB682 LB683]

CLERK: LB683 is a bill by Senator Wightman as Chair of the Executive Board. (Read title.) Introduced on January 6, referred directly to General File. [LB683]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Wightman, you're recognized to open on LB683. [LB683]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. LB683 seeks to repeal Section 61-219 of the Nebraska statute, very much like the previous statute, compliance with the interstate compact or decree stipulation. And it says, it is the intent of the Legislature that the Department of Natural Resources may undertake measures in fiscal year 2006 and 2007 to further facilitate compliance with the interstate compact. The language of the statute so states and it only applies to 2006-2007. So it is obsolete, and I would ask for your support in advancing to Select File, LB683. [LB683]

SPEAKER FLOOD: Thank you, Senator Wightman. Members, you've heard the opening on LB683. There are no members wishing to speak. Senator Wightman, you're recognized to close. Senator Wightman waives his opportunity. The question before the body is, shall LB683 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB683]

CLERK: 44 ayes, 0 nays, Mr. President, on the advancement of LB683. [LB683]

SPEAKER FLOOD: LB683 advances to E&R Initial. Mr. Clerk, LB684. [LB683 LB684]

CLERK: LB684 by Senator Wightman, as Chair of the Board. (Read title.) Introduced on January 6, referred directly to General File. [LB684]

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SPEAKER FLOOD: Thank you, Mr. Clerk. Senator Wightman, as Chair of the Exec Board, you're recognized to open on LB684. [LB684]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. LB684 would repeal two obsolete statutes that specifically terminated six days after March 31, 2000. The bill also harmonizes the remaining statutes. Section 61-612 and 61-613 both provided that the fund would terminate...it was actually just set up for a short time transfer of funds and then those funds were to be transferred to the General Fund and then they were to terminate six days after that. The language says, the State Treasurer shall transfer the cash and investment balance existing in the fund on March 31, 2000, to the General Fund within five days after March 31, 2000. The section shall terminate six days after March 31, 2000. Section 61-613 has a similar provision and provides that the funds would terminate six days after March 31, 2000. Then there are several sections that follow that mention Section 61-612 and 61-613 and that is being removed from those statutes, but those statutes had other content and will still be effective. Just the reference to Section 61-612 and 61-613 would be removed. Again, we would request that the body advance LB684 to Select File. Thank you, Mr. President. [LB684]

SPEAKER FLOOD: Thank you, Senator Wightman. Members, you've heard the opening on LB684. There are no members wishing to speak. Senator Wightman, you're recognized to close. Senator Wightman waives his opportunity. The question before the body is, shall LB684 advance to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB684]

CLERK: 45 ayes, 0 nays, Mr. President, on the advancement of LB684. [LB684]

SPEAKER FLOOD: LB684 advances to E&R Initial. Mr. Clerk, we now proceed to General File, LB261. [LB684 LB261]

CLERK: LB261, Mr. President, was a bill originally introduced by Senator Rogert. (Read title.) It was introduced on January 14, 2009, referred to the Transportation Committee for public hearing. The bill was advanced to General File, discussed on February 26. There are Transportation Committee amendments pending, Mr. President. (Legislative Journal page 158.) [LB261]

SPEAKER FLOOD: Mr. Clerk, the status of this bill, there are Transportation Committee amendments. Are there amendments to those amendments? [LB261]

CLERK: There is, Mr. President. [LB261]

SPEAKER FLOOD: Okay. The Chair will go ahead and proceed. We will give Senator Rogert a 10 minute intro. We will give Senator Fischer a 10 minute intro, and any other amendments thereto will also receive a 10 minute introduction. Beginning with Senator

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Rogert, the introducer of the bill, you are recognized. [LB261]

SENATOR ROBERT: Thank you, Mr. President. As the Clerk mentioned, LB261 was introduced a year ago and we were last on General File on this bill not far from a year ago. About March, I believe, we handled this for a little while. We were cut off just due to time "constraintments" and we went on to prioritize the bill at that time. LB261 is a bill introduced that permits the scanning of operator's license by retailer to acquire information that would prohibit the use of a false ID by a minor or a third party to purchase alcohol for a minor in Nebraska. Nebraska law currently permits only the court or law enforcement to scan and compile information acquired from driver's license. It is a Class IV felony to scan machine-readable information encoded on a driver's license, as well to compile, store, preserve, trade, or sell that information. Since 2001... [LB261]

SPEAKER FLOOD: (Gavel) [LB261]

SENATOR ROBERT: ...every state, except Nebraska, has passed legislation allowing for a scan and storage of this type. It's largely due to the improved evolving technology that has developed to protect the safety of data compiled as opposed to the current tape processes that we use in the state that are not secure. There are federal requirements put in place to provide limitations on what information can be used and how it can be used. For example, there's a requirement regarding FSA transactions which require retail stores and retail transaction data to be kept for five years. FSAs are flexible spending account debit cards, retailers allowed to take since implementation on the point-of-sale system that flags items eligible for an FSA debit card. There's also a seven year limitation with regard to the Fair Credit Reporting Act. It limits how long information can be retained when transferred from a retailer for check verification or credit company. It's important to note that in addition to the amendment, to the committee amendment, we will be introducing another amendment on the bottom side of that that limits the duration this information is stored under the proposed...the purpose of this legislation to 18 months in order to provide assurance in state statute that the information will not be stored for an indefinite period of time outside of the federal requirements. In summary, this legislation stands for...in the first portion of the bill we allow retailers to scan the bar code on the back of your driver's license. It's a...if you look on the back side, there's a little bar code back there and there's information stored on that. You know, we want to scan that when alcohol, tobacco, or lottery tickets are purchased and it's going to store only two items: the number of the driver's license and the age of the person at that time. For example, I go in, I buy a pack of cigarettes, it stores the number on my license and age 37. That's it. The scan will identify minors who attempt to purchase alcohol and tobacco products and assist retailers in keeping these products out of their hands when adults attempt to purchase for them after having been approached outside a parking lot or whatnot. Currently, when a retailer passes an alcohol compliance check they do not have this knowledge until...I've skipped a page here. Anyway, under LB261 the retailers would be allowed to implement software that

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controls the sale of sensitive products, immediately stopping the sale if a fake ID is used. If you put it in there and it's fake, the bar code information will not be there, it will instantly stop the sale. The software would read and calculate the age instantaneously. If the age of the cardholder is legal age limit for the product, it unlocks the cash register and allows you to continue with the sale. Signage would be posted at the point of sale in a plastic placard permanently attached to the register informing consumers when they purchase these products that their operator's license will be scanned and the age and the operator's license number will be stored. This signage will prevent adults from purchasing alcohol for minors as they know, they see that sign, that they can be tied to the sale if prosecuted later on, hopefully reducing that purchase for minors. Employee policies would not change as to the actual physical check of the operator's license. However, it may miss...it will take care of some human error caught in the scan. And when I say human error, I mean two things. Sometimes you can glance at a driver's license and not notice that the person isn't old enough, or you can glance at the driver's license and absolutely know that the person isn't old enough and continue on with the sale anyway. You know, we have thousands of clerks that are across the state and most...many of them allow for the sale of alcohol to minors. A couple of years ago we passed the Alcohol Youth Liability Act that would make those folks liable for that sale even if their clerks went ahead and pushed in the, whatever date they wanted. It's a manual entry at this point. You can easily sell to a minor. At this point if you use this type of technology, the only way the register would be unlocked for the sale is if the bar code actually shows that it's in the person old enough. It does...LB261 does not make it mandatory for retailers to use this technology. With the passage of this bill in the event that a retailer decides or does not decide to advance to the technology for the prevention of sale of minors, the Liquor Control Commission has set standards for certified training of employees. If the training deviates from those standards, it will not be certified by the Liquor Commission. Retailers are encouraged to provide certified training as an incentive for reduced penalties if the clerk who sold to a minor attended those certified training course. Thus, it's still in the retailer's benefit to carry out proper training outlined by the commission. As it stands, LB261 in the second portion of the bill without the committee amendment allows the retailer with permission from the consumer to scan the bar code on the back of the operator's to store all kinds of information. However, in the committee amendment and my amendment, we've eliminated that provision because of some concerns. We have penalties under a Class IV felony that would hold the retailer and computer programmer responsible for storage and sale of the data. Consumers more often than not may notice that they are on a list for new mail advertisements. A phone call to the company to inquire and investigate the source and exchange of information is all that it would take to show that this information has been sold or used in an improper form. Many consumers are required to have valid information on file to be able to cash a check or take advantage of a customer loyalty program. So in that sense, consumers are already providing, via written document, some type of the same information. A hard copy or written document occupied with the retail store can be susceptible to, or subject to negligence. Oftentimes, younger looking

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folks will come in to purchase things that are required by a certain age. If they look young, and even if a check of the ID doesn't suffice the retailer, they have them fill out a book called the Black Book. And they put all their information down and it lays on a counter for anybody to see. That's as insecure as possible. This would eliminate that process. Another provision that we have in here with the amendment allows for better check cashing provisions on those...when you send your check through, first data has some vendors. And the end portion of this clears that up and allows for safer and more accurate check cashing at those stores by the retailers. The intent behind LB261 is to prevent the sale of age-sensitive products to alcohol...such as alcohol from getting into the hands of minors, and second, provide a safer environment for the data to be stored under the legitimate lawful purposes. There's an amendment by the Transportation Committee. In addition there's a few changes clarifying penalties and addressing the second portion of the bill by striking the language allowing the retailers to scan and store the name and address. We took that out. With the amendment only information of number and age would be stored. I accept all these compromises and I ask the members of the body to do so as well. With that, I will let Senator Fischer open on the committee amendment. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Thank you, Senator Rogert. You've heard the opening to LB261. As stated, there is a Transportation and Telecommunications Committee amendment. Senator Fischer, you're recognized to open on AM182 to LB261. (Legislative Journal pages 367, First Session, 2009.) [LB261]

SENATOR FISCHER: Thank you, Mr. President. I'd like to thank Senator Rogert. I think he gave a very thorough overview of what this bill is. He touched on the amendments. He has an amendment coming up which I support personally. The committee has not discussed it but it is a good amendment and it further offers safeguards to what we're trying to accomplish here. The committee amendment, AM182, strikes the original section and becomes the bill. The amendment clarifies that any person who trades or sells machine-readable information is guilty of a Class IV felony. The amendment also makes any violation of the exceptions provided in subsections (3) or (4) a Class IV felony. The amendment strikes Section 1 sub (4) of the original bill so that a retailer may not store additional information from the machine-readable information with the written authorization of the license or identification cardholder. The amendment adds a new subsection (4) to allow for a person having access to the machine-readable information to scan, compile, store, and preserve the information for the purpose of providing it to a consumer reporting agency subject to the Federal Fair Credit Reporting Act, to administer or enforce the transaction requested by the license holder, to protect against fraud or unauthorized claims, or for resolving a dispute or inquiry by the license holder. The new subsection will permit retailers to scan the driver's license so that information may be sent to companies that store driver license numbers in connection with retail

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transactions. These companies provide information to the retailers about the potential of fraudulent transactions or insufficient fund transactions. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You've heard the opening of AM182 to LB261. Mr. Clerk, you have an amendment to committee amendment. [LB261]

CLERK: Mr. President, I have a couple. Senator Fischer you had filed last year, Senator, AM323, but I...are you going to offer that or withdraw? [LB261]

SENATOR FISCHER: I am. [LB261]

CLERK: Oh, okay. Senator Fischer would offer AM323, Mr. President. (Legislative Journal page 576, First Session, 2009.) [LB261]

PRESIDENT SHEEHY: Senator Fischer, you're recognized to open on AM323. [LB261]

SENATOR FISCHER: Thank you, Mr. President. This amendment to the committee amendment is to correct a technical drafting error. After the committee amendment was filed, the Department of Revenue contacted my office and informed us that retailers are not issued a license to sell lottery materials. They actually contract with the state. So we have inserted the word "contract" in there and that language change does ensure that the bill is in line with current practice. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Fischer. You have heard the opening of AM323 to AM182. Members requesting to speak: Senator Price, followed by Senator Harms, Senator Lathrop, Senator Louden. Senator Price, you're recognized. [LB261]

SENATOR PRICE: Thank you, Mr. President and members of the body. I had a couple questions for Senator Rogert, if he would yield. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Price? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR PRICE: Thank you, Senator Rogert. First and foremost, I want to tell you first I do support the intent of what you're doing with this bill. Just a couple minor questions. And that would be, you said the scanned data, I guess the two points of information would be safe for a period of time. How long is that time again? [LB261]

SENATOR ROGERT: Most of it's only stored for...most places only 18 months. [LB261]

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SENATOR PRICE: Okay, thank you. Will there be a transaction ID also saved with that sale? [LB261]

SENATOR ROBERT: I would assume so. [LB261]

SENATOR PRICE: Okay, great. And then the question I had is, is this data that's going to be saved, is it primarily the intent or the purpose to stop the people coming in making the sale, or is it equally burdened to the people behind the counter making the sale? Because there's some of those infamous bad actors of, you know, the kids come in and then the people who help them to make, to facilitate the transaction, so is it shared equally amongst both parties? [LB261]

SENATOR ROBERT: I believe so and I'll give you an illustration. Small retailers may or may not use this. But the larger ones, say you go down to the Hy-Vee and in order for you to be able to purchase a six-pack, we'll say, they have to enter into the computer an age that is above 21. Well, there's nothing preventing them from entering just a completely made-up age that makes it old enough. Most likely when this passes, those organizations will immediately turn their machines on to...the sale will not happen until it is scanned by a code that actually shows an old enough age. So it would put the burden on both sides. [LB261]

SENATOR PRICE: Okay, great. Now, the final question comes now. I heard you talk about it a little bit but your opening was so limited so I'll give you more time to discuss it if you'd like. And that is, how do we protect against false alarms? I mean, how many times have we had a credit card or some other transaction that took place or tried to take place and you couldn't because there was a nick on the magnetic code? So if you are a citizen who has the authority and a proper standing to make that transaction, but yet your ID card, whatever you have, doesn't allow you, what is the secondary manner in which a business could go? Let's say you're a small business, you don't have that point of sale device to scan, so would you take some time and articulate that for me? [LB261]

SENATOR ROBERT: Well, now, first of all, this doesn't make it mandatory for folks to use this. If a retailer doesn't wish to use it, they don't have to. It just makes it available to those who want to. There will be a "minorly" significant, that's kind of a dichotomy, but there will be some sort of investment required to use this technology in terms of stuff. You know, you've got to have a card reader and those types of things. Hopefully, you know, you look at the back of your driver's license, it's not like a credit card. It's not a magnetic storage area. It's actually a bar code that represents the information on the other side. So whatever you type in there, bar codes are a pretty simple program. You put in a certain amount of information and it immediately transfers it to a bar code. It's just a different type of language that's read and it's the same thing. So, hopefully, there shouldn't be any differences between the back side and the front side. If there are, I'm

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certain that a manager will have an override key that they can go to. [LB261]

SENATOR PRICE: Okay, great. And then finally, again I'm sorry to go on again but you perked my curiosity. Let's say you're in a nightclub setting, a bar setting, you're the employee and you scan a card across and you get a green light that the sale is good. Yet... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR PRICE: Thank you, Mr. President. And yet there is a counterfeit card and, you know, as soon as we make a level of security or something at this level, there's somebody out there going to crack a code and try to do something. So I would hope that there would be a mechanism in place to hold harmless a retailer in that situation. Because, again, no matter what we do with our greatest ID technology, someone always seems to come up with a way to counterfeit it. So I just would ask that but I do support the effort and I applaud you for bringing it forward. Thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Harms, you're recognized. [LB261]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Fischer, would you yield for just a moment? [LB261]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Harms? [LB261]

SENATOR FISCHER: Yes, I would. [LB261]

SENATOR HARMS: Senator Fischer, I'd like to visit with you just, if I may, for on a couple of items on your AM182, page 2, lines 8 through 10, if you would look that up so we're kind of talking about the same thing. [LB261]

SENATOR FISCHER: I have that, Senator. [LB261]

SENATOR HARMS: Okay. On line 8, it says the programmer for the computer software designed to store such information shall certify to the retailer that the software is capable. I need to know what we talk about when we talk about certify, and what does capable mean in this kind of legislation? Because that, I guess, it bothers me a little bit since I don't know what certification means and how you're going to certify it and that it's capable. If capable means we're going to provide software that we're absolutely sure and that it is going to take care of the data and it isn't going to get lost, then I don't have a problem with that. And that's my two questions to start with. If you could answer those, I would appreciate that. [LB261]

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SENATOR FISCHER: I hate to pass the buck to Senator Rogert, but I probably will. But I will answer it as best I can, Senator Harms. To certify, I imagine that would mean as with anything where you have to certify it, you have someone come in and say yes to run the program, see that it only is storing the information that's allowed under the statute, and is not able to store any more. I'm not a whiz on computer programming so I probably can't go on, if you'd want to ask Senator Rogert. [LB261]

SENATOR HARMS: Well, thank you, Senator Fischer. I didn't mean to put you on the spot. Let me...Senator Rogert, would you please yield? [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Harms? [LB261]

SENATOR ROGERT: Yes, I will, and I'll admit I wasn't listening to what you asked before, John. [LB261]

SENATOR HARMS: Senator Rogert, you heard the conversation that we had and we're talking about on AM182, lines 8 through 10. The two questions I have is certification and what capable means and whether we're talking about providing specific software, because I can tell you now, if you leave this up to programmers, it's easy for errors to be made and easy for it to be penetrated and I worry about that aspect. I've had a lot of correspondence from people who are concerned about the safety of the data. So if you could answer that for me, I would appreciate it. [LB261]

SENATOR ROGERT: Well, I will tell you that if you look at the very...there's a couple different times it's mentioned and in the final amendment I have in here it's also mentioned that it says any person found guilty of compiling or storing or selling this data in any way, manner, or form, that's in...in not what we're talking about here, it is a Class IV felony. [LB261]

SENATOR HARMS: What I'm trying to get to here, Senator, I understand that. But what I'm saying is, how are we assured, regardless of what the penalty is, that that data is going to be safe? We've got people who don't care. We've got people who will penetrate those and sell that information or use that information in a negative sense. And that's what I'm trying to get to. [LB261]

SENATOR ROGERT: Well, and John, Senator Harms, excuse me, I think a couple of things here. This technology, if everybody is kept in check by law enforcement and by the way we've written it, the only thing they're going to be keeping is a number and an age. Nothing else is compiled on that scan. All it would give is your driver's license number and your age. You're 42 right, John, Senator Harms, I think something like that. So it would keep those, just those things. [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

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SENATOR ROBERT: So even if those things were hacked or stolen, there really wouldn't be...I mean, in my opinion, there's nothing there that would cause any harm. [LB261]

SENATOR HARMS: Quickly one other question. We may not get this answered, Senator. Who has the responsibility to oversee all of this? Who is going to make sure that all these different businesses are following what we have asked them to do in this law? And that whatever is capable is being...it is capable of storing and it is certified. [LB261]

SENATOR ROBERT: Well, I think several places. I think the Liquor Control Commission will have jurisdiction. All local city, state, county, and law enforcement will have jurisdiction. I don't know...I'll have to check if there's going to be full monitoring of that, but anytime a complaint would be done the local law enforcement would be investigating. [LB261]

SENATOR HARMS: Thank you, Senator. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Lathrop, you're recognized. [LB261]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I wonder if Senator Fischer would yield to a few questions, if she might. [LB261]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Lathrop? [LB261]

SENATOR FISCHER: Yes, I will. [LB261]

SENATOR LATHROP: Senator Fischer, this is a bill that passed through your Transportation Committee, is that right? [LB261]

SENATOR FISCHER: That's correct. [LB261]

SENATOR LATHROP: And I read the original bill and the amendments thereto, and my first question is the evolution of this bill. It would appear that it began as a tool to help retailers as they sell lottery tickets, tobacco, and alcohol. Would that be a fair statement? [LB261]

SENATOR FISCHER: That was the intent of the bill, yes. [LB261]

SENATOR LATHROP: And as I read your committee's amendment, AM182, as I look at that, Sections 1 through 3 do exactly that. Am I right? [LB261]

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SENATOR FISCHER: Yes. [LB261]

SENATOR LATHROP: In other words they address the alcohol, lottery ticket, and tobacco issue. [LB261]

SENATOR FISCHER: And also what could be stored when the driver's license is swiped. [LB261]

SENATOR LATHROP: Right. What can be stored if the driver's license is swiped for purposes of the lottery ticket, the alcohol... [LB261]

SENATOR FISCHER: And cigarettes. [LB261]

SENATOR LATHROP: ...and the cigarettes. But when I look at Section 4 which seems to be the most significant change that comes to us by way of your amendment, it becomes a cash checking tool, am I right? [LB261]

SENATOR FISCHER: Yes. [LB261]

SENATOR LATHROP: In other words, we could break the bill or the amendment into two pieces. One is its original purpose that dealt with ticket, lottery tickets, and alcohol, and tobacco, and then the other piece now that we see introduced in your...the amendment from your committee has to do with cashing checks. And my concern, I will express this to you, my concern is that as I read Section 4, it seems like we change all the rules. That if you have access to one of these machine-readable information and coded on some of these operator's license, we now say, where before they couldn't scan and compile and trade and sell and share any of that, if you're using it for one of these commercial transactions, you can scan, compile, store and preserve the information. So here's my question. If I am a chain store and I'll pick on Target. I go in, Target scans my driver's license as I cash a check in there or as I buy groceries with a check, and let's say on the day I go in there, my check bounces. I don't have the money in there and suddenly my check bounces. They can, under this, share that information with anybody they please and now I can never cash another check anywhere as a practical matter. Would that be true? [LB261]

SENATOR FISCHER: Senator Lathrop, I would have to say that the committee expanded the scope of this bill in dealing with the check cashing because the more information we received on this process we thought it was appropriate. If I recall from last year, I recall that every other state except Nebraska does what we're trying to do in Section 4. Retailers already have that information. They're already getting that information. They're just doing it in a different way. When they take your check now at a retail outlet, they are...they look at your driver's license, and they write your driver's

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license number on that check. That is... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR FISCHER: They already have that information. What we looked at as a committee was how other states are doing it through swiping the driver's license and getting the number that way off the driver's license instead of writing it on a check. [LB261]

SENATOR LATHROP: Yeah, and believe me, this isn't a criticism that you have expanded the bill beyond its original purpose. [LB261]

SENATOR FISCHER: I would hope not. [LB261]

SENATOR LATHROP: It really isn't, but I do have concerns about the fact that in Section 4 when we start talking about check cashing, now somebody goes in one time, writes one bad check and now they are...their driver's license ID number can be stored, shared, and used to tag them, and one bad check and they can't cash a check or write a check anywhere. I'm not sure how to deal with it because I didn't know this was coming, frankly. [LB261]

SENATOR FISCHER: I'm sorry. I believe that that happens already. [LB261]

PRESIDENT SHEEHY: Time, Senator. [LB261]

SENATOR FISCHER: That information is already stored. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Thank you, Senator Fischer. Additional members wishing to speak on AM323 to AM182, we have Senator Louden, followed by Senator Haar, Senator Heidemann, Senator Gloor, Senator Pankonin and others. Senator Louden, you're recognized. [LB261]

SENATOR LOUDEN: Thank you, Mr. President. As you noticed on the committee statement, I was the only one that voted against this bill in committee. And I had some concerns about it, especially after testimony from Beverly Neth, the director of the Department of Motor Vehicles on the licensing division. And some of the things I would quote from her testimony was that in any case bar codes and bar code readers are really pretty simple and expensive technology. The first tag of the driver's license bar code indicates the standard, and this tag tells a bar code reader software which standard to use to read the bar code. And bar code readers can generally connect computers via a USB cable. You plug in a bar code reader to any PC and you'll most likely be able to read a bar code. It doesn't necessarily take specific software to read a bar code and the bar codes on these driver's license are not encrypted. In other words,

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the information is there, is once you have a bar code reader in there, is out there. Some of the information that's contained in the DMV's database is technically not a public record. With the exception of the Social Security number, the personal information in their database is the same information contained on the bar code. And that usually has to do with any medical or disability information on there that was needed for the drivers in order to get a driver's license. So that's personal information that's on that driver's license and when you use a bar code reader, then you pick up all that information. That's...by then, that's out in public. You look back ten years ago, how many people ten years ago thought that you could take your PC out here and somebody could take it apart and read the hard drive on it and really record your whole life or whatever you ever did on that computer. So things can change, once that bar code is read and put out there. And it said that given the advantages of using the bar code it's easy to understand why private companies, who also have a need for people's personal information, would like to use the encoded information on the driver's license for their purposes. There's no denying that bar codes are an efficient and inexpensive way to record and capture information for a whole variety of purposes. The difficult question before the committee was whether or not and to what extent we should allow private entities to harvest people's personal information from a public document to further their private needs. And this is a public document that is supposed to be guaranteed safe by the Department of Motor Vehicles. So I was concerned about this. And as you notice in the bill, I think some place in there they have to put up a sign that they're going to read the driver's license, and that's fine. And when you go in to buy something if they ask for your driver's license you don't have to give it. I agreed to that, but on the other hand those people that want to make that sale they don't have to read your driver's license to make that sale. If they have a concern, then they don't make the sale. So this isn't something that is necessary for the world to go around that we have to have somebody reading your driver's license bar code in order to make it work. So I was concerned that I didn't think this should really be in statutes. I didn't think that it was necessary and at the present time they do have a picture on there of the person that's on your driver's license. Also you want to remember that your driver's license is going to be your national ID. Whenever a national ID gets into all of the states, that's your driver's license. Any of you that have had your Nebraska driver's license all of your life... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR LOUDEN: ...you've had that same number all the time. If you go to another state now and get another driver's license, that same number that's on your driver's license in Nebraska will be on that driver's license in another state. So this is your national ID that you're working with. You want to be very careful with what we do with it. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Haar, you're recognized.

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[LB261]

SENATOR HAAR: Mr. President and members of the body, I have some real concerns with this bill and I'd like to, you know, maybe some of them can be fixed with amendments. The first one is certified software. The points that have been made is with current bar code readers and PCs, a 12 year old could be the programmer that develops this kind of software. And so I think words are really important here. What does it mean the software has to be certified? Who does the certification? And how do we know the ability of that programmer who does the certification? I think that's really central to this whole issue. One possible solution might have...might be to have this be in a centralized database, for example, that's maintained by the Department of Motor Vehicles or something, so that certified software would actually have some kind of meaning. It would have to be certified by somebody because if you get somebody who is young such as a, let's say a 12-year-old programmer, might have no idea what a Class IV felony is, may have no idea what certified means, and I think that's a real concern I have. Then when it comes, especially in Section 4, the amendment, where it gets to check cashing and then there can...I mean check cashing can happen in almost any kind of an establishment. So now you've expanded this to thousands of people who could be writing their software and collecting the data and all we have...all the certification I have that my personal data is being preserved is the word of a retailer. Then a question really comes, and I think this was brought up briefly, but how do you get off this list? One of the things we've been hearing about in the list that the airlines have for people who are not allowed to fly or who are marked that they have to be searched and so on, is there have been mistakes on those lists and getting off those lists can be almost impossible. And so I think we have to address the issue of how do we get off that list? Once I get on a list that's kept by retailers of one sort or another, how do I get off that list? And then there's no specific enforcement. This is really an important issue because it involves privacy. It involves all of our privacies and I think we, for sure, we need to have built into this list where enforcement comes from. For example, there are some 5,000 liquor license holders in Nebraska. Who's going to enforce it for them? And then once you expand it to retailers, then you've got just thousands and tens of thousands of people who might be maintaining my data. Who's going to check that they're doing that appropriately? Now, I got an e-mail from a group called Identity Theft Action Council of Nebraska. I think quite a number of us got it. And it says, one of their bullet points, and I don't know whether this is true or not but it says, Nebraska's current law is considered a high standard example of driver's license privacy protection. Other states are having a hard time passing legislation closing the door on businesses collecting and storing data from driver's licenses. So... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR HAAR: Thank you. I would like to ask Senator Rogert a question, if I could.
[LB261]

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PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Haar? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR HAAR: Maybe we can work on some of these things, Senator Rogert, that are my concerns, but the thing that said here that other states are having trouble now closing the door, do you have any knowledge of that or did you get this e-mail? [LB261]

SENATOR ROGERT: I don't know what you're looking at, Senator Haar. [LB261]

SENATOR HAAR: Okay. Well, I would like to...I'll pass this e-mail along to you and maybe we can take a look at that. [LB261]

SENATOR ROGERT: Okay. [LB261]

SENATOR HAAR: So those are some of my concerns and I'd like...you know, I'll get up and talk again. Thank you very much. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Heidemann, you're recognized. [LB261]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I actually don't have any issues. I'm listening to the debate, but I don't have any issues on LB261, nor the amendment, nor the amendment to the amendment. I had passed out just a short while ago the General Fund financial status and I think it's important that I touch base with you where we are financially in this state. And as we begin debate on General File, there will be some bills that have an A bill with them. And I think it's very important this year that we look at them maybe just a little bit earlier than we normally do. Many times that even when you're in financial dire straits, you pass them on General File and Select File and you leave them sit on Final Reading until the budget passes and then you look at those bills that cost money at that time. It might be a better path that we go down that we actually look at anything that costs money this year earlier on General File and Select File and start to weed our priorities and our not priorities out a little bit sooner. If you would look at the General Fund financial status, on line 27, you look at the first box, it's showing a little over \$300,000 on the plus side. As you're well aware, Friday's revenue from December came in and we was well under the forecast of approximately \$30 million. If January is down and when the February Forecasting Board meets on the 26th of February, they will take into account that the revenue is down, if that's the trend that actually keeps taking place. If you had to do it today, that box probably wouldn't be a plus \$300,000, it would be a negative \$30 million. And that's something that we need to definitely keep in mind because that actually will affect the next box, which I will talk about in a little bit. But each and every action that we take in

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here in this biennium budget, we definitely keep in mind that affects the next biennium budget. So for every action we do now, you can almost times it times two or three what it will affect us down the road. And now something that we don't normally do, but because there's so much concern in Appropriations and the Fiscal Office, if you look at that next box in the next biennium budget, and this is something that Appropriations probably will take up already this year because there's just that much concern there, we're showing a...we're in the red at \$639 million. And that's not taking into account that we might have to adjust that when the February Forecasting Board meets. The other thing that I want to share to you, that is a big enough challenge in itself, but if you would go down to line 32 in those out years, we're showing a revenue growth of 7.4 percent. Those are LFO numbers right now. Until the Forecasting Board meets next October, they will be guided with Global Insight numbers and some other numbers. If we had to use those other numbers today from Global Insight, they are showing probably approximately anywhere from 3.5 to 4 percent. If you would apply those numbers to what we know today then, that box probably would not say \$639 million, it would be closer to \$1 billion, in that range. You understand the challenges that we have before us as a state and I think I would be remiss in my duties... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR HEIDEMANN: ...if I didn't stand up and start to tell you that and start to inform you of that now. So as we go through this process, I think we need to be very mindful of the situation we're in. I will give this body a lot of credit, over the last several years, how we handled ourselves. I give you a lot of credit this session already because I have not seen a lot of bills introduced that cost money. And I think...I appreciate that and I think the people of the state of Nebraska appreciate that. So as we start to go through this process, if you have any questions I would be more than welcome to try to answer them. You can go to the Fiscal Office, which are a great resource. We've got great people down there. We do have some challenges before us but we can make it through by being responsible like we always have. Thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Heidemann. Continuing floor discussion on AM323 to AM182, members requesting speak: Senator Gloor, followed by Senator Pankonin, Senator Rogert, Senator Carlson, Senator Council, Senator Fischer, and others. Senator Gloor, you're recognized. [LB261]

SENATOR GLOOR: Thank you, Mr. President and members of the body. And I appreciate Senator Heidemann's polite reminder to us of issues that are, in fact, dominating our thought processes and our debate well throughout this session and beyond, I'm sure. As is usually the case, he is the life of the party when it comes to that discussion. (Laughter) I have followed LB261 much closer than I had intended. It is a great discussion, helps me quite a bit, the dialogue, the questions, vetting through an issue that to me seemed to have parties involved and either opposed or for this

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legislation that confused me. In this case, left seemed to be right, and right seemed to be left. Although from a standpoint of political arena maybe I should say up is down and down is up. I am getting a better understanding of that and if this question has already been asked, it has flown by me. I wonder if Senator Rogert would yield to a question. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Gloor? [LB261]

SENATOR ROGERT: Absolutely. [LB261]

SENATOR GLOOR: Senator Rogert, as specifically relates to minors trying to purchase alcohol, is there anything in this bill that changes the due diligence or the penalties for a clerk or a store involved in selling to a minor? [LB261]

SENATOR ROGERT: No, not at all. But not making...this doesn't make any sort of action mandatory. It just makes this available. It's another tool in trying to prevent sales to people who don't...shouldn't be buying them. So there's a liability that will still be there. This is hoping actually to reduce the exposure to that liability by stopping certain transactions. [LB261]

SENATOR GLOOR: But we're not looking for a mechanical check here that in any way would alleviate going through the process, someone who comes in with a obvious identification card. [LB261]

SENATOR ROGERT: No. [LB261]

SENATOR GLOOR: Yeah. [LB261]

SENATOR ROGERT: No, it wouldn't do that all. In fact it just...you would still have to look at it and we're not requiring you to just not...it's just allowing it for another tool that prohibition of the sale by locking up a computer until at least the first step is made and then when you look at it and say, wait a minute, this isn't you, it will still tie up to somebody else. [LB261]

SENATOR GLOOR: Okay. Thank you, Senator Rogert. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Pankonin, you're recognized. [LB261]

SENATOR PANKONIN: Thank you, Mr. President. Colleagues, this bill I've got big problems with it and I'll tell you the reason why. It's multifacet that I've got problems, but I'm going to give you an example. Last spring when we talked about this there had been

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a major data breach of a system that related to bank debit cards that affected a lot of banks in Nebraska. And at the time, Senator White, I think, talked about that as well. But I just...I think most of you know, I'm a community bank director, have been since 1977, and our bank got caught up on this, end of this, because a third party that we contracted with had this breach so we had to get...our customers had to get new debit cards. And they were concerned and they were contacting me personally about this issue even though the bank wasn't at fault. It was somebody else. The point is, if we approve this and there's a data breach here, it's going to come back on us as the people that approved this. Now, I know, down the road as Senator Louden has said, we may have a national card and all this is going to happen and that may be true. But I'm going to try to vote to postpone that day because there's more information out there on us than we already...it's scary and these breaches happen, these problems happen, and Senator Lathrop brought up some issues as well on check cashing. But there's just a lot of problems here that I don't think the amendments still satisfy me and I want everybody to think very carefully before you vote for this bill with all due respect, Senator Rogert, Senator Fischer. But you're just...you know this information society we live in has a lot of problems with information getting out there. And there's problems and it will come back on us. And even though it's not our fault, someone else has lost that information, the people are going to...if there's something in the paper that says that system that we approved, people got into it and all that information is released or available or people can get into it, people are going to think about us, and they should. Because you've got to be very careful in these situations. I think Senator Haar made some good points as well about personal privacy and whatever. So I'm not in favor of this for many, many reasons. I think you need to think carefully about it. And last spring when we talked about it, it bogged down because of that big security breach that had happened and among...of for other reasons. But I want you to carefully, carefully think about this one before you vote for this bill. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Pankonin. Senator Rogert, you're recognized. [LB261]

SENATOR ROBERT: I'll waive that actually. [LB261]

PRESIDENT SHEEHY: Senator Rogert waives. Senator Carlson, you're recognized. [LB261]

SENATOR CARLSON: Mr. President and members of the Legislature. I didn't know how I felt about this bill and so I'm listening closely to the debate. I'm kind of interested in...I'm seeing differences of opinions amongst people that normally maybe are on the same side of an issue. And it's brought a question or two to mind. I'd like to address Senator Rogert, if he would yield. [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Carlson? [LB261]

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SENATOR ROBERT: Certainly. [LB261]

SENATOR CARLSON: Senator Robert, as I indicated, I'm just listening and trying to decide how to vote on this bill. One of the things that bothers me, and I was kind of afraid to ask it as a question but now hearing some other debate, I'm going to ask it. And I'll use myself as an example. Somebody gets ahold of my driver's license and identify theft is something that we're paranoid about, especially if you've experienced it. I haven't experienced it. I hope I don't. But somebody gets ahold of my license and, of course, so far above the minimum age, but they kind of look like me and so a person uses it to make some kind of a purchase and it gets scanned and it's not me. Now identify theft is so frustrating to try and run down, is this helping that or hurting that? [LB261]

SENATOR ROBERT: I don't know that it has any bearing on it either direction. I really don't think that this would prevent identify theft, but I also don't have an indication that it would increase or add any benefit to anybody in that way. Now, I will say, and this happened to me, if you have, say they took your checkbook along with your driver's license. They got everything out of your car. And if you report that right away to your bank and they...they're going to...most places require you to have your ID with your check, this will better enable them to shut down checks being written on your account in a quicker and easier manner. And that is beneficial, in my opinion, because of Section 4. [LB261]

SENATOR CARLSON: Okay. Well, I will continue to listen to this but I know that when a lot of information about you gets out to where it shouldn't and it's not your fault, you're just running in circles trying to put out fires and... [LB261]

SENATOR ROBERT: Now, I will say also...I'll go again and say the only thing that's going to be recorded is the number of your driver's license, you know, G, whatever county and then a number, and the age of the person at that time. That is all that's recorded. If somebody steals your driver's license, they're going to have all that information anyway, all the other stuff. But the only thing that gets recorded on that scan of your driver's license is the number and the age at that time, just two simple numbers. [LB261]

SENATOR CARLSON: Okay. Thank you, Senator Robert, and appreciate the testimony of various people. I'll continue to listen. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Carlson. Senator Council, you're recognized. [LB261]

SENATOR COUNCIL: Yes, thank you, Mr. President. I, too, have been sitting and

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listening to the debate on this measure and I've had some conversations today as well during the interim period with regard to this legislation and I certainly support the intent of reducing alcohol sales to minors. But I have some problems making the connection between the provisions of this legislation and actually achieving that objective. And my second concern goes to the whole issue of storage. I still don't understand, and maybe, Senator Rogert, you can...if you'll yield to a question, you can explain it to me in a more understandable method. I don't understand the need to store the data. For example, if we're speaking of having the scan act as an alcohol sale or a lottery ticket sale compliance check, when it's scanned and it verifies that the person who is handed that card is that age and that's their driver's license number, what is the benefit and the reason for storing that information? [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield? [LB261]

SENATOR ROBERT: Yes. Senator Council, I think there's a couple of ways I can help to illustrate this. Say I walk out of the grocery store or I'm in the parking lot and a young person comes to me and says, will you go buy me some alcohol for 20 bucks extra? I would...if I'd agree to that I'd go inside, there's a sticker on that register that says, when you hand my license to me...when I scan it through there and purchase this alcohol it's going to tie my number and my age to that sale. We're hoping that's a darn good deterrent for if this kid goes out and gets caught and says, I had this guy buy it for me at Hy-Vee yesterday. And they go back, and they look it up, and they find this transaction and they can go to somebody and they can tie that to them as a sale for prosecution. If they don't have the ability to store that, then they can't use it as enforcement efforts. Does that help? [LB261]

SENATOR COUNCIL: Yeah, and I appreciate that hypothetical, but that's...it raises another concern I have. It has been stated throughout the debate, and the language of the bill is clear, that it doesn't mandate that any retailer provide for this type of equipment. And it also says that any retailer who does must post conspicuously a notice saying they do it. So if not everyone has to do it, and the people who are doing it post notice that they're doing it, doesn't that actually encourage people to go to establishments that don't do it? [LB261]

SENATOR ROBERT: Well, I don't know about that. I think what it does is it allows for those who can or have the finances or the equipment there to do it. It gives them another tool to limit those sales. It also, in my opinion, it's helping to solve the problem rather than catch people in the act. I'm not into the gotcha, I'm into let's solve the issue and I think this helps solve the issue. It almost eliminates that possibility of a sale except for Senator Gloor's example of somebody having a fake idea, because the sale just won't be able to get done unless you've got the right ID. And then... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

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SENATOR ROBERT: ...it really encourages those who are doing it for minors not to because it's going to record it. If they want to go somewhere else, well, then we're pushing them to an easier section of retailers to do compliance with. [LB261]

SENATOR COUNCIL: Well, but doesn't it also, Senator Rogert, reduce the, I guess, duty or perceived duty by the cashier to look at and examine and investigate the validity of the ID. Because if the person hands them the ID, it scans and says this person is the appropriate age, then there's no other obligation it would appear to me on the cashier to undertake any other investigation to determine whether the identification is...whether the person who is presenting that identification is actually that person. [LB261]

SENATOR ROBERT: Well, I don't think they have that requirement to do so now. I can hand my ID to somebody, they can look at it and hand it right back. Whether they really looked at it or not... [LB261]

PRESIDENT SHEEHY: Time, Senator. [LB261]

SENATOR ROBERT: ...that's up to them. [LB261]

SENATOR COUNCIL: Thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Council. Members requesting to speak on AM323 to AM182: Senator Fischer, followed by Senator Pirsch, Senator Haar, Senator Howard, Senator Rogert, and others. Senator Fischer, you're recognized. [LB261]

SENATOR FISCHER: Thank you, Mr. President and members of the body. I've heard a lot of concern today about privacy issues with this bill and I can tell you that I share those concerns but not on this bill. A few years ago I was the one who introduced a resolution concerning the Real ID Act. And many of you, in fact, I think almost of you that were here at the time signed on to it. I can tell you that I don't think we should be worried about privacy issues on Senator Rogert's bill. It has very limited use. There are only two times that this would be used. One is for lottery, alcohol, tobacco. The card is your driver's license would be swiped, would be read. Only your age and your driver's license number would be used. The second time deals with the quick credit check. I guess I could say, is there anybody in here who doesn't have a credit card? My guess would be all of us have credit cards. If you use your credit card, you don't need a credit check because the store is already checking you in that transaction. They see your credit report. They know if your credit or debit card is good. What we're doing now is what 49 other states do. That's what this bill is trying to do in Section 4. So instead of writing a check, I'm one of the few who still writes checks, so instead of writing a check and having the person behind the counter asks to see your driver's license, which you show them, which they then write your driver's license number at the top of your check,

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they run it through and check it that way, and they cash your check. Sometimes it's not done in a really quick manner and so some people their checks are going to bounce. What this does for a retailer is they are able to use your driver's license, swipe that driver's license, they get the number off the driver's license instead of writing it on the check. In my opinion, that is more secure than having your check floating around with your driver's license on it. It's been brought up that some people in here, colleagues are concerned with what's on that driver's license that's going to be read and who's going to store it and how are we going to program it. You've got credit cards. We all worry about that with credit cards. You buy on-line, we worry about it there. But I will tell you that Nebraska has the strictest use on our bar codes than any other state on our driver's license. So I appreciate your caution in here. I share that. As I said, I've sponsored things in the past to protect privacy. I share that. And I appreciate the conversation here. Hopefully, Senator Rogert and I can clarify some of those issues for you... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR FISCHER: ...and explain that in this day and age we are protected as best we can be. Can somebody hack into where this information is stored? Of course they can. They probably can hack into the whole driver's license deal. Director Neth would not like me to say that. But I think if they can hack into the Department of Defense, things happen. That's the society we live in. That's what we're faced with now. But please be open to this. Listen to the information that we have and what truly is happening here and not get swayed by emotions on this issue of privacy. Realize that we have a safe system. We have safe driver's licenses in this state and we're... [LB261]

PRESIDENT SHEEHY: Time, Senator. [LB261]

SENATOR FISCHER: ...just trying to do what 49 other states do with checks. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Fischer. Senator Haar, you're recognized. [LB261]

SENATOR HAAR: Mr. President and members of the body, actually I do get quite emotional about the area of personal privacy. I think it's really an important issue in our society today. I have a couple questions for Senator Rogert, if he would yield. [LB261]

PRESIDENT SHEEHY: Senator Rogert, who you yield to Senator Haar? [LB261]

SENATOR ROGERT: Surely. [LB261]

SENATOR HAAR: Senator Rogert, in Section 4 is there any limitation on the number of fields that could be stored? I see it clearly in Sections 1, 2 and 3, but what about Section

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4? [LB261]

SENATOR ROBERT: I'm reading the section here just to make sure. [LB261]

SENATOR HAAR: Okay, sure. [LB261]

SENATOR ROBERT: Senator Haar, Senator Fischer says she can answer that question for you. Why don't I let you do that. [LB261]

SENATOR HAAR: Okay. [LB261]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Haar? [LB261]

SENATOR FISCHER: Yes, I would. Senator Haar, were you asking what is on our identification cards now, what's on our driver's license now that could possibly be stored? Depend...I mean, you're worried about what's going to be stored, is that correct? [LB261]

SENATOR HAAR: Well, the first three sections talk about just ID and age. [LB261]

SENATOR FISCHER: Right. [LB261]

SENATOR HAAR: And what about Section 4, does that also limit it to ID and age? [LB261]

SENATOR FISCHER: Senator Haar, that would be whatever is on the face of your driver's license which would be...I don't have my driver's license handy, but I'm looking at statute on what's on the machine-readable information and I believe most of that is on the front of the card. It would be the holder's full legal name, date of birth, gender, document issue date, document expiration date, the principal residence address, unique identification number, revision date, inventory control number, and state of issuance. I believe the inventory control number is only used by the DMV. I'm getting a nod from my committee counsel that that's correct. So that number really wouldn't mean anything to anyone else. [LB261]

SENATOR HAAR: But so far as things like...so if you went into a convenience store to cash a check and I still use checks too, but so they would not be limited to just those two pieces of information to scan and store. They could use anything that's on the driver's license. [LB261]

SENATOR FISCHER: That would be correct. If the card is scanned in that instance to verify the check, it would include your date of birth, your gender, and if it's the revision...the revision date would be if it's a duplicate license. [LB261]

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SENATOR HAAR: Okay. [LB261]

SENATOR FISCHER: Your address, which is on your check anyway. [LB261]

SENATOR HAAR: Okay. Do you know is there's other information that's not on the face of my driver's license that's stored on the driver's license? [LB261]

SENATOR FISCHER: The only thing would be in statute it's referred to as the inventory control number. That's what I...when I was answering your question I said that that's just for the DMV. It's internal purposes that your license has a specific number to it that is different from your driver's license number but they use that internally for tracking and for their purposes. That would be the only thing that is not on the face of your card. [LB261]

SENATOR HAAR: Okay. Thank you very much. Again, I believe it certainly is more convenient. It really doesn't...I don't see it really plugs many holes in people buying liquor or whatever and it's... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR HAAR: ...it's more convenient but I think it's so convenient to give away our individual rights and this is one I'm concerned about. Thank you very much. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Haar. Senator Howard, you're recognized. [LB261]

SENATOR HOWARD: Thank you, Mr. President. I think anyone that knows me would know that I'm in full support of any issue that deals with selling liquor to underage individuals. Unfortunately, I don't think that this bill really is the answer to that and I think it's going to compound our problems in dealing with identity. This summer I had to deal with this personally because my identity had been stolen and I can tell you it's a nightmare. When you try to return calls, you don't reach anyone. And when you try to find out what these bills are or even get a copy of the information, there's no one that can tell you what it is. You just receive bill upon bill upon bill for amounts that you didn't incur and that you have no actual responsibility for. Fortunately, I was able to use the services of (inaudible) group known as Identity Theft who were wonderful and stepped up and helped me. But I am very, very concerned about this. I would never want to go through that again. And I really...it really concerns me is how does a person who's a senior citizen who typically writes checks for things, if they have this happen, how would they know how to even begin to go about addressing it? If Senator Rogert would be willing to answer a few questions I'd appreciate that. [LB261]

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PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Howard? [LB261]

SENATOR ROGERT: Yes, I will. [LB261]

SENATOR HOWARD: Thank you, Senator Rogert. In this bill it refers to the store that would take the information and I'm wondering, is the store required to keep this information, the stored information on the premises or can it be electronically transferred to another location out of Nebraska or possibly even offshore of the United States? And the second part of this is, if the information is sent out of state, how will this law prevent the information from being used for other purposes other than what was specified or allowed by this bill? [LB261]

SENATOR ROGERT: Senator Howard, I am not sure about that except they would still be liable if their company...I mean, are you talking about giving it to another branch or a head house of their company? [LB261]

SENATOR HOWARD: You know, it could be. I hate to define or limit it to just one opportunity. Would...your information goes out, it goes out. And I'm concerned not only having it in state but if it's possible for this to be out of state, off the country, or out of the country and what's going to prevent that from happening? [LB261]

SENATOR ROGERT: Well, Senator Howard, I think the language of the bill says: for purposes unintended by this bill. And I think if they're not just sending it over for storage, for backup, if they're sending it somewhere else, that is against the law in this bill. If they're sending it to somewhere for some intent that is not provided for here, then that would be a Class IV felony and they would be liable for that. [LB261]

SENATOR HOWARD: Well, the difficulty for me is that the people that steal identity are not concerned about the penalties and the law, they're more interested in using your information, using your credit rating, using what you've spent a lifetime in building up for their own purposes. And I'm just sharing what happened to me with this body for your own information, and I'd say we do have a major responsibility to ensure that we don't put people in a position where they have to deal with this because believe me it, was very, very difficult. So thank you. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Howard. Further members requesting to speak on AM323 to AM182, we have Senator Rogert, followed by Senator Hadley, Senator Price, Senator Dierks, and others. Senator Rogert, you're recognized. [LB261]

SENATOR ROGERT: Thank you, Mr. President. And thank you, members of the body, for this enlightened debate on day one. It's good to get the juices flowing and start speaking and talking and remembering what we did a year ago, and this takes a little while to get going and I appreciate the time that we're getting into it. I want to reiterate a

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couple of things, that this information is time-limited, most of it, unless it's required by federal law to be kept longer, it will be dumped after 18 months. The reason we're going with 18 months is, in fact, to prove...if information is needed to be proved on an audit, most of those things come with a little over a year longer, so we'd be able to still have that information on file. If you give a check today to be written, there really isn't anything to say that they can't photocopy your check, they can't...when they run that through a scanner, it's getting your bank account information, a lot of that stuff comes up on the screen. They keep that data on file for the purposes of you coming back to write more checks. If it comes on there, looks good, then you go right through their system again the next time you write a check and it's made well. Also, if you write a bad check, you get tagged if somebody writes...if you write it on there and they keep that information. They're doing that already. The other thing that has always bothered me is when you...if they don't believe that you're old enough to buy or that ID isn't really yours but it looks okay, they make you fill out this black book. The black book sits there for anybody to borrow, take, read, take with them, photocopy. There's all kinds of information that sits on top of the counter that somebody can look and just pull that up. This makes all that go away. It puts all that information back...it doesn't even collect it, it just takes care of your name or, excuse me, your driver's license number and your age. And subsection (4) to me is also important, in fact, that I believe it will stop or lessen, not stop but it will lessen fraudulent check writing and bad check writing. That's the difference. There's a difference between the two but I think it'll stop or lessen that in a lot of places. I'm happy to continue answering questions and I appreciate the debate we're doing today. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Rogert. Senator Hadley, you're recognized. [LB261]

SENATOR HADLEY: Mr. President, members of the body, I wasn't going to say anything but then I decided to. And I went through my wallet, you know, and there's not much money but there's other things. There's a credit card, a debit card, a airline mileage card, a video store card, two library cards, another credit card, a University of Nebraska card, and a driver's license. There's nine things and I looked on the back or them. What they have in common, they all have a stripe on them. They all can be run through a scanner and I have no idea what information is on the back in that stripe. What we're talking about here is we know what information is on the back of the driver's license. We have it in statute. I think it's time that we think a little bit about the merchant and a little bit about the general public. Bad checks cost us all. That's part of a cost of doing business. And if we can help the merchant collect on bad checks, that lessens what we pay for products. Alcohol, anything we can do to curb underage drinking, underage purchasing, I think, is important. No one is forcing someone to do this. If you want to go in and buy something by check and the merchant says, I want to scan your driver's license, you can say, fine, I don't want to buy it or here's cash. It's your choice. You don't have to give them your driver's license. But guess what? That merchant is

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going to ask for your driver's license and they're going to...in the upper, left-hand corner they're going to draw some kind of four boxes and they're going to put information in there about your age, your address, and such as that. Oh, I'm worried now. I'm going to look at my cards because Senator Pankonin is looking at my cards here. Okay. He won't get them. So I think what we're doing here is that this information is already being collected. This makes it easier for the merchant to collect it, it can cut down on fraudulent and bad checks, and it can help curb underage purchase of alcohol. So I think it's a good bill. I liked it when Senator Fischer talked about when I take my credit card in and use it, they're doing a...they're getting a lot of information about me and it's all right there. I have a choice: Either I use my credit card or I don't. So I would support this amendment and this bill. Thank you, Mr. President. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Hadley. Senator Price, you're recognized. [LB261]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Rogert yield to a question, please? [LB261]

PRESIDENT SHEEHY: Senator Rogert, would you yield to Senator Price? [LB261]

SENATOR ROGERT: Yes, sir. [LB261]

SENATOR PRICE: Thank you so very much, Senator Rogert. In listening to the discussion, again, I support the concept. I'm wondering about the application. Now just to deal with the ID part. Can you...and alcohol, we're looking at this as primarily for the function of inhibiting the sale of alcohol to minors. Am I somewhere in the ballpark on that one? [LB261]

SENATOR ROGERT: Yes. [LB261]

SENATOR PRICE: Okay. And my question has to deal with fraudulently secured valid IDs. Are you with me on that one? [LB261]

SENATOR ROGERT: Yeah, yes. [LB261]

SENATOR PRICE: Okay, okay. Because my understanding and recollections from being young, sometimes people would grab either someone else's ID card. Well, let's say you're in a bar, you want to go into a bar, you grab somebody else's ID card, you would use that to purchase your alcohol, whatever. I mean, that's a common practice. Of course, there's also the ones who would modify an ID card. We've already talked about that. All right. But my questions come to fraudulently secured valid IDs, in essence the system would be blind to those. I mean, if I had a valid ID and I ran it through and I got a green light or whatever is going to tell them I'm good and lets the

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sale go, it really didn't stop the sale if it's a fraudulently secured ID, correct? [LB261]

SENATOR ROBERT: Correct. [LB261]

SENATOR PRICE: Now, how big of hole, how big is the universe of potentially fraudulently secured valid IDs? Do you have an idea? [LB261]

SENATOR ROBERT: Well, I don't know how many of those are out there but they've been around since I was a minor. [LB261]

SENATOR PRICE: All right. [LB261]

SENATOR ROBERT: And they're going to be around for a long time. [LB261]

SENATOR PRICE: Okay. Because not to make it a statement that centers on a certain segment of our population, okay--I'm going to restate that--not to change the focus to a certain segment of our population but, Senator Robert, do we as a state issue or have we in the past five to ten years issued driver's license to illegal immigrants? [LB261]

SENATOR ROBERT: I can't answer that. [LB261]

SENATOR PRICE: Okay. [LB261]

SENATOR ROBERT: I don't believe so. [LB261]

SENATOR PRICE: Do you know, in statute we're allowed to issue licenses in the previous five to ten years to illegal immigrants? [LB261]

SENATOR ROBERT: No. [LB261]

SENATOR PRICE: Pardon me? [LB261]

SENATOR ROBERT: No. [LB261]

SENATOR PRICE: Okay. So if we're not allowed...now, let me ask you the follow-up question. Do illegal immigrants have driver's license? [LB261]

SENATOR ROBERT: Nebraska state driver's licenses? [LB261]

SENATOR PRICE: Correct. [LB261]

SENATOR ROBERT: They're not supposed to. [LB261]

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SENATOR PRICE: They're not supposed to. That's kind of...and I don't want to badger, I don't want to be the jerk, it's not about that. It's about the idea that that's a large enough population somewhere near 40,000 people they say, that's a pretty significant number. People would have a fraudulent ID who could use a system to stop something and it's not going to do it. So it just brings potentially the whole of the fraudulently secured ID. That's more my question than anything else because I know personally a merchant who had a fraudulent ID used by somebody in their establishment. They were found to have served alcohol to a minor. They couldn't...they had a card scanner, like you said, they still would have gone green light. It was their second violation, so they didn't really get much lenience, if you would, okay? So we had a...and Senator Hadley said if we're thinking about the merchant, okay, and we're keeping this data for 18 months, in this instance, I would rather just see if it was alcohol approach, if that was a green light then and there, if it isn't green light... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR PRICE: Thank you. If it's not a green light then and there, you know, that's it. The point of sale and it's done, terminate the...now, for the check part and all of that, cashing, that's another story. But for the alcohol purchase point of sale, it should go green light good, go buy, thank you. [LB261]

SENATOR ROBERT: It's still...you still have to rely on the merchant to look at it. [LB261]

SENATOR PRICE: Yeah, but now we're saving is what I'm saying. It's that data, the perishability should be it's good now and that's all they care about in front of the person in front of me. So that's all I'd have to say about that and I wanted to bring up the fraudulently secured valid ID. Thank you, Mr. President, and thank you, Senator Rogert. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Price. Members requesting to speak on AM323 to AM182, we have Senator Lathrop, followed by Senator Council, Senator Haar, Senator Loudon. Senator Lathrop, your recognized. [LB261]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I'm wondering if Senator Fischer would yield to a few questions? [LB261]

PRESIDENT SHEEHY: Senator Fischer, would you yield to Senator Lathrop? [LB261]

SENATOR FISCHER: Yes, I will. [LB261]

SENATOR LATHROP: Senator Fischer, I think it's pretty clear from my last series of comments that it's subsection (4) that has generated the most concern for me. And I've

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since had a conversation with a few of the people out in the lobby that are in the retail area and have concerns about retail establishments. And it sounds like the idea here is to...if I go into write a check at the grocery store, they can ask me for my license and then write down my license number, my address, my name, and this is just facilitating that process. That's what they're telling me. And that seems to be the motivation behind subsection (4). [LB261]

SENATOR FISCHER: That is the intent, yes. [LB261]

SENATOR LATHROP: Okay. And here's my question for you. Subsection (4) has four different subparts and I'm wondering which one of these subparts accomplishes that. In other words, this sharing information in compliance with the Fair Credit Reporting Act, that really isn't calling the check cashing people and asking them if the check that's presented is good or likely to be good, is it? [LB261]

SENATOR FISCHER: I'm not following your questions, Senator. [LB261]

SENATOR LATHROP: Well, what they want to do is to call the TeleCheck place, right? And instead of writing all this information down that the clerk normally would do, they're just going to scan my license and it all happens electronically, right? [LB261]

SENATOR FISCHER: Correct. [LB261]

SENATOR LATHROP: That's what we're trying to facilitate with subsection (4). I'm wondering which of the subparts is doing that for you. [LB261]

SENATOR FISCHER: Is this in regard to our conversation off the mike that we had briefly a few minutes ago... [LB261]

SENATOR LATHROP: About... [LB261]

SENATOR FISCHER: ...where we were trying to find that in subsection (4)? [LB261]

SENATOR LATHROP: This is my understanding, Senator Fischer, that they just told me the people who are in retail that are interested in this bill who I spoke to since I was last on the mike said all we want to do is make this happen electronically what we could do by asking someone to take their driver's license out and simply writing it down and then transmitting that information to a place called TeleCheck or some like business. Right? [LB261]

SENATOR FISCHER: Right. If you look... [LB261]

SENATOR LATHROP: So which of these subparts does that? Does this (a), is that even

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part of that process? [LB261]

SENATOR FISCHER: (A) deals with TeleCheck because they have to be in compliance with the Fair Credit Reporting Act. Is that where you're looking? [LB261]

SENATOR LATHROP: That's what I'm asking. Is it (a) that facilitates this and simplifies this process of writing this information down and then calling TeleCheck with it or is that (b)? [LB261]

SENATOR FISCHER: (Laugh) I believe it's (a). [LB261]

SENATOR LATHROP: Okay. Then... [LB261]

SENATOR FISCHER: I believe it's (a) because... [LB261]

SENATOR LATHROP: Then I guess...(laugh) I'm not trying to trap you but the next question I got... [LB261]

SENATOR FISCHER: No. [LB261]

SENATOR LATHROP: ...for you is what does (b), (c), and (d) do? [LB261]

SENATOR FISCHER: What's (b) then, I know. But if you look at (a), TeleCheck in this case would be the consumer reporting agency. And section (a) is just saying yes, they have to be in compliance then with the federal act. [LB261]

SENATOR LATHROP: Okay. [LB261]

SENATOR FISCHER: Right? [LB261]

SENATOR LATHROP: So with (a), TeleCheck can get this stuff electronically? Then what's (b), (c), and (d) do for this bill? [LB261]

SENATOR FISCHER: If you look at those, Senator Lathrop, I believe that they are clarifying what TeleCheck can do with that information then under this amendment. [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR FISCHER: That is my interpretation that's what we're trying to get at here. Do you...would you agree with that? I'm sorry. [LB261]

SENATOR LATHROP: I'll yield to a question. (Laughter) [LB261]

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SENATOR FISCHER: We're having a conversation. [LB261]

SENATOR LATHROP: You know what? We are having a conversation and I appreciate it. I'll continue to try to work with you and then to develop a level of comfort with this but right now I don't have that, but thank you for answering the questions. I do, colleagues, have a concern about whether we are crafting language in subsection (4) that is very, very limited. I don't have a problem with facilitating an electronic use of the driver's license to accomplish the same purpose that someone might have by asking them to present it to a clerk and having that done manually. But there's four subsections here and it seems like we're permitting more than that, and maybe in subsequent opportunities I'll... [LB261]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lathrop. Senator Council, you're recognized. [LB261]

SENATOR COUNCIL: Yes, thank you, Mr. President. A perfect segue, Senator Lathrop, because that was one of the questions I had also asked off the mike. And, quite frankly, my understanding of the Fair Credit Reporting Act that what will enable TeleCheck to do what is being sought here is a combination of (a) and (b) because (b) is enabling the retailer to cash the check. And if you read the language of subsection (b) of subsection (4), it says: As necessary to effect, administer, or enforce a transaction requested by the holder of the card. And it's the holder of the card who is seeking to have their check cashed, and that would be what would enable, in my opinion, the retailer to report that information to TeleCheck and what enables TeleCheck to report information back to the retailer is subsection (a) because they can share information pursuant to the Fair Credit Reporting Act. So I think that that's the answer to the question, but my question goes along those lines and this is the concern that I have and I think that several of the prior speakers have alluded to it. Senators Haar, Gloor, and Howard have expressed concerns about this data. And the issue is if you look under subsection (3), if I go into a convenience store to purchase a pack of cigarettes, they can scan my driver's license and they can store my age and my identification. If I pay for that transaction with a check, when they scan my credit card, they can store all of the information. So what is it in this bill that differentiates between whether the card is being scanned to ensure compliance with the alcohol, cigarette, and lottery sales and whether it's being scanned for purposes of determining whether my check is valid? I think it creates problems when the retailers can...they will be able to store all of the information that appears on the front of my driver's license, Senator Haar, if I write a check. And purportedly, I mean presumably they could maintain all of that information because I'm writing the check in connection with the purchase of a product that is...whose sale is licensed and regulated. I'm concerned on how these retailers will keep this information separate and not be disclosing or being able to store and disclose more information that is necessary to prevent the sale of alcohol to minors. I appreciate, and Senators Fischer and

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Karpisek...excuse me, Senators Fischer and Rogert in trying to address the sale of alcohol to minors and to try to assist with the cashing of checks. But the way the system is outlined, I don't know who enforces...who goes to the retailer, pulls up their information, and if you go to that retailer's data system and you pull up the information they have on storage, and they have name, address, date of birth, height, weight, whether I wear glasses on every single transaction, how would we determine whether that was or was not in connection... [LB261]

PRESIDENT SHEEHY: One minute. [LB261]

SENATOR COUNCIL: ...with a sale of alcohol, tobacco, or a lottery ticket? The way it's drafted now, it opens up to storage of all of that information even in a transaction where the intent is only to retain and store age and the identification number. I don't know how we address that, but that's a problem for me. I don't...believe me, I think that we should provide means to reduce the amount of bad checks that are being passed because as a former retailer, I can tell you that hurts a business. But I'm concerned about how this data is being stored and who we are charging with storing it, and then how it's used after that. So I just have a problem with how we reconcile and how we enforce the provision that says if you... [LB261]

PRESIDENT SHEEHY: Time, Senator. [LB261]

SENATOR COUNCIL: ...if you store it, you only store it for one purpose. [LB261]

PRESIDENT SHEEHY: Thank you, Senator Council. Mr. Clerk, you have new bills for introduction and items for the record. [LB261]

CLERK: Thank you, Mr. President. New bills. (Read LB847-868 by title for first time.) New resolutions: LR279CA is a proposed constitutional amendment by Senator Avery with respect to Article III Section 2. LR280 is a resolution offered by Senator Stuthman congratulating the Howells Bobcats Class D-1 state football team. LR281 by Senator Stuthman congratulates Humphrey St. Francis. Motion to be printed, Senator Lautenbaugh, with respect to LB796. Hearing notice from the Urban Affairs Committee signed by Senator McGill as Chair. Attorney General's Opinion to Senator Utter to be inserted into the Legislative Journal. Name adds: Senator Coash to LB726; Senator Christensen to LB763; Senator Council, LB779; Senator Krist to LB795; Senator Janssen to LB836. And, Mr. President, a reminder, Reference will meet upon recess, Reference upon recess in Room 2102. (Legislative Journal pages 158-169.) [LB847 LB848 LB849 LB850 LB851 LB852 LB853 LB854 LB855 LB856 LB857 LB858 LB859 LB860 LB861 LB862 LB863 LB864 LB865 LB866 LB867 LB868 LR279CA LR280 LR281 LB796 LB726 LB763 LB779 LB795 LB836]

And to that end, Senator McGill would move to recess the body until 1:30 p.m.

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PRESIDENT SHEEHY: You have heard the motion to recess until 1:30 p.m. All those in favor say aye. Opposed, nay. We're in recess until 1:30.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there items for the record?

CLERK: There are, Mr. President. A Reference report referring LB794 through LB846. Senator Hadley would offer LR282; that will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 169-171.) [LB282]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now return to the discussion we ended at before our recess. We were discussing AM182 offered to...excuse me, AM323 offered to AM182 to LB261. There are senators wishing to speak. Those wishing to speak, Senator Haar, you're recognized. [LB261]

SENATOR HAAR: Mr. President, members of the body, first of all, I've contacted the group I mentioned this morning that had sent me an e-mail, the Identify Theft Action Council of Nebraska, to find out. They made the claim that other states were having trouble reining in or closing the door on businesses collecting and storing data from driver's licenses, so I've contacted them to ask them for specifics on that. I'd also like to say in opening that, obviously, the intent of this bill is very good--to cut down drinking, underage drinking. And my problem again is in the implementation. In Germany, for example, I've been told that when you move from town to town you have to register at the new town where you're moving to and, of course, that makes things much more convenient because then the post office knows where you are and the police know where you are and so on. But we don't do that here. We value our privacy and at least we make it hard at times for people to find out that kind of information. So I really don't buy the argument of convenience. I do have some questions for Senator Rogert. [LB261]

SENATOR LANGEMEIER: Senator Rogert, would you yield to a question from Senator Haar? [LB261]

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SENATOR ROBERT: Yes, I will. [LB261]

SENATOR HAAR: Senator Robert, when I talked to people about TeleCheck at the beginning of the summer, I expressed the concerns I'm expressing today, but in the meantime I had somebody talk about another use of this that would be very handy, for example, pay day advance. People get into trouble because they have more than two loans out and I believe they're only allowed two loans. Well, this would be another thing. If you'd just swipe your credit card, there would be a database. Everybody would know whether you had more than one loan out. According to subsection (4), which is the part that bothers me the most, could any...could anybody use that or do we...or would it have to come back to the Legislature for resolution? I mean we've been talking about TeleCheck, but could other people use it as well? [LB261]

SENATOR ROBERT: Well, Senator Haar, I can't answer that for sure. I don't believe so. And I'll direct you to there's an amendment coming up further that will...might dissolve part of what you're concerned about that says you may not trade these or sell these to a third party, use them for marketing or sales, including the retailer who obtained the information. So unless we specifically outline that that group would be able to use it for their purposes that way, I don't know...I don't know that that would be allowed. Now if TeleCheck, if that's part of their services that they're using, in here maybe, but I don't...I'd have to check. I don't think so though. [LB261]

SENATOR HAAR: Okay. So it would be your idea that, for example, to approve it for TeleCheck, we would actually have to approve it for TeleCheck as such? [LB261]

SENATOR ROBERT: Well, it would have to...we don't have to approve it for anybody specifically but we have to approve what they can use, what any group that does this uses it for. [LB261]

SENATOR HAAR: Okay. Now do you know how...for what time period now does TeleCheck keep that information? [LB261]

SENATOR ROBERT: Some of it is required to be kept for five years, just for the federal law, Fair Credit Reporting Act and a couple other sections. Right now they're keeping it indefinitely, whatever they're keeping, because we're actually fortifying the law and saying whatever they have, they have to dump after 18 months unless it's required. Right now some of the stuff they're collecting they can do that, they can do whatever they want with it. We're actually going to make it stronger by using this language. [LB261]

SENATOR LANGEMEIER: One minute. [LB261]

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SENATOR HAAR: Okay. And what if somebody doesn't have a driver's license?
[LB261]

SENATOR ROBERT: They can't buy alcohol. [LB261]

SENATOR HAAR: Is that a requirement in Nebraska? [LB261]

SENATOR ROBERT: You have to have a form of identification that shows you are of age, a state-issued ID. [LB261]

SENATOR HAAR: But like my grandma didn't have...didn't drive cars so is there some other... [LB261]

SENATOR ROBERT: Well, you can go get a state ID. How does she...well, obviously, your grandma looks old enough, but at some places now they're going to require that you have to have a piece of identification regardless. [LB261]

SENATOR HAAR: So it could be some other form and not just driver's license? [LB261]

SENATOR HAAR: It probably is going to have to be a state identification card which...
[LB261]

SENATOR HAAR: Okay. [LB261]

SENATOR ROBERT: ...she's probably going to have to have one of those to be able to write checks, unless she does everything in cash. You're going to have to have an identification card from the state somewhere along the line. [LB261]

SENATOR HAAR: Okay. Well, she died a number of years ago but... [LB261]

SENATOR ROBERT: Right. I mean for example, but whoever it is will... [LB261]

SENATOR LANGEMEIER: Time. [LB261]

SENATOR ROBERT: ...just have to have something, I would think. [LB261]

SENATOR HAAR: Thank you. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Louden, you are recognized. [LB261]

SENATOR LOUDEN: Thank you, Mr. President, members of the body. Before lunch, some of the discussion that we were going on was talking about credit cards and, really,

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a credit card shouldn't be compared whatsoever to what your driver's license is, as far as scanning. With your driver's license, this is...this is a public document and you have to give certain information or you don't receive it. You have to give your age, your weight, your color of your eyes, any other restrictions. If there's some health restrictions that could affect your driving, that has to be on there. All of those issues have to be on there. When you get a credit card, many of you receive them through the mail and you don't have to send in anything usually. So there's altogether a different situation between credit cards and driver's license. One thing, a credit card, if you're not satisfied with it or you have a problem with it, you can cut it in two and throw it away. You can't do that with a driver's license. You have to have that driver's license. That ID number that's on that driver's license is probably going to be yours until they put you away. It doesn't change. If you go from state to state, you'll always have that ID number. So you have to be very careful about what you allow people to do with that driver's license and who you allow to scan it. As been pointed out in some of the discussions that we had at the hearings, that this is a public document and should we allow public enterprises to use those public documents for their own private needs, I have a concern that there will be a leakage in there, there will be things that happen to it, and I think that we have to be very careful. And I don't see where this really has to be done to help anybody do anything. At the present time these stores and people that sell all these products, they don't have to sell them. They have a means by now. They do use that driver's license as an identification. If you don't have a driver's license, you can get an identification card from the state which is similar to it, so there are other ways. Actually, you can use a passport when you go to write out a check or you have to go someplace. You don't necessarily have to show your driver's license. You can show your passport for an ID. So the question is, is how far do we go? Will that be the next thing, that require a passport to be shown if you don't show your driver's license? So there are other ways of identifying people and I think this is something that probably will be intruding in the privacy of people, and I think that be the Legislature will be the one that will be held liable for this in the future if you have some problems arise. Thank you, Mr. President. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Sullivan, you're recognized. [LB261]

SENATOR SULLIVAN: Thank you, Mr. Speaker. I wonder if Senator Rogert would yield for a question. [LB261]

SENATOR LANGEMEIER: Senator Rogert, would you yield? [LB261]

SENATOR ROBERT: With pleasure. [LB261]

SENATOR SULLIVAN: Thank you, Senator. I understand that as you and Senator Fischer have said, that we are the only state that hasn't passed legislation of this kind,

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but what I'd like to know is if you can shed any light on what are some of the particulars and details of how other states handle it. I was just talking with an individual who said the most recent state to pass this was Washington and that they have restrictions on who actually...what kind of retailer can actually swipe the card and obtain the information. So can you shed any light on that? [LB261]

SENATOR ROBERT: I can't, Senator Sullivan. I can't speak to any other state's legislation. I just don't have that information for you. [LB261]

SENATOR SULLIVAN: Okay. Thank you. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. Seeing no other lights on, Senator Fischer, you are recognized to close on AM323. [LB261]

SENATOR FISCHER: Thank you, Mr. President and members. My amendment, AM323, just adds the words "or contract." It's a technical amendment. I would urge you to vote for this amendment. It is needed. Thank you. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Fischer. You have heard the closing on AM323 offered to AM182. The question before the body is, shall AM323 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB261]

CLERK: 40 ayes, 1 nay, Mr. President, on the adoption of Senator Fischer's amendment to the committee amendments. [LB261]

SENATOR LANGEMEIER: AM323 is adopted. Mr. Clerk, next item. [LB261]

CLERK: Mr. President, Senator Robert, AM1544 from last year, but I have a note, Senator, you want to withdraw that one. [LB261]

SENATOR LANGEMEIER: Senator Robert, would you like to withdraw? [LB261]

SENATOR ROBERT: And replace it with AM1545, yes. [LB261]

SENATOR LANGEMEIER: AM1544 is withdrawn. Mr. Clerk. [LB261]

CLERK: Senator Robert would move to amend with AM1545. (Legislative Journal pages 171-172.) [LB261]

SENATOR LANGEMEIER: Senator Robert, you are recognized to open on AM1545. [LB261]

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SENATOR ROBERT: Thank you, Mr. President. Folks, AM1545 addresses some of the concerns that have been brought up on the floor the last couple of hours and it deals with specific uses of the information that you're...in subsection (4). AM1545 revises the committee amendment to ensure in state statute that the information from a driver's license, which is only the license number and birth date, be retained for no longer than 18 months unless specified otherwise under state and federal laws. It also reemphasizes and states in statute that this information cannot be traded, reported, or shared with a third party, or used for marketing and sales by any person, including the retailer who obtained the information. It cannot be reported or shared unless by court order. It states the penalty for these specific actions fall under a Class IV felony, which is the maximum of a \$10,000 fine or five years imprisonment or both. This amendment was reached with compromise and significantly improves LB261 with regard to proper safeguards and the security of the information stored under the purpose of this legislation. I encourage everybody to support this. This has been a little bit of the point of contention this morning and I believe if you look over this language that it takes care of many of the issues that a lot of you have been concerned with. Thank you, Mr. President. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Rogert. You have heard the opening on AM1545 offered to the committee amendments to LB261. The floor is now open for discussion. Seeing no lights on, Senator Rogert, you are recognized to close. Senator Rogert waives closing. The question before the body is, shall AM1545 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB261]

CLERK: 38 ayes, 0 nays, Mr. President, on the adoption of Senator Rogert's amendment. [LB261]

SENATOR LANGEMEIER: AM1545 is adopted. Mr. Clerk, next item. [LB261]

CLERK: Senator Lathrop would move to amend, FA54. (Legislative Journal page 172.) [LB261]

SENATOR LANGEMEIER: Senator Lathrop, you are recognized to open on FA54. [LB261]

SENATOR LATHROP: Thank you, Mr. President, colleagues. This amendment affects or is an amendment to subsection (3). You'll recall from our discussion earlier subsections (1) through (3) deal with the use of the driver's license and being scanned for the purpose of enforcing laws relative to buying cigarettes, alcohol, or lottery tickets. My amendment will clarify that the information can only be used by law enforcement officers and will not be shared with any other person or entity. I am amending subsection (3) because that's a section that I'm comfortable with. I'm comfortable with

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subsections (1) through (3). I do...I continue to have reservations and concerns about subsection (4). I'm satisfied, however, that I'm not going to get all the information I need in order to make any changes to subsection (4) other than by talking to the folks in retail and talking to people that work in this industry, and for that reason, if we will accept my amendment, I will agree to advance the bill and work on subsection (4) with Senator Fischer, Senator Rogert, and the folks from retail. I would urge your support of FA54. Thank you. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the opening on FA54 offered to the committee amendments to LB261. The floor is now open for discussion. Senator Rogert, you're recognized. [LB261]

SENATOR ROGERT: Thank you, Mr. President. Members, it's taken a little bit for this to come up on the computers but I saw it. Senator Lathrop showed it to me. It's just a few words. I think the clarification is fine and I appreciate his willing to move on to Select File and address any concerns that he has in subsection (4) between now and then. Mr. President, I'll give the rest of my time to Senator Fischer. [LB261]

SENATOR LANGEMEIER: Senator Fischer, you're recognized, 4:30. [LB261]

SENATOR FISCHER: Thank you, Mr. President, and thank you, Senator Rogert. Senator Lathrop and I have visited about this. I think his amendment is a good one. It does clarify that law enforcement is the agency that will receive this information and have access to it to use it. We will continue to work on subsection (4). I think the amendment we just adopted from Senator Rogert helps with that, but we will continue to work on that before the bill comes before you again on Select File. So I would urge you to accept this amendment, the committee amendment, and then the bill. Thank you. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Rogert. Senator Fischer, your light is next. You waive your time. Seeing no other lights on, Senator Lathrop, you're recognized to close. Senator Lathrop waives closing. The question before the body is, shall FA54 be adopted to the committee amendments, AM182? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB261]

CLERK: 40 ayes, 0 nays, Mr. President, on the adoption of Senator Lathrop's amendment to the committee amendments. [LB261]

SENATOR LANGEMEIER: FA54 is adopted. Mr. Clerk. [LB261]

CLERK: I have nothing further to the committee amendments, Mr. President. [LB261]

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SENATOR LANGEMEIER: Thank you. We return now to discussion on AM182, the committee amendment. Seeing no lights on, Senator Fischer, you are recognized to close. Senator Fischer waives closing. The question before the body is, shall AM182 be adopted to LB261? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB261]

CLERK: 35 ayes, 5 nays, Mr. President, on adoption of committee amendments. [LB261]

SENATOR LANGEMEIER: AM182 is adopted. Mr. Clerk. [LB261]

CLERK: I have nothing further on the bill, Mr. President. [LB261]

SENATOR LANGEMEIER: We return now to discussion on LB261, the bill itself as amended. Seeing no lights on, Senator Rogert, you are recognized to close on LB261. [LB261]

SENATOR ROGERT: Thank you, Mr. President. Thank you, members, for a lovely three hours of debate today. That was a great way to start the year off, great questions, great concerns. Once again, I hold the promise to Senator Lathrop, Senator Council, and a couple others that we will work with concerns between now and Select File on subsection (4) and wherever else. But I appreciate the amendments and your support for the bill. Thank you, Mr. President. [LB261]

SENATOR LANGEMEIER: Thank you, Senator Rogert. You have heard the closing on LB261. The question before the body is, shall LB261 be advanced? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB261]

CLERK: 33 ayes, 8 nays, Mr. President, on the advancement of the bill. [LB261]

SENATOR LANGEMEIER: LB261 does advance. Mr. Clerk, LB522. [LB261 LB522]

CLERK: LB522 introduced by the Urban Affairs Committee. (Read title.) Introduced on January 21 of last year, referred to Urban Affairs, advanced to General File. At this time, I have no amendments, Mr. President. [LB522]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator McGill, as Chairman of the Urban Affairs Committee, you're recognized to open on LB522. [LB522]

SENATOR MCGILL: Mr. President, members of the body, I'm excited because this is my big debut as Urban Affairs Chair. I promise not to sing for you right now but I hope that you'll find me just as convincing as Senator Friend, unless of course you never found

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him convincing (laugh), in which case I hope you'll see me in a new light. This is a bill that was actually requested by many of the volunteer fire departments across the state in response to a bill we passed in 2008. I'm going to give you all quite a bit of background here for those of you who weren't here in '08 so you have an idea of what we were dealing with when it comes to funding volunteer fire departments. In 1993, LB516 created a special trust fund for volunteer fire departments into which they could deposit funds that had been raised by the department from various functions, the purpose of which was to protect funds of the volunteer department from being used by the city or sponsoring taxing authority. Over the course of many years, funds raised by volunteer fire departments through activities, such as dances, bake sales, raffles, or from estate bequests, had been significant...had been specifically declared in previous legislation as not being public funds and were not to be audited by any outside authority. In the development of LB1096 in 2008, it came to the attention of the committee that there were volunteer departments that were using billing to create funds for their individual private trust accounts. They were literally sending out bills to individuals who would receive services when they had come out to render assistance, and the income received through that billing was being placed into the trust fund out of public scrutiny. In LB1096 and through subsequent amendments, the intent of the committee was to establish said funds, which were raised through billing from fees for particular services, were to be turned over to the city or taxing, sponsoring authority so they would be subject to an audit. These were never intended to be private funds retained by the volunteer departments in their trust funds. Providing the services uses publicly funded equipment so it should be subject to public scrutiny. The problem that came out of LB1096 was that some cities are now taking that revenue and putting it into their general funds and not putting it back into emergency services, which is what the intent of the committee was. So this bill, LB522, clarifies the intentions of the committee that those public funds derived from fees or charges only be used in one of three ways: one, for the support of the emergency response activities of the volunteer department that gave rise to the funds, fees or charges; two, for costs directly related to the collection of those funds, fees or charges; or three, for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act. So again, this is something that our volunteer fire departments across the state brought to us, their concern that cities are using this revenue created by the bills for other purposes other than emergency response, and I would urge your support of LB522. Thank you, Mr. President. [LB522]

SENATOR LANGEMEIER: Thank you, Senator McGill. The floor is now...you've heard the opening on LB522. The floor is now open for discussion. Seeing no light...Senator Lautenbaugh, you are recognized. [LB522]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I wonder if Chairman McGill would yield to a few questions. [LB522]

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SENATOR LANGEMEIER: Senator McGill, would you yield? [LB522]

SENATOR MCGILL: Yes. [LB522]

SENATOR LAUTENBAUGH: So, Senator, as I understand it then this is just merely a clarification of what we did, I believe in 2008. [LB522]

SENATOR MCGILL: Yes, it is. [LB522]

SENATOR LAUTENBAUGH: And it's your belief that this modification of the existing law, if you will, more fully comports with what we tried to do back in 2008. [LB522]

SENATOR MCGILL: It absolutely is. [LB522]

SENATOR LAUTENBAUGH: Thank you, Senator McGill. I do rise in support of this bill. I supported the last bill. That's not a very bold statement. I think 48 of us supported the bill last time it was up in 2008 and I was 1 of the proud 48 that voted for that, but I did hear from my local volunteer fire departments and they were concerned. First of all, it was why are you doing this; do you think we're doing something wrong? And that was not the case in my counties, in Washington County. But at the same time, I think this is an important safeguard to make sure that what we intended actually comes to pass, meaning that these funds are used for the volunteer fire departments for the purposes that Senator McGill set forth. And in light of that, I would urge you to support this bill as well. And I yield the remainder of my time to Senator McGill. [LB522]

SENATOR LANGEMEIER: Senator McGill, 3 minutes, 30 seconds. [LB522]

SENATOR MCGILL: Thank you, Senator. Thank you, Senator Lautenbaugh. Our volunteer fire departments do a great job. You know, we had some issues a couple years ago with one or two specific cases that we needed to clarify with LB1096 in the first place, but this right here, LB522, just reinforces our intent from last time. This money was brought in through emergency response services and that's where it belongs in the end. Thank you. [LB522]

SENATOR LANGEMEIER: Thank you, Senator McGill and Senator Lautenbaugh. Senator Carlson, you're recognized. [LB522]

SENATOR CARLSON: Mr. President and members of the Legislature, I also rise in support of LB522. Having said that, I do have a question for Senator McGill, if she would yield. [LB522]

SENATOR LANGEMEIER: Senator McGill, would you yield? [LB522]

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SENATOR MCGILL: Yes. [LB522]

SENATOR CARLSON: Now what I'm going to ask you isn't to put you on the spot. I'm going to use this opportunity to clarify a point, I believe. Would you agree that this...these dollars that the volunteer fire departments have are really cash funds much like some of the cash funds that we discussed in our special session on balancing the budget, the difference being that what we discussed were held by the state, these funds are held by the city, the village, the county, the township, rural or suburban districts or entities? Would you agree with that? [LB522]

SENATOR MCGILL: From what I understand, yes. [LB522]

SENATOR CARLSON: And the purpose of this bill is to put some further protection on those dollars so they can't be siphoned away for other reasons. Would that be true? [LB522]

SENATOR MCGILL: Yeah. Yes. [LB522]

SENATOR CARLSON: I think it's a good example of what we need to be very careful about moving forward at the state level when it comes time to balance budgets and we're looking for sources of dollars, that we be very skeptical, very cautious about that. But thank you for helping me, Senator McGill, and I do support the bill. [LB522]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Stuthman, you're recognized. [LB522]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I truly support this bill. And as a 36-year volunteer fireman, I think there is a definite line that has to be drawn between the taxpayer dollars of the equipment that is utilized by the volunteer fire department and the money generated with the use of that equipment, and I think that should be kept in the taxpayer dollar portion of it when they bill something for a service that they're using the equipment that was paid for by the tax dollars. But I think, and I've been involved many times, of the volunteer firemen volunteering and doing a public service thing in the community, working, having a concession stand at the rib fest or anything like that. And the money generated from that, I truly think that needs to stay in the cash fund of that volunteer fire department and they can utilize that money for incidental things that come up every once in awhile and I think that's very good. But I don't think, and as Senator Carlson stated, we got to make sure that those dollars are not siphoned off by the city, the county or anything like that as far as money to run their operations. I think those dollars were generated by volunteer work where the individuals got together as their group and generated some funds, because it's always nice to have a little bit of a cushion for some things that come up throughout the year, maybe flowers for an individual that has been a volunteer fireman for many, many years and awards,

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certificates, pins, medals and stuff like that. I think that's very important. So with that, I truly support the bill. Thank you, Mr. President. [LB522]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Seeing no other lights on, Senator McGill, you are recognized to close on LB522. [LB522]

SENATOR MCGILL: Thank you, Mr. President. That was significantly quicker than the last bill. I just wanted to throw in real quick that before we made changes in 2008, almost all the departments were already doing just what this bill does, and most the cities were cooperating in that way too. We inadvertently opened the door to the cities using this money in a general fund sort of manner when we passed LB1096 in 2008, so this is really just telling the cities to go back to the process they had before for most of the departments across the state. And I urge your support. Thank you. [LB522]

SENATOR LANGEMEIER: Thank you, Senator McGill. You have heard the closing on LB522. The question before the body is, shall LB522 advance? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB522]

CLERK: 43 ayes, 0 nays, Mr. President, on the advancement of LB522. [LB522]

SENATOR LANGEMEIER: LB522 does advance. Mr. Clerk, next item, LB72. [LB522 LB72]

CLERK: LB72, a bill by Senator Cornett. (Read title.) Bill was introduced on January 8 of last year, referred to the Education Committee, advanced to General File. There are Education Committee amendments pending, Mr. President. (AM366, Legislative Journal page 513, First Session, 2009.) [LB72]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Cornett, you are recognized to open on LB72. [LB72]

SENATOR CORNETT: Thank you, Mr. President and members of the body. As Chair of Revenue, I fully understand the fiscal situation Nebraska is facing. Therefore, you may be asking yourselves why I'm bringing you a bill with a fiscal note. There's a one-time expenditure of \$46,000 in this bill. I feel if we can save one child's life for that amount we are justified. Food allergic reactions are the leading cause of anaphylaxis outside the hospital setting, accounting for an estimated 30,000 emergency room visits, 2,000 hospitalizations, and 150 to 200 deaths each year in the United States. Between 1997 and 2002 the amount of children with a peanut allergy has doubled. Anaphylaxis is a systemic reaction which can kill within minutes. Up to 20 percent of students will have an anaphylactic reaction...will have their first one in school. There is no cure for a food allergy. Strict avoidance of the offending food is the only way to prevent a reaction. By

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having guidelines in place, we can reduce the amount of fatal anaphylaxis cases due to food allergies. LB72 is a bill which would require the Department of Education, along with the Department of Health and Human Services, to develop and make available policy guidelines for the management of students with life-threatening allergies. There are several items the guidelines shall include but are not limited to: one, an annual education and training for school personnel on management of students with life-threatening allergies, including training related to administration of medication, in developing this part of the policy training programs offered by other entities may be considered--for those of you that were here two years ago, I passed a bill dealing with allowing children to carry their EpiPens and inhalers in school, this is somewhat of a follow-up bill to that; procedures for the maintenance of a file by the school nurse or other appropriate personnel for each student at risk for anaphylaxis; development of communication strategies between individual schools and local providers of emergency and medical services, including appropriate instructions for emergency medical response, development of strategies to reduce the risk of exposure to anaphylaxis-causing agents in school; procedures for extracurricular programs, such as academic outings and field trips, before- and after-school programs, and school-sponsored programs held on weekends; a procedure and appropriate guidelines for the development of an individual emergency healthcare plan for children with life-threatening allergies which could result in anaphylaxis; procedures for collection and publication of data for administration of epinephrine to students at risk for anaphylaxis; procedures for each school to develop a treatment plan, including responsibilities for school nurses and other appropriate school personnel responsible for responding to a student who may be experiencing anaphylaxis; a communication plan for the school to follow to gather/disseminate information on students with life-threatening allergies to appropriate school personnel; description of parental responsibilities; description of school responsibilities; description of student responsibilities; procedures for the placement of a student's prescribed anaphylactic medication in a secure but unlocked location, easily accessible by school personnel on a field trip, on a school bus, or other school-provided/coordinated transportation, or to school-sponsored function. LB72 would apply to all accredited or approved schools and approved early childhood education programs. I would urge the body to seriously consider this measure and, with that, I thank you for your time and consideration. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Cornett. As the Clerk has stated, there are committee amendments offered by the Education Committee. Senator Adams, as Chairman of the committee, you are recognized to open on your committee amendment. [LB72]

SENATOR ADAMS: Thank you, Mr. President. The Education Committee amendments basically do three things with this bill. Currently in statute, school personnel are granted immunity from civil liability when it comes to specifically dealing with asthma and these medications for these life-threatening allergies. What the amendment would do would

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be to extend that immunity to the school district itself, not just the school personnel. The other thing that the amendment does is to strike a portion of the bill where schools are being held liable to develop guidelines for the implementation of environmental guidelines for schools to promote indoor air quality. The other thing that it does basically is to say that educational service units, right along with schools, are part of this mix and would have to have the...the guidelines would apply to them, and the placement of the medication would be also in the educational service unit. That's the amendment, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the opening on AM366, the committee amendment from the Education Committee to LB72. The floor is now open for discussion. Senator Harms, you're recognized. [LB72]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Adams, would you yield? [LB72]

SENATOR LANGEMEIER: Senator Adams, would you yield? [LB72]

SENATOR ADAMS: Yes. [LB72]

SENATOR HARMS: Senator Adams, in regard to your amendment, line 19,... [LB72]

SENATOR ADAMS: Yes. [LB72]

SENATOR HARMS: ...it's page 1, are we in tune here yet? [LB72]

SENATOR ADAMS: I think so. [LB72]

SENATOR HARMS: Okay. The question I have for you is regard to on line 18. It says: early childhood education program acted in good faith in managing student's...such student's and child's allergic conditions. What I want to know is, what's the definition you're using in regard to "good faith"? How do we measure good faith and how do we know that that's taken place? And then the second portion of my question is for you is how do we...do we, in fact, have the parents sign off on any of these issues or concerns in regard to that aspect? [LB72]

SENATOR ADAMS: I'm going to give it a quick shot and then I think Senator Cornett may have a better response to it. [LB72]

SENATOR HARMS: Oh, okay. Thank you. [LB72]

SENATOR ADAMS: I think what we're asking the school districts to do is just that--follow the guidelines to the best of their ability. And whether they have done that or

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not may ultimately be the decision of somebody other than this body or the school district. But maybe Senator Cornett has a better response to that. [LB72]

SENATOR HARMS: Senator Cornett, would you yield, please? [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield to a question? [LB72]

SENATOR CORNETT: Senator Harms, could you repeat the part about... [LB72]

SENATOR HARMS: Sure. [LB72]

SENATOR CORNETT: ...the parents particularly? [LB72]

SENATOR HARMS: Well, what I'm wondering about, where do the parents fit into this? [LB72]

SENATOR CORNETT: That's... [LB72]

SENATOR HARMS: As a parent... [LB72]

SENATOR CORNETT: ...that's exactly what I thought but I wanted to make sure I'd heard the question. [LB72]

SENATOR HARMS: Right. [LB72]

SENATOR CORNETT: Under the two bills that were passed a couple of years ago, for a student to be able to have their medication in school with them, whether it's for asthma or anaphylaxis, they have to enter into a training program with their own private physician and sign off on what's called an action...asthma action plan, and that's referred to in the bill, where the student is taught how to administer the medication to themselves and what the dosing should be, and then there is also guidelines in those previous bills in regards to if they don't follow that for the school districts. [LB72]

SENATOR HARMS: Well, I appreciate that. The reason I posed this question is I had a daughter almost die from that. She was asthmatic in the school and, as parents, we went to the school and laid everything out very clearly what had to be taken. That fell short, fell short in the nurse's office, fell short in this aspect. And so the other question part of this, then where does the parent fit into this aspect? [LB72]

SENATOR CORNETT: They are part of the plan that is signed off on from the physician's office, and then that has to be filed with the school. [LB72]

SENATOR HARMS: Okay. I appreciate what you're doing here and I think it's important

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for us and I support this. I just had some questions in regard to "good faith" and where the parents fit in. You've answered that. Thank you. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Campbell, you are recognized. [LB72]

SENATOR CAMPBELL: Thank you, Mr. President. Would Senator Adams yield to a question? [LB72]

SENATOR LANGEMEIER: Senator Adams, would you yield? [LB72]

SENATOR ADAMS: I will. [LB72]

SENATOR CAMPBELL: Senator Adams, when the Education Committee looked at this issue, do we know how many school districts across the state or early childhood centers already would have adopted policies such as this? Or is this just a void in almost every school district? [LB72]

SENATOR ADAMS: You know, Senator, as I recall back, and I can't give you a definitive number, but it was my opinion, as I think back, that many school districts already have mechanisms for dealing with this in policy. Here again, I might defer to Senator Cornett. She's done more of the background research on this. [LB72]

SENATOR CAMPBELL: Okay. Thank you very much. Senator Cornett, would you yield to that question? [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: Yes, I would be happy to. Two years ago, when we started working with...it was actually longer than that now but when we started working with this issue we found that there was not cohesive plans from one school district to the other and some school districts had no policy, actually written policy, in place on establishing peanut-free tables, on establishing a protocol, what to do if a child had an anaphylactic reaction. I won't name the school district, but one school district, the teacher actually was reprimanded for running to go get the medication and leaving her classroom unattended. So what we are trying to do here is, through the Department of Education, set a policy; allowing the Department of Education to set those guidelines that the school districts can follow. [LB72]

SENATOR CAMPBELL: I think part of my...the purpose behind the question is calling into question the fiscal note here. If we have a number of schools across the state who have already started in some policy then the department would not have to start afresh and perhaps the cost would not be as significant. That's part of the question that...or

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part of the issue behind my question. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Campbell. Those wishing to speak, we have Senator Gay, Wightman, Pahls, and Lathrop. Senator Gay, you're recognized. [LB72]

SENATOR GAY: Thank you, Mr. President. I rise to just ask questions on this bill because as I look at the fiscal note, and I know we're analyzing fiscal notes very closely, but on the bottom part of the fiscal note, this is the part that scares me more than anything: "LB72 will definitely result in a workload increase for school districts and early childhood education programs to adopt policies and to implement these requirements." You can read the rest for yourself. I'm a little concerned here though as we add more things. This sounds great. And I know, I think, on the asthma case what they're talking about was for a child, if I'm not wrong, in my district actually, in a parochial school, and that's good. But when we start looking into these things, I'm just a little concerned, all these extras we're asking school districts to do, because just not too long ago several times we've talked about we're asking school districts to do more and more. The concern I have on this is there is a cost to doing all these things, with the personnel costs and all those things. And this is a...it's a bill that just how can you be against it, I guess? And I'm not so sure where I am. I'm watching these bills as they come and this one, I just started reading on it and I'm trying to get some more information. But as I look at this, I'm going to hold my breath a little and wait, because it sounds good on the outside, when we start looking into it I'm just going to be very cautious. With that, would Senator Cornett yield to a question or two? [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: I'd be happy to. [LB72]

SENATOR GAY: And, Senator Cornett, I do apologize. I really am watching these bills and I just was reading this. But the question I ask is, is this every school would have to implement these policies and does that include parochial schools, private schools? All these people that you're saying would have to institute this policy, the way I read the amendment is the schools would be exempted of any liability or something. What about everybody else? [LB72]

SENATOR CORNETT: To be blunt, yes, this would be to implement guidelines for all schools. And, yes, there will be a workload burden on the schools but, in my estimation, can we ask for anything more important than protecting the life of a child as an additional expense for a school district? [LB72]

SENATOR GAY: It's a question back to me. Because I agree with Senator Harms. If I'm the parent of that child, I'm going to go in, talk to the school, make sure they

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understand. And I know this happens quite a bit: hey, my son is allergic to this, my daughter is allergic to this, watch out. They work things out according to that school district, and I know that's being done now. Now if I don't draft a policy or if my policy is written wrong or maybe not covered, am I then liable that I didn't write a proper policy that didn't go according to HHS guidelines or whatever, how this is going to be drafted? [LB72]

SENATOR CORNETT: It would be the Department of Education and I believe that they are exempted from liability, but again, this is to set out basic guidelines for a protocol for what to do if a child is experiencing anaphylaxis. [LB72]

SENATOR GAY: Okay. Well, it also includes the Department of Health and Human Services... [LB72]

SENATOR CORNETT: Yes, it does. [LB72]

SENATOR GAY: ...to help develop the policies. [LB72]

SENATOR CORNETT: Yes. [LB72]

SENATOR GAY: I'm just concerned. Last year I stood up with a stack this tall of Health and Human Services duties, requirements, things to do. Not saying they can't do it, but every time we add one of these kind of things it's more and more to be done. And, you know, I know where you're trying to go. I just wondered if we need to put this in legislation to get this done, if there's not an easier way that we could do guidelines through public health or something like that. I have a concern. I'd ask would Senator Adams yield to a question? [LB72]

SENATOR LANGEMEIER: Senator Adams, would you yield? And 1 minute. [LB72]

SENATOR ADAMS: Yes. [LB72]

SENATOR GAY: Senator Adams, I guess to follow up on that question then, are the schools, if you draft a policy like this, you're exempt or you're not liable if something happens to the child? [LB72]

SENATOR ADAMS: In the committee amendment, we are extending that civil liability, that immunity from it, to the school district. Personnel, by statute, are already exempt. [LB72]

SENATOR GAY: So would that be every school or every day care or whoever has to do this has that same... [LB72]

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SENATOR ADAMS: And educational service unit, right. [LB72]

SENATOR GAY: So a private school or a parochial school would have the same exemptions then? [LB72]

SENATOR ADAMS: I believe so. [LB72]

SENATOR GAY: You believe so or do you... [LB72]

SENATOR ADAMS: I... [LB72]

SENATOR GAY: That's a big concern. [LB72]

SENATOR ADAMS: ...I don't have an immediate answer for you. [LB72]

SENATOR GAY: That's one I would like to find out if we could find out legally. [LB72]

SENATOR ADAMS: I'll try to get an answer for you right now. [LB72]

SENATOR GAY: Thank you. With that, I'll yield the rest of my time to Senator Cornett, if she has anything to say. [LB72]

SENATOR FISCHER PRESIDING

SENATOR FISCHER: Senator Cornett, 13 seconds. [LB72]

SENATOR GAY: Oh. [LB72]

SENATOR CORNETT: I'll waive on 13 seconds. [LB72]

SENATOR FISCHER: Thank you, Senator Gay, Senator Cornett, and Senator Adams. Those wishing to speak are Senators Wightman, Lathrop, Wallman, Harms, and Utter. Senator Wightman, you are recognized. [LB72]

SENATOR WIGHTMAN: Thank you, Madam President, members of the body. I stand here torn, as our Senator Gay expresses. First of all, I have a granddaughter, who eating a peanut might very well be fatal to. She has a severe case of allergy to peanuts and other nuts. It's very difficult to stand here and be opposed, even when there is a \$46,000 fiscal note, when it involves a member of your own family, and I think that's been expressed here by others. I certainly have a lot of concern with regard to any bill that's going to have a fiscal note, and \$46,000, well, it's symbolic as much as anything, but it's almost an amount of money that, as Appropriations Committee members, we're going to be wrestling with. At the same time, I probably will support the bill but, again, it

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may be my own personal situation that tips the scales in favor of supporting the bill. I think...and I've read also a number of times that allergies to peanuts particularly but other food items as well are on the increase. I read that it may be because of more cleanliness in the homes, that they don't get exposed at an earlier date to some of the things that maybe children did get exposed to earlier. Whatever the cause, those allergies do exist. They are real. They are extremely dangerous and life-threatening. So I will listen to the rest of the discussion, debate, but at the present time I am very likely to support the bill since it does involve a member of my own family. Thank you, Madam President. [LB72]

SENATOR FISCHER: Thank you, Senator Wightman. Senator Lathrop, you are recognized. [LB72]

SENATOR LATHROP: Thank you, Madam President and colleagues. Good afternoon. I do have some questions for Senator Adams, if he'd yield. [LB72]

SENATOR FISCHER: Senator Adams, would you yield? [LB72]

SENATOR ADAMS: Yes, I will. [LB72]

SENATOR LATHROP: Senator Adams, I have a couple of questions about your amendments, since it deals with immunities. And as I'm looking at it, it appears that there are two separate grants of immunity in your amendment. The first is a grant of immunity if you act in good faith in carrying out the policies of a school district. The second seems to be a more broad grant of immunity that is not conditional upon acting in good faith? [LB72]

SENATOR ADAMS: That's correct. [LB72]

SENATOR LATHROP: To whom does that extend or how is that different than the first grant of immunity? [LB72]

SENATOR ADAMS: The first grant of immunity is to the school district whereas the others is to personnel. [LB72]

SENATOR LATHROP: Is it your intent that they...that availing oneself of immunity would be the same in either circumstance but that we are simply applying it to two different classes of people? [LB72]

SENATOR ADAMS: Yes. [LB72]

SENATOR LATHROP: In your amendment you use the term "good faith," and that's not exactly what...that's not a term typically used by or used in tort law, and so I want to

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understand that term. We talk about, in tort law, we talk about behaving as a reasonable person or acting as a reasonable, prudent person as the standard for negligence. Are we simply using "good faith" as a substitute for reasonable behavior? [LB72]

SENATOR ADAMS: I'm going to speculate yes. [LB72]

SENATOR LATHROP: Okay. I'm just trying to...it's not an unqualified grant of immunity, right, so if somebody walks up to a child having a...in anaphylactic shock and they do something, they put a needle in them and try to give them some medication, they do something that turns out to be the wrong thing, this is not an unqualified grant of immunity for anything they try to do. They have to act in good faith. [LB72]

SENATOR ADAMS: I would say that. That's correct. [LB72]

SENATOR LATHROP: And the use of good faith is foreign to or it's different than the terminology typically employed in tort liability. My question is, good faith here means reasonable conduct under the circumstances. [LB72]

SENATOR ADAMS: I believe so, yes. [LB72]

SENATOR LATHROP: Okay. Thank you. [LB72]

SENATOR FISCHER: Thank you, Senator Lathrop and Senator Adams. Senator Wallman, you are recognized. [LB72]

SENATOR WALLMAN: Thank you, Madam President, members of the body. I, too, have concerns if we lump all the school districts together, public, private, another mandate. You know, this is a good bill probably, everybody wants to keep our children safe, but we're passing these costs down probably to local school districts because it probably won't be funded out of here. And why do we keep doing this? To make us feel good? I don't know. Most school districts I think do a really good job with their healthcare, but some of them now can't afford a nurse. They'll have an LPN or part-time nurse, and so they have tremendous budget issues themselves. And so if we're increasing this, Senator Cornett, I have a little trouble passing this on. Do you feel this is passing the buck? Madam, may respond? [LB72]

SENATOR FISCHER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: Was waiting for... [LB72]

SENATOR WALLMAN: Okay. [LB72]

SENATOR CORNETT: ...Madam President. I feel that to a certain extent it is passing

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the buck. I will not deny that. But what I'm saying is most school districts have some type of a plan in place but not all do. This bill gives basic guidelines for school districts to adopt and they can implement their own plan based on these guidelines, and it puts in place means for them to establish how they keep track of the students and sets up, under the guidelines, a protocol for the child, you know, who's going to be designated as the person to administer inside the school district. I'm not saying that it will not cause the school districts a burden. My point is the same as it is for accepting the fiscal note, is it is a lifesaving measure for children. This body has to determine whether that...we're willing to spend that amount, and the school districts...and that is our job also to determine whether the school districts should have to spend that amount to set something in place to protect the children. [LB72]

SENATOR WALLMAN: Thank you. I've been involved in numerous policy issues in school districts and we seem to put about anything and everything in policy, and also children's safety. So, like you said, some school districts have this in place. So thank you, Madam. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Harms, you're recognized, with Senator Utter to follow. [LB72]

SENATOR HARMS: Thank you, Mr. President and colleagues. One of the things I just wanted to share with you as a parent who had an asthmatic child, there's two kinds of asthmatic attacks. There's one that's created by the environment, such as allergies, could be cold air, could be a variety of things. And the second one is created by emotions. And a lot of children who go to school, asthmatic attacks are caused by the emotional side of things. And I can tell you it does not take very long for the airways of a child to shut down. I don't think it's too much to ask for this great state to put together an appropriate piece of legislation that protects our children. The educational process is critical to the people who are in the classroom. There are a lot of schools who don't have nurses. There are a lot of schools that just simply would probably not do well with this. But educating the teachers and the faculty about how you deal with these issues, how you address these issues, and the guidelines that identify the child coming into the classroom is asthmatic, and that should be...that is a good way to at least start to address the issue. And we need to have clear legislation that requires the schools to create the right policy and the right training so that if a child, and it's your child, who's asthmatic and has the attack, you're going to be thankful. Because that may be the difference between surviving or not surviving. And to deal with those issues as a parent, you'd like to be able to sit down and talk with the school, you'd like to be able to share with the school what your concerns are and what you know is your child's problems, to fit into this process. So I think it's good. I think it's something that we need to do. And I don't think you can put a dollar value on this at this point. Senator Cornett, would you

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yield, please? I know that you had some...I think some things you wanted to share on liability earlier... [LB72]

SENATOR LANGEMEIER: Senator Cornett, would... [LB72]

SENATOR HARMS: ...and I would like to yield my time to you. [LB72]

SENATOR LANGEMEIER: Senator Cornett, 2:51. [LB72]

SENATOR CORNETT: Thank you very much. We are discussing right now, it's not the original bill, it's wording in the amendment that we are discussing currently. The section that Senator Lathrop referenced has to go back to the...goes back to the bill that was passed two years ago that the school personnel are exempt, the designated school personnel that is either the school nurse or a member of the personnel that has been trained to administer, if say, for instance, the child is already unconscious, to administer the medication, is exempt for liability if something happens to the child even if they do in good faith administer that. Currently, we're looking at the amendment. But thank you, Senator Harms. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Cornett. And, Senator Harms, did you want your time back? Two minutes. [LB72]

SENATOR HARMS: Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Cornett and Senator Harms. Those wishing to speak, we have Senator Utter, Lautenbaugh, Price, Gay, Nelson, and others. Senator Utter, you're recognized. [LB72]

SENATOR UTTER: Thank you, Mr. President. And good afternoon, colleagues. I rise just to...just to mention that I have contacted the biggest school district in my district and they've looked over the requirements in this bill that pertains to the school district and they feel like they're pretty well covering everything right now. They're really kind of concerned as to what the...what the parameters might be with regard to the air quality issues that are listed in here and I think that could be a serious issue for some schools. I do have a real concern for the...for the schools that may not be as prepared to handle whatever protocols may be developed here from a monetary standpoint and it does appear to me that this actually may be some type of an unfunded mandate back to the schools. I also...you would all be surprised, I guess, if I didn't mention the fiscal note. I have some concerns there too. And I know it's hard to be against a child, but it seems like maybe we've arrived, at this point in time at least, and have gotten along and it also seems to me that parents do have some responsibilities in this area to work with their schools, particularly when they have children with those serious illnesses, to make the school aware and to set up some kind of an agreement, at least with the school, as to

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how that child needs to be handled should the time come that they need medical attention. And so I have some...I have some concerns in those areas. I'm concerned about the unfunded mandate. I'm also concerned about the fiscal note. Thank you, Mr. Chairman. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Utter. Senator Lautenbaugh, you're recognized. [LB72]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I had previously said that I wasn't going to speak on this bill and I'm not going to be long, but I've been listening to the debate and I think...well, I'm completely at sea on this bill now, to be honest with you, because I think the first bill I ever spoke against ever in this body mandated that the school districts adopt a policy to do something or other and it wasn't about reading or writing or arithmetic. And it didn't really tell them what had to be in the policy. It just told them they had to revisit the policy every year to make sure it was as good as it could be and that was good enough for us. And I objected to it and I said this is something that we don't need to burden the school districts with. And we had another one last year where I said the same thing. And now here we are. And the cost of this is small, \$40,000 is described as small, I think the word that was used was "symbolic" to try to save this amount of money was a symbolic gesture. I would caution us that there are no symbolic gestures in the times we're in. Every dollar counts. And I'm not telling you anything you don't all know, and this is probably a chance for me to rattle on for a few minutes at the microphone and provide no real guidance or opinion whatsoever. I recognize that and I don't know that you were looking to me for that in any event. I'm a father of an asthmatic child as well and I want him taken care of, and this is where the rubber meets the road and where we earn whatever it is we are paid. I wish I could tell you how I'm going to vote on this and I wish I could tell you that \$40,000 isn't a lot of money. I wish I could tell you this was a bad bill. And I can't tell you any of those things so I'll just listen to the debate and see where it takes us. And I'll yield my time to Senator Cornett, if she needs it. [LB72]

SENATOR LANGEMEIER: Time. There is no time left. Thank you. Senator Price, you're recognized. [LB72]

SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator Cornett yield to a few questions? [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? Senator Cornett, would you yield to a question? Would you yield? [LB72]

SENATOR CORNETT: Sorry, Senator Price. I'm looking at an immunity issue. Go ahead. [LB72]

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SENATOR PRICE: Not a problem. That may play well here. I have a couple quick questions to ask you. In reading over the bill and the amendment, still in my mind wanting to understand, we're talking about the entirety of the school personnel will be covered under this policy, correct? [LB72]

SENATOR CORNETT: It will be the designated employee. If you look at the existing language, it would be the school nurse or the person the school designates as already probably or very likely trained in administering the medication, because the children are already carrying their inhalers and their EpiPens in school now. [LB72]

SENATOR PRICE: So if we... [LB72]

SENATOR CORNETT: That was done a couple years ago so that's already in place. [LB72]

SENATOR PRICE: Okay. Because in looking at it, here's my question, the...unfortunately, the...as Senator Harms was talking about asthma, asthmatic issues, medical issues have happened in a lot of sporting events. If you don't have the...so how many people are going to be the ones who have to be trained in this? And then, in looking at it, because it said...it said all...in the bill there's language that seems to cover the expansive of all personnel and there are HIPAA requirements involved here. So, you know, if they didn't have them now, if I'm looking at a small district, if they didn't have them now, if they don't have the right people, so there's other training involved here, not specifically...I just want to make sure if it was anybody outside of that one individual who is appointed, so. And then the other thing, how does this deal, when we talk about a peanut allergy or anything, that's for the child who has already been identified. What about a newly unidentified person? So now I have a child who's run across a new situation. Does this cover that child at all? [LB72]

SENATOR CORNETT: Let me explain a little bit because we have gotten off topic a little bit. Two years ago we passed a bill that allowed students to carry their inhalers for asthma and an EpiPen for anaphylaxis. This bill has nothing to do with their ability to carry their medication. [LB72]

SENATOR PRICE: Right. [LB72]

SENATOR CORNETT: Under that bill, we establish responsibilities for the parent and the child to notify the school that their child has asthma or an allergy, a life-threatening allergy. And then they have to set up and be trained by their own private physician on their medication and the school district is supposed to have that medication available for them to use. What we are doing here is setting up guidelines that the school districts can implement or set their policies under in regards to where the records are kept that the parents provide, where the action asthma plan that has been set up between the

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physician and the parent is kept, who is the designated...you know, we're not designating who the person will be but the school allows, under the guidelines, the school district would decide who was designated to help administer the medication. This does not deal with children that have not been diagnosed with a life-threatening allergy or with the need for an EpiPen because that's a situation you can't predetermine who will or who won't become ill from this. [LB72]

SENATOR PRICE: I think that may have made something clear. I'm not sure exactly yet. And where in this...and finally, in the legislation where do you...where do you cover if a district, a school, an educational service unit, etcetera,... [LB72]

SENATOR LANGEMEIER: One minute. [LB72]

SENATOR PRICE: ...doesn't meet the standard? So you're putting out a...you'll meet the stand. Where is if you don't meet the standard or when do they have to comply by, those things? Where is that going to be called out? [LB72]

SENATOR CORNETT: It's not a standard; it's a guideline. And they have to...their policy has to fall under the basic points of their guideline. A lot of school districts already have it. It would fall, I guess, but I would have to look on whose responsibility to make sure that they're doing that. [LB72]

SENATOR PRICE: Because if we're going to give immunity to bring full circle, the way we were talking about here,... [LB72]

SENATOR CORNETT: Correct. [LB72]

SENATOR PRICE: ...if you would grant immunity and from a guideline, I don't understand it. If we're not mandatory then why do you need immunity. [LB72]

SENATOR CORNETT: Well, it's not granting immunity from a guideline. The immunity would come in the bills that are already passed, the ones that designate who has to give the medication and how it's administered. This sets up guidelines for the person who is to be trained. The immunity issue that we are talking about here in the... [LB72]

SENATOR LANGEMEIER: Time. Thank you, Senator Price. Those still wishing to speak, we have Senator Gay, Nelson, Sullivan, Lathrop, Gloor, and others. Senator Gay, you're recognized. [LB72]

SENATOR GAY: Thank you, Mr. President. Just looking further into the bill, on page 2, "Annual education and training for school and early childhood education program personnel on management of students or children with life-threatening allergies, including training related to administration." You can read the rest. Number (3),

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"Development of communication strategies between schools, early childhood education programs, and local providers of emergency medical services," is that your local fire department or your local hospital or who is that that will be...it's a question I have, "including appropriate instructions for emergency medical response related to anaphylaxis." On number (5), procedures for managing the students, I assume these are individual plans for the student that have to be on file? Okay. Before- and after-school programs, so you go to the next page, what Senator Price was...talked to, who on these academic outings and field trips, on those programs who is going to be responsible at that point? I think many of these schools have these programs in place, as Senator Utter said. Let me just say, too, I'm not trying to be a hard guy here. I mean I got a child with asthma, too, and we went to the school, we talked to the teachers, they get it. I think that's happening right now in other places, I'm sure. Hey, by the way, my child has a certain condition. And it could be life-threatening, of course, and no one would want that. But on a certain portion this, too, I have a...you go further down on page 3, "A description of parental responsibilities," if we already have this in place, that's fine, but sometimes parents don't take their responsibilities that great and I think the schools pick up the slack and do a good job right now and that's why they probably already have some of these guidelines in place. I'm not so sure they do or don't. I haven't had a chance to check with my local schools in my district, but do they already have this in place? Are we making a bill here that, like I say, this sounds very good and it is a good thing if we can catch a problem before it exists or we know what the problem is and can deal with it. When we start giving, what we just said, guidelines...I'll tell you what. When the state was back...if you were ever on a school board, county board, city council, whatever, or mayor or whatever, you know what state guidelines can be. Sometimes we just don't know what they meant by this bill, and you have to have your lawyers check it out and this and that. There's different opinions on what we're trying to get across here. I think what we're doing is a good, very good idea, but however to put this into law and start adding more things for schools to do I think is wrong. And just I vividly remember, and so do all of you, all the things that schools have to do and they have to do it with less money and they probably will have to do it with less money going into the future. I hate to be, you know, a big downer here, but if we're talking real money here, this is...the real money is your personnel cost, the people doing it and the cost of administering programs. Takes a lot of work. And if I'm wrong, and I've never been on a school board, but if I'm wrong then tell me, but what I hear from school administrators is, you know what, don't give us more to do, either that or if you do give us more money. There are unfunded mandates from the state level, too, and I think that's what we're creating right here. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Nelson, you're recognized. [LB72]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'd like to address questions to Senator Cornett, if she will yield. [LB72]

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SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: I would be happy to. [LB72]

SENATOR NELSON: Thank you, Senator. I'd like if...will you refer to the fiscal note, please, if you have that in your folder? I'd just like some clarification on that, the fiscal note for LB72. I think you cited a figure of either \$40,000 or \$46,000, if I understood. There are two sides to the fiscal note. One shows \$46,000. But on the other side the estimate provided by the Department of Education shows \$96,000 and there's a breakdown there of the various things, money they would be required to spend. Is there some reason why we're not including that in the overall fiscal impact, that figure? [LB72]

SENATOR CORNETT: Yes. When I reviewed the fiscal note and signed off on the fiscal note, they were talking about adding a full-time employee. Since that time it has been determined that we could hire a contract employee for a shorter period of time that had the background in this area to implement...to draft the guidelines. As in regards to the fiscal note, I talked to Senator Lavon Heidemann earlier today and we will be working together to find a way to pay for this rather than what is shown. [LB72]

SENATOR NELSON: I'm sorry, a way to pay for it...? [LB72]

SENATOR CORNETT: We have a...Senator Heidemann has a couple of ideas on how I might be able to fund this. [LB72]

SENATOR NELSON: Without using General Funds,... [LB72]

SENATOR CORNETT: Yes. [LB72]

SENATOR NELSON: ...if I understand you correctly. All right. Thank you. I guess the input of my next question would be kind of a follow-up here on what Senator Gay is talking out. We've had testimony so far that there have already been programs developed in various school districts across the state. And looking at the fiscal note for the Department of Education, even if it's not paid by General Funds, which I'm wondering about--we can only go so far to find other places to fund this--if you've got...you take out the FTE there of \$45,000, you're still left with about another \$50,000 for the Department of Education plus the \$46,000. But if we have programs already in place at some of the school districts where they've done a lot of development already, why do we have to reinvent the wheel again by having the Department of Education go through all these requirements here or do all these things that they're saying they're going to need to do to adopt a policy which is going to include, I don't know, at least you look at the litany here just on the statement of intent of all the things that they're going to have to look into and develop and I would used the word foist on all the school districts.

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Why wouldn't it be simpler just to, in your bill, tell them to develop general guidelines based on programs that are already in place that have been successful? That's a long question but... [LB72]

SENATOR CORNETT: In our discussions with the Department of Education, they are going to be looking at existing guidelines. The problem and why we need to unify the guidelines is some school districts have more extensive and more comprehensive guidelines in meeting these plans; some school districts do not have as comprehensive. And they will be looking at existing guidelines and determining what would be best overall in a general set of guidelines that school districts can adopt as their policy...and adopt their policies around those guidelines. But that is...that is already being looked at, sir. [LB72]

SENATOR NELSON: All right. Thank you very much, Senator. I appreciate your answers. [LB72]

SENATOR LANGEMEIER: One minute. [LB72]

SENATOR NELSON: I'm undecided on this. I think it's important to look out for our children who have allergies that they either are aware of or might experience for the first time in school, to their detriment. But it seems to me, just reading this over for the first time, that this goes perhaps too far and a little far afield in what we're trying to achieve to protect them. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Sullivan, you're recognized. [LB72]

SENATOR SULLIVAN: Thank you, Mr. President. I suspect that this conversation that we're having right now will be one of very many that we're going to have as we look at really, really good and important issues and potential legislation and how we're going to fund them. It makes us take a very close look at the fundamental responsibility of state government balanced with personal responsibility, and knowing at the end of the day that perhaps we cannot legislate everything that we want to. I find myself struggling with that right now and, as I said, I will continue to do that as we face the budget challenges that we're going to be having. I would like to ask, if I may, a couple of questions of Senator Cornett. [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: I'd be happy to. [LB72]

SENATOR SULLIVAN: Thank you, Senator. Actually, a couple questions were raised just as a result of Senator Nelson's comments. And so my first question is, do you

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think--and maybe this is a moot point because you're here standing, introducing this legislation--that some of this could be accomplished by encouraging and educating and assuming that there would be work done by the Department of Education without legislation? [LB72]

SENATOR CORNETT: I think that we need legislation to encourage or to mandate guidelines. [LB72]

SENATOR SULLIVAN: What's the most important thing? When you compare the guidelines and assuming that we know already that there are guidelines in place in some school districts, what's the larger question, those guidelines or establishing some situation of liability or release of liability for the school district? I guess what I'm searching for is what's really the most important thing that we need to legislate here? [LB72]

SENATOR CORNETT: We need to legislate guidelines for the safety of the children that have a...that are unified and offer a comprehensive framework for school districts to implement their policies so that we...that we are meeting the needs of these children that have these allergies. The liability issue is not as important to me as the underlying issue, which is the safety of the children. [LB72]

SENATOR SULLIVAN: Thank you. I, again, I just say I voted for this enthusiastically in the Education Committee, I support the concept totally, but this is the sort of thing that's, I think for me, going to make me lie awake at nights thinking about how we are going to balance things that we care about so desperately in this state and things that we need to have done but knowing that we don't have the funds to accomplish them all. We've got some tough decisions ahead of us. Thank you. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. Mr. Clerk, items for the record. [LB72]

CLERK: Thank you, Mr. President. New bills. (Read LB869-884 by title for the first time, Legislative Journal pages 173-175.) [LB869 LB870 LB871 LB872 LB873 LB874 LB875 LB876 LB877 LB878 LB879 LB880 LB881 LB882 LB883 LB884]

Mr. President, back to LB72, Senator Lathrop would move to amend the committee amendments with FA55. (Legislative Journal page 175.) [LB72]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We're first going to go back to recognize Speaker Flood for an announcement. [LB72]

SPEAKER FLOOD: Thank you, Mr. President. Good afternoon, members. In just a few minutes we'll be passing out a memo from myself that concerns priority bills and priority

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bill designations so that you can kind of follow along as the deadlines are concerned and some of the requirements necessary to introduce to me what your priority bill will be this year. The deadline for committee and senator priority bills is prior to adjournment on Friday, February 19. That is a very important date. February, Friday the 19th, coming up next month. I'll begin accepting Speaker priority designations on February 8 and the deadline to request that is also February 19, prior to adjournment, coming up next month. So please make that note. This memo will help you as you are thinking about what your priority bill will be for the year. And again, the other question that often arises is, if I make it my priority, which you could do this week if you had a bill you wanted to make a priority, when will that be scheduled, and I'll be following the criteria that I've set forth last year. I'll be looking at whether the bill is ready for floor debate, committee is prepared to handle it on the floor, the committee has given it as much work as possible so that it's in the best shape as it makes its way to the floor. Until then, we'll mostly be following worksheet order with some exceptions on the agenda. But if I do receive a priority designation, there is a possibility it could be scheduled in the coming days. There's also possibility that your bill could lay in wait for a little while until we do a little more checking to make sure it's ready for floor debate. So this memo will be passed out. It is also on my Web site. You can check it out there in its entirety. Again, the memo will be passed out at this time. Thank you, Mr. President.

SENATOR LANGEMEIER: Thank you, Speaker Flood. As the Clerk has stated, there's been a floor amendment, FA55, offered to AM366. Senator Lathrop, you're recognized to open on your floor amendment. [LB72]

SENATOR LATHROP: Thank you, Mr. President and colleagues. My amendment...let me start with Senator Adams' amendment. AM366 does a variety of things and then in paragraph five it deals with immunities. On closer examination, it appears that the grant of immunities found in paragraph five is not consistent or harmonized with Section 25-21,280, which is a grant of immunity to personnel in the school districts. In order to rectify that, Senator Adams, and to address whether it's good policy or not, Senator Adams and I have agreed to extract from his amendment with my amendment paragraph five dealing with the immunities so that we can look at that subject matter before Select File. I think you'll see, and I'll yield my time to him momentarily, that he's in agreement that this needs more work and that we need to make sure that if there is an immunity in this bill that it is consistent with existing law. And for that purpose I'd urge you to adopt FA55. And with that, I'll yield the balance of my time to Senator Adams. [LB72]

SENATOR LANGEMEIER: Senator Adams, 8 minutes 40 seconds. [LB72]

SENATOR ADAMS: Thank you, Mr. President. I appreciate Senator Lathrop's help on this given his expertise in this area. And I think that the amendment at this point is a good one. It will allow us to step back and take a look at language that already exists in

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statute and harmonize it or decide exactly how we want to approach this. So I would agree with this amendment. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Adams and Senator Lathrop. You have heard the opening on FA55 offered to the committee amendment, AM366. We had a number of lights on, we'll go through those. Those wishing to speak, we have Senator Gloor, Fulton, Dubas, Stuthman and others. Senator Gloor, you're recognized. [LB72]

SENATOR GLOOR: Thank you, Mr. President. Members of the body, I believe these amendments are good common sense approaches towards making this bill a better bill. I still am not sure that I am comfortable with the intent of the bill, however. And would be remiss, especially being married to a classroom teacher, to not think of it in terms of what ultimately happens with much of the...many of if not all of the mandates related to education. That they find their way, even though these are guidelines, guidelines that school boards and school administrators would deal with. These guidelines will ultimately have to find their way and be implemented by the classroom teachers. And I wonder if we stop long enough to think of it in that context, whether we understand that year by year, as Senator Lautenbaugh pointed out, there are mandates that we bring forward that affect education that ultimately rest on the shoulders of the classroom teachers. Senator Cornett's original legislation of several years ago was a good, common sense approach towards making sure that children have available to them medicines that are appropriate for their condition. But the guidelines we're talking about here concern me in that we ultimately will expect classroom teachers to function to a certain extent as allergists, pulmonologists. Clearly, we don't expect them to have that breadth of knowledge. But who vets the cupcakes that come in and the Halloween candy that shows up? Who's responsible for making sure that the shared sack lunches are appropriate and fit under all those guidelines? And it's not the administration, and it's not the school boards, it is in fact the classroom teacher. And so when we talk about educational funding, which we will surely do again this year or in the future when we prepare another budget, and we talk about funding for education we need to understand that part of what we have brought ourselves is a myriad of mandates that have no dollars attached to them to help underwrite this expense. But sadly enough make the life of a classroom teacher, who went to school with his or her dream being teaching to children, so broad that it gets frustrating, frustrating to the extent that we have educators all the time who leave education. I again am still weighing the merits of this specific bill. But this is a teachable moment, per se (laugh) for us to think about what this means to education and how many times we do this to education. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Gloor. Senator Dubas, you're recognized. [LB72]

SENATOR DUBAS: Thank you, Mr. President. I did have a question, but I think it's been

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more or less answered by the amendment or the work that Senator Lathrop and Senator Adams are going to be working on as far as, you know, where our schools are at as far as immunity and dealing with any other types of injury or illness or sickness with children. And I'm sure that they have policies in place. I had a constituent contact me who has a child with a very serious, serious latex allergy. And she's worked very closely with the school. I think she's a great example and the school is a great example of what they need to do to make sure that this child is protected as much as possible. I know we need to make sure that these protections are in place for all children. So I do appreciate the discussion and the dialogue that's been going on. I would agree with what Senator Gloor just said about, you know, it's something else that we're asking our teachers to do. But by the same token, these children spend the majority of their day time hours at school. And so we need to make sure that our teachers and those people who are in direct contact with these children understand that particular allergy or issue and what's going on, and not only have protections in place for the children, but have protection in place for these people who deal with the children. And I hope we're going to be able to be able to address that through the appropriate amendments. I would have a question for Senator Cornett, if she would yield. [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: Yes. [LB72]

SENATOR DUBAS: Thank you, Senator Cornett, for bringing this bill and for allowing us the opportunity to have this discussion. But as I look at who testified, support, opposition, etcetera, and there was no opposition, did you at any time work with teachers or administrators or have conversations with them about this particular bill? [LB72]

SENATOR CORNETT: Yes. And most school...most of the districts, as I said, already have some type of plan in place. And the bills that were already enacted two years ago already put that burden on their teachers to a certain extent, but it also puts it on the student and the family member to have the medication and have them trained in how to use the medications and what the symptoms are and to be able to recognize that. But no, we extensively discussed this with school districts when we started this process two years ago. And it is an ongoing process. [LB72]

SENATOR DUBAS: I appreciate that effort. I think they need to be a part of the discussion and they are very intricately involved. So I hope they're going to again be able to come up with the needed changes to this bill and this amendment. It's something that our schools and our families are having to deal with. Everybody has a certain obligation and responsibility in this particular discussion. And hopefully, we'll be able to reach some common ground. Thank you. [LB72]

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SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Stuthman, you're recognized. [LB72]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have a little bit of a concern with this bill and it is the fact of what we have in place at the present time. Is it working or isn't it working? Have we had situations where this bill would have helped save a child? Maybe, I don't know. But I think the teachers in our schools of today with certain policies that are already in place and just the nature of an individual will do what is possible to try to help save a child when they're having some type of a situation. I give them a lot of credit for that. They're not going to just stand by and do nothing, they will do whatever is needed to help the child. And I think it is the responsibility of the parents also to alert the teachers that their child has a situation like that. That is why I don't think in my opinion, I don't think we need to burden the schools with more regulations, more training, more cost to help these situations. Because I think as human beings, as teachers, and teachers you know why they are a teacher, they are concerned with children. They want to help children. They want to teach children. They have love in their heart for children. They will do everything possible to try and help in a situation when they are needed. There's one thing in this bill that really concerns me and it is the air quality portion of it. We had a situation where we did a little remodeling on one of our schools. The contractors did everything possible to make sure the air quality was good. But there was one individual that still had some problems. They offered to move the individual to another school just to help with that situation. They did everything possible. So I think when situations arise they will take care of it, they will do what is needed. That is why I don't think we need more regulations, more statutes, more requirements, more mandates for just average people to do the right thing. I feel that with more regulation, more statutes it gives the opportunity of more lawsuits, more questions as to whether, did I do the right thing, did I do the wrong thing, should I have done nothing and been better off? I just truly respect the teachers of the schools directed by the school boards, the administration and those individuals, you know, will do the right thing. But I would also like to find out, you know, in the last five years have they ever run into situations where we had some real tragedies because they didn't do the right thing or we didn't have a regulation that directed them to do the right thing. So with that, the only comment that I have is I think what we have right now, with the quality and the ability of the teachers we have in the schools I think they're doing a good job. And I don't think we need to add additional expenses, you know, for some mandates for requirements. And I think these educators have way plenty enough already in their books. And... [LB72]

SENATOR LANGEMEIER: One minute. [LB72]

SENATOR STUTHMAN: ...they're going to do the right thing, they're going to do the common sense thing. Thank you, Mr. President. [LB72]

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SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Krist, you're recognized. [LB72]

SENATOR KRIST: Thank you, Mr. President, members of the body. The only issue that I have, I guess, with the wording, and I've offered a floor amendment that I'd like to be considered for LB72, line 18 has the word "but," and line 19 has the word "unlocked." Collectively, what we're telling the administration of a school is that they have to maintain an unlocked drug or medication...I'm sorry, it's page 5, page 5, page 5, line 18 and line 19. We have a variety of schools, some probably that we would not allow or want to allow medications to be in an unlocked area. And I believe the secure language in the bill, I think, coupled with tort and the other things we've heard, it would be advisable not to restrict them to unlock. And I'd yield the balance of my time to Senator Cornett. [LB72]

SENATOR LANGEMEIER: Senator Cornett, 3:40. [LB72]

SENATOR CORNETT: Senator Krist, the very purpose of the original two bills was that children would be able to get their medication. And the other two bills that were passed are in an unlocked location. There have been situations where children literally could not get their medication. That is...this language is cohesive with the language that has already been passed. And that language went through...we worked very hard with the trial attorneys and with the districts to make sure that language was correct in regards to where medication would be stored. There was one incident in the state where the medication was locked in a cabinet in the nurses office and, because so many school districts share nurses now or schools share a nurse, no one could actually physically get to the medication, she had the keys. [LB72]

SENATOR LANGEMEIER: Senator Krist, did you want your time back? [LB72]

SENATOR KRIST: I guess, my major concern there is in the school districts that I've been associated with and as an accredited school in the state of Nebraska, the person who administers drugs, whether it be a school nurse or some other teacher who is trained to administer drugs, has access to the drugs that are required. I don't...I wasn't here to hear the debate as it went on to date. And again, I'll yield my time to Senator Cornett to respond. [LB72]

SENATOR CORNETT: The children under the bills that were already passed are allowed to carry in the schools three types of medications: one, are...and one of them...one bill was...one bill was rolled into mine, I believe, it was Senator Howard's on insulin. I may be wrong. Was that...well, there was a bill in regards to insulin. I had the bills in regards to EpiPens and another one in regards to asthma inhalers. Inside of those there are also requirements and obligations by the student's physician, the student, the parents in regards to the appropriate use of that medication and what

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happens if that student does not comply with the appropriate use and/or shares their medication with someone. [LB72]

SENATOR KRIST: What's the balance of my time? [LB72]

SENATOR LANGEMEIER: One minute 20 seconds. [LB72]

SENATOR KRIST: The point, I guess, is when we legislate we tell people how things are supposed to be done. And if we tell them they can't lock this drug up, then we have liability issues, I think, that will follow. Is there a provision...will there be a provision in...within the guidelines that will allow them to secure as they see fit? Because what we've just done is said, you have to secure them but you can't lock them up. And that's what I'm taking exception to. [LB72]

SENATOR CORNETT: The previous bills, the children are actually allowed to carry their medication on them or store them in an area where it is easily accessible. They can actually have these medications on their person or have them in their locker or where they can reach it. And that's the purpose behind it. [LB72]

SENATOR KRIST: Okay. I'll withdraw the amendment. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Krist. When we get to your amendment, we will address it at that time. We're still discussing FA55 offered by Senator Lathrop. The floor is still open. Senator Hadley, you're recognized. [LB72]

SENATOR HADLEY: Mr. President, members of the body, would Senator Cornett yield to a question? [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: Yes. [LB72]

SENATOR HADLEY: Senator Cornett, how did the legislation specifically deemed with allergies come about? I guess, versus other concerns that parents might have about their children's health and such as that in a school setting? [LB72]

SENATOR CORNETT: Because the amount of anaphylaxis is increasing with the increase in peanut allergies, if you are...go to...if you have young children in school now most of us are familiar with what's called peanut-free tables. Most of the school districts and private schools have them, some do not. This was brought to us by a group of mothers who have children with either peanut allergies, milk allergies or some type of severe allergy that causes what is known as anaphylactic shock. And like I said, a lot of...most school districts have some type of policy in place, some do not. This also

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applies to...it's for all accredited schools. So this was brought to us originally by mothers who wanted to protect their children and give their children access to medication because Nebraska had such a high per capita related death due to asthma and anaphylaxis. [LB72]

SENATOR HADLEY: Thank you, Senator Cornett. The concern I have, I am similar to Senator Lautenbaugh, I'm kind of torn on this. The concern I have is that...how about the other ailments that children have? I happened to google children's ailments and I came up with a list of about 170, some of them obviously are not life-threatening but others can be. For example, convulsions, those types of things. Where do we stop with coming up with protocols that we give to school districts on these kind of situations? And I realize this deals with basically one particular subset of the problems children can have in school. But are we opening it up to other parents coming in and saying, my child has a problem with this, I would like to have a protocol in my school to handle that. So I'm just concerned about opening the door to a lot of different ailments, problems that children have that we're going to expect schools to take care of. Senator Cornett, I would yield. [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: Yes, I would. The difference between anaphylaxis and a lot of the other types of conditions you're talking about is the onset of the illness is caused by something in the environment that can be avoided. To date there's no, as far as I know, there's no way of stopping a seizure except through medication...ongoing, regular medication. This is to establish guidelines to keep...to setup peanut-free tables or tables for children that have food allergies so that they can go to that table and eat in safety. It is to setup guidelines for how if they are exposed to it, how they get their medication, basically, because these are the only schools... [LB72]

SENATOR HADLEY: Would Senator Cornett yield to another question? Senator Cornett, you made the comment that a lot of schools have these procedures already. Could you...is there an estimate how many schools do have procedures or school districts already in place dealing with this? [LB72]

SENATOR CORNETT: I do not have that data. I'm sure, and this is just going off of my gut instinct here, that a majority if not a large majority of the school districts have some type of plan in place. What we are looking for here is a...one, a consistency or continuity in those plans. And then two, also looking at what policies, like an overlying guiding principle for both the private and public schools. [LB72]

SENATOR HADLEY: Thank you. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Hadley. Senator Wightman, you're

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recognized. [LB72]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I'm really torn as I listen to this. As I said, I have a granddaughter that certainly fits within this category. At the same time, I listened to Senator Gloor and I am concerned over the fact that the teachers are placed with a great deal of responsibility under this bill. It's going to be one size fits all, I think. We're going to have some school districts that maybe have as few as a little over 100 students, we have others with thousands of students. And to have them all have the same protocol, certainly there is some obligation on the part of the parent, I think, to call this to the attention of school authorities, whether it be the classroom teacher, whether it be the dietician for the schools, whoever it might be. I am concerned what the cost will be as far as the mandates and certainly that's been mentioned by a number of people, Senator Utter, Senator Hadley. I don't know if Senator Adams is here right now. [LB72]

SENATOR LANGEMEIER: Senator Adams, would you yield to a question from Senator Wightman? [LB72]

SENATOR ADAMS: Yes. [LB72]

SENATOR WIGHTMAN: Senator Adams, we have a \$46,000 fiscal note. And, obviously, that applies only to the state of Nebraska and the Department of Education, I think. It doesn't apply to the school districts and how much there might be spent across the state. Do you have any estimate of what it might cost a school to develop all the protocol that we're talking about under LB72? [LB72]

SENATOR ADAMS: You know, I have no idea, Senator. [LB72]

SENATOR WIGHTMAN: Would you see it as being fairly onerous as far as the financial obligations of the school that we'd be mandating here? [LB72]

SENATOR ADAMS: That would be hard for me to judge at this point given that I don't know what it would cost. I'm not even sure how many school districts would not already have policies in place. [LB72]

SENATOR WIGHTMAN: Okay. [LB72]

SENATOR ADAMS: So I can't answer your question. [LB72]

SENATOR WIGHTMAN: Let's go on with one additional question, if I might. Senator Hadley mentioned that there might be as many as 170, I don't remember the figure exactly, ailments that might be entitled to similar consideration. Do school districts have protocol in place, procedures in place that would address...and you don't know,

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obviously, what those 170 are, but to address other issues that could be risks to students? [LB72]

SENATOR ADAMS: I would think so. The school nurses and administration and particularly the elementary teachers, surely there are policies in place. [LB72]

SENATOR WIGHTMAN: What I'm concerned about...thank you, Senator Adams. What I'm concerned about is the mandate that we may be forces upon school districts if we took it across the entire state of Nebraska, might be hundreds of thousands, perhaps maybe a million dollars or more. I don't know whether it is or not. But that certainly is a concern to me that we are mandating those procedures. And yet it's very difficult to place a price tag on a child's life. So I'm continuing to listen. I am really concerned about the complexity of the procedures that we're requiring of the school districts. As I say, I think the parents have a responsibility in this regard. And I think most of the parents take that responsibility seriously. But I'm also sure that there are parents who probably don't even know that their child or grandchild or whoever it is has these allergies or maybe it's...whatever the ailment might be. So I will continue to listen and thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Campbell, you're recognized. [LB72]

SENATOR CAMPBELL: Thank you, Mr. President and members and colleagues of the body. This is a very difficult bill, I think, for all of us. As I walked around the floor, I think all of us have a great sense of wanting to do what is right for children and for kids. And that's certainly what is difficult for me. I would like to say to my colleagues though that two years ago, according...as we've listened to the testimony, bills were put into place dealing with asthma and how the schools would react to that. And yet I don't think, I just don't feel that we have the information to know what did the schools do from that bill a couple years ago. My guess is that many of them reacted very positively and put guidelines into place. But we don't really know that. It would seem to me that it would be far better to gather that information, as Senator Sullivan talked about, and doing an education gathering before we again put more guidelines into place when maybe they're already there. The second part of my concern about this bill is really the early childhood centers. We've talked all afternoon about the impact on schools. But this bill also deals with early childhood centers. Many of those are run by private entities, nonprofits across the state. And this is a whole different field that may be impacted and what is put into place. Sometimes what is necessary for an older child may not be a necessary guideline for younger. And yet again, what do we know that is in place? I think that is the most difficult part of this bill. And I would like to see us have at least some time to pull back and gather some information before putting more guidelines into place. Thank you, Mr. President. [LB72]

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SENATOR LANGEMEIER: Thank you, Senator Campbell. Senator Sullivan, you're recognized. [LB72]

SENATOR SULLIVAN: Thank you very much, Mr. President. I was looking through my bill file from last year and found some information that I think might be relevant and helpful in our discussion. This is on the radar screen at the federal level. And in fact, just shy of a year ago there was a CDC expert panel and USDA work group that was convened in Washington, D.C. to look at this topic, managing food allergies in school. So it's a conversation that has been taking place. I don't know the outcome of that. And before I'm finished, I'd like to ask Senator Cornett eventually...I'll yield to her...see if she would yield for a question in that regard. But I think the focus is at the federal level. And it might be helpful for us to, number one, find out what is happening at the federal level. Because one of the charges was, in this information that I was looking at, was that states, and I quote, states and school districts have been creating their own policies and procedures to manage food allergies in schools. And the additional legislation is pending in the 2009 U.S. Congress that would consider a bill entitled The Food Allergy and Anaphylaxis Management Act that would intend to issue voluntary guidelines to help schools manage food allergies among children. And one component, I think it's been alluded to but we haven't really dwelled too much on it, and that's the whole...the school food service setting. And currently, if you offer school lunches your governed by law to have a food safety program in place that's based on HACCP, which is the Hazard Analysis and Critical Control Point principles. So, I guess, what I'm trying to say first of all there are some things that we probably need to find out what's going on at the federal level. And that might be a guideline in helping us arrive at what we want to do here in Nebraska. So I wonder, lastly, if Senator Cornett would yield to a question? [LB72]

SENATOR LANGEMEIER: Senator Cornett, would you yield? [LB72]

SENATOR CORNETT: Yes. [LB72]

SENATOR SULLIVAN: Senator Cornett, do you know if there were any results that came out of that work group that was held in February of this last year that had to do with managing food allergies in schools? [LB72]

SENATOR CORNETT: There was quite a bit of work done. Nothing had passed as of the last time that we checked. As you know, a lot of the healthcare bills have gotten weighted down this year at the federal level. But it has been somewhat of an immediate concern at both a lot of the state levels and the federal level because of the increase of peanut allergies throughout the state. And yes, schools that do provide lunches have to follow a protocol, but a lot of schools do not have a hot lunch program. [LB72]

SENATOR SULLIVAN: Okay. Thank you very much. And thank you, Mr. Speaker.

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[LB72]

SENATOR LANGEMEIER: Thank you, Senator Sullivan. Senator Gay, you're recognized. [LB72]

SENATOR GAY: Thank you, Mr. President. When I got done speaking last time, I called up my legislative assistant and said, call the school district, Papillion-La Vista School District, and see if they have a policy in place. Within five minutes, oh yeah, no problem, we'll e-mail it to you. Within five minutes this was in my hands, the policy covering about everything we're talking about already in place. Now I know that's a larger school district and they're probably on this. I bet, if you haven't checked with your own school district, you ought to check first and see what's happening. What we're trying to do here is a small...I don't, first of all, looking at the supporters, I didn't see any school districts supporting this bill, nor did they oppose it. That's fine. But I think what we're doing here is the budget portion, let's face it, is small. We're going to scrutinize everything that comes this way. The mandate, and Senator Cornett said it's a mandate, she was just talking. That's what we're doing, we're mandating. This is an unfunded mandate. We'll go to local school districts, if they don't have this, I think, many do have it in place. I bet all the larger school districts do. So now we're saying to a smaller school district that, oh by the way, you should have this. And like I say, I've never been on a school board. But I assume they have school board meetings statewide. And they get together and they say, what are you doing? What are you doing? Well, we have this policy in place. Oh, that's good, can we see your information. They share their information and they draft policies that are good for everybody. I assume they've done this on this, I don't know. But no one has answered that question yet of how many districts have this in place or don't. I think that's a basic question we should ask and get an answer to. But anyway, all the things are covered right here. And it says what to do. Call 911, here's what can happen. What we're doing, and I know this is an important issue. And I know today in the paper I read about this as well. And I did not mean to be the hard guy today, standing up. I didn't know when I came this morning here's what I'm going to be doing. And I've worked with Senator Cornett on many things. We disagree. This is not a personal thing, I just disagree with what we're doing here. We're going to get chances to do that. I heard Senator Sullivan saying, you know, I voted for this, but I'm not so sure where I'm at today on this. I got news for you, this morning on that bill in Transportation Committee, I voted for that too. I wasn't sure where we were. I listened in again to tune in. It's a game changer now. We've changed where we're looking at things, and I think that's what we need to do here. This is a very specific requirement that requires a lot of work by the school districts. I'm just saying I'm not so sure in this day and age, where we're at with these budgets, that we should be doing this. It doesn't mean you don't support, you know, school safety and all of that. I just think we're going down the wrong road. I think many schools have this. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Pahls, you're recognized.

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[LB72]

SENATOR PAHLS: Thank you, Mr. President, members of the body. You know, I'm a little bit confused. I thought schools dealt with math, reading, science, achievement tests, things such as that. I've been listening to the members of the body talk about all these things that the teachers are held responsible for. As a former educator I feel sort of good about that because we have a tendency just to think of schools as the good old days where many of us went to schools. There is an extreme pressure on teachers and administrators in this day and age. And I'll just give you an example. I did...I was glad to see that Senator Gay did connect with his local district. Well, I live in a district nearby. We have policy in place. I understand you do need this because if you're new or green at the game, you could make some decisions that would be very critical in a person's life. But just to let you know how important some of these things are, at one time in my tenure a parent came to me and said, my child, I have home schooled my child for several years. Now I'm ready to send my child to a public school. I said, that's great. And she said, by the way, the reason why I home schooled my child is because she's allergic to peanuts. So if you don't think that made all of us sit up and take notice and make sure we reviewed those policies, we did. In fact, in most schools they have what they call somewhat like an individualized plan. You sit down with the parent, the teacher, and you talk about all these things. And I'm telling you, some of these things are pretty scary. Because I can remember this parent said, my child could die just like that. Says, if anybody brings peanuts to school, they need to know this. So what is one of the things that we did is we informed all the parents and said, if you're going to bring anything dealing with peanuts we need to know that. And we did that on a weekly notice on the menus, letting people know that this is serious. This child at times, when the school district did have in the hot lunch program peanuts, like peanut butter, something, and jelly, that student could not be in that room. And if you don't think that the teacher and I, oh, there were times. Because the thing about it is let's say somebody had peanut butter during the day, and then this kid goes to the computer lab. Well, we had to wipe off everyone of those computers because we did not know for sure what another child who had peanuts, jelly sandwich and touch those keys. So schools don't take this thing very lightly, I'm assuming most of them don't because they know the ramifications. Again, I'm wondering sometimes if we don't over regulate. I don't know if we do need these guidelines. I know we need guidelines, but I do not know to what extent, when does it stop. And I do hope that most school districts, not hope, I would assume that most schools do that. And if a parent brings a child to school and says, hey, here's something you need to know. And if an administrator or school teacher are naive enough to say, oh to heck with that, well, they shouldn't be there to begin with. So I think we ought to think twice about this. It's hard to argue anything with children's lives. But I do think that we might be surprised how many schools do have this already in place. And it can still happen. That little child could have somehow been connected with peanuts that we did not know about. But if you're making that effort, I think, it's...so. But again, I'm glad to know that we're not just talking about science, math, reading,

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achievement test scores, that we're seeing that the schools are really a sophisticated operation in our society. And I hope we can remember that when we do want to put other mandates... [LB72]

SENATOR LANGEMEIER: One minute. [LB72]

SENATOR PAHLS: ...on to schools. I'll just give you one primary example that I can remember which we did, which was good. We had the safety plans for every school. Now if you don't think that took hours to develop that, we sat down with the police department, etcetera, etcetera, and we did work with the state department, initially, on developing those plans. So there may be some validity to having somebody help with those initial policies. But then it does not go on forever and ever. Because after that the state Department of Education wanted to keep that person on, and by some reason we found out that maybe we didn't need that repetition. But again, I don't know right now which way I will go on this particular bill. [LB72]

SENATOR LANGEMEIER: Time. [LB72]

SENATOR PAHLS: Thank you. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Seeing no other lights on, Senator Lathrop, you are recognized to close on FA55. [LB72]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Just a reminder, because we didn't really discuss this amendment, we're taking the immunity provisions out, we're...so that we can reconcile them and make them harmonious with existing law and to examine the appropriateness of having them there in the first place. I have Senator Adams' consent to that. And I ask you to vote in favor of FA55. Thank you. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. You have heard the closing on FA55 offered to the committee amendments to LB72. All those in favor vote yea. All those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB72]

CLERK: 30 ayes, 1 nay, Mr. President, on adoption of Senator Lathrop's amendment to the committee amendments. [LB72]

SENATOR LANGEMEIER: FA55 is adopted. We return now to discussion on AM366, the committee amendments to LB72. Seeing no lights on, Senator Adams, you are recognized to close on the committee amendment. [LB72]

SENATOR ADAMS: Thank you, Mr. President. Now with that last amendment, the committee amendment, in effect, does two things. One, it includes educational service

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units; the other thing that it does, it exempts from the bill the indoor air quality requirement. And that, in effect, becomes the amendment. Thank you, Mr. President. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Adams. You have heard the closing on AM366, the Education Committee amendments to LB72. The question before the body is, shall AM366 be adopted? All those in favor vote yea. All those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB72]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB72]

SENATOR LANGEMEIER: The committee amendments are adopted. Mr. Clerk, for a motion. [LB72]

CLERK: Mr. President, Senator Krist, that amendment that you had filed with me earlier, you want to withdraw. Right? I have nothing further on the bill, Mr. President. [LB72]

SENATOR LANGEMEIER: Seeing no objection, the amendment is withdrawn. We return now to discussion on LB72, the bill itself. Seeing no lights on, Senator Cornett, you are recognized to close on LB72. [LB72]

SENATOR CORNETT: Thank you very much, Mr. President. Again, I'd urge the body to pass this bill. Yes, most school districts, particularly larger ones, have a policy in place. What we are looking to do is to establish a comprehensive, well, comprehensive isn't the right word, I'm at a loss for the word here, but a policy that all the school districts and all the private schools can look at, policy guidelines to establish policies for their districts. It may be more comprehensive than some policies that currently are in place and it may be way less. I know the school my children attend, we always make jokes about it rather being like a prison system when it comes to bringing a peanut to school. They are more comprehensive than probably any of the other school districts. And that's the school district that Senator...or school that Senator Wightman's grandchild goes to, the one with the peanut allergy. We are looking at establishing guidelines that school districts can base their policies off of. The teachers are already the gatekeepers for these children. That is not going to change with this or not. They are already the ones. At my preschool they check everything coming in, if you bring in a snack, whether it has peanuts in it or not. They check the labels on every food item that comes in. Some schools do not have these policies in place. What we are trying to do is simply enact a best practices guideline for all the school districts to look at. Uniformity was the word, I'm sorry, that I couldn't think of earlier. I urge the body to support this bill. Again, I have said that I'm looking at other funding mechanisms for this one-time expenditure for the bill. And I appreciate your support. [LB72]

SENATOR LANGEMEIER: Thank you, Senator Cornett. You have heard the closing on

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LB72. The question before the body is, shall LB72 advance to E&R Initial? All those in favor vote yea. All those opposed vote nay. Have all those voted that wish to? Senator Cornett, for what purpose do you rise? [LB72]

SENATOR CORNETT: I request a call of the house. [LB72]

SENATOR LANGEMEIER: Thank you. There has been a request to put the house under call. The question is, shall the house go under call? All those in favor vote yea. All those opposed vote nay. Mr. Clerk, please record. [LB72]

CLERK: 41 ayes, 0 nays, Mr. President, to place the house under call. [LB72]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Nordquist, would you please check in. Senators Karpisek, Ashford, Council, and Christensen, please return to the Chamber. The house is under call. Senator Cornett, while we're waiting, how would you wish to proceed upon completion? [LB72]

SENATOR CORNETT: Roll call vote. [LB72]

SENATOR LANGEMEIER: Thank you. Senator Council, please return to the Chamber. The house is under call. All members are present and accounted for. The question before the body is, shall LB72 advance to E&R Initial? There's been a request for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB72]

CLERK: (Roll call vote taken, Legislative Journal page 176.) 21 ayes, 27 nays, Mr. President, on the advancement of the bill. [LB72]

SENATOR LANGEMEIER: LB72 does not advance. With that, I raise the call. Mr. Clerk, items. [LB72]

CLERK: Mr. President, new bills. (Read LB885-892 by title for the first time.) In addition, Mr. President, new resolution, LR284CA by Senator Utter. (Read by title for the first time.) In addition to those items, I have a hearing notice from the Agriculture Committee, signed by Senator Carlson. LR283 by Senator Harms, that will be laid over. And amendments to be printed: Senator Lautenbaugh, an amendment to LB512; and Senator Cornett to LB72A. And I have name adds: Senator Karpisek would like to add his name to LB726; Senator Coash to LB865. (Legislative Journal pages 176-181.) [LB885 LB886 LB887 LB888 LB889 LB890 LB891 LB892 LR283 LB512 LB72A LR284 LB726 LB865]

And a priority motion. Senator Schilz would move to adjourn the body until Tuesday

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morning, January 12, at 9:00 a.m.

SENATOR LANGEMEIER: You have heard the motion to adjourn until Tuesday morning, January 12, at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it, we stand adjourned.