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Floor Debate
February 10, 2014

[LB56 LB181 LB371A LB371 LB393 LB697 LB764 LB814 LB851 LB907 LB989 LB996
LR429 LR430 LR431 LR432]

PRESIDENT HEIDEMANN PRESIDING

PRESIDENT HEIDEMANN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the twenty-third day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Pastor Stan Latta of the Good News Jail and Prison Ministry, Sarpy County Jail, Senator Crawford's district. Please rise.

PASTOR LATTA: (Prayer offered.)

PRESIDENT HEIDEMANN: Thank you, Chaplain Latta. I call to order the twenty-third day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: (Read corrections re LR432, Legislative Journal page 493.) That's all that I have, Mr. President.

PRESIDENT HEIDEMANN: Thank you. Are there any messages, reports, or announcements?

CLERK: Your Committee on Revenue, chaired by Senator Hadley, reports LB697 and LB851 to General File, and LB814 to General File with amendments. Senator Ashford has selected...I'm sorry, the Judiciary Committee has selected LB907 as the first committee priority bill for this session. That's all that I have, Mr. President. (Legislative Journal page 493.) [LB697 LB851 LB814 LB907]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. We now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB371A, a bill by Senator Mello. (Read title.) [LB371A]

PRESIDENT HEIDEMANN: Senator Mello to open up on your bill. [LB371A]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. LB371A is the A bill for LB371, which the body advanced to Final Reading a couple weeks ago.

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As we discussed during General File debate, the fiscal note for the bill was significantly reduced with the adoption of the committee amendments, with nearly all the remaining impact being one-time revolving fund costs. While I have an amendment pending to LB371 on Final Reading that would address the remaining General Fund impact, we still need to advance the A bill at this time in order for it to catch up with the underlying bill, and I will have a Select File amendment if we move this to Select File as well. With that I urge the body to adopt LB371A to Select File. Thank you, Mr. President. [LB371A LB371]

PRESIDENT HEIDEMANN: Thank you, Senator Mello. Is anyone wishing to speak on the bill? Seeing none, Senator Mello to close. Senator Mello waives closing. The question before the body is, shall the bill be passed...advanced, excuse me? All those in favor say aye; all those opposed say nay...vote nay. Mr. Clerk, please record. [LB371A]

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB371A. [LB371A]

PRESIDENT HEIDEMANN: LB371A does advance. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR429, LR430, LR431, and LR432. Mr. Clerk. [LB371A LR429 LR430 LR431 LR432]

CLERK: Mr. President, before the Legislature proceeds to LB393, the Judiciary Committee will have an Exec Session at 10:30, north balcony; Judiciary Committee at 10:30 under the north balcony.

LB393, a bill by Senator Bloomfield and others. (Read title.) The bill has been discussed on February 6 and again on February 7. Mr. President, when the issue was left pending a priority motion was offered by Senator Gloor. That motion was to bracket LB393 until April 17, 2014. (Legislative Journal page 488.) [LB393]

PRESIDENT HEIDEMANN: Thank you, Mr. Clerk. Senator Bloomfield, would you like to give us a short refresher on LB393. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President. Good morning, colleagues. I introduced LB393, a simple little bill that would have given Nebraskans over the age of 21 back their right to decide whether or not they choose to wear a motorcycle helmet. The Transportation Committee had an amendment to put on it. That was split, and we have been discussing the amendment that has no basis in fact ever since. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield. Would Senator Dubas like to refresh us on the committee amendments. [LB393]

SENATOR DUBAS: The committee amendment simply deals with the main part of what

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Senator Bloomfield is looking to achieve. It requires riders to wear eye protection and it exempts riders over the age of 21 from wearing a helmet. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Dubas. Would Senator Gloor like to give us a few words on his bracket motion. [LB393]

SENATOR GLOOR: Thank you, Mr. President. Good morning, members. To helmet or not to helmet, that is the question. Whether to endure the slings and arrows of continued debate or move on the bracket motion and move on with other bills. We've had a lot of opportunity to discuss this bill not just this year but in the past; several times in the past, I would point out. And I think in deference to Senator Bloomfield and his passion for this issue and the fact that it's a priority bill of his, we have given it a number of hours of discussion. I don't think a bracket motion is out of line and would urge the adoption of the bracket motion. Thank you. [LB393]

SENATOR HEIDEMANN: Thank you, Senator Gloor. We now go to discussion on LB393. Senator Bloomfield, you are recognized. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President. This idea has in one form or another been before the legislative body before. But as we learned again last Friday, not everybody here has heard it. I've been here four years, this is my fourth year; we've never discussed this on the floor before. So anybody that has come in, in the last four years, has not heard this argument; and the folks that have been here six and eight years may have heard it once or twice, but not lately. But I want to take some of the arguments against this bill that they've been talking about and just put them to a little bit of a test. Senator Lathrop keeps telling us nobody thinks it's going to happen to them. Well, I don't think the family that was killed on Interstate 80 here last week thought they would lose control, go across the highway and hit a semi, and all be killed. I think if they would have thought that, they would have probably stayed home. I don't think my son-in-law, while sitting at a stop sign, stopped in an 18-wheeler surrounded by 70,000 pounds of steel, thought that he would be hit from behind and suffer brain damage. I don't think he thought that was going to happen, he might have stayed home that morning. And we talk about people not having insurance. Motorcycles are under the same law in Nebraska as are automobiles; you're required to have insurance. So that doesn't fly. We keep hearing statistics of how grim things were in Florida and Texas and California. I gave you statistics that show you how we are in Nebraska, Iowa, and South Dakota. The helmet doesn't look that great when you look at statistics here at home. You go to Florida where that may be the only transportation they have, and they may not have insurance and they ride year-round. The people here in Nebraska also own homes and automobiles. They know what it's about to have insurance. So I just don't believe all the grim statistics we hear add up. We are talking about a freedom here, a freedom many of these people fought for, some of were wounded for, the right to pursue happiness. You talk to these guys, they want to make the choice as to whether or not

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they ride without a helmet. They just may want to ride in a parade without a helmet; they may wear it all the other time. But under Nebraska law they can't ride in a parade down main street without their helmet. When we had the Legion Riders come through, they can't take their helmet off and ride as they escort a fallen comrade. There are many, many reasons to give them back their little bit of freedom. The dollars and cents that we talk about saving is not a reason to keep that freedom away from them. There is no price we can put on freedom. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield. Those wishing to speak on the bracket motion, we have Senator Kintner, Lathrop, Campbell, Schumacher, and Gloor. Senator Kintner, you are recognized. [LB393]

SENATOR KINTNER: Well, thank you, Mr. President. You know, I think it's pretty well documented, I'm not sure I can say that much more that I haven't already said, that I despise these laws that seek to protect people from themselves. I mean, jeez, if that's not the definition of a nanny state I don't know what is. But then we have the other crowd, we have some of who I think the biggest spenders in this body are coming back and saying...they're trying to be fiscal hawks now, saying, well jeez, if someone gets hurt, they'll be on Medicaid and it's going to bankrupt the system. So what we have is we have created a big welfare state called Medicaid and now we have to take away your liberty in order not to bankrupt the welfare state that we have created. I really think that that's backward logic. I think it makes more sense to start to dismantle the welfare state so it doesn't bankrupt us. And then some of those same senators are going to come back in about three weeks and say, we need to expand Medicaid; we need to make the welfare state bigger, after they're trying to protect the welfare state right here. And when the welfare state gets bigger, we're going to come after your liberties even more because we have to control how you live your life or we're going to pay for your medical care; well, you can't be riding a motorcycle without a helmet, you can't be smoking, you can't be eating, you know, cheeseburgers and stuff. So, you know, these are the kind of things that when the government creates a nanny state to take care of you, that, you know, they have to come back and try to protect that nanny state and protect you from yourself in order not to bankrupt the nanny state. So I think the logic here is not very sound logic. I think that I will yield the rest of my time to Senator Bloomfield and I appreciate Senator Bloomfield for fighting the good fight here. You don't know how much people across this state appreciate what you've done. And by the way, I've got a bunch of e-mails to prove it, so. I'll yield my time to Senator Bloomfield. [LB393]

PRESIDENT HEIDEMANN: Senator Bloomfield, 3 minutes. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President, and thank you, Senator Kintner. I too have received a fair number of e-mails. They're running about 20 to 1 to repeal this bill. I gave statistics last week that show that Nebraska doesn't fare that well with their

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helmets and injuries, compared, you know, with the number of registrations and the number of licenses. We don't do that good. I have here this morning--and if you want them I'll get them printed and pass them out--the statistics on fatalities. South Dakota usually has the highest. Iowa, with no helmet law, usually has the lowest. I think probably in South Dakota a lot of that high number goes to the drinking and riding that we see around Sturgis. It doesn't break out in the statistics but I have to think that it goes to the alcohol-related accidents. We just need to watch very carefully the liberties we give away in this state. We all laughed when Bloomberg came out with a limit on how much soda you could drink. We're not above doing that here in Nebraska if we let this thing continue to go on. There is no end to government overreach unless the people of the state of Nebraska or the United States stand up and say, enough. I think we've reached that point on motorcycle helmets. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR BLOOMFIELD: Again, my e-mail is running overwhelmingly in support, 20 to 1. Let's lift this hindrance to tourism and business in Nebraska. I think if we let the bikes in, we may see businesses opening up to take care of those extra bikes that come in. This can be an economic development, a good for outstate Nebraska. Let's get this done. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Kintner and Senator Bloomfield. (Doctor of the day and visitors introduced.) Senator Lathrop, you are recognized. [LB393]

SENATOR LATHROP: Thank you, Mr. President; and colleagues, good morning. I hope you had a good weekend. I expect that we'll probably get to a vote on the bracket sometime this morning, and we'll kind of find out where we're at. And so I thought I would use this opportunity to maybe summarize some of the arguments that I think weigh in favor of opposing or weigh in opposition to LB393. The bill itself would allow those over 21 to make the decision whether to have a helmet on or not when they ride a motorcycle. Other states that have done this have found that even among the youthful rider, among those who are under 21 they have 40 percent compliance. So what happens with this type of a bill, with this type of a motor helmet statute, is it becomes unenforceable. And then we looked at and we have talked about the fact that if you repeal this statute and we look at the effect this has had in other states, that we will see a dramatic increase in the number of deaths resulting from motorcycle accidents and we will see a dramatic increase in the number of brain injuries that occur following a motorcycle accident. And we also talked about, and it is the fact, that when these additional riders are killed, when these additional riders suffer brain injuries, those costs are passed on to society. And that makes this more than just a decision about whether I should be able to make the decision myself. My friend, Senator Kintner, again brought up the nanny state, which is puzzling. Senator Kintner oftentimes stands up and talks

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about spending; we need to have spending cuts; we're spending too much money. He'll oppose the expansion of Medicaid for the poor, for the working poor in the state, but if Medicaid is to pay for these new brain injuries, that's okay. We are policymakers here, and when we attempt to support our position by labeling this a nanny state issue, we miss the point. The state of Nebraska will end up picking up the long-term costs of these additional brain injuries, because, colleagues, most people don't have the health plan that's going to keep them in the nursing home or in the long-term care or provide for their long-term care needs: the occupational therapy, the physical therapy, the things that you need in a nursing home when you have a brain injury that leaves you in a persistent vegetative state. We'll pay that cost. So don't be misled. This is our first bill on the expansion of Medicaid. And if you are one of those folks who oppose the expansion of Medicaid, give this one some thought, because we will expand Medicaid; we will expand the expense associated with the care of these brand-new brain injuries--and it's expensive. I've seen...I have seen myself, in my own professional life, cost estimates to keep someone comfortable after they've suffered a traumatic brain injury that leaves them in a persistent vegetative state. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR LATHROP: And, Senator Bloomfield, it is in the millions. It is in the millions. And invariably, Medicaid is the one that picks it up. So it isn't just, should these people be able to make a decision? As we try to decide today what your vote is going to be on the bracket, understand that it has implications in terms of the state's budget, in terms of whether we are going to spend more money on Medicaid on the long-term care costs of those people who suffer brain injuries. And, believe me, we will double the number of brain injuries. We will have probably 40 more brain injuries a year if we repeal this, and we don't have to guess about that. This is the experience of those states that have repealed their helmet bills. They know, we know, it's going to happen; it's going to happen. And I think those are the... [LB393]

PRESIDENT HEIDEMANN: Time. [LB393]

SENATOR LATHROP: ...strongest arguments for opposition to LB393. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Lathrop. Senator Campbell, you are recognized. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President and colleagues of the Legislature. You know, I appreciate the discussion certainly of the cost with regard to Medicaid. We'll be spending more time on that in this session. But keep in mind that this isn't just the cost of medical care that we might consider. We should consider also the cost to the individual and the lost productivity and perhaps a lifetime cost to them, because it's also

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a cost to their families and to the people that they work with and to their friends. So let's not just assume that the medical cost is the only one that we are discussing today. Last week, when we discussed this, I tried to raise some issues with regard to studies that might have been published regarding motorcycle helmets. And you say, well, you know, it's just another study, it's another statistic. But the point is, is that we can learn from studies that have looked at this law. And one of the most interesting ones that I had an opportunity to review was from the Johns Hopkins Bloomberg School of Public Health, and it was an implication of public policy in a post repeal in a specific county in Florida. And the researchers--one, a physician, and one with an MBA--started taking a look at all the implications of what happened after the repeal in Florida in that county. And I want to give you some snippets of what is in this report to emphasize the totality of issues that we're looking at. The use of motorcycle helmets in Palm Beach County decreased substantially after 2000, which was the year of the repeal. Nonhelmeted riders were associated with a higher rate of fatality and a higher incidence of injury to the head and the face. The study confirmed that motorcycle injuries result in a substantial cost to society. The absence of a universal helmet law resulted in a decrease in helmet use, exposing riders to a higher risk of fatality and a higher risk of injury. The cost of care for all riders was substantial, and the low rate of health insurance shifts the financial burden to the healthcare system and society. In the report, as it began to look at specific issues, it indicated that motorcycles represent less than 3 percent of the registered vehicles, and this is nationwide; but .3 percent of vehicle miles traveled yet account for approximately 9 percent of motor vehicle fatalities. That alone should tell us that there is a problem. The relative risk of death per vehicle miles traveled is 30 times higher on a motorcycle compared to other motor vehicles. Fatalities are only the tip of the iceberg, and that is really what we are trying to impress upon all of you. The societal cost of injury is enormous. Healthcare charges for the treatment of injury represent only a portion of the total... [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President...financial costs. Other costs include those associated with loss of income, productivity, and property. Social costs are harder to measure but include pain, suffering, reduced quality of life, lost human potential, and disrupted families. The ethical debate generally centers on restrictions to personal freedom and civil liberties. The question often raised to balance the argument is whether nonhelmeted riders create an injustice for society by the increased economic and social burden. Colleagues, I hope to share with you some more information from this very important study as we go along in the debate. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Campbell. Senator Schumacher, you are recognized. [LB393]

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SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Occasionally I like to watch Star Trek. And if you are at all a fan of Star Trek, you've noticed the weird shaped heads of some of the people from other planets. One has to ask, what God would have created a head that looks like that? What system of evolution would have evolved a head that looks like that? And I think I know now: Those aren't heads, those are helmets. You see, there must have been a legislature on those galaxies and on those planets that decided that the head was not strong enough and that you needed at a certain stage to epoxy a helmet to it; and the artists all got together and they epoxied helmets to these creatures. And they had arguments about whether or not they should epoxy helmets to these creatures, and the arguments went like this: Head injuries are terribly expensive things; we need to make sure we eliminate or reduce the cost of head injuries, because even they had medical systems and medical costs even with the tricorder that Dr. McCoy had. So they looked at the sextant and undoubtedly they started out with things like, you need a helmet to ride a horse or maybe a bicycle or a motorcycle. And then they sat down with the math, and the math became very, very clear, because there wasn't the risk and the cost coming from horses or bicycles or motorcycles or football games or people falling down the stairs in their own homes; the risk was from any type of vehicle at all. The risk was from tripping on a piece of ice. And consistent with our social and medical costs data, there are far more people with head injuries costing the system lots and lots of money from injuries that are nonmotorcycle related than to those that are motorcycle related. And so the logical thing on these planets and they galaxies was to say, everybody needs a helmet for everything, because the skull is just too thin. So let's, if we're going to impair liberty, put creative helmets on all these creatures. There is social costs from head injuries. But the incidence of head injuries from nonmotorcycle things justify action there far greater than for motorcycles. It is easy to restrict liberty when you are restricting someone else's liberty and you can think of all kinds of reasons why you shouldn't restrict liberty when it's your liberty that's being targeted. Sometimes it's kind of fun to poke at Senator Kintner because he makes these arguments for liberty. But if you listen closely, there's a grain of truth in those arguments. The spirit of risk has value. A society that cannot accept risk will not go far. The spirit of liberty has value, and to the extent we try to prevent every risk, we try to overcompensate for every possible eventuality, we restrict our ability to find opportunity, we restrict... [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR SCHUMACHER: ...our sense of risk and its value. And that cost is immeasurable when compared to the cost that we've been talking about in terms of medical care; particularly, a misappropriated cost, when the motorcycles aren't the cause of all the head injury expense and we are doing nothing to address the other areas. Risk has value. Freedom has value. Liberty has value. Personal responsibility has value. And at some point an arbitrary decision is made as to where society, absolute need for restriction of liberty is greater than the value of liberty. And in this

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case I must side with the individual, with liberty, with freedom and the pursuit of happiness. [LB393]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Schumacher. Senator Harms, you are recognized. [LB393]

SENATOR HARMS: Thank you, Mr. President. Mr. President, how many times is this for me on bracketing? [LB393]

PRESIDENT HEIDEMANN: What did you ask, Senator? [LB393]

SENATOR HARMS: How many times have I spoke on bracketing? [LB393]

PRESIDENT HEIDEMANN: This is a new day. We start over again. [LB393]

SENATOR HARMS: Okay. All right, thank you. [LB393]

PRESIDENT HEIDEMANN: This will be your first time, Senator. [LB393]

SENATOR HARMS: Thank you, and I appreciate that. Senator Kintner, would you yield? [LB393]

PRESIDENT HEIDEMANN: Senator Kintner, will you yield? [LB393]

SENATOR KINTNER: I certainly will. [LB393]

SENATOR HARMS: Senator Kintner, I appreciate your position that you take a lot of times, you're ultraconservative and there's absolutely nothing wrong with that. I just want to talk to you a little bit about the graph that was handed out. When you look at that and you look at the number of deaths that we've had in 2012, you look at the injuries we've had, the property damages we've had, which totals up to costing this state about \$51 million. Are you saying that you don't believe that the state should step up to that and pay that \$51 million? Because the positions you're taking again are ultraconservative and I don't object to that, but are you saying to us and to the public that you don't think we should bother with that; that we should not pay for that and that should not be a part of our budget? [LB393]

SENATOR KINTNER: A great question, Senator Harms. And I...so I do want to say this before I answer your question, that I understand that your motives are the purest and you totally believe in everything you're saying and that you believe that this is an appropriate use of the force of the state. But to answer your question, I think the state should allow people...people know what happens when you get on a motorcycle. They know what happens if they go down at 65 miles an hour. People are well aware of that,

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and I don't know any motorcycle operator that's not aware of that. So really the question to me is, are we going to protect people from their own actions or are we going to allow them to assess the risks, like I did, and decide if they want to participate in riding on or driving or operating a motorcycle? [LB393]

SENATOR HARMS: Thank you, Senator Kintner. You really didn't answer my question. My point was, and I'm not going to ask you again, is that I just want to know whether you think we should pay the bill for the \$51 million, roughly? And I'm assuming from your discussion maybe you don't; but that's okay. One of the things...thanks again, thank you very much. One of the things, though, that I wanted to bring to your attention, we always seem to want to exclude what happens in other states when they go back and forth. And so I wanted to share with you just a moment, when Nebraska reinstated its universal helmet use law, acute medical charges for injury motorists declined 38 percent--38 percent. Are you telling me that this doesn't work? Are you saying to the public that this does not happen, this does not work; that you can wear a helmet and you won't be safe or it's your choice? You know, earlier, I asked a question of one of my colleagues about choice on this mike. And when you're dead, which happens to a number of people, like 22 in 2012, choice didn't help you. When you have a serious injury, a long-term medical cost, choice didn't really help that individual. When you are going to have continuous care for the rest of your life that destroys your family, you cannot provide for your family, you can't be a parent like you would want to be, choice didn't help you, colleagues. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR HARMS: Thank you, Mr. President. So I want to point out the fact is that there's a lot of responsibility that comes to choice. But I'm telling you, when your insurance runs out, who picks up that cost? Who picks up this \$54 million or \$51 million that we have? Whose responsibility is it? I think we know what the answer to that question is. It's our responsibility. And I will tell you just to look at the facts carefully. Even the U.S. Supreme Court would not even hear a complaint by a person who objected to the helmet law. That ought to tell us something. Even the highest court in the land simply says that that's not worth talking about. Another factor that I wanted to bring to your attention is, the Government Accountability Office, which we refer often to as the GAO, say if the laws requiring all the motorists to wear helmets are only strategically proven to be effective in reducing motor vehicle fatalities. [LB393]

PRESIDENT HEIDEMANN: Time. [LB393]

SENATOR HARMS: Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Harms. Senator Bloomfield, you're recognized. [LB393]

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SENATOR BLOOMFIELD: Thank you, Mr. President. Senator Harms just gave us some statistics on how much the injuries went down when this law was reinstated. What he failed to give you was the number of riders that no longer come to Nebraska. They ride around the state, extra miles, to avoid us. We have people here in Lincoln that I know that ride straight south to Kansas, ride to Colorado, up across Wyoming, to get back into Sturgis or South Dakota, the Black Hills, where they want to ride. Those numbers don't show up in their statistics. My wife worked for well over 20 years with severely and profoundly handicapped children. A very high percentage of them suffered brain injury from parental abuse, being flung up against a wall, being shaken badly. Let's deal with that and not with 21-year-old people that want the freedom to ride and the freedom to decide whether or not they want to wear a protective helmet. Again, freedom has no price. Too many people have bled and died for that belief for me to ignore it. I passed around a couple handouts again. One of them shows the number of deaths and cost for teen drivers, aged 15-19. There are more of them cause death than all the motorcycle riders. There are more of those injured than all the motorcycle riders. I have the same thing on accidents involving alcohol. Four times as many deaths. And we have a law on the book that says you can't do that. Too many laws are not the answer. It just is time to let Nebraskans choose whether or not they wish to wear their helmet. We can talk statistics back and forth here or we can throw numbers back and forth at one another. The one thing that does not go away is the cost the American soldier, the American people have paid for freedom, and the government's desire to take it away from them. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield. Senator Avery, you are recognized. [LB393]

SENATOR AVERY: Thank you, Mr. President. You will remember that I moved to divide the question early on when we began this debate, and the reason I did that was to have an opportunity to consider Section 2 separately, because in Section 2 is an amendment added to the bill by the committee that embodied a bill of mine which was LB181. And that bill was a requirement that would restrict motorcycle riders from putting children on motorcycles that would be in danger. And the reason why I wanted to have that separate discussion is that I, as you all know, do not support repealing the helmet law that we have on the books now, and...but I do think that we need to have additional protection for young children who are often put on motorcycles. In fact, in the summer of 2012, a Lincoln man was charged with neglect of a child; in fact, I think the charge was actually negligent child abuse, because his 3-year-old son fell off the back of his moving motorcycle. Three years old. He arrived at his court date with the child on the motorcycle again, with a helmet on the child's...not on the child's head; it was too big to fit on the child's head and was flopping on the back of his shoulder with the strap around his throat. The kid was hanging on, desperately trying to keep from falling off. That is absolutely ridiculous that we do not have any protection in the current law for that kind

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of behavior. The Lincoln Police Department charged him with negligent child abuse, and they admitted at the time that there were no traffic laws specifically addressing whether a child can ride on the back of a motorcycle. So you will notice in that amendment that the restriction would be a height restriction; that children under 48 inches cannot--tall, 48 inches tall--cannot ride on motorcycles as a passenger. After I had introduced this bill, back in March of last year, I received a letter from a mother. It was a letter actually sent to Senator Dubas as Chair of the Transportation and Telecommunications Committee, and a copy of it was sent to me. And this mother was very concerned because she has a 7-year-old child who is riding on the back of his father's motorcycle, despite the mother's objections. She says this bill is very personal to her because her son is being consistently exposed to danger that she thinks is too risky, and that--despite what Senator Schumacher said, risk ought to be a part of every society--we should not subject our children to these kinds of unnecessary risks. She went on to say that since his father is quite large, the kid's arms do not fit around his waist and he has to... [LB393 LB181]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR AVERY: ...hang on to his father's shirt in order to keep from falling off. She and the father are divorced, so she has very little influence over the father's behavior. He continues to put the child on the back of the motorcycle despite her continuing objections. She says, tears come to my eyes writing this letter because besides trying to change the law, there is nothing I can do to protect my child. We may not get to this amendment because I expect this bracket motion to be successful and I intend to vote for it, and I'm willing to sacrifice what I know is a good bill and a good amendment in order to keep the helmet law in place. I urge you to join me in that effort. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Avery. Senator Johnson, you're up next and recognized. [LB393]

SENATOR JOHNSON: Thank you, Mr. President. Last week I talked a little bit about an incident that a college friend of mine, her husband was killed on a motorcycle accident, and I'm going to talk about freedom of choice. When he rode his bike in Nebraska, he knew it was the right thing to do, he always wore his helmet. He went up to Sturgis and kept the helmet on until he got there, and was part of the events going on up there; and just riding on the street he made a choice and decided not to wear his helmet. He hit something at a relatively low rate of speed and lost control of the bike. Now this gentleman is probably in his early 60s at the time, this was ten years ago, and I know he had been riding a bike for a long time. I thought about an amendment that would cover those people that just got a license and maybe they needed to wear a helmet for a year, if we were going to try and move this forward. But he would have not been in that class, that's for sure. But that bike went over. He hit his head on the concrete, and emergency

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vehicles were there right away and rushed him to the hospital, and he was gone. I remember his wife saying--this was some time after the fatality--that she was still mad at him for not wearing his helmet. He knew it was the right thing to do but he made a choice. I'm not for overregulating, as I've stated before. But sometimes we have to protect ourselves and sometimes we have to go a little bit overboard. I still support the bill as it stands today and will support the bracket motion. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Johnson. Senator Schumacher, you are up next and recognized. [LB393]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. In listening to Senator Bloomfield's presentation a minute ago and where he explained that folks who would normally travel through Nebraska are driving around Nebraska extending the length of their trips to avoid Nebraska, it occurred to me if you have 25 percent increase in the length of your trip because you have to drive around Nebraska, then as a total social cost your risk, the risk of head injury, goes up by 25 percent. So really, by forcing people or setting the stage for people to make the decision to drive around Nebraska, we are increasing the social cost of head injuries. The shortest distance between two points is a direct line, not a 300-mile detour around a direct line. Motorcycles are dangerous things. Horses are dangerous things. Really, I guess, automobiles are. But motorcycles kill people. If we want to eliminate a large measure of social cost, let's eliminate motorcycles. On the three coroner calls that I can remember I was involved in, in all three cases I think there was a helmet involved. In one case, the motorcyclist flipped over, got thrown off the bike, and went sliding down the road and basically got crushed at the pelvis level by a light pole that he hit. He was dead on the scene. A dangerous thing. I would guess that if he would have survived, there would have been an expense. And maybe we should require body armor. Another one, he lost it, hit a bump on the road. He had a helmet on. Went tumbling head over head, head over heels, down the road probably 50-75 feet, and he was dead. Dangerous proposition. Another one, 4:00 in the morning, hit a curb, flew off the bike over the handlebars right into a tree, dead as a doornail. Motorcycles are dangerous propositions. Why don't we outlaw them? What is it in our psyche here that's trying to do the math to say, okay, we're going to intervene in personal liberty, in personal decision-making, here but not here. We're going to pick on motorcycles but not horses, bicycles, and other vehicles. What principle of law are we applying? If it's the sheer economics of saying, well, we don't want to have the burden of somebody with a head injury, then we should defeat this bracket motion and introduce an amendment to have an enhanced nonhelmet motorcycle licensing fee and require everybody through the state to buy, like a hunting license, a \$30-a-day permit, or something, to ride without a helmet, and put that in our kitty. That may be a better way to approach the system of cost rather than a restriction on liberty. But I finish as I began: When someone goes out of state, and it may be somebody from Ogallala that chooses to drive out to Wyoming to

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head north to Sturgis or head into the mountains, when they are forced to go in something other than a straight line because of our helmet law, we increase the social risk of head injuries. We increase the probability because the mileage increases, because the road choices decrease. And what it boils down to, I think,... [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR SCHUMACHER: ...is our failure to articulate what rule of risk versus reward versus liberty versus the denial of liberty that we're operating here. And until we can articulate that here, and perhaps apply it to other things that we're going to be talking about this year and subsequent years, we shouldn't bracket it. We should continue the discussion. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Schumacher. Those wishing to speak on LB393, we have Senator Lautenbaugh, Coash, Harms, Bloomfield, Larson, Schilz, and Lathrop. Senator Lautenbaugh, you are recognized. [LB393]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And I do rise in opposition to the motion to bracket and in support of the underlying bill. And yeah, I have heard this a couple times since I've been here, and I supported the repeal both times, and with good reason, I think. And this is a personal freedom issue simply put, as Senator Bloomfield said, and as Senator Schumacher pointed out as well, I believe. And we do spend a lot of time here. Everything we do consists of drawing a line and where you draw the line. And it does bother me because I don't ride a motorcycle, so yeah, we're restricting what these people can do, and you know, it's no big deal, because I'm not a motorcycle rider. Back in the day when smoking bans were first contemplated and you'd see these people huddling outside trying to smoke cigarettes, most of us don't smoke cigarettes and stand out there in the cold every, you know, half hour to do that. So it really doesn't matter to us because we aren't them. I enjoy an occasional cigar and that's more of a commitment, so the cold weather really doesn't affect me because I'm just not going to do it when it's this cold. Forty-five minutes is way too long to be out there. But I think we have to be careful when we look at a very small subgroup and say, hey, those people are doing something and it's not something the majority of us do, and it can cost money if it goes awry, and so we should restrict it or ban it or curtail it. And in the end, we just don't really...I won't say we don't care, but in some cases we don't seem to care, because it isn't us. It's those people, whoever those people are. And I have a son who has a motorcycle. He's 24 years old...24 in March, I should say. He's an adult by any reasonable measure. And he has a helmet for himself and a helmet for his guest, and he spends a lot of time in Iowa and I don't know that he wears his helmet when he's over there. I hope so. I tell him to. It's the smart thing to do certainly. He has it with him. I believe he wears it. He has one for a guest to wear as well, even in Iowa and certainly in Nebraska. And that's his choice and it's my desire that he make that choice. But there is a point at which we have to let free people be free

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people. And there are costs with that but there are also benefits with that. We've seen that. And you may think, well, this is a relatively trivial, to you, place to make this stand. But when you encourage a people to be a free people, there are free people in a lot of ways, and they feel free, and they do things that only free societies can do. There's a reason why command economies don't work even if they try to emulate a certain amount of economic freedom, because without freedom of thought and freedom of action, innovation doesn't work; innovation doesn't follow. We need to stay out of people's way to the greatest extent that we can. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR LAUTENBAUGH: And this is one of those things. And again, we all again have to draw the line somewhere. I understand that. But there are many states that have gotten by just fine without helmet laws. Many states around us seem to be getting by just fine without helmet laws. And I would like those bikers on the way to Sturgis to be able to pass through Nebraska and not look at us as something they have to work around. I'm tired of Nebraska being a work-around. This will dovetail nicely into education, but I'm not going to go there today yet. I'm tired of the work-around. But focusing on the helmet issue, I don't want us to be the ride-around state either. This is a good bill brought with good intentions. And I urge you to please take a little step back toward freedom, oppose the bracket motion, and support the underlying bill. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Lautenbaugh. Senator Coash, you are next and recognized. [LB393]

SENATOR COASH: Question. [LB393]

PRESIDENT HEIDEMANN: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Senator Coash. [LB393]

SENATOR COASH: A call of the house, please. [LB393]

PRESIDENT HEIDEMANN: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB393]

CLERK: 37 ayes, 0 nays, Mr. President, to place the house under call. [LB393]

PRESIDENT HEIDEMANN: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor.

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The house is under call. Senator Chambers, would you please check in. Senator Coash, how would you like to proceed? [LB393]

SENATOR COASH: Roll call regular order. [LB393]

PRESIDENT HEIDEMANN: There has been a request for a roll call vote. The question is, shall debate cease? Mr. Clerk. [LB393]

CLERK: (Roll call vote taken, Legislative Journal pages 494-495.) 23 ayes, 24 nays, Mr. President, to cease debate. [LB393]

PRESIDENT HEIDEMANN: Debate does not cease. The next speaker in the queue is Senator Harms. We do raise the call. [LB393]

SENATOR HARMS: Thank you, Mr. President and colleagues. Well, this is going to tell us where we are. I still rise in opposition to this bill. You know, yesterday...or actually Friday afternoon, late, in my office, I received a telephone call from a gentleman in Rushville, Nebraska. And we talked a little bit about this bill, and one of the things he said that kind of caught my attention was the fact that he said he's been riding motorcycles since he was 8 years old. His father rode a motorcycle. He was taught all the safety rules and regulations that you should and a father who did a good job in preparing him to ride his motorcycle. After we were through with the conversation and I hung up, I thought a little bit about that conversation, because if people like this gentleman who's been riding for a long time, has a real good feel for the motorcycle, but, you know, colleagues, there are an awfully lot of people who are weekend riders and they're usually the ones that get themselves into difficulty. They're usually the ones who get killed. They're usually the ones who hurt themselves pretty severely, and they're usually the ones that in many cases will be involved in long-term care. The very thing that this law does, and let me give you an example of the people who are less than 21 years old would need to wear this helmet. You know, when they did this in Florida, in 2000, and they made that change at the age of 21, where not anyone less than 21 would not wear a helmet, it increased 188 percent of those who were injured severely. So we know that if...just looking at this aspect, we know that wearing a helmet makes a difference. The other side of it is, when you go by age, one of the things that people have said to me that are in the law enforcement business, that it's very difficult for them to really determine as they go by on whether or not that individual is 21 years old or not. That age requirement really gets lost in the shuffle, and many times they just simply will not stop the individual or will not ticket the individual because of that very factor. So the very thing that we're doing makes it very clear that even at an age of less than 21, they're probably not going to get stopped, as I said earlier. And we already know that the number of fatalities and the serious injuries, like Florida, will go up, skyrocket. So I would just ask that as you as a senator or as a colleague on this floor, look at the reason and be reasonable in regard to what the end results are in regard to

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this particular issue. We know what the damages are. We know the number of deaths that are going to occur. We honestly know, colleagues, and we can project how many of these individuals will be crippled for life. And I don't think we can ignore anymore that \$51 million that Senator Kintner and I spoke about earlier. I don't think you can ignore that anymore. It costs us a lot of money... [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR HARMS: Thank you, Mr. President. It costs us a lot of money, colleagues, to let this go by. If that's what you want to do, this is where the policies are made. If that's what you want to do, then for every death we look at, for every individual who's crippled, we understand then the difference. When it becomes a policy it opens that door and does allow people not to wear helmets, we'll find the end results will not be healthy for Nebraska. And I think the cost of this treatment will go up. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Harms. Those wishing to speak on the bracket motion, we have Senator Bloomfield, Larson, Schilz, Lathrop, Gloor, Krist, Christensen, Janssen, and Ken Haar. Senator Bloomfield, you are recognized. This is your third time. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President. We're not on the bracket motion anymore, Mr. President. [LB393]

PRESIDENT HEIDEMANN: We are on the bracket motion. [LB393]

SENATOR BLOOMFIELD: Okay. I thought the bracket motion failed and we moved on. But anyway, thank you. Senator Lathrop keeps telling us all of the Medicaid expense we're going to have. Ladies and gentlemen, if our people are leaving Nebraska to ride in states without helmet laws and they do get this horrendous injury, do you think they're not coming home to Nebraska? That expense is coming here anyway. If someone rides across our state from another state and would happen to suffer this injury, their family is going to get them back home. That's another straw dog we're flailing at in trying to have government reach into our private lives. They're already there, people. It's time we move them out, at least a little bit. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield. Senator Larson, you're recognized. [LB393]

SENATOR LARSON: Thank you, Mr. President. Would Senator Lathrop yield? [LB393]

PRESIDENT HEIDEMANN: Senator Lathrop, will you yield? [LB393]

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SENATOR LATHROP: Sure. [LB393]

SENATOR LARSON: Senator Lathrop, I've heard you talk a lot on the mike about the accidents that have happened relating to motorcycles and whatnot. And I'm going to take it just a step, maybe a step aside, and do you ride horses? [LB393]

SENATOR LATHROP: I used to. I haven't in 20 years probably. [LB393]

SENATOR LARSON: Did you wear a helmet when you rode horses? [LB393]

SENATOR LATHROP: I did not. [LB393]

SENATOR LARSON: Do you have any...and I don't...do you have any family members that ride horses? [LB393]

SENATOR LATHROP: You know I do. [LB393]

SENATOR LARSON: Do they wear helmets? [LB393]

SENATOR LATHROP: Depends on what she's doing. [LB393]

SENATOR LARSON: Thank you, Senator Lathrop. Colleagues, I think Senator Lautenbaugh talked a lot about we are implementing or have implemented a law on a small subgroup of people that affects...I don't know if it affects any of us. I don't know how many motorcycle riders we have in this body. And when I talk about the riding the horses comment is I know the dangers of riding horses. I grew up on a horse. I train horses. There's accidents, bad accidents riding horses. And I don't think if you put up a bill to make everybody riding a horse wear a helmet that it would be supported. Actually, I'll ask Senator Lathrop. Will, Senator Lathrop, will you yield? [LB393]

PRESIDENT HEIDEMANN: Senator Lathrop, will you yield? [LB393]

SENATOR LATHROP: Sure. [LB393]

SENATOR LARSON: Would you support a bill or introduce a bill to make everybody riding a horse at all times wear a helmet? [LB393]

SENATOR LATHROP: I would want to look at what the incidence of death and brain injuries are as a result of riding horses. I suspect there may be spinal chord injuries. I don't know if they have very many brain injuries. [LB393]

SENATOR LARSON: More spinal cord injuries. Yeah, more spinal cord injuries, that there are incidents of riding horses. Shoot, I think a lot of the incidents, maybe we

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should just mandate people wear helmets just walking around horses. Get kicked in the head, that's oftentimes what I hear, by accident where most of the deaths are. I mean, if we're talking about protecting our citizens, I think that might be an issue that the Legislature or the proponents of...or the opponents, I should say, of LB393 should look because, I mean, and that comes with a line that we talk about drawing. They're willing to draw the line X place, and those of us that are supportive of LB393 are drawing a little earlier, that it is the individual's right to decide. And it's easy to restrict somebody when you're not part of that group. And we're good at that in here, telling people what they can or cannot do. But we're not part of that group that we're telling what they can and cannot do in the end. I see it all the time. I think Senator Bloomfield hit on it shortly or was getting to it in terms of we also have heard a lot about the medical costs that are going to be incurred by the state of Nebraska if someone gets injured. Well, if they're riding across state lines without the helmet, they are coming back home. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR LARSON: But let's talk about the economics of people that are skipping the state. The same economics. All the crashes that are supposedly going to happen and all the people that are supposedly going to be leeching off the state, if you want to say. We're talking a lot of people are going to be from out of state as well. Well, let's look at Sturgis. You have a half million bikers a year. I've seen estimates from certain studies that show anywhere between 100,000 and 150,000 people are circumventing the state of Nebraska because we have a helmet law. What are those economics for small-town Nebraska? O'Neill sits on two major highways, U.S. highways, that will see economics or economic development or improved economy because of it. Our restaurants in town, our gas stations in town, our hotels in town are losing out because of the helmet law. We draw lines in different places and we as a body are very good at telling people what they can and cannot do, especially when it doesn't affect us. [LB393]

PRESIDENT HEIDEMANN: Time. Thank you, Senator Larson. Senator Schilz, you are recognized. [LB393]

SENATOR SCHILZ: Thank you, Mr. President. Good morning, members of the body. I think this may be the third time possibly that we've debated this bill on the floor. And, oh, first thing, I'm against the bracket motion, strongly in favor of the bill. But as I was saying, this is probably the third time that we've talked about this, and every time it comes down to that question. What is measured more heavily? Society's right not to have you cost the system anything or your personal freedom's right to be able to do what you want to do where you want to do it? And I listened intently this morning as I heard everybody talk about how costs would rise if we repeal this helmet law that we have in place. And that we would cause more costs to the Medicaid and we'd cause more cost to insurance and we'd cause more cost of all of this going on. Well, folks, I contend that we do things everyday that potentially cost society in everything that we

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do. We have to be extremely careful as we sit here as this deliberative body and understand where that line should be. I mean, I was just thinking to my professional life and what I did before I came here. And there were times that I cost my company and cost my pocketbook because of decisions I made before on whether to buy cattle, feed cattle, or whatever. That, in turn, cost the state of Nebraska because I didn't make money. I didn't pay the income tax. So you can go quite a ways down this rabbit hole. I think we need to be careful of that. In rural Nebraska outside of Lincoln and Omaha, we're having a tough time, folks, if you haven't noticed. Population decline has hit us for the past 50 years. We're dealing with that or we're trying to deal with it. Do we have opportunities to make up for what we've lost? If it's true and there's 150,000 bikers that might come through the state, especially the rural parts of the state, especially the western parts of the state, and they'll be here if they don't have to wear a helmet, well, in my mind that's an opportunity lost. And I know everybody wants to make sure everybody's safe and doesn't want that to impact their pocketbook, but we can see the impact on both sides. I don't want to tell somebody what they should be doing day to day when it comes to wearing a helmet or not on a motorcycle. Just like when Senator Larson talked about people that ride horses. You know, if it is spinal injuries, then how come we don't have a system in place to do that because I can tell you, and you could say, well, it's a whole different story. But let's talk about it. A horse, a horse has a mind of its own and it's just smart enough to get me in trouble or maybe that's me with the horse. I'm not sure. But a motorcycle is handled by the person that's driving it. Now, are there extraneous forces that could affect that? Absolutely. But every time one of those...somebody gets on a motorcycle, I believe they understand the risks. I believe they understand the peril that they may be putting themselves into. And I think that in their pursuit of what they want to do to find the happiness that they seek, we really shouldn't be infringing upon their freedoms here. And that's the way I look at this bill. And you can call it whatever you want. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR SCHILZ: Thank you. But I think of it, it's an important point that we let the people of Nebraska and everybody else know that we want you here in our state, we like you here in our state, and we shouldn't do things that keep people from coming to our state. The helmet law keeps people from coming to our state, keeps economic development from happening within our state, and that's something that as somebody that's dealt with economic development for the past 10, 15 years, I see an opportunity here to turn things around, bring some money to our local communities, to our local areas, to our non-urban areas. That's why I'll support this bill. I won't support the bracket motion, and I would encourage all of you to think about this and to follow me and do what's right for the people not only of the state of Nebraska but for everybody that would like to... [LB393]

PRESIDENT HEIDEMANN: Time. [LB393]

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SENATOR SCHILZ: ...enjoy Nebraska on a motorcycle. Thank you very much. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Schilz. Senator Lathrop, you are recognized. [LB393]

SENATOR LATHROP: Thank you. I watched that last vote and it was puzzling to me, and I thought of my friend, Mike Friend. Senator Friend was from District 10 and he was here and whenever he talked, he usually raised his voice. He was kind of a loud, booming voice. And if Mike Friend was here and watched that, he would go, are you kidding me? You guys are now filibustering your own bill. Is that it? We had a bracket motion and the people that are supporting the bill opposed the call of the question so that we don't find out whether we can move the debate ahead or not. And so they're going to talk on the bracket for eight hours until we get to the vote on cloture. I don't understand that vote. I do not understand that vote. If you can't get past a bracket, you're never going to get past the cloture. Maybe you're getting some information from outside that suggests that you're closer than you are. I don't think so. But I think those people who oppose the bill can now probably sit down because what's evident to me is that those people that support LB393 intend to talk for eight hours. Perfect. Let me offer something because we've heard this nanny state and the individual liberties and I have to tell you that when you take that proposition to its logical extreme, in fact, when you turn this into a tourism discussion, it makes me wonder where these folks would be at on legalizing methamphetamine. What about cocaine? Tell me why it is that we outlaw a whole host of drugs, street drugs? Cocaine, methamphetamine. Why don't we, Senator Bloomfield, Senator Kintner, why don't we let people use those drugs? Why do we regulate that because it is their individual choice? The consequences to them are theirs alone, but we regulate that. In fact, Senator Schilz, I'll bet you that Colorado would tell us now that they've legalized marijuana that they're getting a lot more tourists there. So if what we're after is tourism and we let people decide for themselves, why do we not legalize marijuana and start that tourism? You probably see a lot of those people go by your place on their way to Colorado from Nebraska. It's because when we make policy, we try to weigh the good and the bad, personal liberties against the cost to society. And when that was done, we came down on the side of a helmet law. And I'm not going to go through all the reasons again. I guess I don't have to because this apparently is going to be talked to death by its proponents. Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Lathrop. Senator Gloor, you are up next and recognized. [LB393]

SENATOR GLOOR: Thank you, Mr. President. I have a variety of notes based upon some of the discussion and dialogue that we've had, some of which is entertaining because I have a history of having been through this bill before. And listening to Senator Schumacher talking about people going around the state and putting on more mileage,

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putting them at risk. And I thought that I had in my past experiences with this bill heard one of the opponents of repeal talk about the fact that we have an obligation to keep it in place so that people stick to the four-lane highways. In other words, to get around Nebraska to get to Sturgis since that seems to be what a lot of this revolves around, people track across Interstate 80, head up 29, get across, get to I-90, and then go across into the Black Hills. We know, I think everybody knows, wouldn't argue that travelling on interstates is far, far safer than travelling on two-lane roads. But going through Nebraska to get up to Sturgis you're obligated to take Highway 2 and other pathways to get up to Sturgis. And so in the past, the argument has been we're putting people at greater risk when they come through Nebraska and travelling on two-lane roads whether they have helmets or not, and taking away the helmet law, having people stay on the interstate highways is actually saving lives, is actually saving lives. Well, that argument has been now turned around the other way. You decide which of those arguments you're more comfortable with and you're going to make the decision based upon whether you're in support of keeping the helmet law in place or having it repealed. Some numbers that I have that relates to traumatic brain injury waivers in states. Iowa has 500 people who are on traumatic brain injury waivers. No helmets in Iowa. Colorado has 700 on traumatic brain injury waivers. Nebraska has 23--23 compared to the hundreds in states that don't have helmet laws. Now not every one of those traumatic brain injuries comes from cycle accidents. I'm sure there are a lot of accidents that occur that end up being part of that discussion and dialogue. But certainly somewhere in there given the large number of motorcycle riders we know there are in this state, and in those states there are motorcycle riders. Those are dramatic numbers. A number that I put in front of the body last week that's worth repeating again, again, for the record: According to the National Highway Safety Administration, wearing a helmet reduces the risk of a fatal accident by 37 percent. That's 37 percent. That's just fatal accidents. In terms of injuries like traumatic brain injuries, the sort of injuries that would put people on the big government rolls, I'm sure that number is also incredibly high. When Michigan made it legal, because Michigan did repeal their helmet law last year for riders over age 21 to go without helmets, the severity of injury claims went up 22 percent. There's...the only thing that changed is people weren't required to wear helmets anymore if they were over age 22...21, and there was a 22 percent increase in injuries. Members, the only thing that changed is people didn't have to wear helmets anymore, and there was a jump in the number of injuries by 22 percent. There will be an increase in injuries. I have my own dialogues and e-mails from constituents. [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR GLOOR: Thank you, Mr. President. And they fit into the category of, they're not really going to repeal the helmet law, are they? And going to community events the past couple of days, not one person approached me in support of repealing the helmet law. That shouldn't surprise anybody because if they've been paying attention they know I'm in favor of keeping it in place. I would expect those of us who are in favor of

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repealing it and have said so on mike will get notified and letters and e-mails from those who say, attaboy, attagirl, go get 'em. I imagine those of us who are, in fact, in favor of keeping it in place will be in contact with people who say, we're right behind you, keep it in place. What I hear is, not going to repeal it, and along with it is, and how can the people who are opposed to more government involvement... [LB393]

PRESIDENT HEIDEMANN: Time. [LB393]

SENATOR GLOOR: Thank you, Mr. President. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Gloor. Senator Krist, you're next and recognized. [LB393]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. No surprise because I sit up here on the first day of the debate saying that I would support LB393. What is surprising I guess is that there's a difference of opinion about whether one should or should not have voted for a bracket motion. So let me be clear. My predecessor Mike Friend might have gotten up here and said you have got to be kidding me. But I will not raise my voice, I will simply say this. Members of my...colleagues of mine were very clear the first day that said they were going to take this eight hours. We were going to go to cloture. So I'm not sure whether it's important about whether we're talking about talking about talking about something or really talking about something, we're going to go eight hours. If the bracket motion would not have succeeded or would have succeeded, it's still going to go eight hours. I don't think it would have succeeded. Here's my real dialogue though here on the mike today. I said earlier in the week, last week, that the helmet law for me was a matter of personal choice. So we heard...after that issue, we heard several times people saying, well, the Supreme Court has ruled that it is not, that states can do what they can and limit that right or make you wear a helmet. This is the same group, Supreme Court, that said after the war to end all wars when the IRS was put into place or a taxation was put into place that it was against the constitution of the United States to have a taxation program at the federal level. Now if you follow that logic, we're saying that because the Supreme Court says it is or is not correct that the ruling is binding. I don't know if any of you have checked, but the IRS is still in place and taxes are still being taken out of our payrolls and held at the federal level. So the Supreme Court ruling back then as it is continually is dynamic and changes. I did introduce this bill in 2011, and in my...it never made it out of committee, just like my bill didn't make it out of committee that supported no texting, that supported no talking on your cell phone, and supported or wanted us to all wear seat belts in a car, and I talked about that on the mike as well. So I'm not sure where we're going. We're, again, limiting or deciding what we can and what we cannot take away from people as personal liberties and personal rights. Many people have made reference to the economics. Stay away from that. Here's the bottom line. It's a personal liberty. It's a personal right. And I said on the mike before and I'll say it again, life is

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tough. It's tougher if you're stupid. You should be wearing a helmet whether somebody tells you to wear a helmet or not. The Fourteenth Amendment to the United States Constitution states in part, and I quote, no state shall make or enforce any law which shall abridge or privilege or immunities...privileges or immunities of the citizens of the United States nor shall any state deprive any person of life, liberty, or property, due process of law, nor deny to any person within it's jurisdiction the equal protection of the laws. To me, that means that we should not limit the personal rights and liberties of people. We should allow them to make their decisions. The compelling reason here if you're following my colleagues who are students of the law or professors of the law, the compelling reason is that it does harm, that people who have motorcycle accidents automatically jump into the catastrophic nature of a brain injury. Well, I would contend and support I think brain injury does not only come from motorcycle accidents and, therefore, in my experience... [LB393]

PRESIDENT HEIDEMANN: One minute. [LB393]

SENATOR KRIST: ...we should make people wear helmets in all walks of life, in all endeavors if there's a possibility of brain injury or stay away from limiting personal rights, responsibilities. Finally, I would just say that if you do want to go down the road of restricting or continuing to restrict these personal liberties and personal rights, I would ask yourself as I have said on the mike before, where does it stop? What is the next thing that we will limit? What is the next thing we would propose to control in someone's life? So no matter whether we talk about this or the underlying amendments or the bill for the next eight hours, this is where we are and this is our bidding. Support LB393. Thank you, colleagues. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Krist. Senator Christensen, you are up and recognized. [LB393]

SENATOR CHRISTENSEN: Thank you, Mr. President. I wanted to take a little different spin on this, folks. What is the number one problem that we have? It's the accident itself. So one thing we can probably all agree on, how could we limit as many accidents? If you think about it, most of them aren't operator error. Most of them come in to a driver of another vehicle, don't see him, turn into him, whatever the case is. So how do we make it so there's less chance of having a wreck? Because whether this bill passes or doesn't, we're going to have motorcycles on the road. All we're talking about is whether we remove the helmets or not. But what if we could talk about making them motorcycles safer, easier...more easily seen? What I'm referring to, people turn into the side of bikes and stuff because they don't see the front light coming at them. They don't see that rear taillight. So we have a lot of accidents due to turning into them. What if we got some good reflection and side lights? Probably something we could all agree on. We want to make them safer. I know this bill is talking about removing that helmet. I support that. But the fact is I want to make them safer too. I look at this body as being a

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regulatory group that has the rights to also require lights on the side, taking the opportunity to lessen the chance of a wreck. That, to me, is the part that we can all agree on and that we can all support is the fact we want to see less wrecks. We've seen an increase in wrecks as we're seeing an increase in ridership. That goes hand in hand. In looking through some statistics when we required helmets, ridership dropped. We're seeing an increase now due to increased gas prices. People are trying to save money, make ends meet. So some of the issues we're fighting here comes down as a safety issue. How do we get people to see them? So I just ask people to think about how could make them safer so less people get hit? That's the part that we need to worry about. How can we protect them from having the wreck so we don't have to worry about whether it's a head injury or body injury or both or what the case is. That's something that we can all think about and probably work together on here. And I would consider that a win whether this passes or doesn't pass, if we could make it safer so there was less wrecks. That's just something I want people to think about here as we're going through this eight hours. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Christensen. Senator Janssen, you are up and recognized. [LB393]

SENATOR JANSSEN: Thank you, Mr. President and members. And thank you to Senator Bloomfield for bringing this bill, one that I'm very familiar with having brought it back in 2009 and it faced almost an identical...an identical, and in some cases even the same testimony. I was talking to Senator Gloor the other day. I said I've heard about this rabbit six year ago or five years ago that was hopping around. I've heard Senator Lathrop, Senator Avery, they've talked about different Medicaid and how it would...expansion wasn't used at the time, that was a new buzz word I think we came up with a couple of years ago. But it is a good debate to have, and that's why I appreciate him bringing this back. And the history of it that I've always seen as I've looked at this bill and even the vote, I think we had the 29 votes for cloture when I brought it last time. Then Senator Avery and Smith had brought it before that. Then Senator Rogert brought it, then myself. So it is kind of a bipartisan discussion on where you find yourself on personal liberties and how you define it. So it's always interesting. In fact, then-Senator Tom White brought up, and I heard somebody talk and I was in the back but I heard horses brought up and riding horses. He brought up that he used to jump horses. And he was...he actually was a supporter of repealing the helmet bill, much like myself. One of the few times we agreed on issues. And he didn't think you should have to wear it even for that, and he even...I think he even basically said it was more dangerous to jump horses than ride a motorcycle. I...basing that on no facts that I'm aware of at all. You know, but as we're having this discussion I just...and listened to Senator Christensen talking about we need to come up with a way to make motorcycles and motorcycle awareness safer. And I think if having this discussion does that we've accomplished something. I've recently been in a lot of parades across the state and I've seen motorcyclists in them. And I've wondered why it's against the law for them to be in

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those parades without a helmet on. It's hot many times they're out there. It's hot on their motorcycles as well, but the motorcycle heat is coming up on them. They've got these helmets on. Myself being a Shriner I've seen this firsthand several times not only political parades. I always wondered why we didn't exempt at least that portion of it, established parade routes from that safety device. And I don't know, that it's Senator Bloomfield's bill if that's an avenue he wants to go. I would certainly prefer the outright repeal but I don't know where this vote is going to lead us. And I've asked a few colleagues in the last few days and I'll just ask it out loud because I can't ask everybody. We've had a lot of filibusters this year and we have the unwritten rule that it's got to be eight hours on General, the unwritten rule that it's got to be four hours on Select. Why wouldn't you wait until Select to take all the time instead of taking eight hours when you could do it for four hours? I just...I don't understand the reasoning behind that and maybe somebody can tell me. Nobody has really given me a good reason why we can't do that. Maybe because the bill builds momentum through General. I don't know. But that's just a question I had, Mr. President. How much time do I have left, Mr. President? [LB393]

PRESIDENT HEIDEMANN: You have 1:23. [LB393]

SENATOR JANSSEN: Thank you. I'll yield the balance of my time to Senator Bloomfield if he should want it. [LB393]

PRESIDENT HEIDEMANN: Senator Bloomfield, 1:16. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President. Thank you, Senator Janssen. Colleagues, I don't ride a bike anymore either. Someone asked Senator Lathrop if he rode a horse and he said he hadn't in a while and he'd have to study statistics. I haven't ridden a bike since the early eighties. I've got scars on my arm where I wrecked that bike. I didn't have a helmet on. I'm still here to talk about it. I do have marks on my arm. But my son likes to ride. Some of you have met my son here a year and a half ago or a year ago. He was injured in Afghanistan. He wants to ride. He would like to be able to choose whether or not he rides with a helmet. I believe he's earned that right, as have thousands and thousands of other bike riders... [LB393]

PRESIDENT HEIDEMANN: Time. [LB393]

SENATOR BLOOMFIELD: ...that have served. Thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield and Senator Janssen. Senator Kintner, you are up next and recognized. [LB393]

SENATOR KINTNER: Well, Mr. President, thank you very much. You know, it's amazing what we hear talked about and I know it was talked about earlier that maybe if

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we want to have tourism we should legalize cocaine. Maybe we should legalize marijuana. Well, that's not a very good argument because those things are illegal and, you know, those are hallucinative drugs, and a helmet is legal in most of the country. As a matter of fact, I got to tell you, I never even really heard of a helmet law until I moved here. The three states I lived in before this, it wasn't really an issue. So I was kind of surprised when I got here. And, you know, it was a law here. So I think there's a big difference between saying legalize these drugs for tourism purposes and let's stop regulating legal choices. You don't have a legal choice for cocaine. That's pretty much anywhere you go in the country. We have figured that the social costs are not something we're willing to take. It's not that way with helmets. There's a good number of states that say you can make your own decisions about your own life and how you live your life. And that is just not something that a lot of states want to do. So I was a little surprised when I got here and found that this was the case. But I think it's a good debate. I think it's a debate worth having. And I would like to yield the rest of my time to Senator Bloomfield and let him take it from here. Thank you. [LB393]

PRESIDENT HEIDEMANN: Senator Bloomfield, three minutes. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President. I really don't know where to go any further on this. We...it's going to come down to a choice between personal freedom and state intervention. You're going to have to make that decision. Senator Lathrop mentioned we're filibustering our own bill. Well, take it that way if you want. What we are doing, there is about a third of this body that has never heard this debate. I think they should. Therefore, I did not vote to cease debate. I don't think it was a good idea, and if we're filibustering our own bill by giving the members that have come in here in the last four years an opportunity to hear both sides of this argument, then so be it. I guess we'll filibuster my own bill for a little while. But people need to know both sides of this issue. And with that, I thank you. [LB393]

PRESIDENT HEIDEMANN: Thank you, Senator Bloomfield and Senator Kintner. Mr. Clerk. [LB393]

CLERK: Mr. President, items. Enrollment and Review reports LB56 as correctly re-engrossed. I have notice of hearing from the Appropriations Committee, signed by Senator Mello. Name adds: Senators Mello to LB996, LB989; Senator Bolz to LB764. (Legislative Journal page 495.) [LB56 LB996 LB989 LB764]

Senator Seiler would move to adjourn the body until Tuesday morning February 11 at 9:00 a.m.

PRESIDENT HEIDEMANN: Members, you have heard the motion to adjourn. All those in favor say aye. All opposed say nay. We are adjourned.