

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

Floor Debate
April 05, 2007

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SENATOR FLOOD PRESIDING

SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-ninth day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Hudkins. Please rise.

SENATOR HUDKINS: (Prayer offered.)

SPEAKER FLOOD: Thank you, Senator Hudkins. I call to order the fifty-ninth day of the One Hundredth Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

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

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

CLERK: I have no corrections, Mr. President.

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

CLERK: There are, Mr. President. Your Committee on Enrollment and Review reports LB236 and LB461 to Select File. Communications from the Governor. (Read re LB25, LB34, LB67, LB136, LB143, LB160, LB192, LB203, LB223, LB286, LB292, LB292A, LB349, LB374, LB464, LB497, LB568, LB638, LB661, and LB681.) A second message, Mr. President. (Read re LB106.) Mr. President, lobby report to be inserted in the Legislative Journal this week. And a series of reports received in the Clerk's Office, on file and available for member review. That's all that I had, Mr. President. (Legislative Journal pages 1089-1093.) [LB236 LB461 LB25 LB34 LB67 LB136 LB143 LB160 LB192 LB203 LB223 LB286 LB292 LB292A LB349 LB374 LB464 LB497 LB568 LB638 LB661 LB681 LB106]

SPEAKER FLOOD: Members, we now proceed to Final Reading. Please take your seats so that we can begin the process of Final Reading. Mr. Clerk, we now move to Final Reading. Members are in their seats in preparation for Final Reading. The first bill, Mr. Clerk, is LB537. [LB537]

ASSISTANT CLERK: (Read LB537 on Final Reading.) [LB537]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB537 pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB537]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1094.) The vote is 34 ayes, 4 nays, 6 present and not voting, 5 excused and not voting, Mr. President. [LB537]

SPEAKER FLOOD: LB537 passes. We will now proceed to LB636, where the first vote, Mr. Clerk, will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB537 LB636]

ASSISTANT CLERK: 35 ayes, 3 nays, to dispense with the at-large reading, Mr. President. [LB636]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB636]

ASSISTANT CLERK: (Read title of LB636.) [LB636]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB636 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB636]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1095.) The vote is 42 ayes, 1 nay, 1 present and not voting, 5 excused and not voting, Mr. President. [LB636]

SPEAKER FLOOD: LB636 passes. Mr. Clerk, we will now move to LB677E. [LB636 LB677]

ASSISTANT CLERK: (Read LB677 on Final Reading.) [LB677]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB677E pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB677]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1096.) The vote is 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting, Mr. President. [LB677]

SPEAKER FLOOD: LB677E passes with the emergency clause attached. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB537, LB636, and LB677E. We will now proceed to Select File, 2007

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senator priority bills, in the Mines division, beginning with LB198. Mr. Clerk. [LB677 LB537 LB636 LB198]

CLERK: Mr. President, with respect to LB198, Senator McGill, I have Enrollment and Review amendments, first of all. (ER8057, Legislative Journal page 926.) [LB198]

SPEAKER FLOOD: Senator McGill, you're recognized. [LB198]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB198]

SPEAKER FLOOD: You've heard the motion before the body to move the E&R amendments to LB198. All those in favor say aye. All those opposed say nay. The ayes have it. E&R amendments are adopted. [LB198]

CLERK: Senator Schimek would move to amend with AM801. (Legislative Journal page 917.) [LB198]

SPEAKER FLOOD: Senator Schimek, you are recognized to open on AM801. [LB198]

SENATOR SCHIMEK: Mr. President, I believe that's Senator Fulton's amendment. [LB198]

CLERK: I have both names on it. But Senator, you're right, Senator Fulton was primary. Forgive me. [LB198]

SENATOR SCHIMEK: Thank you. You surprised me this morning. (Laugh) [LB198]

SPEAKER FLOOD: Senator Fulton, you're recognized to open on AM801. [LB198]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. This bill, LB198, is our...the "robo-call" bill Senator Schimek introduced and I prioritized. We adopted AM211 on General File, and this is an amendment to the amendment AM211. What we're trying to do here is to provide a little bit more clarity as to who has authorized these messages, these robo-calls. And so the new language that we'll be introducing...that we're introducing here before you in AM211...or, AM801, is to include in the message a statement of whether or not the message was authorized by a candidate, and, if authorized, the name of the candidate. And so our amendment would read, beginning on...AM211, page 2, line 15, at the beginning of the message, state clearly the identity of the person on whose behalf the message is being transmitted. And then the amendatory language says, and include in the message a statement of whether or not the message was authorized by a candidate, and, if authorized, the name of the candidate. This is to prevent any confusion. If there is a message that's put out that is not authorized by a candidate, speaking about that candidate, it's important

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that the candidate...that that's identified that it's not authorized by the candidate. So this is just an amendment to say whether or not the message was authorized by a candidate. So I've talked with Senator Schimek, we've collaborated on this, and we feel that it improves the bill, and I would ask for your adoption of AM801. [LB198]

SENATOR LANGEMEIER PRESIDING [LB198]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You've heard the opening on AM801 to LB198. The floor is now open for discussion. Senator Pirsch, you're recognized. [LB198]

SENATOR PIRSCH: Mr. President, members of the body, if Senator Fulton--and I hate to make you do this (laugh)--could make his way back and yield to a question, I'd certainly appreciate that. [LB198]

SENATOR LANGEMEIER: Senator Fulton, would you yield to a question? [LB198]

SENATOR FULTON: I will. [LB198]

SENATOR PIRSCH: Okay. Could you explain...you indicated this would...under what situations would this amendment come into play? [LB198]

SENATOR FULTON: Sure. Let's say that there's a robo-call that's placed. Say Senator Lathrop is running for an office, and there's a robo-call that's placed, and he's unaware of it. And the robo-call says something to the effect that, you know, Senator Lathrop believes X, Y, and Z, and anyway, he's unaware of that robo-call. It...if that robo-call is placed in the state of Nebraska, we are saying that the call needs to identify whether or not it was authorized by the candidate. And so in this case, if there was something that was said that was untrue or misrepresenting his position, at least that robo-call would have to say that it was not authorized by Senator Lathrop, or Senator X, whoever that senator may be. So this is a way to say whether or not it's been authorized by the candidate. [LB198]

SENATOR PIRSCH: Currently, without this particular amendment, would there be some sort of statement or disclaimer that would be required to be stated on the call, such as, although it's not mentioned, the relationship, perhaps, with Senator Lathrop? Would they have to say, paid for by Citizens for a Better Government, or something of that sort? [LB198]

SENATOR FULTON: That does...that exists. And further, what we're...the line that we're amending, or the subsection that we're amending, at the beginning of the message, state clearly the identity of the person on whose behalf the message is being transmitted. That's required, but that doesn't say whether or not it was authorized. So if

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some outside third party were to come in and say, this is a message on behalf of Senator X, that doesn't say whether or not Senator X approved of the message or authorized the message. So this is just an extra guard to make sure that some outside group doesn't come in and unduly misrepresent a candidate or a position. [LB198]

SENATOR PIRSCH: Okay. And that would be the exact verbiage that would be required to be read, under the amendment: not authorized by? Or how would it read, exactly? [LB198]

SENATOR FULTON: Well, we haven't provided the verbiage that would need to be used in the message, but we do say there has to be, in the message, a statement of whether or not the message was authorized by a candidate, and, if authorized, the name of the candidate. So we don't tell them exactly how that message needs to come about, but we do say whether or not the message...that the statement has to exist within the robo-call. [LB198]

SENATOR PIRSCH: Okay. Thank you very much. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Carlson, you're recognized. [LB198]

SENATOR CARLSON: Mr. President, members of the Legislature, I'd like to address a question to Senator Schimek. [LB198]

SENATOR LANGEMEIER: Senator Schimek, would you yield to a question? [LB198]

SENATOR SCHIMEK: Yes. [LB198]

SENATOR CARLSON: Senator Schimek, this may have been covered before, but now that Senator Fulton brings this amendment in, it brought thoughts to mind. And I'm not trying to put you on the spot, but I'm going to ask a question, because the word "shall" is a part of this bill, and with this amendment now, what's the penalty for not following a law? [LB198]

SENATOR SCHIMEK: Well, there would be penalties that could be imposed, if it's a federal candidate, by the Public Service Commission; if it's a state candidate, by Accountability and Disclosure. [LB198]

SENATOR CARLSON: Okay. Now, you used terminology "could." And I'm...again, I'm not trying to put you on the spot. But I've learned that when we have the word "shall," that indicates some definite action. And so does this mean that they "could," it also means they might not pay any attention to noncompliance? [LB198]

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SENATOR SCHIMEK: I don't believe so, Senator Carlson. I believe there would have to be an investigation, first of all, to confirm that the law was not adhered to. And then if their investigation confirmed that someone did violate the law, then they could impose penalties. And those are not necessarily in statute. They have latitude on penalties. In addition to that, the Public Service Commission could withdraw the permission for those robo-calls by that particular campaign or entity. They have...when you want to make robo-calls, you have to apply to be able to make those robo-calls. [LB198]

SENATOR CARLSON: Okay. And I don't know or understand what exactly some of those guidelines are, but I think this is a good bill, and I think that noncompliance with it should carry a pretty stiff penalty. And so I just bring that as a comment, and I do support the bill. Thank you. [LB198]

SENATOR SCHIMEK: I appreciate that. Thank you. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Carlson. (Doctor of the day introduced.) Seeing no lights on, Senator Fulton, you are recognized to close on AM801. [LB198]

SENATOR FULTON: Thank you, Mr. President. I'll just close briefly by saying Senator Schimek and I have worked on this bill, and AM801 seems to improve the bill. Doesn't "seem to"; it does improve the bill. And so I ask that you'll accept AM801. Thank you, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Fulton. You have heard the closing on AM801, offered to LB198. The question is, shall AM801 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB198]

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Fulton's amendment. [LB198]

SENATOR LANGEMEIER: AM801 is adopted. [LB198]

CLERK: Mr. President, Senator Erdman would move to amend the bill. [LB198]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Erdman, you're recognized to open on FA61. (Legislative Journal page 1096.) [LB198]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. The amendment before you would take us back to where we were before the Schimek amendment was adopted on General File. If you'll recall the debate that was being conducted at that time, there was an amendment offered by Senator Schimek to limit the number of calls to a household in the time frame that has been outlined in the bill,

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per day. The conversation generally supporting why that amendment was adopted was that one call per day was not sufficient. And in response to a request by Senator Avery, I believe, during the committee hearing, two calls were more sufficient, because that was his personal experience. I asked and raised the question to Senator Schimek as to whether or not other states--as that was the justification for making this limitation as far as time and other areas as far as this new restrictions--if those other restrictions, such as the number of calls per day, were found in other state laws, as they, according to the introducer of the bill, have said that they were upheld in court. It's my understanding from visiting with Senator Schimek and from the information that she has distributed to you in the pretty blue-colored handout, that there are no other states that have a restriction on these type of calls that limit the number of calls per day. And what I had shared with Senator Schimek was that I would wait for that information on General File, and then that when she provided that information to me on Select File, we could decide whether or not that language should be maintained into the law. It would be my humble opinion that if we're going to use the basis that this is an area of restricting speech and that it is governed in other areas that have been upheld, that we should be consistent with other areas that aren't as restrictive as this. But having said that, and recognizing that we are on Select File, felt that it was appropriate to file an amendment to slow us down and to allow Senator Schimek the opportunity to respond to my comments. And I understand that she is at her desk. And if Senator Schimek would yield to a question? [LB198]

SENATOR LANGEMEIER: Senator Schimek, would you yield to a question? [LB198]

SENATOR SCHIMEK: Certainly. [LB198]

SENATOR ERDMAN: Senator Schimek, I caught your shaking of your head on a couple of the comments that I made, and I want to make sure that you have the opportunity, in a timely manner, to respond. Do you recall the conversation that we had on General File, in which I had raised the question of whether other states had the number of call limitations that you were proposing in your amendment? [LB198]

SENATOR SCHIMEK: Yes, I do, Senator. And if I may respond just a bit more, because of your questions, the Public Service Commission did contact other like entities in the other states, and the blue sheet is the result of that survey that they did. [LB198]

SENATOR ERDMAN: And is it a fair representation of the information that you have distributed that no other state has a limitation on the number of calls that may be placed per day, regardless of campaign or commercial? [LB198]

SENATOR SCHIMEK: It is a fair representation, but I also need to point out to you that there's at least one state on this list--and I need to go back and look further--one state on this list totally prohibits these kind of calls. Montana. And, Senator, in addition to

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that...and I turned my own light on, so maybe I should ask if you want to ask more questions. [LB198]

SENATOR ERDMAN: No, go ahead, Senator. We have time. [LB198]

SENATOR SCHIMEK: In addition to that, there has been at least one court case that I'm aware of that has said that there is a privacy in the home right, as well, and so that the state may impose some restrictions on these kinds of calls without violating the First Amendment right. So there...and I can give you that case, a copy of that case, if you would like. [LB198]

SENATOR ERDMAN: And that's fine, Senator Schimek. And to be candid with you, the concerns that I had on General File and what I was hoping that we would hear on Select File is the rationale as to why you believe, in your research and your analysis, that this limitation is appropriate, is responsible, and would be allowable and defensible under law. It wasn't necessarily designed to remove it. As you well know, Select File is a voice vote, and I wanted to make sure that before we moved on to that scenario, that we had that information in the record. Is it your opinion that what's in LB198, as amended, with the two phone calls in that time frame, is defensible, is allowable, and that you believe, under your research or your staff's research, that case law would support that limitation, as far as either political speech or free speech in general? [LB198]

SENATOR SCHIMEK: I do, Senator Erdman. And...but I always have to add the disclaimer, I'm not an attorney, I'm not a judge. But the research was done before the bill was even introduced, regarding case law, and I do believe it's defensible. [LB198]

SENATOR ERDMAN: Okay. Thank you, Mr. President. I would withdraw FA61. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Erdman. It is withdrawn. [LB198]

CLERK: I have nothing further on the bill, Mr. President. [LB198]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. There are a number of lights on, if they were relevant to that floor amendment or you'd like to speak to the bill. Senator Schimek, you're recognized. [LB198]

SENATOR SCHIMEK: Thank you, Mr. President and members. I appreciate the conversation. I appreciate Senator Erdman's questions. I think they were good to bring into the discussion. And I really appreciate Senator Fulton's involvement in this, and his willingness to work on it. This will put some restrictions on campaigns, in that they will have to disclose who the calls are being made on behalf of, and who authorized them. And this will apply to campaign committees, independent committees, whatever. So thank you very much for your support, and I would urge advancement to E&R

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Engrossing. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Howard, you're recognized. [LB198]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I have a question, really, a point of clarification. When this amendment, Senator Schimek's amendment, refers to two calls per day, is that two calls total, two calls per candidate? In reading this, it would seem to me that if a candidate put out a call that had some questionable information in it and then made a follow-up second call, if it was a total limit of two calls per day, that would not give the other candidate or candidates the opportunity to respond that day. So I'd like a response from that, if Senator Schimek would yield to answering that question. [LB198]

SENATOR LANGEMEIER: Senator Schimek, would you respond to her question? Senator Schimek, would you yield to a question? [LB198]

SENATOR SCHIMEK: Yes. [LB198]

SENATOR HOWARD: I'll ask the question again, Senator Schimek. If the total number is two calls per day, does this allow for one individual in a campaign to make two calls, and would it exclude calls from, say, an opponent or opponents to respond? [LB198]

SENATOR SCHIMEK: Senator, the restriction of two calls per day is per campaign. And originally, the original bill was written one call per day per campaign, and the committee was concerned that that would not allow a candidate to respond to some negative advertising, and so they totally took out the restriction altogether. And I knew it was Senator Avery who had the concern, because he's the one who raised it in the committee hearing, and I said, you know, that's a good thing to discuss and talk about. So Senator Fulton and I went to Senator Avery and said, unlimited phone calls seems to defeat the whole purpose here; could we talk about two calls per day, which would allow that candidate then to respond in the same day, if he or she so chose, after they'd already placed another robo-call? So Senator Avery agreed that that would be a reasonable amount, and that is why the amendment was offered. [LB198]

SENATOR HOWARD: So then I am correct in assuming that it would be two calls per day per candidate? Thank you for that clarification. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator McGill, for a motion. Sorry. Senator Avery, your light just came on. Senator Avery, you're recognized. [LB198]

SENATOR AVERY: Thank you, Mr. President. Just very briefly, I'd like to explain why I

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asked for this amendment in committee. Sometimes in the heat of a campaign, one might need, as I did in my campaign, to answer some distortions and misleading information from the opponent. And one...only one robo-call in the day may not do it. If you get hit more than once, you need the ability to respond more than once. I think two is an adequate number. It's hard for any campaign to come up with more than two hits in one day, and so you probably don't need more than two opportunities to respond. That was the reason I asked for this. I thought one was a little too restrictive. I was very happy that Senator Erdman got a clarification on this in his previous comments. I think that helped. But that is the reason why I did that. I'm going to support this, as amended by the committee. I think it's a good bill, and I think we need it. Thank you. [LB198]

SENATOR LANGEMEIER: Thank you, Senator Avery. Is there anyone else wishing to speak to the bill? Seeing no lights on, Senator McGill, you're recognized for a motion. [LB198]

SENATOR MCGILL: Mr. President, I move LB198 to E&R for engrossing. [LB198]

SENATOR LANGEMEIER: You've heard the motion on the advancement of LB198. All those in favor say aye. All those opposed say nay. LB198 does advance. Mr. Clerk. [LB198]

CLERK: Senator McGill, LB338. I have Enrollment and Review amendments. (ER8058, Legislative Journal page 970.) [LB338]

SENATOR LANGEMEIER: Senator McGill. [LB338]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB338]

SENATOR LANGEMEIER: You have heard the motion on the advancement of the E&R...adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB338]

CLERK: I have nothing further on that bill, Senator. [LB338]

SENATOR LANGEMEIER: Senator McGill. [LB338]

SENATOR MCGILL: Mr. President, I move LB338 to E&R for engrossing. [LB338]

SENATOR LANGEMEIER: You've heard the motion on LB338. All those in favor say aye. All those opposed say nay. LB338 does advance. Mr. Clerk. [LB338]

CLERK: LB232, Senator. The first thing I have are Enrollment and Review amendments. (ER8060, Legislative Journal page 1025.) [LB232]

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SENATOR LANGEMEIER: Senator McGill. [LB232]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB232]

SENATOR LANGEMEIER: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB232]

CLERK: Senator Dubas would move to amend with AM884. (Legislative Journal page 1053.) [LB232]

SENATOR LANGEMEIER: Senator Dubas, you're recognized to open on AM884. [LB232]

SENATOR DUBAS: Thank you, Mr. President, members of the body. AM884 is strictly a technical amendment. I'd like to thank Bill Drafting for catching this inconsistent language. And basically, it's just making the bill...making the language cohesive, making those technical changes. And so I would encourage support from the body on these technical changes. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Dubas. You've heard the opening on AM884. The floor is now open for discussion. Is there anyone wishing to speak to the amendment? Seeing no lights on, Senator Dubas, you're recognized to close on AM884. Senator Dubas waives closing. The question before the body is, shall AM884 be adopted to LB232? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB232]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Dubas' amendment. [LB232]

SENATOR LANGEMEIER: The amendment is adopted. [LB232]

CLERK: Mr. President, Senator Hudkins would move to amend with AM731. [LB232]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open on AM731. [LB232]

SENATOR HUDKINS: Thank you, Mr. President and members. Due to recent information that I have received on this amendment and on the bill, I wish to withdraw it at this time. Thank you. [LB232]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. AM731 is withdrawn. [LB232]

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CLERK: Senator McGill, I have nothing further on LB232. [LB232]

SENATOR LANGEMEIER: Senator McGill, you're recognized for a motion. [LB232]

SENATOR MCGILL: Mr. President, I move LB332 to E&R for engrossing...or, LB232 to E&R for engrossing. Pardon me. [LB232]

SENATOR LANGEMEIER: Thank you, Senator McGill. You've heard the motion on the advancement of LB232. All those in favor say aye. All those opposed say nay. LB232 does advance. Mr. Clerk. [LB232]

CLERK: LB502. Senator McGill, I have Enrollment and Review amendments. (ER8061, Legislative Journal page 1027.) [LB502]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB502]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB502]

SENATOR LANGEMEIER: You've heard the motion to adopt the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB502]

CLERK: I have nothing further on LB502, Senator. [LB502]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB502]

SENATOR MCGILL: Mr. President, I move LB502 to E&R for engrossing. [LB502]

SENATOR LANGEMEIER: You've heard the motion on the advancement of LB502. All those in favor say aye. All those opposed say nay. LB502 does advance. Mr. Clerk. [LB502]

CLERK: LB562, Senator. I have Enrollment and Review amendments. (ER8065, Legislative Journal page 1077.) [LB562]

SENATOR LANGEMEIER: Senator McGill, you're recognized. [LB562]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB562]

SENATOR LANGEMEIER: You've heard the motion to adopt the E&R amendments to LB562. All those in favor say aye. All those opposed say nay. They are adopted. [LB562]

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CLERK: I have nothing further on LB562, Senator. [LB562]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB562]

SENATOR MCGILL: Mr. President, I move LB562 to E&R for engrossing. [LB562]

SENATOR LANGEMEIER: You've heard the motion on LB562. All those in favor say aye. All those opposed say nay. LB562 does advance. Mr. Clerk. [LB562]

CLERK: LB457, Senator. I do not have Enrollment and Review. Senator Hansen would move to amend with AM898. (Legislative Journal page 1047.) [LB457]

SENATOR LANGEMEIER: Senator Hansen, you are recognized to open on AM898. [LB457]

SENATOR HANSEN: Thank you, Mr. President, members of the body. The amendment AM898 is a compromise that we came up with for LB457, and what it does is basically write a list of questions for the caregiver of foster children to submit to the court, and then the court makes its decision whether or not the judge wants to go into any further detail. The...I'll just read Section 1, and that's all that...the main part of it. The court shall provide a caregiver information form to the foster parent, preadoptive parent, guardian, or relative providing care for the child when giving notice to a court review described in the section. The form is dated and signed by the caregiver and shall, at minimum, request the following. And then we list quite a few things there--the name, the picture, and current status of the child's physical/emotional well-being. And then on the second page, item (2), caregiver information form shall be developed by the Supreme Court. Such form shall be made a part of the record in each court that reviews the child's foster care proceedings. This is not intended to be a mandatory for caregivers to fill out. But if they feel that they have something to provide to the court, then they'll have a form to do that. And with that, Mr. President, that's about the sum of the amendment. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Hansen. (Visitors introduced.) You've heard the opening on AM898, offered by Senator Hansen to LB457. The floor is now open for discussion. Senator Lathrop, you're recognized. [LB457]

SENATOR LATHROP: Thank you, Mr. President. When this bill was originally offered, I stood in support. It ran into some opposition on General File. And the amendments that Senator Hansen has brought to us today are commonsense, they are workable, they will allow foster parents to be heard, at least to have a say, and for the judge to have information that will be helpful. This amendment was...came together, members, with the benefit, or with the help of Judge Gendler, who's a juvenile court judge in Sarpy County, Nebraska. And for those of you who have never had an opportunity to meet Judge Gendler, he is a very committed juvenile court judge, very competent, very

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capable. And his input was valuable, and has made this a better bill. And for that, I would urge you to support AM898 and LB457. Thank you. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Pirsch, you're recognized. [LB457]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I was wondering if Senator Hansen would yield to a question or two. [LB457]

SENATOR LANGEMEIER: Senator Hansen, would you yield to a question? [LB457]

SENATOR HANSEN: Yes, I would. [LB457]

SENATOR PIRSCH: Senator Hansen, is there any requirement in the bill as amended here that the particular judge must consider the form or look at the form prior to making his judicial determinations? [LB457]

SENATOR HANSEN: I think the best way to answer that, Senator Pirsch, is that the Through the Eyes of the Child program that the Supreme Court Chief Justice is doing, and Judge Gendler is also very involved in this, that they're trying to get the judges on the same page, and in this case, on the same several pages of information given by caregivers. There's nothing that...I don't think there's anything in this bill that says they "shall" read it. But there is in the bill...in the amendment, very clearly, that the form shall be sent out. [LB457]

SENATOR PIRSCH: Okay, so the requirement is that this form requesting information shall be given to a foster parent, but there is nothing in there that says that they have to accept it back, or that the judge has to review the form? [LB457]

SENATOR HANSEN: It will be a part of the record. So I assume if the judge is reading all the proceedings and the records in the proceedings, that sooner or later he will get to the report. [LB457]

SENATOR PIRSCH: Okay. And again, is there a provision either in the bill or in the law...I'm sorry, in your amendment or in the bill, that would require...is there anything that speaks to whether or not a foster parent would be required to fill one out, one of these forms out? [LB457]

SENATOR HANSEN: No. The bill says that it should be...or, shall be sent out. And then on the second page, item (2), down toward the bottom, a caregiver information form shall be developed. But that is not mandatory that the foster parent fill that out. [LB457]

SENATOR PIRSCH: Is there any specific language that states, expressly states that?

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Or is it just an inferential type of...? [LB457]

SENATOR HANSEN: I think that's probably inferred, Senator. [LB457]

SENATOR PIRSCH: Okay. And with the language, such form "shall" be made a part of the record in each court that reviews the child's, is it possible that that may be misinterpreted thus by a judge as requiring having foster parents have a duty then to fill that out and return it? [LB457]

SENATOR HANSEN: Well, I would think that foster parents, if they have an interest in any input in the proceedings of the court, that they would fill that out and then the judge would have the opportunity to look at it, and then at his discretion, he may call on them to be heard in court. I think that that is plain within the law and the intent of the amendment. [LB457]

SENATOR PIRSCH: Well, good. And I wanted to establish this for the record, then, these types of questions that would...a judge would have, looking forward...or, looking back at the legislative intent, have that clarified. So I thank you for your question...or, for your answers. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Howard, you're recognized. [LB457]

SENATOR HOWARD: Thank you, Mr. President and members of the body. If Senator Hansen would yield to a question or two? [LB457]

SENATOR LANGEMEIER: Senator Hansen, would you yield to a question? [LB457]

SENATOR HANSEN: Yes, I would. [LB457]

SENATOR HOWARD: Thank you. In reading the amendment, it looks as though the list that you've included also gives the court the opportunity to include other questions. Is that correct? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR HOWARD: Because the wording is "at a minimum." So I would assume then if a judge had a particular question regarding visitation, for example, that they could include that on a form that they would produce for the foster parents? [LB457]

SENATOR HANSEN: Yes. This list was Judge Gendler's list that he sent to my office, and we...I mean, we looked through it and made very minor changes in it, and hopefully that this list will interest the judge, if he sees something in there. And it's up to his

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discretion whether or not to ask foster parents at the time of the proceedings any questions. [LB457]

SENATOR HOWARD: Is this form optional to the court to send out? Or are they required to send it out? [LB457]

SENATOR HANSEN: They're required to. [LB457]

SENATOR HOWARD: Okay. Thank you. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Howard. (Visitors introduced.) Senator Chambers, you're recognized. [LB457]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, with or without this form, the judge is free to ask any questions of any of the persons who are listed in the existing law who may attend these hearings. This does not restrict the judge in any way. Even had we done nothing, the judge was free to inquire not only into these areas, but any area the judge felt should be looked at. The reason that this approach is being taken is because some people felt there are judges who will not address questions or seek input from certain categories of the people who will attend these hearings. Foster parents are the ones consistently mentioned. So this is a way to avoid taking away a judge's discretion in this area, while at the same time putting a minimum amount of information that is going to be solicited by the judge. No one who receives one of these forms is required to fill it out. The existing law says that these foster parents, adoptive parents, and whoever else is going to get one of these notices of the hearing,--that already is in the law. The existing law specifies that receipt of that notice does not automatically make the recipient a party to the proceedings. It was necessary, for that reason also, that we do something different from what was in the green copy, because in the existing law, there is a specific assertion that receipt of notice does not make one a party. But in the green copy, if we had adopted that amendment, we would contradict that by making the person a party as a matter of law by compelling the judge to ask questions of that person. So we would have had to change the existing law, which currently says, notice does not make one a party, and say that in fact every one of these categories is a party. But if you then make them a party, not only do you give them notice; you can subpoena them and compel them to show up, and if they don't, then the court can take action. Many of these bills are brought to us that are complicated, they affect existing parts of the law, but that is not looked at when these bills are brought, because there's one item that is being touched, and that's to try to get these foster parents in a position where they can offer input. But, a critter known as an insect has six legs. A spider is not an insect. A spider is an arachnid. An arachnid has eight legs. Now, an octopus has eight legs, but it's not an arachnid. It is not a fish. It is not an amphibian. It is a mollusk. So here's the question I would ask. If the octopus has eight legs, why are they called "ten-tacles"? [LB457]

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SENATOR LANGEMEIER: One minute. [LB457]

SENATOR CHAMBERS: Why are they not called "oct-tacles," to indicate that there are eight of them? And for the same reason, why is the eighth month called...what is the eighth month called, quick? You know what it is. August. What is the tenth month called? October. "Oct" means eight. Why do you call the tenth month October? I pay attention to English, and it causes me heartburn, as you can see. But I hope that, Senator Howard, it kind of elaborates what I've said on the point that you were making earlier. Thank you, Mr. President. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Is there anyone...Senator Chambers, you're recognized. [LB457]

SENATOR CHAMBERS: Yes, I want to be sure that I can tie all that into a neat bundle. What I want to get across is that this form is just a minimum requirement. It, for the first time, places a minimum requirement on every judge conducting these hearings, in whatever court. And that was not the case with the law. Now I'd like to ask Senator Hansen a question. [LB457]

SENATOR LANGEMEIER: Senator Hansen, would you yield to a question? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR CHAMBERS: Senator Hansen, I had agreed to go along with this amendment before I suffered my humiliating whipping yesterday. Isn't that true? [LB457]

SENATOR HANSEN: Yes. [LB457]

SENATOR CHAMBERS: And I think you may have heard me say that having reached an agreement with you on this amendment, I'm not going to involve this bill in what I might do as a result of receiving my whipping yesterday. Do you remember that? [LB457]

SENATOR HANSEN: Yes, I do. [LB457]

SENATOR CHAMBERS: Okay. And you remember that the bill we were talking about dealt with limiting the liability of political subdivisions if children are hurt in some of these activities that I call dangerous? You remember that that was the bill? [LB457]

SENATOR HANSEN: Yes, I do. [LB457]

SENATOR CHAMBERS: Okay. Now, you mentioned earlier that there's some project

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being carried out, I think you said by the Chief Justice, or the Chief Justice is a part of it, called Through the Eyes of the Child? Correct? [LB457]

SENATOR HANSEN: Correct. [LB457]

SENATOR CHAMBERS: Suppose a child was at one of these dangerous activities, and something happened which would be deemed negligent under ordinary rules of negligence, but now there's immunity, and something went "through the eyes of a child." The political subdivision would not be liable, right, based on what you all did yesterday? So, that's all I will ask you. I'm making a point. We have a proposal from the Chief Justice called Through the Eyes of the Child. Those are just words, because if something went literally through the literal eyes of a literal child in one of these dangerous activities provided by the political subdivision, that child is out of luck. That child may be in perpetual darkness from that point onward as a result of blindness, but that's tough. Get a cane, get a seeing eye dog, and hobble with your parents and find your way to Medicaid, and let them take care of it, to the extent that they're willing to, because while the Legislature is interested in dealing with what they call the rights of grown people, foster parents, the rights of children take a back seat. But there's more than one way to get at an issue. I had mentioned Terry Carpenter before. If I can find the article, I'll show you all what he said. He was complimenting me. He said, I've watched Senator Chambers set land mines in sequence, then I've watched them go off in sequence. The Governor just demonstrated how I planted an improvised explosive device in that tobacco bill. If I had offered a kill motion, I couldn't have gotten anywhere. But by putting in the amendment that would raise the tax on that tobacco, what happened? The bill is dead. The bill is dead. Now, when we have all brand-new people here, you think they're going to know how to do that? We have some who have been here a long time and they don't know how to do things like that. They think that there's only one way to approach an issue, and if you can't get it in that one way, you got to throw up your hands and say, there is no other way; it's over. [LB457]

SENATOR LANGEMEIER: One minute. [LB457]

SENATOR CHAMBERS: But there are ways if you use the brains you were born with. But when you come here, your brains stop working. And I'm going to try to do what I can to stir your pure, or impure, minds so you will use them. Senator Hansen got in under the wire, and I'm not going to mess with his bill, and I'm going to support it, and I'm going to have similar comments for my good friend Senator Harms when his bill comes, because he got in under the wire, although there's one aspect of his bill that I still have problems with. But we'll get to that when his bill comes up. Thank you, Mr. President. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Seeing no other lights on, Senator Harms, you're...Hansen, excuse me, you're...I was looking at

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the wrong one. Senator Hansen, you're recognized to close on AM898. [LB457]

SENATOR HANSEN: Thank you, Mr. President. I just want to thank Senator Chambers and others for looking at this in a different way. It continues to be an educational process here. Hopefully, we will use our brains in getting around the things that help foster kids, and at the same time help the judges do what's right. Thank you, Mr. President. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Hansen. You have heard the closing on AM898. The question is, shall AM898 be adopted to LB457? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB457]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of Senator Hansen's amendment. [LB457]

SENATOR LANGEMEIER: The amendment is adopted. Mr. Clerk. [LB457]

CLERK: I have nothing further on this bill, Mr. President. [LB457]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB457]

SENATOR MCGILL: Mr. President, I move LB457 to E&R for engrossing. [LB457]

SENATOR LANGEMEIER: You've heard the motion on the advancement of LB457. All those in favor say aye. All those opposed say nay. LB457 does advance. Mr. Clerk. [LB457]

CLERK: Mr. President, if I may, before the next bill, the Health and Human Services Committee would like to have an Executive Session underneath the north balcony; Health and Human Services, north balcony, now. Mr. President, LB415 is on Select File. The first item I have are Enrollment and Review amendments, Senator. (ER8063, Legislative Journal page 1077.) [LB415]

SENATOR LANGEMEIER: Senator McGill. [LB415]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB415]

SENATOR LANGEMEIER: You've heard the motion on the adoption of the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB415]

CLERK: Mr. President, Senator Erdman offers AM895. [LB415]

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SENATOR LANGEMEIER: Senator Erdman, you're recognized to open on AM895. [LB415]

SENATOR ERDMAN: Mr. President, I'd ask that amendment be withdrawn. [LB415]

SENATOR LANGEMEIER: It is withdrawn. Mr. Clerk. [LB415]

CLERK: Mr. President, Senator Harms would move to amend with AM901. (Legislative Journal page 1087.) [LB415]

SENATOR LANGEMEIER: Senator Harms, you're recognized to open on AM901. [LB415]

SENATOR HARMS: Thank you, Mr. President. What this does for us is makes all the corrections that this body asked to be corrected. It changes from primary to secondary all the way through, in regard to the issues that we were concerned about in regard to driving. And I won't walk you through all those, but they're there, and that's been moved in regard to that. I did want to take a moment, if I may, to address the issue on cell phones, one of the questions that Senator Chambers asked in regard to the use of cell phones. And Senator Chambers, in the information that I handed out earlier, it shows that it is in fact an issue. In '02, 35 percent of the accidents that occurred for teens were by cell phones; '03, 37 percent; '04, 41 percent; and '05, 33 percent. The average of '02 through '05 was 37 percent, keeping in mind that teens only make up, at the age of 16 to 19, only make up 7 percent of the licensed drivers. To me, that is enough to want to continue to keep this in this piece of legislation. And then, Senator Chambers, in regard to the question, and Senator Erdman, the question in regard to enforcement, we have done some sampling. And I'd have to say, Senator Chambers and Senator Erdman, this is not a scientific finding. But in sampling with law enforcement about what their views were about primary versus secondary, what we found was that there's definitely a difference between how urban and rural look at this, and Senator Chambers, to my amazement and to your correctness, that law enforcement said they would rather have it secondary because they didn't want to be accused of profiling. And I thought that was...you brought that out very clearly, and at the time I wasn't quite agreeable, but you were right. In rural America and in the rural areas, there was not such an agreement. They really felt like that was not an issue for them, because the simple fact is, they know the kids, and that's basically the difference. So in regard to the amendments, Mr. President, I would ask that we adopt these amendments. It makes the corrections that we've asked that we make. It moves everything that we...that I introduced from primary to secondary. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. Mr. Clerk, for a motion. [LB415]

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CLERK: Senator Chambers would move to amend Senator Harms' amendment. (FA62, Legislative Journal page 1097.) [LB415]

SENATOR LANGEMEIER: Senator Chambers, you are recognized to open on FA62. [LB415]

SENATOR CHAMBERS: Thank you. Madam...Mr. President, members of the Legislature, this amendment harms not Senator Harms' bill, because one thing I'll never do if I can avoid it is to get in Harms' way. All this amendment does is makes a word change. As the amendment is offered, it takes language out of the existing law that covers seat belts, and makes a violation of that law a secondary offense. The language in the amendment, as offered, says, violation of another offense. I have stricken the word "offense" and substituted the word "law," violation of another law. The violation is the offense. So what will be more correct is to strike the word "offense" and insert the word "law." And I did discuss it with Senator Harms, and I will always do this if I have an amendment to a bill and the opportunity to discuss it with the chief sponsor, unless it's a bill that is of such nature that there may be a lot of amendments and the introducer would have reason to not be surprised if amendments are offered. But that's what my amendment would do. Having gotten that serious business out of the way, I have to become a bit frivolous, as some people might call it. I don't think I've conducted myself on the floor in any discussion so that somebody would deem me to be a liar. That's my perception. It may not be the perception of everybody. So even though you disagree with me, you are disagreeing with a man whom you will not say is a liar. But the truth that I told was accepted because it was confirmed by those who are notorious liars, the police. So my truth is accepted because a liar supported it. But we take what we can get, from whatever source. It's too bad Senator Carlson is not here, because I was going to mention how the Devil was talking to somebody and trying to tempt that person, and he did it by quoting scripture. And the quotes that he made were precise and correct, but his motive was not what it ought to have been. Getting back to Senator Harms' bill, I'm going to look at Senator Erdman's amendment to remove cell phones entirely, I'm going to listen to the discussion, and I may add something to it. But with the adoption of this amendment that Senator Harms is offering, where the cell phone issue becomes a secondary offense, my view has moderated. But I can't say I've been won over altogether. As I look at the pie charts that Senator Harms gave to us, whatever percentage of drivers are responsible for 37 percent of the accidents involving cell phones, 63 percent of all the accidents are caused by others. So if the cell phones are going to be looked at as a contributing cause, and maybe the major contributing cause of these accidents that the pie charts address, we ought to deal with the larger percentage, which is 63. So if we're interested in diminishing the number of accidents or cell phone related crashes, to use the term captioning the pie chart, we should do something about the 63 percent, and make that a secondary offense, too, but say that if anybody is sighted or charged with violation of another law, if they are operating a cell phone at the time, that becomes a violation also. I'm just mentioning that to get the pot

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roiling, and we'll discuss that in greater detail on Senator Erdman's amendment. But I support what Senator Harms is presenting to us. Thank you, Madam President. [LB415]

SENATOR SCHIMEK PRESIDING [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Harms, your light is next. [LB415]

SENATOR HARMS: Thank you very much, Senator Chambers. And this is a friendly amendment, and I see no difficulty with that. And I would like to have further discussion as we get to talk about the bill in more detail, in regard to another study that was done in regard to cell phones. So there's a lot of data available. It's just a matter of, in fact, if we got the right stuff here to...for that discussion. So this is a friendly amendment, and I do accept it. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. Are there any others wishing to speak? Senator Kopplin. [LB415]

SENATOR KOPPLIN: Thank you, Madam President, members of the body. I haven't joined in this discussion of this issue, and I haven't voted for it either. I was glad to hear some of the things I heard this morning from Senator Harms, and I may change my mind on the bill. But I have some concerns. First of all, there is a rural-urban issue in that. In rural Nebraska, kids are driving at 12 years old, and most of you know they are. In urban Nebraska, you can't see that happening. The other thing, if a driver, a young lady with a couple other high school kids in it, are driving, they're not apt to be stopped. If you have three of your big athletes in a fairly new pickup, they're not likely to be stopped. But that goofy little kid with long hair, driving something he can barely afford to have, and it's not much of a vehicle, is going to be stopped. Now, this is secondary. But he can be stopped for crossing the center line, and nobody can prove it one way or another. Or he can be stopped for following too closely, can't prove that he wasn't. So they can stop any time they want, and that's just what does happen. So I had some concerns. But I appreciate the discussion this morning. And Senator Harms, I'll continue to listen. Maybe you'll win me over yet. Thank you very much. [LB415]

SENATOR SCHIMEK: Thank you, Senator Kopplin. Senator Wallman, your light is next. [LB415]

SENATOR WALLMAN: Thank you, Madam President and members of the legislative body. If...I looked, too, at this same chart that Senator Chambers looks at, and truly, if we want to ban cell phones, then I guess it should be for everybody. And why do we pick on teenagers? And I have people, even policemen, tell me, this is another law they have to enforce? Seat belt law, helmet law, telephone law, you're putting burden on there. And I appreciate Senator Kopplin's comment about, who are they going to stop? I

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think Senator Chambers realized there was a person stopped in my district who supposedly was across the center line, and the police stopped this lady--and she happened to be an Air Force officer's wife--because she was of a different color. So are we giving the police more chance to harass youngsters? Goodness sakes, we've all had teen...most of us have had teenagers at one time. I was a teenager. I never had a cell phone, but distractions are everywhere. We're going to make mistakes driving when we're senior citizens, too. And I have a tremendous time, and a lot of my constituents says, what the heck are you in here for, making more bills; we got too many already. And some of these are police officers. We're dealing with meth labs, we're dealing with drug abuse, we're dealing with alcohol problems, far more worse than these cell phones are. And as far as accidents, I've talked to some people, eating in your car probably causes just as many accidents as talking on your cell phone. So we're going to close down all fast-food restaurants? Where are we going next? Don't smoke here, don't smoke there, don't eat in my car. You know, for goodness sakes, folks, let's not put more burden on our police officers. They got a lot of heavy-duty stuff. And I don't think cell phones is high on my priority, and it's not high on the teenagers' in my district, that's for certain. And God love them. I love...you know, I think I'm still in middle school, Madam President. And so I love teenagers. And restrictions? I don't want to see any teenagers get killed. A person got killed by my place, supposedly talking on a cell phone. And it was not a teenager. It was a senior citizen. So let's not put this...and that happens to be in this big blue percentage. Do I talk on my cell phone on the highway? I'm sorry, I do. Does Senator Rogert talk on his cell phone on the highway? He's gone. And I don't know about Senator Chambers. But most of us adults, we're blabbing away on our cell phone. We're either doing business, we're calling somebody. So let's not pick on teenagers here. If our parents, if we think that's a problem with our teenage son or daughter, tell them. Education. Mr. Harms...Senator Harms is involved in education. I think education is the answer to almost everything--parent involvement with your teen. Goodness sakes, they're our future, folks. Let's not make them angry at our politicians at putting more laws and bills on them. And so I'm sorry, I can't support this LB415, Senator Harms. I vote in opposition. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator. Are there others wishing to discuss the floor amendment? Seeing none, Senator Chambers, you're recognized to speak on your amendment. Senator Chambers waives. The question is the adoption of FA62 to the amendment AM901. All in favor say...or, all in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB415]

CLERK: 28 ayes, 0 nays, on adoption of the amendment to the amendment. [LB415]

SENATOR SCHIMEK: The amendment is adopted. We are now back to debate on AM901. Seeing no lights, Senator Harms, you are recognized to close. [LB415]

SENATOR HARMS: I would simply ask you to approve this amendment, AM901, and

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move it into LB415. I think it's the right thing to do. It's a friendly amendment, and it moves us where we want to be. And then we can get to the debate on cell phones. So thank you very much. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. The question is the adoption of AM901 to LB415. All those in favor vote yea; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB415]

CLERK: 27 ayes, 1 nay, Madam President, on the adoption of the amendment. [LB415]

SENATOR SCHIMEK: The amendment is adopted. [LB415]

CLERK: Senator Erdman would move to amend with AM946. (Legislative Journal page 1098.) [LB415]

SENATOR SCHIMEK: Senator Erdman, you are recognized to open on your amendment. [LB415]

SENATOR ERDMAN: Madam President and members of the Legislature, first of all, let me say that on General File, as we were beginning or as we were preparing to debate the amendment that I had previously offered, Senator Harms and Senator Fischer came to me and said, how about if we try the secondary offense idea? I thought that was more preferable, and in light of that, I did support Senator Harms' motion, and ultimately, with the Chambers amendment to be adopted into LB415, I, too, believe that is better public policy for our state. What AM946 does is it places the debate squarely on the issue as to whether or not we believe, and we believe it can be enforced, and we believe it should be law, that children who are operating under a learner's permit, provisional operating permit, should be prohibiting from using wireless...interactive wireless communication devices. My amendment would strike all references to that language in LB415, if adopted. It retains Senator Harms' proposal that the permit provisions are still secondary offense, because there are other issues that were adopted in the bill, in addition to the cell phone provisions. Those would remain as secondary offenses. There were other issues that were offered by the Transportation Committee, dealing with the time line when you turn 16 years of age, and adding some additional time of three months. Those would be retained. This simply puts the debate squarely on the cell phones. One of the things that I think is problematic with this language is that I don't believe that there is a reasonable expectation that it will be enforced. Now, in the course of other activities, it may be able to be enforced. But let me share with you a quote that I found, by Albert Einstein: Nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced. They cannot be enforced. They can be enforced in limited areas, and Senator Harms is going to make strong cases as to why this should be the public policy of this state. The reality is, is that there is no expectation, or there is little expectation that this will actually be

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effective in limiting it. But what it will do is it will give a standard. Senator Lathrop mentioned this in the debate on LB415 on General File. It will give us a standard that this is not the law and you shouldn't do it. Similar to seat belts--you don't have to wear your seat belt in the state of Nebraska, but if you get caught, we're going to give you a ticket if we can prove that you weren't wearing it. There is that expectation of enforcement. I'm concerned that it's not realistic for it to actually happen. I think Senator Chambers' concerns on the adults in our society and the penalties that are not placed on them is a valid concern. Candidly, and I'll be completely up front with you, I would oppose that as well. I would oppose that restriction. I think Senator Wallman's points, while they may be lighthearted, are also on point. In fact, in the last weekend when I was back in the district, I had five town hall meetings and I went to four schools. And obviously, if you ask them whether or not they would like this law to pass with the restriction on cell phones, they're going to say no. Senator Avery's son has shared that with him, and my response to Senator Avery is, well, regardless of what the law is, you're still his parent and you can still tell him no. I'm concerned that as we continue down this path of placing things into law that are commonsense expectations that, candidly, can't be enforced as a primary offense, and become a secondary offense, that what we're doing is saying, well, we're not responsible on our own, we need this to be in law, for justification. If it's not enforceable, it doesn't matter what's in the law. And that is my fundamental concern. So I see there are lights on. I see Senator Harms is standing ready. And as Senator Chambers pointed out he didn't want to get in Harms' way, the only way that this would have been a friendly amendment, had I gotten Senator Friend to offer it. So I am standing in Harms' way. It may not be the first nor the last. But I think this is a fundamental question that we have to decide. I think the questions are, can we expect enforcement? Will it accomplish the goal? If we are going to expect enforcement on those young people, why don't we expect enforcement on the rest of society? I think those are fundamental questions. And to the extent that we believe we can pick on the younger people, or that we can set a standard for them because they may not know any better, again, it comes back to the fact that there are other provisions that should address that. It's called education. Maybe it's called parenting. But I have fundamental concerns. Madam President, how much time do I have? [LB415]

SENATOR SCHIMEK: Five minutes. [LB415]

SENATOR ERDMAN: I would yield my remainder to Senator Harms. [LB415]

SENATOR SCHIMEK: Thank you. Senator Harms. [LB415]

SENATOR HARMS: Madam Chair and colleagues, thank you very much. I do oppose this very strongly. The issue really is about saving teens' lives. And how can you argue the fact, when you see the data, that we're not saving teens' lives? Let's just face it--teens at that age do not have, quite frankly, the ability to handle these multipurpose kinds of things they're involved in, in driving. We're talking about teens that are in the

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process of learning how to drive. We're not talking about adults. As adults, we ought to know better. We're talking about teens that are learning how to drive, and we expect them not to pick up the cell phone and use it? They're going to use it. They use it now. My granddaughter uses it all the time, at 14. They're going to use it. And I think you have to set the standard that says, this is dangerous. We have to set the standard that says, this is wrong, and we want you to follow these laws. Let me give you some other data. In 2006, the Virginia Tech Transportation Institute and the NHTSA released the results of a study of a 100-car driving study, in which the behavior of the drivers, and many of these were young teenagers--and they did a study on 100 vehicles, and they put a camera in those vehicles. Eighty percent of the crashes and 65 percent of the near crashes involved some form of driver inattention within three seconds before the event. And you know what that event was? The use of a cell phone. Don't tell me that cell phones do not save lives. And if this is where this body is, it's a shame, because we have an opportunity to do this. One out of four teenagers are in accidents in Nebraska. We lose 35 to 40 teens a year, and that amount is going to go up as the technology goes up. It is distracting. Other states are moving in this direction. And we need to do everything that we can to save those lives. You know, as an adult, you ought to have the right if you want to use that cell phone. You're old enough to determine whether you can use it or not. You have enough experience on the road. You've driven at night. You've driven through snowstorms. A teen cannot do it. And you're going to continue to see more accidents and more deaths. I can tell you, in Sidney, Nebraska, a young man, about six months ago, or this summer, was killed because he was text-messaging his daughter...I mean, his friend. Killed in a car accident. I think that's going to continue. And if you read some of the other studies, they'll say this is the most underreported accident...or the fault behind the accident, is the use of the cell phone, because most people do not want to admit that. They believe that the data that I have given you, and the other data nationally, is greater. Teens will not admit it, and adults will not admit it. And so I do not accept this amendment, and I would like to hear other debate, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. Senator Harms, your light is on next. So you waive? Senator Erdman. [LB415]

SENATOR ERDMAN: Madam President and members of the Legislature, I guess I know why Senator Chambers didn't want to be in Harms' way. But I listened closely to what Senator Harms said, and I believe firmly that his zeal for this proposal is driving some of those comments that may not be taken literally. Teens don't have the ability to know better. Well, teens know what the MIP laws are, but we still have a problem. And why do we have a problem? Because of enforcement. Why do we have in law that if you're an MIP you can be put in jail? Because in Kearney, the existing law wasn't able to be enforced and the enforcement tools that we gave them weren't sufficient enough to curb the activities in that community. So it was in the law. It still is in the law. We've had to come back and fix it with minor in consumptions and other things. It's not a direct

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analogy, but it's a point to the laws that we pass on young people. They know what the law is. They absolutely do. So do adults. But if the argument is, is that experience is important, I don't see that in this bill. Senator Kopplin points out that younger people in rural Nebraska start driving at an earlier age. They do. I was six. I probably have more experience driving than some of the people my age, but we're all adults, and we're going to paint a broad brush that all adults are competent and all kids aren't. Which one is it? And if we need to do everything that we can to protect these kids, we need to pass a law that says kids under the age of 18 can't drive at all. It would save all 35 of those kids. We're not going to do that, because there's a reasonable expectation of society for certain opportunities, and with certain opportunities comes responsibility. I'm all for that. I absolutely am. Senator Harms, if I believed that this could be enforced, and if I believed that it would be effective, I would probably have a difference of opinion on putting it in this bill. I'll share another quote with you, not that I've had a lot of spare time, but I found a few areas that I think apply to the debate, both here and in other laws that we're debating. "The best government is that which teaches us to govern ourselves."--my good friend Senator Avery helped me with the pronunciation.--Johann Wolfgang von Goethe. Of course, he had some other wild ideas about supremacy and different things of right and wrong regardless of the law. But we're going to constrain his comments here. The best government is that which teaches us to govern ourselves. If that's true, this is not the best government, because we're not teaching people to govern themselves. We're using the law to govern themselves. Senator Harms' granddaughter is 14 years old, if I heard him correctly. He's carrying this bill. That's a great opportunity for that discussion, as a grandparent, as a parent. I'm all for that. But that enforcement principle is real. My concern is, is that we're building an unrealistic expectation that the law will be enforced. And maybe it's only a disagreement between Senator Harms and myself. And if it is, I apologize to the body. And if it is, it will be done here shortly. Senator Harms will have his chance to further beat up on me. I don't have my light on. I have my chance to close. We'll see where we end up. But I believe we should have a reasonable expectation that the law can be enforced and that its enforcement provisions will be effective in accomplishing the goal. I'm not there. [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR ERDMAN: I think...I'll reserve. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Erdman. (Visitors introduced.) Senator Harms, your light is next in line. [LB415]

SENATOR HARMS: Madam Chairman, thank you very much, colleagues. I guess when we look at this, actually it can be enforced. And the very fact is that if you have a cell phone and you're in an accident, it's very easy for us to check to see if that cell phone was actually used in this accident, because they can tell whether you've been on your cell phone and the time you were on the cell phone by simply asking...law enforcement,

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by simply pursuing those...that particular issue. So Senator Erdman, there is a way to enforce it. And in some cases, it has been enforced across the country. That's how we've gotten some of this data and some of the statistics, because law enforcement has done that. And the fact that you have brought up, on several occasions in your conversation, that we have to be able to govern ourselves, well, that's a great concept, but it's very difficult to do it without laws. And that's the heart of democracy, it's the heart of our freedom, quite frankly, is having laws that governs us, that sets the stage, sets the standards that we expect you to follow, myself, and teenagers, and the rest of the country. So that's what, to me, this is about. I think that what I'm trying to do is to save teens' lives. What I'm trying to do is to make sure that teens understand that this is dangerous, and that many kids who are teenagers, who are very young, are not really emotionally prepared to address the issue of an automobile, a car, and piling in with a number of other teens in their automobile. They cannot handle it. And I think it's time that we set the standards. And talking about enforcement, there is no issue about enforcement here as far as I'm concerned, because if they are in an accident, we can tell that they've been in that accident. And so I'm sure that the other side of this is...and one of the comments that Senator Erdman brought up is, it's parental responsibility. You know what? I wish that was true, because so many parents in this country pay no attention to their kids. That's the tragedy here. If what Senator Erdman said...and I wish that it was true, that parents would step up and take an interest in their kids, and talk to them about what they think is appropriate in that automobile. The family circle is not what it used to be, not as when I grew up. And I wish families were that way. I wish they would take an interest in their children and would actually spend time with them. And there are other issues that you can correct this with, that tells what you expect. You can actually enter into a contract with your own son and your own daughter and your own teenager, and I've looked at some of those, that simply show what you expect of them as a teenager and that automobile, and what happens to you if you break those laws, and here are the penalties that you have. There are ways that you can do this. There are ways that we can address the issue, but you got to have family concern. And I'm here to tell you, in the majority of this country and in Nebraska, we don't have that. That circle has broken down. So because it's broken down and because a teen cannot handle these kinds of issues, we need to set the standard that says, this is what we expect from you, this is where we're going to go, and this is why we want to be there, because, quite frankly, as parents, many parents, they're not parenting. And I hate to say that, but it's true. And I hate to have this come into the discussion about, this should be...allow us to be a parent. I'd love to have you be a parent if you'd just do it. Many people are not doing that. And Madam President, I just cannot accept this amendment. So thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. We are continuing discussion on AM946. The list of speakers are Senators Carlson, Aguilar, Lathrop, Kruse, Pankonin, and Chambers. Senator Carlson, you are recognized to speak. [LB415]

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SENATOR CARLSON: Madam President and members of the Legislature, I'd like to address a couple of questions to Senator Erdman. [LB415]

SENATOR SCHIMEK: Senator Erdman, would you yield to some questions? [LB415]

SENATOR ERDMAN: I would. [LB415]

SENATOR CARLSON: Senator Erdman, earlier today, you used the term "humble opinion." What does that mean? [LB415]

SENATOR ERDMAN: I believe it's one man's opinion, Senator Carlson, and I'm humble enough to recognize that it may not be right. [LB415]

SENATOR CARLSON: Okay, thank you. You mentioned earlier that MIP can't be enforced, and I don't know if you meant anytime or all of the time. [LB415]

SENATOR ERDMAN: Is that a question? [LB415]

SENATOR CARLSON: Yes. [LB415]

SENATOR ERDMAN: Senator Carlson, I believe what I was trying to state was that even though the law is in place, we still have young people who are violating the law. And the reason why young people do not violate the law in the future, is they see it being enforced. And so if I wasn't clear, that was my intent. I believe the law is being enforced across the state. It's not being enforced consistently. And the reason why there are additional requirements, such as the situations that were happening at UNK, are in there because of that. [LB415]

SENATOR CARLSON: Okay. And I agree with you. Do you think that the law against minor in possession has any preventive value? [LB415]

SENATOR ERDMAN: To the extent that it can be enforced, yes. [LB415]

SENATOR CARLSON: Okay. [LB415]

SENATOR ERDMAN: And I would generally argue, just to...not to--and I can give you more time if you'd like--I generally think that it can be perceived as a deterrent on its own. [LB415]

SENATOR CARLSON: Okay. What if we had no law at all about minor in possession? What do you think the results would be? [LB415]

SENATOR ERDMAN: Oh, I think it would be spotty, at best, as far as the results,

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depending upon the communities of influence. There are organizations out there, regardless of the law, that assist in helping individuals with alternatives to those decisions that they would make. Again, the law itself is appropriate. To the extent that it can be enforced consistently, maximizes its benefit. [LB415]

SENATOR CARLSON: Okay. And I appreciate those comments, because you're really, I believe, saying that without any law at all, there's a good chance that the results would be worse than what they are today. [LB415]

SENATOR ERDMAN: Well, Senator Carlson, I've traveled to places like Germany, where you can drink at the age of 12. Now, I'm not advocating that, but that is based on responsibility, and there are different standards in society towards those young people, regardless of what the law is. And so the law itself isn't the trump card, if you will. But it does balance, I think, what Senator Harms has said, and that is, experience, as well as the influence of society and the community, have to all be a part of this discussion. [LB415]

SENATOR CARLSON: Okay. Thank you, Senator Erdman. I appreciate the comments just made previously by Senator Harms concerning responsibility and not being taught in the family the way they should be. And because of that, we're faced with some more difficult issues than we would otherwise be. I have additional comments on that, that I'll save for another day and another issue. But I do support LB415. I am opposed to AM946. And I realize in taking this stand, there's a risk to me, because if we pass this law, what if the law proves to have a measurable positive effect on reducing accidents among teenagers, and we determine it's pretty well because of not using cell phones? I like to use my cell phone. Then I might be faced with taking a freedom away from me. But we have to look at what's best for society, what's best for all Nebraskans, and I'm willing to take that risk. Thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Carlson. Senator Aguilar, you're next to speak. [LB415]

SENATOR AGUILAR: Thank you, Madam President and members. I rise in opposition to the Erdman amendment. One of the points I want to make is, I don't think Senator Erdman has been a parent long enough to be giving the kind of advice he's giving right now. Although he does a very good job with the youngster that he does have, that youngster is not old enough to take issue with him and ask him questions like, why should I have to do this, Dad, because the law doesn't say I have to. You might want to consider that a little bit. Another point you made, Senator Erdman, was, you talked about consistency in law. If I remember right, you were a supporter of not repealing the death penalty last week. That's one of those laws that is about as inconsistent as you can get, in my estimation, yet still some people tend to think that's the right thing to do. One other comment I'd like to make is on something Senator Wallman said. Senator

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Wallman said we shouldn't make our teenagers mad. I personally think we have a bigger responsibility in that issue, and that is, let's not make our teenagers dead. Thank you, Madam President. I'd give any more time that I have to Senator Harms, if he'd like it. [LB415]

SENATOR SCHIMEK: Thank you, Senator Aguilar. Senator Harms, would you like the time? [LB415]

SENATOR HARMS: Thank you. Yes, thank you, Madam President. When we look at this issue, let me give you some more data that might help you better understand this. The average 16-year-old driver drives 7,000 miles annually, okay? The adult drives over 16,000 miles, and represent fewer percentage of crashes. Our kids are driving less miles, they're having greater numbers of accidents. And when you look at the data that I've given you earlier, the highest percentage of these are being caused by...you know, at least 37 percent of our accidents are being caused by the use of cell phone. What's wrong with this picture, folks? What's wrong with this? It all boils down to the same thing I've said before, is that teens are unable to handle this kind of an environment. We haven't even begun to see what technology is going to bring forward yet. Wait till the iPods come on deck where you can communicate with the iPod. Kids download in their automobiles with iPods, and iPod is not even in here; iPods, and eventually you'll be able to communicate in an iPod and text message out of iPods. We have not yet seen the real true issues that we're going to have with technology. When nanotechnology comes into reality, it is changing our...it is now changing how we do business, it's changing the world, it's changing the use of cell phones, it will change the use of BlackBerrys, it will change the use...we'll have greater access to technology in those automobiles. And what we're talking about right here is not long-term. We're talking about teens that are learning how to drive. They're not going to keep this for the rest of their life. They're not going to do it beyond a certain age. So we're talking about the very critical stage of trying to keep them alive until they mature enough and have the experience enough to be able to drive a car. That's what this is about. That's what we're after. And I can't believe that we would have this discussion on this floor that we don't have any interest in saving teens' lives, when we see the data, we understand the data. As an adult, you ought to know better. As a teen, you're just learning. You don't have parental support. You don't have parents, in many cases, telling you that this is what we expect from you. We give you your driver's license, give you the keys, and say, don't bother me, until they hear the knock on the door and there's somebody there in a uniform that says, Mr. and Mrs. Harms, I'm sorry, your son was killed in an accident. [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR HARMS: Man, what a horrible experience that would be. And we could fix some of that. It's not the solution to everything, but it's a start, and that's what we're

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after. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. Senator Lathrop, you're recognized to speak. [LB415]

SENATOR LATHROP: Thank you, Madam President. I rise in opposition to the Erdman amendment, and in support of LB415. Just a couple of observations from me, if I may. The one thing that I've learned over 25 years of doing what I do outside of this place is that nobody ever thinks these things are going to happen to them, nobody ever thinks this is going to happen to their family. And yet, we do. We know. Senator Harms has given us the data. We know that it's going to happen, and we know that if we pass the law today, LB415, that we can prevent some injuries, we can prevent some deaths, and we can prevent some accidents. And if you talk to our pages here, they probably all say, it will never happen to me. But statistically, it probably will. And so ultimately, we are the people in charge of the public safety and safety on the roads, and if we can improve public safety with this bill, I think we should do it. The other observation I'd make is the notion that the only laws we should pass are those that are enforceable, that the police can stop you on a primary offense. And after we addressed inheritance taxes the other day, I received a letter from a lawyer that practices in Omaha, who said, do you know that probably half of the inheritance tax returns that should be filed never are filed, and that we need to put teeth into that bill? We don't repeal inheritance taxes altogether because some people don't file that return. Indeed, our entire income tax is based on the honor system. And I think what we're asking people to do is to, and what we have every right to expect, is that people will observe the law, even if a cop can't pull you over for a violation. And so the fact that this is a secondary offense rather than a primary offense shouldn't stop us at all or slow us down. And for that reason, I would ask you to oppose the Erdman amendment and support LB415. Thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Lathrop. Mr. Clerk, are there items for the record? [LB415]

ASSISTANT CLERK: Madam President, there are. The bills that were read on Final Reading this morning (re LB537, LB636, and LB677) were presented to the Governor at 9:32 a.m. I have appointments to the Community Corrections Council, the Accountability and Disclosure Commission. A report from Natural Resources regarding certain gubernatorial appointments. New A bills. (Read LB31A and LB82A by title for the first time.) (Legislative Journal pages 1098-1100.) [LB537 LB636 LB677 LB31A LB82A]

SENATOR SCHIMEK: Thank you, Mr. Clerk. The Chair recognizes Senator Kruse. [LB415]

SENATOR KRUSE: Thank you, Madam Chair and colleagues. I stand in opposition to the amendment. And I find the discussion interesting; as one who has spent a lifetime

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trying to teach and train teens to do the right thing, it's very interesting. And in all of it, we find our own frustration. Senator Erdman says that teens can decide without the law. Well, not really. Teens need some guidance in deciding from somebody. And as has been pointed out, a lot of the teens don't have much guidance except for us. A law states a consensus. A law doesn't initiate anything. We aren't headlights around here; we're taillights. And when the public recognizes that something needs to be changed, why, we change it, and pound the pulpit and act like we did something big. But we're stating a consensus. It is a teacher. And without that consensus of society, some parents would be unable, frankly, to make any kind of teaching out of this for their own kids. It's also a teacher of parents. A lot of parents haven't thought about this, and won't think about it until we announce it as a danger to their child. It is also said that this is not enforceable. Well, secondary is enforceable, and especially on our actions. I detest seat belts. I don't like them. I will try to avoid them in all ways, but I keep snapping it because it is a secondary offense. I have a little bell on the recent purchase of a car that is annoying, and if it weren't for secondary offense, I'd figure out a way to discombobulate it. It was also said that MIP is something that kids obey just automatically. No, they don't, because it has too many loopholes. I'll be making this point on my own bill before too long, I hope. But the problem with MIP is because we have not declared as a society that there is a problem with teen drinking. It is a huge problem. It is a huge problem. It is costing us real dollars, if you don't care about people, but it's also permanent brain damage for these kids that are supposed to go out there and be our future economy. It's a huge problem. But we have so many loopholes in that, that many a teenager so looped that he can hardly walk around is not arrestable at a party. And you know, again, we intend to correct this. But the teens know where the loopholes are. The teens do pay attention to that. And when we do not say something, that vacuum speaks loudly. If we do say something, I think we're communicating in an effective way. I thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Pankonin, you are next in line to speak. [LB415]

SENATOR PANKONIN: Thank you, Madam President and members of the body. A lot of good discussion this morning, and comments. Mine aren't going to be too much different. But I have a sister who lives here in Lincoln who has a young teen and a preteen, and this is the bill that she has told me that she'd like to see passed the most. She's girding for those battles to come with young drivers, and she said, this is a tool. You know, we're going to have our own rules, but this tool reinforces what we're trying to do as parents. And I know what we will be discussing, and it's going to help to say, it's the law, and there's reasons why, when you're talking and discussing with those young people. My colleague, Senator Erdman, is a very bright young man who has a beautiful daughter by the name of Grace, who I've enjoyed meeting down here. And someday he might even like this bill, and realize that it's...you know, he's a very brilliant young man, but he's young, and he hasn't raised kids through the teenage years yet.

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And I know he and his wife will do an excellent job of parenting, but little Grace may challenge him at some point down the road, and he might even like this. But I stand opposed to his amendment, and for the bill. And maybe 15 years from now we'll be able to discuss this with Senator Erdman. Thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Pankonin. Senator Chambers, you're recognized to speak. [LB415]

SENATOR CHAMBERS: Madam President, the first thing I want to do is wipe out all this conversation directed at Senator Erdman because he's young. I had talked about a situation with old Job in the New (sic--Old) Testament. And when he was being sorely tried by God, pursuant to a wager that God and the Devil made without letting Job in on it, the young man sat listening to all these older guys talk and condemn Job and explain why this was happening; then the young man finally spoke up and said he thought that because they were older they'd be wiser, but there's not always wisdom that comes with age, there's not always knowledge with gray hairs, which is true. And yet, what he said came closer to reflecting what the real situation was, and ought to have been, than what these old people running around here saying the same thing for so many years, therefore, they thought it automatically was true. A lot of older people have had children and have not done a good job. Priests have had no children, if they've been chaste as they should be, yet they advise people on marriage and children, so those with no experience whatsoever are doing all that yakety-yakking. But we have a situation here where Senator Erdman is as much a lawmaker as any of the rest of us. And although I disagree with him on a lot of things, I never discount what he says simply because he's young. I have four grown children. My daughter has a high-school-aged son. When I was rearing my children, my wife and I, the law is not what came into what we instructed them on; it was what we thought they ought to do. And I never was one who told my child, even when they were little toddlers, do this because I'm your daddy and I said do it. If I haven't got a reason, I don't tell my children to do anything. And if I have a reason, I owe it to them to explain. I always wanted my children to feel like I didn't own them like a cow, a pig, chicken, or a table, or a chair. My responsibility was to get them safely from the age where they found themselves under my dominance to the point where they could be on their own. And I even told my daughter, which troubled my wife, that I'm not going to spy on you, I'm not going to follow you, I'm not going to put a handcuff on my wrist, a handcuff on your wrist, and a chain between the two, so I can drag you around and see where you're going and who you're talking to. You will find a way to outsmart me. I don't want you to feel you have to outsmart me. I'm going to tell you what I think is best for you and why I think it's that way. Then I have to trust you, because I can't watch you all the time, anyway. But I want you to know this: If you stumble and fall, I'm the first one you ought to come to, because I'm not going to throw you away and I'm not going to call you a lot of names, because there are enough other people out there doing that. I'm the one who should be your refuge in a time of trouble. I try to tell you what will keep you out of trouble. And here's what I would tell my children, because I believed in being

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honest. Parents tell their children things because they think that's what the children ought to know and what they ought to do. But when I was a child, I didn't think my parents knew what they were talking about all the time. But I was an obedient child. I did things just because they told me, because it was easier to do it than not to do it. But when I wasn't where they could see me, I did what I wanted to do. On this bill, I won't have enough time to say what I want to say on it. But Senator Harms said it would be a terrible thing to have a knock on your door and somebody in uniform say your son was killed. But here's what I added to that story right away--and the one in the other car was on a cell phone at the time. We can't conclude that the child who was killed was on the cell phone. There was a man, I don't remember if he was a lawyer or what, but a woman was driving down the interstate, maybe two or three years ago, she dropped her cell phone, she was feeling for it, she went across the median, and killed this guy. I think his last name may have been Fogerty. Both of them were grown. I drive behind adults all the time... [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR CHAMBERS: ...who are on the cell phone, they miss the light, either going too soon before the light which was red changes to green, or they pause like they're going to stop because the light has switched to red, then they have a second thought and decide to shoot through it. You ought to go where the greatest amount of problem is, if cell phones constitute the problem. I'm not going to have the time to say all I want to say, so I'll just stop there and then turn on my light. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Fulton, you are next, followed by Senators Howard, Avery, Dubas, and Chambers. [LB415]

SENATOR FULTON: Thank you, Madam President. I don't think I will support AM946, but I'd like to thank Senator Erdman for introducing it, because this was something, when I saw it on the agenda, I thought was a slam-dunk, that I'd already thought through the potential positions that could be adopted on...for or against the bill, and I thought, well, I'm going to go ahead and go through with it. But this brings it back to the mind to think through it. And watching this debate occur, this is really an exciting part of what the Legislature is about. That being said, the question of enforceability is one that's worthy of consideration. It ought to be a concern. If there is to be a system of crime and punishment, then the punishment needs to...it needs to reasonably be assumed that it can be carried out. So there is...that's a legitimate concern. But there is also an element of law which I have not heard addressed yet this morning, and I think that it ought to be addressed, and that is the formative power of law. When a just society puts forward a law, that law forms the society and moves the society to avoid that which is bad, and in some cases, usually in tax law, to do that which we see as good. So there's a formative power of law. I can communicate this by way of analogy. My children, they're young,

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same...I'm in the same boat as Senator Erdman. They dislike greatly their car seats that they have to sit in. And they'll complain and they'll ask, Dad, why do we have to sit in a car seat? You don't have a car seat. I have a very clever eight...almost eight-year-old. And I tell them, well, Thomas, that's the law. You are supposed to sit in a car seat. At that stage in his development, he's still trying to understand what's right and wrong. And sometimes dad's word isn't good enough, but I can tell you, when we talk about the law, he reacts to it. I don't know if that's just something he's been brought up with. I haven't done that purposefully. But I submit to you that that's the way all human beings react to the law. If we know something is against the law, then we think twice about transgressing that law. So I submit that to you, because the law does have a formative power. If that's true, which I believe it is true, then it follows that there will be teens who will not use their cell phones, in the event this bill becomes law...or, this amendment is defeated and the bill moves forward. There will be teens who won't use their cell phones while driving. Therefore, there will be teens who will be saved as a result of this law. So that is the counter...or, another aspect of whether or not this law should move forward. Yes, enforceability is a matter that should be brought into prudential judgment, but there is also the element of law's formative power. And in my opinion, that this has moved to a secondary offense by way of amendatory language, and that occurred largely on General File, but now we've moved this law down to the level of the second offense, a secondary offense, in my opinion, the enforceability is outweighed by the...the formative power of law outweighs the questions of enforceability. So I feel it's important to bring that element into this discussion. Enforceability certainly should be part of our concern, but so too should the formative power of law, that which we are communicating to our citizens as a society. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Fulton. Senator Howard, you're recognized next. [LB415]

SENATOR HOWARD: Thank you, Madam President--it's nice to be able to say that (laugh)--and members of the body. The last auto accident that I was involved in, fortunately it's been a number of years ago, I was stopped at a construction intersection on a street, and I was rear-ended by a Ford 150 that had been rear-ended by a car driven by an adolescent boy who had been on his cell phone. And he got out of the car and came to me. The individual in the truck was injured and wasn't able to talk. The rescue squad had to be called. But he came up to me and he was very apologetic. And he said, I didn't intend to do that, I didn't intend to hit you, I didn't know the traffic had stopped. Well, one of the difficulties with being an adolescent, or one of the...(laugh) sometimes possibly an advantage, is you think you can handle everything, you think you can do it all, you think you're in control of the car, you can talk on the phone, you can handle any distraction. But it's just not true. I think we have to put rules in place that enforce our expectations. We expect teens to be attentive to the road. And I'm not limiting that to teens, but I'm saying especially, as a parent, we expect our teens to concentrate on the task of focusing on driving. They're new to the experience, and they

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have a lot to learn, frankly. I raised two daughters and a foster child. They, too, thought they could handle everything on the road, that just by reaching the age where they could drive, they were good drivers. And I insisted that all of them go through driver's ed through their school, and also I paid for another driver's ed course because I felt it was that important. I think this is a good law. I think this is a bad amendment. And I thank Senator Harms for bringing this in. Thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Howard. Senator Avery, you're recognized to speak. [LB415]

SENATOR AVERY: Thank you, Madam President. I'm concerned about this amendment, because if we approve it, that means we have pretty much stripped all the things out of Senator Harms' bill that made any sense. The committee amendment, I thought, was an appropriate one. I do not like this one. Cell phone use while driving can cause a significant loss of situational awareness. That is to say, your cognitive skills are affected. The physical demands of operating a cell phone can be dangerous, because of the inattentiveness that comes with that. Cell phone use does contribute to a reduced awareness of traffic movement around drivers. And my observation of young drivers is that they already have enough distractions and lack of awareness of traffic movements--loud music in the car, for example, other teenagers jumping around and making noise and distracting. One study was conducted last year by the Virginia Tech Transportation Institute that found that nearly 80 percent of crashes involve some form of driver inattention within three seconds before the crash occurred. And they found that the most common distraction was the use of cell phones. It seems to me that we don't want to pass this amendment, given those sorts of findings. Most of you know that I have a young son who is now learning to drive. I've already observed some of his driving tendencies I believe this legislation might help. One thing I've also observed, and Senator Fulton was mentioning this, is that he seems to be more impressed with the laws that police enforce than he is with the rules that he and his mother and I enforce. We have, as a consequence, decided on a driver's contract, which I drafted with his mother's help, and we're going to require him to sign that contract, and it will be binding, because as I have told him, driving is not a right; driving is a privilege, and privileges carry responsibilities. I see this legislation as adding some legal backing to the efforts that his mother and I are making to compel him to do the right thing when he's driving. Does that mean that I don't have control of my son? He's 15, and as all of you know, 15-year-olds like to push back against parental authority. So I'm going to support the main bill, and I'm going to have to vote against AM946. Thank you. [LB415]

SENATOR SCHIMEK: Thank you, Senator Avery. Senator Dubas, you're next in line to speak. [LB415]

SENATOR DUBAS: Thank you, Madam President and members of the body. I rise in opposition to this amendment and support of Senator Harms' bill. My husband's family

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has known the tragedy of that knock on the door, and we did lose...my husband lost his brother, a teenager. It wasn't due to his cell phone use. It was due to that perception that every teen has of being totally invincible, and anything that we can do to create some parameters, to create some boundaries, to rein in that sense of invincibility I think is an appropriate thing for us to do for our young people. And so again, I...as a mother of four, I raised them through the teen years, my husband and I collectively held our breath for many years every time those children pulled out of the yard. And so had I had something like this to...we had those talks with our kids, but had I had a law like this to also use as a little extra incentive, I would have been very appreciative of that. I again rise in opposition to this amendment, support Senator Harms' bill, and would like to yield the rest of my time to Senator Harms. [LB415]

SENATOR SCHIMEK: Senator Harms, you have about four minutes. [LB415]

SENATOR HARMS: Thank you. Thank you, Madam President. Thank you, Senator Dubas. Senator Erdman, would you yield for a question? [LB415]

SENATOR SCHIMEK: Senator Erdman, would you yield? [LB415]

SENATOR ERDMAN: I would. [LB415]

SENATOR HARMS: Senator Erdman, do you...you understand the current provisional operational permit law, right? [LB415]

SENATOR ERDMAN: As it's been explained to me, Senator Harms. I was actually just barely older than that provision when it was applied into law. [LB415]

SENATOR HARMS: But as you've studied that, do you understand that? [LB415]

SENATOR ERDMAN: I do. It's a graduated system. [LB415]

SENATOR HARMS: Thank you. Is that law enforceable, that portion of the law? Is that enforceable? [LB415]

SENATOR ERDMAN: I think it's enforceable in the conduct of other activities, as you are now stating the law is under your amendment. I believe it's enforceable as a secondary offense currently, in application, and I believe your amendment reflects that, in reality. [LB415]

SENATOR HARMS: So what's the difference, Senator, in...? [LB415]

SENATOR ERDMAN: What is the difference between the primary and secondary enforcement, or what is the difference between the provisional permit and the cell

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phones? [LB415]

SENATOR HARMS: What I'm saying to you, what is the difference with LB415 and the rest of that bill and the cell phones? What is the difference there? [LB415]

SENATOR ERDMAN: I think they're similar, Senator Harms. And candidly, you and I can disagree as to whether it needs to be in the law. That's where the fundamental disagreement is. Candidly, I take exception with your comment that I have no interest in saving teens' lives. You made that comment. I take offense to that, because that is not my intent here. But I think you have a strong point, and I hope you continue to argue it. I think you can make the argument and convince the Legislature. My concern, my concern fundamentally comes back to the role of law. Senator Fulton, Senator Lathrop, and others have made a strong point that it is a tool, but my concern is that it becomes the only tool. That's one of my concerns. But Senator Harms, you're carrying the day in the argument, and I applaud you at this point. I have some other comments later, but it is your time. [LB415]

SENATOR HARMS: Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. Senator Chambers, your light is next. [LB415]

SENATOR CHAMBERS: Madam President, I haven't heard any argument that was compelling. People are emotional about individuals who were lost to accidents, and I can understand that, but that's beside the point of what we're talking about here. The one specific accident did not involve cell phones. So if somebody fell off a roof and died, the grief would be the same. If the person had ALS and wound up dying, it would be the same. It doesn't matter what the cause of death is, but what we're looking at here is a state policy. Senator Fulton started his comments with the comment, "a just society." A just society takes the time to study its children, remember what they were like when they were children, and then be fair; not say, I don't like what they're doing so there ought to be a law. We don't want that with us. You all in this Legislature in this state are the ones who talk about too much governmental interference. Then, because parents are lax or haven't done their job, they say, we want the state to do what the parents ought to do. I'm going to tell you the trouble with a lot of parents now, and the problem with their children. Although I was grown when my children were little, I grew up with my children. Here's what I mean. When they couldn't talk, I babbled with them. When they crawled on the floor, I crawled on the floor. When I'd use a broom for a horse and run around the room and whinny like a horse--they didn't know whether that was what a horse really did or not--they got a kick out of that. I took them for bus rides, I played with them out in the yard, I told them what birds were, and squirrels, and taught them that they shouldn't hurt any living thing or anything smaller than they, that my sons should not hit girls, that my daughter should not pick fights with boys or anybody else. That's

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not to say that they went along with everything that I taught them. But they never saw me as the one who was going to come home from work, and, uh-oh, here comes daddy, he's going to punish somebody. In fact, my wife used to say, Ernie, they like you so much because you're not with them all day. I said, no, they like me because they know the kind of man that I am. They would cry when I went to work, and just run down the street when I'd come home. But that's because I didn't wait till they were 10 or 11, then I'm bigger and stronger and I can make them do this or punish them if they didn't. I didn't whip my children. You know what bothered them more than anything else? If something was told to me by their mother that they had done. I would look at them, and we would just look at each other, and then pretty soon they would drop their little head, tears would come down their little cheeks, and then I would hug them, and I'd say, look, I know that you feel bad. You feel bad because you disappointed me, don't you? Uh-huh. Well, your mother feels bad because you disappointed her. So think about how you feel when I look at you like that, and then realize that your mother feels worse than that when you don't do what she tells you to do. She feeds you, she washes your clothes, she tells me to take you to the doctor, so she's looking out for you. Now, why are you going to do things to make her sad? That's the way I dealt with my children. I wanted them to understand. When my children were growing up, I got a lot of threats, from the police and everybody else. People here talk about not knowing if their children would grow up. I didn't know if I'd be around till my children grew up. So I wanted them to have a memory and a recollection of their and the things he told them and tried to explain to them. Then if I no longer was with them, they might remember some things that could help them through life. Fortunately, for me anyway, I've survived... [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR CHAMBERS: ...far into adulthood, which some people who know me now say, unfortunately. But on this bill, what would be the excuse of this 63 percent of people who cause crashes, and cell phones contribute? If the cell phone is what we're after, go after the cell phone. And there's a category of teenagers who can legally drive, and this bill won't touch: when you can get a driver's license at 17, then from 17 to 19, you can use a cell phone, and this doesn't affect you. You ought to look at the instrumentality that is involved in the accidents. And if the cell phone is it, apply this law, this principle of safety, this formative law, to use Senator Fulton's words, to let society know that driving and cell phones are not compatible when you're concerned about safety. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Harms, your light is next. [LB415]

SENATOR HARMS: Madam President and colleagues. Senator Chambers, would you yield for just a question? Then we'll move this thing on, okay? [LB415]

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SENATOR SCHIMEK: Senator Chambers? [LB415]

SENATOR CHAMBERS: Yes, I'll yield, and he hopes we'll move this thing on. (Laugh)
[LB415]

SENATOR HARMS: Okay, we are. Would you define parental skills for me? [LB415]

SENATOR CHAMBERS: Would I define what? [LB415]

SENATOR HARMS: Parental skills? [LB415]

SENATOR CHAMBERS: Well, I can't define them, but I know them when I see them, and I know them when I apply them. [LB415]

SENATOR HARMS: But would you define it? [LB415]

SENATOR CHAMBERS: Well, I couldn't define them. First of all, parental skills are something like religion. To give a broad definition, you could say religion is the relationship between a person and whatever he or she worships. So parental skills would have to do with the relationship between a parent and a child, and the skill comes in when you can treat that child and deal with the child in such a way as to help that child grow, learn the things that are necessary to be known, and succeed in life, even though they might disagree with or ignore all of them. [LB415]

SENATOR HARMS: Thank you. The very thing that he has discussed on parenting skills and being a good parent, it's evident, Senator Chambers, what you did with your children was the mark of a good parent. Unfortunately, that's not true throughout the state of Nebraska. It's not true with so many parents. And that's why our children go astray, that's why they'll not have the leadership, and that's why they will not have the guidance when it comes to automobiles. You set the stages early with your child. We've talked about early intervention in this legislative body and in committees. That's what this is about: having a good relationship with your children and setting the stages. But so many parents do not have that, and that's why it's so necessary to do this. And Madam Chairman, I would appreciate if we could see if there's no other lights, let Senator Erdman see if we can close this down. [LB415]

SENATOR SCHIMEK: Thank you, Senator Harms. There is another light. Senator Chambers, you're recognized to speak. [LB415]

SENATOR CHAMBERS: (Laugh) Thank you. Madam Chairman, if that would have worked, next time I'd have a bill I'd say, Madam Chairman, let's just close this thing down so I can move my bill. (Laughter) Members of the Legislature, I'm not going to offer any amendments to this bill, or unduly delay it, but we're compiling a record here.

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When you talk about laws that are desirable but unenforceable, look at prohibition. That made millionaires out of bootleggers and organized crime. And even when selling and consuming liquor became legal again, there still were people who operated outside the law, who were bootleggers, who were moonshiners, who sold to minors, and all of these things. So even when you have a law, it's not going to be complied with by everybody, and we know that. But when a law is observed more in the breach than in the obedience, it's a bad law and you get rid of it. That's why they got rid of prohibition. Yesterday, when we were talking about children, all of you all who are speaking so strongly for this bill now and against Senator Erdman's amendment, talk about safety of children and for children, and yet you went along with letting the political subdivisions, the government, expose these children to harm and not be responsible. This is hypocrisy, what you're doing today. It is inconsistent, it is inexcusable, and what you did yesterday was immoral and unconscionable. But you thought more of the political subdivisions. And you all, contrary... Senator Erdman made reference to what Senator Harms said, and I wrote his words down: You don't have an interest to save teens' lives. We do. but you all don't have an interest in protecting their safety. And now you're going to talk about how parents are not responsible. Well, there might be irresponsible parents who let their children go to these dangerous activities provided by the political subdivisions, but you don't even want a sign posted to warn the children and their parents. Listen to the hypocrites today: We're going to save lives. And what did you do yesterday, all of you? You ought to be ashamed of yourself, but you're not, because your boss is the political subdivision, and you are following the politically expedient path, yesterday and today, and you'll do it forever while you're in this Legislature. Your mantra, except you'll use different words, is that of George Wallace: Segregation yesterday, segregation today, segregation tomorrow, segregation forever. And he stuck by what he said, but you all don't. You have adjustable morals. You have spandex morals. When you have something where people are watching you, then you grab it and hold on real tight because you want to help these political subdivisions. But then when it comes to (inaudible) something else, the spandex expands, and your conscience becomes like Teflon, and nothing sticks. How can you reconcile what you're talking about today with what you did yesterday? Those children are in danger every time they go to that facility, and you don't even want a sign posted. And now you're up here preaching--that's what it amounts to--about how they can't use these cell phones because of the problems. And then when we get statistics, adults are the ones causing the most accidents with the cell phones. But you won't touch the adults, because you're afraid. They can stand up to you. They have political clout. They have representation. And that's why you jump on the children. They are easy, vulnerable targets. And that's why you turned your back on them yesterday and gave the back of your hand to them, because the political subdivisions... [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR CHAMBERS: ...are the ones that you care about. Madam President, what

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did you tell me? [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR CHAMBERS: Thank you. If any of you all saw Jaws, the first time that man on that boat saw that shark come up with his mouth open and the lips pulled back and those teeth going forward, the first thing he said was, we're going to need a bigger boat. What I need is more time, which I don't have. But I've tried to make my point. And when you all bring up these hypocritical bills and behave in the hypocritical fashion you are today, I'm going to rub it in your face, because you were wrong, wrong, wrong, and you know it. But I'm going to remind you. And I can't wait for Senator Howard to bring us something. Senator Hansen got under the wire. If I hadn't made this deal with Senator Harms before, this bill would not go anywhere. But a deal is a deal. The promise, having been made, must be kept. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. We are on discussion of AM946. I see no further lights. Senator Erdman, would you like to close on your amendment? [LB415]

SENATOR ERDMAN: Madam President, I would. Members of the Legislature, the longer I'm here, the older I get. (Laughter, Applause) Well, if you want to clap about something, my birthday is on Saturday, so you can clap about that. But that's not why I brought that up. Those of you that have made valid points about being a parent, point well taken. I will not return the favor on the mike. Senator Chambers used the analogy of, or used the definition of pornography that the Supreme Court has given, when they...one of the justices said, when they see it they'll know what it is, but couldn't define it. He used that to make an analogy or reference to what parenting skills are. It may have fit, but probably not a good analogy there, but it's somewhat true. When you see good parenting, you know it. And if you're a good parent and you see how your kids have been raised and the things that they've done, you know that, as well. In the same sense, when you see a good law, you know it, as well. You know that it accomplishes a goal. If you fundamentally agree with Senator Harms that you need more government to accomplish it, I can't argue out of that position. It's a philosophical disagreement about the role of government and where that line should be drawn. I cannot argue with you about that. It's my understanding that Senator Aguilar has never broken his arm, but I bet if you asked Senator Aguilar if that hurt, he'd probably tell you, yes. And how does he know that? It doesn't hurt, Senator Aguilar? Senator Chambers will be down shortly. (Laughter) You don't have to break your arm to know that it hurts. I've never seen the wind--I've seen the effects of the wind--but I can see the implications of it. Just because I'm a young Nebraskan--and in great respect to the comments from Senator Chambers--doesn't mean that I don't know what I'm talking about. I remember standing on the floor of this Legislature when one of my former colleagues stood up and said, I hope that your mom is videotaping your rewrite of the state budget. I took offense to

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that. But if you want to vote against this amendment, fire away. Vote against it because you think it's the wrong public policy. But I think there's a lot to be learned this morning. We do have young people in the state of Nebraska that deserve more credit than they're receiving. I think that's a fundamental statement. There are also young people in this state that need more accountability than they're receiving. But one of the things that I tell young people when I visit with them--and I did it last week, and I did it the time before when I was home visiting with students--is I tell them, don't let others look down on you because you are young. The fundamental disagreement here is whether or not young people have the ability to comprehend the circumstances that they're in. I think they do. I candidly do. Senator Harms and others think that the law will help them to understand better. I'm not convinced that simply having the law enables their comprehension any more than having people come beside them and explain to them why. So if you would like to support Senator Harms today for that reason, fine. Candidly, if this amendment gets adopted, I believe he has a couple components out of a six-component bill that would be left. If you don't think that's fair to Senator Harms, that's fair enough to vote against it. If you like the idea of prohibiting cell phones in the circumstances he's outlined, vote against my amendment. I have a philosophical disagreement about the role of law in this area. [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR ERDMAN: I do think that the law in its inherent drafting is a deterrent. There are other distractions in the car that are not addressed here. That's no reason to vote for my amendment. But if we're serious about addressing all of the distractions, we should look at that. In fact, there's probably existing law that would address this issue even if my amendment is adopted. Section 60-6,212 is careless driving. It deals with distracted driving. So I'll leave you with this, and I firmly believe this. I think government should be effective and successful when it chooses to endeavor or to go into an area, but I believe that that government is best which governs least, and that it relies on the individuals to govern themselves, first and foremost. We'll see where we're at. I support the amendment. I hope you do too. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Erdman. You have heard the closing on AM946. The question is the adoption of the amendment to LB415. All those in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. Senator Harms, did you wish...? [LB415]

CLERK: 10 ayes, 15 nays, on the amendment, Madam President. [LB415]

SENATOR SCHIMEK: Thank you. The amendment is not adopted. Before we go on with debate on the bill, I think Senator...Speaker Flood has an announcement to make, or some words of wisdom to give us. [LB415]

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SPEAKER FLOOD: No words of wisdom this morning. Just to let you know, we're going to get the agenda out as soon as possible so that you can review that before leaving for home, for your district. Next week is going to begin with the discussion on LB701. The water issue is pretty much laid out in that bill. It will take us a considerable amount of time. To the extent that you have time over the Easter weekend, you might want to review the committee amendment to LB701. Following that, next week we will take up LB377, which concerns the death penalty. So we have lots of work on our plate following the Easter holiday. The agenda should be available soon. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Flood. (Visitors introduced.) Moving on, Senator Chambers, your light is first on discussion of the bill itself. [LB415]

SENATOR CHAMBERS: Thank you. Madam President and members of the Legislature, I was once a young man, a long, long time ago. But to be young doesn't mean you lack understanding. And for you all who pray every morning up there, do you all know how young that one was that you pray to and whose name you invoke, when he went into the temple and befuddled the doctors and the lawyers of religion? He was 12 years old. I'm talking about Jesus, 12 years old. And they say one of the most numerous religions is that of Christianity. And how old was he when he croaked? Thirty-three years old. You mean to tell me that he got to be as old as Moses, who lived 120 years and did not form a religion? Here's a man who, at 33, was gone. The problem with a society which is going to judge people in terms of age, gender, sexual orientation, or any other peripheral item, is cheating itself and robbing its own till. And for those of us who are older to feel we always have an advantage over anybody younger, will put younger people in a position where they need never talk to us because we've created a hurdle that they can never surmount. And that is stupid. Can somebody tell me how old Isaac Newton was when he came up with his first law, or even what his first law was, or if there are any laws of Isaac Newton which are identified numerically? How old was Rorschach when he came up with his...? Wait a minute, what was the gender of Rorschach? See, sometimes I throw you off. I said, how old was "he"? Do you even know if Rorschach was a he or a she? Do you know if Rorschach is the name of a person? And look how old you are. I hope Senator Erdman keeps the spirit that he's got and will never feel put down, or manifest being put down even if he feels like it, because he's around a bunch of old fuddy-duddies who sit around like knots on logs. I've been here 37 years and I've watched some of these old senators who don't participate in any debate, and when they do, they ought to have just sat as that knot on the log, because they say it's better to have people think you're a fool than to open your mouth and remove all doubt. And I've seen that principle violated time and time again by these old people running around here talking about things where they know nothing, on and on and on. They ought to get the transcripts of what they say, and they'll say, did they write this the way I said it? They'll say, um-hum, and they tried to clean it up for you, and they couldn't clean it all up, because they couldn't bring the silk purse out of the sow's ear. If

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you all are going to reject what's said because he's young, reject what I say because I'm old. But I won't let you get away with it, because I will embarrass you, and I will show that whereas you're trying to act like my mind is slow and I don't grasp things, I will engage you in debate and embarrass you down to your shoe tops. But that's not what we're here for. We should be here to receive enlightenment from whoever has it to offer. Which of us is seeing life right now through the eyes of Senator Erdman? [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR CHAMBERS: There is a world and a life that he witnesses and understands that none of us will, because we're not in a position to walk in his shoes now. Why don't we learn from anybody who can teach us? Quiet as it's kept, I learned from my children when they were little. Everything can teach us something if our minds are open. And these doctors were embarrassed when Jesus came into the temple, because they were accustomed to everybody sitting back and taking low. They didn't know how to think on their feet. They didn't know how to answer a question because they never were challenged. So here comes a youngster who doesn't know that he's supposed to act like he's stupid. He listened to what he heard these old preachers talking about, so then he wanted to engage them in a discussion to get more information on the subject, and they couldn't answer his questions. And then they got mad at him because he exposed their ignorance. Rather than getting angry at him, they should have improved their education. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Wallman, you are recognized to speak. [LB415]

SENATOR WALLMAN: Thank you, Madam President. I went to a presentation yesterday morning at Beatrice where they had CHARACTER COUNTS! awards. And they brought up the issue of No Child Left Behind. And they had the eagle--he got an A in flying, he got a D in walking, so he was averaged out at a C. A squirrel--excellent in jumping, but poorly on the ground, so he got a B. All the animals. The fish--A in swimming, couldn't do much else, D in everything. They averaged all these people out. And that's what we're trying to do with young to the old. Come on, people. I sympathize with Senator Harms. He's in education. He should know how you try to average everything out, the learning curve, where that's going. It's going downhill. If you try a learning curve on our brightest and best young Americans, young Americans who will take care of Tom and me and Kent when we're on our deathbeds, do I want to restrict those people now and presume that they don't know how to drive? And if we go on this cell phone thing with accidents, I think you'll find out predominantly those young people that got killed did not have their seat belts on. Am I a violator of that seat belt law myself? Sure. I get in the truck and go out to the field and get in the combine, two, three, four miles, I'm in a hurry, I don't always put on my seat belt. So I'm breaking the law. Will the officer stop me? He could, and I'm breaking the law. I'd quick pull it over

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myself. And I have got stopped, and I, you know, and...but I lucked out. So why do we want to put more and more and more and more and more laws that affect our young people, when we as parents, as school districts, as schools, community colleges, teach the young kids how to use cell phones? And lots of them can use it a lot better than I can. And I'll be the first to admit, phones can distract. And we all get distracted on our jobs, whether we're farmers, or businessmen doing business on the phone. Maybe the stockmarket went south, and is that going to bother you if you're trading? Sure it is. So is that going to affect your driving? Maybe. Maybe. If my girlfriend or boyfriend tells me something bad, is that going to affect my driving? Maybe. There's lots of difference in personalities. And let's give them credit. Like he said, Jesus was in the temple at 12 years of age, and embarrassed the old people. And lots of these 13-, 14-year-old children could embarrass us, let me tell you. They know more about life than some of us will ever know. They've seen tragedy, they've seen brothers and sisters die. Nobody wants to see a child die. It's happened in my family. Is that my fault? Their fault? No. We take an inherent risk in society when we get behind the wheel of a car. If we give our son or daughter or granddaughter a car, that's an inherent risk. Are we risk-takers in America? God, I hope we are. I hope we're still the land of the free, the land of the brave, and we're government for everybody, not just for a few. If we're going to take these cell phones away from teenagers, folks, take them away from Senator Harms. Take them away from me. It ought to be for everybody. And so I'm against this amendment. It just bothers me tremendous. I feel like I'm a hypocrite today. I was in Natural Resources all afternoon, so I didn't get to listen to the debate. [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR WALLMAN: And does that bother me, how I voted? Sure, I voted like some of the other guys, because they had their green buttons on. They got tired of a filibuster. We all get tired of filibusters, me included. So I'm proud to be an American, I'm proud to know lots of teenagers, and they are my friends. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Wallman. Senator Chambers, you're recognized to speak. [LB415]

SENATOR CHAMBERS: Mr. President...Madam President. When they show these military movies, the guy says, sir yes sir; Madam President Madam. [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. [LB415]

SENATOR CHAMBERS: I'm going to try to illustrate how older people deal with younger people, and what the younger person's conclusion is after he becomes old, by not singing, but reciting some of the words of a nonsense song that Harry Belafonte sang. (Begin recitation) He said, when I was a lad, just three foot three, certain questions occurred to me, so I asked my quite seriously to answer the question about the bird and

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the bee. He stammered and he stuttered pathetically, and this is what he said to me. Oh the woman piaba, the man piaba, the cane stand tall like the lemon grass, the lily root, gully root, belly root, uhmm, and the famous gunny scratch scratch. Kid say, it was clear as mud, but it covered the ground, and the confusion make me brain go round, so I grab a boat and went abroad, and in Baden, Germany, asked Sigmund Freud--another old man. He said, son, from your sad face remove the grouch, put the body upon the couch. I can see from your frustration a neurotic sublimation. Love and hate is psychosomatic. Your Rorschach shows you're a peripatetic. It all started with a broken sibling, in the words of the famous Rudyard Kipling. Then he said, the woman piaba, and so forth. The little boy says, it was clear as mud, but it covered the ground, and the confusion make me brain go round, so I went to see a good friend of mine known to the world as Albert Einstein. He said, son, from the beginning of time and creativity, there existed the force of relativity. Pi r square minus ten is rooted only when the solar system in one light year make the Hayden planetarium disappear. And if Mt. Everest doesn't move, I'm positive that it will prove that the woman piaba, the man piaba, and so forth. The little boy said, it was clear as mud, but it covered the ground, and the confusion make me brain go round. All the great men upon this earth have confused me since my birth. I've been over land, I've been over sea, trying to find the answer about the bird and the bee. And now that I am 93--I'm quoting a song; I don't use this language--I don't give a damn, you see, if the woman piaba, and the man piaba, and the cane stand tall but the lemon grass, the lily root, gully root, belly root, uhmm, and the famous gunny scratch scratch. (End recitation) Go to these old people, and when you ask them a question, you're more confused when they get through than you were when you went there. Either they don't know, they're embarrassed to admit they don't know, so they make up a lot of gobbledygook, or they do know, but they're so embarrassed because they don't know how to be forthcoming with their children, that they make up the gobbledygook. In any case, there is a disconnect. People talk about a generation gap. It's not a generation gap; it's a communication gap. If we would think for a few minutes, we remember what it meant to be young. Even though young people are dealing with things today that we didn't even contemplate ever happening the way they're happening today, we still know what it means to be confused, to go through adolescence and not understand things about yourself, about other people, going through puppy love, having your heart broken, if you've got a heart. I was spared all that, but I read a lot. And you feel like the world is coming to an end, and you cry and you moan. Then somebody else walks by and you forget all that other heartbreak and you go jump into that pool again. These young people... [LB415]

SENATOR SCHIMEK: One minute. [LB415]

SENATOR CHAMBERS: ...are dealing not only with simulated sex in a movie, but explicit sex. They can get videos, DVDs, things that we never thought of. You go hide behind the wall to look at a National Geographic so you can see a bare-breasted woman on some other island. And now, that ain't nothing to them. That's on videos. You

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might see somebody in a mall revealing more of the body than that--not just women, but some men. So what I see this bill as doing is trying to substitute the state for what parents ought to be doing, while not putting in place a law that is going to achieve its purpose. And when a law is unenforceable, or selectively enforced, it brings all law into contempt. And with that, I'd say, thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Chambers. The Chair recognizes Senator Friend. [LB415]

SENATOR FRIEND: Thank you, Madam President and members of the Legislature. For those of you that were paying some attention yesterday, I'm about to close the loop. Fixed fortifications are monuments to man's stupidity.--George Smith Patton, Jr. He died in Heidelberg, Germany, 1945. Thank you, Madam President. [LB415]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Wallman, your light is next. [LB415]

SENATOR WALLMAN: Thank you, Madam President. I am enjoying this dialogue, and I hope people listen. And I know sometimes us older people, the older generation, has our mind made up before. We read the bill in our rooms or something, and we have our mind made up. And it's hard to change people's minds. The older you get, sometimes we come what they call tunnel vision. You know, God help those that don't think like I do. Or we get this in our school systems, in our churches, and we're going down a narrower, narrower, narrower highway, and what's next? You know, our teenagers, by and large...I hate to see these accidents, too, but by and large, God loves them, I love them. I'm basically an old teenager. And so let's not pick on a certain segment of our society who is going to take care of us when we get older. And if they want to do that to their children when they get older, that's fine. But right now, the constituents in my district have told me over and over and over, if you take...put one bill on the agenda, take one off. We're correcting bills, we're cleaning up bills, we're adding new bills. And how many bills do we need to run a society? And one person come up to me in the church and said, what are you going to do, Senator Wallman, have a socialistic society? Do we want to go back there, completely socialistic, where laws and guidelines for everything? Then let's have health insurance for everybody. We can go all over the place here. And I agree with Senator Chambers on this park thing. Farm machinery has dangerous things on it, all kinds of stuff. You may get killed running that thing. Sit in your seat. But we don't want to do that to skateboard parks because we might be liable for a lawsuit? You know, we can be hypocrites here, whatever we want to be, but please vote against this bill. And I have nothing against the senator who submitted it. I know he feels...you know, he feels like that's a thing he wants to do. And we all have a passion of what we want to do. Sometimes it doesn't work; sometimes it does. But let's not put another bill on the books here for...against a certain segment, narrow segment of our society. Thank you, Madam President. [LB415]

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SENATOR SCHIMEK: Thank you, Senator Wallman. Seeing no further lights, Senator McGill, for a motion. [LB415]

SENATOR MCGILL: Mr. President, or Madam President, I move LB415 to E&R for engrossing. [LB415]

SENATOR SCHIMEK: You've heard the motion. All those in favor say aye. All opposed say nay. There's been a request for a machine vote. All in favor vote aye; all opposed vote nay. Have you all voted? Senator Erdman, you wish to be recognized? [LB415]

SENATOR ERDMAN: Madam Chair, I would ask for a call of the house, please. [LB415]

SENATOR SCHIMEK: There's been a request for a call of the house. The question is, shall the house go under call? All in favor vote aye; all opposed vote nay. Mr. Clerk, record. [LB415]

CLERK: 26 ayes, 0 nays, to place the house under call, Madam President. [LB415]

SENATOR SCHIMEK: Thank you. The house is under call. Would all senators please return to the Chamber and record their presence. The house is under call. The house is under call. Will unauthorized personnel please leave the floor, and all senators return to the Chamber and record your presence. Senator Nantkes, would you record your presence. Senator Preister, would you please return to the Chamber. All present. Mr. Clerk. Senator Erdman, how did you wish to proceed? [LB415]

SENATOR ERDMAN: Point of information, Madam Chair. Would it be appropriate to ask Senator Harms how he chooses to proceed, as the primary introducer? [LB415]

SENATOR SCHIMEK: If you wish. Call-in votes? [LB415]

SENATOR HARMS: Yes. [LB415]

SENATOR SCHIMEK: Okay. [LB415]

CLERK: Senator Erdman voting no. Senator Rogert voting no. Senator Fulton voting yes. Senator Kruse voting yes. Senator Rogert? Oh, I'm sorry, Senator. Senator Rogert voting no, my mistake. Senator Flood voting yes. Senator Hudkins voting yes. Senator Pirsch voting yes. Senator Karpisek changing from yes to no. Senator Friend voting no. Senator Johnson voting yes. Senator Janssen voting yes. Senator Dubas voting yes. Senator Dierks voting yes. [LB415]

SENATOR SCHIMEK: Record, Mr. Clerk. [LB415]

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CLERK: 26 ayes, 6 nays, on the advancement of LB415. [LB415]

SENATOR SCHIMEK: The bill does advance. Mr. Clerk, next item. [LB415]

CLERK: Madam President, LB415A. I have no amendments pending to the bill. [LB415A]

SENATOR SCHIMEK: Senator McGill. [LB415A]

SENATOR MCGILL: Madam President, I move LB415 to E&R for engrossing. [LB415A]

SENATOR SCHIMEK: You've heard the motion. The question is, shall LB415 advance to E&R for engrossing? All in favor say aye. All opposed say nay. The bill advances. The call is raised. Items for the record, Mr. Clerk? [LB415A]

CLERK: Madam President, I have a Reference report referring certain gubernatorial appointments to standing committee for confirmation hearing. I have amendments to LB578 by Senator McDonald; Senator Mines to LB12; Senator Johnson, an amendment to LB395; Senator Christensen to LB701; and Senator Mines to LB395. Madam President, Senator Langemeier would like to add his name to LB701 as cointroducer. (Legislative Journal pages 1100-1102.) [LB578 LB12 LB395 LB701]

And I have a priority motion. Senator Synowiecki would move to adjourn until Tuesday morning, April 10, at 10:00 a.m.

SENATOR SCHIMEK: There has been a priority motion to adjourn. The question is, shall we adjourn? All in favor say aye. All opposed say nay. We are adjourned.