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Transcriber's Office

Floor Debate
February 06, 2012

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PRESIDENT SHEEHY PRESIDING

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

SENATOR LAMBERT: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Senator Lambert. I now call to order the twenty-second day of the One Hundred Second Legislature, Second Session. Senators, please record your presence. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Are there corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT SHEEHY: Messages, reports, or announcements?

CLERK: Your Committee on Banking, Commerce and Insurance reports LB965 to General File, that signed by Senator Pahls. I have notice of hearings from the Banking Committee. I have an amendment to be printed to LR40CA by Senator Langemeier. And, Mr. President, a communication from the Governor regarding the withdrawal of a gubernatorial appointee. That's all that I have, Mr. President. (Legislative Journal pages 437-438.) [LB965 LR40CA]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. (Doctor of the day introduced.) Mr. Clerk, we'll now move to the first item under General File, LB646. [LB646]

CLERK: LB646 is a bill by Senator Christensen. (Read title.) The bill was introduced on January 19 of last year, referred to the Health and Human Services Committee for public hearing. The bill was advanced to General File. I do have an amendment to the bill, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Mr. Clerk. Senator Christensen, you're recognized to open on LB646. [LB646]

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SENATOR CHRISTENSEN: Thank you, Mr. President and colleagues. LB646 corrects the existing Nebraska Statute, Sections 38-1207 and 48-101.01 and 71-8215, by accurately defining the current practice of emergency medical service through the removal of the word "immediate" from the existing legislation. Currently, the statute defines an EMS as an "organization responding to a perceived individual's need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury." The narrow scope of this definition does not take into consideration scheduled transports from hospital to hospital, care centers to hospitals, and hospital-based clinic activities and standby services for events such as Nebraska Cornhusker athletic events, all of which are nonimmediate services being provided routinely across Nebraska. Having EMS incorrectly described in legislation both hinders regulatory guidance and leaves EMS providers vulnerable to legal liability actions. This change does not alter the scope of practice for EMS. And all EMS agencies and providers would continue to require that all services and employees continue to operate under the supervision of the physician medical director and the Nebraska Emergency Medical Service regulations as currently defined in related statutes. Colleagues, thank you for your consideration of this bill, and I ask you to support LB646 and advance it to Select File. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Mr. Clerk, you have an amendment on your desk. [LB646]

CLERK: Mr. President, Senator Howard would move to amend with AM1875. (Legislative Journal page 438.) [LB646]

PRESIDENT SHEEHY: Senator Howard, you're recognized to open on AM1875. [LB646]

SENATOR HOWARD: Thank you, Mr. President, members of the body. This is a very simple amendment, and it just really ensures that nothing unintended is interpreted by this bill. I'll read this amendment to you. On page 2, line 6, after the period insert, "The amendment of this section by this legislative bill shall not be misconstrued to modify or expand or authorize the modification or expansion of the scope of practice of any licensure classifications established pursuant to Section 38-1217." And as I said, this is a very simple amendment that states that nothing shall be modified, expanded, authorized, or interpreted that we authorize an expansion of services. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Howard. You've heard the opening of AM1875 to LB646. Members requesting to speak: Senator Krist, followed by Senator Christensen. Senator Krist. [LB646]

SENATOR KRIST: Good morning, Nebraska and colleagues. I would just like to take

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just a few minutes to review what removing the word "immediate" means from the statute and accessibility of care throughout this state. Immediate can be construed in many ways, but mostly I would refer to it as an emergency, something that has do be done, something that is lifesaving. There is a gray area here. Dr. Stothert, who is the operations director for all of the fire department and emergency services in Omaha, has a concern, had a concern, has a concern if this doesn't pass, in the fact that there are services that are provided by EMTs and by our own folks in Omaha that potentially would not be considered emergency or immediate, yet they are critical services to parts of our city that may or may not have the opportunity to have their blood pressure checked and to find out that there is an issue. I mean, that's really what it comes down to. They're out there in the community, they're on duty, they travel around as a squad. They provide services that are critical to our city in different areas. Now take that example and move it to the rural area. When the sheriff calls and someone has fallen and he needs help and potentially a nurse or visiting nurse is not available, he can call the EMT; he can respond. They can do an overall check of what's happening. This is not outside of his training. This is not outside of the scope of practice. It's not something that needs to go back to the LB407 process. And let me speak specifically to Senator Howard's amendment. I think it's wonderful because it keeps us out of an encumbering process of taking it back through LB407 when it does not need to go there. So I rise in support of AM1875 and the underlying LB646. This is a good thing for Nebraska. Thank you, colleagues. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Krist. Senator Christensen, followed by Senator Langemeier. Senator Christensen. [LB646]

SENATOR CHRISTENSEN: Thank you, Mr. President. Again, I have no problem with this amendment. If you think about how a scope of practice changes, this would not do it. I said in my opening this does not change or alter the scope of practice for an EMS. This is just redundant language. It is not necessary, but I have no problems with it going in there. It's just like having a definition in the...or intent language in there. So if that makes everybody more content, I'll defer to the body. We can put it in there. I have no problems with it being supported. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Christensen. Senator Langemeier. [LB646]

SENATOR LANGEMEIER: Mr. President and members of the body, would Senator Christensen yield to a question? [LB646]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Langemeier? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

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SENATOR LANGEMEIER: Senator Christensen, in your opening you talked about the use of the EMS staff at a big event, a football game, a State Fair, something on that order, correct? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR LANGEMEIER: Now if they are...is it the intent of this is to be on the grounds at the State Fair or the activity? If somebody is having a stroke or a heart attack, they're there to assist in that operation, correct? [LB646]

SENATOR CHRISTENSEN: Sure. [LB646]

SENATOR LANGEMEIER: Would that not be an immediate medical care? [LB646]

SENATOR CHRISTENSEN: That one is, yes. [LB646]

SENATOR LANGEMEIER: Okay. So if it's not...so would this intent for an EMS company to offer a booth that does blood pressure checks or some kind of other screening, would that not be considered something they could do if you take out "immediate?" [LB646]

SENATOR CHRISTENSEN: I'm sure they could, yes. [LB646]

SENATOR LANGEMEIER: So they could open a little medical booth within the State Fair as EMS's somewhere? [LB646]

SENATOR CHRISTENSEN: I don't know that I'd call it a medical booth, but they'd be able to address questions and what you're saying. Yes. [LB646]

SENATOR LANGEMEIER: Okay. So you are expanding their role from being that individual that would be at the State Fair that would be providing emergency care prior to those individuals being able to get out of the State Fair and get to a hospital setting or to a Linc Care here in Lincoln, or something on those orders? [LB646]

SENATOR CHRISTENSEN: Yeah. The thing that basically is occurring right now that they probably shouldn't be doing is transferring patients that aren't in a dire emergency, because, you know, we have a lot of hospital transfers and it's not an immediate need. We could prevent them from doing that and just make the hospitals do it. I don't think that's something you want to do. This is basically just bringing what is current practice into law. [LB646]

SENATOR LANGEMEIER: I would argue. I would say medical transfers from one hospital to another hospital is not providing medical care. That's a taxi service. In case

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there is an immediate need, you use an EMS so you have that capability there, but they are not a triage to continue some sort of medical care. In a transfer, if they pick somebody off the highway and they haul them into, per se, the Schuyler hospital; the Schuyler hospital says, we can't treat this, we've got to get you to Omaha--that is a continued emergency care to get there. Now if they pick somebody up off the highway, they haul them to the Schuyler hospital, they're there for a while; they decide, well, they're stable but we need further care to deal with a surgery, per se, they broke their hip, and they call in an ambulance to do transfer from the hospital to Omaha to do a hip surgery or something like that, I would argue they're not giving medical care. There again they're transporting with the idea of having medical personnel there if their immediate need arises in that transfer. So I'm a little leery about doing this because I do think it gives an opportunity to open a booth at the State Fair and provide some medical ability. In my opinion, it would allow them to do other medical things within your community. I think it gets in...and this opens up...this isn't your trained EMTs. We're talking about your deputy sheriff, a police officer could then open up this kind of a booth. I'm a little leery; I think most of the stuff that you described in their activity is under the guidance of immediate medical care. And so at this point I'm going to listen a little bit, but I'm still leery about the change. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Langemeier. Members requesting to speak on AM1875 to LB646, we have Senator Lathrop, followed by Senator Lautenbaugh, Senator Harms, Senator Krist, and Senator Christensen. Senator Lathrop. [LB646]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good morning. I would ask if Senator Christensen will yield to a few questions. [LB646]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Lathrop? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR LATHROP: Senator Christensen, I'm looking at this bill, trying to identify what we're trying to...what problem are we trying to fix with this. And maybe...well, let me start with this question. We're opening up Section 38-1207. What does Chapter 38 deal with? Is this a section where we describe what emergency medical folks can do? [LB646]

SENATOR CHRISTENSEN: Yeah. It just clearly says they're responding to a perceived individual's need of medical care. [LB646]

SENATOR LATHROP: Okay. Tell me, describe for me if you will the problem we're trying to fix with this bill. [LB646]

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SENATOR CHRISTENSEN: Okay. [LB646]

SENATOR LATHROP: What's going on today that you don't like that this is going to fix, if you would. [LB646]

SENATOR CHRISTENSEN: Well, if you read that section you brought up, it says, "responding to a perceived individual's need for immediate medical care in order to prevent loss of life." All right, if you're transporting somebody, in Senator Langemeier's example, that isn't in danger of a medical or a loss of life, are they legal to transport this under this language? [LB646]

SENATOR LATHROP: Okay. Let me see if we can get to what you're driving at by way of an example. Is this about the person that transfers somebody from one hospital to another? [LB646]

SENATOR CHRISTENSEN: Sure. [LB646]

SENATOR LATHROP: Does it...is it about someone who is transferring from a hospital to a nursing home? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR LATHROP: So are we talking about the guys who are not...are we trying to broaden the statute so that we get to and provide whatever protections these sections might provide so that right now you have to be responding to an emergency call, and this would broaden it to cover people that are transporting someone? [LB646]

SENATOR CHRISTENSEN: Correct. Exactly what this is doing,... [LB646]

SENATOR LATHROP: Okay. [LB646]

SENATOR CHRISTENSEN: ...it doesn't change their scope of practice. [LB646]

SENATOR LATHROP: I know we have an amendment that you've just endorsed that says we're not changing anybody's scope of practice, which to me seems to be the point of your bill. And if we're qualifying it by saying that we're not changing anybody's scope of practice, what are we accomplishing? [LB646]

SENATOR CHRISTENSEN: We're...in the definition here we're accomplishing being able to move that person. Your example was great: from the hospital to a rest home. [LB646]

SENATOR LATHROP: Okay. Let's take that one. What is it about moving somebody

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from a hospital to a nursing home that is an emergency medical service? [LB646]

SENATOR CHRISTENSEN: It's not. That's why when it says immediate medical care, it's not immediate. [LB646]

SENATOR LATHROP: Okay. So we're amending the statute, and there has to be some purpose in amending it and that's what I'm not clear on. Are people trying to transport folks from a hospital to a nursing home and not able to do it currently? [LB646]

SENATOR CHRISTENSEN: Yes. Well, they're doing it but it's outside their scope. It's like I believe they told me...I forget. I'm trying to find my notes here. There's a large percent of the transfers are not immediate emergencies. [LB646]

SENATOR LATHROP: Okay. So what's this going to do for them? Do they get paid now when they wouldn't before? I'm just looking at 38-1207. [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR LATHROP: We're going to change the definition of emergency medical service to strike "immediate." What's going to happen now that isn't happening currently? If this passes, what's that section of law, the amendment to this section of law going to do given Senator Howard's amendment? [LB646]

SENATOR CHRISTENSEN: Well, I believe it's just bringing the statute up to what is basically common practice, so we don't have suits against those that are doing it. [LB646]

SENATOR LATHROP: Okay. Let's talk about that. They're already doing what you want this to accomplish, so what's the point in doing this? [LB646]

SENATOR CHRISTENSEN: To remove the liability if somebody comes after them. [LB646]

SENATOR LATHROP: What liability is that? [LB646]

SENATOR CHRISTENSEN: Well, if somebody comes in and says you can't do this, there's two things could occur: Somebody could sue them for doing things outside of what we're allowing them to do, and the other one is if we stop the practice... [LB646]

PRESIDENT SHEEHY: Time, Senator. Thank you, Senator Lathrop. Senator Lautenbaugh. [LB646]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body.

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(Laugh) As is often the case, I'm arising as one with Senator Lathrop to express some concerns regarding what it is we're trying to address and if this gets us from A to B. And I was talking to Senator Langemeier off the mike as well. I'm wondering if Senator Lathrop would yield to a question? [LB646]

PRESIDENT SHEEHY: Senator Lathrop, will you yield to Senator Lautenbaugh? [LB646]

SENATOR LATHROP: Yes, I will. [LB646]

SENATOR LAUTENBAUGH: Thank you, Senator Lathrop. And I think I follow what's going on here, which means I may be mistaken I think. But what are your concerns regarding us going forward on this or do you know yet for sure? [LB646]

SENATOR LATHROP: I'm just trying to find out what we're attempting to accomplish. And it seems like Senator Christensen's just endorsed an amendment that says we're not changing the scope of anybody's practice. And what I'm hearing him say is this bill is intended to change somebody's scope of practice. And I'm not sure also, because I read the committee statement that isn't helping me, frankly, and I'm not sure what we're trying to achieve, and that's what I'm trying to get to the bottom of. After we make this amendment, what have we done? [LB646]

SENATOR LAUTENBAUGH: Thank you, Senator Lathrop. And I have to confess, I'm kind of in the same spot on this. I see the bill as drafted is very simple. We're just taking out the word "immediate," but then it goes on to say that we're talking about medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. Well, if transportation fits under that remaining definition, is there anything in the world that doesn't? I mean, if you have any medical condition at all, could you do anything to prevent loss of life or aggravation of a physiological or psychological illness or injury? As long as someone has a physiological or psychological illness or injury, what wouldn't now be within the ambit of this if we took out the word "immediate?" And I understand the amendment says we're not increasing anyone's scope of practice, but I'm not sure where the whole thing gets us at this point either. I'll listen and I'm willing to be persuaded, but I share the concerns. This is one that I can't seem to get my head around and I can't seem to tell where we're going. And I'll yield the rest of my time to Senator Langemeier if he'd have it. [LB646]

PRESIDENT SHEEHY: Senator Langemeier, you're yielded 2 minutes 25 seconds. [LB646]

SENATOR LANGEMEIER: Mr. President, members of the body, I rise with the same bit of confusion. Again, if this is about transferring mother-in-law from the hospital to the nursing home for rehab, I'm not sure that there's medical care involved in that. I think it's

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merely a transfer. And the reason you use the hospital is because they have an ambulance; it's because they have the proper equipment. They can't get into your pickup, they can't get into your car, so you want to take them in an ambulance. I get that. Or it's the ability to...or is it the fact that there may be an EMS riding in the ambulance along just in case? Well, if just in case happens, then I would argue that that's immediate care under the old language that would allow them to provide medical care to prevent a loss of life or injury. So I think they are making a good argument about wanting to transfer it, but yet the real intent is to expand something else that I don't seem to know what that is and I can't figure it out. But I think this is more than just a transfer because I don't see where that liability comes in for transferring those individuals. [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR LANGEMEIER: So thank you, Mr. President. And thank you, Senator Lautenbaugh. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Lautenbaugh. Thank you, Senator Langemeier. Senator Harms. [LB646]

SENATOR HARMS: Thank you, Mr. President, colleagues. I do support LB646. I haven't made up my mind yet on AM1875. But I have taken the time to visit with representatives in my community, in my area, that deal with EMS. And what they've said to me is, when you look at this law or this bill, the definition is really very narrow. It's narrow in scope and does not take into consideration just what we're talking about: scheduled transportation from hospital to hospital, care centers to hospitals, hospital-based clinical activities, and standby services for events such as the Nebraska Cornhusker athletic events, all of which are nonimmediate services being provided routinely across Nebraska. And I guess when you talk to the folks that are in the EMS area, they feel like that it incorrectly describes in legislation both hinders and regulatory guidance and leaves the EMS providers liable for legal issues. And I think that to me is what this basically is about. I support this. I believe that it doesn't change the scope, and I believe that we ought to take out the term "immediate" so they don't have those issues. Where I live, EMS is used for a lot of different activities and it's pretty important for us. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Harms. Senator Krist. [LB646]

SENATOR KRIST: I'd really like to ask the President a couple questions because he's an expert, but I know I can't do that, so I'd like to ask Senator Lathrop to engage me in a short conversation. [LB646]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Krist? [LB646]

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SENATOR LATHROP: Yes, I will. [LB646]

SENATOR KRIST: Okay, Senator, here is the issue. Dr. Stothert signs his name and his license to a piece of paper that says that everybody who operates in the Omaha Fire Department as an EMT/EMS is actually operating under his license. Okay. So the liability belongs to Dr. Stothert in doing everything that they do. So now a squad is on duty and they elect to go do blood pressure checks at someplace, at a mall, to show the force, show the flag. And they have their squad with them so that they can respond to anything that happens. Is that immediate? Is that a definition of immediate response or immediate medical treatment to anyone? And I think you would agree, and I'll let you answer, but I think you'd agree the answer to that is no. And under the scope they're doing what they are trained to do, but if the word "immediate" stays in this legislation they cannot do that as a public service. Let me add to that and give you a chance to think about it. Senator Langemeier had an example of being at a State Fair, a heart attack. Immediate? Absolutely. A stroke. Immediate? Absolutely. A broken back. Immediate? Oh, maybe, maybe not. A broken leg. Immediate? How about heatstroke? How about somebody who looked at somebody and says, you know what, you're not going to die from this but you need to get out of the sun and you need some treatment. How about at the ball game when the kid falls through the bleacher and appears to be absolutely normal but bumps their head. Immediate? What this is saying, what this legislation is saying, I would get away from the transport side because I know the transport might be an option, it might be a nice thing to do in rural Nebraska. But what this does is it allows people who are trained to go out into the community and give some kind of medical attention if required--if required--within the scope of practice, within what they are trained to do, and it's not life-threatening, it's not immediate. And I would invite you, because I called you to the mike, sir, to respond in any way you want to. [LB646]

SENATOR LATHROP: Maybe my response is this: Because you go to the mall and these guys are already there taking people's blood pressure, and they're already doing health checks or participating in a health check, or they're at the county fair, or they're at a football game waiting for somebody to fall out of the stands or somebody to get hurt, what will this let somebody do that they're not doing already? That's the...and then if the point is to open up the scope of practice so they're okay doing it, then why would Senator Christensen endorse AM1875, which appears to say we're not changing anybody's scope of practice. [LB646]

SENATOR KRIST: Okay. It is not a change in scope of practice. We are not allowing them to inject something into somebody's eyelid because they're not qualified to do that by the LB407 process. They can't do anything that they're not trained, certified to do, so it is not. It has nothing to do with scope of practice. Senator Howard's amendment is from those folks in the lobby behind the glass who feel like this is encroaching upon a nurse's responsibility or somebody else's responsibility. My point in saying this is they're

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redundant words; they don't need to be in there. But in order to get LB646 across the goal line, Senator Christensen has said, okay, we'll say it again: It's not a violation of scope of practice. [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR KRIST: My point in saying that they are out there at all in the mall is, Senator Lathrop, they would not be there because Dr. Stothert would say you are no longer able to go out and do anything that does not meet the definition of immediate. So you can drive around town and wait for accidents to happen, but you can't go perform those other responsibilities because there is no immediate need right now, so you shouldn't be there, so. And I would invite the dialogue and conversation, particularly Senator Langemeier, to talk about what is immediate as you're walking through. It has nothing to do, I don't think, with setting up a booth and attracting business. What it has to do with is: Why are they there? They're there in case something happens and they can respond to it. And there's a problem with liability and with the doctor who is signing his bottom line, his name to the bottom line in order to allow them to do that. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Krist. Members requesting to speak on AM1875 to LB646, we have Senator Price, followed by Senator Gloor, Senator Louden, Senator Lathrop. Senator Price. [LB646]

SENATOR PRICE: Thank you, Mr. President. Good morning, colleagues in Nebraska. In listening to this bill, the questions I have are centered around two words, "immediate" and "or," because we see there in Section 1, the "perceived individual need for medical care to prevent," okay, and then we see "or aggravation of." Now I understand if we have a medical condition, somebody has cut themselves, broken bones, etcetera. But when we get into the psychological illness area I have a...my question is somewhat piqued, my curiosity, because "aggravation of a psychological illness" and we're going to let them have...and it's not an immediate treatment. Would Senator Christensen yield to a question? [LB646]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Price? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR PRICE: Thank you, Senator Christensen. Can you in the shortest way possible describe for me how the EMT will be able to differentiate a psychological...an aggravation of a psychological illness for treatment that's not immediate? [LB646]

SENATOR CHRISTENSEN: Well, it's not just totally related to that alone, but that one there is going to be an example of an immediate, yes. [LB646]

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SENATOR PRICE: So we didn't get there I don't think. Someone presents with a psychological...a service as is outlined in Section 1 and defined, responds to something or they're at some event and the medical personnel there, the EMTs, perceive that there could be an aggravation of a psychological condition but it's not immediate and we're going to provide services for them? Is that what we're saying? [LB646]

SENATOR CHRISTENSEN: It just says that they're...I guess I'm not following the question. They can take care of that situation if it arises, yes. [LB646]

SENATOR PRICE: Okay, so they can take care of a situation that's not immediate, that's psychological, that may be an aggravation. So I have an aggravation; I'm angry, I'm getting upset, but there's nothing to present you to give you the idea that something immediate is going to happen. And they're going to be allowed to render treatment. [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR PRICE: That's what it's saying [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR PRICE: Okay, thank you. I just wanted to make sure. A question. Is Senator Campbell available to answer a question? I don't see her. Well, that's okay. We'll get back to that later. The next question I have is, where will the billing happen? You know, these EMT services, someone is going to get billed. If they're already there I don't know that you get the standard, I think, what is it, a near \$500 charge for responding. But I'm concerned about understanding what level of treatment is going to happen when it's not immediate. Is this a way to...not that I'm against people getting treatment, don't get me wrong, but if people are (inaudible) the billing is, where do we find that we have a mobile clinic that's responding to situations and providing treatment? Someone is going to get billed. How do you get billed and how does that square with the insurance providers and everybody else here if we're out there providing medical services that are not immediate and someone doesn't pay their bill or something? I'm concerned that we haven't worked out the details there that seem to be worked out currently under current statute. And I'd hate to see the services be diminished because of this concern, because we don't know if we're going to get paid. We don't know. I know medical people will always do what they need to do because that's... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR PRICE: ...the good heart. Thank you, Mr. President. I know that they're good heart and that's their call and duty. But I still have a question about why, if it's not

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immediate but it's a medical service but they're EMTs, that we're going about this change right now. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Price. Members, this is just to announce that today is Senator Wallman's birthday, and the muffins that were on your desks this morning are in honor of his birthday. And also the M&Ms at your desks today are from Julie Adams to celebrate Senator Adams' 60th birthday. So happy birthday, Senators. Continuing with floor discussion on AM1875 to LB646, members requesting to speak: Senator Gloor, Senator Louden, Senator Lathrop. Senator Gloor. [LB646]

SENATOR GLOOR: Thank you, Mr. President. Good morning. I voted to move this bill out of committee, and have a history, obviously, with some of the issues around here. Many, many years ago, I carried a certification as an EMT when I was in the service. I let that expire. But I bring that up because in order to carry that title most folks who serve in the emergency medicine field doing transports and first responders are certified nationally. For them to practice outside of...since we've talked about scope of practice, for them to practice outside of that scope puts at risk that certification, which clearly puts at risk their livelihood. So it isn't as if our whole discussion about scope of practice is the oversight, the only oversight we have. There are certifications, national organizations that offer these certifications. And for people to do something that is beyond what they should be doing, I'll use that term, puts at risk their very livelihood and that certification that goes along with it. So I was very comfortable with this piece of legislation and especially after AM1875. I would tell you that a majority, and I'm not overestimating I think when I say a vast majority of ambulance transports that perform not just in rural communities, as Senator Krist mentioned, but even in metropolitan areas, are transfers to and from facilities: hospitals to nursing home, hospital to hospital, medical clinic to hospital, medical clinic to home, home to medical clinic and hospital. A vast majority of those would be for what we would call routine nonemergent care. Are there emergencies that the EMTs respond to, that the ambulances respond to? Yes, that's why they're in existence. But if we were to wipe the slate clean of anybody ever having to have an emergency situation, we would still need people to do this sort of transport. And that's what happens in this state and in most states. These routine transfers go back and forth. Pulling out the verbiage, to me, better reflects what we ask them to do. I understand there is a degree of discomfort about it. But given the risk that people are at for their own personal certifications, I've never felt nor have some professionals I've visited with about whether this might be a creep beyond what people should be doing within their scope of practice, nurses specifically have said they're not concerned about it. What it may mean for the future I'm also not concerned about because I think there are safeguards. There are some legitimate questions being asked here. But I have to tell you again, from my personal experience and how we transport patients around this state, I'm very comfortable with LB646 and AM1875. I expect we'll talk about this a little longer, but both will get my support. Thank you. [LB646]

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PRESIDENT SHEEHY: Thank you, Senator Gloor. Senator Louden. [LB646]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I looked this bill over and noticed where it says individual need for medical care, and we've struck "immediate," if I remember correctly most of this came about years ago when people that would, on these EMS services, would come out to an accident. And if they were trying to save someone's life that was in terrible danger and all that sort of thing, and if they made a mistake they were actually liable. And that's what I thought a lot of this statute was drafted for several years ago. It goes clear back to 1997 or so when they started working on this. And then over the period of years, and I think if you remember in this Section 2 of this bill, it wasn't too many years back that we did some of this work with personal injury for mental illness for EMS providers. And that was brought into the bill. And then as we worked farther along, as you go through the bill, then it gets back to that first responders and who they are described as sheriffs and all those people like that, and that's what this original bill was brought forwards for. I haven't quite decided yet what AM1875 does, other than "re-describes" what a first responder is supposed to do. And I think as we work through this, the immediate deal was a problem with...that was the only ones that were in this situation that weren't liable. Would Senator Christensen yield for a question? [LB646]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Louden? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR LOUDEN: Senator Christensen, is this more...when you struck the word "immediate" out of there, was this more for the liability of these EMS providers than trying to redesign what they would do? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR LOUDEN: Okay. And so really what we're talking about is who's going to be liable in some of these instances where there's a life or death perception that could be. And if it wasn't immediate because at the time sometimes it could be immediate medical and sometimes it isn't. I seen a case where a person got thrown by a horse and they didn't think they were hurt that bad and they died about six hours later. So that would take out any liability if an EMS provider went and picked this person up and went in, that it wasn't necessarily anything that you could physically see that was perceived as immediate. But on the other hand, they were doing their best to help this person. So they wouldn't be liable, is that... [LB646]

SENATOR CHRISTENSEN: Correct. [LB646]

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SENATOR LOUDEN: Okay. And that's what I thought. And when we were starting to talk about some of this other amendments and stuff, I haven't decided yet whether this amendment helps or not or whether it more or less clouds up the whole statute in there. But I don't see where just the bill, LB646, I think is something that needs to be put into statutes. And I would support it in the form that it is in. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Lathrop. [LB646]

SENATOR LATHROP: Will Senator Christensen yield to a question please? [LB646]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Lathrop? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR LATHROP: Senator Christensen, I may be getting to the point where I can articulate better my concern, and that is the bill doesn't give me a context for this change. It just...all we've done in the bill is set out a couple of sections where we're going to redefine emergency personnel and we'll take "immediate" out and now they're people providing medical care. What I don't know is where is 38-1207 referenced? So if we're changing who's covered now or not covered under some other statutory scheme, is 38-1207 referenced in a different provision of the law? [LB646]

SENATOR CHRISTENSEN: I guess I'm not following. [LB646]

SENATOR LATHROP: Well, okay. If I went to, and I'm just going to use this as an example, but if I went to the Hospital-Medical Liability Act and looked at the provisions of that act, which cap damages for people that provide medical care and are negligent, does it reference 38-1207? [LB646]

SENATOR CHRISTENSEN: I can't answer that. [LB646]

SENATOR LATHROP: Well, can you answer this? Changing 38-1207, which we do in the first section of this bill, what's the context for it? Where is this definition of emergency medical personnel or whatever the term is, where is that found? Here's the point. You can have a statutory scheme that says we're going to do this with first responders and they're not going to be liable for that; and, you know, they can get off work if they need to. A variety of different things. And that statutory scheme can say, as used in this section first responder means exactly what we've said in 38-1207. Right? [LB646]

SENATOR CHRISTENSEN: Okay, yeah. [LB646]

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SENATOR LATHROP: So once we change this, what statutory schemes will it be applicable to? Because I've heard people talk about, well, we're just getting the...we're working on the liability issues or we're working on other issues and I'm not sure where 38-1207 ever gets used. Is it referenced in the Medical Liability Act for example? [LB646]

SENATOR CHRISTENSEN: I don't think it's cited anywhere else is what they're telling me here. [LB646]

SENATOR LATHROP: I'm struggling to find out from you as the sponsor what we're going to achieve by doing this, I really am. And I'm listening and trying to appreciate your bill as best I can and to understand it. But if we're not changing the scope of practice and I drive an ambulance in Omaha or in Hastings, what's going to be different for me when we pass this? [LB646]

SENATOR CHRISTENSEN: Well, the example my local people out in rural Nebraska said, you know, you got a situation of somebody takes care on a regular basis and they have to be gone; they have to attend a funeral or something, and somebody needs a check. They could have the local EMT come in and do that check that's under their scope of practice and take care of the situation for them. They're unpaid; they do it voluntarily. It would fill in because we are short of help out there. [LB646]

SENATOR LATHROP: Okay, so is this about helping volunteer firemen be able to take time away from their job? [LB646]

SENATOR CHRISTENSEN: It's not to try to take them away from their job, but it would allow them to go help somebody if they could work it in. [LB646]

SENATOR LATHROP: Okay, no, I appreciate the protections... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR LATHROP: ...that we afford the volunteer firemen and the EMTs. And I don't know if there's anybody here that's worked harder for those folks. I get it, okay? I really do get it. What I'm trying to get to though is when this is done you want them to come under some protection under a statutory scheme we already have in place, because the bill doesn't afford them any protection. All we do is change a definition. So this definition must fit or be a piece of a different statutory scheme that affords some protection to the volunteer firemen or the EMT. Is that right? [LB646]

SENATOR CHRISTENSEN: Well, I think it's giving them protection from, you know, if they're helping out somebody that...when it's not an immediate crisis. [LB646]

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SENATOR LATHROP: What protection are they getting? [LB646]

SENATOR CHRISTENSEN: Well, if they're helping somebody out that has just a day-to-day check or need, and it's not an emergency crisis,... [LB646]

PRESIDENT SHEEHY: Time, Senator. [LB646]

SENATOR CHRISTENSEN: ...they have the right to be there. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Lathrop. Senator Howard. [LB646]

SENATOR HOWARD: Thank you, Mr. President. This information may be helpful to you in considering both the bill and the amendment. In the Health Committee when we have issues come to us regarding scope of practice, and believe me there are at least two, three, four every session, we always ask if they've undergone a LB407 review. This is a critical component to us. The LB407 review is conducted under Dr. Schaefer, and really acts as...oh, as a reference for us, for want of a better word. It gives us the information...it gives those of us in the Health Committee the information that we need to know whether this is a scope of practice change and whether it would be recommended through this process. Now this bill was heard on March 2, 2011. And during that hearing Senator Campbell asked Mr. Bill Raynovich, who came in to testify in support of this bill, if a LB407 process had been started. Now Mr. Raynovich said: I believe there is a LB407 process already underway addressing the scope of practice issues, and I may sound like I'm hedging there, it's more than just guessing; there is an LB407 scope of practice issue underway, and that dialogue and the concerns that you have are very worthy of your consideration. And it goes on further in the transcript. This is Mr. Raynovich again: So you're right, that's the way it often happens in this case; Nebraska is really doing it the right way and that the regulatory LB407 process is underway. Well, in considering this bill we operated under that assumption that in fact this information was correct. And we found out later that the LB407 process actually isn't underway, hasn't been completed, there are no recommendations. And we became...I, should say, became more uncomfortable with this moving forward without the amendment that I gave you, the AM1875, stipulating that there would be no change in the scope of practice and this would not be misconstrued in any way as our advancing a bill with a scope of practice change in it. Again, the LB407 review process is really critical to the Health Committee. We don't know all the issues concerning chiropractors and physical therapists or ophthalmologists and optometrists, and we really rely on this process to give us valid information regarding scope of practice in those fields and whether it should be expanded from (1) say, the optometrist should be able to expand their scope of practice or whether it should not be expanded and the optometrist (sic) should continue to provide that service. It hasn't been completed on this bill and this issue, and I am not comfortable in voting to support this bill without the amendment that

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says this bill is no way to be misconstrued as an expansion of scope of practice. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Price. [LB646]

SENATOR PRICE: Thank you, Mr. President and members. In looking at this a little more and some conversations, again a question I have comes to a financial aspect. And I'd like you all to consider the following. Medical services are provided under this new apparatus. Then a bill has to be given out. And if it's your famed Aunt Mabel sitting at home who was helped and they get the bill and then they decide to contest the bill because they say, I wasn't under an emergency situation; why am I paying this amount? And now we have a conflict on how do we resolve the bill. The company wants to recover their costs. What's the bill structure? What's the bill rate? Well, do we now have bill rates? And they're saying, well, it was provided by emergency medical personnel, but it wasn't an emergency. It wasn't immediate, but it was, as we said earlier, it might be something impending or aggravated and potential. So again, what's going to protect the consumer from a company that says we went out, we rendered services? It was really...it wasn't an emergency or immediate, but we rendered services and now we want to recover. I don't know. I think right now under current statute that individual would be allowed or would have a way to seek remedy. And would Senator Lathrop yield to a question? [LB646]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Price? [LB646]

SENATOR LATHROP: I would be happy to. [LB646]

SENATOR PRICE: Thank you, Senator Lathrop. I'm sure you were here and we talked a little bit...I mean, is that a body of law or a practice where people go and try to recover for bills, and how are they going to figure this one out? Do you see that there could be a question here? [LB646]

SENATOR LATHROP: Well, I get your point. And without anymore explanation I think your concern sounds legitimate to me, which is if a...and I'll take my own Ralston Volunteer Fire guys. If they go on a call...maybe I won't use them because we probably have a lot of transport places and Ralston wouldn't be involved in that. But let's take the McCook volunteer guys. If they are providing emergency medical services, they respond to a car accident and somebody needs to be transported to the hospital. They will bill the person for the emergency medical services. Right? The law lets them do it, and they certainly do. The paid guys do it as well as the volunteer guys do it. And they can bill the insurance company or somebody for that lift to the hospital, even health insurance. Your concern, as I understand it, is if we do this they might be charging somebody for an emergency trip to the hospital when in fact all they've done is transport somebody with a lower degree of care and skill required. [LB646]

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SENATOR PRICE: Thank you. I believe that, Senator. It's just I'm trying to make sure that when we get this out and we enact this that we understand what we're doing at all levels. Obviously, we want to provide the best care for the citizens of Nebraska. That's not an argument. But now we have to look beyond that, colleagues, and we need to look to see where does the billing cycle come in. How do I get this taken care of? Will the insurance companies pay for this if I have insurance? Those are some questions I'm not seeing the answer right now. And again, a lot of it comes with the perceived nonimmediate. So if it's not immediate, why is the EMT doing it? Now in talking to Senator Krist I understand we already have a challenge in that... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR PRICE: Thank you, Mr. President. We do have a challenge in that when we do have EMTs out there providing public service and helping, that perhaps they're in a gray area there right now, that they're not covered for that. I don't know how putting a pressure cuff on someone could lead to some activity that would need to be redressed. But I am concerned that we help them out and that's good. But on the other side, I'd like to follow this transaction through to its logical conclusion and make sure that we keep everybody in mind and safe. Thank you, Mr. President. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Price. Senator Carlson. [LB646]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. In listening to the debate this morning, certainly I was sitting there and tending to support LB646, and I don't know that I'm afraid of the underlying amendment. But listening to several speak brings up some questions. I would like to address Senator Lathrop, if he would yield. [LB646]

PRESIDENT SHEEHY: Senator Lathrop, would you yield to Senator Carlson? [LB646]

SENATOR LATHROP: Yes, I will. [LB646]

SENATOR CARLSON: Senator Lathrop, in looking at the wording in the bill, first of all, there's two sections where it's mentioned: one, as an individual would respond, and secondly, as an organization would respond. But it refers to the situations involving either illness or injury, either physiological or psychological need, and either loss of life or aggravation. Now that's the words in the bill. But my question to you is, in looking at those things that need to be considered and a decision is made whether or not to render help, does it matter whether it says immediate medical care or just medical care? [LB646]

SENATOR LATHROP: And that's...your question is getting to the same question I'm

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asking, which is what are we accomplishing when we take "immediate" out of there? What will the people that provide immediate medical care do now that they don't...or do in the future that they don't do now? And that's the thing I'm struggling with. And I don't want to chew up your time. But my concern is that we have three definitions of emergency medical service, but we don't know where it's used. So these are just definitions; they don't give anybody a right. They're connected to a statutory scheme and I'm not sure what the scheme is that will get better for an EMS guy or worse, or...? And I was looking in Chapter 38. It looks to be a scope of practice thing and we have an amendment that says we're not changing the scope of practice. So I'm struggling to find out what we're accomplishing. [LB646]

SENATOR CARLSON: All right. Now from a laymen's point, until I listened to the debate this morning if I came upon someone who needed medical care for one of these three reasons or a combination, I hope I would give them help and not worry about whether it's an immediate need or just a medical need and do I have a liability problem. I'd rather that they get help first. And I think that's the simplification of what's happening here in removing the word "immediate." Give them help. [LB646]

SENATOR LATHROP: And I don't think that's the issue. I haven't heard Senator Christensen articulate that, that there's somebody afraid to provide medical help because they can only have some protection if it's immediate. I think somebody wants to do more with their qualifications and taking "immediate" out allows them to do more. I just can't tell because there's no context. We're not hearing the argument that after we change the definition, as we would do in this bill, we're going to let somebody, maybe it's a rural volunteer guy, do something that he can't do right now. And that's what I'm struggling with, Senator Carlson. [LB646]

SENATOR CARLSON: Okay. How much time do I have left? [LB646]

PRESIDENT SHEEHY: One minute 20 seconds. [LB646]

SENATOR CARLSON: Okay. Well, then, Senator Lathrop, let's go back. Is there a difference between immediate medical care and medical care? [LB646]

SENATOR LATHROP: I would say the answer to that is yes. [LB646]

SENATOR CARLSON: I think it is. And so what's the best way to have this worded: immediate medical care only in a sense, or medical care? [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

SENATOR CARLSON: And I'm not asking you for an answer here, but that's I think what we're struggling with. Go ahead and respond if you'd want to. [LB646]

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SENATOR LATHROP: I think that's exactly what we're struggling with. And so after we change...and just look at Section 1. After we change the definition in 38-1207, what consequence is it to anyone? There's no protection in 1207, 38-1207. It's part of a broader scheme under Chapter 38, and that's what I've been struggling to identify or waiting for somebody to articulate, because Chapter 38 appears to be a scope of practice and the amendment of Senator Howard says we're not changing anybody's scope of practice. So if that's the case, what are we doing? [LB646]

SENATOR CARLSON: Okay. [LB646]

SENATOR LATHROP: And who's going to get something out of this? I may support it if I just had somebody tell me that after this is done, this is going to happen and my EMT can do something... [LB646]

PRESIDENT SHEEHY: Time, Senator. [LB646]

SENATOR LATHROP: ...they can't do now. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Carlson. (Visitors introduced.) Are there additional members requesting to speak? Seeing none, Senator...oh, Senator Howard, you're recognized to close on AM1875 to LB646. [LB646]

SENATOR HOWARD: Thank you, Mr. President. I would just urge you to support this amendment because, as I explained earlier, this has not gone through the LB407 process. The last thing we want to do is to allow an expansion of scope of practice when none has been recommended or approved either by that process or the Health Committee. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Howard. You've heard the closing. The question before the body is on the adoption of AM1875 to LB646. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB646]

CLERK: 29 ayes, 0 nays, Mr. President, on adoption of Senator Howard's amendment. [LB646]

PRESIDENT SHEEHY: AM1875 is adopted. We'll now return to floor discussion on LB646. Senator Lathrop. [LB646]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I want to walk through this with you if I can, and then if I have any time left, I'll allow Senator Christensen the balance of my time to try to answer my concern. We are going to change the...Section 1 of this bill changes the definition in 38-1207. Right? Why is that change in definition

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important? The definition in 38-1207 fits within a statutory scheme. That statutory scheme has to do with practice credentials. Okay? So where is the new definition going to be used? It's not in the copy of the bill, so you have to go into the statutes to find it. Section 38-121 is where it is used. Let me read that to you. "Practices; credential required." That's the caption. "No individual shall engage in the following practices unless such individual has obtained a credential under the Uniform Credentialing Act." And then there's a list of things like dental hygienists and dentists and doctors and body arts and things like that. And (n) is "emergency medical services." Right? So the question then is, if the statutory scheme that we are changing a definition for requires that they be credentialed, now we are making more people get credentialed. I still don't see what this does. I still don't see what it does. If 38-121 is where this definition is going to be used and it says you can't engage in emergency medical services unless the individual has obtained credentialing under the Uniform Credentialing Act, and the amendment we just adopted says we're not changing scope of practice, what does this do? What will an emergency medical person be able to do after we pass this? Otherwise, I have to say we ought to start from the place where making changes to statutes is not necessary unless there's a purpose or we're going to accomplish something. And the sponsor I think needs to tell us what is going to be different for these emergency medical service people under Chapter 38, for example. I don't know. They still have to be credentialed. In fact, I think we're now making more people have to be credentialed. And we may be able to help him with making this a better bill if we understood what will happen after it passes. And I'd just like to focus on Chapter 38, Section 1 of Senator Christensen's bill. And with that concern better articulated, hopefully, I'll yield the balance of my time to Senator Christensen if he'd like to respond. [LB646]

PRESIDENT SHEEHY: Senator Christensen, you're yielded 1 minute 45 seconds. [LB646]

SENATOR CHRISTENSEN: Thank you. First, I'd say scope of practice defines the services you can provide. And by removing "immediate," it defines a time that you can apply the scope of practice. And what's going to be applied in this case, my rural guys have told me right now if somebody requires ongoing medical care in their home and they have to do certain medical checks that's under their scope, they're not allowed to go in there because it's not an immediate concern, even though it might turn into one if it's not performed. And giving an example of when they needed to go to a funeral and they're going to be gone for three or four hours, but yet a check needs to be done. They could have them step in, do that check and make sure that they've got things taken care of, where they tell me they can't do that right now because it's not an immediate or emergency-type situation. I don't know if I'm...that's the way they explained that to me, Senator Lathrop. [LB646]

SENATOR LATHROP: Can you open the mike? Thank you. What does the...and this is

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where I lost you as you were describing this. What does going to a funeral have to do and what's the check you're talking about because I think you're assuming I have some background I don't have. [LB646]

SENATOR CHRISTENSEN: Okay. Say, the nurse that is there has to leave to go to a funeral, but the individual needs a certain medical check they can't do, so maybe they need their blood pressure checked while they're gone. They can... [LB646]

PRESIDENT SHEEHY: Time, Senator. Senator Howard. [LB646]

SENATOR HOWARD: Thank you, Mr. President. And thank you, members, for your support on the amendment that I gave you this morning. I share Senator Lathrop's concern regarding this bill. While removing one word may seem a simple matter, I think any of us that have been here any length of time realize that it can have big implications. If Senator Christensen would yield to a question or two. [LB646]

PRESIDENT SHEEHY: Senator Christensen, would you yield to Senator Howard? [LB646]

SENATOR CHRISTENSEN: Yes. [LB646]

SENATOR HOWARD: Senator Christensen, there's a couple of things that have been brought to my attention regarding this bill and one of which is there is concern, we always have concern about a nursing shortage. Was this one of the selling points of this issue, that in western Nebraska there are fewer nurses available to provide whatever emergency treatment might be called for? [LB646]

SENATOR CHRISTENSEN: Sure, that was brought up. And there's a situation in my district where we don't have home health services in every county. And there's one particular county in my district that two other counties, that you have to skip a county to get to them, covers that county and they're pulling out. And so it's even more difficult for them to get a minor check or, you know, a blood pressure check, somebody that just can't do it themselves done. [LB646]

SENATOR HOWARD: Of course, Senator, a blood pressure check wouldn't fall in the category of emergent or urgent unless there was some other problems associated with that when the individual was getting the medical care. And I wonder if it would surprise you to learn that the nurses really are not supportive of the use of the issue regarding nursing shortage as a selling point on this particular bill. They feel that this has been used on the basis of an interim study, LR285, and that study has not yet been reported. So they are saying, whoa, hold back. I think this information should not be used in this way. The second question that I had for you, and again this was brought to my attention just recently, is there is a Web site called medicsathome, and I wonder if you're familiar

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with that at all? [LB646 LR285]

SENATOR CHRISTENSEN: Can you say that again? [LB646]

SENATOR HOWARD: Medics at Home. [LB646]

SENATOR CHRISTENSEN: If I'm familiar with them? [LB646]

SENATOR HOWARD: Have you...is this something that you are familiar with, you've heard of? [LB646]

SENATOR CHRISTENSEN: I'm not familiar, no. [LB646]

SENATOR HOWARD: All right. There is...additionally there's a concern that this particular group, which lists a CEO and promises that franchises are going to be coming soon in Nebraska and referring to this particular issue. I don't know if there's a connection. It may just be someone theorizing, but at the same time I think it's important to be aware of this. There are issues in this bill that I think have not been made clear; at least they've not been made clear enough to the body. I'm going to continue to listen to what you're telling us, but I think we really need to get to the heart of the matter and why you felt this was an important bill to bring forward. I'm just going to ask you one final question. Who asked you to bring the bill in? [LB646]

SENATOR CHRISTENSEN: Well, I was talked to by people from several places in the state, from Omaha to Imperial, Dundy County, Perkins County, my McCook friends that are concerned about being able to take care of their neighbors, friends, and not get outside of their immediate needs as an EMT. There's a difference between an immediate need and just the need of medical services. [LB646]

SENATOR HOWARD: Well, which is the very matter we're discussing here. (Laugh) [LB646]

SENATOR CHRISTENSEN: What? [LB646]

SENATOR HOWARD: This is exactly what we're discussing is... [LB646]

SENATOR CHRISTENSEN: That's right. [LB646]

SENATOR HOWARD: ...that particular difference. I'm going to continue to listen to what you tell us about this bill, but I am concerned... [LB646]

PRESIDENT SHEEHY: One minute. [LB646]

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SENATOR HOWARD: Thank you. I am concerned regarding the underlying issue here. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Ken Haar. [LB646]

SENATOR HAAR: Mr. President, members of the body, looking at the committee, what happened at the committee hearing, we had the Nebraska EMS Association, the Nebraska Rural Health Association, and the Rural Nebraska Regional Ambulance Network all supporting this. And there was no opposition. So I intend to vote LB646 forward, but I think we need some more questions answered before we pass it to the next step after that. And then looking to an e-mail here that I got, it says NEMSA, which if the Nebraska Emergency Medical Service Association, supports this bill, would allow for greater utilization and educational efforts by our EMTs across the state by removing the word "immediate" from the original statute, and emergency medical service would be able to provide the same medical services in a nonemergency setting on a scheduled or on-call basis. This change would not alter the scope of the practice. And then in addition, this change would allow an EMS to provide education and follow-up patient care in a nonemergency or nonhospital setting, helping to increase access to care and to lower costs to both the patient and the medical providers. Again, I will vote for LB646 to advance it. But I think we need some more information on these claims for the bill. If it helps the rural fire departments and the EMS, I'm also very supportive because about a year and a half ago, at our house, we had somebody fall down some stairs and sustain very serious injuries. But we had the volunteer fire departments from Malcolm and Raymond, and then eventually Lincoln showed up to respond to that situation. So I have the highest regard for the volunteer fire departments and for the EMS, and I will vote for LB646 on this round. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Haar. Are there additional members requesting to speak? Seeing none, Senator Christensen, you're recognized to close on LB646. [LB646]

SENATOR CHRISTENSEN: Thank you, Mr. President. Thank you, colleagues. And as this moves forward on Select File, if we've got additional concerns I'll try to get some more examples of what services they'll be able to do that changes. But to me, they're going to do the exact same thing, just in a nonemergency situation that they can do in emergency now. The scope hasn't changed. That's defined in the LB407 process that's been talked about. It's strictly allowing them to go in and take care of services that might be needed that aren't seen as an immediate emergency situation. Thank you. [LB646]

PRESIDENT SHEEHY: Thank you, Senator Christensen. You have heard the closing to LB646. The question before the body is on the advancement. All those in favor vote yea; opposed, nay. Please record, Mr. Clerk. [LB646]

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CLERK: 28 ayes, 1 nay, Mr. President, on the advancement of LB646. [LB646]

PRESIDENT SHEEHY: LB646 advances. Mr. Clerk, do you have items for the record? [LB646]

CLERK: Mr. President, I do. Your Committee on Enrollment and Review reports LB536, LB269, LB828, LB725, LB470, LB879, all to Select File, some having Enrollment and Review amendments. Judiciary Committee reports LB806 to General File with amendments. Government reports LB766 and LB779 to General File, and LB719 and LB735 to General File with amendments. And Revenue Committee reports LB1118 to General File, and LB818 to General File with amendments. Those reports all signed by their respective Chairs. New resolutions: Senator Seiler offers LR390, LR391, LR392, all three will be laid over. Acknowledgement of receipt of the Appropriations Committee preliminary report. And finally, priority bill designation: Senator Haar has selected LB947 as his priority bill for this session. That's all that I have, Mr. President. (Legislative Journal pages 439-447.) [LB536 LB269 LB828 LB725 LB470 LB879 LB806 LB766 LB779 LB719 LB735 LB1118 LB818 LR390 LR391 LR392 LB947]

SENATOR ADAMS PRESIDING

SENATOR ADAMS: Thank you, Mr. Clerk. Next bill on the agenda.

CLERK: LB540, a bill offered by the Health and Human Services Committee. (Read title.) The bill was introduced on January 18 of last year, at that time referred to the Health Committee for public hearing. The bill was advanced to General File. I do have committee amendments, Mr. President. (AM1719, Legislative Journal page 322.) [LB540]

SENATOR ADAMS: Thank you, Mr. Clerk. Senator Campbell, as Chair of the committee, you're recognized. [LB540]

SENATOR CAMPBELL: Thank you, Mr. President. And good morning, colleagues. LB540 relates to the state medical assistance program, better known as Medicaid. The bill requires the Department of Health and Human Services to apply for a Medicaid waiver or an amendment to an existing waiver for the purpose of providing medical assistance for family planning services for persons whose family income is at or below 185 percent of the federal poverty level. Public testimony during the LB540 hearing stated that 27 states, and it's now actually up to 29 states, utilize the family planning expansion. Testimony showed that Minnesota, since providing these services to low-income and high-risk women, the number of abortions in the state has dropped significantly. And Minnesota had the fourth lowest teen pregnancy rate in the nation. Minnesota estimated that for every \$1 spent on family planning, \$4 is saved in general funds. Last session, the department estimated, based on the U.S. Census statistics,

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that approximately 26,000 women who did not qualify would become eligible for family planning services at 185 percent of the federal poverty level. The approximate cost per recipient is \$198. The state match for family planning services would be at 10 percent of the General Funds, with 90 percent paid by the federal government. Assuming an implementation date of July 2013, the cost of family planning services in FY '14 would be approximately \$515,000 in General Fund, and \$4.6 million in federal funds. An evaluation of other states' family planning waivers was conducted by the CNA Corporation under contract with the federal Centers for Medicaid and Medicare, known to us as CMS. The report, published in 2003, showed family planning waivers saved millions of dollars in all six programs that were evaluated. The states were Alabama, Arkansas, California, New Mexico, Oregon, and South Carolina. Utilizing similar methodology in Nebraska, the first full year of savings would be in FY '15, estimated at \$12,600,000, or that's broken down to \$5.4 million in General Funds and \$7.1 million in federal funds. Family planning services have had a positive impact on Nebraska women and families. Providing women with education on family planning, and I must say that in some of the states I've looked at it's also been helpful to have that discussion with couples, as well as health services that can lead to healthier pregnancies, can have a beneficial effect on the entire family. Of special note is the information recently provided by Dr. Brian Williams, a national expert brought in to Nebraska by Voices for Children. And we had a special briefing on that for the Education Committee as well as for the Health and Human Services Committee, and I found it probably one of the most informative briefings I've had in the three years I've been in the Legislature. Dr. Williams comes from Emory University and has done research, completed on children that were born premature, regarding brain development and academic achievement for children later in life. His information supports the need for a focus on women's health and family planning. Supporting a family's efforts and education to plan the timing and size of a family provides health for the mother and the child. And subsequently, I'm going to spend some time talking about Dr. Williams' research. But the importance of spacing one's family and how that may affect their academic achievement in school was not two different research areas that I had seen connected. And I was very, very impressed with his research. I have been asked to make a note that between General and Select File I would anticipate that the Health Committee would ask for an update on the fiscal note and clarify for the body what an application for a waiver versus a state plan amendment would entail. I have to say most of my research has been on a waiver, not a state plan amendment. But I think it's important for my colleagues to know that we would be willing to do that so that it's very clear as to the cost and what we would be achieving. Of the 29 states, 22 have a federal waiver and 7 have state plan amendments. And I anticipate that we would see a greater savings looking at the waiver than perhaps as a state plan amendment. I anticipate a lot of discussion on this bill and I appreciate the discussion that has already occurred on LB540. I think it's important to note that we have 27 of the family planning clinics across the state, in all communities stretching west to east, north to south. And the importance of reaching low-income women to provide good education to them is significant. This is an important health issue. Thank you, Mr. President.

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[LB540]

SENATOR ADAMS: Thank you, Senator Campbell. Mr. Clerk, is there a committee amendment? [LB540]

CLERK: Mr. President, Health and Human Services would move to amend with a committee amendment. [LB540]

SENATOR ADAMS: Senator Campbell, you're recognized, as Chair. [LB540]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues. I will be very brief. I would draw your attention to the committee's amendment that clarifies, and I quote, "No state funds shall be utilized to pay for abortion services," and updates the date for the time frame for application for the waiver to July 1 of 2012. It is important to note that this idea is not a new one. Family planning waiver was suggested by the Medicaid Reform Council in its early years of formation as a way to save state fund money. And secondly, it was proposed out of the committee initially as a part of LR542, in which we were looking for ways to help the state budget. But because it does have a start-up cost and we would not start seeing those savings until future years, the committee held the bill and then relooked at it in terms of the health issue, not just as a budgetary issue. Thank you, Mr. President. [LB540]

SENATOR ADAMS: Thank you, Senator Campbell. Mr. Clerk, are there amendments to the committee amendment? [LB540]

CLERK: I do, Mr. President. Senator Fulton would move to amend the committee amendment with AM1859. (Legislative Journal page 447.) [LB540]

SENATOR ADAMS: Senator Fulton, you're recognized. [LB540]

SENATOR FULTON: Thank you, Mr. President, members of the body. This is an amendment that I've put forward here drawn in by AM1719. So AM1859, you can look at it, it's on your gadget. The first part of it is technical. There's a little...looked like a typo that we're correcting. And then we set forward a policy that I'm hopeful we can get some support for here in this body. The amendment simply adds the words, in addition to what we see in the committee amendment, "or to promote elective abortion services. The department shall ensure that any funds received under this subsection shall not be spent or used in any way to contract with any entity that performs or promotes elective abortion services or with any entity that affiliates with any entity that performs or promotes elective abortions." Now I appreciate what Senator Campbell and the Health and Human Services Committee has done here in AM1719. They are, in essence, recognizing that when we're talking about these family planning services oftentimes we're also talking about abortion, and so they've made an amendment, AM1719, which

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introduces this, frankly, ethically divisive issue into the bill. And I appreciate that because had they not done it, I probably would have. What this bill does, what my amendment does is further clarifies that we will have no public dollars going to any entity that promotes abortion. In this way, regardless of one's position on pro-life or pro-choice, I don't believe it's appropriate that we have public dollars going in any way, shape, or form to support this ethically divisive activity, and again that's without getting into the debate on abortion itself. So I'm hopeful that we can at least put this forward. We did talk with Senator Campbell and she has been very open in talking about this amendment. Hopefully we can get her support. I don't know if we will or not. But the community of entities who would receive this money are aware of this amendment. I'm just being straightforward in telling you what I would like to see as a policy. If you agree with me, you'll support this amendment; if not, you'll be against it. It is my intention, if we are able to adopt AM1859, I have given my word to Senator Campbell that I will not engage in a filibuster or in any other dilatory tactics on LB540. In fact, if AM1859 can get adopted onto this bill such that we clarify a policy here in Nebraska, I'll sit down and shut up, and watch this thing go forward. So I stand before you asking for your favorable vote on AM1859. Thank you, Mr. President. [LB540]

SENATOR ADAMS: Thank you, Senator Fulton. (Visitors introduced.) Debate on the amendment, Senator Krist, the floor recognizes you. [LB540]

SENATOR KRIST: Thank you, Mr. President. Good morning again, Nebraska and colleagues. If you check the record, I am one of the votes that voted against this coming out of committee, and I want to clearly state why and elaborate a little bit on the content of the bill. As Senator Campbell alluded to, this all came about...this bill came about and was presented in conjunction with LR542. For those of you who were not around then, LR542 was a process that we in the Legislature, we senators, whether we were on Appropriations or not, we became appropriations smart because we looked for ways to save money in years past and try to save money in the budget. It did not meet that criteria, not by any semblance of the imagination, because it had a price tag attached to it so it wasn't a savings. If it would have stopped there, I think it would have been the best course of action. However, the committee elected to put it out. Again, being someone who believes in the committee process, I will tell you that there was good debate within the committee, but it came out, and here's where I think the substantial flaw is in the legislation. We leave it--we, the Legislature, if we vote LB540--leave it up to the Department of Health and Human Services to decide whether to proceed with the waiver application process, which is complicated and it's lengthy, or a state plan process, SPA as it's called. And in either event the SPA again, as it was adopted by the Affordable Health Care Act or was recommended as part of the Affordable Health Care Act, includes services to adolescents and to males. Okay, let me say that again. One choice on the waiver is women and women's health; the other choice, on the SPA side, is women, adolescents, and males. Now imagine if you will that I would tell you that the same fiscal note would apply to both situations, and I would be lying, because one is

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more expensive than the other. So when we put a fiscal note on something and we don't know procedurally how that will apply or how that will carry forward, we need to take a step back and say, what are we really talking about? What does this cost? We had the discussion on the mike many times so far that we are in a position in this legislative session where there's going to be some trade-offs. Is it more important to do X or Y? Do we cut taxes here? Do we fund foster care and child welfare services there? Do we have that balance that we need or do we continue to make a decision one bill at a time and nickel and dime ourself towards the end? That inherently is the problem with LB540 as it sits. Senator Campbell did say that she was asked to look...we had asked her to look at the fiscal note. And I think, more appropriately, we need to define, if this bill goes forward in any context, in any form, are we talking about waiver or are we talking about the SPA? I'd be happy to talk to any of you more off the mike about that, but I think all you need to do is review the actual notes, the committee hearing notes, and the two processes involved, and you will see that there are substantial differences between the two. My other problem in not allowing this or not voting this out of committee is I do not think that one dime, one penny, one mil should go to Planned Parenthood. [LB540]

SENATOR ADAMS: One minute. [LB540]

SENATOR KRIST: The reason for that is that I don't believe that you can say, even though you give money to a particular entity, that you're only funding rooms number 1 through 20 in a 22-room complex, because in rooms 21 and 22 there are abortions or abortion-related activities going on, and I cannot believe, do not believe in that process. So it's impossible really to say I'm going to give you money but you're not going to use it for that, so I think there's a clear definition there. AM1719 goes a long way to addressing my last concern, the latter of my two concerns. AM1859 goes a better way to define it, but I still think the underlying bill is flawed and we need to pay particular attention to it. Thank you, Mr. President. [LB540]

SENATOR ADAMS: Thank you, Senator Krist. Senator Burke Harr. [LB540]

SENATOR HARR: Thank you, Mr. Senator Adams. I know we got a lot of snow last weekend but I guess spring is in the air because we're talking about abortion. I guess my...I like the intent. I like a lot that's going on with this bill. I do have some questions and need some clarification on this bill, and I would ask if Senator Fulton would yield to some questions. [LB540]

SENATOR ADAMS: Senator Fulton, would you yield for a question from Senator Harr? [LB540]

SENATOR FULTON: I will, possibly two or three. [LB540]

SENATOR HARR: Well, I appreciate that. Thank you. So I'm looking at your

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amendment to LB540 and you have in here "to promote elective abortion services." Can you define for the record what "elective abortion services" are? [LB540]

SENATOR FULTON: My understanding of elective abortion services would be that the intent is to abort the fetus. [LB540]

SENATOR HARR: Okay. And is that a live fetus or a dead fetus? [LB540]

SENATOR ADAMS: (Gavel)

SENATOR FULTON: It would be a live fetus. [LB540]

SENATOR HARR: Okay. So you'd be amenable to an amendment that said that it has to be alive? [LB540]

SENATOR FULTON: I would probably not be amendable to such an amendment because I think that it's understood that...well, we can go back and check... [LB540]

SENATOR HARR: Understood by whom? [LB540]

SENATOR FULTON: Say it again. [LB540]

SENATOR HARR: Understood by whom? [LB540]

SENATOR FULTON: In our statutes there's a definition for what an abortion is. [LB540]

SENATOR HARR: Okay. [LB540]

SENATOR FULTON: And I don't think it applies to dead fetuses. [LB540]

SENATOR HARR: Well, and there is a definition of "abortion" but there isn't of "elective abortion." And so then the question becomes, what is "elective"? [LB540]

SENATOR FULTON: And my intention here and my understanding of "elective" is by way of volition, because...and if I may continue with that? [LB540]

SENATOR HARR: Please. [LB540]

SENATOR FULTON: There is an argument to be made that certain contraception, the birth control pill, for example, can be an abortifacient. There's an argument out there. In fact it's an argument that causes some, therefore, to be uneasy with this bill. That's not what I'm doing here. I'm not making that argument. I'm saying elective abortion by force...by volition, by choice. [LB540]

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SENATOR HARR: Okay. You say there's a definition in the statute of abortion. Do you know what that is offhand? [LB540]

SENATOR FULTON: Offhand I do not. [LB540]

SENATOR HARR: Okay. And I'll look that up and maybe we can have further conversation. I'm a little worried about the word "elective" and how that is chosen and how that's used. And then I do want to ask you a couple other questions about the word "promote." What does the word "promote" mean to you? [LB540]

SENATOR FULTON: To say that we perform abortions. [LB540]

SENATOR HARR: Okay. [LB540]

SENATOR FULTON: To make known the fact that abortion is something that we do here. [LB540]

SENATOR HARR: So if you're in a... [LB540]

SENATOR FULTON: I mean I could come up with a better...I guess a better, a more formal, but off the top of my head that's what it means to me. [LB540]

SENATOR HARR: Okay. Well, I'm just trying to figure out what we're doing here. And what I'm trying to do is avoid First Amendment issues of freedom of speech and also interfering between a doctor-patient relationship. And I'm not sure if saying abortion, if you're in a doctor's office and it says abortion is available, is that promoting, versus, hey, by the way, we're doing promotions this week, \$19.95, although if you do it now we're going to go ahead and give you...throw in something else, maybe contraceptives for a month? So I'm trying to figure out what "promote" means because this is a very, as we all know, unfortunately, a very sensitive area--well, not unfortunately. It is a sensitive portion of the law, unfortunately often litigated. So I think it's important that we know what we're voting for and what it actually means. I can understand an entity that performs abortions; that's clear to me what that means. But when you say "or promotes elective abortion services," it gets a little grayer for me and I'm not quite sure. So I would just ask for some clarification... [LB540]

SENATOR ADAMS: One minute, Senator. [LB540]

SENATOR HARR: Thank you...so that we don't have unintentional consequences of interfering with the relationship between a woman and her doctor and that we don't also have something that's overly...well, we know what we're saying by the word "promotes." If you bring up the word "abortion," does that automatically mean that you're promoting

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it? It sounds like maybe it is and I think we need to clarify that to make sure that you're advocating for the services and not merely letting people know what is available legally under the law. Thank you very much. [LB540]

SENATOR ADAMS: Thank you, Senator Harr. Senator McGill, the Chair recognizes you. [LB540]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I was hoping I wouldn't come up quite so quick because I was trying to do some research on abortion in general and the fact that Planned Parenthood isn't the only place you can get those. You can go to a private doctor and...it's just Planned Parenthood is the place that many women know of and choose to go if they can't afford their own insurance and to try to find...I will try to learn more about that. But what perplexes me so much about this debate is that we spend so much time talking about the abortion issue and so little time on how to prevent unplanned pregnancy, and preventing unplanned pregnancy is exactly what this bill is about. And I hear from people who complain about low-income families on welfare and how many children they have and how we shouldn't...you know, some people say we shouldn't allow some of those people to reproduce and, you know, if they're just going to be using our dollars, and they're having more kids so they can get more money from the state. Well, this is the perfect opportunity to allow some of those families to better plan their families. And many of them do choose to go to Planned Parenthood. I know many Catholic women who, when afraid to go talk to their parents about the fact that they wanted to become sexually active, would go to Planned Parenthood because it's the place they know is safe to go--Catholics. They know it's safe to go there. They don't want to have an abortion, therefore, they don't want to have an unplanned pregnancy, so they seek out the help to make sure that that...whether or not to have an abortion is never even an option that they have to deal with. This promotes safe, healthy choices. Would Senator Fulton yield to a question? [LB540]

SENATOR ADAMS: Senator Fulton, would you yield to a question from Senator McGill? [LB540]

SENATOR FULTON: I will. Yes. [LB540]

SENATOR MCGILL: I want to...I'm not going to debate your amendment right now, but I do want to have an honest discussion about how to prevent unplanned pregnancies so that we don't need...the question of whether or not to have an abortion isn't even on the table. But it's my understanding, you know, when it comes to education, in terms of sex education, many folks who would align with you don't believe we should better educate in our schools about options with contraceptives. So can you talk to me a little bit about what you think is an appropriate route to prevent unplanned pregnancy? [LB540]

SENATOR FULTON: I can, Senator. I just want to make it clear that that's...I'm not

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entering any of that with this particular amendment. My own thought on this is that there should be some discretion on the part of parents, I mean if you're talking about public education. Certainly there has to be education done. And so if there are people who, as you put it, in my camp who disagree with that, then they're not in my camp. So I mean that's...I think that that's appropriate. Here's part of my concern on this though. I read through, from a Guttmacher Institute study that, well, maybe on someone else's time, that forming a relationship with a client through the application of some of these services, that's what happens and a relationship is formed. And that makes me uneasy when I recognize that down the road perhaps abortion would be promoted as a result of that relationship somewhere down the road. [LB540]

SENATOR MCGILL: So, Senator Fulton, you believe Planned Parenthood tells women to get pregnancies...or to get abortions? [LB540]

SENATOR FULTON: I believe that that is...that they are counseled to that. That's one of things they're counseled toward, yes. [LB540]

SENATOR MCGILL: Well, I would disagree with that, but I'll allow you to continue. But again, I want to know what your plans are that the state can help prevent unplanned pregnancies and, therefore, really prevent abortion from taking place. [LB540]

SENATOR FULTON: If we were to adopt this amendment, Senator, I'd be willing to let this bill go forward and I think the end which you have in mind. [LB540]

SENATOR MCGILL: That's not an answer to my question, Senator Fulton, about policy that we can enact to prevent unplanned pregnancies. [LB540]

SENATOR ADAMS: One minute, Senators. [LB540]

SENATOR FULTON: Are you in favor of LB540, Senator? [LB540]

SENATOR MCGILL: Yes, I am. [LB540]

SENATOR FULTON: I will let LB540 go forward... [LB540]

SENATOR MCGILL: That is still...Senator Fulton, that's enough. You did not answer my question. Thank you for your time though. This is an opportunity to prevent unplanned pregnancies and, therefore, prevent abortions. And many women do use Planned Parenthood just for healthcare. The majority use it just for healthcare. And I can appreciate the pressure many of you are getting from your churches, your religious bases, and honestly I don't expect you to be with me on this because of the political pressure. But this is a chance to do something, to prevent abortion, which is what all of you claim you want. Thank you, Mr. President. [LB540]

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SENATOR ADAMS: Thank you, Senator McGill. The floor recognizes Senator Council. [LB540]

SENATOR COUNCIL: Thank you, Mr. President. I rise because I have a number of questions about AM1859. And to remove any and all doubt, I support LB540. For those of you who did not have an opportunity to hear any of the presentations by Dr. Williams, I think there would be no doubt left in your mind. But I'm concerned about AM1859. Senator Krist was very clear about the reason for his support of AM1859. Senator Fulton, in his opening on the amendment, made reference to certain organizations. If Senator Fulton would yield to a question, please. [LB540]

SENATOR ADAMS: Senator Fulton, would you yield to a question from Senator Council? [LB540]

SENATOR FULTON: I will. [LB540]

SENATOR COUNCIL: Senator Fulton, is your objective the same as Senator Krist's, that your amendment is targeting Planned Parenthood? [LB540]

SENATOR FULTON: That...no. I understand that Planned Parenthood would probably be the largest entity that would fit under this category in AM1859, but, frankly, this is...it's not just Planned Parenthood. It would be any entity that fits the description I've put forward here. [LB540]

SENATOR COUNCIL: Can you identify any other entity that would fit the description other than Planned Parenthood? [LB540]

SENATOR FULTON: Off the top of my head, I can't. There may be another one. I'd talk with Senator Campbell. There may be another one in Omaha. But I, like I said, I think Planned Parenthood probably would be the largest but that's...I'm not focusing on Planned Parenthood. This would be any entity now or into the future. [LB540]

SENATOR COUNCIL: Okay. But in terms of this amendment, at this point in time, the only organization you're able to identify with any degree of certainty is Planned Parenthood. Is that correct? [LB540]

SENATOR FULTON: That is apparently correct as I'm not able to name any others. [LB540]

SENATOR COUNCIL: Okay. Now...thank you very much, Senator Fulton. If you read the language of AM1859, what's particularly troubling to me, and Senator Harr alluded to it but he didn't go forward with it, we're talking about First Amendment rights and

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infringements. And AM1859 speaks to anyone who affiliates with anyone who performs or promotes. Senator Fulton, would you yield to another question? [LB540]

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SPEAKER FLOOD: Senator Fulton, will you yield to a question from Senator Council? [LB540]

SENATOR FULTON: Yes. [LB540]

SENATOR COUNCIL: Senator Fulton, what in your mind would constitute an affiliation under your amendment? [LB540]

SENATOR FULTON: One who is an affiliate of Planned Parenthood. The "affiliate" is used here as a verb or the way that you've used it is a verb. In my mind it's "an affiliate," as a noun. I mean perhaps people would better understand what I'm getting at here. If there is an agency or an entity that falls under the purview and category of Planned Parenthood, then that would be an affiliation I think. It could be any other group than Planned...any other entity than Planned Parenthood, but that would be an affiliation. [LB540]

SENATOR COUNCIL: Okay. So I'm glad because now we're getting to the nitty-gritty here. This bill is directed at Planned Parenthood and affiliates of Planned Parenthood. But, colleagues, that's not what the bill says. The bill says, or anyone who "affiliates with," and "affiliates" is a very broad term. So if you have a conversation, you have a relationship on some other level, you would be drawn within this bill under AM1859. And that is extremely problematic. I think it's problematic that we're singling out an organization, and in many communities, mine included, in many communities the only Medicaid providers for low-income women happen to be Planned Parenthood. That's where they have to go... [LB540]

SPEAKER FLOOD: One minute. [LB540]

SENATOR COUNCIL: ...to receive medical care and treatment. And with Senator Fulton's amendment, we would be depriving these women not only of the family planning benefits that is at the core of LB540, we would be depriving them of needed medical care that the only place they've been able to receive it, historically, because a lot of private practitioners won't open their practices in low-income communities, are at Planned Parenthood clinics. And for that reason, I cannot support AM1859, for not only that reason but the language is broad, it is vague, it is ambiguous. Which means what, ladies and gentlemen? You're opening yourself up to a constitutional challenge. Thank you. [LB540]

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SPEAKER FLOOD: Thank you, Senator Council. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative resolutions: LR382, LR383, LR384, and LR385. Mr. Clerk, items for the record. [LR382 LR383 LR384 LR385]

CLERK: Mr. President, amendments to be printed: Senator Schilz to LB391. Revenue Committee, chaired by Senator Cornett, reports LB489 to General File with committee amendments attached. Senator Council would like to add her name to LB540 as coinroducer. (Legislative Journal pages 447-448.) [LB391 LB489 LB540]

And a priority motion: Senator Harms would move to adjourn the body until Tuesday morning, February 7, at 9:00 a.m.

SPEAKER FLOOD: Members, you've heard the motion. All those in favor say aye. Those opposed say nay. We are adjourned. (Gavel)