

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

Floor Debate
January 24, 2012

[LB60 LB304 LB470 LB725 LB808 LB842 LB863 LB986 LB998 LB1100 LB1101
LB1123 LB1133 LB1144 LB1166 LR382]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirteenth day of the One Hundred Second Legislature, Second Session. Our chaplain for today is Senator Dubas. Please rise.

SENATOR DUBAS: (Prayer offered.)

SENATOR CARLSON: Thank you, Senator Dubas. I call to order the thirteenth day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR CARLSON: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CARLSON: Are there any messages, reports, or announcements?

CLERK: I have a series of hearing notices from the Health and Human Services Committee signed by Senator Campbell as chair. And that's all that I have at this time, Mr. President. (Legislative Journal pages 331-333.)

SENATOR CARLSON: Thank you, Mr. Clerk. Let's proceed to the first item on the agenda.

CLERK: Senator Ashford would move to withdraw LB1166. [LB1166]

SENATOR CARLSON: Senator Ashford, you're recognized to open on your request. [LB1166]

SENATOR ASHFORD: Thank you. Good morning. This motion is to withdraw a bill that I filed last week concerning county offices. In reviewing this matter with the committee, I have discovered and I had forgotten that Senator Harms has a very important bill in the Government Committee dealing with county managers form of government or a county manager form of government. It basically is the same subject matter. It's a very important issue. It is an important issue involving streamlining of county government. But I think Senator Harms's bill is the appropriate vehicle for that issue to be debated by this floor. So I would respectfully request that my bill be withdrawn, LB1166. [LB1166]

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

Floor Debate
January 24, 2012

SENATOR CARLSON: Thank you, Senator Ashford. Members, you've heard the request to withdraw LB1166. Are there any senators wishing to speak? Seeing none, Senator Ashford, you're recognized to close. Senator Ashford waives closing. The question is, shall LB1166 be withdrawn? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB1166]

CLERK: 37 ayes, 0 nays, Mr. President, on the motion to withdraw the bill. [LB1166]

SENATOR CARLSON: LB1166 is withdrawn. Next item, Mr. Clerk. [LB1166]

CLERK: Mr. President, LB60, a bill introduced by Senator Krist. (Read title.) The bill was introduced in January of last year, referred to General Affairs, briefly discussed on the floor yesterday, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Krist, would you take a moment to review LB60 for the body? [LB60]

SENATOR KRIST: Thank you, Mr. President. Basically, colleagues, the written copy stands this morning. I have an amendment in progress right now that I'll talk about on my time on the mike. Essentially this bill says a compliance check is not a sting. A compliance check is one where our law enforcement officers go make sure that good people continue to do good things and are in accordance with all of the laws and regulations in dispensing alcohol and tobacco. It also says that anybody who's involved with a compliance check will not drink. In a nutshell, that's what it does. I'll remind the body that it was a fair and honest debate yesterday, good discussion. Senator Carlson, who won't be able to participate today, probably struck the largest nerve in this whole discussion. And that is, if people would actually ask for an ID, there wouldn't be any subject, questions, and/or shenanigans. But, then again, we can't tell people that they have to ask for an ID. My amendment, when it comes out, will reference to the statute where allowable or legal IDs are listed. With that, I hope we will continue the debate. I can assure you that there was a valiant effort by Senator Coash to try to work something out yesterday overnight and this morning, and neither of our...OPD or LPD agreed with the compromise. So with that, again, hopefully, a fair and honest debate, and let's work through it. If we put it on and work it out between now and Select, that would be my druthers. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Krist. (Doctor of the day introduced.) Mr. Clerk for an amendment. [LB60]

CLERK: Mr. President, Senator Krist would move to amend his bill with AM1732. (Legislative Journal page 333.) [LB60]

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

Floor Debate
January 24, 2012

SENATOR CARLSON: Senator Krist, you're recognized to open on your amendment.
[LB60]

SENATOR KRIST: The amendment...is the amendment on the gadget, Mr. Clerk?
[LB60]

CLERK: It is, Senator. [LB60]

SENATOR KRIST: Thank you very much. If you take a look at the amendment, it simply says that there are five acceptable forms, primary forms, of identification the state recognizes in statute. It is a state ID which does not have driving privileges. It is a state driver's license which indicates driving privileges in different categories and classes. It is a military ID. All of them valid, it goes without saying. There's an alien identification card. And there's a passport. As part of the discussion...and again, reminding everyone what was said yesterday, we wouldn't have this issue if the compliance check included the individual proffering the vendor to ask for an ID card. There wouldn't be any reliance on superficial questions like: Are you working with law enforcement? Are you 21? But I still hold firm that if an underage person is used in a compliance check, we should not be encouraging them to be anything less than truthful. Otherwise, I believe it goes a little past the compliance check into an entrapment situation, which could be inferred as a sting. And we gave several examples yesterday of how that did happen. I will say to you...I'll wait until I come up on my time. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Krist. Members, you've heard the opening on AM1732. The floor is now open for debate on LB60 and the proposed amendment. Those wishing to speak: Senators Hadley, Krist, Coash, and Cornett. Senator Hadley, you're recognized. [LB60]

SENATOR HADLEY: Members of the body, Mr. President, good morning. As a former mayor and city councilor, I will tell you that the compliance checks are the bane of bar owners and liquor store owners and such as that. That comment, I think, was made earlier. I do think we need them. But there can be concerns with them. I have to tell you one story that happened in Kearney, and I think...I hope you find it kind of as...take it in the vein I took it. We have a lady that owns a bar in Kearney; she is 75 years old. And she had a teenager come in on a compliance check. And this lady is very diligent. And she took the teenager's driver's license, looked at it, and said, you're not 21. She turned around on the bar, picked up her scissors, and cut the license in half. The police came in and cited her for destruction of state property. And they were going to fine her for destruction of state property. She became kind of a cause celebre in the community because of what she did. There was a defense fund for her. And it turned out, the county attorney...if she would just make restitution, the \$15 or \$20 to get the duplicate license, everything would be dropped. But she did have to come down to the Liquor Commission and appear before the Liquor Commission for doing that. I found in the

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

Floor Debate
January 24, 2012

years I was on the council and mayor is that I never ran across a bar owner or a liquor store owner that wanted to sell to minors. They don't make money selling to minors. They don't want to do that. They try real hard not to. From my experience, the problem is always the help. The problem...we had one liquor store that actually lost its license, and the reason was, the owner had hired a college student, trained the college student, and of course the college student didn't ask for ID when a compliance check came in. This along with other...another citation for the owner cost the owner their license, a real heavy penalty. So I think owners are trying to stop it. I think the problem at times has to do with the help and getting them to do it. I think this is a step. I think the amendment, I look at and I approve. I don't think we need to do away with them, but we need to be just up-front with them. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Krist, you're recognized. [LB60]

SENATOR KRIST: On the subject of agreements, when we all come to the floor and we try to amend things to make them better, occasionally I find that those conferences, agreements, and efforts...and I do speak very highly of Senator Coash trying to find a compromise. And I had my reservations, given my personal conversations with the deputy chief in Omaha and with the chief in Lincoln, but it was worth a try. Now here we are talking about a change to what we think would be a fair compliance check. I'm going to remind you again that the attitudes sometimes projected at the highest level in this state are not reflective of the intent of a compliance check. Let me say that again. The attitudes projected by leadership at the highest points in the state with regards to alcohol--I would never talk about Governor Heineman that way--but with regards to alcohol, at the highest points in the state, highest levels in the state, are not concurrent with the attitude of a compliance check. One of our liquor commissioners, I read you the quote yesterday, really wants to make everybody understand that during a compliance check, that you feel fairly stung. What does that mean? It means he's catching you doing something wrong and he goes in and he does a sting operation and that's the way they go. I was told a story by Mr. Rupe, and I do...I will say in the commission's defense, they do look at these things. But here's the situation. Lincoln law enforcement officer, female, goes into her local watering hole, bar. They know her. They know she's a policewoman. In tow, an underage person. I'm told, family member. I don't know that for sure. You'd never try to get me, Officer Acme. We know you. There was no ID proffered. There was none asked for. There was liquor served. Now in that particular situation, the commission looked at that as: You know what, that's just borderline of entrapment, and we're not going to cite you on this one, but ask them for ID. If they look younger than your grandma or grandfather, ask them for ID. Ask them for one of those five things that are represented in AM1732. I also have letters here that I'm sure the Omaha delegation has received from the deputy chief, and I'm purposely not using names. His concern is that if he doesn't drink alcohol during a compliance check that he sticks out like a sore thumb. I think a compliance check would also recommend that he appear to be inviting,

Floor Debate
January 24, 2012

maybe, but I think that is borderline again on entrapment. And then we're not talking about a compliance check; we're talking about a potential sting. And if you take away the ability for a minor to lie, then you have degraded the compliance check. Both of the law enforcement officials, the deputy chief, and the chief, said the same thing. So we're going to teach the young person to go in and be untruthful about something because there's a reason, we want to catch somebody. My point is it's a compliance check. Let the young man or young woman come in, proffer the use of the ID, have them look at it. The Liquor Commission will tell you that in the preponderance of cases, it is actually the vendor, the retailer, who looks at the ID... [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR KRIST: ...and then serves the alcohol. And they (laugh), folks, they deserve to be busted. There's no question about it. What are we asking the young people to do? I don't agree with that. You know that. That's the purpose of the bill. I don't believe anyone should be drinking on the job. And say what you will, if an altercation happens and a police officer responds and there's even a perception that he's under the influence, there's an issue, he or she. So I ask you to look at it. Let's have a fair and honest debate. Let's see what we can do with it. Let's, us, do this inside this Chamber, taking the input from outside but not be influenced severely by that input. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Krist. Senator Coash, you're recognized. [LB60]

SENATOR COASH: Thank you, Mr. President. Thank you, members. I want to just pick up where I left off when we adjourned yesterday morning. Here's the score, colleagues. I worked between then and now to try to come up with an amendment that would protect the integrity of this process, protect the young people who are tools in this process. And ultimately let's not forget what these are all about--making sure we have a process in place that ensures that somebody who's not of age cannot purchase alcohol. It's a big deal if that happens. So here's the score, colleagues. Couldn't come up with something, yet, that law enforcement says will be an effective way to continue to do these checks. And I've told Senator Krist, and I pledge to you, if this bill moves forward, I'll continue to work to that end. But I want you to ask yourself something, colleagues. Do we need to fix this? Isn't the process we have in place already working? I want to give you an example. Community of Blair had compliance checks done a few years ago. The first round of compliance checks, over 50 percent of the businesses that were checked were noncompliant. They sold to a minor. And had that minor not been working with law enforcement, that minor would have gone out, drank it, drove, got injured. So then they did another round several months later. Thirty percent of the businesses surveyed were noncompliant. Then they went back and they did it again a few months later. Less than 10 percent of the businesses sold to minors. Colleagues, the process

Floor Debate
January 24, 2012

that is in place works. It keeps businesses honest. And I will tell you, those businesses that are out there saying that this is a good idea, if they're doing what they're asked to do--and this is very simple--don't sell to a minor, and when the minor hands you their ID, it's not an adult's ID, it's a minor's ID, and if they sell to them anyway, they deserve the consequences that they get. Their license is a sacred thing to a bar owner or retailer, and if they violate what we say they have to do--which is not sell to a minor--then they deserve the consequences of that action. I want to make sure people are clear, because I think it's getting mixed up out there. When the minor goes there, he or she is not giving an adult's license. The ID that they're giving is a minor's license. And if the retailer or the bartender isn't smart enough to ask for that and check it and verify it, then they deserve the consequences of their actions. Now I want you to play LB60 out to its logical conclusion. Just use some common sense. Put yourself in the position of a license holder. LB60 goes through, you say: oh, okay, I can ask them if they're working for law enforcement, and now they have to say yes. Compliance check over. Put yourself in the position of law enforcement. You are charged with enforcing the laws of your community. You're a sheriff. You're a police chief. You've got to enforce the laws of your community. And you look at LB60 and you say... [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR COASH: ...well, everybody who I can send in there, the tools that I have at my disposal, has to tell the truth when they're asked if they're working for law enforcement, when they're asked how old they are. Well, that's not going to work. Should I continue to do it? I will tell you, the communities and the law enforcement officials that we're speaking to are saying it won't be worth it. And then you'll have a community that has no tool to keep licensee holders responsible, and I think that's irresponsible on our part. These work. There's nothing wrong with the process in place. If you're hearing from a business owner that feels like they got stung, dig into it, ask them: Well, did you sell to a minor? Because the only way that they got in trouble is if they sold to a minor. That's the only way you get in trouble, if you sell to a minor. [LB60]

SENATOR CARLSON: Time. [LB60]

SENATOR COASH: Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Coash. Senators wishing to speak: Howard, Cornett, Christensen, Krist, and Price. Senator Howard, you're recognized. [LB60]

SENATOR HOWARD: Thank you, Mr. President. There is a little German bakery/diner/doughnut shop in my district. It's very well known. It's Gerda's. And Gerda is a fierce little lady that...(laugh) she's very opinionated, and you wouldn't want to be pulling anything on Gerda, because she's going to see right through you. She has been in business since 1993. She runs a tight ship. She's well liked in the district, in the

Floor Debate
January 24, 2012

neighborhood. She's over on Leavenworth Street if you ever want to stop by. Since 1993, she's had compliance checks. How many violations do you think she's had? You're right. None. (Laugh) None. There have actually been situations where Gerda has run people out of Gerda's restaurant. She said, you're not coming in here and you're not going to be buying any liquor if you're underage. So that's well known in our neighborhood. Don't try it. Now I want to thank Senator Coash for trying to work something out on this issue. To me, it's pretty simple. You ask for their ID, their driver's license. And the driver's license for a minor looks very different from the driver's license for an adult. If Senator Krist would yield to a question or two. [LB60]

SENATOR CARLSON: Senator Krist, would you yield? [LB60]

SENATOR KRIST: Absolutely. [LB60]

SENATOR HOWARD: Thank you, Senator Krist. And Senator Krist and I have worked together on a number of issues, on child welfare issues, and I've always appreciated his willingness to work things out. Senator Krist, could you describe for the body the difference in the two pieces of licensing identification for adults and then for minors? [LB60]

SENATOR KRIST: As far as the state ID or the state driver's license in the state of Nebraska, if your driver's license is...if you are of legal age, that is, 21 or older, the landscape on your driver's license is populated in the horizontal. If you are underage, under the age of 21, your driver's license is populated in the vertical. So there's no question in anybody's mind that when you pop out your ID and it is in the vertical, you are not of age, if you're using, again, a Nebraska ID, state ID, or driver's license. [LB60]

SENATOR HOWARD: Am I correct in understanding, or I've been told, that the background color for a minor driver is a different color? I believe it's red. [LB60]

SENATOR KRIST: I think you're correct. [LB60]

SENATOR HOWARD: Okay. Well, in...thank you, Senator Krist. [LB60]

SENATOR KRIST: You bet. [LB60]

SENATOR HOWARD: In hearing this, if the bar owner or if the person at the checkout stand at the grocery store...which, by the way, the checkout stand at the grocery store has it clearly spelled out: if your birthday is after this date, you're a minor. It's pretty simple. But if they look at the driver's license, there's no question. You don't even have to be able to do math. You look at the driver's license. As I understand it, that's the first requirement. You look at the driver's license, person is underage, quite frankly, conversation over. You know that's a minor. I don't understand where the necessity

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

Floor Debate
January 24, 2012

comes to go any further with this issue. We have safeguards in place. Anyone can look at this and understand this. You don't need hours and hours of training to know the difference between the adult driver's license and the minor's driver's license. Pretty simple. So I am not going to be able to vote to support this, because I think it's overkill. I think we're expecting something here that's already been put in place. The safeguards are there. What we're asking is that the... [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR HOWARD: Thank you...the responsible individuals do their job. Simple as that. And it's not a hard job to do. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Howard and Senator Krist. Senator Cornett, you're recognized. [LB60]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body. I rise in opposition to this bill. As most of you know, I was a police officer for ten years, but prior to that I was a bar manager. And during that time period as a bar manager and working in bars when I was in college for a number of years, I was never cited for serving a minor. It's very simple, you ask for identification. But the reason you ask for identification is because you fear, you worry, you are always on alert for a compliance check. This bill guts the ability for compliance checks. There is no reason for a bartender now to ask for that ID, because there's no compliance check, effectively. The person that goes in can't lie, and under state law they cannot present the bartender with a fake ID. So now what is the reason for even asking for that ID, because you know up-front that they're not a cop or they're not representing the police department. This bill essentially shuts down compliance checks. And I truly believe that you will see more underage drinking in bars if it passes, because there's no reason to ID people now, because they can't lie and they can't present a fake ID to you. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Christensen, you're recognized. [LB60]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. Would Senator Krist yield to a question, please? [LB60]

SENATOR CARLSON: Senator Krist, would you yield? [LB60]

SENATOR KRIST: Absolutely. [LB60]

SENATOR CHRISTENSEN: Senator, if an employee of a business asks if the customer is at least age 21 years old, has the employee complied with state law? [LB60]

Floor Debate
January 24, 2012

SENATOR KRIST: Well, interestingly enough, the compliance check guidelines say that if you're asked if you're 21 years old, you should answer truthfully. So I'm not...you know, but to your point, if I were depending upon the ability to serve alcohol in a bar or keep my liquor license if I were a bar owner, I would be, as Senator Cornett said, asking for an identification; I would not...as the primary source of proof of age as it's listed in our statutes. And that's not happening right now. [LB60]

SENATOR CHRISTENSEN: Senator, I guess I agree totally with people being honest. I guess what I have not figured out is why stores would want to ask questions--are you of age 21, are you working for the cops--when what they need to do is just look at that card. I guess I should be asking that to the other side, because they're the ones challenging this. But it doesn't make sense to me. We've heard from former bar owners, police people, everybody, saying that that one card is the one thing that's the key. I guess I don't understand why you would start with any other question. And I hate to put things in the statute that doesn't need to be. Like your first question must be to see the card or can we put the card is the only proof. That's what I was wondering. Is this the only valid way, is seeing the card, or does the question stand because if the card is the only legitimate way of dealing with this issue, then that should be the only question. [LB60]

SENATOR KRIST: I agree. If you asked someone for an ID, and Senator Howard hit it on the head too, some attitudes in some establishments are much more profound and more compliant on their own than others. On my own time, I will describe to you why I think it's so important that we take some action here in terms of having a fair and honest debate. And I'm so happy that people are asking questions. But if I were a bar owner, my license were in jeopardy, or I was a person who was serving alcohol and I could be fined or lose my job, I sure wouldn't ask for anything other than those primary five and I would want to see a piece of identification. Anybody can lie and it's not valid. I think the IDs as listed in the Nebraska statute calling them primary sources are where we need to focus. [LB60]

SENATOR CHRISTENSEN: Thank you, Senator Krist. Would Senator Coash yield to a question? [LB60]

SENATOR CARLSON: Senator Coash, would you yield? [LB60]

SENATOR COASH: Yes, I will. [LB60]

SENATOR CHRISTENSEN: Senator Coash, why would anybody want to ask the other questions, if the important question is that card, for proof? And no one is allowed to use a fake ID. Why would there be any other questions asked? [LB60]

SENATOR COASH: Well, that's the quickest way to figure out whether or not the person

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

Floor Debate
January 24, 2012

there is there to check to see if you're selling to minors or check to see if you really just want to get some alcohol. [LB60]

SENATOR CHRISTENSEN: But say it's a minor trying to buy alcohol. And you ask him if he's working for the State Patrol, they'll say no. You'll still want to see the ID before they buy. [LB60]

SENATOR COASH: That's right. And that's how it happens now. [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR COASH: As it happens now, Senator Christensen, is, the minor goes in there and brings a six-pack up to the counter, for example. And the teller might say, hey, do you work for law enforcement? They're going to say, no. Then the teller can then make a choice whether or not to check that person's ID. The smart one is going to check their ID. When they check their ID, that ID that's given is a minor's ID. And sometimes, and I learned this from the Liquor Commission, sometimes that teller sells it to them anyway, because they figure anybody who's brave enough to actually give an ID probably is an adult, and so they just do one of these and then they sell it. Then the police officer goes in and cites that person for selling to a minor. [LB60]

SENATOR CHRISTENSEN: It's, like, I just don't know why the stores want to ask that question, because if you're running a legitimate business, it shouldn't be an issue, but anyway. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Christensen, Senator Krist, and Coash. Senator Krist, you're now recognized. [LB60]

SENATOR KRIST: Thank you, Mr. President. LB60 tries to get at the heart of the matter, which is kids can't lie when they're being used, underage folks cannot lie when they're being used in a compliance check. There seems to be a lot of disagreement about whether we want our kids to lie. So somebody slap an amendment up there that says, part 2, the lying portion of it, we don't agree with it. Because that's what the Lincoln Police Department and the Omaha Police Department want you to do, and then we'll take a vote. AM1732 is an amendment that clearly states to everyone who's involved with compliance checks, there are five primary ways of proving your age. Don't leave home without one of them if you want to drink in an establishment and you look younger than my grandfather or grandmother. I don't want to be...grandma was good about this too. So there it is. I'm waiting for an amendment that says LPD and OPD are correct. Let the kids lie during the compliance checks. I have no problem voting on it. You know how I'm going to vote, but I have no problem voting on it. AM1732 says these are the primary sources of ID. Senator Howard made the point. Senator Christensen made the point. Senator Carlson made the point yesterday. Ask for the ID. My point in

Floor Debate
January 24, 2012

bringing this forward was to have a fair and honest debate about compliance checks. And you know what's happened in the last 48 hours? We found out that one of our major police forces in one of our large cities is not in compliance with a compliance check. They're giving the underage person involved in a compliance check a false identification with his or her picture on it and a different address because they wanted to protect the address of the individual. See, even the people who are at the highest levels don't understand what the compliance check says. So I believe the measure of success here is we had fair and honest debate. We don't need to take eight hours on this. If you don't have a problem with putting an amendment up there that says the lying portion, you don't have to say whether you're working with law enforcement, go for it. Again, you know how I'm going to vote. But let's move on. There was a reason for this. The reason was to expose compliance checks in this state as not being level across the board, different people's interpretation in different ways. We got to that point. I'm sure those folks will now be in compliance with the policy and procedures of compliance checks, now that it's been brought to attention. I'm waiting for an amendment that says that that other part of it is not important or for somebody to do something to move us along here, because you heard what I think is important. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Krist. Those wishing to speak: Price, Council, and Coash. Senator Price, you're recognized. [LB60]

SENATOR PRICE: Thank you, Mr. President. Members of the body, good morning. A long time ago I was in a position to be asking people for their IDs. I either stood behind a bar or at a door and I encouraged everybody to show me their IDs, to the point that I carded the Alcohol, Tobacco, and Firearms of Texas. And they were more than happy to show me their badges as they came in the door. The question that we seem to be discussing here is about compliance checks. So I'm going to ask, would Senator Coash yield to a question? [LB60]

SENATOR CARLSON: Senator Coash, would you yield? [LB60]

SENATOR COASH: Yes, I would. [LB60]

SENATOR PRICE: Thank you, Senator Coash. And I'm asking you because you seem to be championing a position here. So if this isn't a direct enough question, I apologize. Do they ever perform compliance checks that don't involve underage children or underage members of society who go in with them, i.e., do they sit outside of a liquor store or bar and wait for someone to go in and come out and then apprehend the individuals coming out? [LB60]

SENATOR COASH: Senator Krist... [LB60]

SENATOR PRICE: Price. [LB60]

Floor Debate
January 24, 2012

SENATOR COASH: Pardon me. (Laughter) Senator Price, I don't believe so. [LB60]

SENATOR PRICE: Okay. Thank you. I want to make sure. You know, I have heard it said and I'm sure that somebody will reach out to us and inform us that at times law enforcement sits outside of establishments that have the authority to sell alcohol. They watch somebody go in and then afterwards come out, and apprehend them. Matter of fact, I had people tell me this to be a fact at one point in time. I can't say exactly the jurisdiction or the exact time it had taken place, but it sounds logical to me. I, in the position I have worked in the past, have seen where law enforcement did not come in with underage people. They came in and just looked. Do we have underage people in the facility? A compliance check, I believe, is not solely focused at package stores. If you happen to work in an establishment that has a large clientele, let's say 968 individuals coming in in the evening, that there could be people that get in through your doors. So they go in and they look at people who did and came into a business. But what's the focus here? First, let's be clear. I believe everybody out here agrees. We have a standard of law that says when you can drink and when you can't. Twenty-one is the age, and we all agree. A compliance check is to make sure that businesses are doing what they're supposed to do. They run it a lot of different ways. But let us not forget, as another member of our society, a minor who is purposely trying to trick a business owner into doing something illegal. I had people come to me with their sister's ID card, who I went to school with. I was sure that that was not the individual. People lie. They buy things. They try to deceive. And we're not focusing on that aspect. We're saying that the business owner is at fault. I understand the grave situation of selling alcohol to minors. But I'm almost wondering if you leave your window open and you're robbed, someone tried to deceive you, did some fraudulent action, do we go after you? I don't want to sell any alcohol to minors. I don't want it to get too far off the track. [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR PRICE: Thank you, Mr. President. The question comes to mind on compliance checks. We have been told if we pass this legislation, compliance checks will no longer be performed because they seem to be a moot point. I find that difficult to believe. I would say some wouldn't. I would say to you when I was in the military in basic training and we had to give a reporting statement and ask somebody before they could come into our dormitory, and with the fear of the drill sergeant--mind you that's a very real fear--people still forgot to ask. I bet you if we passed this, in two months or three months it'd be back to business as usual. And those who are lazy, those who don't follow their training or don't have adequate training will still fail their compliance checks. Those who are diligent won't. This bill in and of itself will not cause the demise of compliance checks. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senators Price and Coash. Senator Council, you're

Floor Debate
January 24, 2012

recognized. [LB60]

SENATOR COUNCIL: Yes, thank you, Mr. President. I have sat listening to the arguments, pro and con, on LB60. And I want to begin by stating that I understand Senator Krist's concerns about some aspects of how compliance checks are currently being conducted. I share his opinion that I don't see the necessity for the law enforcement officer to actually consume alcohol during the conduct of a compliance check. But as a former bar owner who has been subjected to compliance checks, I think we're ignoring what the intent and objective of a compliance check is--to determine how the retailer, the bar owner will respond in normal circumstances. And by seeing how they would respond in normal circumstances, to determine whether they are complying with the law. And I will submit to you that if an underage person comes into a liquor establishment and they're attempting to purchase alcohol and they're underage, if you ask the question, are you 21, or how old are you, if they're trying to purchase alcohol they're going to answer that question, yes, I'm 21. And the purpose of having the CI ask that question is...answer that question in that manner is to determine what the bar owner will do next. And what the bar owner and their staff should do next is ask that person for their identification. I can tell you that the average person who is seeking to obtain alcohol that is underage is not going to come in and tell you, no, I'm not 21. (Laugh) They're going to come in and tell you, yes, I'm 21, to see if they can obtain the alcoholic beverage. And the purpose of having the CI answer that question, if we want to say falsely, is to see what that employee or that owner is going to do. And the next thing they should do is ask for their ID. And if they do and the ID shows that they're underage and they don't serve, they are in compliance. If they don't ask for the ID, they're not in compliance. And that's the purpose of the compliance check. I'm proud to say that as a bar owner...my establishment was subject to a number of compliance checks for reasons unbeknownst to me, because you're not supposed to get the frequency of compliance checks that my bar obtained unless you had violations, and we were never cited for selling alcohol to a minor. But in any event, I don't think any of my staff would have ever thought to ask the question, are you working for law enforcement (laugh)? And I'm kind of, you know, troubled that somebody would ask the question whether you're working for law enforcement. I would want the first question, if they're going to ask them a question, is hand me your ID. So in terms of the purpose of the compliance check is to present what would be considered the normal situation when an underage person is trying to obtain alcohol, and that is they're going to lie to you, and then to see what you're going to do next. And the next thing that you should do...and while there's discussion, the initial thing you should do is ask for their ID... [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR COUNCIL: ...you should ask for their ID. And if they don't...if they present you an underage ID, you shouldn't sell. And that should be the purpose of the compliance check. But I really do not understand why the law enforcement officer

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

Floor Debate
January 24, 2012

actually has to consume alcohol to conduct a compliance check. I mean, if they want to be sitting at a table and order a beverage, they can order the beverage and have it sit there. I really don't disagree with Senator Krist that consumption of the alcohol shouldn't be a part of the compliance check process. But for the underage person to answer the question, are you 21, in the affirmative is for the reason to see what that bar owner or employee's response will be. And if their response is to hand them an alcoholic beverage, they should be cited. And if their response is to request the identification... [LB60]

SENATOR CARLSON: Time. [LB60]

SENATOR COUNCIL: Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Council. Senator Coash, you're recognized. [LB60]

SENATOR COASH: Thank you, Mr. President. I want to talk again about these compliance checks. And I want to reiterate something, is that they work. These checks work. They keep license holders accountable for how they operate their business. And Senator Council outlined what the purpose is. It's to see how you react. Do you ask for the ID? If you do, do you actually look at it? We've made it even easier, colleagues. Many of these retailers have the ability to scan them. In addition, some are horizontal, some are vertical. We've made it so easy. But what happens if LB60 goes through is we won't get to that point, because if the person looks on the edge, the vendor is just going to say, are you working for law enforcement? And then the answer is going to have to be yes. That's it. Those who don't like compliance checks may have violated the Liquor Control Act. And here's what they did. I guarantee it, because this is the law. If a licensee holder got in trouble, they sold alcohol to a minor. They didn't sell alcohol to an adult who was posing like a minor. That was a young person who came in there, and they sold it to them. And if they did that, they put the community at risk, because they'll do it again, and that's why we have this process in place. This doesn't make compliance checks fair; it makes them go away. Ask your local law enforcement about that. I struggle to find out from those who are for this bill what they are afraid of, because they shouldn't be afraid of anything. With LB60, we are taking away the reason to ask for an ID, and we are breeding laziness, and I don't think that's good policy. Colleagues, kids get access to alcohol. LB60 will increase that access. Senator Cornett said that. As a law enforcement officer, she can tell you that when kids...this goes through, we'll see more access to alcohol for minors. We seem to be taking sides here, so let me give you the score, colleagues. You've got licensee holders on one hand, people who sell a product that I like but is only for adults. On the other side you've got children and law enforcement. Take a side. Are you going to be on the side of...I think we can be on both sides, colleagues. And I tell you, the way the law is right now, we can be for licensee holders who are complying with the law, and we can be for law enforcement who's got

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

Floor Debate
January 24, 2012

to enforce the law, and we can be for kids. We can do it all if we just leave the law like it is. But what LB60 is trying to do, look at the committee statement, look who testified for it, look who testified against it. That's the sides we're being asked to take. So ask yourselves, colleagues, do you want to choose a side, or do you want to have a win-win? And the win-win, in my mind, colleagues, is to leave the law like it is. The checks that are happening are working. And people are not getting stung. People who are violating the law are getting charged under the law, but it's not a sting. It's a compliance check. And we put these checks in place because we know that the product involved in this... [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR COASH: ...can be dangerous. And it gets dangerous in the hands of children. If it's not broke, colleagues, don't fix it. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Coash. Mr. Clerk, for a motion. [LB60]

CLERK: Mr. President, a priority motion. Senator Cornett would move to refer LB60 back to the General Affairs Committee. [LB60]

SENATOR CARLSON: Senator Cornett, you're recognized to open on your motion. [LB60]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I do not take this motion lightly. As I was just speaking with Senator Coash, I think this is only the second time in eight years that I've made a motion to recommit to committee. I do feel very strongly on this issue, having come from a law enforcement and bar manager background, that this bill essentially...this part of the bill essentially shuts down compliance checks in the state. I do believe that the bill needs to be looked at again in committee. And I would be happy to answer any questions or be available on the side for that. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Cornett. You've heard the motion to recommit LB60 to committee. The floor is now open for discussion. Senator Krist, you're recognized. [LB60]

SENATOR KRIST: Well, obviously, I don't agree with Senator Cornett on this one. Here's the deal. You can turn up the volume. You can say compliance checks are valid the way they are. You've heard a bunch of horror stories both from your constituents. Many of you have come up and told me your constituents are not happy with the way things are happening, bar owners and retailers are not. Lincoln Police Department has got their heels dug in. They don't want to talk about it, because they want to do it the way they want to do it. OPD is not doing it correctly right now. I think I just got done

Floor Debate
January 24, 2012

saying that. They are not in compliance with the compliance checks. I was just out in the hallway and I was talking to a member of the commission. And he said, you know what? It's time to have a "come to" meeting with these folks and make sure we're in compliance checks. That's what this is about. This is about a fair and honest debate on the floor. If I could ask for a show of hands, which I will not do or the Clerk will take me out, how many of you knew the difference between a horizontal and a vertical landscape? I know a number. Many of you didn't really know that, and why would you? You don't have kids or grandkids that maybe have shown you their IDs. It came out of committee. There were two votes that said don't put it out of committee. The rest of us thought that it was worth fair and honest debate on the floor. It's pretty easy to say, send it back to committee because we don't want to deal with it, so we can get on to another more important issue. I think I said earlier today, I'd like to get on to more important issues too. AM1732 says there are five acceptable forms of primary identification. I think it needs to be said it needs to be a tool for the commission to see. LB60 has two major parts. If you're using underage kids, they should tell the truth. And law enforcement or the underage kid--it goes without saying, but you know how assumptions are--neither the CI nor the law enforcement officer should be able to drink. Pretty easy. And if we put this back into committee, it'll come back out. We'll have this discussion a different day. Well, I'll have this discussion a different day. Many of you will not be here, unfortunately, and I'll miss you. Here's the deal. I think we should move forward. I think we should take what we have, because it's been well-thought-out. I think we should turn down the volume, because just because your law enforcement officer tells you that it needs to be that way doesn't necessarily mean that we acquiesce and fold. Let's just move it on. Fix it, if we can, between now and Select. Have an honest and fair discussion about where we are with this, because even the expert is telling us there are people who are not in compliance with compliance checks and it needs attention. Thank you, colleagues.
[LB60]

SENATOR CARLSON: Thank you, Senator Krist. Those wishing to speak include: McGill, Karpisek, Bloomfield, and Wallman. Senator McGill, you're recognized. [LB60]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I was one of the two members of the General Affairs Committee that did not vote to advance this piece of legislation. And so I do support Senator Cornett's movement to recommit to committee. I work at a retail establishment that sells alcohol, and we're required to card every single person. I have carded a little old lady; and as embarrassing as it was, I feel it was the right thing to do. Being someone who's 31 years old who generally, I'm told, looks younger than I am, I question people when they don't ask me for my ID. Normally, I do, I think I should be carded. I'm not offended, obviously. And as I've been talking to some other women around here, none of us are offended by being carded, in thinking that we might be...maybe Senator Council, she's reacting pretty negatively to that. (Laugh) In my mind, there's no excuse anywhere not to be carding someone. I mean, maybe the little old lady. That was embarrassing when I had to card her. But, in my

Floor Debate
January 24, 2012

mind, there's no reason not to. And like Senator Council said, I think that these compliance checks should be as realistic as possible; that includes someone who's under 21 going up and trying to get away with being 21 and, yes, not being honest about their age. And so I don't support this piece of legislation. I think that things are...even if they're not working in all jurisdictions, then, yes, this is a great debate to have so that we can have a record of how we feel compliance checks should be run and how we feel establishments should be run in terms of how they are checking people's IDs. So, you know, for that I'm glad that we are having this full debate. But I certainly don't think that we need a change in law at this point. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator McGill. Senator Karpisek, you're recognized. [LB60]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I do not agree to send this back to committee. I think we've thought about it in committee. Senator Krist and Senator Coash have worked on some amendments. I do think there's a problem. I don't often disagree with Senator Coash, but I think these are stings. There are compliance checks and I agree with them. But some of these are stings. They are meant to try to trick someone. Senator McGill has a very valid point that it should be done as it is in real life. But thinking back to Senator Schumacher when he talked about someone riding your bumper, and so you speed up and you speed up just enough to go over the limit, and then it's a policeman and they pull you over for speeding. I do feel that some of these borderline on entrapment, and that's why we're talking about this. I have absolutely no problem with the compliance check. I do have a problem with young people being sent in and lying. Now we'll say, well, police can lie. Sure. These are not police. They're working with police? They're not. They're young people being sent in to somewhere to deceive. I don't think that's right. Senator Coash talked about the committee statement. Those in favor were the Licensed Beverage Association, the Grocery Association, Petroleum Marketers and Convenience Store Association, Responsible Beverage Operators of Nebraska, the Nebraska Retail Federation, Nebraska Restaurant Association. Opposed were the Liquor Control Commission and the Omaha Police Department. The Omaha Police Department seems to have other ways they want to go about this and don't want to be told how they need to do it. The Liquor Control Commission I support greatly, and I think they do a great job. And what we've worked on in my last five years is making the alcohol industry a good player, and I think we've moved a long way on that and I know we will continue doing that. But I don't think it's right to walk in and try to catch somebody by deceiving them, the "gotcha." And I don't care just because this is on alcohol, doesn't matter to me. I think the "gotcha" on anything is the wrong way to go about it. I know this gets into some murky water. Does this do away with compliance checks? Does it not? I don't think it does. Does it make it a little more difficult? Yes. And everyone out there should be carding people. I agree with that. And if they get caught in a compliance check, they deserve whatever punishment comes to them. But I think, overall, all of our establishments are trying to do

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

Floor Debate
January 24, 2012

the right thing. They don't want to lose their liquor licenses. That's how they make their money. They aren't trying to sell to minors on purpose. Mistakes happen, and we do need to make sure that they don't, as much as possible. But to send some people in to deceive and play "gotcha" I don't think is the right way, the upstanding way, that we should be doing these checks. I don't think anyone would be very happy if they had...they were on the other side of this issue. [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR KARPISEK: And, again, it's not only alcohol. There are many other things that inspectors go in. Playing "gotcha" is no way to make this right. Going in, finding the issue that's wrong, and correcting it is the way to do it, on the up and up. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Karpisek. Senator Bloomfield, you're recognized. [LB60]

SENATOR BLOOMFIELD: Thank you, Mr. President, colleagues. I'm one of the 75 percent that voted this out of committee. I don't believe delaying this by the political move of sending it back to committee is going to change the outcome in committee. We discussed it in committee. We voted it out. There has been a change in one committee membership since that time. And I can't speak for Senator Lambert, but I'm guessing it probably wouldn't change the vote a whole lot. It came out strong out of committee. The two that voted against it are doing their diligent duty to speak against it, and that's understood. But the idea of sending it back to committee, to me, is a waste of time. And if Senator Krist would care for any more time, I'll yield the remainder of mine to him. [LB60]

SENATOR CARLSON: Senator Krist, you're yielded 4 minutes. [LB60]

SENATOR KRIST: Is this thing on? Thank you, Senator Bloomfield. I wanted to mention just two quick things. I handed out a newspaper article to you. It was about fake IDs, and I would refer you back to it if you haven't looked at it. We're talking about businesses, sometimes family owned, sometimes corporately owned. These folks do not want to lose their liquor license, and they want to do things the right way. And for the most part, I think, in the folks that I have talked to around my district and around the Omaha area, they really want to do things better because they don't want to get stung or caught or get a mark on a compliance check. I won't argue with Senator Coash about definitions, but I think anytime you're using tools to try to draw out a criminal activity, which this is, then the definition for that is entrapment. We have bar owners in Omaha that will...how many, again, a show of hands but I can't do that because the Clerk will get me, how many of you have renewed your driver's license lately? You get a little piece of paper when you go into DMV and then they mail you the real one. The general

Floor Debate
January 24, 2012

consensus in Omaha, the bar owners that are concerned about being good citizens, they don't take that piece of paper. Two weeks, temporary piece of paper to drive on. They won't take it because it's not one of those five things that we talked about hard copy. That's their choice. Let me tell you something else about those bar owners. And I don't know how many of you know this, but there's something called the "hour of power." We now have two hours of "hour of power." Because when you turn 21 years old, at 12:01 you basically have two hours in a liquor establishment to pound it down. And your friends help you with that. It wasn't too long ago that a young man's parents took him to his "hour of power" at an Omaha establishment, an establishment that allows "hour of power." He wandered away without supervision, ended up in a ditch and died, drowned. The count was at least 21 shots of different kinds of alcohol. So those bar owners that we're worried about trying to sell to minors, they go above and beyond, in some cases, not allowing hours of power, not allowing someone to come in with a piece of paper, and they're very, very vigilant. I think one of the...the bar cited here is downtown in Omaha in the Old Market, Billy Froggs. They were notorious for having a wall full of fake IDs. These people do not want to be caught, and they're very vigilant about making sure that they're not. [LB60]

SENATOR CARLSON: One minute. [LB60]

SENATOR KRIST: Thank you, Mr. President. The recommit motion is--I guess we'll vote on it--to me, ludicrous. We have an issue. There's a lack of compliance with compliance checks. Mr. Rupe himself has admitted that it needs attention. We're giving it attention. We're helping, with AM1732, tell everyone around the state you have five primary ways to ID people. If you're getting tired of hearing that, then the message has sunk through. If someone wants to remove a section and you want to allow kids to lie, put an amendment up there. But let's deal with this thing today. Let's not recommit. Thank you, colleagues. [LB60]

SENATOR CARLSON: Thank you, Senator Krist and Senator Wallman...or Senator Bloomfield. Senator Wallman, you're recognized. [LB60]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Wow! Stings. "Gotcha." All these things. It happens. There's a tremendous pressure on grocery stores, 24-hour institutions. I realize that, and I think everybody in here does as well. And I think we have way too many liquor licenses, but that's my opinion. So I would vote to recommit this to committee. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Wallman. Those still wishing to speak include: Cornett, Coash, and Krist. Senator Cornett, you're recognized. This is your third time. [LB60]

SENATOR CORNETT: Thank you very much, Mr. President and members of the body.

Floor Debate
January 24, 2012

Like I said, I did not make this motion lightly. It is only the second time I've done a motion like this in eight years. I feel that strongly about this bill. And I'm going to go over some of the reasons. You hear Senator Krist saying there's problems with the compliance checks, which means there's problems with the agencies doing the compliance checks. I have no issue at all with those agencies being investigated by the Liquor Control Commission. There's a set guideline already in statute how a compliance check is to be done. If an agency isn't doing a compliance check correctly, shame on them. But don't let the other half of the equation slide. Senator Karpisek talked about all the people that came in in support of the bill. It is all people that sell alcohol. There is someone out in the lobby now talking about: we want this because it will cut down the number of compliance checks. As a bar owner or a liquor license holder, you're always worried about a compliance check. You train your staff and if you do it correctly and you're a good agent, then you are carding people. And if you have any question about that ID, there's a book that a minor signs swearing that that is his legal ID and it has not been altered. What this bill does...when you talk about, oh, we bring in honesty. I am a very honest person. I will tell you that being able to, if you want to say lie, lie is how police work is done a lot of the times. You don't go in to buy narcotics and say, I'm a cop. You don't do a sting operation on prostitution wearing a badge. You don't go in and go, "I'm not 21" or "I work for the police department," when you're trying to buy alcohol illegally. There is no incentive in here for the bar owner now to do a compliance check. How are they going to get found guilty? How are they going to...how is the police department, where is their tools now to be able to go after someone when there's a number of complaints? You get them all the time: this bar is selling to minors. So when you get those complaints from the neighborhood, you send in someone. If they're not selling to minors, no problem; if they are, they get cited and then they go to the Liquor Review Commission to decide whether they have been a good actor or not. And, yes, they get fined. You know, it is very interesting when the only people that came in and testified in support of the bill are the ones selling alcohol. With that, I ask everyone's support on the recommit to committee. And I want to thank Senator Coash for all of his help in this matter. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Cornett. Senator Coash, you're recognized. [LB60]

SENATOR COASH: Thank you, Mr. President. Colleagues, I want to...this will be the last time I talk on this motion. I'll take back something I said. I'll call it a sting. I looked up the definition of a sting. It says it's when law enforcement uses a deceptive practice. How else are you going to do it, colleagues? How else are you going to check the compliance if the law isn't followed as is? I'm going to make a commitment on the floor here so I can be held accountable to it. If this goes back to committee, I'll work with the committee. I think this bill can change. Since the committee hearing--and we didn't hear this in committee, colleagues--since the committee hearing, we're hearing license holders saying, you know, the guidelines that you're looking at, they weren't followed

Floor Debate
January 24, 2012

when this process took place in my business. That's a problem. I look at it as my job on the General Affairs Committee to address that problem, and I will. And I will let Senator Krist take the lead in that, and I will follow him, and we will hold accountable agencies who are not following the guidelines that are currently in statute. If that's the problem, let's solve that problem. Because if you follow the guidelines under the current statute, these work. And I agree with Senator Cornett when she says, let's not throw out the agencies who are making this work because we have some agencies who are not following the guidelines. Let's address the guidelines. I'm sorry, let's address those agencies who aren't following them. That's our job. Here's what I fear, colleagues. If LB60 becomes law, until we get that in place, compliance checks go away. That puts our communities at risk. So I will support the recommit and I will work with Senator Krist and I'll work with the Liquor Commission and I'll work with those licensee holders who have now come and said, you know, the way that it's outlined now isn't working for me, because they're not following the guidelines. Great! Now we know it. Now we can address it. And we can address that with those agencies, and I think we should. So I'm going to go on record saying I'll be part of that effort. Because here's what I want, colleagues, and I hope it's what you want. I want compliant license holders, license holders who are doing what we're asking them to do. When it comes to law enforcement, I want agencies to follow the guidelines that we've put in front of them. They're there for a reason. That's what I want, and I think we can get it. And if this goes back to committee, I'll work towards that end. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Coash. Those still wishing to speak: Howard, Harms, and Krist. Senator Howard, you're recognized. [LB60]

SENATOR HOWARD: Thank you, Mr. President. Senator Cornett makes a very good point. I wish she were here to hear the compliment. If we don't think minors should lie, then we don't believe adults should lie either. We all recognize and easily say that adults set the example. If adults set the example, then, as Senator Cornett pointed out, anyone engaged in what is commonly known as the oldest profession should have to answer truthfully when asked if they are working with or for the police. I don't know how often this question would be asked. Somehow I don't think this is the first question that these people get. I agree with the recommit. When I started down here, I was told the committees need to do their work, and I still believe that and trust that on the floor. The work of the committee is critical to what we do out here, and if it's not done thoroughly and resolutions aren't tried to be reached with all parties, we get into another situation where we debate for days on end. And today is already the 13th day. It's going fast. So thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Howard. Senator Harms, you're recognized. [LB60]

SENATOR HARMS: Thank you, Mr. President, colleagues. I've quietly listened to this

Floor Debate
January 24, 2012

debate. I had some difficulty struggling through where I wanted to be in my own mind, but Senator Cornett really brought it home for me. As I thought through her comments, I began to think about several years ago that I introduced legislation here about underage drinking. It's a phenomenal issue and problem that this great state has. Where I live in western Nebraska, we have the highest number of teenagers drinking and binge drinking. Many of the teenagers that went to the institution that I was involved in as a college president that are 18 years old, many of those teenagers came as already alcoholics. And I tell you what, if you loosen the regulations at all, we will continue to have this problem. This is all about kids. This is all about teenagers. It's all about giving them the access to have alcohol. I think whatever you do, you need to make it strong. We do not want to break this down. We do not want to water this down to a point that it's easier for them. Compliance checks are important. And I believe, quite honestly, it's an embarrassment when you look at the number of college students right here in Lincoln, Nebraska, that are involved in binge drinking. We are one of the leaders in the nation, not something we should be very proud of. I would urge you to give great thoughts to this. Whether you send it back to the committee or not, that's your choice. But I can tell you now, I am not going to support this piece of legislation. It's wrong. I don't want to see it weakened. And I think we need to take a stand with teenagers. And I will tell you now, if you are hooked into alcohol, you will lie about whether or not you're 21 years or older. Don't kid yourself. You're hooked into this. And I think it's time that we make sure that we don't make it any easier for teenagers to get away with this. We're talking about...colleagues, we're talking about watching some of the greatest minds that we have in this great state destroying themselves, ruining their profession, and their lives. When you're an alcoholic, you are an alcoholic for the rest of your life. You will fight this issue for the entire part of your life. Do not make it any easier. Do not walk with the people who say, well, we can get by with this, because it's too much of an issue for us; we can fix this. You can't fix it. The compliances that we have are correct. Make it more difficult. Don't say to our teenagers, well, we're going to make you lie. They're going to lie anyway on this issue. So I would urge you, colleagues, to understand what we are confronted with here. This is not about the grocery store or the bar. When I look at it and what Senator Cornett brought to my mind, it's about these kids. It's about underage kids drinking. I don't think we should make it any easier. It's already an epidemic in this state, and it's not a dang thing to be proud of. Thank you, Mr. President. [LB60]

SENATOR CARLSON: Thank you, Senator Harms. There are no other senators wishing to speak. Senator Cornett, you're recognized to close on your motion to recommit to committee. [LB60]

SENATOR CORNETT: Thank you very much, Mr. President, members of the body. I want to thank Senator Harms for what he just said. He is very correct. You know, we talk about who got up and testified and who didn't testify. The people that sell alcohol testified in support of this bill because they don't want compliance checks. What is the result of that? More underage drinking. We have a duty to our state to protect our

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

Floor Debate
January 24, 2012

children. This will effectively restrict or end compliance checks as we know them in this state, and that is the police's tool for controlling sale of alcohol to minors. I would urge the body to support the motion to recommit to committee, and thank you very much. [LB60]

SENATOR CARLSON: Thank you, Senator Cornett. Members, you've heard the motion to recommit. Question is, shall the motion to recommit LB60 to committee be adopted? All those in favor vote yea; all opposed vote nay. Senator Cornett. [LB60]

SENATOR CORNETT: Request a call of the house, please. [LB60]

SENATOR CARLSON: There's been a request for a call of the house. The question is, shall the house be called? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB60]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB60]

SENATOR CARLSON: The house is under call. Senators, record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Dubas, Smith, Avery, Schilz, Lautenbaugh, Fulton, the house is under call. Senator Schilz, the house is under call. Senator Cornett, all members are accounted for. How would you like to proceed? [LB60]

SENATOR CORNETT: Roll call vote in regular order, please. [LB60]

SENATOR CARLSON: Mr. Clerk, please proceed. [LB60]

CLERK: (Roll call vote taken, Legislative Journal pages 333-334.) 20 ayes, 24 nays on the motion to refer, Mr. President. [LB60]

SENATOR CARLSON: The motion is not adopted. We return to discussion on LB60. Raise the call. We're back to discussion on AM1732, the Krist amendment. Are there senators wishing to speak? Seeing none, Senator Krist, you're recognized to close on your amendment. [LB60]

SENATOR KRIST: To be clear, this amendment refers anyone who is looking at the compliance check, and that should be every retailer, every CI, every law enforcement officer that's involved with compliance checks, refers them back to the Nebraska state statute and tells them what five things are primarily used to establish age. That's all it does. And I would ask you for your vote on AM1732. Thank you. [LB60]

SENATOR CARLSON: Thank you, Senator Krist. You've heard the closing on AM1732.

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

Floor Debate
January 24, 2012

All those in favor vote aye; all opposed vote nay. Have all voted who wish to vote?
Record, Mr. Clerk. [LB60]

CLERK: 35 ayes, 2 nays on adoption of the amendment. [LB60]

SENATOR CARLSON: The amendment is adopted. [LB60]

CLERK: I have nothing further pending at this time, Mr. President. [LB60]

SENATOR CARLSON: We return to discussion on LB60. Seeing no senators wishing to speak, Senator Krist, you're recognized to close. [LB60]

SENATOR KRIST: Colleagues, I am very, very serious about working some details out between now and Select. I will engage with Senator Coash. I will engage with LPD and OPD and anyone on this floor that has an input. I think we know now, after the discussion that's gone on in the last 48 hours, 72 hours, that even the commission understands that there are issues with compliance checks. My hope is that LB60 lays a groundwork for us to go forward and makes sure that those compliance checks are not stings and that we differentiate between the two, and when we're using our youth, our youth in these compliance checks, that there is a high standard that we employ. I'll leave that to law enforcement to lobby me in the weeks to come. And I ask you for your support of LB60. [LB60]

SENATOR CARLSON: Thank you, Senator Krist. Members, you've heard the closing on LB60. The question is, shall LB60 be advanced? All those in favor vote yea; opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB60]

CLERK: 25 ayes, 17 nays on the advancement, Mr. President. [LB60]

SENATOR CARLSON: The bill does advance. Mr. Clerk, items for the record? [LB60]

CLERK: Thank you, Mr. President. Your Committee on Revenue, chaired by Senator Cornett, reports LB725 to General File. General Affairs, chaired by Senator Karpisek, reports LB470 to General File. And the Appropriations Committee, chaired by Senator Heidemann, reports LB808 as indefinitely postponed. Mr. President, in addition, I have a notice of hearing from the Urban Affairs Committee signed by Senator McGill, as Chair. That's all that I have, Mr. President. (Legislative Journal pages 334-335.) [LB725 LB470 LB808]

SENATOR CARLSON: Thank you, Mr. Clerk. Next item.

CLERK: LB304 is a bill by Senator McGill. (Read title.) Bill was introduced on January 12 of last year, at that time referred to the Health and Human Services Committee. The

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

Floor Debate
January 24, 2012

bill was advanced to General File. At this time, Mr. President, I have no amendments to the bill. [LB304]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator McGill, you're recognized to open on LB304. [LB304]

SENATOR MCGILL: Thank you, Mr. President. Members of the body, LB304 would allow expedited partner therapy, or EPT, for the treatment of sexually transmitted diseases. EPT is the practice of allowing an STD-infected patient or a public health professional to deliver oral medication or prescriptions to any exposed partners of the patient without said partners actually being examined. In other words, when an infected person seeks medical care for an STD, this legislation would allow the provider to send home antibiotics for the infected partner or partners of the patient. LB304 would not change the scope of practice of any profession. We are clarifying that those who can prescribe and provide meds to an infected patient can also do so for their partner. This practice is currently permissible in 27 states and is highly recommended by the Centers for Disease Control, the American Medical Association, and the American Bar Association. Although some medical professionals in Nebraska are actually currently using this as an additional method of reaching people with untreated STDs, it is not expressly permissible in our current state statute. This ambiguity may deter some providers from practicing EPT, and the goal of this bill is to make it very clear that they can legally use this as an additional tool to fight the spread of STDs. We've been working on this bill for a couple years with local county health boards and the STD program manager at the Department of Health and Human Services, and have modeled our language from Iowa, who passed their EPT bill in 2007. In addition to working over previous interims, I met with the Nebraska Pharmacy Association and the Nebraska Medical Association and included their suggestions in this bill. It's no secret that sexually transmitted diseases are a problem in Nebraska, one that during my six years here we have not addressed yet. STD rates have been in the spotlight since 2004, when Douglas County declared an epidemic. In 2010 the Douglas County Health Department reported that chlamydia and gonorrhea rates in Douglas County are 50 percent higher than the national average rate. Lancaster County has also tackled rising STD rates in recent years, although they haven't reached that epidemic rate yet. Many STD cases are due to partners not being aware of exposure and/or being unable to seek testing and treatment. Chlamydia especially is a problem because it is a silent disease, with about 75 percent of infected women and 50 percent of infected men having no symptoms, according to the CDC. Even if a person might suspect they are infected, they may be...or many are afraid, embarrassed, or do not have a means to seek medical treatment because of insurance reasons. Obtaining an in-person exam is obviously still the preferred option for STD treatment; however, the EPT would be permitted if a medical professional believes the partner is unable or unwilling to seek that attention in person. The practice of EPT has been in use for over 70 years, and studies by the CDC have shown that it significantly reduces reinfection rates as well as

Floor Debate
January 24, 2012

increases the likelihood of partner notification. For instance, if a woman goes in and seeks care for her STD, much of the problem lies in the fact that even though she has gotten her antibiotic and gotten her treatment, she will go back to the same partner, then get reinfected; and that's a huge part of the epidemic rate in parts of Douglas County. A protocol for the practice of EPT has been developed by the CDC and is used across the United States. Our local health departments as well as HHS would also be guided by this protocol. LB304's language requires written materials dealing with allergy warnings, directions, and general information on STD treatment and prevention to be provided to both the patient and the partner. The CDC has reported very little instance of adverse reactions to these oral antibiotics used to treat STDs, and in those that have occurred it has been reported as mild gastrointestinal intolerance. Although EPT is not a magic solution to the increasing STD rates and should not be used in all situations, it is one more step in the right direction. LB304 ensures that private medical providers are allowed to take this step. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator McGill. Members, you've heard the opening on LB304. The floor is now open for debate. Those wishing to speak include Campbell, Gloor, Hadley, Lathrop, and Harms. Senator Campbell, you're recognized. [LB304]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. I think one of the statistics, and I want to emphasize it again, that I was struck by when we heard the testimony in front of the Health and Human Services Committee was that in the Omaha and Douglas area the rates were 50 percent higher than the nation. To me, that signals an epidemic, and it says to the state Legislature we need to take action on this health problem. As mentioned, the Centers for Disease Control supports partner management strategies as a viable and additional tool for the treatment of sexually transmitted diseases. And in many cases, depending upon what the disease is, this can be one dose of an antibiotic; depends on the disease. I want to mention several points that were presented in testimony before the Health and Human Services Committee. And that is that in 2008 the American Bar Association House of Delegates adopted the recommendation urging states, territories, and tribes to support the removal of legal barriers to the appropriate use by healthcare providers of EPT, applied as specified in protocols promulgated by the U.S. Centers for Disease Control and Prevention in the treatment of those sexually transmitted diseases identified in the evidence-based recommendations of the CDC and the policy statement of the American Medical Association adopted in 2006. I thought it was particularly noteworthy that also material was brought to the committee that indicated, in an article of The New England Journal of Medicine, that EPT programs that have been monitored...or have been monitoring adverse events; since 2001, no drug-related adverse effects or lawsuits arising from this type of care have been documented. Colleagues, I think we are seeing a health problem in our state that we need to address, and Senator McGill has done a great amount of research and discussion with a number of health groups and has brought forward in LB304 a solution for addressing this epidemic. Thank you, Mr. President. [LB304]

Floor Debate
January 24, 2012

SENATOR CARLSON: Thank you, Senator Campbell. Senator Gloor, you're recognized. [LB304]

SENATOR GLOOR: Good morning, members. Thank you, Mr. President. We had a good debate about this bill and a good discussion, good hearing, and I asked questions, read a lot of material, talked to friends of mine who are in healthcare. One of the things that came to mind when this bill was being presented, or when we were having the hearing, was that this bill may fall in the category of maybe it's better to let sleeping dogs lie, because you have to understand that this is already happening within the healthcare community. There are practitioners, knowing the problems we have with the spread of sexually transmitted diseases, STDs, who aren't about to let somebody go untreated and will send medications home to make sure, and I say "home," out with whoever it is that they're treating, because they realize the importance of that individual getting treated. What we're trying to do now is alleviate any possible complication for those who may want to make this a more difficult issue. I might say there are people who feel strongly enough about this so that if we were in fact to reverse what we're talking about here and try and outlaw it, that there would be people who recognize the significance of this communicable disease strain and what it means for certain population groups, would continue to do so. I know there may be some small degree of controversy, hopefully it's a small degree of controversy around this, but this is a public health problem for us in this state, especially in certain areas of our state. And for those of you who were concerned about youth drinking in the previous bill, remember that those same age categories, when they do drink, lower their inhibitions and put themselves in positions where they make bad decisions, exacerbating the problem we already have with this strain of communicable disease or diseases. Treating people who have disease is an appropriate thing to do in any measure of how we look at public health in this state, including those people who may not be in front of that very practitioner but with partners who might be able to get that medication home to them. I've thought long and hard about this, and it ultimately came down to a simple issue for me, and that is, this is a very simple way, I believe, to keep people who have communicable disease from spreading that disease further into our population, with the pain, suffering, and expense. And untreated communicable disease like STDs can in fact have an incredible expense to taxpayers, through Medicaid, other government programs, or even just your private insurance. I encourage the advancement of LB304 to my fellow senators. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator Gloor. Senator Hadley, you're recognized. [LB304]

SENATOR HADLEY: Mr. President, members of the body, I'm going to pay attention to this bill because, you know, just on the surface I just had some concerns about prescriptions without seeing the patient. And I did just a little research just to do a

Floor Debate
January 24, 2012

couple things, and I found an article in the Dermatology Clinician, an academic journal, that basically talked drug interactions with...the title of it was, "Oral Antibiotic Drug Interactions of Clinical Significance to Dermatologists." And this is basically oral antibiotic drugs which we're talking about here, and basically they list a lot of things, but then their last sentence is, "Drug interactions can only be averted if their potential is understood and recognized in advance." So I guess I just have...I want to be able to feel comfortable that we're going to be prescribing drugs to people we've never met without knowing what the person is currently taking. Every time I go to my doctor, I have to get out the long list of prescriptions. If I saw him yesterday, they make me do it again when I go through, and they list them. And I, for example, one of the...for chlamydia, one of the drugs is, I'm going to mispronounce it, erythromycin, and there's a two-page listing of drug interactions and such things as Klonopin, Valium, Doral, Plendil. You know, these are all the interactions. So I guess I just have a concern that, do we have some kind of safeguards, that we're not going to allow or have a patient have a drug interaction that would have been caught if that patient had been to a doctor and the doctor had said, show me the list of prescriptions or show me what you're taking right now? The second thing I think is also of importance. I believe the bill talks about 71-502.01, with a list of sexually transmitted diseases, and they talk about STDs shall include, but not be limited to, syphilis, gonorrhea, chancroid, and other sexually transmitted diseases as the Department of Health and Human Services may from time to time specify. I guess the concern I have, it specifies syphilis, and I went to the CDC, and they specifically said that this type of treatment should not be used for people with syphilis. So maybe that's a minor point, and I'm sure that Senator McGill can work through that. But if we're going to reference a section that allows us to use this treatment in something that is not...something that the people should be doing, that's something we could look at. So I guess I'm going to sit back and listen, but those were my concerns, and I may speak later. I do have...I did look at the Nevada law, and they had some questions about what a law does and what they should, so that may come up later. But I will certainly sit back and listen as we go further in this discussion. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Lathrop, you're recognized. [LB304]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I certainly agree with the objective of LB304 and Senator McGill's effort to address what is a significant health problem in this state. I do share the concern expressed by Senator Hadley that we are carving out of the normal care delivery process an exception. And generally, you go to the doctor, the doctor gives you a prescription, you go to the pharmacist. And now you have a doctor or a physician's assistant or a nurse practitioner who can do an exam, make a diagnosis, prescribe a medication. Then you go to the pharmacist, or perhaps they provide you the medication right with the doctor; but somebody is going to address drug interaction, somebody is going to address possible side effects, someone is going to give you medical advice about that medication; and this process is a detour around

Floor Debate
January 24, 2012

what is the normal healthcare delivery process in this country. It's there for a reason. It's there for safety. And while I agree wholeheartedly with the purpose of this bill, I have a problem with handing medication for a layperson to hand to another layperson and the medical practitioner does not have the benefit of an exam, does not have the ability to provide information regarding drug interactions, information regarding allergies and that sort of thing. So I am...I don't have any choice but to be opposed to LB304, because of the means chosen to address this concern. And I suspect that before this debate goes on too long we'll have somebody stand up and say, these are safe drugs, you don't need to worry about them; and my answer to that would be, I don't know that. I don't know that. I know that they get handed out a lot and we have a problem with giving out too many antibiotics and the body becoming resistant to the antibiotics. There are medical issues regarding antibiotics. But I do know that the physicians want immunity, and the fact that somebody wants immunity for something suggests to me that there's a risk with what we're doing here, because you wouldn't put an immunity into this bill unless there was risk. It wouldn't make any sense at all, right? It would not make sense to immunize those people who are going to hand the meds to the guy that comes in the clinic so he can give some of it to his girlfriend, if there wasn't risk involved. And I think the immunity tells us that there is risk, and the fact that there is risk means that we ought to stick to the traditional form of providing medications, that is, come in for an exam. And in some ways, when I read this bill, I thought this is kind of where we end up when we don't properly fund health clinics in poor neighborhoods, and it's sort of an answer to a problem regarding the delivery of healthcare services in poor neighborhoods that doesn't cost any money, and we're all looking for creative ways to do that because, of course, we don't get any money to spend on this floor. And I think it is well-intended, but I think it's problematic, and the immunity suggests...and we started out last year with a long argument with Senator Lautenbaugh over immunities. I have a problem with telling people you can be careless, you can be negligent, and you won't have any consequences. That doesn't make people careful. And the immunity tells me two things. [LB304]

SENATOR CARLSON: One minute. [LB304]

SENATOR LATHROP: I think they're a bad idea generally to tell someone they may engage in negligent or even gross negligent conduct and you won't have any consequences or any accountability, but the immunity in this case tells me that there's risk with this process or the doctors wouldn't be asking for it. And for that reason, I am opposed to LB304. Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator Lathrop. Those still wishing to speak include Harms, Council, McGill, Lambert, and others. Senator Harms, you're recognized. [LB304]

SENATOR HARMS: Thank you, Mr. President, colleagues. I rise in opposition of LB34

Floor Debate
January 24, 2012

the way it is written today, and at first I want to make it very clear that I'm not bringing judgment upon people's lifestyles. You have a choice of living whatever lifestyle you want to live. But if you have multi sexual partners, you're automatically setting yourself up for the very issue that we're trying to resolve in this legislation. And what I oppose with this legislation is that giving drugs without an examination by a medical doctor is highly risked. It puts even the individual at risk. And if you have...and you're into that lifestyle where you have multi sex partners, then you shouldn't be embarrassed about going to the doctor and getting treated. How do we know that this is being created and the illness you have is created by this particular illness? How do we know that you're not going to be allergic to the drug? How do we know that you can even...that it will not have a negative reaction to you and to the rest of your health? I understand the issue. I understand the problem that we have, and I think that we need to resolve it, but I don't think you can resolve this by simply dishing it out and not having that individual or individuals be under a doctor's care so they could be monitored. This is a serious illness. In many cases, it leads to death if it's not treated appropriately. And so that's my concern. And the other concern that I have, as we start to redistribute all this, drugs, with no control over it, basically, who's going to pay for this? What's the cost to the taxpayers? How is this going to be handled? What's the expense of this treatment? The other side of it, then, is, where are we with our professional ethics, medical ethics, here? As a doctor, would you be willing to give a drug to someone that you have not examined? I think that's risky. I don't think we should do that. I think it's wrong, and so I would urge you to give serious consideration on LB304 as it's written today. I understand the issue. I understand the cause. The problem that I have, again, is not having an examination, without being under a doctor's care, and not passing this on from one member to another when we have no idea what the results of this is going to be in that treatment. It may create another whole series of issues and treatments of illness because they're allergic to the particular medicine. So I would simply ask you to give this a lot of thoughts; and I appreciate Senator McGill coming forward with this, in regard to this particular issue, but the way it's written now I just can't support it. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator Harms. Senator Council, you're recognized. [LB304]

SENATOR COUNCIL: Yes, thank you, Mr. President. I rise in strong support of LB304, and I remind my colleagues to reflect back upon the Governor's State of the State Address, where he took great pride in listing all of the areas where the state of Nebraska is rated among the best. Well, in the area of sexually transmitted diseases and what was not included in the State of the State is the state of the state with regard to STDs...and there are portions of this state that rank among the top three in the highest incident rates of STDs, to the point that the boards of health have identified it as epidemic proportions. And when we have epidemics, there are times when we must take what would normally be considered to be some risky directions. And I don't deny

Floor Debate
January 24, 2012

what my colleague Senator Lathrop said in terms of there must be some risk. Yes, there's some risk, and the issue before this body is to balance that risk against the known risk of epidemic and continuing an epidemic. And the known risk of not taking action to stem the tide of this epidemic is, as Senator Harms correctly noted, lack of treatment of certain of these STDs can lead to death. I'm particularly concerned about the chlamydia rates in the state of Nebraska. We rank number one in the nation in certain areas of this state in terms of chlamydia rates, and one of the number one risks associated with untreated chlamydia is infertility. And we have an opportunity here through EPT. And I understand the concern about not seeing the patient and not knowing what specific medications that person may be taking, but to suggest that a healthcare provider would provide this medication without describing all of the risk and issues, I mean, I don't leave my pharmacy without a three-page document attached to my prescription telling me every risk, telling me what kind of drugs this drug can interact with negatively. And I think the suggestion is being left that if this bill is passed and a medical provider provides the prescription to the person that they have treated to provide to someone else, that that physician is not going to give that same level of information to the person he or she has not seen. I think it's significant that the Nebraska Medical Association appeared in support of this bill, that the public boards of health appeared in support of this bill, because this is a public health issue, ladies and gentlemen. And when we're dealing with a public health issue, sometimes we have to take measures that aren't the normal course that we'd like to take. We'd love for these people who are infected with these diseases to seek medical treatment; but as Senator McGill addressed in her opening, many times it's an issue of embarrassment, many times it's an issue of cost, and particularly in regards to multiple partners in terms of getting that information to them to come in. Quite frankly, I think that... [LB304]

SENATOR CARLSON: One minute. [LB304]

SENATOR COUNCIL: ...if the prescription is provided and the person does present that to the partner who was involved, that increases the likelihood that that person would seek their own personal medical treatment, rather than the opposite effect. Yes, there's some risk, and as my colleagues on the Judiciary Committee know full well, I normally do not support immunity provisions, but, quite frankly, without that, we would be complicit in this growing epidemic, and I think that we need to carefully consider the results of not enacting LB304. And I would urge your favorable consideration of the passage of LB304. Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator Council. Senator McGill, you're recognized. [LB304]

SENATOR MCGILL: Thank you, Mr. President. Members of the body, I'm going to try to address a couple of the issues that have been brought up in debate and add some information. For instance, I wanted to make it clear to folks--and I didn't talk about this in

Floor Debate
January 24, 2012

my opening--that in order for that prescription to be given to a partner, a name does need to be given to that physician. And so the chance...it's unlikely that a person is going to come in with a list of five partners and give all those names and look for...try to give out the prescription to multiple partners. We're trying to really get at the man or woman who is in, you know, a relatively monogamous relationship and prevent them from being reinfected again, so they can get that prescription for that partner to prevent their own reinfection. I wanted to make sure that I had that on the record, that that name is necessary for the label and for the prescription, which goes to the pharmacist being able to perhaps have a record on that person and look at what other drugs, maybe, that person has been prescribed. But we also have to remember the population that we're looking at is a population that, you know, is underserved medically. They are not the...I'm sure most of us are used to going in for an annual exam to see a doctor. This isn't a population that generally has that sort of access and doesn't have a family climate where that's a part of their routine every year. And so it's very likely that if they do have an allergic reaction, they wouldn't have known about it in advance anyway. This may be, in some cases, one of the first real antibiotics that they've had or treatment for something like this. In terms of the liability portion, like Senator Council, usually I wouldn't be in favor of a clause like this in a piece of legislation, but the fact that we're dealing with an epidemic, that we're number one in the country for chlamydia, this rises to the level of having to do...look at different solutions, try to come up with different answers. I couldn't agree more with Senator Lathrop that we need more public health dollars to prevent these issues, but, again, we're looking at a population that isn't as willing to go in to the doctor, doesn't have that access, has the added embarrassment of having a sexually transmitted disease. So even with the public health clinics being there, I still question whether all of these partners are really going to go in to be checked. Maybe their version of chlamydia is lying dormant, and so they're like, oh...they may just be thinking, oh, I don't need to go in to a doctor. But if the girlfriend comes back with a medication, hopefully she'll be willing to convince him to be taking that so that she doesn't risk being reinfected. I'd like to remind everyone that 27 states do currently use and explicitly allow for EPT, and many states have statutes that don't need to be...that use it even though it's not explicitly in their statutes, including some public health clinics here in Nebraska that currently use this. It's just, without that liability clause, there are a lot of...there are a number of doctors who are unwilling to use it because it is a risk. It is a risk to prescribe to somebody that you don't know. And if this weren't an epidemic that we're trying to treat, then I would be much more concerned, as members of the body are here today. Again, this has been recommended by the Centers for Disease Control, and as Senator Hadley pointed out, syphilis was recommended by the CDC to not be included in the list of those they advise using EPT, and I'd be happy to create an amendment on Select File that would exclude oral antibiotics for the treatment of that particular STD. And so the CDC clearly is concerned about which types of infections EPT is best used with and the mixture...looking at the mixture of possible drugs or negative side effects. The American Medical Association, you know, another organization that would normally be concerned about the mixing of

Floor Debate
January 24, 2012

drugs and making sure that we're not increasingly... [LB304]

SENATOR CARLSON: One minute. [LB304]

SENATOR MCGILL: ...putting someone at risk of mixing the different drugs in their body and creating further harm, you know, they support this action across the country. And the American Bar Association, in a recent recommendation to remove legal barriers to the appropriate use of EPT, the American Bar Association identified, among several things, that the fear of potential malpractice liability prevents many physicians from using EPT, even when they agree that its use would provide better care for their patients. So in order to encourage this practice and to make sure that we're doing something about this epidemic, I ask for your support. Again, I wouldn't normally bring a piece of legislation like this if it weren't for the fact that this is an epidemic; and I've been here and am now on my sixth year and we've done nothing about it, even though we've known it's an epidemic for that entire time period. So I urge your support. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator McGill. Senator Lambert, you're recognized. [LB304]

SENATOR LAMBERT: Thank you, Mr. President and colleagues. Senator McGill, I commend you on trying to address this issue that we have in this state, this epidemic. It is a terrible epidemic. But I have some concerns with this bill, as Senator Lathrop, Senator Harms addressed some of them. Senator Gloor mentioned that HHS had a great debate on that. I am sorry I was not on the committee at that time, which I am a member now. I would like to have been involved in that. One of my concerns: sending medicine home from the doctor; and my partner comes home, throws me a bottle of pills, says take these. I think we all know, we've read and understand when you take antibiotics you're supposed to take the full dosage of them. Maybe I take half of it and, hey, that's enough, I'll save these other ones for next time. What kind of monster are we creating? What kind of drug-resistant things are we creating if we do that? And I think it's a terrible precedent to set to have the doctor prescribe medication to...if I tell him Miss XYZ and he writes that name down on the prescription. There's no verification, no idea. But if I have a partner that comes home and says, hey, you need to get to the doctor, and I'm in a relatively monogamous relationship, I would probably go to the doctor. If it's someone I met one night and that was it, even giving me the pills and maybe solving this problem, it's going to come up again. We aren't solving a problem there. It's like identifying a problem and just throwing money at it. You've got to work at a...have a better plan, I feel, to work with it. I'm very concerned, as I say, to go back to creating drug-resistant strain of bacteria, because it...anyway it sticks with me, and I think all of you, more if the doctor tells you, you take all of these, or the pharmacist does. And in a situation like this, if a partner comes home and, as I say, throws you a bottle of pills, or somebody calls you and say, hey, I need to talk to you, and they give

Floor Debate
January 24, 2012

you these bottle of pills, the doctor says take them, am I going to take all of them? Am I going to say, well, hey, you know, this is the lifestyle I'm in, maybe I'll take half, because maybe I'll need half of them another time. And what have you done? I think we need to look at this really hard. It's a well-intended bill, that we do have a problem we need to address. But in the same token, I think we may be creating more problems than we're actually solving. Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator Lambert. Those still wishing to speak include Schumacher, Fischer, Krist, McCoy, and others. Senator Schumacher, you're recognized. [LB304]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. I think this particular issue represents a balancing of risks, and on one side you have, in epidemic proportions, the spread of the various diseases we've heard about: chlamydia, gonorrhea. I pulled some statistics showing our situation in Nebraska relative to two other states: Iowa, the rate 55 per 100,000; Nebraska, 77 per 100,000; South Dakota, 42 per 100,000. We seem to be scoring rather well in some of those categories. When you balance the risk, if you can stop the spread or stop the reinfection, you reduce the risk of people who may need to take antibiotics, because you try to get the thing under control early. If you reduce the number of people who need to take antibiotics, you obviously reduce the adverse reactions. The medical community, I think, has probably looked at this fairly seriously and said, look it, the risk is still there that maybe there's going to be a misuse or a bad reaction, but on balance we're going to do good; we'd like to have our backside covered just a little bit in the event of those rare instances. But let's be practical. Let's say there is a partner who for some reason does not want to go to the doctor or is a little nonchalant about it. Perhaps what's going to happen is the original prescription to the first partner is going to get split in half. I would say that probably the medical profession has seen some of that happen. Or maybe they're going to go on-line just like I did and type in "antibiotics" on-line and get something from an off-breed store somewhere around the world sent to them and use that. It seems to me that when you balance the risk and you say, how can we control this problem, which apparently has become an increasing problem, making available low-risk medicine to people who need it and who for some reason have elected not to go to the doctor or maybe can't afford to go to the doctor is a good thing and it's a good public health measure. And I couldn't agree with Senator Lathrop more that perhaps the best money spent on healthcare is money that's spent on public health. Statistics seem to show that public health measures are what are more responsible for lengthening our life span than any of the high-tech stuff delivered in the final years of life. I think this is a good balancing of the risk. I think the medical profession should be allowed to do this. Nobody is forced to take this medicine that's sent home, but if it's available they probably will. They probably, if they have any problems, will go back to the doctor that prescribed them. You've opened a channel of communication there. And we can't eliminate all risk, but we at least can try to deal with the known risks that we have, so I

Floor Debate
January 24, 2012

think I'm going to support this piece of legislation. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator Schumacher. Senator Fischer, you're recognized. [LB304]

SENATOR FISCHER: Thank you, Mr. President and members of the body. While I certainly appreciate the intent of the bill in addressing a major problem that we face here in the state of Nebraska with regards to STDs, that's not the conversation, I don't believe. Our conversation here should be about public policy, and I believe this bill is bad public policy. I don't understand why the medical association would support a bill that offers such a risk, if they prescribe medication to someone that they haven't seen, unless they aren't held liable. I agree with Senator Lathrop. That doesn't happen often, but I agree with Senator Lathrop on this bill. There are too many problems with it. And if someone in a profession, whether it's a doctor or whether it's a pharmacist, because they're excluded from liability under this bill also, but if they won't step forward and say, we need to address this situation, we need to handle this situation, this is an epidemic in this state, but, oh, by the way, we're only going to do it if we're not liable, they understand the risks. If you look up Z-Pak, which is the common treatment for STDs, you will see that there are a number of problems with it. There's negative side effects. If a doctor is not going to see a patient, if a pharmacist is not going to see a patient, they can't ask these questions. They won't know if a patient is allergic to the medication. They won't know what other medicines that patient may be taking that would have an interaction with that drug. They don't know if an individual is pregnant. But yet that medication will be dispensed, because we've decided in here that maybe the policy should be STDs are of such great concern to override that. I agree that STDs are of great concern, but it should not override the safety of the people in this state. There are a number of states that have implemented this policy, but there's also states that prohibit it. I believe Nebraska needs to be a state that prohibits it. If the medical association feels that this is a problem, which it is, which they know it is, but if they feel it is such a problem, then step up with a solution that can safely treat citizens of this state. This is not good public policy, and our job in here is to look at good public policy and pass that. Thank you, Mr. President. [LB304]

SENATOR COUNCIL: Thank you, Senator Fischer. Senator Krist, you're recognized. [LB304]

SENATOR KRIST: Thank you, Mr. President, and I apologize for not being right at the mike when called. I don't mean this sarcastically at all. I have the greatest respect for Senator McGill. I agree with the intent of the piece of legislation. I was 1 of 2 that did not vote it out of committee, although I know that our committee did a wonderful job of vetting all the angles, and I would never think to recommit it. I have great faith in my Chair. But the issue is, very simply, as I listen to the argument and I listen to the liability issues involved, I'm just not comfortable that this kind of a program that would not see a

Floor Debate
January 24, 2012

patient, analyze a patient's problems or afflictions is the right way to go. I would suggest that that same amount of money, potentially, be reapplied to an education process, potentially in north Omaha, where I think the STD rate is higher than most any county in the state or in the country. So the same amount of money applied to education and treatment on a one-to-one basis in a clinical situation I think would be a better expenditure, a better investment in trying to solve the problem. Again, I don't...the intent of this bill, and we heard...within the committee we heard many examples. One sticks in my mind, offered free admission to a concert to have an STD test and then to be treated and then to identify the number of partners that would have to be treated as a result. I guess that's one way to get them in the door and get them tested. I'm not sure that it's something that we should put our money into at this point. Again, it came out of committee. It does deserve fair and honest debate. It brings to light the incredible, incredible STD problem that we have in this state, particularly in some focused areas in our metropolitan area. It is a serious problem and it needs attention. I hope that we can take this money and others and put back into education, put back into a clinical situation where treatment happens with the physician or with the clinician who sees the patient and administers the medication. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator Krist. Senator McCoy, you're recognized. [LB304]

SENATOR McCOY: Thank you, Mr. President and members. I rise this morning with some concerns over LB304 while at the same time recognizing that Senator McGill's goals, I believe, in this legislation are very laudable. I believe that the facts pretty well speak for themselves, that STDs are a serious problem, not just in the Omaha area, which I happen to represent, and surrounding suburban communities but other parts of the state as well. My concerns are with the implementation of this legislation and, in extension, how it's written. When I look at this as a member of the Banking, Commerce and Insurance Committee, which, of course, this legislation, if you looked at the committee statement, was not referenced to our committee, but, nonetheless, when I look at it in that light, I have some concerns; and one of those concerns comes out of some research that we did on this issue. And I hold in my hand a packet, it's a toolkit from the Centers for Disease Control on this proposed expedited partner therapy and how legislators might be able to go about it across the country, and it's a very exhaustive study of that. And a couple different places in this toolkit it references that you really must go about determining how this will be paid for, how practitioners will be reimbursed, how this will...the insurance process of this will happen. I've been through the transcript of the committee hearing, very little discussion about that, if any at all; and, unless I've missed it, I don't see it in the green copy of the legislation, and so I have some questions on that. Would Senator McGill yield to a question, please? [LB304]

SENATOR CARLSON: Senator McGill, will you yield? [LB304]

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

Floor Debate
January 24, 2012

SENATOR MCGILL: I'd be happy to. [LB304]

SENATOR McCOY: Thank you, Senator. I presume you probably are aware of the toolkit that I talk about from the CDC. [LB304]

SENATOR MCGILL: Yes. [LB304]

SENATOR McCOY: Okay. Perhaps...did you consult this, in itself? You mentioned there's 27 states in your testimony in committee. [LB304]

SENATOR MCGILL: There's actually now 30. [LB304]

SENATOR McCOY: Okay. [LB304]

SENATOR MCGILL: I just want to clear that up. I was just on the site. [LB304]

SENATOR McCOY: Can you tell me how this has been addressed from the reimbursement area, because that wasn't discussed in committee. [LB304]

SENATOR MCGILL: It wasn't, and largely because we were copying legislation from other states that don't...in fact, I'm not sure of any legislation that has expressly discussed that part within the bill itself that came before a body. Like, we looked at Iowa's and Maine's language, for instance, and that wasn't...that discussion wasn't part of those bills either. [LB304]

SENATOR McCOY: Well, I'm glad you brought up Iowa, because I actually am holding in my hand also Iowa's statutes on this; and Iowa's legislation is written a little differently, which I'm sure Senator McGill is aware of, and they limit this to chlamydia and gonorrhea and no other STDs, as I understand it. And I believe, as reading through this, that one of the reasons is they are concerned about the practitioner-patient relationship, the reimbursement issues as relating to that, the liability issues. Are you aware of that, Senator McGill? Is there a reason why we didn't limit this to just...you talk about Iowa, but yet... [LB304]

SENATOR MCGILL: Yeah. [LB304]

SENATOR McCOY: ...it's not really...this LB304 really isn't written like Iowa's statute is. [LB304]

SENATOR MCGILL: No, not specifically, and, you know, when I introduced the bill...I have the view when introducing legislation to try to cover more. But honestly, Senator McCoy, I would have no problem with limiting my legislation to those two. [LB304]

Floor Debate
January 24, 2012

SENATOR McCOY: Well, that certainly may become part of the discussion, Senator. Whose, do you anticipate, insurance would pay for this, providing that someone goes to their practitioner and receives a Z-Pak, we'll say, and requests it for other partners, another partner or multiple partners. Whose insurance pays for that? [LB304]

SENATOR MCGILL: In many cases this is a population that is uninsured, and so you're looking at the public health clinics and Medicaid and in many cases free samples, in some cases, so...just looking at the... [LB304]

SENATOR McCOY: But in the case of someone... [LB304]

SENATOR MCGILL: ...population which is affected by this. [LB304]

SENATOR McCOY: Okay. But in the case, which it doesn't differentiate in the green copy of the bill, unless I've missed it, in the case that someone does have insurance... [LB304]

SENATOR MCGILL: Uh-huh. [LB304]

SENATOR McCOY: ...whose insurance would pay for that? Is it the person... [LB304]

SENATOR MCGILL: I would have to get back to you on that particular response. I'll get back to you. [LB304]

SENATOR McCOY: Because I have some concerns on this of whose... [LB304]

SENATOR CARLSON: Time. [LB304]

SENATOR McCOY: Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator McCoy and Senator McGill. Those still wishing to speak include Price, Fulton, Harms, Avery, and others. Senator Price, you're recognized. [LB304]

SENATOR PRICE: Thank you, Mr. President, members of the body. As many have said before me, obviously, we're concerned and we want to take care of our citizenry as best as we can, and Senator McGill is to be commended. I've been doing some research to look at the implications we have, and other senators have talked about many things. I did notice that we would be paying for the delivery. I also notice that there's a section of law, the 38-2826--again, 38-2826--which talks about being labeled in accordance with that law. And hopefully...I'm not sure of all the fields, I looked it up real quick, but, again, we'd have to have the names of the people involved and that if we couldn't they'll try to

Floor Debate
January 24, 2012

do their best to match it up. And then we would have...then we would mail them off if the partner who was being seen in the medical facility didn't want to deliver them to that individual. So I think it could become problematic if they...in the long term. We'll leave it at that. One of the things I read that was from the School of Nursing, Department of Epidemiology from the Mailman School of Public Health at Columbia University in New York, and it's an abstract. I pulled it off Medline. And it starts with: The global impact of antibiotic resistance is potentially devastating, threatening to set back progress against certain infectious diseases to the pre-antibiotic era. Although most antibiotic-resistant bacteria originally emerged in hospitals, drug-resistant strains are becoming more common in the community. Factors that facilitate the development of resistance within the community can be categorized as behavioral or environmental/policy. Slightly problematic. Then I went to another citation that actually came from the University of Nebraska-Lincoln, out of the Chemistry Department, and it talks about the rise of antibiotic-resistant infections. It is somewhat dated, in all fairness, but we talk about staphylococcus aureus and other diseases. Again, the challenge I see before us all, as we understand this problem...and treating the problem definitely has benefits, but is that taking care of the problem? I'm not sure. That's the challenge. To suggest that all individuals will respond similarly to a protocol is probably not a safe assumption. I believe there would probably be some students who are in medical school who would shudder to think of offering that as an answer to one of their professors. That isn't to say that the medical profession can't go out there and, through lab work, try to determine exactly what they're trying to treat. They're not going to throw things at things. But again, it's pretty broad, and I did have one specific question, if Senator McGill would yield to a question. [LB304]

SENATOR CARLSON: Senator McGill, will you yield? [LB304]

SENATOR MCGILL: Yes. [LB304]

SENATOR PRICE: Thank you very much, Senator McGill. And again, thank you for bringing the legislation, because we have to have this debate. [LB304]

SENATOR MCGILL: Uh-huh. [LB304]

SENATOR PRICE: We have to do something. Is HIV an area that's covered under this? [LB304]

SENATOR MCGILL: No, because that is not treated by an oral antibiotic. Those drugs are much more potent. [LB304]

SENATOR PRICE: Okay. So just to make sure, so we have the record, I've been learning about that. There would be no HIV patient who would receive antibiotic or medication through this program. [LB304]

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

Floor Debate
January 24, 2012

SENATOR MCGILL: No. That's a disease that requires much different types of drugs than antibiotics. [LB304]

SENATOR PRICE: Thank you very much, Senator McGill. Because I was reading through this. I actually have the 2010 CDC guidebook on the subject. I'm reading it right now, and I'm reading through various diseases that I won't mention on the mike because lunch is coming up, but these diseases, that they don't all respond equally and some are contraindicated based on the partner. Now, if we have a situation where a partner won't tell the physician the...won't really want to deliver them, maybe they don't want to see them, do you believe that they will know the medical condition of their partner? Will they know if their partner is pregnant? Will they know if their partner has an HPV? Will they know if there's a combination of things going on here? So if I go to a medical...this is why they have the release from any liability. The physician can only operate on the information provided. [LB304]

SENATOR CARLSON: Time, Senator Price. Time. [LB304]

SENATOR PRICE: Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator Price and Senator McGill. Senator Fulton, you're recognized. [LB304]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator McGill yield to a question? [LB304]

SENATOR CARLSON: Senator McGill, will you yield? [LB304]

SENATOR MCGILL: Yes. [LB304]

SENATOR FULTON: Senator, there's a term that you used earlier that caught my attention, the "relatively monogamous relationship," and it just...it causes me to look at the language of the bill. And I want to put forward a scenario to you and ask if it was your intention, number one, and, number two, how it could be precluded. [LB304]

SENATOR MCGILL: Okay. [LB304]

SENATOR FULTON: We're thinking about...I think that perhaps we're thinking of this from the vantage of the female who may have one or two partners, relatively monogamous. [LB304]

SENATOR MCGILL: Uh-huh. [LB304]

Floor Debate
January 24, 2012

SENATOR FULTON: I know it's...but I understand what you're saying with that. [LB304]

SENATOR MCGILL: Yeah. Yeah. [LB304]

SENATOR FULTON: But what of the other...another vantage, a male who comes before a doctor who may have had or has, present tense, numerous... [LB304]

SENATOR MCGILL: Uh-huh. [LB304]

SENATOR FULTON: ...partners and requests this antibiotic for five or six or seven? Is there anything in the language of the law...well, first of all, did you by intention contemplate a scenario such as that? [LB304]

SENATOR MCGILL: Not specifically, but I'm glad it's part of the discussion now. [LB304]

SENATOR FULTON: Okay. And then...so the second part of my question, which would dovetail off of that, how does the language within the statute presently preclude that practice from occurring? [LB304]

SENATOR MCGILL: It does not. [LB304]

SENATOR FULTON: Okay. Is that...that's a concern. And Senator Lambert, I think, touched on it a little, but I think Senator Price touched on it a little bit. Thank you. Thank you, Senator McGill. The language in the bill...so this is the green copy of the bill, page 2, line 7, "antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners." It seems to me that this, by passing this law...passing this bill, if we were to make it law, we open up the potential for individuals to simply go in and lay claim to having sexual partners and thereby, in thereby doing so, be able to get antibiotics, a lot of antibiotics. Now that could be a far-fetched scenario, but recognize that when we enact law, our laws are to apply to the entirety of the populace, even those who might have bad motive. So what we have...the system we have in place now disallows that from happening, because there is an examination, because there is medical judgment, because there's a prescription. If that were to go away in this particular case, then at least the antibiotics that would be effectual with the STDs that are envisioned in this bill could certainly proliferate. In fact, I don't know that it's a stretch to see how they couldn't, so that certainly is a concern. There are a number of other concerns that have been brought forward. That's one, at least from the public policy standpoint, that we should take into account. There's really no effective way to limit one from obtaining antibiotics under the language of this bill. So I will yield the rest of my time to Senator McGill, if she would...if she (microphone malfunction). [LB304]

SENATOR CARLSON: Senator McGill, 1 minute and 25 seconds. [LB304]

Floor Debate
January 24, 2012

SENATOR MCGILL: Thank you, Senator Fulton and Mr. President. I thank Senator Fulton for raising that concern about how many people could be getting these antibiotics. Of course, you do need the names of the people and the folks who currently are using EPT, because the health department in Douglas County does use it, they do try to follow up with all of those people. About a third of them they can never track down. I mean, that's just the reality of the population... [LB304]

SENATOR CARLSON: One minute. [LB304]

SENATOR MCGILL: ...that we're dealing with. But they do try to do follow-ups, and perhaps we, you know, as we're having this discussion, I'm getting all kinds of ideas for different amendments if we do advance this on to Select File; and perhaps one of them could deal with the number of people and also follow-up that could be required for that organization, that health department, to go out and try to do a follow-up with that person to see if they have any problems with the antibiotic. Right now it's the current practice, and I'll do more research on that if this bill does move forward, and I hope it does, because I think there is a lot of potential here. And the debate has been very healthy in bringing to my attention some areas that we could even improve the bill. I'd like to...we've kind of started a war on antibiotics, and, yeah, I'm not the biggest user of antibiotics. I hate going to the doctor and getting them as much as anyone else because of fear of that resistance. But right now we have... [LB304]

SENATOR CARLSON: Time. Thank you, Senator McGill. And, Senator Harms, you're recognized. [LB304]

SENATOR HARMS: Well, thank you, Mr. President, colleagues. Senator McGill, would you just yield to a couple questions, please? [LB304]

SENATOR MCGILL: I'd be happy to. [LB304]

SENATOR CARLSON: Senator McGill, will you yield? [LB304]

SENATOR MCGILL: Yes. [LB304]

SENATOR HARMS: Thank you very much, Senator McGill. Well, first, Senator McGill, I want you to understand, my opposition to LB304 really has to deal specifically with the fact that they're not under medical care. That's the issue that I really have with it, okay? One of the things I would like for you...we have used the term that it's epidemic, and I'm sure that it is. Do you have any information and data that shows us how many people are that have this particular concern or this issue or this illness; secondly, geographically where they're located; and third, what the cost of this might be to treat it, as an estimate? I just don't understand. I know that there are probably a lot back in

Floor Debate
January 24, 2012

eastern Nebraska, but, you know, when I think about western Nebraska and the region I'm in, we have the highest number of teenage pregnancies in the state of Nebraska, nothing to be proud of. I'd just kind of like to know where that number is and where that...some of these illnesses are located, please. [LB304]

SENATOR MCGILL: Yeah, if we get...if we keep debate going till lunch here, I can get those because I've seen maps of where the STDs are most problematic in the state. [LB304]

SENATOR HARMS: Well, thank you. That would be very helpful for me. The other question I have, I know the Nebraska Association of Trial Attorneys were neutral, and I always laugh a little bit when they talk about neutral, because I don't think you can be neutral. But could you maybe share with us a little bit about their neutral testimony for me so I might have a little better understanding? I haven't gone back and read the testimony, but I've got an interest in this bill and I will be back reading that. But could you share that with me, please? [LB304]

SENATOR MCGILL: Yeah, I would argue it was opposed, and I know that they are opposed to the bill as it's written right now. [LB304]

SENATOR HARMS: Oh, so they're opposed. [LB304]

SENATOR MCGILL: Yes. Yeah, they are opposed to the bill. [LB304]

SENATOR HARMS: Well, thank you. As I saw the neutral, I'm sorry about that. I really do agree with what Senator Lathrop has brought out and what Senator Fischer has brought forward, along with Senator McCoy. I think these are...this is an important issue, and it's important that we do it right, and if we can find a solution to some way having the medical profession involved, where they actually see these patients, review these patients, because that's my concern. I just don't think you should be passing medicine on. How do you know they don't have a multiple...a multitude of other issues, that this medicine may very well react differently and create even a more serious issue for the person? So that's really my issue, Senator McGill, and I thank you for bringing it forward. I think it's important that we have this discussion. I'm anxious to see where we go with LB304. Thank you, Mr. President. [LB304]

SENATOR CARLSON: Thank you, Senator Harms and Senator McGill. Senator Avery, you're recognized. [LB304]

SENATOR AVERY: Thank you, Mr. President. I was impressed with something that Senator Schumacher said when he was on the microphone, and that is that this is a balancing of risk. I think that's a good way to view this. Expedited partner therapy has been proven medically to be effective. It's also been proved to be cost-effective. And we

Floor Debate
January 24, 2012

know that it does help protect fertility by reducing the number of STDs that occur in our state. The Centers for Disease Control in 2006 conducted an exhaustive review of studies that have been conducted on expedited partner therapy, and I want to share with you some of their findings, because I think that it might help us reach a decision on this issue. They, in looking at all the studies available, they concluded that the data indicate that EPT is a useful option to facilitate partner management in heterosexual men and women with chlamydia infection or gonorrhea, and they stop at that because they did find that the data did not support employment of EPT in the management of women with two kinds of infection: syphilis--I think that was mentioned by Senator Hadley--and another one that is, I think, pronounced trichomoniasis, or maybe it's trichomoniasis. I'm not sure. But those two appear not to be quite as easily managed with EPT. We might consider an amendment to eliminate both of those from this legislation. But what's important here is that the Centers for Disease Control actually conclude that the benefits of EPT far outweigh the risk, and they further conclude that EPT should be available to clinicians as an option for partner management for gonorrhea and chlamydia. So I would ask you to support this legislation, because it is a reasonable balancing of risk. Certainly there is risk in prescribing treatments for patients that you have not seen, but the greater risk is that you do not manage what is already a spreading epidemic in our communities. With that, Mr. President, I will yield the remainder of my time to Senator McGill, because she did not get to finish her statement a while ago. Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator Avery. Senator McGill, 1 minute and 50 seconds. [LB304]

SENATOR MCGILL: Thank you, Senator Avery, Mr. President. I was going to make the point that right now a lot...a good chunk of the epidemic is based on reinfection. So we have a man or a woman who is continually being reinfected by either her partner or someone else in the...or one of her partners, if not her primary partner. And so that one woman is going back to get that same antibiotic over and over and over and over again, costing the state money or that individual woman more money. And if anything, that resistance is being built up in that one man or woman right now because she's being overserved the antibiotic because she keeps getting chlamydia. And so as I hear people start jumping on the bandwagon of being concerned about antibiotics and building up resistance, the status quo is the one that's supporting the giving out of the same antibiotic over and over again to one person and, hence, building up an immunity or a resistance to that antibiotic. If we're out...if we're actually giving the antibiotic to more of the population so that one man or woman doesn't have to keep coming back and get that same antibiotic, then we're actually lessening that problem with this legislation. So thank you, Senator Avery, for allowing me to finish my thought there. [LB304]

SENATOR CARLSON: Thirty seconds. [LB304]

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

Floor Debate
January 24, 2012

SENATOR MCGILL: Thank you, Mr. President. You know, with that, I will go ahead and wrap that up for right now. Thank you. [LB304]

SENATOR CARLSON: Thank you, Senator McGill. Mr. Clerk, any messages, reports, or announcements? [LB304]

CLERK: Yes, Mr. President. Senator Cook would like to offer LR382. It's a resolution that will be laid over that recognizes, commends Dr. Magda Peck for her contributions. Name adds, Mr. President: Senator Mello to LB842, LB863, LB998, LB1100, LB1123, LB1133, and LB1144; Senator Sullivan to LB986 and LB1101; Senator Howard to LB998. Reference will meet upon adjournment; Reference Committee, upon adjournment. (Legislative Journal pages 335-336.) [LR382 LB842 LB863 LB998 LB1100 LB1123 LB1133 LB1144 LB986 LB1101]

And Senator Council would move to adjourn the body, Mr. President, until Wednesday morning, January 25, at 9:00 a.m.

SENATOR CARLSON: Members, you've heard the motion. All in favor say aye. Opposed, the same. We are adjourned until Wednesday, January 25, at 9:00 a.m.