

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

Floor Debate  
March 01, 2013

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[LB7 LB21 LB24 LB28 LB29 LB32 LB36 LB39 LB40 LB44 LB46 LB67 LB78 LB99  
LB128 LB133 LB135 LB137 LB147 LB156 LB164 LB173 LB180 LB207 LB207A LB209  
LB210 LB213 LB214 LB225A LB230 LB250 LB279 LB290 LB311 LB316 LB336  
LB363A LB456 LB642]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-fifth day of the One Hundred Third Legislature, First Session. Our chaplain for today is Senator Wallman. Please rise.

SENATOR WALLMAN: (Prayer offered.)

SPEAKER ADAMS: Thank you, Senator Wallman. I call to order the thirty-fifth day of the One Hundred Third Legislature, First Session. Senators, please record your presence. Please record, Mr. Clerk.

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

SPEAKER ADAMS: Are there corrections for the Journal?

CLERK: I have no corrections.

SPEAKER ADAMS: Messages, reports, or announcements?

CLERK: Enrollment and Review reports LB225A and LB363A to Select File. I have the registered lobbyists report for this week, Mr. President, and a reminder that reports received in the Clerk's Office are available for member review on the legislative Web site. That's all that I have, Mr. President. (Legislative Journal pages 563-564.) [LB225A LB363A]

SPEAKER ADAMS: Thank you, Mr. Clerk. We'll move to Final Reading. Members, you should return to your seats and prepare for Final Reading. Mr. Clerk, the first bill is LB7. [LB7]

CLERK: (Read LB7 on Final Reading.) [LB7]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB7 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB7]

CLERK: (Record vote read, Legislative Journal pages 564-565.) 46 ayes, 0 nays, and 3 excused and not voting, Mr. President, on the final passage of LB7. [LB7]

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

Floor Debate  
March 01, 2013

---

SPEAKER ADAMS: LB7 passes. We'll now proceed to LB24E. [LB7 LB24]

CLERK: (Read LB24 on Final Reading.) [LB24]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB24 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB24]

CLERK: (Record vote read, Legislative Journal page 565.) 46 ayes, 0 nays, Mr. President, and 3 excused and not voting. [LB24]

SPEAKER ADAMS: LB24 passes with the emergency clause attached. Members, treats are being handed out to celebrate Senator Bolz's birthday today. We now proceed to LB28. [LB24 LB28]

CLERK: (Read LB28 on Final Reading.) [LB28]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB28 pass? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB28]

CLERK: (Record vote read, Legislative Journal page 566.) 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting. [LB28]

SPEAKER ADAMS: LB28 passes. We'll now proceed to LB29. [LB28 LB29]

CLERK: (Read LB29 on Final Reading.) [LB29]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB29 pass? All those in favor vote aye; opposed vote nay. Record, Mr. Clerk. [LB29]

CLERK: (Record vote read, Legislative Journal page 567.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB29]

SPEAKER ADAMS: LB29 passes. We'll now proceed on to LB32. [LB29 LB32]

CLERK: (Read LB32 on Final Reading.) [LB32]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB32 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB32]

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

Floor Debate  
March 01, 2013

---

CLERK: (Record vote read, Legislative Journal pages 567-568.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB32]

SPEAKER ADAMS: LB32 passes. We'll now proceed on to LB36. [LB32 LB36]

CLERK: (Read LB36 on Final Reading.) [LB36]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB36, with the emergency clause attached, be passed? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB36]

CLERK: (Record vote read, Legislative Journal page 568.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting, Mr. President. [LB36]

SPEAKER ADAMS: LB36 passes with the emergency clause attached. We'll now proceed to LB39. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB36 LB39]

CLERK: 38 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB39]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB39]

CLERK: (Read title of LB39.) [LB39]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB39 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB39]

CLERK: (Record vote read, Legislative Journal page 569.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB39]

SPEAKER ADAMS: LB39 passes. We'll now proceed to LB40 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB39 LB40]

CLERK: 42 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB40]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB40]

CLERK: (Read title of LB40.) [LB40]

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

Floor Debate  
March 01, 2013

---

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB40 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB40]

CLERK: (Record vote read, Legislative Journal page 570.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB40]

SPEAKER ADAMS: LB40 passes with the emergency clause attached. (Doctor of the day introduced.) Mr. Clerk, we'll proceed to LB67 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB40 LB67]

CLERK: 43 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB67]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB67]

CLERK: (Read title of LB67.) [LB67]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB67 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB67]

CLERK: (Record vote read, Legislative Journal page 571.) 46 ayes, 0 nays, 1 present and not voting, and 2 excused and not voting, Mr. President. [LB67]

SPEAKER ADAMS: LB67 passes with the emergency clause attached. We'll now proceed to LB78 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB67 LB78]

CLERK: 40 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB78]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB78]

CLERK: (Read title of LB78.) [LB78]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB78 pass? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. I'm sorry. Please record, Mr. Clerk. [LB78]

CLERK: (Record vote read, Legislative Journal page 572.) 44 ayes, 3 nays, 2 excused

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

Floor Debate  
March 01, 2013

---

and not voting, Mr. President. [LB78]

SPEAKER ADAMS: LB78 passes. We'll now proceed to LB135. [LB78 LB135]

CLERK: (Read LB135 on Final Reading.) [LB135]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB135 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB135]

CLERK: (Record vote read, Legislative Journal pages 572-573.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB135]

SPEAKER ADAMS: LB135 passes. We'll now proceed to LB137. [LB135 LB137]

CLERK: (Read LB137 on Final Reading.) [LB137]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB137 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB137]

CLERK: (Record vote read, Legislative Journal pages 573-574.) 45 ayes, 0 nays, 1 present and not voting, 3 excused and not voting. [LB137]

SPEAKER ADAMS: LB137 passes with the emergency clause attached. We will now proceed to LB147 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB137 LB147]

CLERK: 40 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB147]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB147]

CLERK: (Read title of LB147.) [LB147]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB147 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB147]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 574.) Vote is 46 ayes, 0 nays, 3 excused and not voting, Mr. President, on the final passage of the bill. [LB147]

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

Floor Debate  
March 01, 2013

---

SPEAKER ADAMS: LB147 passes. We'll now proceed to LB156. [LB147 LB156]

ASSISTANT CLERK: (Read LB156 on Final Reading.) [LB156]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB156 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB156]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 575.) Vote is 46 ayes, 0 nays, 3 excused and not voting. [LB156]

SPEAKER ADAMS: LB156 passes. We'll now proceed to LB164. [LB156 LB164]

ASSISTANT CLERK: (Read LB164 on Final Reading.) [LB164]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB164 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB164]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 575-576.) Vote is 47 ayes, 0 nays, 2 excused and not voting. [LB164]

SPEAKER ADAMS: LB164 passes. We'll now proceed to LB173. [LB164 LB173]

ASSISTANT CLERK: (Read LB173 on Final Reading.) [LB173]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB173 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB173]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 576.) Vote is 47 ayes, 0 nays, 2 excused and not voting. [LB173]

SPEAKER ADAMS: LB173 passes with the emergency clause attached. We'll now proceed to LB180. [LB173 LB180]

ASSISTANT CLERK: (Read LB180 on Final Reading.) [LB180]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB180 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB180]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 577.) Vote is 47

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

Floor Debate  
March 01, 2013

---

ayes, 0 nays, 2 excused and not voting. [LB180]

SPEAKER ADAMS: LB180 passes. And we will now proceed to LB207 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB180 LB207]

ASSISTANT CLERK: 40 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB207]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB207]

ASSISTANT CLERK: (Read title of LB207.) [LB207]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB207 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB207]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 578.) Vote is 45 ayes, 0 nays, 2 present and not voting, 2 excused and not voting, Mr. President. [LB207]

SPEAKER ADAMS: LB207 passes. We'll now go to LB207A. [LB207 LB207A]

ASSISTANT CLERK: (Read LB207A on Final Reading.) [LB207A]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB207A pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB207A]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 578-579.) Vote is 45 ayes, 1 nay, 1 present and not voting, 2 excused and not voting, Mr. President. [LB207A]

SPEAKER ADAMS: LB207A passes. We'll now proceed to LB209. [LB207A LB209]

ASSISTANT CLERK: (Read LB209 on Final Reading.) [LB209]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB209 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB209]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 579-580.) Vote is 46

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

Floor Debate  
March 01, 2013

---

ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.  
[LB209]

SPEAKER ADAMS: LB209 passes. We'll now proceed to LB210. [LB209 LB210]

ASSISTANT CLERK: (Read LB210 on Final Reading.) [LB210]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB210 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB210]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 580.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.  
[LB210]

SPEAKER ADAMS: LB210 passes. We'll now proceed to LB213. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB210 LB213]

ASSISTANT CLERK: 40 ayes, 1 nay to dispense with the at-large reading, Mr. President. [LB213]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB213]

ASSISTANT CLERK: (Read title of LB213.) [LB213]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB213 pass with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB213]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 581.) Vote is 46 ayes, 0 nays, 1 present and not voting, 2 excused and not voting, Mr. President.  
[LB213]

SPEAKER ADAMS: LB213 passes with the emergency clause attached. We'll now proceed to LB214 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB213 LB214]

ASSISTANT CLERK: 41 ayes, 1 nay on the motion to dispense with the at-large reading, Mr. President. [LB214]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the

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

Floor Debate  
March 01, 2013

---

title. [LB214]

ASSISTANT CLERK: (Read title of LB214.) [LB214]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB214 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB214]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 582.) Vote is 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB214]

SPEAKER ADAMS: LB214 passes. We'll now proceed to LB250 and the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB214 LB250]

ASSISTANT CLERK: 39 ayes, 1 nay, Mr. President. [LB250]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB250]

ASSISTANT CLERK: (Read title of LB250.) [LB250]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB250 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB250]

CLERK: (Record vote read, Legislative Journal page 583.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB250]

SPEAKER ADAMS: LB250 passes. We'll now proceed to LB279. [LB250 LB279]

CLERK: (Read LB279 on Final Reading.) [LB279]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB279 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB279]

CLERK: (Record vote read, Legislative Journal page 584.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB279]

SPEAKER ADAMS: LB279 passes. We'll now proceed to LB290. The first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB279 LB290]

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

Floor Debate  
March 01, 2013

---

CLERK: 42 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB290]

SPEAKER ADAMS: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB290]

CLERK: (Read title of LB290.) [LB290]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB290 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB290]

CLERK: (Record vote read, Legislative Journal pages 584-585.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB290]

SPEAKER ADAMS: LB290 passes. We'll now proceed to LB311. [LB290 LB311]

CLERK: (Read LB311 on Final Reading.) [LB311]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB311 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB311]

CLERK: (Record vote read, Legislative Journal pages 585-586.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB311]

SPEAKER ADAMS: LB311 passes. We'll now proceed to LB336. [LB311 LB336]

CLERK: (Read LB336 on Final Reading.) [LB336]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB336 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB336]

CLERK: (Record vote read, Legislative Journal page 586.) 47 ayes, 0 nays, 2 excused and not voting, Mr. President. [LB336]

SPEAKER ADAMS: LB336 passes. We'll now proceed to LB21. [LB336 LB21]

CLERK: Mr. President, with respect to LB21: Senator Lautenbaugh, I had amendments pending from the Select File debate. What's your intent, Senator; do you want to take those up? [LB21]

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

Floor Debate  
March 01, 2013

---

SENATOR LAUTENBAUGH: No, my intent is to withdraw those. [LB21]

CLERK: Thank you. I have nothing further on the bill, Mr. President. [LB21]

SPEAKER ADAMS: Then we'll proceed on LB21 to the reading. [LB21]

CLERK: (Read LB21 on Final Reading.) [LB21]

SPEAKER ADAMS: All provisions of law relative to procedure having been complied with, the question is, shall LB21 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB21]

CLERK: (Record vote read, Legislative Journal page 587.) 44 ayes, 0 nays, 3 present and not voting, 2 excused and not voting, Mr. President. [LB21]

SPEAKER ADAMS: LB21 passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB7, LB24, LB28, LB29, LB32, LB36, LB39, LB40, LB67, LB78, LB135, LB137, LB147, LB156, LB164, LB173, LB180, LB207, LB207A, LB209, LB210, LB213, LB214, LB250, LB279, LB290, LB311, LB336, LB21. [LB21 LB7 LB24 LB28 LB29 LB32 LB36 LB39 LB40 LB67 LB78 LB135 LB137 LB147 LB156 LB164 LB173 LB180 LB207 LB207A LB209 LB210 LB213 LB214 LB250 LB279 LB290 LB311 LB336]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Mr. Clerk, are there any announcements?

CLERK: I have nothing at this time, Mr. President; thank you.

SENATOR CARLSON: Thank you, Mr. Clerk. Next item on the agenda.

CLERK: Mr. President, the first bill on General File this morning: LB133, offered by Senator Hadley. (Read title.) Introduced in January, referred to the Banking, Commerce and Insurance, the bill was discussed briefly yesterday, Mr. President. At that time Senator Hadley presented his bill. At this time I have no amendments to the bill, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Hadley, would you give a brief summary of the bill you introduced yesterday? [LB133]

SENATOR HADLEY: Mr. President and members of the body, good morning. LB133 deals with concerns when we have two insurance policies, one for the owner of the vehicle and one for the driver of the vehicle, and their insurance policies have clauses

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

Floor Debate  
March 01, 2013

---

that are mutually repugnant. This deals with loaner vehicles from a auto dealership that's loaned, with no financial reimbursement on either side for the loan of the vehicle and where both policies have a clause in it that says their policy will be the secondary coverage and the other policy will be the primary coverage. My bill, LB133, is to set state policy that the policy of the driver of the vehicle, their policy will be the primary insurance, as they were the person that was involved in the accident that caused the liability in damage; the dealer's policy will be secondary. Both policies may be used to cover the damages caused, the liability, but this bill sets out and helps the court decide which policy will be primary and which policy will be secondary. Thank you, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Hadley. (Visitors introduced.) The floor is now open for debate. Senator Chambers, you're recognized. [LB133]

SENATOR CHAMBERS: Mr. President, members of the Legislature, with all due respect to Senator Hadley, I think he misspoke. So I would like to ask him a question about what he stated, if he will yield. [LB133]

SENATOR CARLSON: Senator Hadley, would you yield? [LB133]

SENATOR HADLEY: Yes, I will. [LB133]

SENATOR CHAMBERS: Senator Hadley, did you say that this bill is designed to establish policy to help the courts decide which policy of the two parties involved will be primary and which would be secondary? Did you say that? [LB133]

SENATOR HADLEY: Yes, I did. [LB133]

SENATOR CHAMBERS: Isn't it true that the court has already decided? [LB133]

SENATOR HADLEY: They have decided one way. I hope to give them policy that will have them look at the other way. [LB133]

SENATOR CHAMBERS: What you are doing...first of all, has the court already decided? [LB133]

SENATOR HADLEY: It has decided twice. There's been a Supreme Court ruling that held it was the driver's policy. There was an appellate court ruling that came later that turned around and said it was the owner's or the auto dealership's policy. [LB133]

SENATOR CHAMBERS: So you misspoke when you said it's to help the courts decide, didn't you? [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR HADLEY: I guess I don't understand. I...I...our policy helps the court... [LB133]

SENATOR CHAMBERS: No, you want to overturn one of the court decisions, don't you? [LB133]

SENATOR HADLEY: I want the state of Nebraska to set the policy, which I think is in the legislative purview. [LB133]

SENATOR CHAMBERS: Senator Hadley, I'm not going to let you escape. You want the Legislature to overturn a court decision that the dealers don't like. Isn't that true? [LB133]

SENATOR HADLEY: I don't believe the dealers don't like the decision, Senator Chambers; they would like to see a consistent decision. And that was one of the reasons that the two insurance companies went to court in the first place. [LB133]

SENATOR CHAMBERS: Senator Hadley, your sponsors did not prepare you well. The court has made a decision which the dealers don't like. Isn't that true? If they like it, why would they have you bring a bill to overturn the decision? [LB133]

SENATOR HADLEY: Well, I'm saying they would like to have it so that a decision is made. [LB133]

SENATOR CHAMBERS: They would like to have it so the decision is made in their favor, isn't that true? [LB133]

SENATOR HADLEY: I would agree. They would...yes, they would like to have it that the liability is with the driver. [LB133]

SENATOR CHAMBERS: It is so difficult...so when I decide to talk to you, I'm ready to ask about six questions in order to get an answer to one question. Now we have agreed that there is a court decision in place which is binding on both parties. Isn't that true? [LB133]

SENATOR HADLEY: That's correct. [LB133]

SENATOR CHAMBERS: And the dealers don't like that decision, isn't that true? [LB133]

SENATOR HADLEY: That's correct. [LB133]

SENATOR CHAMBERS: So they asked you to bring a bill which in turn would ask the Legislature to reverse that decision that the dealers don't like... [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR HADLEY: That's correct. [LB133]

SENATOR CHAMBERS: ...isn't that true? All right, now why should I agree to do that...wait a minute, let me ask you a preliminary question. If I understood what you had said yesterday and what you've said again today, the Supreme Court had handed down a decision; and what was that decision that the Supreme Court handed down? [LB133]

SENATOR HADLEY: That was Leader National Insurance v. American Hardware 249 Neb. 783, holding that the driver's policy paid first. [LB133]

SENATOR CHAMBERS: Well, isn't that what the dealers like? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: So there must have been a decision after that, is that correct? [LB133]

SENATOR HADLEY: That's correct. Would you like...? [LB133]

SENATOR CHAMBERS: And what did that decision hold? [LB133]

SENATOR HADLEY: That decision is in the Court of Appeals, and the Supreme Court did not take up the appeal from that decision. [LB133]

SENATOR CHAMBERS: Is it... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR CHAMBERS: Is that because neither party filed an appeal? [LB133]

SENATOR HADLEY: No, my understanding is...now, I think I misspoke yesterday, Senator Chambers. I believe one of the insurance companies did file an appeal, and the Supreme Court decided not to take up the appeal. [LB133]

SENATOR CHAMBERS: So the Supreme Court allowed, in effect, a lower court to overturn a decision by the Supreme Court. [LB133]

SENATOR HADLEY: That's correct. [LB133]

SENATOR CHAMBERS: I'm going to turn on my light, Mr. President, but I acknowledge that you're telling me...you will, now that my time is up. [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR CARLSON: Thank you, Senator Chambers and Senator Hadley. Senator Krist, you're recognized. [LB133]

SENATOR KRIST: Before I'm going to feel comfortable voting...thank you, Mr. President and colleagues; good morning, Nebraska. Before I'm going to feel comfortable voting one way or another here, I'd like to address a few questions to Senator Lathrop, if he's on the floor. [LB133]

SENATOR CARLSON: I don't see Senator Lathrop... [LB133]

SENATOR KRIST: Thanks for the offer. [LB133]

SENATOR CARLSON: ...Senator Krist. [LB133]

SENATOR KRIST: Okay, I'll engage in a conversation with Senator Chambers; that would be fine. [LB133]

SENATOR CARLSON: Senator Chambers, will you yield? [LB133]

SENATOR CHAMBERS: Yes, on behalf of Senator Lathrop. [LB133]

SENATOR KRIST: There's no substitute, sir. But thank you for offering to talk to me. When I take my vehicle in to a certain dealership that I've been doing business with for a very long time, there is what I think is a form that I fill out legally and I put my insurance policy and I sign it saying that I am responsible for their vehicle that they're loaning to me at no cost. Now I know, on the mike yesterday you were specific in the fact that you don't participate in that kind of activity because you don't do loaner vehicles, is that correct? [LB133]

SENATOR CHAMBERS: That's correct. [LB133]

SENATOR KRIST: Okay, thank you. Could I address a question, then, to Senator Lathrop? I see he's back. [LB133]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB133]

SENATOR LATHROP: Yes, I'd be happy to. [LB133]

SENATOR KRIST: So, Senator Lathrop, we had a little conversation off the mike. And again, to feel comfortable with the way that I am approaching this, when I do that at that dealership, I'm signing a piece of paper that says my policy covers me while I am driving their vehicle. And the discrepancy, as you...or the problem, as you described it to me, is that the law is still not definitively clear on who really is primary and secondary

Floor Debate  
March 01, 2013

---

responsibility in terms of who pays for a problem if I am at fault driving their vehicle.  
[LB133]

SENATOR LATHROP: I think it is clear right now. And the question is whether it should stay that way or flip over. And what we're talking about is whose insurance policy is primarily responsible, the dealership or the guy that got the car for free while his car is being serviced. I think the current decision, if I understand it correctly, from the appellate court, is the dealership is primarily responsible and my insurance policy isn't going to pay till we've exhausted the dealership's policy. And this bill would make the guy who gets the car for free, who caused the accident and, by the way, whose premiums will probably go up in any case, make that person primarily responsible and not the dealership. [LB133]

SENATOR KRIST: Well, I guess that was my question, because if I put my name and my policy on the line and it's my fault, I'm going to assume that my policy is going to reflect the fact that I have been charged with an accident. And that's what you're saying.  
[LB133]

SENATOR LATHROP: Well, I think that your insurance company is going to...every time you go up for renewal, they'll check to see if you've been involved in an at-fault accident. So literally you could end up, if we left things alone, causing an accident, having somebody else's policy pay for it--the dealership--and then have your premiums go up because American Family just realized, or one of the auto liability companies, just realized that you had an at-fault accident even though they didn't pay for the claim.  
[LB133]

SENATOR KRIST: Okay. So the form that I am filling out currently, according to the appellate court, says that the dealership is still primary responsible and my insurance would be secondary. [LB133]

SENATOR LATHROP: I am not sure what the form says, but it may; it's hard for me to know everything. But I'll tell you what, when you put your car in there, that dealership may be maintaining a minimum-limits policy because they don't have liability; they're not automatically liable unless... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR LATHROP: ...they put the car in the hands of someone who is incompetent to drive it. So vicarious liability is liability like an employer has for the actions of an employee. So if my runner in my law firm gets in a wreck, I'm liable for her because I'm vicariously liable. The dealership doesn't have that liability, so...or as a consequence they may maintain a very small policy, \$25,000, and then your policy kicks in after that's been exhausted. [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR KRIST: So one more question. [LB133]

SENATOR LATHROP: Sure. [LB133]

SENATOR KRIST: If indeed it is my fault, I have caused the problem, and my insurance company becomes involved with it or not, the premise is that I am still going to be charged on my record for having that accident. [LB133]

SENATOR LATHROP: Yes. [LB133]

SENATOR KRIST: Thank you. [LB133]

SENATOR LATHROP: That's part of fixing your premiums. [LB133]

SENATOR KRIST: Okay. Thank you. Thank you, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Krist, Chambers, and Lathrop. Senator Chambers, you're recognized. [LB133]

SENATOR CHAMBERS: Thank you. And, Mr. President, to answer directly the question that I think Senator Krist asked, I believe that Senator Lathrop's response, as the courts will say, was correct. But there is something a little more specific that can be said. You are not in a position to say what that insurance company is going to be responsible for. You cannot assign responsibility to that insurance company insuring you by signing a piece of paper. The insurance company has legal rights in this state pursuant to a decision made by a court. So no matter what you write in terms of being willing to have your insurance company pay, they don't have to pay; you cannot bind them to pay; they're not required under the law to pay; and you as an insured cannot make them pay. Now what you can do is sign a statement saying you will be personally responsible if an accident occurs as a result of your negligence, and I believe that my analysis is correct. So if your conscience is so stricken when something like this happens, leave your insurance company out of the whole picture and just tell the one from whom you borrowed the car that should there be an accident you will be personally responsible and liable to cover and allow them to recover any damage that you did. I don't like this bill. There are practices, there are tactics that businesses put in place for one reason only. The purpose of a business is to make money, and the business will do whatever it can do to realize a profit. The business will even spend money to make more money. If a private person did it, I guess they'd call it investing or in some cases gambling. But this is a practice of businesses to assist in obtaining or retaining the business of persons who purchase cars from them. If they don't want to be responsible, then don't have a policy that renders them responsible, which will be vulnerable to the policy of the driver of the car; the person who drives the car has an insurance company which is not

Floor Debate  
March 01, 2013

---

going to roll over for any business or that business's insurance company. The issue here is what you believe: do you believe that the insurance company of the dealer, who initiated the business transaction, or the policy of the driver of the vehicle? And the vehicle is one loaned to that person by the business as a part of its business, and I think taking care of the damage to that vehicle through the insurance company of the dealer is a part of the cost of doing business. And the dealership knows that and understands that. We are not dealing with a situation where one party is very wise and the other is very naive. [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR CHAMBERS: The only way we could say that might be the case: if we cast the dealer in the role of the one very wise and might be attempting to overreach the one who is naive. This matter has been decided by the court; the court decided in behalf of the citizen. People on this floor want to reverse that and make the decision go for the business or the corporation. Thank you, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Chambers. And, Senator Chambers, you're recognized, and this is your third time. [LB133]

SENATOR CHAMBERS: It may...thank you, Mr. President. It may be my third time, but I assure you it is not my last time. Now if I had a voice like Senator Bloomfield, I would have set that to a tune and given a rendering of Johnny Cash. Listen to him the next time he talks. When I don't look at him, then I feel that Johnny has been reincarnated and is among us under the name of Senator Bloomfield. I'd like to ask Senator Bloomfield a question while I'm at it. [LB133]

SENATOR CARLSON: Senator Bloomfield, would you yield? [LB133]

SENATOR BLOOMFIELD: Yes, I would. [LB133]

SENATOR CHAMBERS: Thank you. Johnny, are...I mean, Senator Bloomfield, are there any times during the day, or any other period, when you think back and it seems that you don't remember exactly what you did or when? In other words, do you ever have lapses of that kind? [LB133]

SENATOR BLOOMFIELD: Yeah, I believe probably so. [LB133]

SENATOR CHAMBERS: That proves my point; that was Johnny taking over. You don't know what Johnny was doing. [LB133]

SENATOR BLOOMFIELD: (Laugh) [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR CHAMBERS: But he's doing it through you. Thank you very much. That's all that I would have. Members of the Legislature, I'm not going to go to the mat on this bill...perhaps. If the court had not made a decision and there was a lot of confusion swirling and nobody was contemplating a court case, maybe I would feel differently. What are the courts for? The courts are there to decide controversies. A controversy existed. Senator Schumacher described the two combatants as "monsters." And however we portray them, they were at odds. And an issue was presented to the courts of the kind which courts decide. Each of the monsters was allowed to present its best case. And the monster who was acting on behalf of the citizen won. For once, Little Orphan Annie prevailed over Daddy Warbucks. Those who identify with Little Orphan Annie say that justice was done. Daddy Warbucks had more money; Daddy Warbucks put forth his best foot. And he lost, fair and square. Little Orphan Annie won and was deliriously happy, and her confidence in the democratic process and the American way of life was restored. And she left the courtroom singing "My Country 'Tis of Thee" followed by "God Bless America." And she went home to her little hovel, her thin gruel, because she didn't actually win money in this case, and she made her soup, Senator Schumacher, in the way she customarily makes it, and she used the recipe of Ebenezer Scrooge, who was notorious for his stinginess. She filled her bathtub with water; she took a can of Campbell's Soup and poured it in that bathtub full of water and mixed it by stirring it vigorously. And that was what she had... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR CHAMBERS: ...to consume...I've talked nine minutes already? Okay. [LB133]

SENATOR CARLSON: (Microphone malfunction)...talking on your third time, and now you've got 54 seconds. [LB133]

SENATOR CHAMBERS: I just wanted to be sure you were alert. (Laugh) And she was partaking of her supper when she had a neighbor come and tell her what the neighbor heard on the radio, because poor Little Orphan Annie can't afford a radio. And since my time is up, I will resume when my opportunity presents itself or when I create such an opportunity. Thank you, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Chambers and Bloomfield. Mr. Clerk, for a motion. [LB133]

CLERK: Mr. President, Senator Chambers would move to indefinitely postpone LB133. Senator Hadley, you have the option to lay the bill over or take it up at this time, Senator. [LB133]

SENATOR CARLSON: Senator Chambers, you're recognized to open on your motion.

Floor Debate  
March 01, 2013

---

[LB133]

SENATOR CHAMBERS: Am I on now? Thank you. So Little Orphan Annie interrupted her meal of cold, thin gruel. She went over and opened the door and was told this bad news. And she said, "I didn't think Daddy Warbucks could be so heartless and cruel, but maybe that's how he got his millions." Then the neighbor said, "Daddy Warbucks is not doing this." And Little Orphan Annie said, "Well, who, then?" And the neighbor said, "The Nebraska Legislature." And Little Orphan Annie, you know how they do in the comic strips, she clutched herself and said, "Horrors." Or maybe, if she was from the rural areas, she said, "Heavens to Betsy." But she had another question. She said, "While the Nebraska Legislature was doing this to a poor, defenseless orphan, where was that Senator Chambers?" And the neighbor said, "Well, he was doing what he does, which is to be the defender of the downtrodden, and he has taken on your case." And Little Orphan Annie said, "I may not win, but I know that I have the best advocate available pleading my case." And she went and ate her meal, rested her head where most people would have a pillow but she didn't, due to her impoverished condition, and slept the best that she could. Now, with an obligation like that on me, how am I going to do anything other than to fight for Little Orphan Annie and the Little Orphan Annies of this society? The only ones who testified on this bill was a person who is the lobbyist for these dealers, not a citizen. People are not aware of this. They wouldn't be aware that it would have any application to them whatsoever. The lobbyists know this; the legislators know this. And the legislators on that committee decided to do what the lobbyist asked them to do, and they presented this bill to us. And it's before us now. And you're being asked to shed real or crocodile tears for these lobbyists, in this case a particular lobbyist representing clients who pay him handsomely. Senator Lathrop said that, in his opinion, if the one who had borrowed this car was in an accident that would be deemed the fault of that driver, that driver's insurance premiums would go up anyway. I'm not going to call Senator Lathrop back to the floor, wherever he may be, but I would like to have discussed that with him. So I will ask Senator Hadley a question or two, because I know he is still here. [LB133]

SENATOR CARLSON: Senator Hadley, would you yield? [LB133]

SENATOR HADLEY: Yes, I will. [LB133]

SENATOR CHAMBERS: Senator Hadley, do you agree with that conclusion expressed or reached by Senator Lathrop, that even though...let me say even if the policy of the dealer covered the entire amount of damage, that the driver's insurance premium would go up? Do you agree with that? [LB133]

SENATOR HADLEY: I'm not an expert in insurance, Senator Chambers, so I cannot give you an opinion on that. [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR CHAMBERS: Let me ask you this: If the policy of the dealer would cover the full amount, and right now the dealer's policy is the primary payor, how would the insurance company of the driver become aware of this accident? [LB133]

SENATOR HADLEY: There would be an accident report filed. And I think Senator Lathrop said that the insurance company...that the driver's insurance company, when they were going to renew the policy, they would look at the state records for accidents. [LB133]

SENATOR CHAMBERS: And if they saw... [LB133]

SENATOR HADLEY: And I believe I'm quoting him right. [LB133]

SENATOR CHAMBERS: If they saw this accident but they had not been asked to pay it, what do you--well, Senator Lathrop should be here--what do you think would happen, as a layperson? [LB133]

SENATOR HADLEY: I think they might increase their premium, Senator Chambers, because this only happens when that driver was liable. [LB133]

SENATOR CHAMBERS: Right. [LB133]

SENATOR HADLEY: So that...his or her insurance company would say, that person had an accident that they caused; they caused the accident; they were...caused the liability to the injured party. So my sense would be the insurance company might say: We might have a problem driver here. [LB133]

SENATOR CHAMBERS: If the car ran into a part of the building of the dealer, there is no person injured, there is only property of the dealer involved. [LB133]

SENATOR HADLEY: Senator, this bill only deals with liability. It does not deal with collision; it does not deal with damage to the car; this is only liability. [LB133]

SENATOR CHAMBERS: Now we're coming to more specificity. Tell me an example that would create the liability that we're discussing here. [LB133]

SENATOR HADLEY: I will tell you that the court case that I talked about, Leader National v. , I believe, American Hardware, the dealer loaned a service loaner to a customer; the customer hit a bicyclist, the driver hit a bicyclist; and the driver was deemed to be liable for causing that accident. [LB133]

SENATOR CHAMBERS: So you're telling us that a report would be made, and it would be on the record of the driver. [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: Who would put it there? [LB133]

SENATOR HADLEY: They could very well have been issued a ticket. [LB133]

SENATOR CHAMBERS: Who would put it there? [LB133]

SENATOR HADLEY: I would guess the police officers, through the court system or however that they get it into the system. [LB133]

SENATOR CHAMBERS: But the courts...is the court going to say, put this on the driver's record? [LB133]

SENATOR HADLEY: No, I would guess it would be through the procedures that are used with any kind of accident. [LB133]

SENATOR CHAMBERS: But you don't know what those are for sure. [LB133]

SENATOR HADLEY: I believe it goes to the Department of...I'm going to guess the Department of Motor Vehicles. And the police department files a report, an accident report. And that's my best guess, Senator Chambers. [LB133]

SENATOR CHAMBERS: So it's your feeling that the police department would file an accident report. Here's Senator Lathrop. You kept the ball rolling in the way that I had done before. Senator Lathrop, here's the question. [LB133]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB133]

SENATOR LATHROP: Yes. [LB133]

SENATOR CHAMBERS: How would...so you'll know what I'm asking, I'll simplify it. [LB133]

SENATOR LATHROP: Okay. [LB133]

SENATOR CHAMBERS: The driver did get in an accident which would create the kind of liability that we're discussing. [LB133]

SENATOR LATHROP: Yes. [LB133]

SENATOR CHAMBERS: And the policy of the dealer would cover the entire amount, so

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

Floor Debate  
March 01, 2013

---

the driver's policy would never come into play. [LB133]

SENATOR LATHROP: That's your hypothetical to me. [LB133]

SENATOR CHAMBERS: Yes. So how would the driver's insurance company become aware of this accident? [LB133]

SENATOR LATHROP: I think they ask you questions every time you renew your policy: Have you been in an accident that was your fault; or have you been in an accident? They may troll for police reports too. I'm not sure how they find out; they seem to when my kids get in wrecks. [LB133]

SENATOR CHAMBERS: (Laugh) [LB133]

SENATOR LATHROP: You know what I mean? (Laugh) [LB133]

SENATOR CHAMBERS: What can I say? Okay, that's all I'll ask you. Thank you, Senator Lathrop. So we're going to accept the fact that the insurance...oh, here's the question I was getting to...Senator Lathrop, did you get some additional information...before I ask you the next question? [LB133]

SENATOR LATHROP: No, only that when you do an accident report...you cause an accident, you step out of the car, and the police want to know who your insurance is when they fill out the police report. So that might aid, in my case, American Family in figuring out how to increase my premiums. [LB133]

SENATOR CHAMBERS: I'm trying to think if I was ever in an accident where I was at fault, but...I've been in an accident, but the other person always...I was never asked the name of my insurance company. Maybe they did... [LB133]

SENATOR LATHROP: Oh, they would... [LB133]

SENATOR CHAMBERS: ...and I just don't remember it. [LB133]

SENATOR LATHROP: ...even if it's not your fault, because I look at a lot of police reports, for clients of mine, and they will have the insurance company for both... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR LATHROP: ...the fault and the not-at-fault. [LB133]

SENATOR CHAMBERS: Maybe because we're all required to have it. Okay. But here's the question: Why do you assume that the policy...that the premium will rise for that

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

Floor Debate  
March 01, 2013

---

person? [LB133]

SENATOR LATHROP: Because auto insurance companies have an underwriting process: they have various things that they look at to find out what they should charge you. Some things I disagree with, like one's credit history--and I've put that bill in before and gotten nowhere with it--but there are things like your driving history, your age, your gender, how many tickets you've had, if you've had...what kind of driving offenses you've been involved in; some would suggest a higher risk, like reckless driving or willful reckless driving. So if you have those things..if you start out with just I'm an average 55-year-old guy in Omaha, they will bump it up if I've had tickets; they'll bump it up if I've had an accident. And... [LB133]

SENATOR CARLSON: Time. [LB133]

SENATOR LATHROP: ...each time they renew my policy, that process takes place. [LB133]

SENATOR CARLSON: Thank you, Senators Chambers, Hadley, and Lathrop. Members, you've heard the opening on the motion to IPP LB133. The floor is now open for debate. There are senators wishing to speak. Senator Hadley, you're recognized. [LB133]

SENATOR HADLEY: I would ask for a vote against the indefinitely-postpone motion. I think this is a good bill. I would like to make just a couple of quick points. We're trying to, almost, make the assumption that there are insurance companies that insure individuals and there are insurance companies that insure dealerships. They could be one and the same insurance company. So for an insurance company, they could be, on one case they're on one side of this, the next case they could be on the other side of it. All this is doing is setting policy for the state of Nebraska. And there's been questions about because we've had a court decision, that that ought to be the policy. I don't think this body should abrogate its ability to make policy to the courts. If we want to do that, then we can maybe just close down and just have everything settled in the courts. I'm sure that all of us have issues that we don't agree, at times, with the courts with. Does that mean we shouldn't take up the policies? I would say that's the purpose of this body. If you don't agree with this as a policy reason, then you should support the kill motion. But if you think it is the role of this body to make policy and it's not the role of the courts to make policy, then I would not support this kill motion and I would support this bill. Thank you, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Hadley. Senator Lathrop, you're recognized. [LB133]

SENATOR LATHROP: Oh, me? I'm sorry, I was talking to Senator Chambers. I stand in

Floor Debate  
March 01, 2013

---

opposition to the motion to indefinitely postpone. And let me...let me be, perhaps, philosophical for a moment. This...what...this is about whose insurance is going to apply. In my policy--I have an American Family policy, I'm an American Family insured--it probably says, which is why we have a problem, if you're driving a loaner car and there's an accident, the other guy's insurance is primary. And the company that's loaning me a car, in my case the dealership where I take my car, they have a policy provision that says, in the event you're in an accident driving one of our cars, your own insurance applies. So what you have are two policy provisions on two policies, either of which, arguably, cover the accident, and they both say the other guy is responsible for it. What we're doing here is sorting that out. Because we've not sorted that out, the courts tried. They took a stab at it, and they said, well, we're going to follow the general rule, which is the guy that insures the car, the company that insures the car, we're going to make them primarily liable. There's no reason, rhyme, or rationale other than that is what they typically do when they run into policies that are mutually inconsistent. So today we're going to talk about...in this bill all we're trying to do is sort that out. Now let me speak for the insurance industry for just a second. Their primary concern is certainty. Once we tell them what to do or what the policy is in the state, they'll fix the premiums, and they'll figure out how to assess the risk and how it will be controlled. Now what are the equities, if you will, for having my policy primary and my dealership's secondary? First of all, I'm getting the car for nothing--now maybe I'm sort of indirectly paying for it in the extra cost I might pay for the oil change versus at Jiffy Lube--but it's free; they don't have to give it to me. In the old days I'd have to have somebody in my office pick me up at the car dealership. But they're letting me drive their car for nothing. Secondly, I'm the person causing the wreck; it's my fault, not the dealership's. And the third thing that I think is important is, in the end American Family is going to find out I caused a wreck, even though they haven't paid for the cost of the accident I caused. They're probably going to nick me next time my policy comes up for renewal; why wouldn't we make them pay it? It probably gives me...if you really get right down to it, if it's my insurance that's responsible for it, it probably makes me a little more careful with that loaner car too. So those are the reasons I think LB133 makes sense. And understand something, this isn't we're burying the little guy in favor of the big guy; it's we're sorting out a fight between two big guys. It's, you know, it's the American Family is over here, and it's the American Family Insurance Company is over here. They can insure the dealership, and they can insure me. But they need some certainty about who's primarily responsible when the policies say, it's the other guy. And that's all we're sorting out today. And, frankly...frankly, if I didn't...yeah...no...I think those are the reasons why LB133 makes sense. And, you know, we're just giving certainty to the insurance companies, and that's why you probably haven't heard a lot of them say, no, it should be the other way... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR LATHROP: ...because what they need is certainty. And there are

Floor Debate  
March 01, 2013

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cases...court cases that go up to the Supreme Court and the Court of Appeals for the sole purpose of trying to bring some certainty to policy provisions. And we have every right in the world, as a policymaking body, to review the decision that's been made from a court and to say we're going to go in a different direction. And I think I've given you the reasons why LB133 makes sense and Senator Chambers' motion should go down in flames this afternoon. Thank you. [LB133]

SENATOR CARLSON: Thank you, Senator Lathrop. Senator Chambers, you're recognized. [LB133]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Lathrop a question or two. [LB133]

SENATOR CARLSON: Senator Lathrop, would you yield? [LB133]

SENATOR LATHROP: I'd be happy to. [LB133]

SENATOR CHAMBERS: Senator Lathrop, there is a court decision in place right now, isn't that true? [LB133]

SENATOR LATHROP: That's what I've heard. I've got to tell you I haven't read it, but I have... [LB133]

SENATOR CHAMBERS: Right. [LB133]

SENATOR LATHROP: ...a pretty good idea what's in it. [LB133]

SENATOR CHAMBERS: And Senator Hadley had indicated, when I asked him, since it was an appellate court decision that brought us where we are, why was that not appealed to the Supreme Court by the side which was dissatisfied, and he said that the Supreme Court would not take up the case. [LB133]

SENATOR LATHROP: That happens. You can lose in the Court of Appeals and ask the Supreme Court to take up a case. There are some they have to, but generally there is some discretion in a case like this; they can say, no, we're not going to take it up. [LB133]

SENATOR CHAMBERS: So are you willing to acknowledge that you misspoke? [LB133]

SENATOR LATHROP: Me? [LB133]

SENATOR CHAMBERS: Thee. Vous. Usted. You, Senator Lathrop. [LB133]

Floor Debate  
March 01, 2013

---

SENATOR LATHROP: I...boy, I misspeak all the time. [LB133]

SENATOR CHAMBERS: Well, let me call it to your attention. [LB133]

SENATOR LATHROP: Especially outside of this place. [LB133]

SENATOR CHAMBERS: You said that what the insurance companies are looking for is certainty. [LB133]

SENATOR LATHROP: That's true. [LB133]

SENATOR CHAMBERS: With that decision in place that we have discussed, and we know what it says, where is there an absence of certainty? Isn't it, really, a case of the dealers not liking the decision that's in place now and they want us to reverse that decision? The certainty is there. Right now, which of the two would be the primary? [LB133]

SENATOR LATHROP: No, I think there's certainty right now. [LB133]

SENATOR CHAMBERS: Okay, so we've achieved what you said the insurance companies want, haven't we? [LB133]

SENATOR LATHROP: That's one thing they want. [LB133]

SENATOR CHAMBERS: Okay. [LB133]

SENATOR LATHROP: Well, that's one of the policy considerations. [LB133]

SENATOR CHAMBERS: Thank you. [LB133]

SENATOR LATHROP: And one of our job is to bring certainty, and there is certainty right now. [LB133]

SENATOR CHAMBERS: You have...(laugh) you can speak your mind but not on my time. He answered the question. Mr. President, every time I think I've caught them, they go somewhere else. And I catch them on the basis of what they said. If certitude is what we're looking for...and we have got certitude; that's the important thing. We have achieved the important thing by way of a court decision, which is binding on the insurance parties, and they know exactly the lay of the land. What really is at stake here is that the dealers paid a lobbyist and he wants to earn his money by persuading this Legislature, through Senator Hadley, to reverse a court decision that they don't like. That's what we're talking about here, not an absence of certainty, not two conflicting

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

Floor Debate  
March 01, 2013

---

decisions by courts neither of which prevails. There is a decision in place in which the state Supreme Court has acquiesced, which means that the Supreme Courts feels that the decision that's in place now ought to remain right where it is. So, as lobbyists will do, and what they're paid to do, they come whimpering and whining to the Legislature. And why do they think the Legislature will behave the way they want them to? The lobbyists give them parties; they give them food; they give them contributions. I don't think there's a senator in here who would take a \$10,000 handout and vote a certain way. And the lobbyists understand that. So they can create a greater sense of obligation... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR CHAMBERS: ...on the part of the senator by giving him a meatloaf sandwich and a chicken dinner. That will obligate the senator, whereas a \$10,000 handout wouldn't. Why do you think the lobbyists feed these senators? The hand that feeds, controls. There's no such thing as a free lunch; everybody knows that, and everybody says it. So does it become free only in the realm of politics, where every offering has strings attached? The lobbyists want us to change a court decision, and I will not do it willingly or docilely. Thank you, Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Chambers. Are there other senators wishing to speak? Senator Chambers, you're recognized. [LB133]

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Hadley a question. [LB133]

SENATOR CARLSON: Senator Hadley, would you yield? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: Senator Hadley, did you get any instructions as to how long you are to persist in fighting for this bill? [LB133]

SENATOR HADLEY: No, I did not. [LB133]

SENATOR CHAMBERS: All right. Have you arrived at a conclusion on your own as to how long you ought to fight for this bill? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: And what is your conclusion? [LB133]

SENATOR HADLEY: Until it is passed. [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR CHAMBERS: And if it doesn't pass, then you will...you are of a mind to fight as long as it takes to get it into a position where it might pass. [LB133]

SENATOR HADLEY: If that's what it takes, yes. [LB133]

SENATOR CHAMBERS: If that means till the cows come home. [LB133]

SENATOR HADLEY: Yeah, that's what we say out in Kearney, Nebraska. [LB133]

SENATOR CHAMBERS: And you know what that means, don't you? [LB133]

SENATOR HADLEY: It...I do. [LB133]

SENATOR CHAMBERS: And what does that mean? [LB133]

SENATOR HADLEY: It could be a long time. [LB133]

SENATOR CHAMBERS: That's what it means in the city too. And are you prepared to take a long time on this bill? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: How long? [LB133]

SENATOR HADLEY: As long as it takes. [LB133]

SENATOR CHAMBERS: Eight hours here? [LB133]

SENATOR HADLEY: As long as it takes. [LB133]

SENATOR CHAMBERS: Eight hours here? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: Two hours on Select File? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: Two hours on Final Reading? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: Do you think you're in a position to make that decision by

Floor Debate  
March 01, 2013

---

yourself? [LB133]

SENATOR HADLEY: Yes. [LB133]

SENATOR CHAMBERS: You don't think that the Speaker comes into play on that? [LB133]

SENATOR HADLEY: I don't believe it's his bill. [LB133]

SENATOR CHAMBERS: It's not his bill, but it's his agenda. Now if a bill that's not worth a penny is taking a lot of time, he can pull it off the agenda, can't he? [LB133]

SENATOR HADLEY: Uh...I've never... [LB133]

SENATOR CHAMBERS: Uh...? [LB133]

SENATOR HADLEY: ...been Speaker. I suppose he could. He... [LB133]

SENATOR CHAMBERS: You suppose. [LB133]

SENATOR HADLEY: ...is a pretty powerful person. [LB133]

SENATOR CHAMBERS: Have you ever asked him? [LB133]

SENATOR HADLEY: No. [LB133]

SENATOR CHAMBERS: I'm not going to ask him either. [LB133]

SENATOR HADLEY: (Laugh) [LB133]

SENATOR CHAMBERS: (Laugh) And he may not. But this is the kind of bill that creates the opportunity to raise issues. I am not going to try to hold us on this bill for eight hours today because we don't have eight hours today. I choose my words. But I don't intend to try to consume eight hours on this bill, by any means or any stretch of the imagination. But I'm trying to call attention to the fact that there are groups who can afford to hire lobbyists. And those lobbyists' interests will be served because the public will have no idea what is going on, even under the prospect of a citizen having to have an increased insurance premium, if this issue is decided the way I think it should be, namely, that the dealer's policy would be the primary one to respond. There are citizens who might agree that that's the way it should be, but their voice is never heard, because the way the legislative process operates, and we all know that, some things are not going to come to their attention; the public is not going to feel that it has any impact on them anyway, until it does. So being and remaining a common man who's a part of the commonweal, my

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

Floor Debate  
March 01, 2013

---

job is to express what I think is the way we commoners view things. And that's what I'm doing, and it's what I will continue to do. But I'll do it for a longer period of time on some issues than on others. But whenever the opportunity presents itself or, in this case, when the monster rears its ugly head, then I will do what I think is in the best interest of the public. And I do not think that rolling over for the dealers, the car dealers, of all groups, to reverse a court decision that they don't like...there will be other attempts by people... [LB133]

SENATOR CARLSON: One minute. [LB133]

SENATOR CHAMBERS: ...to have us reverse other decisions by the court, and the arguments that I'm giving today will be given at that time. So it does depend on who's ox is being gored. And I do not like this bill. I don't think any equities are on the side of the dealers and their insurance company. If, in fact, you're dealing with two monsters, why do they fight so hard for the monster that they like? Why? Let me win on the side of the monster who insures the ordinary person, the one who pays that monster. But, no, the big shots always prevail. And why do they use the term "big shot"? Because they have the big gun. You don't even hear the term "little shot," because after the big shot gets through with you, you're not there to do any shooting of any kind. You roll over, and you're dead. [LB133]

SENATOR CARLSON: Time. [LB133]

SENATOR CHAMBERS: Thank you... [LB133]

SENATOR CARLSON: Thank you. [LB133]

SENATOR CHAMBERS: ...Mr. President. [LB133]

SENATOR CARLSON: Thank you, Senator Chambers. Senator Wallman, you're recognized. [LB133]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Would Senator Hadley answer a question or two? [LB133]

SENATOR CARLSON: Senator Hadley, would you yield? [LB133]

SENATOR HADLEY: Yes, I will. [LB133]

SENATOR WALLMAN: Thank you, Senator. In regard to this here, you know, some of it makes sense, some of it's maybe on the fence. But how often has this, besides the Supreme Court case, how often has this bothered dealers? Do you have any idea how many cases there are or how many incidents? [LB133]

Floor Debate  
March 01, 2013

---

SENATOR HADLEY: I have no idea, Senator Wallman. [LB133]

SENATOR WALLMAN: Okay. Well, sometimes we do pass laws in here just for a couple times, you know, it's an emotional issue. But I'll be interested to listen to the debate. And I would yield the rest of my time to Senator Hadley. [LB133]

SENATOR CARLSON: Senator Hadley, you're yielded 4 minutes and 15 seconds. [LB133]

SENATOR HADLEY: I will pass. [LB133]

SENATOR CARLSON: Thank you, Senator Hadley and Senator Wallman. Senator Bloomfield, you're recognized. [LB133]

SENATOR BLOOMFIELD: Thank you, Mr. President. First, I would like to assure Senator Chambers that were I to break into a rendition of "I Walk the Line," I would chase forever from his mind any concept of me resembling Johnny Cash. Secondly, I'm going to stand opposed to this indefinitely-postpone move, not because I don't sympathize a little bit with Orphan Annie, but I don't like the way this decision is being made. I agree with Senator Hadley that it is the Legislature and not the courts that make these decisions. So I will be supporting this bill. Thank you. [LB133]

SENATOR CARLSON: Thank you, Senator Bloomfield. Are there other senators wishing to speak? Seeing none, Senator Chambers, you're recognized to close on the motion to indefinitely postpone. [LB133]

SENATOR CHAMBERS: Mr. President, members of the Legislature, Senator Bloomfield likes this bill. He thinks it's a decision that the Legislature should make and should overturn a court decision, because it's not for the courts, it's for the Legislature. Senator Hadley, would you respond to a question or two? I mean Senator Bloomfield. [LB133]

SENATOR CARLSON: Okay. Senator Bloomfield, would you yield? [LB133]

SENATOR BLOOMFIELD: Yes, I would. [LB133]

SENATOR CHAMBERS: Senator Bloomfield, we're talking about where agreements are made; if the term "deal" were the word we used instead of "agreement" and all this legalese, what constitutes a deal, in your mind? [LB133]

SENATOR BLOOMFIELD: If you're talking about a deal between two... [LB133]

SENATOR CHAMBERS: Just in general. What would the term "deal" mean? [LB133]

Floor Debate  
March 01, 2013

---

SENATOR BLOOMFIELD: Where you have come to some sort of an agreement that it's best to be decided on by both sides. [LB133]

SENATOR CHAMBERS: Would you like to make a deal right now that would deliver this body from this ongoing discussion? [LB133]

SENATOR BLOOMFIELD: Not necessarily. [LB133]

SENATOR CHAMBERS: Are you suspicious of what the deal would entail? [LB133]

SENATOR BLOOMFIELD: I might be just a tad, yes, sir. [LB133]

SENATOR CHAMBERS: If it's something that could be carried out without costing you any money or inconveniencing you to any great extent, would you be willing to make a deal? [LB133]

SENATOR BLOOMFIELD: Not necessarily. [LB133]

SENATOR CHAMBERS: What would it take to get you to consider making a deal? [LB133]

SENATOR BLOOMFIELD: At this point right now, your pulling the indefinite postpone... [LB133]

SENATOR CHAMBERS: Would you be willing to make a deal to get that result? [LB133]

SENATOR BLOOMFIELD: I...no, not if it ties up the body. [LB133]

SENATOR CHAMBERS: You're not willing to make a deal that will get me to pull that motion? [LB133]

SENATOR BLOOMFIELD: Not at this point. [LB133]

SENATOR CHAMBERS: Why not? [LB133]

SENATOR BLOOMFIELD: Not my bill. [LB133]

SENATOR CHAMBERS: You said you support it, though. [LB133]

SENATOR BLOOMFIELD: I do support it. [LB133]

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

Floor Debate  
March 01, 2013

---

SENATOR CHAMBERS: Are you afraid of the people in this room? [LB133]

SENATOR BLOOMFIELD: No, sir. [LB133]

SENATOR CHAMBERS: I didn't think you were either. But I'm going to offer you the deal anyway. If you will sing two bars of "I Walk the Line," I will not only pull this motion, I will not say another word on the bill. [LB133]

SENATOR BLOOMFIELD: As I told you before, I'm not willing to make that deal. [LB133]

SENATOR CHAMBERS: You know, when you drag that line...you sounded like Johnny Cash and you were getting ready to do it. And that's good enough for me. Mr. President, I withdraw that motion. [LB133]

SENATOR CARLSON: Thank you, Senator Chambers and Senator Bloomfield. Motion is withdrawn. We're back to discussion on LB133. Are there senators wishing to speak? Seeing none, Senator Hadley, you're recognized to close on LB133. [LB133]

SENATOR HADLEY: Senator Chambers, you don't want me singing either. We believe that the proper public policy is that, when there are two insurance companies covering an accident, the negligent driver--let me reemphasize that: the person who is driving the car in these situations we're talking about is negligent--who causes the accident, should have his or her policy pay first and the vehicle owner's pay second. The bill addresses only free loaner vehicles. It does not require anyone to purchase any insurance coverage. It only deals with insurance that is already purchased and in place. It does not reduce or change any insurance coverage. It only says the negligent party's insurance is looked to first. It is the duty of the Legislature to clear up this issue and state public policy for the courts and insurers to follow. With that, I would ask for a green vote. [LB133]

SENATOR CARLSON: Thank you, Senator Hadley. Members, you've heard the closing on LB133. The question is the advancement of LB133 to E&R Initial. All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB133]

CLERK: 31 ayes, 1 nay, Mr. President, on the advancement of LB133. [LB133]

SENATOR CARLSON: LB133 does advance. Mr. Clerk, next item. [LB133]

CLERK: Mr. President, LB316 is a bill introduced by Senator Burke Harr. (Read title.) Introduced on January 17 of this year, referred to the Banking, Commerce and Insurance Committee, the bill was reported to General File. I have no amendments to

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

Floor Debate  
March 01, 2013

---

the bill, Mr. President. [LB316]

SENATOR CARLSON: Thank you, Mr. Clerk. Senator Harr, you're recognized to open on LB316. [LB316]

SENATOR HARR: Thank you, Mr. Chairman, members of the body. This bill was voted out of Banking, Commerce and Insurance Committee by an 8-0 vote. No one testified against the bill or came in neutral. This bill addresses the household exclusion and the guest statute as they relate to insurance coverage. The household exclusion is a policy provision that excludes from coverage anyone living in a household with the named insured. This means that a family member or other person residing with a driver who is the named insured on the policy could not recover under the policy, regardless of the driver's negligence. In 1994 the Nebraska Legislature prohibited insurance policies in Nebraska from including the household exclusion and allowed family members to recover for damages. The guest statute is a statutory provision which prohibits a person from recovering against a person related within two degrees by blood or marriage. If a person causes an accident by driving carelessly and their spouse is injured, the spouse would be unable to recover. However, if the person caused an accident by driving carelessly and it was her girlfriend that is injured, she would be able to recover. In 2009, the Legislature repealed the guest statute so guests can recover for damages. Currently, a very small minority of insurance companies in Nebraska are trying to create a modified, or partial, household exemption and guest statute. For example, if a policy limit is \$250,000 for damages, the policy may contract to limit recovery to \$25,000 for households and guests. I received several calls and comments regarding the right to contract regarding this very issue. However, LB316 reinstates the original intent of the legislation in repealing the guest statute and prohibiting the household guest. LB316 adds language that an automobile liability policy shall not exclude, and then adds the language, "limit, reduce, or otherwise alter," liability coverage under the policy solely because the injured person making a claim is the named insured in the policy or residing in the household with the named insured. I would ask that you please advance LB316 to Select File. Thank you. [LB316]

SENATOR CARLSON: Thank you, Senator Harr. Members, you've heard the opening on LB316. Are there senators wishing to speak? Senator Chambers, you're recognized. [LB316]

SENATOR CHAMBERS: Mr. President, I also support the bill for the reasons that Senator Harr gave. I think it was a complete and clear explanation. And I just have one thing to say to Senator Bloomfield. When I looked at that vote, I stepped into "a burning ring of fire." [LB316]

SENATOR CARLSON: Thank you, Senator Chambers. Are there other senators wishing to speak? Seeing none, Senator Harr, you're recognized to close on LB316.

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

Floor Debate  
March 01, 2013

---

Waives closing. The question is, shall LB316 be advanced to E&R Initial? All those in favor vote yea; all opposed vote nay. Have all voted who wish to vote? Record, Mr. Clerk. [LB316]

CLERK: 28 ayes, 0 nays, Mr. President, on the motion to advance LB316. [LB316]

SENATOR CARLSON: LB316 does advance. Mr. Clerk, are there any messages, reports, or announcements? [LB316]

CLERK: There are, Mr. President. I have the confirmation reports from the General Affairs Committee, three different reports, those signed by Senator Karpisek; Natural Resources, also a confirmation report, that offered by Senator Carlson. Your committee on General Affairs, chaired by Senator Karpisek, reports LB230 and LB642 to General File, with committee amendments attached. Judiciary Committee, chaired by Senator Ashford, reports LB44, LB46, LB99, and LB128 to General File, with committee amendments attached. Bills read on Final Reading were presented to the Governor at 11:05 this morning (re: LB7, LB24, LB28, LB29, LB32, LB36, LB39, LB40, LB67, LB78, LB135, LB137, LB147, LB156, LB164, LB173, LB180, LB207, LB209, LB210, LB213, LB214, LB250, LB279, LB290, LB311, LB336, and LB21). Name adds: Senator Coash would like to add his name to LB456. (Legislative Journal pages 588-597.) [LB230 LB642 LB44 LB46 LB99 LB128 LB7 LB24 LB28 LB29 LB32 LB36 LB39 LB40 LB67 LB78 LB135 LB137 LB147 LB156 LB164 LB173 LB180 LB207 LB209 LB210 LB213 LB214 LB250 LB279 LB290 LB311 LB336 LB21 LB456]

And I do have a priority motion. Speaker Adams would move to adjourn the body, Mr. President, until Monday morning, March 4, at 10:00 a.m.

SENATOR CARLSON: Thank you, Mr. Clerk. Members, you have heard the motion to adjourn. All in favor say aye. All opposed, nay. We are adjourned until Monday, March 4, at 10:00 a.m.