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Floor Debate
February 11, 2014

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SENATOR KRIST PRESIDING

SENATOR KRIST: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the twenty-fourth day of the One Hundred Third Legislature, Second Session. Our chaplain for today is Senator Crawford. Please rise.

SENATOR CRAWFORD: (Prayer offered.)

SENATOR KRIST: Thank you, Senator Crawford. I call to order the twenty-four day of the One Hundred Third Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present, Mr. President.

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

ASSISTANT CLERK: I have no corrections this morning.

SENATOR KRIST: Thank you. Are there any messages, reports, or announcements?

ASSISTANT CLERK: There are, Mr. President. Priority bill designations: LB800 has been chosen by Senator Cook; LB755 by the Banking Committee; and LB814 by Senator Avery. In addition to that, communication from the state of Ohio; notice of committee hearing from the Banking Committee, as well as the Transportation Committee. Your Committee on Health and Human Services reports LB705 and LB901 to General File along with LB132, LB690 and LB732 to General File with amendments. New bill, LB718A by Senator Crawford. (Read LB718A by title for the first time.) And that's all I have. (Legislative Journal pages 497-502.) [LB800 LB755 LB814 LB705 LB901 LB132 LB690 LB732 LB718A]

SENATOR KRIST: Thank you, Mr. Clerk. Speaker Adams, good morning. You are recognized.

SPEAKER ADAMS: Thank you, Mr. President. Members, next Wednesday, February 19th, we're going to change things up just a little bit. We will have our regular 9:00 a.m. check-in next Wednesday the 19th, but then we will adjourn shortly thereafter so that the three-day committees will have the rest of the morning for Exec Session. So next Wednesday, the 19th, we will convene at 9:00 a.m. as usual, adjourn shortly thereafter,

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three-day committees will be Execing that morning. That's also the day that Speaker is the deadline for Speaker priority designations and noon will be the deadline, noon on the 19th rather than adjournment. It will be noon on the 19th, the Speaker priority bills need to be in to my office. And there will be an e-mail going out to all of your offices with this very same information on it and, of course, if you have questions, call. Thank you, Mr. President.

SENATOR KRIST: Thank you, Speaker Adams. Mr. Clerk, first item.

ASSISTANT CLERK: Mr. President, the first bill this morning is LB393 introduced by Senator Bloomfield and others. (Read title.) The bill has been considered by the Legislature on several different days. The Transportation and Telecommunications Committee did offer a committee amendment. That amendment was divided. We are currently considering a motion to bracket LB393 offered by Senator Gloor. [LB393]

SENATOR KRIST: Thank you, Mr. Clerk. Continuing with the debate on LB393 and amendments to, Senator Gloor, you're recognized. [LB393]

SENATOR GLOOR: Good morning, members. I'm at the mike once again asking for consideration on my motion to bracket. We have had good discussion. We've had lengthy discussion. We've had multiple hours of discussion and then late yesterday you'll recall, we had called the question on bracket motion. Took a vote. The vote was 23 in favor of ceasing debate and voting on the bracket motion, 24 against, and I know that there were a number of senators who voted certainly in the nay who may have an interest in the bracket motion and voting for it. And I know that there are a number of senators who may well also not be interested in repealing the helmet law. But with 24 nay votes and 23 aye votes, we are a long way away from the 33 votes necessary on cloture. I would ask the body in their discussions and deliberation today to recognize the fact that there are high hurdles out there before the bill, LB393, goes forward. I would also like to thank Senator Avery on mike for his willingness to put what he thinks is an important amendment off to the side in the interests of making sure that LB393 does not go forward. It's unfortunate that happens, but he understood the risks associated and also understands the larger issue and the more important issue here is keeping the helmet law intact. I appreciate the civility in our discussion. I know people feel strongly one way or the other. People care about individual freedoms. People care about the cost associated with removing the helmet law. As a reminder, I come to this with a number of decades of experience, some that comes from working in an emergency room and seeing the damage to victims who come into emergency rooms who present to hospitals after motorcycle accidents with helmets on, and know that without those helmets on, a number of those individuals would never be taken to a hospital. I know some of those individuals, if taken to a hospital, would quickly go to rehab units. I want to repeat some statistics that I presented yesterday. It has to do with states that no longer have helmet laws versus Nebraska that does. Traumatic brain injury waivers in

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place for individuals in Iowa, 500. TBI's waivers in Colorado, 700. In Nebraska we have 23. Those are huge numbers. Yes, there are larger populations in both those states but we have an awful lot of people who travel through this state and we're talking about adding even more...an even increased number of people, we think, or that's what the proponents of the bill believe. Having that number go up will be an added expense to the state, even doubling it with the kind of cost associated in rehab, taking care of people in those rehab units, taking care of them for a lifetime in some cases, will be in the millions and millions of dollars. And ultimately private insurance runs out, ultimately these individuals become wards of the state, ultimately it becomes Nebraska taxpayers who have to foot the bill. It's my concern. I understand individual liberties, but nobody has offered so far to put a maximum amount on what we will spend on people who choose to ride without helmets. And after that period of time, say, you're no longer a ward of the state, I don't know that we can legally do it, but it presents an interesting discussion on, so who will they assign as friends to take them out of that rehab facility and back to their homes to provide care for them as best they're able if no one else is in a position to be able to afford to do so anymore. It's a cost issue for me and it's pretty straightforward and it's the reason I continue to voice my support for my bracket motion and would ask you to do so. Thank you, Mr. President and thank you, members. And good morning. [LB393]

SENATOR KRIST: Thank you, Senator Gloor. Senator Lathrop, you're recognized. [LB393]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. We are on, I don't know, day three or four, and headed apparently for eight hours of debate which should happen sometime today. We may even get to a vote on the bracket and I have expressed my support for the bracket motion previously. And I want to on this opportunity to speak, thank Senator Bloomfield for bringing this issue before the Legislature. I think it is altogether appropriate that we have a debate on the relationship between good policy and freedom of choice. And when we talk about freedom of choice, that is prized in this country and I appreciate that, and for the individual, it is very, very important. As policymakers, I don't think that's the end of the inquiry. I think in order to make good policy we have to look beyond the simple principle of freedom of choice and ask, does it make sense for the state as a policy? And you have heard a great deal of information from senators that have spoken in opposition, and perhaps I can summarize that since I think we may get to a bracket motion vote here pretty quickly. When you have a bill such as this that takes the choice to 21 or older, you essentially eviscerate the helmet law. It becomes impossible to enforce. Compliance even among the underage gets to somewhere around 40 percent. The second thing, and colleagues, I hope you will appreciate this, that the brain injuries that people suffer and the deaths that will result from the predictable 500 to 600 motorcycle accidents a year, will double. They will double. They went to half in Nebraska after we enacted the helmet law, and in other states that have done this, they have seen their deaths and their brain injuries

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double. And we're policymakers after all, and as we consider what good policy is for the state of Nebraska, we must appreciate what the social costs are and the financial costs to the state of Nebraska for those additional deaths and brain injuries. Each one of those people that will suffer a brain injury will draw upon the resources of the state. They may have private health insurance, but the costs of their care will be passed along to all of us with increase in health insurance premiums. And for those who require long-term care, they will ultimately become Medicaid recipients receiving not just Social Security disability benefits, but Medicaid will pay for their long-term care. That's you, the taxpayer, paying for the cost of care for the additional brain-injured individuals. And when we talk about those statistics, it seems a bit sterile to me. They're just numbers, but I've met some of these people myself. I've met some of the people who have survived motor vehicle...motorcycle accidents because they've had a helmet on, who have been relieved of a brain injury because they had a helmet on. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR LATHROP: They are, of course, grateful because they went from the class of motorcycle riders who thinks it will never happen to them to someone who has experienced it and to a person...to a person, they all appreciate the helmet law was in place and that they had a helmet when they were launched from their motorcycle. And I've also seen the people whose sons and daughters have been killed in one way or another on our roads. And to bring this to human cost and human terms we are, if this bill were to pass, going to visit untold agony and anguish on twice as many families. If this bill is repealed, there will be families who will get the knock at the door because their son or daughter, without a helmet, was launched from a motorcycle into the side of a vehicle or on to the pavement and now they're gone. [LB393]

SENATOR KRIST: Time, Senator. [LB393]

SENATOR LATHROP: Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Campbell, you're recognized. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. Yesterday I spent some time talking about a study that had been done by Johns Hopkins Public Health Institute on portions of the state of Florida after they had repealed their helmet law as the bill that is before us. And I thought that I would resume talking about the study. I have found the paper extremely interesting because not only did they look at just the sheer numbers in terms of fatalities, but they also began looking beyond those figures to the people who might have been injured. And one of the issues that they discuss in the study is the issue that we spent quite a bit of time on yesterday, I thought, and that is the consistent argument against universal helmet laws is

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autonomy and personal freedom without any balance and I want to emphasize the word "balance" for the discussion of health and welfare. The United States Constitution defines the division of powers and duties between federal and state government and state governments are vested with police powers that enable the creation of laws to promote public health, safety, and social welfare. And that is the balance that we have been discussing in the Chamber during the hours of debate on this bill is at what point does the public health, safety, and social welfare come into and balance the scales in our discussion? And I had to say, I thought about the fact of when I served on the Transportation Committee that we spent a great amount of time really in all of the bills that came before us talking about public safety and why we would enact laws through Transportation. What comes to mind, of course, is what we enacted on seat belts because over time we had enough statistics, yes. We had enough studies. We understood that the balance here should be weighed on the public safety and their welfare. And we now institute seat belts. We think we're at some point in which we say this is so important it should be a primary offense. We pay very close attention to seat belts and buckling children into their seats. And I also thought of the fact discussed yesterday, well, you ought to have that freedom to do. Well, you know, maybe I'd want the freedom to drive at 100 miles an hour to get to Omaha, but we institute speed limits and laws and again, it is the state who says based on our concept of safety and what's in the interest of the public that we bring this forward. Driving any vehicle on our roads is a privilege. We have to take a test, we get a license. It isn't just by right of citizenship in the United States that you get to do that. And that privilege also entails your interaction then with other people who are the driving public, other cars, and trucks, and so forth. So it's not that the motorcycle is isolated unto themselves, but they are a part of that pattern of traffic. And therein is where I come to say, I think the state of Nebraska has the duty to look at the public safety and welfare of its citizens. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President. The report talked about the fact that the relaxing of the laws correlates with the higher fatality rate, and we've talked about this per thousand registered motorcycles, likely is a result of reduced home at use. In contrast, the fatality rate declines in the early 1900s, 1990s, as more states, once again, adopted the universal laws. I'd like to come back and finish my remarks on the study from Florida because I find it most enlightening. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Campbell. (Visitors and doctor of the day introduced.) Still wishing to speak, Senator Dubas, Bloomfield, Wallman, and Carlson. Senator Dubas, you're recognized. [LB393]

SENATOR DUBAS: Thank you, Mr. President and good morning, colleagues. There's been many comments made both on the floor as well as in hearing and one-on-one conversations about, well, I'll still wear a helmet, I'll still wear a helmet if this is repealed.

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You know, it's the right thing to do, so I'll still wear a helmet. But statistics show that that's not necessarily the case. Studies have...on helmet use have found that under universal laws that people wear helmets 92 percent of the time. Helmet use generally ranges 42 to 59 percent in those states without a law. Arkansas repealed its helmet law. Eighteen months after the repeal, helmet use dropped by two-thirds from 97 percent to 30 percent. After Texas repealed its law, helmet use fell from 97 percent to 66 percent with more than 80 additional motorcyclist dying in the two years following the repeal. In Kentucky helmet usage rates fell from 96 percent to 65 percent following the repeal with fatalities increasing from 26 percent in the year prior to the repeal to 42 percent after. In Louisiana usage rate dropped from 100 percent to 52 percent. Motorcycle fatality rate increased by more than 25 percent after the repeal. Florida repealed its universal helmet law. Helmet wear decreased from 100 percent to 53 percent. Motorcycle deaths increased by almost 50 percent after the repeal. When universal helmet laws are repealed, helmet use rates decrease dramatically and motorcycle deaths and injuries increase markedly. And I'll go back to the comments and the points that I've made on the several times that I've been on the mike. We aren't talking about implementing a helmet law. We're talking about repealing a helmet law. We're talking about repealing something that we know is effective. When we hear from those in the medical profession, those emergency medical providers who respond on the scene to these accidents, when we hear from them, what they see between those who use helmets and those who don't, I don't know how we can ignore their up close and personal experience with this issue. To be able to go out and justify to citizens outside of personal freedom and my right to choose, repealing a law that has proven to be effective, it just goes beyond me as how we make that rationale fit. And again, just looking at what other states have done, and what has happened once they've repealed their laws as far as usage, and then also the fact that yes, we're still requiring those under the age of 21 to wear helmets, but as adults, young people look to us. We are the example that they follow and so it would just stand to reason that you could hear and see many of those young people under the age of 21 looking forward to the time that they turn 21 so they can do what the rest of the adults that they see in their lives do, or maybe not all of them, but appears to be the majority, not have to wear their helmet anymore. I know the rationale is kind of like, well, if they get used to wearing a helmet they won't go without one, but I think statistics are showing that that's not the case. So I stand in strong support of the bracket motion. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Dubas. Senator Bloomfield, you're recognized. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President and good morning, colleagues. I think I just heard Senator Gloor speak against expanding the economy of Nebraska. I was surprised to hear that that we're afraid to have more people come in because we might have to spend a few more dollars. Colleagues, this is an emotional issue and we are going to get to a vote on it sometime this morning. And when that happens, I want

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you to know that I am in strong support of the committee amendment. It has been split, or divided, I guess is the proper term, and I'm in support of both sides of that amendment. If we go to cloture, it will come back together as a single amendment and I will support that amendment. At the time I have supported it since the committee put it on there. It needs to be on there. It was a good idea out of the committee, we need to keep that. We may get to the bracket vote sometime this morning or we may go straight to cloture. That's going to depend on the people on the other side of the room. We have an amendment added to the bill that said the eyewear that we require them to wear should have to meet Department of Motor Vehicle guidelines. There are no Department of Motor Vehicle guidelines. Were we to pass such an amendment, they would have to create such a guidelines. You want to talk about spending money and wasting time? Pass that amendment that requires the DMV, basically, to develop guidelines on eyewear and we've just opened up a whole new can of worms. Colleagues, I would remind you, all motor vehicle accidents cause 17.3 percent of our traumatic brain injuries. That's not just motorcycles, that's everything. We do not require people in cars to wear helmets, nor should we. Senator Gloor spoke of putting something in place that says we will take care of these people so long if they're injured on a motorcycle without a helmet, and then the state is not going to be responsible anymore. Do we do that for people that suffer the same fate in an automobile crash? No, we don't, but we seem to think it's all right to maybe hang that on to a motorcycle rider; 17.3 percent traumatic brain injury, all vehicles; 35.2 percent traumatic brain injuries from falls. Are we going to walk around wearing helmets? This, people, there are, again, grim statistics of all sort we can put out there. This is a matter of freedom. Let people make up their mind in the state of Nebraska, as free adults, what they choose to do. Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Bloomfield. Senator Wallman, you're recognized. [LB393]

SENATOR WALLMAN: Thank you, Mr. President, members. This is an emotional issue. I was in Quality Living Sunday and there's brain injured in there and I've been in Iowa, Sheldon, Madonna. Are all of these from motorcycle accidents? Nope. Is it a sad thing? Absolutely. But doesn't it bother you that we don't give our military people the rights to go without a helmet if they want to? They served our country, whether they be 17 or 18 or 19. You know, do we treat our servicemen right? I really don't think so. And I'd like to ask Senator Dubas a question, or she's gone. Senator Lathrop. [LB393]

SENATOR KRIST: Senator Dubas, will you yield? [LB393]

SENATOR WALLMAN: And so could we exempt somebody? It's hard to tell if you're 21 or 19 or 18, I agree. But the Freedom Riders and the Legion Riders, they all do this for protecting their fellow man from somebody that's from a different state at the funerals. I've seen it happen in Beatrice. And it's a tremendous thing to see. Servicemen helping one another. And Senator Dubas. [LB393]

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SENATOR KRIST: Senator Dubas, will you yield? [LB393]

SENATOR DUBAS: Yes, I will. [LB393]

SENATOR WALLMAN: Thank you. And in Florida, do you know if they put the helmet law back in place? [LB393]

SENATOR DUBAS: I do not know that. [LB393]

SENATOR WALLMAN: Okay. Thank you. And so we have to discern what's right and what's wrong. I would like to see an exemption that's just absolutely for service people. You know, they're not all 21 when they get out and that would be a nice thing to do and I'd yield the rest of my time to Senator Bloomfield. [LB393]

SENATOR KRIST: Senator Bloomfield, you're yielded 3 minutes. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President, and thank you, Senator Wallman. I've had this idea come to me a couple of times now of exempting the service people or exempting parades. That's a minute step as to where we need to go. A good share of the people that want to ride, or want to make the choice to ride without a helmet, or with a helmet, are veterans. I mentioned yesterday my son. He certainly wants to ride. He wants to make the choice. He made a choice to serve. It cost him, and making the choice to ride without a helmet could be costly too. I wouldn't recommend it, but I believe that we as Americans should have that choice. And this bill does not speak directly to parades or Legion Riders. It bothers me when I see the Legion Riders guys come in escorting somebody, a body home. It bothers me when they bring the body home, but the idea that while they're in motion, in any motion, they have to have their head covered with a helmet. It just doesn't seem right. Thank you again, Senator Wallman. [LB393]

SENATOR KRIST: Thank you, Senator Bloomfield, Senator Wallman and Senator Dubas. Senator Carlson, you're recognized. [LB393]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. This is the only time that I intend to speak on this bill. But I was in the business of risk management for over 30 years and we can't go through life without taking some risks and then we gauge and determine how much risk that we are willing to take and what kind of a risk is...how much risk is appropriate? How much in the way of safety consideration is too much? How many freedoms are we willing to give up? And yet, colleagues, in a sense, we make this kind of decision which might be considered an arbitrary decision with almost every bill that we pass. I've done some thinking about vehicles. We have seat belts and we have shoulder belts and we have a law that they

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must be used. Did we go too far with that? We have air bags. Some people don't like the air bags. In terms of real safety, maybe we should legislate that every vehicle has roll bars. And we think about and evaluate risks when we set speed limits. I think all of us enjoy being able to get on I-80 and drive 75, and there was several years back, you know, the speed limit went down to 55. Nobody liked it. We wanted to be able to take a little bit more risk so we could get to where we wanted to go in less time. And so we make laws accordingly. In the workplace, we have goggles, we have steel-toed shoes. If there's any climbing involved, we have safety belts. We have hard hats and we have rules that these have to be used. And so there's an infringement of freedom anytime any of these kinds of things are implemented. In boating we have laws that there have to be as many life jackets in the boat as there are passengers in the boat, and we kind of tolerate those kinds of things. We must think they're rather important. Now I have an issue...I don't have an issue whatever with Senator Bloomfield bringing this bill and those that are supporting it. I don't see anything and I've talked to him a little bit about this. When we have a helmet law in Nebraska and they don't have one in Iowa, and you go by the number of injuries and the number of deaths, I have to believe that there are more head injuries on a percentage basis in Iowa than there are in Nebraska and we can't tell from this information. I just believe that that's true. And it's not quite the same, but if we didn't mandate that helmets be used in football, we'd have a lot more head injuries. There isn't any doubt about that. And I think there are more head injuries in states that don't require the helmets. I'm not going to vote for the bracket motion, but I'm not in support of LB393 either. [LB393]

SPEAKER ADAMS PRESIDING

SPEAKER ADAMS: One minute, Senator. [LB393]

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

SPEAKER ADAMS: Thank you, Senator Carlson. Senator Lathrop, you're recognized. [LB393]

SENATOR LATHROP: Thank you, Mr. President and colleagues. We've spent a lot of time talking about statistics and the freedom to choose, and I want to make this personal. I'd like you to think about your sons or daughters, just for a minute. Maybe it's a grandson or a granddaughter that rides a motorcycle, or maybe it's a neighbor kid, but I want you to assume for just a second that it's your son or your daughter that rides around the state on a motorcycle. And while you're thinking about those sons and daughters of yours, there are, if this bill passes, ten more sons and daughters that will die in motorcycle accidents if this bill is repealed. And what that means, colleagues, is that ten families will have someone show up at their door, knock on their door, and tell them that a young life was snuffed out because someone was riding a motorcycle without a helmet. Ten a year. That's what's going to happen. We don't have to guess.

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We see what happens in other states and we can apply those percentages to our deaths and know we'll have ten more deaths a year. And there will be ten families that get that news each year. And think about, just for a second, if that was you. You're sleeping in the middle of the night, perhaps, and you see a law enforcement guy at your door and he tells you words you can't even hear anymore. You can't take a breath. You've never experienced grief like that before. Something so senseless, so unnecessary, and now your son or daughter is gone forever. Dead. Because they were riding a motorcycle without a helmet and we saw fit to repeal this law that would have saved ten families untold grief. And they walk around for years afterwards never the same. The family is never the same after someone young dies. It's never the same. And it's unnecessary. Then there will be those who survive motorcycle accidents without a helmet, but have a brain injury. Imagine that. Instead of having a law enforcement officer at your door, you get a call on the phone and they say, come to the med center, you're son has been in a wreck, it doesn't look good. And on the way down to the med center you pray, dear God, please don't let anything happen to my son, please let him be okay. And then you get to the hospital and the reality sets in. Skull fracture. Somebody pulled out in front of him, he didn't...it wasn't his fault, which is no consolation. He was launched from his motorcycle doing 30 miles an hour, landed on the pavement, and the impact has caused a brain injury. Maybe you don't know what a brain injury is about. Maybe you don't know anybody that's been through one, so it's all brand new to you. But you're going to find out that your son or daughter that has a brain injury is never going to be the same. [LB393]

SPEAKER ADAMS: One minute. [LB393]

SENATOR LATHROP: They're not going to go to college. If they're in college, they're not going to complete college. If they had a career, it's over, it's done. Maybe they'll end up in a persistent vegetative state. And if you have the means, they'll be in a nursing home and if you don't have the means, maybe Medicaid will pick it up for you, the people, or they'll end up in that spare bedroom while you have 24-hour nursing care to come in and provide. That's the reality of this bill. We will have ten families get news that their son or daughter died, and 24 families that are going to have to learn about a brain injury and deal with a brain injury and it is unnecessary, unnecessary. All we ask is that everyone wear a helmet so that 24 families don't deal with a brain injury next year and ten families don't deal with a death. [LB393]

SPEAKER ADAMS: Time, Senator. [LB393]

SENATOR LATHROP: Thank you. [LB393]

SPEAKER ADAMS: Senator Gloor, you're recognized. [LB393]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Bloomfield would

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yield for a question or two. [LB393]

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SENATOR KRIST: Senator Bloomfield, will you yield? [LB393]

SENATOR BLOOMFIELD: Yes, sir. [LB393]

SENATOR GLOOR: Senator Bloomfield, last week when we were talking about this bill we got into a discussion about eyewear and the appropriate eyewear. And one my concerns had to do with the fact that people would throw on something that looked like eyewear that would provide some degree of safety, but in fact would just be a minimal pair of eyeglasses. And I thought at that point in time you talked about the importance of windshields and appropriate eyewear. Is that a fair recollection of our dialogue or do you recall at this point in time? [LB393]

SENATOR BLOOMFIELD: Yeah, I think that's probably a fair recollection. [LB393]

SENATOR GLOOR: But you have a concern about if what I heard just a few minutes ago, is you have a concern about the Department of Motor Vehicles developing criteria as an amendment would require so that we'd address that problem. So I've got to ask you, have you had a change of heart on this? What's your line of thinking about appropriate eyewear when it comes to operating motor vehicles and how we assure that we have appropriate eyewear or eye protection? [LB393]

SENATOR BLOOMFIELD: I think the description given in the bill pretty well points out what it needs to be. My problem with the amendment is that DMV has no such approved eyewear available. And again I will read the portion...realizing I'm on your time, Senator. [LB393]

SENATOR GLOOR: That's fine. Thank you. [LB393]

SENATOR BLOOMFIELD: "For purposes of this section, eye protection means glasses that cover the orbital region of a person's face, a protective face shield attached to a protective helmet, goggles, or a windshield on the motorcycle or moped that protects the operator's and passenger's horizontal line of vision in all operating positions." I think that's a pretty fair coverage, you know. And yeah, I suppose if you want to think somebody could go to the dime store and buy a little half-inch wide pair of glasses, and I don't think we're going to have people doing that. [LB393]

SENATOR GLOOR: Well, I think you and I would both agree it's not likely we have people wearing St. Patrick's Day glasses or Valentine's Day glasses down the interstate going 75 miles an hour. So I appreciate your response to that. I believe I'm also

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accurate when I reflect on a comment you'd made that the concern you have about the need for eyewear versus helmets is a June bug that bangs into somebody's eye or nearby would be enough to have them lose control. Is that a fair recollection of the discussion we had too? [LB393]

SENATOR BLOOMFIELD: Yeah. When you ask why eyewear and not the helmet, the idea is that similar to a seat belt holding you in position and you may be able to regain control of a lost vehicle, having the glasses on can...or goggles, can prevent you from getting whacked in the eye with a June bug at 70 miles an hour, which is probably not a real pleasant experience and could cause you to reach up and try to wipe your eye and possibly lose control. [LB393]

SENATOR GLOOR: Okay. Thank you, Senator Bloomfield. Mr. President, how much time do I have remaining? [LB393]

SENATOR KRIST: One minute five seconds. [LB393]

SENATOR GLOOR: Let me make one comment. I may make another comment. I'm a veteran and I served my country for a number of reasons, candidly, one of the first reasons is, I served back in the day when there was a draft, so I was asked and required to serve my country. And eventually turned that into an enlistment to do a little better job of picking a career path for me, hopefully. But I served for a lot of reasons, but one of the reasons that I didn't serve was that it gave me some sort of amnesty when it came to the rest of the citizenry of my country. I served to protect a way of life and a form of government that I think is important. But I don't get a king's X when it comes to those things that are public policy. And it just drives me a little batty when I hear veterans being used as having served so that they could be an exception to the rule. I served... [LB393]

SENATOR KRIST: Time, Senator. [LB393]

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

SENATOR KRIST: Senator Campbell, you're recognized. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I want to talk a little bit about my neighbor. My neighbor is an avid motorcycle rider, but I've never seen him without a helmet. And about a year and a half ago he was traveling south on 9th Street coming up to Van Dorn, and a car to his right, and they happened to be folks from out of town, and they realized that they were going the wrong direction and so they wanted to get on to Van Dorn and then 10th and go in what they thought would be the right direction to get them to their destination. And it all happened so quickly. All of a sudden the car was turning left and my neighbor was going straight and they hit him. And

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fortunately for him, he was wearing a helmet, and the rate of speed of the car and his rate of speed wasn't as great as it would have been out on an interstate because they were driving on 9th Street, and he had a severe injury to his leg and he recovered well. But it illustrated to me the importance of why you should wear a helmet, and most likely saved him from far more serious injuries. To answer Senator Wallman's question, the study that I've been looking at has been from the state of Florida who had a helmet law in place and then repealed it. And I want to go back to that study because I have found it particularly helpful in framing some of the issues that I felt strongly about. In the report it talked about that each of the five states that recently repealed their universal laws experienced dramatic--and that's their word--reductions in helmet use. And this study was done looking at the years 2000 to 2005 and was published in 2006. In Arkansas and Texas the rate of helmet use declined in the first year. This is from a state that repealed it, from 97 percent to 52 percent, and to 66 percent respectively. Kentucky experienced a drop from 96 percent to 65 in the one year, first year following the change an additional decline to 56 percent the years following that change. So the study not only looked at what happened in a particular county in Florida, but it looked at some of the other states. Florida was among six states who maintained a continuous universal helmet law from 1967 to the year 2000. Today, Florida is one of the most recent states in the nation to relax their law and now leads the nation in terms of motorcycle fatalities. The report spends time talking about the statistics that are involved with that. So this update is... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President...was to respond to Senator Wallman's question. And then what they did is they looked at a study specifically on Beach County in Florida to see what would happen. And the study was a retrospect review of the riders who experienced a crash and expired at the scene or were cared for by the Palm Beach County trauma. And, of course, that's where we get this statistic and the relationship of the increased injuries to the head and to the face because the researchers took time to go back and look at all the medical records of the riders that had been brought into the hospitals in that area. And for every one death, there were approximately five crash victims who were treated at a trauma center and survived. But then they go on to describe the seriousness of the injuries that those would have. [LB393]

SENATOR KRIST: Time, Senator. [LB393]

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

SENATOR KRIST: Thank you, Senator Campbell. Senator Gloor, you're recognized, and this is your third time. [LB393]

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SENATOR GLOOR: Thank you, Mr. President. Haven't had a chance to complete the list I'm putting together here, but as we talk about individual freedoms and rights and the appropriateness of repealing the helmet law because it's an example of the nanny state, let me run through some of the ways that we as Nebraskans, in most states Americans, feel that it's appropriate to provide a degree of regulation. And this list isn't all complete. I've just started sitting it down...sitting down and putting it together. We have to make application for a license and we have to test out of it. And that means a written test as well as a driving test and there's a license. And you have to be of a certain age in order to even make application for the license and we have different categories of licenses depending upon your age because we felt that that's appropriate. And in some times, you have to retest. You always have to renew. There is a fee that goes along with it to help underwrite the expense of all this, but we have a Department of Motor Vehicles. We have people who are trained to do the testing and we have to grade those tests on a regular basis to keep up with the changes in driving in this country. We have regulations that have to do with our cars and the kind of cars that we can drive and the kind of cars that we can put on the road. And this body has dealt with that in the past so that we don't have golf carts on the interstate buzzing along at 15 miles an hour with the rest of us going 75 miles an hour, and nobody seems to argue with that. You have to drive on the right side of the road to get your driver's license. You hop in your car, you go, I'm a happily free driver now, but you have to drive on the right side of the road and you have to stop at stop lights and stop signs. There are speed limits, and different speed limits in different parts of communities and out on the highways and different speed limits for different types of highways. You have to stop at train crossings. You can't drive around cross arms. You have to go slower at school crossings. You can't pass school buses. And by the way, there's a whole separate set of regulations in this country that govern school buses to protect our children that are in school buses. Can't pass on school buses when they're stopped in a certain area. We require seat belts in our car and we require children to be restrained in those seat belts, or to be restrained when riding in cars in a variety of restraint mechanisms depending upon their age. And we have a degree of oversight that goes into the type of carriers that we'll put children or infants into because there have been scandals about some of those not being correctly designed and injuring kids as a result. We talk about the way air bags can protect us, but we know air bags can also injure and kill children because of their lack of height. And so we specifically have criteria about where those infant seats can be placed in cars. We don't let our kids ride on the bumpers of cars. We don't let our kids climb in the back of pickups. We don't let adults climb in the back of pickups. We have these regulations that have come to us, by the way, as a result of bad things happening to people who then approach their lawmakers and say, please help protect us. Protect us from unthinking individuals who don't make the right decisions and in some cases, protect us from ourselves. The types of cars that we allow on roads, I've already talked about, except there are manufacturers of cars in European countries who want to ship their cars to this country, but because of the way our roads are designed, driving on the right-hand side... [LB393]

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SENATOR KRIST: One minute. [LB393]

SENATOR GLOOR: Thank you, Mr. President...we make them redesign those cars before we sell them and let them drive on Nebraska roads. And, oh, by the way, we ask motorcycle riders in this state to wear helmets. Again, not because the helmet manufacturers of the world came to the Legislature and said, we want to improve the economy of Nebraska by building helmets in the state and selling more helmets from a variety of outlets in the state. It came to us as a result of a public safety issue by people who were concerned about the number of injured Nebraskans they saw. It fit into the same category as all the other regulations that we have out there, except now we're talking about this one small bit of regulation that we don't like when we're surrounded by laws that we put in place to protect ourselves and that people were supportive of, people being voters were supportive of. Don't be distracted by a small set of Nebraskans who would like the helmet law to go away. [LB393]

SENATOR KRIST: Time, Senator. [LB393]

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

SENATOR KRIST: Thank you, Senator Gloor. Senator Gloor, you're recognized to close on your bracket motion. [LB393]

SENATOR GLOOR: Thank you, Mr. President. Well, we've talked about this quite a bit, and again as I've said yesterday and several times in the days before, I certainly appreciate Senator Bloomfield's commitment to this. I understand the deference to him on some of the votes because this is a priority bill. I have a priority bill that still sits in committee. I have had priority bills that have not seen the light of day, and I understand that that's a risk you run. You make those decisions when you assign a priority bill and you never know what's going to happen. We bring the priority bills forward sometimes because we want to force the issue, sometimes because we think it will smoke out a few additional votes, sometimes because we want to, in my case, see if we can't smoke it out of committee. But I think we've talked about this bill long enough and by my calculation, we're not that far away from a cloture vote. The vote we had yesterday in calling the question tells me, I don't think that's going to happen. I don't think the 33 votes are going to be there in all deference to those of you who do. Certainly, Senator Bloomfield does. Now is the time for us to add a little more time back into our discussion on other bills, other bills that are just as worthy of this bill as a lot of time and a lot of debate. There's an individual freedom issue. There's a cost to society in real dollars and a cost to Nebraskans in real dollars on the other side of this issue. And we are certainly on our individual sides of this committed to our point of view, but I can assure you of this, if this bill were to pass, within a year or two, we would be back here again talking about reinstating the motorcycle helmet bill. I know that from my involvement in this

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from a healthcare perspective because of the Nebraskans who would come to us and would say, this needs to once again be part of the shield of laws in place that govern traffic safety and consumer safety in this state. I'd ask you to vote on this bracket motion, please, and with that I would also request a call of the house. [LB393]

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

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB393]

SENATOR KRIST: 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. The house is under call. Senator Wightman, Senator Burke Harr, Senator Karpisek, Senator Janssen, Senator Ashford, Senator Kolowski, Senator Kintner, Senator Chambers, please return to the Chamber. Senator Lautenbaugh, could you hit your button? Thank you. Senator Wightman, Senator Ashford, Senator Chambers, please return to the Chamber. All members are accounted for. Senator Gloor, how would you like to proceed? [LB393]

SENATOR GLOOR: Roll call, regular order, please. [LB393]

SENATOR KRIST: There's been a request for a roll call, regular order. And just as a reminder, this is the attempt to bracket until 4-17 of 2014 for LB393. Mr. Clerk. [LB393]

CLERK: (Roll call taken, Legislative Journal page 503.) 23 ayes, 23 nays on the motion to bracket, Mr. President. [LB393]

SENATOR KRIST: The motion fails. Items for the record and raise the call, please. [LB393]

CLERK: Mr. President, priority bill designation, Banking, Commerce and Insurance, LB749. The Committee on Natural Resources report LB683 to General File, LB798 to General File, LB699, General File with amendments. The Executive Board reports LB989 to General File, and LB970 and LR397CA indefinitely postponed. I have new resolutions: LR437 and LR438 and LR439 by Senator Seiler. Those will be laid over. LR440 by Senator Karpisek. Pursuant to its introduction, a communication from the Speaker directing that LR440 be referred to Reference for referral to standing committee for confirmation...or public hearing. Amendment to LB869 by Senator Gloor to be printed. Natural Resources, two confirmation reports, and finally, Mr. President, a priority bill designation. Senator Hansen has selected LB884 as his priority bill for this session. (Legislative Journal pages 503-511.) [LB749 LB683 LB798 LB699 LB989 LB970 LR397CA LR437 LR438 LR439 LR440 LB869 LB884]

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SENATOR KRIST: Thank you, Mr. Clerk.

CLERK: Mr. President, we return to the amendment to the committee amendment as offered by Senator Lathrop. [LB393]

SENATOR KRIST: Thank you, Mr. Clerk. (Visitors introduced.) Returning to debate, Senator Gloor, you're recognized. [LB393]

SENATOR GLOOR: Thank you to those of you who voted to bracket the bill and certainly my understandings with those of you who didn't, there are a lot of reasons I can think of myself that people would have wanted to continue this discussion and debate. So we'll move towards a cloture vote and see how that shakes out. I would like to read a letter that was sent to all of us sometime ago. This was sent out February 6th. It would have been sent to all of us so you received a copy of it. It says, Dear Senators. Thank you for serving the citizens of the state of Nebraska. I'm a motorcycle safety instructor in Omaha who annually opposes the special interest organization ABATE in their quest to abolish Nebraska's helmet law. Mind you, this is a motorcycle safety instructor in Omaha. As you listen to the debate on LB393, I urge you to use some common sense when listening to this vocal minority who does not represent the interests of the citizens and taxpayers of Nebraska nor the majority of motorcyclists and drivers who use Nebraska's highway system daily as they go back and forth to work, shop, or otherwise go about living their lives. ABATE and the proponents of this bill will argue that you have taken away their rights, and that you deprive them of the economic benefit of the thousands of motorcyclists who supposedly avoid riding in Nebraska because of our helmet law. What they do not tell you is that it is not a right to operate a vehicle on our state roads. We have traffic laws to prevent crashes, injury, and death to our highway users as well as to organize and direct traffic flow. Imagine the chaos and carnage on our roads without speed limits, stop signs, traffic lights, road markings and rules of the road to direct users on how to function while operating all manner of vehicles. And I listed...I gave you a short list of those, by the way, in my previous comments. A Department of Transportation or Snell compliant helmet is the single most important piece of safety gear available to anyone who operates a scooter or a motorcycle. Motorcyclists are not automatically protected by air bags, high strength, steel, safety cage construction or anti-lock brakes to the extent that modern automobile and truck operators are in 2014. The bill's proponents also do not tell you of the adverse economic impact that will happen to the citizens and taxpayers of Nebraska due to the increased number of traumatic brain injuries and deaths that will occur, should this bill pass. This has already happened in Louisiana, Texas, Florida, Pennsylvania, and most recently in Michigan. And members, you'll recall that I have mentioned the fact that Michigan, after it repealed its helmet law a year ago, saw a 22 percent increase in injuries. Since the only thing that changed in Michigan, members, was removal of helmets, that 22 percent increase comes from head injuries. Back to the letter. Have

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your staff do the research and you'll find dramatic increases in death, traumatic brain injury and costs following helmet law repeal in all of these states. Exactly why is this good for the citizens of Nebraska? And I would add, and why is this good for the taxpayers of Nebraska who will ultimately pick up the tab if this law goes away? Please do not make the same mistake as these other states and get rid of Nebraska's universal helmet law by voting to pass LB393. Our current statute has proven to keep our motorcycle fatality rate amongst the lowest in the United States. Why fix something that is not broken because a vocal minority does not like being told what to do... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR GLOOR: ...while using the roads paid for...roads paid for by all Nebraska citizens via their taxes? A majority of Nebraska citizens and road users have consistently indicated that they do not want this law changed, so please do not give in to the rights and economic windfall arguments. There are much more important issues facing the Legislature than a biker wanting to feel free and have the wind blowing through their hair. If you would like more information about motorcycle safety training helmets or Nebraska's motorcycle safety program, please do not hesitate to contact me. Be happy to give his name to any senators or their staff who are interested. Again, this is a motorcycle safety instructor in Omaha who opposes repeal of LB393. Thank you, Mr. President. Thank you, members. [LB393]

SENATOR KRIST: Thank you, Senator Gloor. Senator Lathrop, you're recognized. [LB393]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Looks like we're going until 11:30 and maybe I'll make an observation at this point. This bill would trade one mandate for two more. Think about that. Why would we require eyewear? Isn't that a personal choice? Shouldn't somebody, if you think the helmet bill should be repealed, why would we replace it with a mandate for eyewear? And I've listened to Senator Bloomfield talk about it and he said, well, it's a safety issue. We don't want somebody hit in the eye with a June bug and then getting in a wreck. So now we're going to replace one mandate with another. And will we back here in two years from now or next year when somebody wants to get rid of the mandate for eyewear, and we'll hear the advocates say these people who ride should decide. But maybe Senator Bloomfield has a point. He may have a point in the requirement of eyewear. And that point is, it's about safety, that Senator Bloomfield and his bill should be able to tell riders what to do when the issue is safety. When it comes to safety, it's not just about prevention, it's about what happens after the crash. Right? Think about the workplace. We mandate that people wear helmets in the workplace, hard hats, on construction sites. We don't leave that to their personal decision because we know that as much as they try to prevent accidents in the workplace, prevent things from falling from overhead, that it happens even when you have good safety practices and good policy, and for that reason we

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mandate the construction workers wear helmets. But no one is here trying to repeal that. Back to Senator Bloomfield's requirement that we wear eyewear if you want to ride. It's a mandate. It's a bit ironic. It's a bit ironic that he would repeal the helmet bill and replace it with a requirement that you wear special eyewear. But as he says, it's a safety issue. The helmet bill is a safety issue. It has served this state well. Those states that have repealed their mandatory helmet bill have seen an increase in deaths and brain injuries and we'll all pay for those. If we are to be consistent, and if allowing those who ride to decide is paramount and trumps safety, then we should delete from this bill the requirement...the other two requirements. There's two, actually. One deals with how big a passenger has to be to ride on a motorcycle. But Senator Bloomfield in his bill... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR LATHROP: ...recognizes that the state has a legitimate interest in safety for motorcycle riders and their passengers. And so he would mandate eyewear and put a requirement about how tall you have to be to be a passenger on a motorcycle. So we're not really arguing over whether we can legislate in this area and whether those who ride should be able to decide everything, we're just quibbling about what decisions we're going to let them make, because even Senator Bloomfield would impose two brand new restrictions on their ability to decide. And he would discard the biggest, the single, most important safety feature for a motorcycle operator and replace it with a pretty weak...a pretty weak effort at safety. [LB393]

SENATOR KRIST: Time, Senator. [LB393]

SENATOR LATHROP: Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Campbell, you're recognized. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President. Colleagues, I'm going to continue talking about the study done in Florida because it's one of the largest studies and most recent, and it really does get at some of the questions that you have been asking, and Senator Wallman asked specifically about the state of Florida. During the study period, 106 deaths occurred in Palm Beach County as a result of motorcycle crashes. Scene deaths totaled 63 with an additional 43 deaths in the trauma center. Of the 296 helmeted riders, there were 42 deaths or 14 percent as compared to 60 deaths or 21 percent among the riders without a helmet. The study indicated the risk of death was reduced by 32 percent when wearing a helmet. The incidents of head and face injuries for riders without helmets were significantly higher than riders with helmets. In addition, riders without helmets suffered serious head injury, 81 percent more frequently. That, colleagues, puts a statistic to some of the information that Senator Lathrop has been

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talking about. Motorcycle injuries consume important healthcare resources. We've also touched on this. The study compared the length of stay, intensive care days, and inpatient charges, and on all those counts, unhelmeted certainly led with greater cost. Riders without helmets were less inclined to be covered by private insurance and relied on government programs or went without insurance. The relative risk of death per miles traveled is 30 times higher from the national statistics, while nationally the fatality rate for all motor vehicles has declined 16 percent over the last decade from 21.2 to 17.9 fatalities per 100,000 registered vehicles. The motorcycle fatality rate has increased 21 percent from 57 to 69 per 100,000 registered motor vehicles. In Palm Beach County, where this study was intensively done, the increase was even higher at 53 percent. And they quote from the study, helmets are estimated to be 37 percent effective in preventing fatal injuries to motorcyclists. This study supports those findings with nonhelmeted riders at greater risk of death. On average, 44 percent of patients treated in the Palm Beach County study were uninsured or relied on government-based coverage. Colleagues, I've spent a lot of time with this study because it's one of the most extensive studies done when a state repeals a universal helmet law. And it appears to me that the statistics given in the report and the in-depth study that they looked at from those who were admitted to the trauma centers, tells us what we can look forward to... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR CAMPBELL: ...if we repeal this law. Thank you, Mr. President. I hope that we will take the time to seriously think about our responsibility to look and balance our personal freedoms and balance the public safety and welfare of the citizens of Nebraska. This law was put into place for a reason, to protect our citizens, and to care for their safety and welfare. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Campbell. Senator Cook, you're recognized. [LB393]

SENATOR COOK: Thank you, Mr. President and good morning, colleagues. I rise in opposition to the proposal and this is not the first time as a member of the Legislature that we've had this debate, but I do understand that there are some members here who have not had the opportunity to weigh in, so I thought I might offer my perspective in that context. I am a...the representative for Legislative District 13 which is very diverse in about every way that you can imagine. It is a part of the city and county where people often come, at least in the Ponca Hills area, to ride on motorcycles and also to enjoy cycling with the power of their own legs versus the power of a motor. Although I represent this district and respect the fact that people have different opinions, as someone who has been a public health advocate for many years, I cannot possibly fathom rescinding this law at this time given all the evidence and given all the other things that we do in the state of Nebraska and across the United States to ensure public

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health and safety. Not many people understand what the crux of public health is and I didn't really either, even after I done...worked in it for many years, but until I participated in a leadership institute. And they kind of got to the bottom of it and what it amounts to is something that I think we can all agree on, on all sides of the philosophical aisle, if you will, and that is the idea that an ounce of prevention is worth a pound of cure. The idea that knowing the statistics on morbidity and mortality and taking steps as I would imagine all of us do in this body to eat well, rest, take any medications that might be prescribed to us, to take care of ourselves, so that we do not develop a brand new disease, or that a chronic disease that we might have already been diagnosed with would not grow and take over our lives and cut into our lives and our lifestyles. Chronic disease is one example, obviously, of something that we pay attention to in Health and Human Services by helping people get to medications and appointments to manage those things, but there's...what I've heard in this debate in terms of motorcycles and the use of helmets is the idea that someone would get in a crash without their helmet or get in a crash and die right away. We've talked a little bit about them living and living on life support. We've also...what we haven't talked about are the person that is, that lucky person that would live but be in the context of a home environment in a care-giving environment. Not only the lost years of productivity and income for that person and just quality of life, but what about the lost years of productivity and income for the caregivers that take care of that person and have to manage everything else in the family once that person has been injured and was...I would go ahead and say, lucky enough to survive? I think we do plenty of things in this deliberative body that look into how to minimize risk for as it relates to public safety, whether that is in the work of the Judiciary Committee for criminal justice, or in Health and Human Services, or even in Education as we look toward our funding in how to have a student have the best opportunity in life through access to a quality education. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR COOK: I really don't understand...I respect it, but I do not understand why at this juncture, having all of the statistics and knowledge, and people have shared their direct experience and their testimony about friends and family who have been lost in this way, why we would take the time now in 2014 to repeal the helmet law. And with that, I would conclude my remarks. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Cook. Those still wishing to speak: Senator Ken Haar, Senator Seiler, Gloor, and Lautenbaugh. Senator Ken Haar, you're recognized. [LB393]

SENATOR HAAR: Mr. President and members of the body, I was a motorcycle rider for a lot of years. I had a really nice bike, a Honda CX500, shaft driven, water cooled, but it was a heavy bike. So one weekend...and it was Labor Day weekend. I had, you know, three days, and my goal was to hit ten states in three days. And I only made six,

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Nebraska, South Dakota, Minnesota, Iowa, Missouri, Kansas, and at the end of that trip I was where some riders feel themselves, you stop and you almost forget to put your feet down because you've been riding so long. But anyway, part of the trip, I went through Sioux City and I stopped at a stoplight and right there where I stopped was a pool of oil. And so on two wheels, when one wheel...when you lose one wheel, there's not much keeping you up and I fell over. Now luckily, I was not going very fast. The main thing that was hurt was my pride, and some people who also stopped at that stoplight helped me pick my bike up. But my point is this. And I knew this. Riding a motorcycle on two wheels is more dangerous than riding some vehicle on three wheels. That's why I always wore my helmet. And I cannot remember when I fell over in Sioux City--thank you, Sioux City--whether or not I hit my...you know, how I landed. I can't remember that. But anyway, I always wore my helmet. Also on that trip, by the way, just for your information, I drove through a heavy rainstorm. I had all my gear with me and stuff and it was doing some lightning. At that time I thought that it's the tires on a car that protect you from lightning. Well, it's not. It's the shell of the car that protects you from lightning. So if you're ever out on a motorcycle and you're driving through a lightning storm, get off the motorcycle. You have no protection from the lightning. And as happened to me one time, if you're riding and it starts to hail, stop your bike, get off your bike, and wait out the hailstorm. So, you know, if we were talking about three wheels instead of two, I might even listen a little bit more. But on two wheels, there's not much balance if one of those wheels is taken out. Another time I was road-tripping with my 12-year-old. I had a great time because each of my young sons, I had two weeks. I was teaching at the time and I said, you pick where you want to go and we went for two weeks on the motorcycle. We were in Yellowstone and just taking off for the morning and a deer ran across the road and literally we had...we were inches from that deer. Had we hit that deer, it would have taken out one of my wheels. I would have been down on the road again. My son and I both had helmets, but we were going probably 20 or 30 miles an hour at the time. We could have been hurt pretty badly. But I never let that sort of thing stop me. I drove as carefully as I could, but I always wore my helmet. And I think that helmet is such important protection. Another time with my younger son, we took a trip to the Ozarks and the Ozarks are great on a motorcycle. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR HAAR: Thank you. All you have to watch for is leaves on the curves. Again, take out one wheel, you've got one wheel left and you're in trouble. That night we stopped at a park area. We were the only people in the park area. An hour or two later Hells Angels came into the parking lot. I feared for my life, but they invited me over to their campfire for some beer. We had a great time. So two wheels, that makes it more dangerous when you're out there and you're not enclosed. So I am definitely...will vote against LB393. Thank you very much. [LB393]

SENATOR KRIST: Thank you, Senator Haar. Senator Seiler, you're recognized.

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[LB393]

SENATOR SEILER: Mr. President, members of the Unicameral, I do not have any personal experiences like Ken on riding. They haven't printed enough money in Washington to get me on one of those bikes. But I do have a lot of clients that ride them. I have a lot of dead clients that rode them. I will tell you if a motorcycle tangles with a truck or a train, kiss them goodbye. They're not coming home. Just this last year I had two clients riding motorcycles, one of them up in Sturgis. She was riding on the back behind her husband. She fell asleep, fell off the motorcycle on the interstate at 65 miles an hour, bounced numerous times, and says she slid down the interstate, got up and walked away. The helmet was totally destroyed that she was wearing. The other client was a professor at Hasting College coming home in the evening, came over a hill. A center pivot had spread water and mud all over the highway. He dropped it down and walked away with a broken thumb and a complete destroyed helmet. Gouges that were clear through the helmet saved his bacon. There's no question about it. So based on that, those experiences of clients of mine, I do believe the helmet will save the small, the medium-sized accidents, and once in a while, the catastrophe. But if you're saying the helmet or eye protection is going to protect you from a truck, a train, it will not. The only thing they'll do is pick up the pieces and bring them back to the coroner. So I'm going to vote against this bill and continue to have helmets in use while they're being ridden on the streets. Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Seiler. Senator Gloor, you're recognized. [LB393]

SENATOR GLOOR: Thank you, Mr. President. I wonder if Senator Lathrop would yield for a question. [LB393]

SENATOR KRIST: Senator Lathrop, will you yield? [LB393]

SENATOR LATHROP: Yes, I will. [LB393]

SENATOR GLOOR: Senator Lathrop, since it's been a while since we talked about the amendments, would you refresh my memory on what we're talking about with your amendment, AM1813? [LB393]

SENATOR LATHROP: Well, in the committee amendment there's a requirement that you wear eyewear but it doesn't specify any particular eyewear, and so the amendment would specify that the eyewear called for in Senator Bloomfield's mandate would be that eyewear approved by the Department of Motor Vehicles. [LB393]

SENATOR GLOOR: And is your request based upon any feedback we've gotten from the Department of Motor Vehicles, one way or the other? [LB393]

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SENATOR LATHROP: No, it's...I'm not sure if the Department of Motor Vehicles has weighed in on the bill at all. I know the Safety Council certainly has, but I don't know that the Department of Motor Vehicles has, but it's just a...you know, when we...the helmet bill requires that you wear a helmet that's going to do you some good and it would be one approved, I think, by the Department of Transportation. And so in a similar way, we've required that it be approved by the Department of Motor Vehicles, and presumably, they can put together the rules and regulations so that you have eyewear that's actually doing you some good and somebody isn't wearing St. Patrick's Day glasses down the highway or wearing something that won't do any good when a...from a safety perspective. [LB393]

SENATOR GLOOR: Thank you. And as far as I know, Senator Lathrop, you have no problem with St. Patrick's Day glasses if they met some minimum established by the Department of Motor Vehicles. [LB393]

SENATOR LATHROP: No, if the Department of Motor Vehicles sees fit to mandate St. Patrick's Day glasses while you're riding a motorcycle, I'd be okay with that. [LB393]

SENATOR GLOOR: Thank you, Senator Lathrop. That's a very appropriate and political response as relates to constituents. I did and do have a document here. And thank you, Senator Lathrop, I won't bother you with any more questions. I do have a copy of the Nebraska Safety Commission's...I believe it's the most recent report given to us by AAA. I believe most of you would have had this delivered to your offices also and would encourage you to read it. There's a lot of good information in here. I've been looking for anything that would give us some guidance or that we could pass along for the Department of Transportation as relates to safe eyewear. I do find information related to motorcycle helmets. There's quite a bit of information and regulation around motorcycle helmets. They established standards for motorcycle helmets some years ago to ensure a certain degree of protection in a crash. It's Motor Vehicle Safety Standard 218, which was in the Federal Register Title 49, Volume 5, Part 571, Section 218. October 2003 would be the appropriate date or the more important date on here. And DOT compliant helmets are helmets that meet the safety standard while noncompliant helmets are helmets that do not. There's a bit of federal regulation that makes sense. DOT compliant helmets are marked with an identifying sticker on the back of the helmets. So, apparently, this is important enough that there are stickers that are placed on helmets that identify that they are appropriate and meet the standard of helmets... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR GLOOR: ...that are manufactured. Thank you, Mr. President. Apparently, there's a prevalence of counterfeit stickers, not counterfeit helmet issue here, but counterfeit stickers. And so the specifics of those that do meet and are appropriately

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stickered, is that they cover the motorcyclist's ears or at least one inch thick. The estimate from the Department of Motor Vehicles Safety Transportation and Safety Administration estimates that helmet use is, in fact, primarily done by those that are compliant helmets. I'm looking for additional information here that would be helpful to this since I just ran across it, but I'll keep looking and get back on the mike and share this fascinating and titillating information with the body as it pops into my line of vision. [LB393]

SENATOR KRIST: Time, Senator. Senator Lautenbaugh, you're recognized. [LB393]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I do have a few questions in a moment here, but I'm thinking I might try to suspend the rules and introduce a bill out of time this session dealing with blimps, because I'm pretty confident that if I introduced a bill dealing with blimps, my friend Senator Haar would hop up and talk about his days as a blimp pilot and his experience piloting blimps in and around Lincoln. I remember the...and I'm sure you all remember the roadside trapping debate from days of yore and Senator Haar's experiences there, too, and he's a man of many experiences and I always enjoy them. And I never know when they're going to come up, but I'll look forward to the airship bill when I get to it. But I'm wondering, more to the point, if I've talked so long that Senator Lathrop is no longer here. But the questions I would have asked of Senator Lathrop, or maybe Senator Gloor, who is surprised to be in the middle aisle and perhaps being asked to yield to a question as he works his way back to his microphone, do deal with the issues of eye protection, so I would ask Senator Gloor if he would yield. [LB393]

SENATOR KRIST: Senator Gloor, will you yield? [LB393]

SENATOR GLOOR: Certainly. [LB393]

SENATOR LAUTENBAUGH: Senator Gloor, I think you were just discussing to a certain extent some of the ins and outs of this amendment regarding eye protection. Is that correct? [LB393]

SENATOR GLOOR: I was trying to get a handle on it. Yes, I was, Senator. [LB393]

SENATOR LAUTENBAUGH: And I think it's the case now that our DMV currently has no approved list of eye protection. Is that correct in your understanding? [LB393]

SENATOR GLOOR: That was my understanding of why we had AM1813. [LB393]

SENATOR LAUTENBAUGH: Do you know, would this add a fiscal note to the bill if DMV had to go adopt rules and regs and come up with a approved list? [LB393]

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SENATOR GLOOR: Good question. And the reason that I'm pouring through some of the documents from the National Highway Safety Commission is looking to see if, perhaps, all that already exists and so our DMV could glom on to information that had already been researched. It would amaze me had there not already been some research into that. Perhaps not for motorcycles, but perhaps for safety goggles related to people driving other types of motor vehicles. [LB393]

SENATOR LAUTENBAUGH: Thank you, Senator Gloor. I wonder if Senator Lathrop would yield to a question. [LB393]

SENATOR KRIST: Senator Lathrop, will you yield? [LB393]

SENATOR LATHROP: Yes, I will. [LB393]

SENATOR LAUTENBAUGH: Thank you, Senator Lathrop. Regarding this amendment, do you know, does the DMV have any list now regarding eye protection or approved listing? [LB393]

SENATOR LATHROP: I don't know if they do or not. [LB393]

SENATOR LAUTENBAUGH: Are you concerned at all that this might add a fiscal note to the bill if this amendment did pass? [LB393]

SENATOR LATHROP: I have no idea if it will add a fiscal note. You know, if you...do you want the long answer or the short one? The answer is I don't know. I have experience. We had a bill in Ag Committee just the other day where they were going to assume a whole bunch more responsibilities keeping track of swap meets and there was no fiscal note and they thought they could do it without any problem. So I can't imagine that the development of a list of approved eyewear would cause a fiscal note. [LB393]

SENATOR LAUTENBAUGH: And it's...I think it's probably your assumption that other states may have plowed this ground already, right? [LB393]

SENATOR LATHROP: Might have. [LB393]

SENATOR LAUTENBAUGH: Found out what works and what doesn't? [LB393]

SENATOR LATHROP: I don't know that. I'm not sure what motivated Senator Bloomfield other than what he's told us. [LB393]

SENATOR LAUTENBAUGH: No, I'm just saying as far as a list of approved eyewear there's chances are to the extent other states don't have helmets or don't have helmets

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with front protection, there may be lists of approved eyewear other places, so we may not have to reinvent the wheel. Is that your hope, or...? [LB393]

SENATOR LATHROP: I'd have to speculate on that. [LB393]

SENATOR LAUTENBAUGH: Okay. I would invite you to. [LB393]

SENATOR LATHROP: Well, you know what, I don't know if other states have requirements for eyewear or if this would be... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR LATHROP: ...unique to Nebraska. And so I don't know if somebody else out there already has approved list of eyewear that would actually be safety devices for the motorcycle operator. [LB393]

SENATOR LAUTENBAUGH: Okay. Thank you, Senator Lathrop. I do continue to support the underlying bill and I do rise in opposition to the amendment. I think the bill adequately addresses the eye protection issue and the amendment takes out language that is helpful and adds in the element of uncertainty that I can't support, and I would urge you to support the underlying bill. I thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Those still wishing to speak: Senator Crawford, Murante, Campbell, Lathrop, Gloor, Kintner, and Howard. Senator Crawford, you're recognized. [LB393]

SENATOR CRAWFORD: Thank you, Mr. President. I stand in opposition of LB393 and I do so for many reasons and I'm going to start the discussion by talking about three of those. I stand in opposition of LB393 out of a concern of making this decision based on core values, and I stand against LB393 out of a concern that I make decisions on this floor that are based on evidence, and I stand against LB393 because when I'm on this floor making decisions, I do my best to try to represent what I feel most of my constituents would want, especially when that's consistent with values and evidence. So let me start with values. Anytime we're making a decision here we have to ask, what's the purpose? And in almost every case when we're trying to make a choice on public policy issues, we have trade-offs that we have to make. So individual autonomy and liberty, those are very important core values we want to protect. And so we only pass a policy that restricts those when we do so because we have to trade-off some liberty for the sake of some other core value that's important to us. And in this case, that other core value that's important to us is basically lives. So we do have to trade-off some individual autonomy, some individual liberty for the sake of helping to save lives. If you don't have your life, then your autonomy, liberty, doesn't have much meaning. So that's the trade-off we're making here is recognizing there is some restriction that's necessary

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in liberty and autonomy for the sake of preserving life, that fundamental value of life. So if...from the...if we move to evidence then, we have an advantage here in the United States that we have a federalist system. So as political scientists we talk about this as that we have states as laboratories of democracy. So we get a chance to see how different policies play out in different states. And that then gives us a chance here on the floor when we ask, is this worth the trade-off of liberty for the sake of saving lives? We have the chance to actually see what happens in those states that have made different choices. So we don't have to guess whether or not this costs lives, we have evidence that it does cost lives. And, in fact, we have evidence that there were ten times as many unhelmeted fatalities in states without a universal helmet law and that compared to states with a universal helmet law in 2012. We can actually look at what's happening in other states and study and see what that trade-off looks like to us. And that trade-off is a comparison of over 1,800 deaths in states without a universal helmet law compared to less than 200 deaths in states like Nebraska that currently have a universal helmet law. That strikes me as the most compelling piece of evidence I've seen, but as you've heard... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR CRAWFORD: Thank you, Mr. President. As you've heard in the many hours we've been debating this bill, this is only one of many pieces of evidence in support of opposing LB393. Finally, on the last point, I don't have the resources to poll my district, but I do have evidence from a 2000 study...national study, that 81 percent of Americans reported that they favored mandatory helmet law use. And I've no reason to suspect it's terribly different in my own district. And so I do believe that there are many people in my district who support keeping helmets and so I stand in opposition to LB393. Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Crawford. (Visitors introduced.) Next in the queue, Senator Murante, you're recognized. [LB393]

SENATOR MURANTE: Thank you, Mr. President. Members, good morning. I rise in support of LB393. Like many of you, I've also heard the debate over a period of years, and hours today, and as difficult as it must be for the members to revisit this issue again, I'd ask you to think about your legislative aides who are back in your office listening to this debate for the fifth or sixth time. And unlike us, they don't have the cathartic experience of being able to push their white lights and say what's on their mind, they just have to sit there and take it. So take them out to lunch or do something for them because they have to endure this along with the rest of us. But I'm happy that I was able to follow Senator Crawford because she brings up what I think is a valid point. This is, what we're talking about, riding motorcycles without helmets is a dangerous activity, one that could pose a threat to the safety of the people of Nebraska. To be honest with you, I, like Senator Seiler, don't have any interest in riding a motorcycle at

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all. That is way outside my comfort zone and if we banned every human activity that I find personally dangerous and choose not to participate in, we would have a very boring state, and I don't think we ought to just pass a constitutional amendment banning fun in the state of Nebraska because that's where we would be. So the question is, how do we determine and who gets to decide what is safe and whether our citizens are allowed to do a thing? And I would submit that this Legislature and legislative bodies in general are exactly the wrong place to be making that determination. I may agree with Senator Crawford on the issue that wearing motorcycle helmets is the safe thing to do. I think riding motorcycles...or choosing not to, is the safer choice altogether, but I'm not going to ban motorcycles either. We know that in the history of the world the freedom that Senator Bloomfield has been talking about for the last seven hours is the exception to the rule. It's the anomaly. Very rarely do governments in the history of the world have power and choose not to exercise it. And the 21st century, western civilization, the days of villainous despots and tyrants, is not the form of totalitarianism that we see. Instead sweeping across the world is a form of protectionism to deprive people of their liberty. It's done for the benefit of their own good. And because of that, the impact of an expansive government from across the world might have a different face, but the result is the same. So how do we justify it? How do we say we're going to involve ourselves into people's lives who are doing an activity which doesn't bother anybody else and doesn't impact anybody else's life? We say, well, if they do it, they might get government money at some point. They might get into a car accident and then it will cost the state dollars. I want you to think about that first. I want you to think about the logic behind that reasoning. Senator Bolz and I have talked about this in years past. If the line of reasoning that we are using is that any human activity that might result in a person eventually someday being put on Medicaid, or they might get some sort of government benefit if they partake in some human activity, there is no limit to this government scope. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR MURANTE: We can do whatever we want to because at any point, any human activity, someone could stand up on the floor and say it's dangerous and we ought to ban it, and if we don't, someone might someday get some sort of government benefit. A government benefit, by the way, that people cannot opt out of and they didn't ask for in the first place. That's a dangerous road to go down, if that's the bar we've set. I think there's a better course. I think Senator Bloomfield has articulated it. Let people have the option to choose, hold them responsible for their actions, and the 1.8 million Nebraskans are far better at determining what is a proper course of action than the 49 members of this Legislature, with respect. So I am going to support LB393. I encourage you all to do the same. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Murante. Senator Campbell, you're recognized. [LB393]

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SENATOR CAMPBELL: Thank you, Mr. President. And since we're all being perfectly honest about our past, I must admit that one summer when I returned to Norfolk while I was in college I returned for the summer, and it was a beautiful summer night and a former boyfriend said to me, why don't you hop on the motorcycle with me and we'll circle around Norfolk. And so I got on that motorcycle and we rode around and stopped and I said, never again. I obviously was not wearing a helmet. This was a great number of years ago, but I've never forgotten that experience of what that was like without...sensing that I had no protection when I was riding on the back of the motorcycle. I want to continue since my role in the debate here has been to talk about different studies that we have looked at in analyzing this issue. And a report came out from the Centers for Disease Control and Prevention. This is relatively new. It was published in September of 2012. And the title of the article that came out is Helmet Use Among Motorcyclists Who Died in Crashes and Economic Cost Savings Associated With State Motorcycle Helmet Laws in the United States from 2008-2010. And they have a little synopsis of the total article and the research that was done. And I want to share that with you because I think it's an interesting article. In 2010, motorcycle crashes made up 14 percent of all traffic deaths, yet motorcycles accounted for less than 1 percent of all the vehicle miles traveled. Helmet use prevented an estimated 37 percent of fatalities among motorcycle operators. We've heard that statistic before. But the one that struck me and ties to my story about being on a motorcycle, it accounted for 41 percent of the fatalities among passengers. What is added by the report, the CDC asks in their research and looking at it? Compared with motorcyclists in states with a universal helmet law, fatally injured motorcyclists in states with a partial helmet law were more than five times as likely not to have been wearing a helmet, and fatally injured motorcyclists in states with no helmet law were more than six times as likely not to be wearing a helmet. Economic costs saved in states with a universal helmet law on average were \$725 per registered motorcycle, nearly four times greater than in states without such a law. Although approximately \$3 billion in economic costs were saved as a result of helmet use in the United States in 2010, another \$1.4 billion could have been saved if all motorcyclists had worn helmets. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR CAMPBELL: Thank you, Mr. President. Helmet use for motorcyclists has proven to save lives, decrease the severity of crash injuries, and reduce costs. Universal helmet laws are demonstrated to be the most effective way to increase helmet use. We do this because it is a part of our transportation system and our transportation laws. That's a lot different than any other behavior that we might undertake. That is why the public safety and welfare of Nebraskans is a topic that we take most seriously. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Campbell. Senator Lathrop, you're recognized.

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[LB393]

SENATOR LATHROP: Thank you, Mr. President and colleagues. In a little bit, we'll be taking a cloture vote, and I want to talk to the people who are opposed to the bill. If you're opposed to the bill, then you'll throw a red up on the cloture vote and oppose the motion. And I suspect there are some people here who are considering voting yes on the cloture and no on the bill, or they've got themselves in a place where they've decided that one isn't the same as the other, and I would just suggest to you that if you're opposed to the bill, then you'll oppose the cloture motion. And that probably should come in the next half hour or 20 minutes, something like that. That said, earlier today I had an opportunity to visit or to discuss what it would be like to get that call from the hospital, and maybe I'll go down that road a little bit longer with you. If you don't have the law enforcement at your front door to tell you that your son or daughter has been killed, but you go to the hospital to find out that your son or daughter has suffered a brain injury, it is...I've seen people go through this. It's maybe the most disorienting experience. You are praying that your son or daughter will be fine and at the same time you're talking to neurosurgeons who are telling you that we will remove the top of your son or daughter's skull to permit the brain to swell, which it's going to do after a trauma, and not have the circulation in the brain compromised to the point where the brain injury occurs, or is much worse than it would otherwise be. The person is usually put into a coma on purpose to allow the brain swelling to go down. And then you ask the doctor, the neurosurgeon who you've been meeting with that you never met before, on a subject that you never thought you'd ever have to talk to anybody about, is my son going to be okay? And they tell you, we don't know. We can't really tell you. There's so much variability, but we've got the best people working on it. And then you wait and you might wait weeks while your son or daughter is in a coma, or maybe it's your husband or your wife or your brother. And finally they emerge from a coma and you start trying to get a sense of what life is going to be like after a brain injury. You'll meet along the way not just the neurosurgeon but ultimately you'll come into contact with other surgeons, probably. You'll deal with occupational therapy and physical therapy that try to teach your son or daughter how to walk again, or speech therapist that might teach them how to swallow and speak again, how to use muscles like an infant. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR LATHROP: We don't need to visit this upon so many families year after year. Fifty families will be touched by fatalities and brain injuries if this passes, unnecessarily, unnecessarily. And all we ask of motorcycle riders is that all of them wear a helmet so that 10 people won't die and 40 people won't get brain injuries. That's it. That's the trade-off. Senator Murante talked about, well, we've become a protectionist state. We do this with drugs. Right? Every year we deal with a brand new version of K2. We stand up, we move those bills unanimously as we should. That affects one person. Right? [LB393]

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SENATOR KRIST: Time, Senator. [LB393]

SENATOR LATHROP: Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Lathrop. Senator Gloor, you're recognized. [LB393]

SENATOR GLOOR: Thank you, Mr. President. I want to talk about the dollars associated with motorcycle injuries and the comment has been made that costs associated with repealing the helmet law has with its...is a red herring overall. I'm going to read a letter that was sent to lawmakers in the state of Michigan last April and it comes from an organization called Skilled Motorcyclists Association-Responsible, Trained and Educated Riders. The acronym is SMARTER. The title of the article is One Year Post Repeal: Where Do We Go From Here? because Michigan repealed its law. Skilled Motorcyclists Association-Responsible, Trained and Educated Riders, Inc., SMARTER, is a motorcyclist association that recognizes all rider helmet laws are a vital component of a comprehensive motorcyclist safety program. Christopher A. Hart, vice president of the National Transportation Safety Board, has noted that helmet law repeals amount to a vast experiment that affirm the effectiveness of such laws in reducing motorcyclists' deaths and injuries. On Friday the 13th of April, 2012--interesting date, Friday the 13th--Michigan enlisted itself in that tragic human experiment. What a terrible mistake our Legislature and Governor made. As expected, the repeal of our helmet law has turned out to be a disaster that has cost human lives and has caused needless suffering. While it is true you never get a second chance to make a first impression, when you make an error in judgment not costing you your own life, you do get a chance to admit you made a mistake and you get an opportunity to learn from it and make amends. That's the chance available now to our state Legislature and our Governor. They have a chance to take a mulligan, an opportunity for a do over. The early evidence we have now is consistent with a prediction that members of the Heads First coalition made that a number of deaths and injuries would increase following repeal of our all rider helmet law. And remember this is the state of Michigan. Fifty-five helmetless riders died and 195 suffered incapacitating injuries. This was in the year following. Research by the University of Michigan Transportation Research Institute tells us that had all these riders been wearing a helmet, 26 would still be alive, and 49 would not have suffered such serious injury. And you'll recall that earlier I had referenced the fact that in the year following the appeal of this, there was a 22 percent increase in injuries to motorcycle riders since nothing changed except they no longer were wearing...needed to wear helmets, required to wear helmets, those injuries obviously had to come with head injuries as a result. Twenty-six would be alive, forty-nine would not have suffered such serious injury. Let me explain how we have those numbers. Let me explain how we know that there was a 22 percent increase in injuries. People aren't self-reporting themselves. Motorcycle riders aren't walking up to

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the Department of Transportation in Michigan and saying, oh, by the way, you might want to mark me down as having an injury. Those reports come through hospital emergency rooms where people are taken after their injury. So that 22 percent is a solid number. And there are costs associated with those emergency room visits. Even if you walk in the door and they're able to walk out after a few hours of diagnostic tests and whatnot, we know that there will be thousands of dollars of expenses tied up in there. These are real costs. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR GLOOR: Thank you, Mr. President. And if 26 would still be alive, those 26 were in all likelihood--I speak from experience on this--not taken to the emergency room if they were not alive. They were taken to the emergency room with a hope that their lives could be saved. And the amount of time, energy, and money that went into saving those 26 lives will be in the tens of thousands of dollars. And many, many of those individuals will be Medicaid patients where they will be charity cases, where the costs then shifts to all payers including Medicaid. There are real dollars associated with injury. There are real dollars associated with repeal of this law. It's not a fabrication. It's a reality. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Gloor. Those still wishing to speak: Senator Howard, Senator Kintner, Lautenbaugh, Crawford, Bloomfield, and Harms. Senator Howard, you're recognized. [LB393]

SENATOR HOWARD: Thank you, Mr. President. I thought I was after Senator Kintner. I rise in opposition to the underlying bill, but would like to update you on a new development which is that I have a favorite testifier here in the Legislature. He was the very last testifier on Medicaid on the Wellness in Nebraska plan and he came in opposition and he waited all night to come talk to us. And he was lovely. He reminded me of my grandfather. And he made an argument around not offering Medicaid or healthcare supports through the government and instead investing more time and energy into prevention, specifically seat belts and motorcycle helmets. He felt that seat belts and motorcycle helmets were a stronger...were a more fiscally conservative method of preventing healthcare costs in the state than paying for additional healthcare supports for folks who are living in poverty. While I didn't change my mind necessarily on the bill, I did feel as though it was an interesting argument from somebody who was equally opposed to what Senator Kintner often calls the nanny state. But more than anything, the work that I do here is often guided by my own heart and I rise as the daughter of a man who was killed in a car accident three months before I was born, and so I never knew my own father. And so when I have the opportunity to prevent other families from experiencing what mine did, when I have the opportunity to prevent highway accidents, to prevent families from experiencing a level of grief that is some days impossible to bear, I will always take that opportunity. Last night over supper I was

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talking to my mom about this bill and she told me about a night, and it was a late night. You had been in session until about 9:00. I believe Senator Chambers was the one who kept you here. And she was driving home and she was almost to Omaha and she saw a motorcyclist weaving between cars and a truck slowed down in front of the motorcyclist and his motorcycle ran into the truck and he was thrown across three lanes of traffic and eventually stopped when he hit the median. And she remembers it so vividly and it was years ago and she said she would never support repealing motorcycle helmets because she can see that man going over the lanes. And she remembers how scared she was and she could see his motorcycle continuing down the road after it had bumped into the truck. And so for me, I'm perpetually guided by my heart. I'm guided by testifiers who remind me of my own grandfather, and opportunities to prevent a heartache for fellow Nebraskans. I think motorcycle helmets are an easy way to prevent heartache in our state, and I appreciate the opportunity to share my thoughts on this piece of legislation. Thank you, Mr. President. [LB393]

SENATOR KRIST: Thank you, Senator Howard. Senator Kintner, you're recognized. [LB393]

SENATOR KINTNER: Thank you, Mr. President. You know we've heard a lot of talk about numbers and all the people are going to be hurt. Well, you know what, motorcycles are dangerous. No one is saying that they're safe. No one is saying that if you ride a motorcycle you don't have a pretty good chance of getting hurt at some point. I don't think I know any motorcycle operators that haven't put their bike down at least a couple of times. I know when I was in college I had a bike and the second day I put it down on some gravel. It's just the nature of it. I mean, no one is arguing that that is not true. What we are arguing is you ought to be responsible for your own actions. Everyone knows this is dangerous, everyone knows you take your life in your own hands when you ride a motorcycle, and we don't need the government to mandate that you wear a helmet. Now, we talk about mandates and we have senators say we're trading one mandate for two mandates. Well, let me talk about the eye protection. We have eye protection regulations to protect other people. I don't think the state has interest if a bug gets in your eyes, that's not it. It's when something gets in your eyes and you veer off course and you hit another car or you hit another person. Entirely different thing. We're not protecting you from your own actions, we're protecting other people. And that's the difference and that needs to be stated. With that, I'd like to yield the remainder of my time to Senator Lautenbaugh. [LB393]

SENATOR KRIST: Senator Lautenbaugh you're yielded 3:20. [LB393]

SENATOR LAUTENBAUGH: Thank you, Mr. President. Thank you, Senator Kintner. I'd kept my comments to a minimum on this bill and certainly my digressions to zero on this bill so far, but this is a filibuster and it's winding down. And so a digression is in order because believe it or not, I do sit and listen to the things that are said even during a

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filibuster. And I've heard a lot of people stand up and give impassioned speeches about their concern for other people's children. We can generally take care of our own children, I think we all know, or we try to, but we're concerned for other people's children. And I've heard a lot of you cite statistics and experiences from other states. Well, if you're going to be guided by a concern for other children and the experiences of other states, well, you're going to have your chance because I have a bill for you that I've discussed before dealing with charter schools. And some of you may be rolling your eyes and thinking, oh, here we go again. Well, funny thing. Last week I started on a digression about this and it wasn't much of a digression, I think we're actually out quasi on topic. And there were some visitors over here under the balcony from a tribal school, and I finished my comments about charters and the experiences in the modern era, and I turned around to walk over to the side and one of the gentlemen was waiving at me from under the balcony, so I went over to talk to him. And he said, oh, thank you so much for what you said, this saved us in Mississippi. We had so much success with this, this is what we need on the reservation too. And he didn't have an ax to grind and he wasn't here because of that topic, what he is is an educator who wants to educate kids who are at risk. And what we're finding now when you look at the experience in other states is that in modern times with modern data, current data, charters are succeeding for minority and poor students. The statistics show it is true. [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR LAUTENBAUGH: And if you think that's great, but we don't have that problem here, you're mistaken. We have 90-some schools that would qualify as failing in this state, folks, and a big chunk of them are in my district. We have someone here in Omaha working to emulate a plan from Atlanta because it's had so much success and charters are a big part of it in Atlanta, and we don't have a law that allows them here. We're one of eight states that don't allow charter schools, one of eight. We're not pioneers, we're playing catch-up. We can't participate and race to the top because we don't allow charters. And yet we pretend like it's some alien thing that we shouldn't touch. We are denying kids opportunity. We are denying parents choice. It is a scandal and we should be ashamed if we continue to do this. But it's not our kids. We take care of our kids. [LB393]

SENATOR KRIST: Senator Lautenbaugh, your time is up but you're next in the queue. [LB393]

SENATOR LAUTENBAUGH: Thank you, Mr. President. It's the other kids. Well, if we're going to be talking about other people and caring for other people and saying, by God, we should wear...make sure they have helmets on, we should make sure there's something under the helmet worth protecting and that comes from education. And we should make sure they have a quality education, and we should make sure all parents have a choice in getting those kids a quality education. And the longer we continue to

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say we're willing to do anything except allow the parents a meaningful choice within their own communities, then we're deluding ourselves. As long as we're saying we're willing to allow choice, as long as it doesn't allow competition with existing public schools within the district with charter public schools, then we're not allowing choice. We recently had a presentation on charters in Omaha where a retired superintendent said we were pioneers in choice because you could move between districts. Well, that's not the cutting edge of school choice anymore, and telling a child from a neighborhood in south Omaha that he has to spend an hour and a half on a bus and leave his neighborhood school behind to go where the parents think he can get a good education, that's not a neighborhood school choice anymore. And that does something to a community and that's what we're talking about with school choice, meaningful school choice. We are one of eight states that continues to deny this. And it's a scandal. It should be a scandal. I'd yield the rest of my time to Senator Bloomfield. [LB393]

SENATOR KRIST: Senator Bloomfield, you're yielded 3:20. [LB393]

SENATOR BLOOMFIELD: Thank you, Mr. President and thank you, Senator Lautenbaugh. Colleagues, we're moving toward that magical hour when we'll actually vote on this. I'm going to ask you to vote for cloture when the time comes. We don't outlaw smoking. We restrict it by age limitation. Same thing, drinking. Let's not continue not allowing adults to make decisions. Senator Lathrop with great elegance has walked you down the grim path of what allowing these small freedoms might cost us in dollars and cents, suffering. I wish to walk you down another little path. It's well worn. It leads to the Vietnam Memorial Wall. I've had the honor of visiting this wall four different times. And you're thinking, God, there he goes again talking about patriotism. No, that's not it. When I visit this wall in the...the military people in here will understand this and those that have served in combat will understand this. I walk up to that long granite wall, 50,000 of my brothers cry out from graves across America. This price we paid for freedom. This price we paid to defend freedom. What will you do now to protect it? Colleagues, this little bit, our eight hours we've spent on this, is the one little bit I will do now to protect it. What you can do to protect it is to push that green light when the vote comes. I'm going to leave you with my very favorite quote... [LB393]

SENATOR KRIST: One minute. [LB393]

SENATOR BLOOMFIELD: ...from Ronald Reagan. "Freedom is never more than one generation away from extinction. We didn't pass it on to our children in the bloodstream. It must be fought for, protected, and handed on for them to do the same." Colleagues, let's protect and give back the small measure of freedom. Please vote for cloture. Thank you. [LB393]

SENATOR KRIST: Thank you, Senator Bloomfield and Senator Lautenbaugh. Mr. Clerk, you have a motion on your desk? [LB393]

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CLERK: Mr. President, I do. Senator Bloomfield would move to invoke cloture pursuant to Rule 7, Section 10. [LB393]

SENATOR KRIST: It's the ruling of the Chair that there has been full and fair debate afforded to LB393. Senator Bloomfield, for what purpose do you rise? [LB393]

SENATOR BLOOMFIELD: I would like a call of the house. [LB393]

SENATOR KRIST: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; opposed, nay. Mr. Clerk, please record. [LB393]

CLERK: 29 ayes, 0 nays, to place the house under call, Mr. President. [LB393]

SENATOR KRIST: 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. The house is under call. Senators Wightman, Conrad, Janssen, Pirsch, Ashford, Carlson, and Davis, please return to the Chamber, the house is under call. Senators Carlson and Davis, please return to the Chamber, the house is under call. Senator Bloomfield, all members are accounted for. How would you like to proceed? [LB393]

SENATOR BLOOMFIELD: I'd like a roll call vote, regular order. [LB393]

SENATOR KRIST: Okay. There's been a call for a roll call vote, regular order. Members, the first vote...the first vote is the motion to invoke cloture. All those in favor vote aye; opposed, nay. This requires 33 votes. I'm sorry. Mr. Clerk. [LB393]

CLERK: (Roll call vote taken, Legislative Journal pages 511-512.) 25 ayes, 22 nays, Mr. President to invoke cloture. [LB393]

SENATOR KRIST: The motion to invoke cloture fails. Raise the call. Debate ceases. Mr. Clerk, next item. [LB393]

CLERK: Mr. President, the next item. LB438, a bill introduced by Senator Adams. (Read title.) The bill was introduced on January 22 of last year, referred to the Education Committee. The bill was advanced to General File. There are Education Committee amendments pending, Mr. President. (AM1240, Legislative Journal page 1237, First Session, 2013.) [LB438]

SENATOR KRIST: Senator Adams, you're recognized to open. [LB438]

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SPEAKER ADAMS: Thank you, Mr. President. Members, this bill had a hearing in the Education Committee last session and was voted out. I had prioritized it but kept pulling it to the end of the agenda as the year progressed last session and have reprioritized it and brought it forward. During the interim, it has given me time to work with the State Board of Education and their accountability committee to make sure it does the kinds of things that they want. Now the bill, particularly with the committee amendment that's forthcoming, which simplifies the bill and therefore also reduces the fiscal impact, does this. We have an assessment system in Nebraska. And those of us that came in, in 2007, we know the fight that we went through in order to change our method of assessment. And we have assessment system in Nebraska and it's evolving, improving all the time. In 2012, LB870 further refined the assessment system to include other measures other than just how a student is doing on reading or writing or math, but to include some growth measures, improvement measures, graduation rates. What we lack in Nebraska is an accountability system. We have an assessment system so we collect the data. We measure our students, we collect the data, but we don't have really an accountability system. Arguably, the State Board has started to work on accountability and they have and they've done a lot of things. What this bill does is to put the State Board and the Legislature in the same place so we're working together, not up against one another. What the bill very simply does is this. It simply states that the State Board of Education will use the various indicators of student performance that they have, and whether they be the results of math and reading or whether they be graduation rates or whether they be growth models of improvement, use the data that they already have and build a system for evaluating school districts and school buildings to determine where we really have issues. And once that determination is made, the bill authorizes the State Board of Education to intervene in that school district. Realize that right now under current law the power that the school board has is to take away a district's accreditation if they're failing. Folks, that isn't going to happen nor am I sure that it ought to happen. If you have a school building inside of a large school district, do you take away the district's accreditation because of failure in one building? Or we go out into rural Nebraska where you have a school district and grades K through 12 are in one building and they're not doing well, do we take away the accreditation and put them on a bus to go that much further to yet another school district? That's not going to work. So instead, what we need to do is to find a way, and this bill creates that, to identify our low-performing schools and intervene to do something about their performance rather than just say, well, we've collected the data; here it is; here's how Millard did; here's how York did; here's how Sioux County did and move about our way. There has to be accountability. If a school is not doing well, the question becomes, what are we going to do about it? What this bill says is that the State Board will intervene and have access to staff, have access to finance, have access to curriculum, and develop a plan for turning that school around and implement it. It's the direction that the State Board was going. They want to know that the Legislature is in the same place with them and we need to be. You know, we have a federal accountability system. Good, bad, or indifferent we've got it. But you know what we've always done in Nebraska, we've said we needed to

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have one but it needed to have some of the characteristics that we deem are important, not just what Washington's Department of Education deems as important. Something that's important to the state and important to school districts, No Child Left Behind. We're one of the few states that cannot ask the Department of Ed for waivers because we don't have an accountability system. Senator Lautenbaugh a moment ago talked about us being one of the few states that doesn't have charter legislation. We're one of the few states that doesn't have an accountability system. Here it is. And it's in line with what the State Board wants to do, and we need to get about the business of creating it. The committee amendment that is forthcoming takes a lot of things out of the bill that were originally there, and I'm 100 percent fine with that. It reduces the number of identified schools from five to three, and that reduces the fiscal note. It takes some other elements out like councils and all of that business that just doesn't work very well. And so I'm going to be supportive of that committee amendment. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Speaker Adams. As the Clerk stated, there are amendments from the Education Committee. Senator Sullivan, as the Chair, you're recognized to open. [LB438]

SENATOR SULLIVAN: Thank you, Mr. President, and good morning, colleagues. LB438 with AM1240 attached advanced from the Education Committee by an 8 to 0 vote and had no opposition at the committee hearing. AM1240 is a white copy amendment, and the only substantive differences between AM1240 and LB438 are as follows: First of all, it reduces the number of priority schools that the State Board of Education may designate from the current number of five down to no more than three as listed under Section 2 of the bill. This change is projected to reduce the fiscal note from \$4.2 million down to \$800,000. Secondly, it strikes Section 4 from the bill. Section 4 contained provisions providing for the creation of community schools and operating councils so those would no longer be included in this legislation. Members, the changes to LB438 were made with the knowledge and consent of the introducer, as Senator Adams so noted, and the committee believes makes this bill a better fit for Nebraska public schools. I should also mention that AM1580 which follows this amendment simply pushes back the start date contained in Section 2 of LB438 from 2013-14 school year to the 2014-15 school year and the initial date that the State Board must approve the priority plans from August 1, 2015, to August 1, 2016. These changes obviously are required because the bill was written with dates reflecting passage of the bill during last year's 2013 legislative session and not the current one. I ask for the adoption of AM1240, AM1580, which follows this amendment, and the passage of LB438. Thank you. [LB438]

SENATOR KRIST: Thank you, Senator Sullivan. Mr. Clerk, there is an amendment to the committee amendment. [LB438]

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CLERK: Mr. President, Senator Sullivan would move to amend the committee amendments with AM1580. (Legislative Journal page 113.) [LB438]

SENATOR KRIST: Senator Sullivan, you're recognized. [LB438]

SENATOR SULLIVAN: Thank you, Mr. President. And as I just indicated, AM1580 simply pushes back the start date contained in Section 2 of LB438 from 2013-14 school year to the 2014-15 school year. I ask for your adoption of this amendment. Thank you. [LB438]

SENATOR KRIST: Thank you, Senator Sullivan. You've heard the opening on AM1580 and AM1240, amendments to LB438. Those wishing to speak: Senator Scheer, Nordquist, and Dubas. Senator Scheer, you are recognized. [LB438]

SENATOR SCHEER: Thank you, Mr. President. I rise in support of LB438 and the underlying amendments to the bill. For those of you that are not as familiar with how schools have been rated and the effects that No Child Left Behind has had on many districts, let me give you a little tutorial on what has happened with the federal government. The federal government comes into the state and says, we want to know which one of your schools are the worst performing. And by the way, we'll define what performance is. You don't get to have any input in what that definition is. And now that we've come up with a definition, we want to know what your five lowest performing schools, the 5 percent lowest-performing schools in your state are. Now bear in mind hypothetically that any state could have 100 school districts in it. A lot of states have very few number of school districts. And they all could have a graduation rate of 90, 95 percent. Their ACTs could all be in the high 20s. But the federal law says, your lowest 5 percent of school districts. Doesn't matter. And we don't consider them in need of help. The federal government considers them failures. Now I don't know how many of you have ever coached a little league team or a young girls' soccer or volleyball or anything else. But normally, you don't get a lot of work out of people when you tell them they're failures. They sort of feel despondent. They don't feel like trying really very hard. Well, that's where a lot of the school districts in Nebraska have been because they've been told how bad a job they're doing, but they've given no opportunity to help themselves. There's no federal funds available to them. They just simply say you're an outcast, you're doing poorly, and they don't care. They've done they're job. They've identified you as a failure. What this bill finally does is it allows the state to make some determinations of which school systems, school buildings or district needs assistance and now has some funds available that they can hire some people to come into a school district to take a look and see what they're doing, try to work on best practices that are being very successful in other districts. It gives them an opportunity to work with other professionals to try to improve that building or that district and the outcomes for that children. Education is not about districts, it's not about buildings, it's about children. And you can have a failure of a school system or a building, but bear in mind we've got

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some awfully smart kids. You have some kids that are in need of assistance. And how do we go about getting that assistance? We can't continue to say keep doing the same thing you're doing and we're going to expect different results. If they have no assistance in helping determine how to do a better job, how do we expect school districts or school buildings to do a better job? LB438 finally recognizes that we need to do something to help districts or buildings that are in need of some professional assistance, and maybe it's just trying to redefine how they go about things. I don't know. Every district will be different. And that's the nice part about... [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR SCHEER: ...thank you, Mr. President...that's the nice thing about LB438. Nebraska will develop the accountability, will determine how to go about it from that perspective based on Nebraska's specifications, not federal specifications. But once we make that determination of the district or the building that we believe can use some assistance, we now have the opportunity and a little bit of funding to bring some professional people into that building or district to help them hopefully solve some of the problems and impediments that are holding back those children from learning at an appropriate age level. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Scheer. Senator Nordquist, you are recognized. [LB438]

SENATOR NORDQUIST: Thank you, Mr. President and members. And I liked Senator Scheer's comment that even in school buildings that are struggling we obviously have a number of very bright and capable students who have the ability to excel. I rise certainly in support of the bill and the amendments. I just want to have a little more discussion about the intention here and how it would be carried out. You know, when I talk to educators in my district, I hear that children are coming in and, you know, they're not walking into the building and all of a sudden walking into the school building solves all of their problems outside of the school building. We have kids that come to school hungry. We have parents who, unfortunately, are working one and a half or two full-time, low-wage jobs and not...to make ends meet for their family. We have young children who are coming in, in kindergarten with socioemotional challenges that have not been met. And Senator Bolz has a bill in Appropriations to try to help expand programming to address those challenges. And my concern is if we're just going to pick some schools whose test scores or graduation rates or whatever methodology we come up with and say these are our priority schools and we don't address the challenges outside of the school building, then we're not going to see the success that we need. So with that, I'd like to ask Senator Adams a question if he's available. [LB438]

SENATOR KRIST: Senator Adams, will you yield? [LB438]

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SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR NORDQUIST: Sorry, Senator Adams. I know you were in a conversation there. And I was just talking about the challenges outside the school building. When I talk to educators in my district, they say, you know, kids are coming to school hungry. Parents are working two jobs and not there. We have kids coming in, in kindergarten with socioemotional challenges. And just does this bill allow the intervention team to look at those outside challenges, not just the academic curriculum, leadership problems inside the building, but the more of a communitywide challenge? [LB438]

SPEAKER ADAMS: It's a good question. I've tried to craft this so that it is open-ended enough to allow the State Board to determine those kind of indicators. Now, I would think when an intervention team goes into school district A or school building A and they are looking, these people are going to be professional people. They understand the issues of high risk, of poverty, and they're going to be looking at those kinds of things as they develop an intervention plan. Quite possibly at the board level, it's going to be a bit more objectified in numbers than it is those kind of underlying elements. [LB438]

SENATOR NORDQUIST: Okay. And so with that, the five people that we have identified on an intervention team, would you see some of them having expertise in some more of those larger global societal issues, I guess social services? [LB438]

SPEAKER ADAMS: I do. And I don't think you can be involved in education... [LB438]

SENATOR NORDQUIST: Right. [LB438]

SPEAKER ADAMS: ...at any point in the spectrum and not understand those kinds of issues. And it may be former administrators, existing teachers, people from the state department... [LB438]

SENATOR NORDQUIST: Right. [LB438]

SPEAKER ADAMS: ...a whole variety of folks. But if you're in education, you're going to understand those issues. [LB438]

SENATOR NORDQUIST: Right. Okay. And then last question would be what resources...I see the fiscal note mentioned maybe \$700,000 per building, but that wasn't clearly defined. What resources do you envision the intervention team or the school building having? Will it be very tailored or will there be a set amount of financial resources and other resources available? [LB438]

SPEAKER ADAMS: If this bill moves to Select File, because of the amendment, there will be a whole new fiscal note coming with it. [LB438]

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SENATOR KRIST: One minute. [LB438]

SPEAKER ADAMS: And it will be under a million dollars. And what will go away from the existing fiscal note is the aid that was going to be paid out to schools that were identified as low performing. That wouldn't happen. And the only expense would be an FTE at the department to help take care of this and then the expenses of the intervention team if they had to travel... [LB438]

SENATOR NORDQUIST: Right. [LB438]

SPEAKER ADAMS: ...to wherever it may be to actually do this work. [LB438]

SENATOR NORDQUIST: So you think with existing resources we'll be able to address the problems or will that be something that may have to come later to ask the Legislature for additional resources for some of these schools? [LB438]

SPEAKER ADAMS: You know, when you ask me a question like that, Senator Nordquist, I'm going to give you a straight-up, Greg Adams answer. Somebody is going to ask for money, but I think it's all about getting about what you're there to do. And I don't know that it's going to take a bunch more money. [LB438]

SENATOR NORDQUIST: Okay. Thank you. [LB438]

SENATOR KRIST: Time, Senators. Thank you, Senator Nordquist and Speaker Adams. Senator Dubas, you are recognized. [LB438]

SENATOR DUBAS: Thank you, Mr. President. Would Senator Adams yield to some questions, please? [LB438]

SENATOR KRIST: Senator Adams, will you yield? [LB438]

SPEAKER ADAMS: Yes, I will. [LB438]

SENATOR DUBAS: Thank you, Senator Adams. Your explanation helped me out a lot, but I'm going to ask some questions just kind of to further clarify some things in my mind. So when we're talking about three school districts, is that statewide? We're looking at three school districts statewide. [LB438]

SPEAKER ADAMS: Three school districts or three school buildings statewide. [LB438]

SENATOR DUBAS: Buildings, okay. And to achieve the determination of being a priority school, are we going to be creating some kind of an additional ranking system? [LB438]

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SPEAKER ADAMS: There will be some ranking involved. Now the methodology is what the State Board is currently working on right now. They'll use their current data. They're not going to ask school districts to come up with any new data, no additional reporting. They'll use what they have, which includes assessment results. It includes growth modeling. It includes graduation rates, all of those kinds of things. What remains is for the State Board to decide how they're going to weight those things. [LB438]

SENATOR DUBAS: Okay. That helps me a lot. And I'm going to kind of go along the same line as Senator Nordquist was going. You know, I certainly understand a need for accountability. That's certainly very important. And rankings to a degree I understand. But when you start comparing school districts to each other, I don't always believe it's an apples-to-apples comparison because of those externalities, whether it's poverty rates and all those other things. So when you're...when that determination is going in to who is a priority school, they're going to be looking at a lot of those things, like you said, graduation rates, poverty rates,... [LB438]

SPEAKER ADAMS: Yes. [LB438]

SENATOR DUBAS: ...all of the other things that really those are the things that are presenting the challenge for the students and the teachers and the administration. It's not necessarily where they fall compared to other schools but within themselves. [LB438]

SPEAKER ADAMS: No. They're going to be looking at all of those things before they make a designation. [LB438]

SENATOR DUBAS: Very good. Thank you so much, Senator Adams. [LB438]

SPEAKER ADAMS: You're welcome. [LB438]

SENATOR KRIST: Thank you, Senator Dubas and Senator Adams. Senator Wallman, you're recognized. [LB438]

SENATOR WALLMAN: Thank you, Mr. President, members of the Legislature. I've read this bill on assessments and all these things. We have a tremendous diversity across this great state and we have immigration, we have language issues. And how you're going to assess that school district, it kind of concerns me because we should be having administrators, principals, superintendents, and maybe we ought to assess them to see what they're doing in the school district instead of always the children. And these tests, I think it was Omaha where they had these writing tests, the software fouled up and a lot of kids didn't get...they got logged off. And we depend on these things so much electronically, and tests test the children. And so our dropout rate has that went down?

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Senator...would Senator Sullivan yield to a question? [LB438]

SENATOR KRIST: Senator Sullivan, will you yield to a question? [LB438]

SENATOR SULLIVAN: Yes, I will. [LB438]

SENATOR WALLMAN: Thank you, Senator. Has our dropout rate went down since we put these... [LB438]

SENATOR SULLIVAN: Excuse me. I didn't hear what you said. [LB438]

SENATOR WALLMAN: The dropout rates in our public schools, have they went down since we put all these things or went up, assessments? [LB438]

SENATOR SULLIVAN: I don't know that the dropout rate has gone up. I can't tell you that for sure, but I don't think it has. [LB438]

SENATOR WALLMAN: Okay, thank you. Thank you, Senator. And so is this going to help us? I wish it would. Statewide assessments I have...there's too much diversity in this great state to just grade everybody I think. And so I'll listen to the debate on this and thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Wallman and Senator Sullivan. Senator Lautenbaugh, you are recognized. [LB438]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. By standards of my current behavior, I guess I should stand up and talk about helmets now since we're on an education bill, but I'm not going to do that. I'm actually going to talk about education on an education bill. We all, I believe, and I know this to be true, there's no one in this room who doesn't want schools to perform better for our kids. That's obviously true. There's no point in even saying that probably. And I know we're going to have more time to talk about this tomorrow so I thought about even just shutting off my light today. And I probably will just stop talking prematurely today. But I do want to explore more of these issues tomorrow because I don't want to be in the circumstance of feeling like we did something for the sake of saying we did something. And now we can address this and we can get the federal waiver and we can move on from this topic because I'm not ready to move on from this topic. And I'm going to tip my hand here and say I'm very concerned when you look at the number of schools that we have at risk, the number that are literally failing this bill allows for intervention at three schools. Where I live, you can stand at a school and probably see three schools that would qualify. That's my district. There are 30-some that would make the list, and this provides for action in 3 schools. I believe in the state there might be 90-some that would make the list. And this provides for intervention in three schools in a couple of years with a team from the State

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Department of Ed that's going to work with the people that are there and try to do better. I was talking when I opened in the Education Committee on another bill I have a couple of weeks ago, and I was explaining I've got to be gone this afternoon because I have a client that needs to get something done and it's been delayed before. And when action on his matter is delayed, his business opening is delayed and he loses money. And if he's delayed opening a couple months, well, he loses a couple months of revenue. Well, what happens when we delay meaningful education reform year after year after year? Well, we're losing money in a very real sense. But what also happens every year? We graduate another group of kids, many of whom really can't read, many of whom have to go to college or community schools to take remedial courses to qualify to take the actual courses at the community colleges or, God forbid, college. At some districts, diplomas have become participation certificates, not meaningful diplomas. You get them just by showing up. And I don't think this is going to do anything. I want to be convinced otherwise. I really do. I want us to do something meaningful because we need to change and we need to save these kids. I can't put it any more bluntly than that. And every year that we do something or study something or do something that is the precursor to doing something, we lose a few thousand more or we pass on a few thousand more. It used to be the case, I don't think it's in vogue anymore, that some states looked at third grade reading scores I'm told... [LB438]

SENATOR KRIST: One minute. [LB438]

SENATOR LAUTENBAUGH: ...to determine their future prison needs. Please think on that. Please think on that. This will intervene in three schools if passed. I'm not trying to say that the people that are promoting this bill are not trying, and I'm not trying to be critical. But I do want to discuss this more tomorrow and we just need to work harder. Thank you, Mr. President. [LB438]

SENATOR KRIST: Thank you, Senator Lautenbaugh. Mr. Clerk, items. [LB438]

CLERK: I do, Mr. President. Enrollment and Review reports LB371A to Select File. Committee reports: the Executive Board reports LB976 to General File, LB1016 to General File with amendments and LR400 and LR424 reported back to the floor for further consideration, those all signed by Senator Wightman as Chair of the committee. Education, chaired by Senator Sullivan, reports LB682 to General File with amendments. And the Government Committee, chaired by Senator Avery, reports LB726, LB743, LB745, LB792, LB804 to General File; LB217, LB661 to General File with amendments; and LB662, LB663 as indefinitely postponed. Government Committee has selected LB661 and LB1048 as the committee priorities for this session. Hearing notices from the Health and Human Services Committee and a room change request from the Urban Affairs Committee. Name adds: Senator Davis would like to add his name to LR400. (Legislative Journal pages 512-522.) [LB371A LB976 LB1016 LR400 LR424 LB682 LB726 LB743 LB745 LB792 LB804 LB217 LB661 LB662 LB663

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LB1048]

And, Mr. President, a priority motion: Senator Carlson would move to adjourn the body until Wednesday morning, February 12, at 9:00 a.m.

SENATOR KRIST: You've heard the motion. All those in favor aye. Opposed, nay. We are adjourned until 9:00 tomorrow.