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Floor Debate
March 12, 2007

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SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this, the forty-fourth day of the One Hundredth Legislature, First Session. Our chaplain for the day is Reverend Nancy Leonard from St. Paul United Methodist Church, South Sioux City, Nebraska, Senator Engel's district. Would you please rise.

PASTOR NANCY LEONARD: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the forty-fourth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Record, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: Mr. President, your Committee on Enrollment and Review reports having examined and engrossed LB25, LB67, and LB211A, those all reported correctly engrossed. Health and Human Services Committee, chaired by Senator Johnson, reports LB469 to General File; LB53, General File with amendments; LB417, General File with amendments; LB445, General File with amendments; and LB410, indefinitely postponed. Revenue Committee, chaired by Senator Janssen, reports LB627, General File; LB338, General File with amendments; LB343, General File with amendments; LB551, General File with amendments; and LB173, LB514, and LB569 indefinitely postponed. (Legislative Journal pages 807-809.) That's all that I had, Mr. President. [LB25 LB53 LB67 LB173 LB211A LB338 LB343 LB410 LB417 LB445 LB469 LB514 LB551 LB569 LB627]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now proceed to the first item on the agenda.

MR. CLERK: Mr. President, LB157, introduced by Senator Stuthman. (Read title.) The

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bill was introduced on January 8, referred to the Judiciary Committee, advanced to General File. The bill was discussed on Friday, Mr. President. At that time, Senator Ashford presented the Judiciary Committee amendments. When the Legislature left the issue, Senator Chambers had pending a motion, the motion being to bracket LB157 until April 18, 2007. (Legislative Journal page 799.) [LB157]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Stuthman, it's been a couple days here. Would you please give us a brief reopening on LB157? [LB157]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I will just give you a brief update as to, you know, where we ended off on Friday, and where we're beginning this morning. What my safe haven bill does is just allows an individual to leave an infant up to, according to the amendment that was put on by the Judiciary Committee, a baby that is 30 days of age or younger. You know, they can leave them off at a fire station or a hospital, and the reason we have the fire station or department, that department, is because those people do take people, you know, to a hospital that admits patients. And we want those babies to end up at the hospital, because the fire department...members of the fire department are to accept the baby, the infant, take them to the hospital, and then the hospital will accept them, or the individual baby could be left at the hospital, and they will accept the baby and then notify law enforcement of what has taken place. And the main thing is, is to make sure that the infant is safe. And that's where we kind of left off on Friday, so those are my opening comments. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. We are on the bracket motion, to bracket till 4/18/07. I believe that's pretty self-explanatory. We're going to go open the floor for discussion on the motion to bracket, and the first person wishing to speak is Senator Pahls. Senator Pahls, you're recognized. [LB157]

SENATOR PAHLS: Good morning, Mr. President and members of the body. There are just a couple issues that I want to bring up on this bill that we discussed last week. There is the argument that was brought up about the firefighters not being trained. I think we found out that they are. There was concern about, in an emergency, what would they do? I would say finding a baby is an emergency. They are trained, as I said. Nearly all of the states, children are...little babies are taken to the hospitals--95 percent of them. Five percent are not. There was an issue about generally accepted professional practices. I do believe that we have standards for all licensed hospitals in the state. We may need to take a look at those and make an amendment for that. But one thing I do want to talk a little bit about is the study that a number of individuals have been talking about, is the Evan B. Donaldson Adoption Institute study. This is a study that a number of people during the debate referred to. What I'd like to point out, if you notice the title, they are an adoption institute, so I would say some of their information may be skewed, may be biased. Now I do know that adoption agencies are very

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significant groups. The group of people that we're talking about is helping that small number of individuals who are afraid of adoption agencies; again, I'm talking about the illegal aliens, or illegal immigrants, I should say, those who are being abused--that group of individuals. What my staff did, we developed one of the bills that went into the committee. We actually looked at this document. We tried to find an answer on some of the questions, such as giving a mother time to reflect. That's why we put in the 90 days. Another thing that was brought up that was very important was the public information. If you'd read that, you'd find that that was in the bill. Another concern that's also brought up in this document is fathers' rights. Senator Flood told us that he had a question with that. We brought an amendment dealing with that. Also another concern was about the child's right to know his or her medical background has they grew up. Part of the bill did address that, asking the person who dropped her baby off to at least fill that out. Many efforts were made to comply with some of the issues in this study, which I call, basically, a report. They went out and gathered information, and as I read through part of it, they said, well, out of four million babies born in 1997, only 105 were placed in unsafe areas. That's just part of the data that's in this report. Again, I think this report has lots of good information, and many people have quoted it--same with the doctors' organizations, have reported this as one of their key bases of their decisions, the decision making that they did on this particular issue. I just want to say that staff took a look at this report, tried to find some of these significant issues that people have been bringing up. [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR PAHLS: Last week I made a comment about shaking...the Shaken-Baby Syndrome, and somebody came back to me and said, Rich, here again, you're trying to be emotional. I probably didn't make it clear enough. I'm saying that it's an example of somebody who's frustrated. That's not necessarily that syndrome I'm trying to get involved in this bill. I'm just trying to say that the frustration that people have, and those types of things do happen. And that's just another issue that we need to be thinking about, when we discuss this bill. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Others wishing to speak? Senator Schimek, you're recognized. Senator Schimek. [LB157]

SENATOR SCHIMEK: Thank you, Mr. President and members. First of all, I would like to say that I think Senator Stuthman and Senator Pahls' motivations are very good here, and I understand the inclination to look at this as a way to deal with some of these problematic abandonments. And I originally turned my light on to talk a little bit about this survey that Senator Pahls just referenced, and he brought out, I think, some of the problems with these safe haven bills. But I won't talk about some of the things he talked about now. I might come back to them later, but I want to go a little bit further into the report and talk about the results of some of these safe haven bills, if I can find now what I was...okay, here we go. On page 7 of the report it talks about the evidence of

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effectiveness, is inconclusive, at best. And a national conference of state legislatures has conducted the most comprehensive survey of infant abandonment to date, and 12 states that enacted safe haven laws prior to 2001 and made some effort to record abandonment numbers, there were an estimated 36 legal abandonments and 47 illegal ones, as of September, 2001. Even these numbers, however, generally are not the result of states' systematic documentation of abandonments. Moreover, news accounts indicate the pace of unsafe abandonments has not changed with the availability of safe havens. And here are a few of the statistics: There have been almost 100 illegal abandonments during the last two years in Texas, and only five at safe havens. The rate of illegal abandonment in this first state to enact a safe haven law shows no sign of abating, despite the fact that Texas has devoted resources to informing the public about it, including an extensive advertising campaign. Since Colorado enacted its law in June, 2000, eight babies have been left illegally, while two have been dropped off at safe havens. The first parents to legally abandon their baby in November, 2001, were not even aware of the law; in other words, of those that were done legally. They took the child to a hospital that happened to be a designated site. So you might say they've had one dropped off at safe havens. Since the California law went into effect in January, 2001, estimates of legally abandoned babies ranged from 19 to 20; of illegally abandoned babies, 38 to 86, and of babies found dead, 17 to 20. New York State...apparently, they didn't have any...oh, legally, from 19 to 20. New York State, which does not systematically track abandonments, reported 10 illegal ones in New York City in the 18 months after its law was enacted. The city's first reported safe haven baby in 2001, which was one of two, was born in a hospital. And finally, since the law's enactment in Florida in 2001, an estimated 11 babies have been legally abandoned, and 14 babies have been illegally abandoned, five of whom were found dead. While these reports include some legal abandonments which safe haven proponents point to as proof of the law's success,... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR SCHIMEK: ...there is no evidence to support that any of the infants were left by women who otherwise would have deserted them unsafely. In fact, it is just as reasonable to conclude that legalized abandonment induces these birth mothers who might otherwise have placed their children for adoption, to leave their infants at safe havens instead. I think, Mr. President, that I will conclude my remarks at that point. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Carlson, you're recognized. [LB157]

SENATOR CARLSON: Mr. President, members of the body, I'd like to address a question to Senator Stuthman. [LB157]

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SENATOR LANGEMEIER: Senator Stuthman, would you yield to a question? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR CARLSON: I notice in the hearing there were several opponents, one of them being the Nebraska Hospital Association, Nebraska Medical Association, the Nebraska Trial Attorneys Association, and then apparently there was a miscategorization of the volunteer firefighters, but of those that opposed, would you summarize what their concerns were, and maybe correct the volunteer firefighters? And I'll yield the balance of my time to you. [LB157]

SENATOR LANGEMEIER: Four minutes. [LB157]

SENATOR STUTHMAN: Thank you. Thank you, Senator Carlson. First of all, I do want to make one point of information, and it was drawn to my attention just this morning, and it is stated on the committee statement that the Nebraska Volunteer Firefighters Association was in opposition. This is not true. It has been a mistake. Their...they testified in a neutral position, is where that should have been. Those were the ones that were, you know, in a neutral position, and I think that they made that decision mainly because, probably the...they did not realize, you know, maybe the responsibility of accepting a child and taking that child to the hospital and notifying law enforcement. But I think with some education, you know, to the fire department or the firefighters as the process of what they have to go through, you know, of accepting an individual and taking it to a hospital for the safekeeping of that individual. But I think the responsibilities of the firefighters presently, if they would go to a home fire, a trailer park fire, and there would be a small baby there, you know, what would they do? They would probably, if no one else was around, or the other individual, the parent, you know, maybe was unconscious because of the possibility of smoke inhalation, and the baby was okay, what would the firefighters do with that small infant? They would make sure that that infant was safe and transported to the hospital. I think they would do that normally. So I think what they would do with an infant, you know, they would do already. Some of the concerns, I think--and I haven't visited with the hospital association. I was going to do that this morning, but I haven't had the time to do that, so I do not know the concerns of the Nebraska Hospital Association, why they spoke in opposition--possibility, had to do with legal acceptance of an individual. I do not know, but I'll get that information for you and I'll report it. Thank you all. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Stuthman and Senator Carlson. Senator Chambers, you are recognized. [LB157]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. My rural colleagues will understand what BSE refers to, bovine spongiform encephalopathy. That is what's known as mad cow disease in popular parlance, and it got that name

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because when a cow would be afflicted with this disease, it would cause neurological problems. It attacked the brain, and the cow would stumble and stagger. Usually the back legs would go first. Then Bossy, who ordinarily is considered contented, would attack individuals and act in a way that was deemed to be loopy or loony. So a reporter, a journalist, hung the term "mad cow" on these animals, because of the dramatic change in that cow's disposition and conduct. If a human being eats infected beef, that individual gets a human version. Even before mad cow, there was Creutzfeldt Jakob disease, which did a similar thing to human beings. It created a plaque in the brain or holes that gave the brain the appearance of a sponge. A human being would fall into dementia, lose control of his or her faculties, experience great pain, and it always is fatal. I'll tell you why I said that. Periodically, I have to test myself to make sure that I am not afflicted by any of these dread diseases. So I wanted to recall where the discussion left off last week. I'm going to touch on some things that were said last week, and since we're going to be on this bill the rest of the morning, I will take my time and have a leisurely stroll through the debate on this bill. Senator Stuthman had made a comment, which he somewhat repeated today. He said, what would happen if firefighters found an infant abandoned? What would firefighters do? Well, we know...he speculated along these lines. Would that firefighter go back and make some kind of report and do other things, or rescue the infant? We know the firefighter ought to immediately rescue the infant. In the situation Senator Stuthman posed for us this morning, of the firefighter responding to an alarm and finding adults incapacitated, an infant which needed to be rescued, what would the firefighter do? Rescue the infant. No discussion required to arrive at consensus. In fact, unanimity on that point. This is where nuanced thinking needs to come to the fore. This bill is not talking about firefighters in the course of their duties coming across an infant who has been abandoned. This bill is imposing an affirmative duty on firefighters. This bill is changing the dynamics of what was discussed earlier. The firefighter is not, in the course of his or her ordinary duties,... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: This is a case where an infant is brought to the firehouse. The person testifying...Senator Stuthman said the person said he testified in a neutral position, and I'll accept that. But I remember his testimony, that the volunteer firefighters are not trained to cope with this situation. Furthermore, in the green copy of this bill originally, all of these people who would accept the infant were exempt from liability. They were exempt from liability. So that meant if you did the best you could, then you don't have to worry about legal consequences. That provision was stricken from the bill, because when you do away with liability, you encourage people to be less than careful. Now we have another addition to this bill,... [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR CHAMBERS: ...which I will get into next time. Thank you, Mr. President.

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[LB157]

SENATOR LANGEMEIER: Senator Chambers, you are recognized. [LB157]

SENATOR CHAMBERS: What is this other thing that has been added to the bill? A standard of care has been imposed on firefighters statutorily, and that standard of care reads as follows: The firefighter shall perform any act necessary, in accordance with generally accepted standards of professional practice. Senator Ashford last week said that is the appropriate standard, but he did not tell us what that standard is. My whole discussion had swirled around the meaning of this term, "generally accepted standards of professional practice." Which profession? Senator Pahls stood up this morning and related it to hospitals, that there are standards of care which all hospitals must meet, which we all know. And we also know when they fail to meet that standard, they are guilty of malpractice and can be sued. Here you're not imposing this standard only on the hospitals; you are imposing it on firefighters. Senator Stuthman and nobody else can stand on this floor and say that firefighters have been trained in such a way as to meet the generally accepted standards of practice found in hospitals. That standard is affirmatively being imposed on firefighters by this statute, so if you have a volunteer firefighter--and their representative was the one who appeared before the committee and expressed grave concerns about this bill--if you have a volunteer firefighter, is that person trained to deal with a few-days-old infant in accordance with the generally accepted standards of professional care imposed on hospitals? Do you want to impose that standard on the firefighter? If the firefighter accepts that infant, good intentions are not good enough. This is not Good Samaritan work. This is a statutorily imposed standard of professional care that must be met. So you have a firefighter who means well but does not meet that standard. Then that firefighter is negligent and liable for any harm to that infant. That's what you're doing with this bill. That's what you're doing in this bill, and people can stand on this floor all they want to, if they choose, and say, well, what jury would convict a firefighter? What ought to be asked is what legislature would be so incompetent, so inconsiderate, as to impose such a standard on firefighters, in order to make a statement about how we feel, when people may for whatever reason, abandon a child of a few days old, and put that child at risk of dying. Two bad things... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: ...don't equal a good thing! You double the problem or more. You're now imposing a hospital standard of care on these people, who when they decide to be firefighters, are not undertaking that kind of responsibility. They are not trained to operate under that standard, and they did not join the fire department as a volunteer to have the Legislature impose these kind of responsibilities. And thus far, nobody has shown a compelling need for a bill such as this in this state. Thank you, Mr. President. [LB157]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Stuthman, you are recognized, followed by Pahls and then Chambers. [LB157]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. First of all, I would like to engage in a little conversation with Senator Ashford. [LB157]

SENATOR LANGEMEIER: Senator Ashford, would you yield to a question? [LB157]

SENATOR ASHFORD: Yes. [LB157]

SENATOR STUTHMAN: Senator Ashford, in the original green copy it had in there that the firefighter or a hospital staff member would incur no civil or criminal liability for good faith acts. [LB157]

SENATOR ASHFORD: That is correct. [LB157]

SENATOR STUTHMAN: Why did you take that out, or is it covered in another section in the bill, that governs the regulations of hospital staff and firefighters? [LB157]

SENATOR ASHFORD: We took it out, Senator Stuthman, because we didn't feel that a blanket immunity was an appropriate response, and we felt that...at least I felt--can't speak for other members of the committee--that adopting a standard of reasonableness was the appropriate standard to adopt. [LB157]

SENATOR STUTHMAN: Okay. Thank you. Senator Ashford, also in our conversation, are there guidelines and regulations set forth in the volunteer firemen, as far as, you know, what duties they are responsible for, if...are they immune in any situations of going to...let's say they go to a trailer house fire and, you know, what they do there, is their liability covered anywhere because they're a volunteer fireman? [LB157]

SENATOR ASHFORD: No, they're not immune, that I'm aware of, and there may be specific immunities in other statutes, but I'm not aware of any blanket immunities, Senator Stuthman. [LB157]

SENATOR STUTHMAN: But are there any types of regulations or anything that... [LB157]

SENATOR ASHFORD: Yes. [LB157]

SENATOR STUTHMAN: ...volunteer firemen have to do? [LB157]

SENATOR ASHFORD: Well...or any firefighter would be held up to a standard based

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on...and evidence of that would be the training that they undertake, the rules and regulations that they're taught when they accept the position as a firefighter, volunteer or otherwise. And Senator, just briefly to Senator Chambers' point, the standard for a firefighter would be a standard that would be applicable to firefighters, not to other professionals, and those standards are set forth in a variety of different places, including rules and regulations, that firefighters must adhere to. They would not be held up to a standard equivalent to a hospital--a physician, for example, or other hospital personnel. They would be held up to a standard that applies to a firefighter, and I don't know of any blanket immunity anywhere else, or an immunity anywhere else. So there may be some specific statute. [LB157]

SENATOR STUTHMAN: Okay. Also, I think as far as the hospital association, I'm sure that people that work in the emergency room, as far as admittance of patients to the emergency room, I'm sure that they have regulations and standards that they have to abide by for admitting these people into the emergency room. And I think this would probably also, you know, refer to that. I do not want to see someone, you know, that acts in good faith, you know, being criminalized because they accepted an individual like this. So I have a concern with that, too, but I think we need to get that clarified; hopefully to make Senator Chambers acceptable to this. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Pahls, you're recognized. [LB157]

SENATOR PAHLS: Thank you, Mr. President and members of the body. Just a couple comments I'd like to make. Last week Senator Schimek quoted from the study, that there was a concern about fathers' rights. Today I said, we looked at that. We offered that amendment. Today she comes and gives us some data. The study was done in 2003, the data from 2001. And her data, I think, isn't up to date. It's inconclusive. Last...oh, let me see. Last Friday I had data from Florida, where 57 children from 2000-2005 were in safe haven places. All 57 have been adopted. That was a question Senator Chambers had in the committee meeting. So you save the children--what do you do with them? All those children were placed for adoption and adopted. Thirty-three were basically discarded; only 12 of those survived. So we do have data out there, and you can find it on the web sites. Another thing, this morning we're talking an awful lot about firemen. Earlier I made a comment that 95 percent of these babies are placed in hospitals. Senator Chambers, should we...maybe firefighters should be pulled from this part of the bill. That might be one of the things we should be thinking about. I think if we keep talking this, we might be able to come to some agreement on some of these issues. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Chambers, you are recognized. [LB157]

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SENATOR CHAMBERS: Mr. President, members of the Legislature, continuing with my leisurely stroll, this bill deals with a volatile, highly emotional issue, but that does not mean the Legislature should put itself into a highly emotional state and respond to it, based on emotion. We have to transcend some of those spontaneous feelings we might feel when a certain thing is presented to us, because we're not simply expressing sympathy or even empathy. We are in the process of crafting a law that is going to be binding on the persons to whom it applies. I'd like to ask Senator Ashford a question. [LB157]

SENATOR LANGEMEIER: Senator Ashford, would you yield to a question? [LB157]

SENATOR ASHFORD: Yes. [LB157]

SENATOR CHAMBERS: And Senator Ashford, I won't take too long, because I don't want all my time taken. Where in this bill does it say that the firefighter will be held to a standard that applies only to firefighters? [LB157]

SENATOR ASHFORD: It doesn't. We need to amend it to say that, Senator Chambers. [LB157]

SENATOR CHAMBERS: Thank you. Currently, a firefighter is held to the standard of the hospital. I'm talking about what the bill says. I want us to stay focused on the bill, not what it could say or what it ought to say. I'm telling you all what a pathetic piece of legislation this is. Now to go back to something Senator Pahls talked about last week. He discussed briefly Shaken-Baby Syndrome, I guess to demonstrate that parents will harm their children. This bill has nothing whatsoever to do with Shaken-Baby Syndrome. It has nothing to do with Sudden Infant Death Syndrome. It has nothing to do with any of those things! When we were discussing this off the mike, one of the senators mentioned that a constituent saw somebody on Oprah talk about this. So Oprah is setting the agenda for the Legislature. Oprah! Senator Pahls spent a good period of time talking about a different bill, what the provisions of a different bill were. Brothers and sisters, friends, enemies, and neutrals, we are dealing with LB157. We are dealing with the bill which is before us. What does it take to force us to assume our responsibility and deal with what is before us? I am a pragmatic politician. I am a realist. I am a practical man, and I must deal with reality on this floor, to the extent that I can. I'm not going to be able to get inside somebody's head and force that person to think a certain way. There will be people on this floor before the session is over, who every time I stand to speak, will have a metal shield, impermeable steel, slide across his or her brain to protect that mind against anything that I say. But that is how that person chooses to adapt to the legislative process. But I'm going to continue to hammer and hammer on what is before us. [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

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SENATOR CHAMBERS: We wish that no child would be abandoned. We wish there were no hunger, no hatred, no sadness, no sorrow, no grief. But as the saying goes, if wishes were horses, then beggars would ride. We are not the wish masters. We are not the elf or the fairy who can wave a wand and say, I will grant you three wishes. We are earthbound, practical politicians dealing in a very imperfect world, utilizing very imperfect methodology, to do the best we can with the issues brought before us. And the best we can do with this bill is to kill it, and I am... [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR CHAMBERS: ...going to assume that responsibility. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Ashford, you're recognized. [LB157]

SENATOR ASHFORD: Thank you, Mr. President. I have...and members. I have handed out an amendment to LB157, which deals with the standard of care. And I'm not going to take all my time, and I'd be happy to give my time back to Senator Chambers, actually, if he would like it. But this and many other bills are going to have issues to be addressed on the floor. This is...we're going to have many, many more bills like this. LB157 is not significantly different. If we disagree with the policy, then we should vote against the bill. If we like the policy and if we can make the bill better between now and Select, or on Select File, we should vote for the bill. And that's...obviously, everybody has to make up their own minds on that. I think Senator Stuthman, quite frankly, and Senator Pahls have made enough of a record to convince me, and they did in the committee, as well, that there is an issue that we can save a life. And if we can save a life, and if we could not impose, you know, draconian responsibilities on others, we should do that. And I think we can clearly do that in this case by applying standards that are applied in other types of cases, where professionals are involved. So again, I think it's really a matter of do we endorse a policy of the state of Nebraska that will provide a safe haven for infants or do we not? If we do, then we should advance the bill, and we can work on it between now and Select. If we do not, then vote against the bill. It's very simple. We'll have all sorts of decisions to make like this as we go along. But these are not dramatic corrections that are needed, but I understand Senator Chambers is looking at the green copy and not at amendments, and...but with that, I would be happy to have Senator Chambers take the rest of my time and continue to talk about the issue. [LB157]

SENATOR LANGEMEIER: Senator Chambers, 3 minutes. [LB157]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Ashford, very

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gracious of you, and I don't mean that sarcastically. Members of the Legislature, here's my response to attempts to amend this bill. Remember: The committee had this bill. I opposed the bill in committee. I didn't try to stop it in committee. I said I would fight it on the floor. There are other bills that have come out of the Judiciary Committee where I've taken the same position--not trying to stop it in committee, I'll fight it on the floor, and that's what I intend to do. But there was a woman, her last name was Tunstall, and she had two initials--I don't remember if it was J.T. or T.J., but she sang a song about a black stallion and a cherry tree. And there was a refrain where she would say, no, no. No, no, no, no, no, no. No, no, you're not the one for me. That's what I say about these amendments. No, no. No, no, no, no, no, no. No, no, this amendment is not going on. I declared my position Friday. Why did such a bill, so poorly written, come to the floor of the Legislature? Why? If it needs as much work as has been indicated, and conceded by those who support the bill, send it back to committee. That's what you do with bills in that form, and when I run out of the wherewithal to talk on my amendment to bracket, I'm going to find additional ways to discuss this bill. It is not good public policy,...

[LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: ...regardless of how it is drafted. Senator Stuthman was talking about standards, professional standards, and trying to get Senator Ashford to suggest that there might be circumstances where a firefighter could be negligent or people in a hospital could be negligent and they would have blanket immunity. If that were the case, you know what they would do in the emergency room? If the pan fell over and it pulled the cloth on which were resting surgical instruments and they fell on the floor, the old surgeon may feel more confident and familiar with his Swiss knife. So he'd pull out that big old Swiss knife and open that big blade and start cutting. Then if he needed to remove something, he'd pull out that part like a corkscrew and insert that, screw it a few times, and jerk, hold whatever it was with his hand, then go with that blade and cut it loose. But that's not allowed. [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR CHAMBERS: Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Ashford, you're recognized. [LB157]

SENATOR ASHFORD: I would just give...I would waive my time. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Back to debate on the bracket motion. There are no lights on. Senator Chambers, you're recognized to close on your motion. [LB157]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the body may choose not to bracket this bill. We can get it off the agenda now, or we can do it a different way. Many times I refer to the lyrics found in songs. Roberta Flack sang a song, and a lyric said, killing me softly. We can kill it softly and in a lingering manner, because it shall surely die, or we can vote for the bracket motion. Maybe it will come up again--probably not again, being realistic. But if it's bracketed, it's not formally killed. Maybe you could say that it is put into an induced coma for its own best interests. Sometimes they will induce a coma in a person, in order to treat that individual. It matters not to me how this bill meets its demise. If I were not convinced that it is bad public policy, I would just give the best arguments I could against it, and let the body make its decision. But this bill is fraught with so much emotional baggage and freight that I have an obligation to stop it. This could be a road map for people to get rid of unwanted infants. Maybe somebody would kidnap or steal an infant. Maybe if there was a kidnapping there would be a ransom note sent to the parents, desperate as they are. The kidnapping could have occurred in Iowa or any place else, and the infant delivered to a fire station or a hospital. When the parents pay the ransom, they don't get the child. The person who kidnapped the child does not have murder on his or her conscience, because there was some place to dispose of the child. And if the person is caught, there is no homicide charge, only kidnapping. You might say that's a reach. I say that this bill itself is a reach. The attempt to give blanket immunity was an acknowledgment that these infants are not going to receive the type of care they should. So if a firefighter or a hospital would have behaved in a criminal manner, there would have been no criminal liability--no criminal liability, no civil liability. That is the thought pattern; that is the mind-set of the people who brought this bill. If you or I kill an infant, we are not given blanket immunity from criminal and civil liability. The original form of this bill statutorily would have shielded a person who committed a criminal act... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: ...in the process of dealing with this infant, and there would have been no liability. But the committee removed that language--removed it. Maybe because the immunity is taken away hospitals are concerned. I'm not a mind reader, but there certainly is criminal and civil liability on any firefighter who does not come up to the standard of professional practice imposed on a hospital. Senator Ashford kind of muddied the water a little bit when he was talking, saying that the firefighter would be held to the standard imposed on firefighters. So when I asked him the direct question, he gave the direct answer--there is nothing in the bill that says the firefighter is going to be held to a standard imposed on a firefighter. We're talking about the delivery of lifesaving healthcare. [LB157]

SENATOR LANGEMEIER: Time. [LB157]

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SENATOR CHAMBERS: Thank you, Mr. President. I will ask for a call of the house. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB157]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB157]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All those senators outside the Chamber, please return to the Chamber. The house is under call. All unauthorized personnel, please leave the floor. The house is under call. Senators Dierks, Johnson, Schimek, McDonald, please return to the Chamber. The house is under call. (Visitors introduced.) Senators Johnson, Schimek, and Dierks, the house is under call. Please return to the Chamber. All members are present or accounted for. The motion before the body is the adoption of the bracket motion to 4/18/07 on LB157. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB157]

CLERK: 10 ayes, 23 nays, Mr. President, on the motion to bracket the bill. [LB157]

SENATOR LANGEMEIER: The motion to bracket was unsuccessful. Mr. Clerk, items for the record? And with that, I raise the call. [LB157]

CLERK: Mr. President, a listing of the Speaker's designated priority bills will be included in the Journal, and copies will be distributed to the membership, as I indicate that. (In re: LR2CA, LB112, LB144, LB171, LB177, LB188, LB208, LB219, LB233, LB246, LB274, LB285, LB289, LB292, LB351, LB358, LB389, LB404, LB471, LB530, LB540, LB565, LB622, LB646, and LB664) Mr. President, your Committee on Health reports LB351 to General File with committee amendments attached, that signed by Senator Johnson as Chair. I also have hearing notice from Senator Johnson. New A bills: LB73A by Senator McGill (Read title for the first time); LB162A by Senator Fischer (Read title for the first time); and LB253A, Mr. President, by Senator Rogert (Read title for the first time). (Legislative Journal pages 810-811.) [LB157 LB112 LB144 LB171 LB177 LB188 LB208 LB219 LB233 LB246 LB274 LB285 LB289 LB292 LB351 LB358 LB389 LB404 LB471 LB530 LB540 LB565 LB622 LB646 LB664 LB73A LB162A LB253A LR2CA]

Mr. President, a priority motion with respect to LB157. Senator Chambers would move to recommit the bill.

SENATOR LANGEMEIER: Senator Chambers, you are recognized to open on your motion to recommit to committee. [LB157]

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SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I told you what my position was Friday, and I'm going to carry it out. And you're willing to give me the time this morning? I'm willing to take it. Not only is this bill before us, but the methodology we use in legislating is also something worthy of consideration, and I'm going to give it that consideration for the record. This bill has been discussed by those who favor it, and they've given their reasons. They also have pointed out defects and flaws in the bill, things they wish they had put into it. Where are all those other members of the Judiciary Committee who over my protest voted to send this bill out here? Why aren't they standing up, telling you why they sent a piece of poorly crafted legislation out here, knowing what was going to happen? Are they going to desert their captain? I'm analogizing the chairperson of the committee to the captain of a ship. We know the captain goes down with the ship. Who or what are the first to desert a sinking ship? I'll give you an idea who or what may first be aware of the fact that the ship is in danger of sinking--they who inhabit the lower realms of a ship, especially if that part of the ship is below the waterline. The water comes in, and those individuals, whether four-footed or two-footed, become aware that danger is surrounding them, danger is seeping in. The weight of the ship is increasing, and if it continues, the weight will be more than will allow buoyancy to exist. And when that buoyancy is gone, the ship settles lower and lower into the water. In other words, it begins to sink. There are some four-footed little critters who have a hump in their back, they have cute little pink feet, four of them, but they also have a long naked tail, little beady eyes that dance, and they're equipped with gnawing teeth, a little nose that twitches rapidly, and the cutest little whiskers that you ever saw. They become aware that the craft is sinking, and they are the first to desert. So here is Captain Ashford, alias Captain Bligh (laughter), ship sinking. He calls to his first mate--no response. He says, is there such a man here as a yeoman? No response. Is there a second mate? No response. What about the person who steers? No response. Then he hears a splashing and he looks, and what do you think, to his wondering eyes will appear? An inflatable craft. Who is on that inflatable craft? The very ones who told him, Captain Bligh, take this ship to sea and we will be with you to the end. But in their mind, because there was no definition of "the end," was a mental reservation. The end does not mean the end of my life; it means the end of this ship's ability to stay afloat, and when that comes, I'm out of here! So there stands Captain Ashford. The water has now filled the lower regions of the ship; it's spilling over the deck. Captain Bligh thinks back to the duty and responsibility of a captain. So the water enters his boots, it comes above his boots, and strikes his shin between his ankles and his knee, which is where the shin is located. Still, he's standing alone, and that craft, with its heretofore or erstwhile crew members, is going farther and farther from the ship, seeking safety. And he hollers, ahoy, ahoy! Avast, avast, ye deserters! This is your captain, Captain Bligh. You're leaving the ship! And they holler back, you think we don't know that, Captain Bligh? Our job is not your job. You should have inspected this ship! You should have detected that it was not seaworthy! But since you didn't, you must now go down with the ship. The water reaches his waist, then his chest, covers his shoulders, and I'll leave it at that, because I like our Captain Bligh, and I don't want to

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see anything bad happen to him. But we can fill in that blank, and we know what's going to happen. Where are his supporters on the Judiciary Committee, who sent this atrocity out here? They're all gone; they're all quiet. It's like when Jesus got through praying in the garden and looked around, and those who were not snoring had taken off, and there he is, all alone, by himself. There stands Senator Ashford, in his splendid solitariness, rubbing the back of his neck, looking down at the floor, asking himself, why did let myself get into this? (Laughter) But now that I'm into it, I've got to go down with the ship. What he ought to do now is let that rationality come into play, that part which separates us from the kingdom of "thingdom," the ability to think. When a cause is lost, let it go. He cannot bale the water out of this sinking ship. He needs to put on his life jacket and abandon. He's taking his jacket off. I guess he showed me a thing or two. (Laughter) But at any rate, we're going to continue this discussion, and this bill is going to perish. It must! It is bad policy. But here's what my amendment does. It sends this craft, before it sinks, into Davey Jones' Locker--back to port, limping though it be, so that it can be repaired. Perhaps it can be made seaworthy. But if not, then instead of having an ignominious sinking--which does nobody any good--it gets a respectable retirement to wherever unseaworthy vessels retire. But if Senator Ashford wants this to sink to the bottom, I'm prepared to oblige Captain Bligh. How much time do I have, Mr. President? [LB157]

SENATOR LANGEMEIER: One, twenty. [LB157]

SENATOR CHAMBERS: Thank you. I will continue. As we proceed this morning, I'm going to emphasize over and over why this bill is bad policy. But what you ought to keep in mind, if you can, is that it is not a good example of legislating. [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: It is not a good example of committee work. The new senators should take heed. Notice what is happening here. Remember this, also: I'm not the only one pointing out the flaws in the bill. Those who supported the strongest see the flaws and the defects in it, but none of those members are members of Captain Bligh's crew--they're long gone. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) You have heard the opening on the motion to recommit LB157 back to committee. The floor is now open for discussion. Senator Chambers, you are recognized, being the first light, followed by Ashford, Lathrop, Howard. Senator Chambers. You don't care to be recognized? [LB157]

SENATOR CHAMBERS: Not at this time. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Ashford. [LB157]

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SENATOR ASHFORD: What iceberg? (Laugh) Senator Chambers. Elevated to the rank of captain by you, Senator Chamber, is a great honor, so I will remember that always, at least till the end of the day. (Laughter) But I think Senator Chambers has raised some interesting points, and let me tell you why I think this is an important discussion and an important bill. The issue to me is, can the state of Nebraska care for an infant that has been abandoned? That's the issue. And it...to me, it is an issue that is worthy of discussion, because quite frankly, I'm not certain that the state of Nebraska can care for an infant that has been abandoned, effectively, Senator Chambers, and I'll give you that point. I really will. I have, in the years that I've been gone from the Legislature, I have been stunned, really, by the lack of effectiveness of the Department of Health and Human Services and their ability to deal with the social problems that come before it. If we don't advance this bill and if we don't put into place a policy to deal with abandoned infants, then we don't. Nothing will happen. There will be infants who are abandoned. There will be infants that are abused and killed. There's no question about that. It happens every year, and it will continue to happen. What I'm most concerned about, and why I believe...and again, I can't speak for my other colleagues on the committee, but I believe what we were hearing was that there is a need to deal with infants who have been abandoned, who otherwise will die if they are not cared for. And that strikes a note with me, and I'm sure it strikes a note with Senator Chambers. Senator Chambers cares deeply about all children, and I don't think Senator Chambers is saying that we should not deal with infants, or we should not deal with children. I know he's not saying that. But I have...as we go through the rest of this session, and we think about what the state of Nebraska can do to help the neediest of its citizens, the children, we have to...must ask ourselves what is needed to improve that particular function in our state government. And I'll tell you, the jury is out, in my opinion--the jury is out. More than any other part of state government that has just gone awry, the Department of Health and Humans Services is right up there at the top. I think it...Nebraska is one of the least effective states in the country in getting people off welfare. It has one of the least effective foster care programs. I don't know. I don't know, Senator Chambers, whether HHS can handle infants that are abandoned. I don't know the answer to that. I'm going to...Senator Cornett, may I ask you a question? [LB157]

SENATOR LANGEMEIER: Senator Cornett, would you yield to a question? [LB157]

SENATOR CORNETT: Yes. [LB157]

SENATOR ASHFORD: Senator Cornett, I just need a few seconds at the end of your answer, to just close. But you have been on the front lines of these issues. What would you do as a police officer, with an infant who has been abandoned? What would your response to that sort of thing be, in real terms? [LB157]

SENATOR CORNETT: In real terms...well, first let me say, if you notice, I did not vote

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yes or no on the last...on the bracketing motion. This is a very complicated issue,...
[LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CORNETT: ...and people have said that the road to hell is paved with good intentions. And this bill has a lot of good intentions, but it also has a lot of faults. When an infant is taken into custody, the police officer is responsible 1) for getting it medically checked out, and then remaining with that child until we find placement. Frequently, it's very, very difficult. When I was on the department and from my understanding from my husband, things haven't changed, to even get ahold of a caseworker, a lot of times. You page them and you page them and you page them, and they may return your call, then. They may return it in an hour. They may not return it on that shift, and you have to turn that infant over to another officer when you're relieved. That child is then placed wherever they can find placement. Sometimes it's at the Child Saving Institute; sometimes it's at Rainbow House, Casa House in Sarpy County. Sometimes it's with a foster parent. There is no set place where that child will go. [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR ASHFORD: Thank you. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Lathrop, you're recognized. [LB157]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am on the Judiciary Committee. I am the first mate, and I'm here to help bail out the ship, and not that I have remained quiet deliberately. I am, I think, one of the reasons this bill is on the floor, and I think today what we're here to talk about is the policy behind this. And before I talk about my thoughts on the policy, let me say that the use of the term "accepted standards of care" is recognized by people who need to know what it means. So if you are a firefighter, you know what it means to respond with the accepted standard of care, and if you're a physician, you know what that means. That term is well understood in the medical community. You cannot put into statute the standard of care. The standard of care comes from what is acceptable, what is generally done, what is tried and true, what is taught in the medical schools. It doesn't need to be any clearer than that. But that's the perceived sore that Senator Chambers is picking at today, and it really is, in my judgment, beside the point. The bill isn't poorly drafted, I don't believe. I think the committee did good work on it. We just disagree on the policy--we just disagree on the policy. The policy is not intended to help those who would go to a hospital to have their son or daughter. It's not intended to help someone who would get prenatal care. It's intended to help only a few people. So when we talk about helping, maybe we'll help three children in ten years. And so when we're talking about that small of a group of

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people that this bill will help, it's hard to take statistics from another state and say, the statistics don't bear this up. There's not a big universe of people that aren't getting prenatal care when they need it, or that don't go to the hospital when they're going to have their baby. It is women with emotional disorders, women who have been shamed by their pregnancy, women that are afraid of the child's father, perhaps. But for a variety of reasons, they're in a spot and they can't see clear to go to the hospital to have their baby, and they can't see clear to bring that baby into the world. And right now it would be criminal for them to abandon the baby and just drop it off somewhere. So what this bill does--and I think it is good policy, it's good policy--it says to a very, very, very small number of women who are too ashamed to go get medical care, too ashamed to have their baby in the hospital, that there is a solution. You will not be charged with a crime. You can take the child to the firehouse, or you can take the child to the hospital, and you won't be charged. Now I would agree with Senator Ashford. If there is a part of this that may be discomforting, it's that HHS picks up the ball after the baby is taken to the hospital. They do that all the time. And we may have a lot of criticisms with Health and Human Services right now, but one of them can't be that they don't know what to do with an infant child. That child will be on the track to adoption with the help of Health and Human Services. But when it comes to the standard of care, believe me, we have firemen and ambulance attendants delivering babies in the backseats of cars all the time. They know what to do with a child. This isn't about the standard of care; it's about whether we're going to address the needs... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR LATHROP: ...of a few children who are born to mothers too afraid to go to the hospital for care, and I think this bill makes perfect sense. It addresses that concern. It is the law in the vast majority--over 45 states have a similar law--and I think it should be the law in the state of Nebraska. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Howard, you're recognized. [LB157]

SENATOR HOWARD: Thank you, Mr. President and members of the body. My concern does not rest with the ability of the firefighters to attend to the immediate needs of the infant or their decision-making abilities, to have the infant taken to a hospital for any medical care it might require. My concern is more with addressing the true problem, I suppose that's the best way to say it. I've often heard we shouldn't let ourselves make laws, make legislation because it makes us feel better, and I'm totally in agreement with that. I think we need to be realistic about the problem. The individuals involved in this, as Senator Lathrop points out, would be people who are in dire straits and are making very, very poor decisions regarding their situation, and in this case, an infant who is born to them. They're not going to be considering any legislation that we enact; they're going to be acting on impulse and probably fear, in many cases. I think we need to be

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very cautious about the rights of the parent, the rights of the infant. And I've worked for the past two years with Senator Elaine Stuhr on this very bill. She was deeply concerned about this, also, and I stressed to her that given the circumstances of an infant being abandoned, it really puts those legal rights for that child to be adopted into limbo. Unless there is a mechanism developed--and I would suggest the committee seriously look at this if it is returned to committee--to address the time frames involved between the abandonment of that child and the ability for that child to be placed with a family that would commit to adopt. And certainly that baby could be placed with a family, but until legal rights are established, until paternity issues are addressed...paternity--in this case, maternity, most likely--that an adoption can't be completed. Those are...that's an important factor to take into consideration, and one that I would certainly be very concerned about. We can't pass legislation because we feel good about it. Placing a child in foster care, while it would ensure the immediate safety of the baby, doesn't ensure the long-term permanency goal, and we have to keep that in mind with this particular piece of legislation. I would certainly be more supportive, had we been able to address the issue of parental rights and timely severance of those. I thank you for your attention, and I will offer the remainder of my time to Senator Chambers. Thank you. [LB157]

SENATOR LANGEMEIER: Senator Chambers, Senator Howard has offered her time to you--2 minutes. [LB157]

SENATOR CHAMBERS: Thank you. Thank you, Senator Howard. I would like to ask Senator Stuthman, the introducer of the...no, because he's in conference. I'd like to ask first mate Lathrop a question or two. [LB157]

SENATOR LANGEMEIER: Senator Lathrop, would you yield to a question? [LB157]

SENATOR LATHROP: Yes. [LB157]

SENATOR CHAMBERS: Avast, first mate! Senator Lathrop, I'm going to pose a scenario, and you tell me if it's prohibited by this bill. A man, whatever his age, is upset because the woman with whom he was having sex got pregnant, had a child, and he doesn't want the child, so he delivers the child to the hospital or the firehouse, and the first line of the bill says, if a parent voluntarily delivers...the man could do that without violating this law. Is that true or false? [LB157]

SENATOR LATHROP: Well, I think in isolation, without regard to any other statutes, I think that that's what it says. [LB157]

SENATOR CHAMBERS: And would you agree that this statute is creating a stand-alone system of its own,... [LB157]

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SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: ...for handling infants in this set of circumstances? [LB157]

SENATOR LATHROP: I don't think it stands alone, without regard to... [LB157]

SENATOR CHAMBERS: Here's what I'm...it's creating a process. [LB157]

SENATOR LATHROP: It's certainly creating a process, I'll grant you that. [LB157]

SENATOR CHAMBERS: Okay, and since the time is up, I won't pursue it, because it wouldn't give you a fair chance to respond. [LB157]

SENATOR LATHROP: Okay, thank you. [LB157]

SENATOR CHAMBERS: Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Howard. Senator Stuthman, you are next and recognized. [LB157]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I want to speak a little bit about the recommit to committee. I do not favor that, that it goes back to the committee, mainly because I think that it may not be able to come out at that time, but I'm not sure of that. What I'm proposing is that I try to come up with an amendment, hopefully to satisfy, you know, the majority of the opposition. I'm working on something, possibility with the hospital association, trying to work with them. I know they were in opposition to the bill in its present form. I think we can work things out there, where we can get them to support it. I would like to see that I get a little bit of time to work on an amendment, hopefully to iron a few things out, and I'm been also visiting with some of the senators, that they also have an amendment that they want to put forward, also. So I think we need to allow that time to take place, that hopefully we can get some of these things ironed out. I know maybe the bill will never pass, but I'm not willing to give up at the present time. There are some concerns, and I really think that we can address those concerns and make this a workable bill. In my opinion, this bill is a bill to give a parent another option. If we leave it as it is, with no bill out there, some of them, the only option that they have is to abandon it on a creek bed, in a dumpster. If the parent is found, they will be prosecuted. One thing I don't want to happen is, people that are in a situation like that, with no option, no option than to abandon it, and they get prosecuted, and those people do not deserve to be institutionalized, just for something that happened in a few minutes of a day, when they were under a lot of stress, a lot of stress. So I think if we could accomplish the goal that I'm setting out to do, it gives that individual another option, and I think we owe it to them. But I do not want to see these parents having to abandon their little, precious infant, and then be prosecuted and set behind bars for

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many, many days. Thank you. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Chambers, you are recognized. [LB157]

SENATOR CHAMBERS: Mr. President, members of the Legislature, when my colleagues stand on the floor and talk about compassion and concern for the helpless, they're talking like me. They're singing from the song that I wrote. They're reading from the book that I authored. This is not about compassion. This is about reality and realism. Senator Stuthman made me think of a Beatles lyric, we can work it out, we can work it out. That's what he thinks he can do with the hospital association. Here's where that approach may have cut some ice. If, when we came out here on the first day and those who support this bill admitted the flaws that were in the bill and they started offering amendments, that could counteract what I'm saying. Did you hear an amendment offered during all the time that I was debating and arguing against this bill? No. Now that they think the ship is sinking, here they come with their amendments. That's why I say I'm talking about the way we legislate. Senator Stuthman talked about these vulnerable, precious children. All of those are perfect descriptions of those who need our concern. But if a bill comes up that costs some money to provide prenatal or postnatal care for a poor woman, then the Legislature is not going to sound like what they're sounding now to support a bill like this whose justification has not been established. If we talk about providing food stamps for those vulnerable families with vulnerable children, you're going to hear a different approach. Had not I held the HHS bill to reorganize that monstrosity, had I not held it hostage on this floor, LB171, that would make food stamps available to more people, would never have seen the light of day from that committee. I know what it takes to get results because I'm a pragmatic politician, and I'm going to deal realistically. And I don't care how emotional the issue itself is. I'm going to hold our feet to the legislative fire. I have lived in the belly of this beast for 37 years and I have survived. You think my skin is not thick enough to help me weather the little bit of ire that somebody might feel because I'm insisting that we as a Legislature do our job appropriately? What about the children who can lose insurance coverage? How about that? You know why there's so much discussion now about these poor, defenseless, at-risk infants? Because it won't cost the state one nickel or one thin dime. When we have to spend money to preserve the health and welfare of these children, you're going to hear the "Scrooge-ology" come into play. (Mocking voice) "We can't afford that; I promised to cut taxes. What do these people mean thinking they got a right to this? They shouldn't have had babies if they can't afford to take care of them." That's the attitude that will surface. I do not have Creutzfeldt-Jakob disease. I don't have the human form of mad cow. I do remember. I can think. [LB157 LB171]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: And I can put things together and weave a tapestry from what

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this Legislature has done on other issues and show that when they ride their sanctimonious hobbyhorse on a bill like this, it's only because it doesn't cost anybody any money, the state any money, and it puts the responsibility on somebody other than the state. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Ashford, you are recognized. [LB157]

SENATOR ASHFORD: Thank you, Mr...are there any other lights on, Mr. President? [LB157]

SENATOR LANGEMEIER: Yes, there are. [LB157]

SENATOR ASHFORD: Mr. President, I would like to discuss or to talk about what Senator Chambers has said because I think it's extremely telling and to the point. And that is that...and it's what we must all decide. I think that as we approach this session, we're going to be confronted with issues, the issues that Senator Chambers has discussed, is discussing. Whether it's in the Education bill or whether it's in the HHS bill or whatever other bill it may come up, these issues may arise from. The question in this state is how are we going to deal with children and poverty, children at risk, whether they're infants, whether they are in grade school, or whether they're in high school or whatever. Because the tragedy of it is immense. The tragedy that Senator Chambers has been talking about for 37 years when he talks about children is immense, and it's real and it's day in and day out tragedy. And it's reflected in the paper today when we see in the front page of the World-Herald about Nebraska receiving a D when it comes to educating minority students, students in poverty, students at risk. But having said all that, I think the issue still remains: Can we save an infant by passing this legislation? We can't change the education system through this legislation. We can't change our social service delivery system through this legislation. We can't change, as Senator Cornett rightly pointed out, all of the issues involving the support systems that our law enforcement people give to our citizens with this bill. But we can, I think, as a matter of public policy, address one very specific issue, and that is the issue of an abandoned infant. And if we can do that as a matter of policy, and then turn our attention to the broader issues raised by Senator Chambers--and I must say, I concur with him that there is a crisis in our urban centers, clearly, and I would guess also outside of our urban centers when it comes to poverty, when it comes to children. These are issues that we must address. They are incredibly important to us all. So Mr. President, members, I would urge that we advance this bill but we don't disregard what Senator Chambers is talking about and that we look realistically at the problems that confront us on a daily basis in our urban areas, as well as our rural areas. Thank you, Mr. President and members. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Chambers, you are

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recognized. [LB157]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I often say that life is like a seamless web. Whatever affects one part of it affects the other. Some people of a philosophic, even metaphysical turn of mind will say that if a butterfly rests atop a wave in the ocean, there will be consequences that will spread throughout the universe, and the universe will never be the same as a result of that contact having been made between the butterfly and that wave. That is getting very nuanced. That type of jewelers' scale measurement is not necessary to understand what I'm talking about. I look at what we do as a Legislature whenever we're dealing with certain categories of people. And when I say categories, I don't just mean infants, I don't just mean women, I don't just mean gay and lesbian people, I don't just mean prisoners. I mean those people who have been placed at the margins of society and because of their status or lack of status are not going to be accorded the consideration that those members of society who are better off will routinely be accorded. If there were two children confronting us--one had shoes with holes, pants with holes, and they're not clean, a shirt too large, a runny nose, maybe a scar here and there; and over here beside that child is Little Lord Fauntleroy, hair perfectly combed and parted, perfumed, clothing that matches--which one is going to get the better consideration? You can see it in classrooms in schools. The children who are poor and deprived and need compassion the most are the ones most often abused by teachers, expelled by principals, subjected to physical violence at the hands of teachers, counselors, and librarians. And nothing is done about it. But if the child looks like he or she comes from a family of means, that child is going to get all kind of consideration, and teachers and everybody else will walk light around that child. When the police are doing their work in west Omaha where the Warren Buffetts, the Walter Scotts, the David Sokols, and all the rest of them are residing, they'll conduct themselves entirely differently from the way they will conduct themselves in a black community or a poor white community. You all know this is true, so there's no need in pretending. This bill is easy for some people to support regardless of how poorly crafted it is, because it has been cast in emotional terms, and it deals with an emotional issue. Nobody has given us an example of an infant being abandoned in a dumpster in Nebraska. The only example was given by the Speaker the first day when the body of an infant was found in or along a creek. That is not a justification for imposing this kind of legislation on the people who would be affected by it. And I disagree that all the women who might not want to keep a child... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR CHAMBERS: ...feels that way because of shame. She could just not want to be bothered. We don't know what the myriad reasons are for a woman to do this. But we keep saying a woman--and I did it on purpose. Men are parents, too. And the man can take the child and voluntarily give that child over to the hospital. And this law authorizes that. It's not authorized now. This law makes that legal. And I'll discuss that a

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bit more the next time I'm recognized. Thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Stuthman, you're recognized. [LB157]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I've been listening very close to Senator Chambers this morning. And in his discussion, his concerns about the young poor people, that they get pushed down all the time. We as a state don't spend enough money to try to get these people educated, get them informed, get them to work. But I'll tell you, I have the warmest heart in my body that I will help any one of these people that want to try to help themselves and try to better themselves. I feel very, very good about trying to help young people. He also mentioned the fact about Health and Human Services and that we don't want to spend any more money and people say, no, just let them be down there. I worked hard to try to get the fact that some of these young mothers, single parents working on a job can only earn so many dollars. If they earn a few more dollars, their rent goes up on their low-rent housing. Their rent goes up to the point where they maybe only make another dollar a month. I think that is wrong. What incentive is there for these young parents to try to get a good, responsible job, which they know they're out there, but their hands are tied because the minute they make a little bit more money, then they get it taken away because their rent bill goes up. I have one of my bills and it is a Speaker priority bill. It is for the education of young people, young people that are on welfare. The federal mandate now states that postsecondary education does not consider as a work portion of their employment. So on the federal level they're attempting to take that out. I'm putting that postsecondary education back in my bill. It's LB351, if you want to look it up. It puts the postsecondary education back into it, that bill. This allows students at the St. Mary's School of Nursing in Omaha, that they can continue their education, get a good job, support their family, and that is a very, very good example of what we can do on the state level for some of these people. Because you know, I know, you know, Senator Chambers knows it, that if these young mothers, young parents, single parents can graduate from that school of nursing, where are they going to be? They're going to be out there owning a home. They're going to make a living for their family. They're going to provide for their family. They're going to be a taxpaying citizen. But if we take that portion away from them, you and I all know where they're going to stay. Thank you. [LB157 LB351]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. (Visitors introduced.) Returning to discussion on the motion to recommit, Senator Fulton, you are recognized. [LB157]

SENATOR FULTON: Thank you, Mr. President, members of the body. I appreciate this debate. There is...as Senator Chambers was speaking and Senator Stuthman was speaking, there was a quote that I recalled hearing. And so I went to the Internet here

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really quick to look it up, and I'm going to share it with you because it's illustrative of what we're trying to do by way of policy here. When a man steals to satisfy hunger, we may safely conclude that there is something wrong in society. So when a woman destroys the life of her unborn child, it is in evidence that either by education or circumstance, she has been greatly wronged. Mattie Brinkerhoff said this and it was in 1869. Now I understand that this is not...we're talking about born children. But the fact remains that these are children that are freshly born, up to...right now the language reads 30 days old. That there is need for this bill reflects a certain failure on the part of society. That's something that Senator Chambers is touching on by way of philosophy, and he's right. Now how we address these issues, these wrongs in society, is part of what we're here for, part of the debate. There are differing ways to address these ills within society. This particular bill, while I believe it embodies a certain failure on the part of society, I believe that it is appropriate that the bill move forward because this is a means by which we can save some lives. There are legitimate points that are made as to where the financial burden is being placed and whether it's done by force, and those fall to the realm of prudential judgment. It's my judgment that this should go forward, though. There are some problems with the bill, and I don't have the institutional knowledge that Senator Chambers does or that others have. Perhaps it's best done through the committee system. But I have a sense by way of pragmatism that doing so would effectively render this bill dead. So I'd like to thank Senator Chambers and the others for the debate because it exposes what is a problem that runs at a deeper level than perhaps we are debating today. But I will stand in support of the bill such that we can move it forward, and I'll be working on ways to improve it. So thank you, Mr. President. [LB157]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Synowiecki, you are recognized. [LB157]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members of the Legislature. Senator Stuthman, would you yield to a question? [LB157]

SENATOR LANGEMEIER: Senator Stuthman, would you yield to a question? [LB157]

SENATOR STUTHMAN: Yes. [LB157]

SENATOR SYNOWIECKI: First, I should...Senator, I believe it was Schimek, on Friday kind of went through a litany of state senators that had previously introduced this bill. I'm one of them. I introduced this, I believe it was my first year down here. So I may very well support the bill. But it seems to me that the scope of the debate has expanded a little bit relative to child welfare issues. Senator Stuthman, you know very well that I had a bill in front of your committee, in the Health and Human Services Committee, relative to what I think is a fundamentally punitive Welfare Reform Act provision. And that provision is often called the family cap provision, whereby a young mother finds herself

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with a pregnancy while she's on the welfare system, and if that mother decides to give birth to that child, we punish that family. We punish that child in our welfare system. And what I'm speaking of is, if a child is conceived after a mother is deriving Aid to Dependent Children benefits, we will not extend the additional \$71 per month stipend for that extra child. I think that's fundamentally punitive to that child, to the other siblings within the household, and it assumes something that I think is a fundamental false assumption. And that is, we sit and we think that these women who are poor--I mean, you're talking very profoundly poor families here that are on Aid to Dependent Children benefits--we assume, in that policy, that these women undertake to have a pregnancy, undertake to have a child so that they can collect \$71 a month more. Senator Stuthman, for middle-class women, for upper middle class, we don't make that assumption with tax exemptions. We don't sit there and say...I don't think there's any women, poor, middle class, upper class, that undertakes to have a pregnancy, to have a child, to bring a child into this world whether to collect the tax exemption or whether to get the additional \$71 a month. Since the scope of this debate has expanded, you did not vote for my bill. And I'd like to know, if we do have this legitimate, bona fide, fundamental concern for kids--and particularly for kids of lower means--I think my bill is a no-brainer, that if you bring a child into this world and if you undertake to have this child and you're in a very poor situation, that we do not deprive that child. Because the loser here is the child that doesn't get that stipend from the welfare system. I would be interested to know where you're at relative to that situation before we proceed on your bill, because I think they're related. I think they're fundamentally related in a lot of ways. [LB157]

SENATOR STUTHMAN: Thank you, Senator Synowiecki. And I'm trying to think back on that bill when it was heard in committee as far as, you know, the family cap. And I think it's a good possibility that I maybe didn't think it through as far as I should. And in listening to your discussion, Senator Synowiecki,... [LB157]

SENATOR LANGEMEIER: One minute. [LB157]

SENATOR STUTHMAN: ...you know, the \$71, I would almost say that 99 percent of the parents know and realize that you can't, you know, raise a child for \$70 a month and have another child, another \$70 a month. You know, you're going backwards, in my opinion. I'd have to go back and look at the bill, listen to the testimony again. And in that, in considering, you know, what you had said and giving these people a little bit more. And your relationship to the fact of exemptions on income tax, that you know, you got five kids, you still get X amount of dollars, if you get the sixth kid, it's still...it's so much per child, so much per dependent. It's not so much per dependent... [LB157]

SENATOR LANGEMEIER: Time. [LB157]

SENATOR STUTHMAN: Thank you. [LB157]

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SENATOR LANGEMEIER: Senator Synowiecki, you are the next light, so I recognize you to continue. [LB157]

SENATOR SYNOWIECKI: Senator Stuthman, I really appreciate your response and it struck me as...I was sitting here and, as I said, the debate kind of expanded in scope relative to some other issues. You had in fact mentioned a bill that you put in on secondary education. And so it brought me to think of my bill, LB82, as I indicated, the bill on family cap provisions. And it really is, Senator Stuthman, I think exceptionally punitive that we're talking about needy families, we're talking about families that...actually, Senator Stuthman, it could even be argued that the current policy incents, incentivizes women to terminate a pregnancy if they're in profound poverty and they're in a denial of pregnancy and it's a dramatic experience. And then the state comes in and tacks in, in that exceptionally stressful situation. When you're poor, many times we're talking about young mothers here. And you know that you're going to be economically punished for bringing that child into the world. I just don't see a...I cannot see a moral platform by which one could advocate for our current policy in this area. I cannot see where anyone can endorse punishing, number one, a mother for electing to have the child and electing to bring the child into the world, and then secondly, we turn around as a state and punish that child and any siblings that might be involved, because we don't recognize that child's existence in our child welfare stipends that we give these poor families. I just think that's fundamentally unfair, and kind of along the lines of the philosophical backdrop of your bill, is to give women a chance in terms of...or give the kids a chance that are born into profound, dramatic, stressful situations, to give them some recognition. I wish that we would take a look at some of these bills that were in the Health and Human Services Committee, some of which have been voted out, that might provide some targeted relief and targeted assistance and give these families some hope. And your bill on the secondary education, I think it's a great bill. Senator Kopplin has got a bill, my bill. You know, we'll be talking a lot as the...as this session progresses, we're going to be talking a lot about tax cuts. We're going to talk a lot about income tax cuts. We're going to talk about sales tax. We're going to talk about property tax reductions. Let's don't forget these families as well. Let's don't overlook these families that are suffering in our communities and who don't have a voice in the Legislature. They don't have a high-powered lobbyist back there talking to us. Let's just don't forget those folks as we continue to debate your bill, Senator Stuthman, as well as some of these other bills that are before us. Thank you. [LB157 LB82]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Mr. Clerk, items for the record. [LB157]

CLERK: Mr. President, your Committee on Government, Military and Veterans Affairs, chaired by Senator Aguilar, reports LB233 to General File, LB622 to General File with amendments, and the following bills indefinitely postponed: LB7, LB61, LB135, LB212, LB284. Amendments to be printed: Senator Fulton to LB12, LB12A; Senator Kruse to

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LR12CA; Senator Ashford to LB157. Senator Howard would like to add her name to LB405 as a cointroducer, Mr. President. And I do have a priority motion. Senator Friend would move to adjourn the Legislature until Tuesday, March 13, at 9:00 a.m. (Legislative Journal pages 811-813.) [LB233 LB622 LB7 LB61 LB135 LB212 LB284 LB12 LB12A LR12CA LB157 LB405]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The priority motion is to adjourn until Tuesday, March 13, at 9:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned.