

**APRIL 19, 2005**

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FLOOR DEBATE

April 19, 2005      LB 70, 364, 749  
                            LR 78

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK:      Good morning.      Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Bob Larson, St. Paul and the Elim Lutheran Churches; Hooper, Nebraska; Senator Janssen's district. Pastor.

PASTOR LARSON:      (Prayer offered.)

SENATOR CUDABACK:      Thank you, Pastor Larson, for being with us. We appreciate you being our chaplain of the day. Represent the 15th District, Senator Janssen's. I call the sixty-third day of the Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK:      Any corrections for the Journal?

CLERK:      I have no corrections, Mr. President.

SENATOR CUDABACK:      Messages, reports, or announcements?

CLERK:      Mr. President, your Committee on Retirement Systems reports LB 364 to General File with committee amendments attached; Business and Labor reports LB 749 to General File with committee amendments attached; those two reports signed by their respective Chairs. New resolution, LR 78, by Senator Fischer. That will be laid over. That's all that I had, Mr. President. (Legislative Journal pages 1207-1209.)

SENATOR CUDABACK:      Thank you, Mr. Clerk. (Visitors introduced.) First agenda item, General File, 2005 senator priority bills, the Combs division. Mr. Clerk, LB 70.

CLERK:      Mr. President, LB 70, introduced by Senator Smith. (Read title.) The bill was introduced on January 6, referred to the Transportation Committee. Bill was advanced to General File, Mr. President. I do have amendments pending to the bill.

SENATOR CUDABACK:      Thank you, Mr. Clerk. We now go to LB 70.

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Senator Smith, to open.

SENATOR SMITH: Thank you, Mr. President and members. I rise to introduce to you LB 70. I was hoping that it was going to make the consent calendar agenda, but it didn't. So LB 70, we'll have, I'm sure, a vigorous debate. And I think that's relevant and appropriate for a shift in policy. LB 70 proposes to make Nebraska not exactly like our neighboring states, but intends to put Nebraska more in line with our neighboring states, because I believe that we can leverage some personal freedom with building our economy. LB 70 is a bill that says, if you're 21 years of age, you take safety training or have experience, and you wear protective eyewear, you can go without a helmet, should you so choose. Nothing in LB 70 prohibits the use of a helmet, actually, for any reason. Those who would choose to wear a helmet on a motorcycle, while riding a motorcycle, certainly can do that within LB 70. But they have to show a little bit of responsibility first. We've seen trends in the motorcycling public over the last few years, and I would say they're positive trends. Those positive trends state...or, certainly point to the fact that motorcyclists are more responsible, in that they tend to have insurance, as much or more than car drivers, whether it's health insurance or car insurance. But these riders are actually wealthier folks. They're getting older, as an average. We're all getting older as an average, but the average rider in Nebraska is getting older. And we've seen a trend, most recently, that the fewer registrations we have in motorcycles, the fewer deaths and injuries. And then, as the number of motorcycles registered goes up, so goes the number of deaths, and somewhat the number of injuries, but not as correlated closely as the number of deaths compared to the number of registrations. You will hear that unhelmeted motorcyclists have no insurance. Actually, there are insinuations that no motorcyclists have any insurance. I think that's discouraging. We need to look at the big picture here of how we treat various classes of people in Nebraska. I know that we here in the Legislature intend to be fair, and we want to look out for the best in individuals, certainly. But I'm disturbed when I find, after pouring through volumes and volumes of information, that it comes down to the fact that we as policy makers and as lawmakers here in Nebraska discriminate highly

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against motorcyclists. Because we have a policy based on the fact that every motorcyclist is irresponsible. That's unfortunate. That's not true. As I stated earlier, motorcyclists are very responsible, in fact, just as responsible, if not more so, than car drivers. But when you look at the trends, that is what we need to do. You will hear that before the helmet law we had X number of deaths, and after the helmet law came on the books we had X number of deaths, that being lower. That's just part of the picture, Senator Johnson. That's just one small part of the picture. And I've had various discussions with some folks behind the glass. And it's not the volunteer lobbyists that are lobbying on behalf of freedom for Nebraska motorcyclists, responsible freedom, I should add. But there's been kind of an exchange, and an apology here and there for perhaps mischaracterizing the numbers. But we need to be real about this and I think, if anything, if anything, side on the cause of freedom, and especially, as I propose, that responsible freedom through the rider education and experience within the bill. Why the protective eyewear? Because protective eyewear protects other members of the driving public. Because if a bug might fly in the eye of a motorcyclist and the motorcyclist would veer off into the oncoming lane of traffic, all of a sudden that motorcycle is impinging on the freedom of the oncoming traffic. That's not what I want to see, because that is where one person's freedom stops and the other person's freedom begins. If you look at the materials that I've handed to you, I hope that it's explainable. I do have some more, so fear not, there's even more information coming out. But it's going to be consistent. It's going to show that reduced number of deaths follow the number of registrations in Nebraska. Now, some of the numbers used to distort and paint the scenario much worse than it truly is will automatically use the number of motorcycle licenses. Well, everyone with a motorcycle license doesn't necessarily drive anymore, and the numbers speak to that. The trends are similar. But I don't use the license number, because I don't believe that it as accurate as the number of motorcycle registrations. And motorcycle registrations, as you know, are renewed every year, and not every five years, similar to that of an operator's license. But if you look through the information, you'll see a letter from Health and Human Services when I inquired with them about the

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costs to Nebraska taxpayers relating to Medicaid. They took, actually, quite some time to respond, because they don't necessarily track it as one might typically expect. But you'll see, from the year 2000 to 2003, the cost was less than \$100,000. I'll guarantee you that I could raise that much money...anyone could raise that much money to promote a billboard that would bring literally hundreds of thousands of people to Nebraska, through Nebraska, spending money. I think of the one week in August in western Nebraska where we would have at least 100,000 riders come through Nebraska on their way to a certain event up in South Dakota. They spend money. If someone is driving a \$25,000 piece of machinery, that being a Harley, I think they're going to spend 10 bucks on a meal, and probably \$50 to \$75 on a night's lodging while traveling to Sturgis, South Dakota. The numbers are real. And we can pay for what might be some extra costs through the developing of the economy and expanding of the economy with LB 70. The training mechanism within LB 70 is paid for by motorcyclists through the registration fee, and a subsequent amendment will help clarify that. But let's stand back here, set our biases aside. I never thought that I would be taking up this issue. But the more I study it, the more I study this issue, the more reasonable I find it to be. Because this is a trade-off--developing responsibility among the motorcycling public through the training and experience, and also granting to them that personal decision that almost all of our neighboring states grant. I was going over a list, a chart that showed the motorcyclist fatalities per 10,000 registered vehicles. Now, you have to take things into consideration, like the number of months out of the year,...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...the number of months out of the year that one might ride a motorcycle. But in Florida, they have a higher rate here...higher rate of Florida than in Nebraska, higher rate of fatalities. But they have year-round motorcycling. But what I've found especially, especially convincing is that most of our neighboring states without mandatory helmet laws have a more optimal fatality rate per 10,000 registered motorcycles. I think that speaks for itself. And that's why I believe that

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LB 70 is a good idea. We can restore some freedom and at the same time encourage responsibility, training, experience, so that we can make a large number of people in Nebraska happy, and they spend a lot of money. And I think that's good for the economy.

SENATOR CUDABACK: Time, Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. You've heard the opening on LB 70. (Visitors introduced.) Mr. Clerk...or, Madam Clerk. Excuse me, Mr. Clerk.

CLERK: Mr. President, Senator Smith would move to amend his bill with AM0051. (Legislative Journal page 697.)

SENATOR CUDABACK: Senator Smith, to open on AM0051 to LB 70.

SENATOR SMITH: Thank you, Mr. President and members. This amendment, AM0051, it states that, "and on and after January 1, 2007, an amount equal to \$8 times the number of motorcycles registered during the previous month shall be placed in the Motorcycle Safety and Training Fund." This delineates how the funds would be generated through the registration, but where those would be deposited, so that those dollars could go to the Safety Training Fund. There was some change in terminology within DMV with what the fund name was. And so this delineates what we need to do to make sure that those dollars...these motorcyclists, through their registration fees, would be paying for the training program. That is subsidized through this, but it's subsidized by motorcyclists. And it's not my intent to have this be a hit on the General Fund. And I think that it's reasonable. It's supported by the interested parties. And I believe that we can do this so that it's not a cost to taxpayers, but it's a cost to those who care the most about those options contained in LB 70. And I encourage its adoption. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. You've heard the opening on AM0051 to LB 70. Open for discussion. Senator

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Johnson, followed by Senators Foley, Schimek, and Smith.  
Senator Johnson.

SENATOR JOHNSON: Mr. President, members of the body, I actually want to commend Senator Smith for this part of the bill. I think that all of us here are well aware of the need for education at all levels. I remember perhaps 30 or 35 years ago taking a defensive driving course. And I think it's one of the best things that I ever did. There's no reason to think that learning to drive a motorcycle would be any less in need of coaching, shall we say, to handle the motorcycle previously...to handle a motorcycle appropriately. One of the things that we see here, however, is this, is this is called the Motorcycle Training Act. Let's not be fooled by the nice name. We're talking only about 1.7 percent of the motorcycle riders in this state. I think we ought to train those, as a good start. But let's not camouflage what this bill is intended to do. It is intended to remove motorcycle helmets. And we will go through this very appropriately, and we will give you more facts and statistics than you care to remember, but they will all be unbiased. What I'd like to establish first, however, if Doctor...or, Senator Smith would reply, is this. (Laugh) Yes, I degraded you.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Okay. Yes.

SENATOR JOHNSON: One of the things, Senator Smith, is I'm not very good with numbers. And so one of the things that I've learned over the years is, since I'm not very good at them, I rely on other people. And the best way that I know to do this is to find people that are very knowledgeable in the subject, and unbiased, so that we...

SENATOR SMITH: Is there a question coming, Senator? (Laugh)

SENATOR JOHNSON: ...so that we can trust those statistics.

SENATOR SMITH: Okay.

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SENATOR JOHNSON:      Could you give me your qualifications? Are you an epidemiologist? Are you trained in statistics, or could you help us in that way?

SENATOR SMITH:      Senator, my qualifications are that I was elected by several thousand people to put forth ideas here in the Legislature. You might question my qualifications and tell me that I'm unqualified. Before I get too far, I'll just...I'll begin by saying that I resent that.

SENATOR JOHNSON:      Sir, I asked what your qualifications were regarding the statistics that you have presented and will present. I want to know if you are trained in giving statistics.

SENATOR SMITH:      Senator Johnson,...

SENATOR JOHNSON:      It is not meant as an insult. I think the body has the right to know that.

SENATOR SMITH:      I use numbers from the Nebraska Office of Highway Safety. I use common sense. Now, I see where you said that this bill...I heard just now that...where you said this bill is intended to remove helmets. That's misleading. I'm not sure where you got the 1.7 percent. Can I ask you where you got the 1.7 percent?

SENATOR JOHNSON:      Yes.

SENATOR CUDABACK:      One minute.

SENATOR JOHNSON:      The number is 987 out of 58,000. The...before we use up my time,...

SENATOR SMITH:      Fifty-eight thousand what?

SENATOR JOHNSON:      Can we...before we use up my time with your long answer, would "no" be the right answer? You've had no statistical training. Is that right?

SENATOR SMITH:      I've had statistical training. I've had college

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courses in statistics.

SENATOR JOHNSON: Are you trained as an...

SENATOR SMITH: The answer is, yes, I'm qualified to put forth  
LB 70.

SENATOR JOHNSON: Are you trained as an epidemiologist?

SENATOR SMITH: An epidemiologist? No, I'm not an  
epidemiologist. I'm not a doctor.

SENATOR JOHNSON: You don't have to be a doctor to be an  
epidemiologist. What I want to know is, taking statistics from  
any agency, hand-picking them here and there, and saying this  
proves this,...

SENATOR CUDABACK: Time, Senator.

SENATOR JOHNSON: ...this proves this,...thank you, sir.

SENATOR CUDABACK: Thank you, Senator Johnson. On with  
discussion. Senator Foley.

SENATOR FOLEY: Thank you, Mr. President, members. Last  
biennium, my two-day committee assignment was on the Banking,  
Commerce and Insurance Committee. And when we came into the new  
biennium, I had to make a decision as to whether or not I would  
forego the exhilaration of continuing to serve on that  
committee, or perhaps make a committee change. And it was a  
difficult decision, because it's...there are many days when  
you're just riveted in your chair at the Banking (laugh)...I can  
hardly say it without laughing. But it was a good assignment.  
Glad I did it. But I'm glad I'm not there anymore, because I  
think the Transportation Committee is a better fit for my  
interests and my background. And I heard this bill in  
committee. And the bill, of course, has been offered a number  
of times. I heard it in committee for the first time in my  
experience here. And I want to state up front that I have great  
respect for Senator Smith. He's done his homework on this bill,  
and he's amply qualified. He is amply qualified to speak to the

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issues that are addressed in this legislation. And he's done a fine job of presenting the bill and crafting it for us. But having said that and having heard the evidence presented to us in committee, at this point I'm leaning against the bill pretty strongly. The numbers, I think, are convincing that if we pass this bill, the bottom line is, in my mind, we're going to have more deaths and more critical injuries as a result of motorcycle accidents. I don't think that can be disputed. I think the numbers are there to prove that case. There are many accidents where the motorcycle helmet would be irrelevant. The person is going 70 miles an hour down the Interstate and gets into a crash, that helmet isn't going to do him a whole lot of good. But there are many other instances where the helmet does provide significant protection, and it will keep a person from losing their life, or having to sustain a lifelong debilitating injury, because they were protected. You know, you can't go out today and buy a new automobile and tell the dealer, I'd like that one over there, but I'm trying to save a few bucks; I don't need the air bags and I don't need the seat belts. The dealer can't sell you a car in that condition. It's got to have the air bags and seat belts and a whole lot of other things that are mandated by law. And that's just the way it is. And in fact, many of you probably know, I have six children, and there are occasions when I need to place one of my children in the front seat, where there's an air bag. And it's amazing what you have to go through to get permission to have a switch installed in your vehicle to disable, temporarily, the passenger side air bag when you have a passenger in the front seat who should not be in a seat with an air bag. And there's a way of doing it. There's a legal way of doing that, and I've gone through those steps, and I've had that air bag temporarily disabled, where I can turn it on and off depending on who's sitting in that seat. But the point is, the vehicle has the air bags, it has the seat belts, and you can't buy one without it. And in my mind, the motorcycle helmet is very much a part of the equipment that is associated with the machine itself. Motorcycles don't have air bags. They don't have seat belts. But in Nebraska, they come with helmets. I think that's been a good law. I think a number of lives have been saved by that law. I think a number of terrible injuries have been minimized because of that law. And I'm very reluctant to change that law. I'm going to continue to

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be respectful in my listening of this issue, and continue to be respectful of Senator Smith's positions. He's made some good points. But on balance, I think the scales tips against this bill. At this point, I'll be voting no on the bill. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Foley. (Visitors introduced.) On with discussion. Senator Schimek.

SENATOR SCHIMEK: Yes. Thank you. Mr. President and members, I rise in opposition to the bill. And, Senator Smith, you have done a very good job in trying to convince me otherwise on this. I think you've done your homework. I think you're very sincere about this issue. I just can't bring myself to agree with you. And I want to tell you and the members of the body why I don't agree with you. And I know that you will respect my position, as I do yours. Senator Smith mentions that there are people in the lobby who look sheepish about their statistics. I don't know who they are, Senator Smith, and I'm not even...I don't want to know, I guess, who you think they are. But I also know that we have received a great deal of correspondence from groups in Nebraska regarding this issue. And I apologize for reading what we received from the conference in opposition to LB 70...or, the coalition in opposition to LB 70. But I think it's instructive for us to reread what they've sent us, and to concentrate on all the groups that are in opposition to LB 70. This particular group is composed of the Creighton University medical staff, the Lancaster County Medical Society, the Lincoln Medical Education Partnership, the Madonna Rehabilitation Hospital, the Metro Omaha Medical Society, Mothers Against Drunk Driving, the Nebraska Academy of Eye Physicians and Surgeons, the Nebraska Academy of Family Physicians, the Nebraska Academy of Physician Assistants, the Nebraska Chapter of the American Academy of Pediatrics, the Nebraska Chapter of the American College of Emergency Physicians, the Nebraska Chapter of American Physical Therapy Association, the Nebraska Emergency Medical Systems Association, the Nebraska Hospital Association, the Nebraska Medical Association, the Nebraska Medical Directors Association, the Nebraska Nurses Association, the Nebraska Oncology Society, the Nebraska Orthopedic Society, and the Nebraska Safety Council. Now, I don't know about you, but I

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can't remember ever receiving a bit of information from a group that's this impressive and this large. And these people are people who are well aware of the trauma caused by "helmetless" motorcycle riders. They also give statistics in their memo to us. And it says, according to the National Safety Council, Greater Omaha Chapter, during 1973 to 1988, a period in which the state of Nebraska had no helmet law, Nebraska saw 446 fatalities, and 18,373 injuries. After the mandatory helmet law was enacted in 1989, fatalities had dropped to 153, and injuries to 5,497 from 1989 to 2004. Now, I know that some of that decrease, Senator Smith, was due to the numbers of motorcycles on the road. We did have fewer motorcycles on the road during that period. But I believe a great deal of it was also due to...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...the use of helmets. Did you say time, Mr. President?

SENATOR CUDABACK: I said one minute, Senator Schimek.

SENATOR SCHIMEK: Thank you. In addition to this, the Nebraska Hospital Association has given us more statistics. They say that under this bill, LB 70, only 976 riders under age 21 in Nebraska would be required to wear a helmet, under LB 70. The bill exempts operators and passengers who are 21 and over. And they say that approximately 58,810 individuals would be exempt from wearing helmets.

SENATOR CUDABACK: Time, Senator.

SENATOR SCHIMEK: That's a very large statistic. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Smith, followed by Senator Jensen and others.

SENATOR SMITH: Thank you, Mr. President. And I'm trying to stay calm back here, as I believe that the scenario...Senator Schimek, with all due respect, the numbers you're using are misleading, and they're misleading with the intent to make the

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situation sound worse than it is. I'm not saying you've done that, but the lobby has done that. And I just...I beg you, I beg you, Senator Schimek, to look at all of the information. And I'm sending around a chart that will speak to that. I know, Senator Johnson, you feel I'm unqualified to send around a chart. This chart speaks for itself. I'll let you make your own conclusions. In fact, I won't even speak to the chart. I ask you to simply look at it, so that you can draw your own conclusion. Now, Senator Schimek went down a list of those in support of mandating helmets in Nebraska. (Laugh) I guess I could have come up with a similar list on just about any issue. I can come up with a list...in fact, I deliberately encouraged the testifiers in favor of LB 70 to stand back a little bit for the hearing, because we've gone through this before, we need not repeat ourselves. But it comes down to this. Can we restore just a little bit of freedom, as long as some responsibility is encouraged? Now, Senator Johnson used some numbers, again, that are intended to mislead. Or, if they're not intended, certainly it heads in that direction. But he used the number of licenses. The number of licenses is not an accurate representation of the number of motorcyclists out there. The best number is registrations. That's the number that we need to use. You know, it was interesting. I went to a luncheon a couple weeks ago with an association that was on Senator Schimek's list. And I thought about taking along a food taster with me, but I thought, maybe not this time. And actually, I was encouraged, because there were several people at that luncheon...now, the organization itself was opposed to it. They're on your list, Senator Schimek. The organization itself was opposed. But the individual members, the individual members came up to me--not every single one, of course, and I would say, not a whole lot--but some came up to me and said, you know, we like that LB 70. We think that training mechanism is good, and we believe that we should have the right to decide for ourselves whether or not to wear a helmet. I mean, Senator Johnson insinuated that LB 70 is intended to remove a helmet. Is that how we view legislation, is either to place it on or remove it? I hope not. We have an issue before us where we can restore just a little bit of freedom, just a little bit of freedom, encourage responsibility, and move forward. I myself am very, I guess, sensitive to traumatic injuries. The sight of blood makes me

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uneasy. I've struggled with that, in terms of the whole LB 70 issue. But I've arrived at the fact where we can make up a lot...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...more dollars through building our economy to offset those dollars that might be incurred elsewhere with the costs. And I am in the process of handing around a chart that shows how our neighboring states...and I point to Iowa, because the safety course is much more prevalent there. The safety course is prevalent, available, and may have fewer fatalities per registered vehicle than we have here in Nebraska. I realize I might be unqualified to state any statistics. Those are the numbers. Those are the numbers. I hope the numbers speak for themselves. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Mr. Clerk, announcement, please.

CLERK: Mr. President, Urban Affairs Committee will meet underneath the north balcony at 11:00; Urban Affairs, 11:00, south balcony, excuse me, south balcony.

SENATOR CUDABACK: Thank you, Mr. Clerk. Further discussion? Senator Jensen, followed by Senators Kruse, Byars, Johnson, Price, Schimek, Smith, and Chambers. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. You know, 11 years ago, when I came into the Legislature, I really...my first choice was not to serve on the Health Committee. I'll admit that. But after being on Health Committee and looking at the things that we do for public safety, there is no way that I can support a repeal of the helmet law. And just looking back at what we as a state have done, in...a few years ago, in the Health Committee, we added another test for newborn screening. The numbers of individuals who would require or who might need that test were small. But yet, we felt and the Legislature felt that this is a test that needed to be done for the safety of all of its citizens, for those that were affected, as well as those that were not

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affected. But I really have a struggle that any time that hospitals, nurses, physicians come forward and very emphatically say, do not, do not repeal the helmet law; we have saved lives. Also, I have talked with people in ER. I've been up to Quality Living, a facility that treats people with brain injuries, and have seen that rehabilitation, and have seen the cost that that takes. I know people who have also been in motorcycle injuries, and the head trauma that happens. And actually, the fatalities is only a part of it. The long-term issue of somebody who has had a brain trauma injury is tremendous. And one thing that they're finding out now is that 15-20 years later, after an accident, where you think there's been a recovery, that they have found, because of damaged tissue, sometimes behavior problems occur, 15-20 years later, after a brain trauma injury. There is a...more prone to even developing tumors in that frontal lobe. What I am really saying is, I don't see that Nebraska can afford to change its status on the motorcycle helmet law. It does save lives. It does save injuries. Now, I look around. I love to go to the baseball games. You don't see a batter standing at the plate without a helmet. The other day, I was at my son's house. He lives on a cul-de-sac. Twelve kids out there riding bicycles; every one of them had a helmet on. In the construction industry, everyone has hard hats on. That's a piece of plastic, mind you. But there's a band around it, there's a cushion there. Does it save lives? I tell you, it saves a lot of injuries. And you don't go on a construction job without that requirement being there. Helmets are part of that, because they also have saved injuries and that brain trauma. I would just implore you, as much as Senator Smith wants to change this and implores you to do likewise, it is not a freedom issue. It is an issue of responsibility. It is an issue of what is right. It is an issue of cost to the state. Thank you.

SENATOR CUDABACK: One minute.

SENATOR JENSEN: Oh, one minute? You know, it's interesting that the freedom issue...why do we have speeding laws? Why do we have stop signs? Do those take away your freedom? Sure they do. What about the rural community? Can you buy a tractor today without a rollover protection, ROP? No. It comes that way. They also...tractors have seat belts. Why do they do

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that? Again, it would save a lot of money if we could eliminate those. But they do that because they found that it does save lives, and fewer people are injured that use, certainly, the rollover protection, that will use a seat belt, and also for those that wear helmets. Will save lives, it will save injuries, it will save the state of Nebraska cost. This is the reason that this bill was brought by Senator Lynch several years ago. He found also a number of people were not carrying insurance. Yes, the insurance is...

SENATOR CUDABACK: Time, Senator.

SENATOR JENSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Kruse, followed by Senator Byars and others.

SENATOR KRUSE: Thank you, Mr. President and members. I am opposed to the amendment and to the bill. But I certainly affirm that the bill is here. I commend Senator Smith for his persistence in staying with an issue that he feels strongly about, and with a great amount of information, the charts and so on, that have been provided to us. I also can affirm air in the hair, which seems to be personal freedom that's at stake here. My opposition is strictly financial. I...most of the statistics refer to the number of fatalities. I am ignoring that. Fatalities are a great pain, but they...their expense is quite different. I'm looking at those who have brain trauma on a permanent basis because they didn't have a helmet and they got their skull creased when it hit the curb. We don't have many of those. I will grant us...be a small number. Some have talked about less than half a dozen a year. I'm going to take very conservative figures here, just in order to get the body to think about this. Let's say there's two permanent brain trauma patients per year. I have checked to see what would be the long-term cost of a brain trauma person who is not able to work again. And that's...a very conservative figure is \$200,000 a year. So two persons would be \$400,000 a year. And that means \$400,000 more next year. You can figure it on out, but I've done that. It's \$6 million that we will spend in the first five years; \$16 million in the next five years. At the end of ten

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years, we will have spent \$22 million, just at two brain trauma per year, because they did not have protection for the head when they hit a curb. And at the end of 30 years...and I'm stretching this out only to 30 years, which is also conservative. A 20-year-old might live past 50. But I'm just saying, it goes for 30 years; at the end of 30 years, there's \$12 million per year, using today's figures. These are conservative figures. They are projections. There's no way of our knowing. But they're a serious enough projection that it tells me we have a serious decision to make here. I certainly hope that no one who votes for this bill will come around and talk about places in the budget where they would like to increase a little bit, or trying to reduce the budget someplace. If we are prepared to add \$16 million to the budget over the next 20 years, we're talking about serious money, we're talking about money that competes with schools and healthcare and all of the rest of that. I think we have to take that into consideration. I think we have to look at what we are doing in terms of budget. Now, the bottom line to this is, when we spend \$22 million over the next ten years, we will not have bought anything. We will have purchased misery. We will have purchased broken lives and families that are disrupted. We will have nothing to show for it, whereas in other places of the budget, this year in particular, we're looking at the use of funds that would be an investment that would have a payback.

SENATOR CUDABACK: One minute.

SENATOR KRUSE: There is no payback to this. I urge your careful thought about the costs of a helmet bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Kruse. Senator Byars, followed by Senator Johnson.

SENATOR BYARS: Thank you, Senator Cudaback. And thank you, everyone who has participated and who will participate in this debate. And certainly, Senator Smith, I'm not going to thank you for introducing the legislation. I wish you hadn't have. But I do respect you for your passion. I think that's appropriate. And I'd like to call on everybody that's involved in the debate--Senator Smith, his supporters, those of us who

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are opposed to the legislation he's proposing--let's all be sure that we keep cool heads. Let's respect one another as we do this debate. I think the institution is very, very important to us. And there will be other issues that follow this. There will be other things that we need to have dialogue on. So let's keep cool heads, and let's respect one another as we do the debate. A couple of things are crossing my mind. And, Senator Smith, I really would like to have the information on the groups that you have that are in favor of this bill. I...as I listen to committee hearings, and people come in to testify in favor or opposed, it really is important to me that I see them, because I have respect for various professional organizations. And you do have to have a certain degree of trust in here on their ability to bring you appropriate information. And as Senator Schimek pointed out those letters that we're receiving, and I look at the committee statement on those people that are proponents and those opposed, I mean, it's overwhelmingly huge of all of the health organizations that are opposed to the bill. And I think this should be meaningful to all of us. These are professionals. These are people who are educated in the areas of trauma, of injury. They're professional insurance organizations that know what they're paying in claims for those injured without wearing helmets. I don't think they come to this just because they want to make a political statement. I think they come to this because they feel that they have the empirical evidence that says, we should continue to wear helmets. So I would...and I know you said you tried to curtail testimony. And I know I do that on some of my bills also, when I feel the point can be made. But I would like to know the professional organizations that you could share with me, if you would, please, who are in favor of getting rid of the helmets. And I'd like to throw out early on, I think your piece on education is great. I'd like you to truly consider that if we're going to do something in this legislative session, let's strike the language that would repeal the helmets and let's keep the piece that would include the education. And I think that would be a compromise that would be good for all the motorcycle riders in the state of Nebraska. And I think it would show them that we truly do care. And I would throw that out. I think it's a reasonable compromise, and I would certainly like to see that done. I also...I know that we've had distributed to us a

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list of all of the national organizations who support universal motorcycle helmet law. Again, it's just overwhelming. And industry officials that are affected by claims they have to pay, surgeons, trauma people, people who are in the medical community and deal with these situations on a day-by-day basis. And that is meaningful to me. I don't think they're just trying to get in my head. I think they truly believe in this and I have to look at that, their professionalism, and have a degree of trust. So how much time do I have left, Mr. Chair?

SENATOR CUDABACK: One minute.

SENATOR BYARS: Thank you. I would give my one minute to Senator Jensen. I'm not sure he got finished with what he had to say.

SENATOR CUDABACK: Senator Jensen.

SENATOR JENSEN: Thank you, Senator Byars. And I would again echo your thoughts on all those organizations that come up. And what just astounds me, though, are those trauma people that work in there that will call us, that will send us letters, and say, if you spend one hour in an ER where a motorcycle accident victim has been brought in, you would never vote to repeal the helmet law. That means a lot to me. When you're talking with professionals, when you're talking to nurses and doctors, and they say, don't do this, or, if you are thinking about it, come in, spend a few hours in one of our trauma centers when a victim comes in, and you will change your mind. And I would just ask the body to think about that. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Johnson, followed by Senator Price and others.

SENATOR JOHNSON: Mr. President, members of the body. Senator Smith, I'm not here to demean you. What I'm trying to show is that if we are going to use statistics to convince people that there isn't any cost in this, then these statistics have to be accurate and meaningful. They can't be what we wish they were. Let me give you an illustration. You mentioned before that you had talked to Health and Human Services, and, if I might quote

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you from introducing the bill in committee: but those numbers aren't even available. The next thing we see is, you'll see the charges for motorcycle crash head injury paid by Medicaid over a five-year period of time, and you'll see it's surprisingly low. How can that be? Well, we didn't look far enough. Who did we talk to? Did we talk to all of these organizations? Did we talk to the Nebraska Hospital Association? Did we talk to the people in Scottsbluff at the hospital there? It's a Level II trauma center. Did we talk to anybody, other than the motorcycle people? Speaking of the motorcycle people, a...sir, I'm speaking. No, sir. Speaking of Florida, there was a very neat, well-prepared flyer sent about, about Florida, and that when they repealed their helmet law, the deaths actually went down. Well, we checked into that. Senator Johnson, I just discovered where the information came from that was on the flyer. You might note that the information on the flyer is consistent with the statements from the Florida president of ABATE in disputing the state of Florida study, a study funded by the state of Florida to the tune of \$190,000. The president of ABATE in Florida then said it was all biased. Why in the world would it be a biased study? Here's what we actually found out about the flyer. The motorcycle registration numbers increase that the newspaper story did is not valid. With annual registrations, you can't use six months of one year plus the annual totals of another. You are counting some of the same registrations twice. To be valid, you should only compare a 12-month annual registration total to another 12-month annual registration total. This is the type of statistic manipulation by groups that support this legislation. I, too, would like to see the list of groups that support this legislation. One of the things that you mentioned is that you want to do this for economic development. The only thing that I saw were a couple of letters in support from a few motels in Scottsbluff. Did Scottsbluff or Gering Chamber of Commerce come and testify or support this bill?

SENATOR CUDABACK: One minute.

SENATOR JOHNSON: Did any organizations that promote tourism in the state of Nebraska come and support this bill? I'd be interested to know. They certainly didn't show up at the

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testimony, but maybe there are. But to get back to the costs, to say that the costs are surprising low--I think there was even numbers like \$50,000, \$60,000--when the good Senator Kruse says, conservatively, it's \$200,000 per year per person with a severe brain injury, that doesn't jibe. We need to know accurate numbers. And the next time that I get to speak, I'm going to give you some. You heard them, as well, in the testimony from the medical...trauma medical director of the University of Nebraska Medical Center, Creighton University, and the Level I trauma center here in Lincoln.

SENATOR CUDABACK: Time, Senator Johnson.

SENATOR JOHNSON: Thank you, sir.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Price, followed by Senator Smith.

SENATOR PRICE: Senator Cudaback and members of the body, I'm not going to give you numbers and so forth. I'm just going to talk blood and guts. If you have ever come upon a motorcycle accident, whether it's the fault of the motorcyclist or the motorcyclist is at fault...or, whether the motorcyclist is in the wrong place at the wrong time, you know, they can really be severely impacted, whether they have a helmet on or not. Sometimes they need a full body armor to come out of this unscathed. But I have...as a nurse, I have been in an emergency room and observed what happens to a motorcyclist at the time of impact, whether it was slow speed or at fast speed. And we all introduce legislation that we're passionate about. But on this one, I will be opposing the bill. I'll be opposing the amendment. I have tried to answer almost every e-mail that I have received, urging me to support this or urging me to oppose this piece of legislation. I don't know how many times in my seven years this bill has come before us. And again, I just see blood and guts. I know, going through care centers, you see people laying there that, whether it was their fault or not, their life is basically just laying in bed with assistance of all kinds. Sometimes it has caused people to divorce, to save the finances for the family. If they're on state dollars, they are...it's a very, very costly, costly...to the state. And so I

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just am not going to be voting for this. I respect Senator Smith for his introducing of this and for his passion for this bill. But I am so, so opposed to this, because it is a wrong choice for Nebraska. I have received the e-mails from people who travel across our state and are wearing helmets in the heat of the summer as they go to Sturgis. I've been to Sturgis at a time when the motorcyclists were there. It's a great, great time up there for them. And again, these people are being responsible as they go across our highways and our byways. And, yes, they do contribute to the economy as they stop and eat, or buy gasoline here in our state. But I don't think removing the helmet for the sake of improving our economy is going to make that much difference. Again, I stand in front of you and I am in...I hope I didn't ruin anybody. I tried to do this before lunch so "blood and guts" wouldn't upset your lunch. But anyhow, I just am so passionately opposed to this piece of legislation. And I return my time to the Chair, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Price. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I hope that we can come upon some information that is not based on speculation and not based on the fact...or, on speculation that every single motorcyclist is on Medicaid. It's interesting that motorcyclists who have insurance...I mean, the...and we have mandatory liability insurance. But motorcyclists...the insurance companies themselves have motorcyclists rated in a separate category. So those motorcyclists are bearing the burden that...I will exist (sic), motor...riding a motorcycle is not as safe as riding a car. I admit it, right up front. We're going to have motorcycles on the roads, streets, highways of Nebraska and, like it or not, we're going to have more of them, based on the fact that fuel is becoming so expensive. So we have the opportunity to encourage some safety here, some safety education, encourage responsibility, and at the same time building our economy. I...it would be a little difficult here to have an exchange with Senator Kruse. But I would say that his numbers are based on speculation. Health and Human Services themselves doesn't even track the cost to the system directly as a result of motorcycle accidents. What does that say? I

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would...I can't say that all insurance companies are in favor or opposed. But I think it's very fair to say that the insurance companies have found that the mandatory helmet laws have not gotten them what they were hoping to get back in the late eighties, when a lot of these laws came on the books. Because they've sure been a lot quieter this time. They might, you know, kind of casually oppose it, but they've been a lot quieter. And I would encourage you to consider that. Helmets are tested to an impact speed of 14 miles per hour. Now, what a helmet will do at almost any rate, as long as it stays on the head, is it will prevent some blood and guts, as Senator Price pointed out. That's true. What has it done in the long run? Zero. In fact, an analysis of helmet laws around the country have said that the neck injury...beyond that 14-miles-per-hour threshold, where a helmet becomes ineffective, the neck injury is complicated. Now, Senator Johnson pointed out that certainly no...or at least it was insinuated that no medical professional in Scottsbluff would be in favor of this. Was that what you were intending, Senator Johnson, if you would yield?

SENATOR CUDABACK: Senator Johnson, would you yield?

SENATOR JOHNSON: I think what I said, sir, is, did you ask them and go talk to them about whether this was good law?

SENATOR SMITH: Actually, they proactively came to me, not as an entire medical society, but I did hear from several medical professionals who are in favor of this concept, especially...and some just because of the helmet freedom, but others because of the education component. And I thank you for your time.

SENATOR JOHNSON: I can see why you don't want me to say anything more.

SENATOR SMITH: I didn't quite catch that, but that's okay. There have been medical professionals come up to me all along the way on this journey. They said, you know, that's a good bill, especially the education component as...

SENATOR CUDABACK: One minute.

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SENATOR SMITH: ...a trade-off. It is a trade-off, but that is reasonable. Senator Jensen said that the helmet law is similar to having stop signs and speed limits. (Laugh) You know, I would like to bring into this discussion traffic accident investigators, because I think that they will point to the fact that a stop sign serves a far different public purpose than a motorcycle helmet mandate. And I didn't see, or didn't hear on Senator Schimek's list anyone associated with accident investigations. Because they would tell you, as the numbers do, that helmets, while can be effective--I will say that, they can be effective--but they are not as effective as some would hope, and certainly point to, because that is...

SENATOR CUDABACK: Time, Senator Smith.

SENATOR SMITH: ...certainly inaccurate. Thank you, (microphone malfunction)...

SENATOR CUDABACK: Thank you, Senator Smith. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I support Senator Smith's bill. I've always supported bills of this kind. When we were talking about the tobacco bill, the smoking, some of the senators said, tongue in cheek, or sarcastically, ban tobacco. Well, ban motorcycles. If motorcycles are inherently dangerous, ban them. That's not going to happen. They are motor vehicles. They are legal. A person can be licensed to operate one. The person should be allowed to operate that vehicle without interference from the state, so long as the operation of it does not endanger anybody else. I will not be riding with Senator Foley in the passenger seat of his automobile, in view of what I heard him say about disabling the air bags. I certainly won't do it before April 25, at which time I'll set a record that nobody can possibly break. Sometimes people of Senator Foley's bent will try to step in and change the course of history. But I'm not going to make it easy for him to do this. Now, he might run over me on the street, but I won't ride in his vehicle. Statistics don't sway me. You will never hear me get on the floor and try to use as a compelling argument the notion that other states are doing this or that or the other. Many of the

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bills that I have brought, and some of them that have been enacted into law, cause Nebraska to be the only state taking that position. Then, on occasion, other states, and even the federal government, would follow suit. So what other people do in other states will not persuade me. I look at what is happening here, and I look at what is involved. Do the people who buy motorcycles, obtain licensing, insurance, and all the other requirements laid down by the state, have a right to ride those vehicles in the way they choose, as long as they don't endanger somebody else? I think so. Do you realize that somebody could ride a motorcycle wearing shorts, could ride a motorcycle barefoot, could ride a motorcycle without a shirt? So the only part of the body of consequence is the head. Well, from observing some of my colleagues down through the years, the least significant part of them resides in the head. Less damage would be done if you'd bust them upside the head with a baseball bat than if you smash their fingers. With their fingers they earn a living; nothing of value inside the head. I'm going to digress for a minute, because I think we'll be on this bill for a while. I read in the paper today where the magi were summoned by Herod. The three wise men from the Legislature, they made a deal; the multitudes are to just roll over and follow. And it's been cut. Everything is going to be done. However, they did not talk about the fact that the population in Nebraska is stagnating. But they want to put together a proposal, at minimum, which will suck \$30 million out of the tax...out of the revenue of the state. Fewer people are paying taxes; more is being given to the big spongers and moochers, thanks to the magi and Herod. And they think everybody is going to go along? In this case, I'm Barabbas. "Give to us Barabbas." That's what the people are saying. Because Barabbas was one of those rough and tumble individuals who feared not Caesar and did not respect God. Barabbas, in fact, had a scar going from the right side of his forehead, down through his eyebrow, across his right eye, over the bridge of his nose,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...through his left cheek, down all the way to the bone, just above his neck. That's the kind of guy Barabbas was. So when I see things happening of the kind that I

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mentioned, with the magi giving away the state because the chamber of commerce wants it, I say they need to put on their helmets. The "Duchess" spoke of an armor, suit of armor. That's what the magi and the Governor--he's Herod--need to put on when they bring that mess to the Legislature. And when they bring the budget bill, get ready. Buckle up your chin straps, because it's going to be a long, hard, bumpy ride, and I don't think you can get 33 votes to pass the budget without any consideration given to the various issues in it. I might keep us on the budget the rest of the session. Thank you, Mr. President. But I do support Senator Smith's bill.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Erdman, followed by Senator Baker.

SENATOR ERDMAN: Thank you, Mr. President. I wonder if Senator Chambers would yield...to a question. I'm sorry.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: I won't yield to temptation, but I'll yield to any questions you want to ask me.

SENATOR ERDMAN: Senator Chambers,...

SENATOR CHAMBERS: Yes.

SENATOR ERDMAN: ...on your last speech, I'm trying to put in my mind maybe who the magi would be. And just curious if you'd like to disclose that, since I haven't had the opportunity to read the paper yet.

SENATOR CHAMBERS: Senator Brashear, Senator Don Pederson, Senator David Landis--the three wise men--Gaspar, Melchior, and Balthazar. And each has a different story to tell, but they all bring gifts, extorted from the people, to lay at the feet of "Herod" and the chamber of commerce and the other big shots who gouge the public and plunder the treasury.

SENATOR ERDMAN: Thank you, Senator Chambers. That's...

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SENATOR CHAMBERS: You're welcome.

SENATOR ERDMAN: For the record, I felt that that was important. Members of the Legislature, I'm going to rise in support of Senator Smith's bill, and I'm going to rise in support of his amendment. I think most people, if they were actually reading what his amendment would do, would actually support that amendment. And I'm just thinking out loud whether individuals have actually read what that amendment does that's before us. It is interesting, though, because this morning I had a chance to be interviewed about term limits, and somebody asked me what I thought the effect of term limits would be. And I said, well, the effect of term limits will probably be directly proportional to the willingness of the members of the Legislature to stand up to special interests. And it just so happens that this morning they pressed their button, and approximately six or seven individuals jumped up immediately to defend what I would call special interests. Now, they have a legitimate concern. They have legitimate reasons. But the reality is, similar to Senator Chambers' position, is whether or not the realities of their argument make sense with the public policy that we currently have in place. And I would argue that it does not. The...if you look at the list...and Senator Schimek, bless her heart for reading to us, because I mean, I had forgotten how to do that. You can read some very interesting individuals or groups that are on this list of associations, if you will, that support this bill, that aren't any more qualified, evidently, than Senator Smith, according to some of the speeches earlier this morning. So I...you know, I'm just amazed, I guess, at what people are going to use to justify their position. If you look at the reality of the situation, and Senator Smith is absolutely correct, the success or the prominence of motorcycles are continuing to grow. The argument that somehow we have this law on the books that protects people from themselves is not accurate. I drove to the Capitol this morning. I saw a gentleman driving in front of me. I made a logical conclusion that there must be some form of an exemption in the law, because the helmet that he had only covered about the back top of his head. Now, we have a problem with enforcing the current law. A week ago, I was stuck in Colorado Springs in a blizzard. And right before that weekend, I drove right downtown Denver, and

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there were gentlemen driving right beside me with motorcycles, with no helmets on. And amazingly enough, they didn't all of a sudden just die. Because that's what you're being told by the opposition to this bill. The logic doesn't follow the arguments. Senator Jensen made a great argument. We have young people traveling throughout our communities wearing helmets on their bicycles. There's no state law that requires that. There would be no state law that would require helmets if Senator Smith's bill passes. But you know what? You would still have people wearing helmets. And I know that because other people in other states continue to do it, even though they have the option. So these arguments, these herrings, about people saying, well, we wouldn't have anybody wearing helmets and we wouldn't have anybody that would be protected, in light of the fact that helmets are tested at 13 miles an hour, I mean, get a...get real, people. Are we seriously talking about the policy that's before us? I guess I'm...

SENATOR CUDABACK: One minute.

SENATOR ERDMAN: ...kind of like Senator Smith. I'm...I guess I'm amazed at how quickly the discussion can deteriorate from reality to where we are at this moment. I think when you look at whatever information that's before you, and whoever your allegiances are to, you're going to vote for or against the bill. I, frankly, am in favor of the bill because I think it makes sense. I think it makes sense to have an opportunity for individuals to have education, for those individuals who would seek that education to fund it fully by themselves, which is what Senator Smith is intending to do with his amendment, and then ultimately allow them to make that decision. And any other issue on this floor of the Legislature allowing individuals a choice would be cherished. But evidently not in this circumstance. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. I'm sure we've all forgotten that we are working on the Smith amendment, which I do support, but not the bill. There were some things that were said earlier in the discussion about the

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states that have the helmet law and those that don't, and about Iowa and the fact that they don't have a helmet law but they do have an education program. And their statistics are very similar, I guess, to ours. They're impressive. And I guess that I would like to say that, think how much more impressive they would be if they also had the helmet law. And the reverse would also be true. If we retained our helmet law and added the education provision, I think our statistics would be even more impressive. And I've heard several other people mention that on the floor, and I think it's something that we should keep in mind. Senator Smith, I do support that part of the bill. As of right now, at least the latest information I have is that 20 states, plus the District of Columbia, plus the country of Puerto Rico also have...they all have helmet laws. There have been some states in recent years that have rescinded their helmet laws. And there is information on those states now, and what's happened in their states after they rescinded their helmet law, and they're pretty impressive figures, in my opinion. The two-year average for those four states, each one of them individually, was that in Kentucky, they went...the number of fatalities went up 58 percent. In Arkansas, they went up 29 percent. This over a two-year period. In Louisiana, they went up 108 percent; and in Texas, 37 percent. Now, I don't know if you can argue with those figures at all. Maybe you can. But they're pretty impressive to me. I also don't think this is an economic development issue. That might be one of the side benefits if this bill were to pass. I really think this is a safety and rules of the road issue. I'm not sure it's a great economic development tool. I remember when my husband and I were down in South Carolina several years ago, in Charleston, with a group of people, that at that time either Charleston had just rescinded its helmet bill, or perhaps it was that Charleston for the first time ever opened its doors to the economic development component of the anti-helmet provision, because that weekend while we were in Charleston--and if you've ever been in Charleston, you know what a beautiful, romantic, captivating city that is in many ways--they allowed motorcycles in that town. They had a rally in that town that weekend. (Laugh) And I can't tell you what it did to the ambiance of that city. It ruined it; I mean, loud noise everywhere. Here is a city that has the horse-drawn carriages and lots of...

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SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...very quiet kind of activity. I'm not sure that did Charleston, South Carolina, any good at all. And maybe that's an isolated incident. But be careful what you wish for, I would recommend. Again, I don't think this bill should be about economic development. That might be a by-product. But the important thing to keep your eye on are the statistics and the health and safety reasons for having helmet laws in the first place. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Baker.

SENATOR BAKER: Thank you, Mr. President, members. This bill, obviously, came out of the Transportation Committee, and I support it. I will commend Senator Smith. We discussed this before the hearing to try and get a couple, three people to testify in support of it, do a good job. They did. We could have filled the room with supporters of LB 70, there's no question about it. But Senator Smith did a good job of managing the bill in the committee, and I commend him for that. I'm going to lay some foundation here. I'm going to put...present some numbers to you that were in the hearing. It's in the transcripts. My background is, my mother taught math, high school math, for 28 years. She taught me well. Probability and statistics, for me, was always a fun class, whether high school, college, whatever. I still enjoy working with numbers. The numbers I'm going to present to you were presented to the committee in hearing. The death rate per 10,000 riders...I'm going to raise my voice here a bit...the death rate per 10,000 riders in Nebraska is 5.85. That's the highest of any state in the Midwest, and we're the only state with the mandatory helmet law; 5.85 deaths per 10,000 registered motorcycle riders in Nebraska. Iowa, no helmet law, 2.68. But they have education requirements in Iowa. South Dakota, 3.43; Wyoming, 2.61; Kansas, 2.43. My point is, we have twice the higher...twice as high a fatality rate per 10,000 riders in Nebraska of any state around us, and we have the only mandatory helmet law. Now, if you're going to dispute my figures, don't tell me yours. I'm not going to listen to them. These were undisputed in the

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hearing. I asked several doctors to try and under...to help me understand why our fatality rate is twice as high in Nebraska, and it typically came down to education. So if you don't believe my numbers, don't give me any of your numbers, because I'm not going to believe them. These were undisputed. I have the transcript here. I had several doctors come in. I asked the same question of several of them. They could not explain, other than education requirements, why our fatality rate per 10,000 riders was twice as high as the next state that has no helmet law but that does require education. There were a number of issues brought out in the hearing that I'd like to address now. One of them is, the helmet law is stretched to the limit now, as far as enforcement. Somebody, I think it was Senator Erdman, said that legally these helmets have to be approved by the National Highway Transportation Safety Board. I don't know of anyone that's ever been ticketed, that I've seen, riding with an illegal helmet. And they are out there. There's a lot of them out there. And particularly, the people that ride through the western end of the state, going to Sturgis, have these little skullcap-type things that they claim to be helmets. I have never seen anyone cited in violation of our helmet law for wearing one of those. And they are nothing more than a token helmet. So what we have out on the books now is not, to me, enforced. Another issue that was brought up in the committee is, a lot of the helmets now...and this was in testimony by Dr. Roger Meyer, who happens to be a family physician in Utica, who is also president of the Nebraska Medical Association, testified--and this is of record--he has helmets, he's a rider, rides with his wife. They have intercom system in their helmets, and radio, and so on. Obviously, I don't know why...I don't think they have a CD player on their motorcycle, but they have radio and intercom system within the helmets. And my questions were, of him, is, should we ban that? We had a bill dealing with cell phone use while driving, in the committee. I think this is probably a more serious problem for distraction and lack of ability to hear outside noises when you're visiting with an intercom system that must...and I don't have one of these, I used to ride a motorcycle...but it's got to screen out...

SENATOR CUDABACK: One minute.

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SENATOR BAKER: ...most of the other noise. If we're going to have a helmet law maybe we'd ought to ban intercoms and radios within these helmets, because they obviously screen out most of the outside noise and can be a distraction when you're riding. That was testimony from Dr. Richard (sic) Meyer, who is the president of the Nebraska Medical Association. He did not have an answer either for the statistics I quoted earlier. The rest of my foundation for this five minutes is I am an EMT and I have worked motorcycle crashes. I have...I can think of two. With the privacy laws, I can't mention names and things. One of them had a helmet on; one of them did not. They both survived it. They both had fractured extremities--compound fracture in one case; the other did not have a compound fracture but had a fractured lower leg. Helmets had no bearing on either one of those motorcycle accidents that I worked as an EMT. It was speed was involved and, thankfully, they were low-speed accidents and both survived and, as I said,...

SENATOR CUDABACK: Time, Senator Baker.

SENATOR BAKER: ...one had a helmet, one not. Did you say time?

SENATOR CUDABACK: I did, Senator.

SENATOR BAKER: Oh. Thank you.

SENATOR CUDABACK: Thank you. On with discussion. (Visitors introduced.) Thanks for being with us. On with discussion of the Smith amendment, AM0051. Senator Jensen, followed by Senator Thompson.

SENATOR JENSEN: You know, it is interesting. If you buy a motorcycle, you buy an ATV, there's always an instruction manual that comes with it. I've got a Suzuki, 1996, not new. Never operate without wearing an approved motorcycle helmet that fits properly. You should also wear eye protection, goggles, face shield, gloves, boots, long-sleeved shirt or jacket, and long pants. I also have a Kawasaki Mule. Now, this is not...this is an ATV. You sit side-by-side. But even on that it says wear appropriate helmet, eye protection, motor...or protective

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clothing. Proper clothing can make driving more comfortable and reduce severity of injury in event of an accident. So the manufacturers themselves, I think, envision the use of helmets. I also spent time in Arkansas and they repealed their motorcycle helmet law, and since they've done that they have seen fatalities, they've seen injuries go up. Also, what is interesting is you see those motorcyclists down there not wearing a helmet, but on the back of their motorcycle is a helmet because they might go into Missouri, they might go into Oklahoma, they might go into another state. Of course, where I am is near Fayetteville and you're less than 20 miles from Oklahoma, you're less than 30 miles from Missouri, and so it's there. So it isn't a deterrent for riders to stop when they go into another state, reach back, get their helmet on, put it on, and that's where I think we should be in Nebraska. The economic benefit of motorcyclists traveling through Nebraska, you know, Nebraska is a hard state to avoid if you're going...if you happen to be in Topeka, Kansas, and you want to go to Sturgis, or if you want to go to some place in North Dakota or South Dakota or Minneapolis or anywhere else, you don't travel 300 miles to go around Nebraska. You're going to go through it. So I really don't understand this economic issue of \$6 million to \$8 million more if we repeal the helmet law, particularly when the cost of injury is going to increase. And, yes, HHS does not track Medicaid costs for motorcycle riders, but I just...the average motorcyclist has \$25,000 of insurance. That's a weekend in a hospital. That's all that is and then he's out. And then somebody is going to pick up that cost. Certainly all of the hospitals, and that's the reason they appeared in opposition to this, they have uncompensated cost that they are picking up all the time. Matter of fact, Senator Byars, I think that figure is somewhere around 30 percent. Am I correct on that? Thirty percent uncompensated costs. Does all that come from motorcycles? Absolutely not, but if you only got \$25,000 and if you have a head injury and if you're in a hospital, \$25,000 just doesn't go very far. Matter of fact, like I said, that's one weekend. That's about three days and ER and that's gone. So there is a cost. Somebody is going to pick that up. Either the hospital will, a provider will, a doctor will, and then eventually Medicaid will. That's just the way it works. We passed on General File a bill to look at Medicaid costs, as a

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matter of fact. Maybe, just maybe perhaps we should wait until that study is done to look at this issue and then we could have the proper figures that Senator Smith, I think, is looking to have and should have.

SENATOR CUDABACK: One minute.

SENATOR JENSEN: This is my third time on this amendment. I can't speak anymore. The only thing I can say is that other states, where they've repealed it, they've seen it go right back up again. And these are lives, these are injuries that we don't have to occur here in this state if we keep our helmet law the way it is. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Thompson.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. Just want to start with a little story. I've already mentioned having dinner with the women physicians a few weeks ago, maybe just two weeks ago, and I told you one story from the dinner. At the dinner, each physician was asked, and senator was asked, to stand up and tell a little bit about themselves. For us, it was our priority bill, what we were working on; for them it was what their job was. And I was struck by the woman who stood up and said, I'm the plastic surgeon you don't want to see; I'm the one who repairs the skulls and scalps when people not wearing motorcycle helmets come into the ER. And she also said the other work she does is repairing lung walls for smokers. So obviously this Legislature debates a lot of things that are of concern to the medical community. I mean, in her case, we'd be taking away some of her life work, but there are many other things that we should be concentrating on, like chronic disease and other preventable diseases that are issues that cost us money, as taxpayers, result in lost wages to families, and result in our overall budget being expensive. Senator Baker is referring to some raw statistics and several senators on both sides refer to those. But I caution the body that what we need to look at is scientific analysis of our...of studies and that will tell you the difference between wearing helmets and not wearing helmets, having safety training and not having safety training. I support Senator Smith's amendment as

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an improvement to his bill, but I do oppose the bill, except for the part about training. So I want to cite the analysis that's been done by bodies, usually from either the federal government through their financing of educational institutions. I'm only going to mention one of those. But you can go to the National Transportation Safety site and see the results of the analysis of the figures. This is the study I'm going to cite, conducted at the University of Southern California, which analyzed 3,600 traffic crash reports covering motorcycle crashes; concluded that wearing helmets was the single most important factor in surviving motorcycle crashes. And that's the bottom line here. I did ask my staff to call the Department of Motor Vehicles here after Senator Smith mentioned his death statistic, because we can't...we need to look at the factor of speed, which I think he also mentioned, but statistics are not kept separately for motorcycle accidents versus traffic accidents with motor vehicles, so we can't separate that out and analyze those accidents. But I think all of us here, just thinking of yourself on a motorcycle, landing on your head, would know that you'd be better off with a helmet than without. So we're really just down to the ride free issue and you ride free with a cost to taxpayers. And we can get to the emotional cost to the families, the funeral costs. We can get to all of that. Obviously, if you die that costs us less as a state than if we take care of you in a large institution, like Quality Living, which I and a number of people on this floor have visited, which is a large, head injury facility in the state; a lot of young people in that facility. We need to do the things, from a public policy perspective,...

SENATOR CUDABACK: One minute.

SENATOR THOMPSON: ...that make sense based on scientific evidence, which there are studies...I've never seen a study which says you're safer riding a motorcycle without a helmet. The studies done based on, well, you can't see and you can't hear issues, there has been an analysis done, a scientific study of whether wearing a helmet would keep you from hearing or seeing, and that was proven to be not factual. You are much safer but, as a taxpayer, you're paying a lot less for the families who have to be taken care of, if this is the sole

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provider of the family, for the injuries that cost tremendous amounts of money to us in our Medicaid program and also to the fact that we have large amounts of investigations that go on in law enforcement. I had my staff call my nephew who just...

SENATOR CUDABACK: Time, Senator Thompson.

SENATOR THOMPSON: Excuse me.

SENATOR CUDABACK: Thank you, Senator Thompson. Senator Byars, followed by Senator Stuthman. Yes, you, Senator Byars.

SENATOR BYARS: Thank you, Senator Cudaback. I just wanted to address a couple of things. I think the point was made that there doesn't seem to be the kind of passion on the part of the insurance industry and, as they don't have appropriate information relative to this and I'm not, you know, I'm not sure, the only thing I have in front of me is a list of those members, at least some of the members, of the insurance industry who are very, very supportive of universal motorcycle helmet laws, and I want to make those available to you so you won't think that they aren't involved in this debate, because they're very involved. First, the American Insurance Association, which is a national trade association for those individuals that provide this type of insurance, and then you just run down the list: AAA, Allstate, American...we talked about their trade association, American Insurance Association, GEICO. I thought about trying to do a clever story to tie that in with GEICO but I'm a senator with a small mind and I just couldn't think of a good story, but Nationwide Insurance, Prudential Insurance, State Farm Insurance. I think that's a fairly substantial representation of the insurance industry who must have some information, again, that would make them say, hey, wearing helmets are better than not wearing helmets. If they didn't feel that was going to be to advantage to them, understand, folks, that's a business decision. That's economics. We talk about economics. They're making that decision based on not whether your head is beat up or your body is beat up. They're based on how much it costs them, and let's not forget that. And if you have all of these major insurance carriers that support this type of thing, I can't imagine their actuaries are telling

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them, oh, let's just do this for political reasons because we want to make people angry about taking away personal choice. You have to believe that they're making this decision based on the fact this is good public policy, and this economically helps us in the pocketbook; that obviously, as we all know, claims relate to lower insurance rates for all of us. Every one of us, who consider ourselves participants, we buy insurance for whatever reason, all of this affects what we do. Then I want to talk about something a little more personal that drives me relative to this issue. I remember getting a call in the middle of the night when my brother-in-law, who was not wearing a helmet, lost control of his motorcycle. He hit a sign. Senator Baker, he was killed. That's a horrible telephone call to get, I will promise you that. Talk about my cousin's daughter who was riding on the back of a motorcycle without a helmet, had an accident, hit a wall. She was a member of the University of Nebraska's marching band. She was never to march after that because she had a traumatic brain injury that put her in a wheelchair for the rest of her life. These are personal stories, folks. These are real people. These are people that were not wearing helmets. These are people whose lives may have been spared, even their whole life or the way they live their life, if they would have been wearing a motorcycle helmet. I still offer that, that piece that I talked about earlier. Let's continue the education. Senator Baker made the greatest case for education in this bill. He did not make a case for why we should do away with motorcycle helmets. He made a wonderful case for education and I think this is great. And as I look out, I think I see an amendment that Senator Beutler has offered, and I think Senator Baker is over there agreeing to it right now. I think this is a wonderful amendment.

SENATOR CUDABACK: One minute.

SENATOR BYARS: Let's take Section 7 out of the bill. Thank you, Senator.

SENATOR CUDABACK: Thank you, Senator Byars. Further discussion? (Visitors introduced.) On with discussion of the Smith amendment, AM0051, to LB 70. Senator Stuthman.

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SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I haven't engaged in any of the discussion yet this morning, but I truly support the amendment that we're debating, the education portion of it. I think it's very, very important, the education, because this gives the people, you know, knowledge of what they should be doing. And I would like to get into a little bit discussion with Senator Smith, if I may, after a little bit. On this map that he has given out to us, there's a whole tier of states that are in the blue. To tell you the truth, there's 17 of them. And then there's 3 of them that are in the white--Nebraska, Missouri, and Louisiana. And in the discussion that we had earlier from the statements from Senator Baker, you know, that the death rate was one of the highest of any of the states around, the thing that concerns me is, Mr. Smith, Senator Smith, what do these other states have that is better than what we have?

SENATOR CUDABACK: Senator Smith.

SENATOR STUTHMAN: Do they have something else, or what do they have?

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Yes, Senator Stuthman. I've predominantly studied Iowa, because I think it's most relevant, given the population, but it seems to be that the safety course is much more available there. It's...and what LB 70 will do through the increase in registration fees is make the course more available. If you look at the packet of information, there's a graph toward the back that shows the increases in those taking the safety course, and if you look at that it's in the thousands of numbers of riders taking that, and actually, when you see that, you have seen a lower incidence of injuries in Nebraska. And I can't say whether that's cause and effect or not, because I don't know that, but I would encourage us to look at the trends, the trend that we have more people trained and fewer people getting injured, as compared to the fatalities, that it's different because after 14 miles per hour the helmet is ineffective.

SENATOR STUTHMAN: Thank you, Senator Smith. The thing that

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concerns me is, you know, if we have the helmet law and it's the right thing to do and it's what the insurance companies want and it is the right thing to do, why don't other states adopt the same policy that we have? There are 17 states out there that have either a partial or a no helmet law, you know. Are we doing something that should be done by all the states, or are the other states doing something that's better?

SENATOR CUDABACK: Senator...

SENATOR STUTHMAN: Can you respond to that, Senator Smith, please?

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: I would ask some of the same questions, but the, shall I say, a lot of these insurance companies are not as anxious to or is not excited about the mandatory helmet law as they once were. I think that's very fair. That's my own analysis. And I couldn't support that with actual statistics, but that's the give and take that I have experienced. There is...there are two very vocal groups and they've signed up some other groups because it's fashionable to do so. But it comes down to a bias. Really, it does.

SENATOR STUTHMAN: Thank you, Senator Smith. That is a concern that I have. You know, if we're just 3 states in this block of states of 20 states here and we are doing the right thing, why don't other states...

SENATOR CUDABACK: One minute.

SENATOR STUTHMAN: ...adopt the same principle that we have here? But it seems to me like that if there's 17 to 3, the majority of them don't feel that that is the direction that they want to go and they want to have it with the education part of it. And I am truly supportive of the amendment that we have. I think the education is a must, and I think education with anything is very, very important because that tells the people, that shows the people, you know, what they possibly should be doing. But I think, realistically, then it should be the

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individual's choice as what they want to do with that, with the information that they do have. And with that, I'll return the balance of my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Johnson, and this will be your third time, Senator.

SENATOR JOHNSON: Mr. President, members, a couple of things: First of all, let's remember where we're at and we're talking about the Smith amendment to the bill requiring the training. As I said when I started out, I think this is a very good direction for this bill to be going. We need the training. I support the training. It will help. The problem is it helps you avoid the accident, but once the accident happens all the training in the world isn't going to protect your head. A helmet does. Now let's talk about a couple things and, Senator Baker, just a couple things about the raw statistics that were brought up, and I can't remember by whom, in the committee hearing. As I actually was curious about these numbers as well, because if you look at just the raw data it does look like Nebraska is the worst of the bunch. And so I ran this by people trained in statistical analysis and epidemiology, those two bad words that I mentioned when I first stood up, and they said, well, these are just raw numbers; there are other factors available or there are other factors that make your answer dependent on the other factors and so that you can't just take these raw numbers and apply them as they are. You can be an awfully good mathematician, but it's the training in the statistics at what other information you need that makes them valid statistics, and that's why I talked about epidemiology and statistical analysis to start with. So, from what I can find out, those numbers, really, you can't use them. What all these different sources that I've talked to do say is the best thing you can do is to compare a state when they have a helmet law and get rid of the helmet laws or, vice versa, they don't have a helmet law and then put one in. And all of these organizations, and we're not talking biased organizations, here are a list of 50 national organizations, 50 national organizations that say wearing helmets is the best thing that you can do when you have an accident; not just a few local groups, not just a couple of insurance companies who knows what they're up to, but 50

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national groups that say the helmet is the best thing you can do. How much time do I have left, sir?

SENATOR CUDABACK: You have about 1, 23.

SENATOR JOHNSON: Well, don't know exactly where to go. Let me just talk about one thing here before we quit--individual rights being infringed upon.

SENATOR CUDABACK: One minute.

SENATOR JOHNSON: There is no additional cost to society, we've been told that. Now, here's kind of an interesting little thing. California says that it costs \$35 million a year in additional costs when they...or had that much less when they put on their helmets in California. So to say there's no additional cost to society is kind of interesting. I think I'll stop at this point and urge you to vote for the Smith amendment regarding the training. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Smith, but you have spoken three times. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I would like to ask Senator Johnson a question, if I may.

SENATOR CUDABACK: Senator Johnson, would you yield?

SENATOR JOHNSON: Yes, sir. I'll try, sir.

SENATOR CHAMBERS: Senator Johnson, which causes more deaths in Nebraska, motorcycle accidents or tobacco-related incidents?

SENATOR JOHNSON: I would guess that there's considerably more tobacco-related, sir.

SENATOR CHAMBERS: Vehicular, meaning automobiles, or motorcycle accidents?

SENATOR JOHNSON: I think you could put them together and the tobacco would still be the more.

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SENATOR CHAMBERS: Say it again.

SENATOR JOHNSON: I would think that you could put automobiles, trucks, motorcycles, put them all together and the deaths caused by smoking would still be higher.

SENATOR CHAMBERS: Okay. Now I'm making another comparison. The number of deaths caused from automobile accidents as opposed to those caused from motorcycle accidents, do you have any idea which would lead to the more...the most or more deaths?

SENATOR JOHNSON: Number of deaths, there would be considerably more automobiles. The statistics that you might be interested in is that if you are driving a motorcycle, per mile you are 27 times more likely to be killed than if you're in an automobile.

SENATOR CHAMBERS: And most automobile accidents happen closer to home than anywhere else. Isn't that true?

SENATOR JOHNSON: Yes, there's some statistics that if you're with...most of them will...80 percent will recur within 25 miles or something like that. I would presume the motorcycles are similar.

SENATOR CHAMBERS: Thank you, Senator Johnson. Members of the Legislature, we could bring up many circumstances, many incidents, many factors about which statistics can be offered. That's why I don't offer them on a situation...on a question such as this. I'm in favor of the amendment. I'm in favor of the bill. Carelessness, whether it happens when somebody is driving a vehicle, riding a motorcycle, or walking, can have catastrophic, unintended, unexpected results. But I'm listening to what I hear about the interest of the insurance industry and what is being proposed. They're against it. Somebody had said that it's a business decision by the insurance companies and they're interested in lowering the cost for everybody, and things like that. Well, what the insurance companies have said is if you're black and live where I live, you're going to pay more for your automobile premiums whether there is any experience in having to pay claims in that area or not. So

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nobody can tell me anything about the goodness of the insurance industry. They discriminate. They practice racism throughout. If you could list everything that the insurance companies do by assigning a letter of the alphabet and you would wind up with 26 items, or one for each letter of the alphabet, I would say from A to Z the insurance industry is shot through with racism. It's known. It's practiced. The federal government won't do anything about it. This Legislature won't do anything about it. So all of a sudden they're going to be elevated to a level where I, who am victimized, and my people are victimized by this insurance industry, and they are the ones whose testimony is supposed to sway my vote on anything? Why, that is preposterous. I've heard some of you all grumble and criticize the insurance industry and certain things that they do, complaints that your constituents...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...or friends, sometimes even family members, will bring as to what these insurance agents, the companies, the industry itself may be doing which would be inappropriate. This bill is something that I believe ought to be enacted into law and I'm going to support it. No tests that are given by the insurance company, the federal government, the manufacturers of automobiles are worth anything in terms of determining whether or not a vehicle will be safe on the actual road. When they talked about some of these SUVs and rollovers, they discovered that the vehicle has a roof and supportive structures which would not hold up if you just turned the vehicle over and dropped it from a height of 12 inches. But that's supposed to be safe? They con the people and the Legislature will buy into some of those things. I don't believe motorcycles are safe. For my part, there is no safe way to ride a motorcycle. I would ban them from the public streets.

SENATOR CUDABACK: Time, Senator. Thank you, Senator Chambers. Mr. Clerk, items for the record.

CLERK: Mr. President, I have an amendment by Senator Redfield to be printed to LB 40 and LB 40A. (Legislative Journal pages 1209-1216.)

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And I do have a priority motion, Mr. President. Senator Heidemann would move to recess until 1:30 p.m.

SENATOR CUDABACK: You've heard the motion to recess until 1:30 p.m. All in favor say aye. All opposed, nay. We are recessed.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Members, the Legislature is about to reconvene. Please check in. Members, please check in. Record please, Mr. Clerk.

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

SENATOR CUDABACK: Mr. Clerk, do you have any announcements or reports?

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

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, please inform the body where we were when we recessed for lunch.

CLERK: Mr. President, discussing LB 70, and AM0051 is offered by Senator Smith. (AM0051, Legislative Journal page 697.)

SENATOR CUDABACK: We will now continue discussion on AM0051, which is an amendment to LB 70, as stated by the Clerk. A list of names: Senators Erdman, Janssen, Baker, Chambers, Smith, Landis, Hudkins, Price and Jensen. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. I'd yield my time to

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Senator Smith.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Mr. President, members. I wish to update the body on what's before us. The AM0051, my amendment, basically ensures that there would not be a fiscal note hit to the General Fund and it clarifies some language to ensure that. And I urge its adoption. I did want to touch on some points that were brought up earlier. And Senator Jensen talked about an average of \$25,000 insurance on a motorcyclist, and that would be the minimum liability issue there, so that couldn't be the average because all it would take is one person to have higher than that. So the average would be higher than the \$25,000. But I don't want to belabor the point of the amendment, AM0051. I urge its adoption so that we may move forward. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Erdman, did you wish to use the remainder of the time? Senator Janssen.

SENATOR JANSSEN: Thank you, Senator Cudaback, members of the Legislature. I don't know how many years this has been in front of us, a couple, three maybe, you know, and we were...when we were arguing the no-smoking bill last week, one of my concerns and comments was that I believe that people should have the choice. If they want to...wanted to go into a restaurant that there was smoking, that was their choice. You didn't have to go in there. And we all know that smoking will eventually kill you. That is a medical founding that you can't deny. And I see a lot of motorcyclists come through my community. It is one of the pathways to whatever they call this organization or destination in Deadwood, South Dakota, and a lot of my friends have went there. I have a lot of friends that were motorcycle riders, not as many as I used to have because, like smoking, they, too, will eventually get to you, in one way or another. They're very expensive. You know, I...and you see people riding motorcycles, doctors, lawyers, teachers, merchants, all walks of life. They enjoy riding their motorcycles. When I was a young man, 18 years old, I happened to make the decision that I wanted to ride a motorcycle. There was a motorcycle shop in Arlington

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and I used to go over there and look at all the motorcycles that were in there and they all...I have to have one of those things. I have to have one of those motorcycles. So my father finally consented that I could buy this motorcycle. Well, on my way home I had to swing through Fremont to see if any of the motorcyclers were out riding around. Well, I came to a dead end and the brake rod at that time, there was just a one rod went to the back wheel for your brakes. Well, that happened to...well, the price I paid for the motorcycle, it couldn't have been that secure of a vehicle. But the rod fell off and I hit the curb on 13th Street and Nye Avenue. And in that area there was a seminary there, a Lutheran Theological Seminary. Well, I thought if I have to have an accident, at least I'll be close to some of the men of God. I hit it pretty hard and I rolled about halfway up to that seminary, and the first thing I did was check all my limbs to see if they were broken. And I was very...I was young and apparently fairly flexible. I'd hate to try that today. I'm sure I would not survive that. But I'm just talking about a few of the incidents that happened to me with motorcycles. And there again, I think...in my opinion, you know, there are a lot of responsible people out there and I believe that if they are responsible enough, they would wear a helmet. But there again, if you...going back to smoking, if you're responsible and you don't like smoke, you know smoke will kill you, you won't go into a place where there's smoking. If you have a little better chance wearing a helmet and surviving...

SENATOR CUDABACK: One minute.

SENATOR JANSSEN: ...a crash with a motorcycle, you know, I definitely would wear one. But there again, you go back to that, to the choice. So, Senator Smith, you know, I have always been an opponent of this legislation, but the longer we talk, you know, I might be able to be swayed. I'm going to wait and see what the rest of the body, how they feel. And within another six hours, quite possibly a decision will be rendered, and hopefully it will be the right one. I hate to see us taking care...I understand what Senator Jensen and Senator Byars are talking about. The cost to society is going to be greater in this state. You are going to have more people injured. But

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again, it's choice. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. On with discussion, Senator Baker.

SENATOR BAKER: Thank you, Mr. President and members. I'm going to continue on with some of what we heard in the hearing as a committee, and I think maybe I'll preface that with there seems to be a disagreement of who has statistically significant numbers, and who has extrapolated numbers, and who has raw numbers. And my good friends out behind the glass, I disagree, but their comment was my numbers are flawed because they were raw data. And that's what we want to use, is raw data, before you extrapolate them and massage them and so on; you want to use raw data. If you recall, my data I presented the first time I spoke was dealing with the number of motorcycle licensees and the fatalities per 10,000 of those people, and they were never disputed in the committee. So with that preface, here's some more testimony. This is from William T. Mulherin, and I speak this...or spell this out for the transcribers: M-u-l-h-e-r-i-n. Starting: "My name is Bill Mulherin and I'm representing the National Safety Council, Greater Omaha Chapter." This is an opponent, by the way. "And we're a not-for-profit community-based organization and accredited chapter of the National Safety Council." And I go on with his testimony. He says: "A study over 20 years ago by Dr. Harry Hurt, which is widely touted around the country as the bellwether study and known as the Hurt Study," which I have to admit I've not seen it, "showed that the majority of riders who are involved in accidents in their first few months of riding were not trained riders. So we agree that the training is important and it does provide an incentive to safe riding. As a rider and also as a graduate of the motorcycle safety class, I can tell you that the skills I took from the class when I began to ride were immediately useful, as I have been able to avoid at least two close calls that I can recall, on a bike, both of which were not my fault but both of which I would have paid dearly for had I not had the training," end of the quote out from his testimony. My point is this is an education training bill, allows people to make the personal choice then, after they've had the training, as to whether or not they want to wear a helmet, assuming they

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complete the course satisfactorily. I have a brother-in-law who rode in Nebraska for years and moved to Colorado, was required to take the training course in Colorado, which is a similar course to what we'd be requiring here in Nebraska. He's a professional person, he has reiterated to me that that was the best course he's taken in all of his education courses he's taken throughout college and so on, and he has advanced degrees, the best course he's ever taken. And that it, the case...the point is that after you take the course, he continues to wear a helmet. He goes to Sturgis every year and so on, et cetera. He still...he has the option of not going...riding without a helmet, but he still does wear a helmet, as does my sister who rides with him. His point was, the educational course should be mandatory, should everyone take it, and if you take it, you're more than likely going to ride with your helmet anyway because it points out that it is a...has some safety value to it. I want to go back to statistics that have been declared flawed because they're not extrapolated and they're actually just raw data, and that's what I'm using, is raw data. I'm not trying to extrapolate them, I'm not trying to massage them. That statistic showed that Nebraska...and these were 2003 statistics. I think the sheet that Senator Smith handed out was 2002, but 2003, Nebraska had a fatality rate per 10,000 licensed motorcycles of 5.85 with the helmet bill but no training requirement...or helmet requirement but no training. Iowa has 2.68. You can go on and carry that to South Dakota, Wyoming, Kansas and so on. They're all about half of our fatality rate per 10,000 registered vehicles. They claim that's flawed. Well,...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...it's raw data. I'm sorry if it's raw data. Those are the facts. X number of registered vehicles, motorcycles, divided by the number of fatalities gives you these figures. I don't want to try and extrapolate them, I don't want to massage them. Maybe there's drive fewer miles in one of the state. I don't know. But at least we're comparing apples to apples. The number of motorcycles registered, number of fatalities, gives you the figures I have: 5.85 for Nebraska, 2.68 for Iowa. I brought that question up to several testifiers

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and opponents to the bill in the committee. None of them could refute those figures. None of them had an answer. We did try to establish in the hearing that, yes, education must be a factor in the statistics that we're using here as opposed to our requirements in other states around us. So that was determined. I would encourage anyone who wants to look at the transcript. I have it here. Anyone wants to look at the transcript rather than have another copy, I'm willing to loan them mine. So...

SENATOR CUDABACK: Time, Senator.

SENATOR BAKER: Did you say...I'm sorry. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. On with discussion, Senator Chambers.

SENATOR CHAMBERS: Mr. President and members of the Legislature, this afternoon is like a slow, leisurely ride through the country on a motorcycle, looking at the leaves, not there yet, that will soon be there. We see the buds on the trees, you hear the birds twittering and watch them fly and soar through the sky. And then you're brought back to a place like this Legislature where issues are dealt with in a way that I think is not straightforward. There are people who are never, no matter what kind of statistics they're given, agree that people should be allowed to ride motorcycles if they choose to do so without a pot or a bucket on their head. When you look at some of the flimsy head coverings that people on motorcycles are wearing; as I told somebody I was talking to in the hallway this morning, if a person were riding down the highway on that motorcycle with that little flimsy headpiece and ducked his head down so that a gnat flew into that headpiece, it would give him a headache. It cannot do anything by way of protection. In the game of football, which is violent per se, there is constant work done by engineers, helmet designers, doctors, to try to figure how to construct a helmet which will protect the head and the contents of the players which at the same time not being a device which can trigger very serious spinal cord and neck injuries based on the way the head might fall backward when a person is hit, being tackled or blocked. There are numerous serious accidents and some deaths to football players at all levels--high school,

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college and pros--that stem directly from the way the helmet interacts with the person's neck and spinal cord. If those helmets, as heavy as they are and as engineered as they are, cannot provide protection all the time, and the wearer is not moving at anywhere the speed that somebody on a motorcycle is, why in the world kid yourself with the notion that these flimsy head coverings are somehow going to shield somebody from serious injury or death? Let's say that I rode into that wall in front of us at 100 miles an hour--stop cheering, I'm not going to do it--I said suppose; this is speculative--at 100 miles an hour on a motorcycle. And let's say I don't get a head injury. You think I'm going to survive it? Every bone in my body is shattered, every bone, Senator Jensen. Why, you could put the bones together in the "valley of the dry bones" together easier than Senator Johnson could reconstruct my shattered bones. And he knows that all these bits and pieces come from one individual and he couldn't put them together again, like all the king's horses and all the king's men couldn't put Humpty together again. So you keep talking about the head. There are people who die in motorcycle accidents from injuries that don't involve the head. Are you all forgetting that? The head doesn't make up but about one-eighth of a person's body, the size. I'm not going to go into the weight differential and ratio, nor the volume of the head.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: But that's all you all are worried about. Let people who are licensed to drive these motorcycles drive them however they please in terms of what they're wearing or not wearing; talking about helmets, of course. Maybe if somebody gets their head smashed, then you can pick up the contents in the helmet. Maybe and maybe not, some of it would spill out. But somebody mentioned something that fascinated me this morning and maybe they'll go into more detail and explain it to me. How do you get blood and guts out of a head? They talked about blood and guts out of...because somebody didn't wear a helmet, and that's what coming out of their head. (Laughter) This is an interesting place. I think I'm going to figuratively get back on my motorcycle and continue that slow, leisurely drive through the countryside. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Chambers. Senator Smith, you have talked three times, Senator. Senator Landis.

SENATOR LANDIS: I call the question on the Smith amendment to LB 70.

SENATOR CUDABACK: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on AM0051? All in favor vote aye; opposed, nay. We're voting on ceasing debate. Record please, Mr. Clerk.

CLERK: 28 ayes, 1 nay, to cease debate.

SENATOR CUDABACK: The motion was successful. Debate does cease. Senator Smith, you're recognized to close on AM0051 to LB 70.

SENATOR SMITH: Thank you, Mr. President and members. AM0051 ensures that those who would take the training course help pay for it through the motorcycle registration fees and this language...I mean, although it's not all-encompassing of that concept, this language certainly does clarify that, and I urge its adoption. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. You've heard the closing on AM0051. The question before the body is, shall that amendment be adopted? All in favor vote aye; opposed, nay. The question before the body is adoption of the Smith amendment, AM0051, to LB 70. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the adoption of Senator Smith's amendment.

SENATOR CUDABACK: The motion was successful. The Smith amendment has been adopted. Mr. Clerk, next amendment, please.

CLERK: Mr. President, Senator Beutler would move to amend, FA149. (Legislative Journal page 1126.)

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SENATOR CUDABACK: Senator Beutler, to open on amendment FA149 to LB 70.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this amendment goes right to the heart of the bill and, from my personal perspective, tries to sort out the good from the not so good. I think Senator Smith and Senator Baker and others are absolutely right on the point of education. I think more education is needed. I think the more education you have, the less likely you are to do foolish things on a motorcycle. I also think the rider is getting older and older over the years and that probably inserts another measure of caution into the whole matter. But I'm not yet convinced that allowing people to ride on motorcycles without helmets is a good thing, and so what this amendment does is to extract out of the bill that provision that says that they need not wear a helmet. I think the starting point, when I look at it, is the starting point that Senator Chambers emphasized, and that's the riding of the motorcycle, and that activity in and of itself almost reaches the point of being inherently dangerous in and of itself. Nobody has argued the statistic that indicates that it's almost 26 or 27 times more dangerous, in terms of being involved in a fatal accident, to be riding a motorcycle than it is to be riding in a car. So you start out from that point. Culturally, we're going to allow, and no one has every questioned this and I doubt if we every will, we're going to allow a very dangerous activity to continue; that is, the activity of riding a motorcycle. Your body is almost completely unprotected. It could be flung against a million things at very high speeds. I think Senator Chambers is right that at most high speeds, it doesn't matter whether you have a helmet or not. But I differ from Senator Chambers in that I think there are, logically and with the application of common sense, a number of situations where a helmet may be the difference between whether you live or you die, whether you're paralyzed for life or you become well and an able, functioning citizen again. I think one of the things we need to keep thinking about in terms of the kind of situation that we're dealing with is that the severity of harm to an individual is great. You have an accident on a motorcycle, it could very easily be a bad accident. The severity of harm in this situation is a serious matter. And so

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we have to make a judgment about whether wearing these helmets are a significant difference or whether they're a marginal difference, and even if they're a marginal difference, it's going to be a huge difference to a few people. And if you look at the statistics, which I'll recite later with regard to the cost of hospitalization, it's a significant difference to society in terms of cost. So I very well understand that statistics are hard to deal with in one direction or another on this, although in my opinion the weight of statistics, and I'm going to read you some things, some of which may have been recited on the floor before, some of which have not been, but which I think are pertinent and revealing. And it's going to be difficult for you and I to sort through all of these studies and all of these things that have been done and said by people who have looked at the situation, but I think there was some significant merit to Senator Schimek's remarks and Senator Jensen's remarks in this respect in that a huge number of organizations, some with self-interests but many of which have little or no self-interest in the matter, almost all of them across the board, with a uniformity that's exceptional, really, on a controversial question, come to the conclusion that helmets make a difference. Do they make a huge difference? Maybe. Do they make a significant difference? Yes, they do. And for that reason at this point in time, with the information that I have, I want to recommend to you that you carve out of this bill the provision that allows riders to go without helmets. Per mile traveled, in 2002, a motorcyclist is approximately 27 times more likely to die in a crash than somebody riding in an automobile. I want to...I've said that a second time, I know, and I almost want to say it a third time. We have got to understand at the beginning that we're dealing with a dangerous activity, whatever we do with this bill. Head injury is the leading cause of death in motorcycle crashes. Yes, Senator Chambers, there are many other parts to the body, and God knows a lot of people need a good hard knock on the head once in a while, but they don't need this, and this is what most usually happens in a motorcycle accident. An unhelmeted motorcyclist is 40 percent more likely to suffer a fatal head injury and 15 percent more likely to suffer nonfatal injury than a helmeted motorcyclist involved in a crash. These are National Highway Transportation Safety Authority. What's their self-interest here, by the way? I

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couldn't think of what it was. Maybe they're looking at it as objectively as they can. But when you consider that overall, not just Nebraska statistics but looking at it everywhere that this is the fact, then taking it in a cumulative way, that's a very, very significant difference. The National Highway Transportation Safety Administration estimates that motorcycle helmets reduce the likelihood of a crash fatality by 37 percent. Other information found...other studies found that motorcycle helmets are 67 percent effective in preventing brain injuries and that unhelmeted motorcyclists involved in crashes were three times more likely to suffer brain injuries. The cumulative effect of these figures is very, very significant. From 1984 to 2002, the National Center estimates that helmets saved the lives of 13,774 motorcyclists. And I won't go on with that. A Southern California study analyzed 3,600 traffic crash reports involving motorcycle crashes concluded that wearing helmets was the single most important factor in surviving motorcycle crashes. A 1994 study by the National Public Services Research Institute concluded that wearing motorcycle helmets does not restrict a rider's ability to hear auditory signals or see a vehicle in an adjacent lane. There have been other studies that have looked into that and negated that particular argument. They have a section on cost savings. Analysis of linked data from the Crash Outcome Data Evaluation System in three states with universal helmet laws showed that without the helmet law the total extra inpatient charges due to brain injury would have almost doubled from just over 2 million to just over 4 million.

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: They have other cost data in here that's compelling. University of Nebraska Medical Center looked at motorcyclists' hospital charges from 1994 to 2004. With respect to those that were wearing helmets, the average hospital charge was \$19,436. For those who were not wearing helmets, it was more than double that, \$45,947. The Government Accounting Agency, and now that's not a prejudiced source; the Government Accounting Agency reviewed 46 studies of motorcycle helmets and helmet laws. They found that helmeted riders have up to a 73 percent lower fatality rate than unhelmeted riders. Helmeted riders have up to an 85 percent reduced incidence of severe,

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serious and critical injuries than unhelmeted riders.

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: I will go on.

SENATOR CUDABACK: You've heard the opening on FA149, offered by Senator Beutler to LB 70. Open for discussion. Senator Price, followed by Senator Erdman and eight others. Senator Price.

SENATOR PRICE: Senator Cudaback and members of the body, yes, I have read the e-mails that said that wearing a helmet, particularly in the summer, is very restrictive, it deflects them from the sound. The visibility is poor; it's even poorer when it's so hot the sweat runs down into their eyes. They overheat, they are faint. But they are protected, in my estimation. These beanies which Senator Chambers referred to, to me it looks like they're just trying to keep their head...their hair from blowing in the wind because it's more headgear than protection for their head in case of an accident. Have I ridden a motorcycle? Yes, I have, as a passenger. It was fun, but it isn't something that I do very often. Was I responsible? Yes, I was. I wore a helmet and it was hot, but it wasn't a real long ride. It is not a mode of transportation that I would choose, but that is my choice. It's a choice that I choose to ride in a steel confinement that's on four wheels, and many people would consider that that is not the safest way to travel either. I had one e-mail that I could not put my hands on over lunch, and it was by a man who opposes any change in the law, but he is not a motorcycle rider. He asked that I suggest that an amendment be put on this bill that they do not...that along with this training, they do not claim on medical insurance, if they should be the victim or have an accident, and that if it is a fatality, that they donate their organs to be used with other persons. They may be kind of gross also, but it's something to think about: do not claim on medical insurance and that they agree to donate their organs for donation. So anyhow, I oppose the bill and I return...well, let's see, I may give my time to Senator Beutler, if he would like to have it.

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SENATOR CUDABACK: Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, there are several more studies I want to go through a little bit with people because I think they do have some meaning. One of the interesting comments, though, I thought earlier was Senator Baker's relating how his relative took a safety course, a motorcycle safety course, and went through the course and the course recommended wearing a helmet. And Senator Baker's relative and his spouse apparently always wear their helmets. It is also the case, as reported in a number of states that no longer have a mandatory law, that 30, 40 and 50 percent of the riders still wear their helmets. So apparently, at least that percentage of people who ride motorcycles believe that wearing a helmet is not a bad thing and, in fact, is a good thing, and probably could care less whether we have a mandatory law or not because they're going to do it because it makes good sense. So who wants this bill? It's not the people who don't ride motorcycles because overwhelmingly, whether it's right or wrong, overwhelmingly they support requiring motorcyclists...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...to wear helmets. They don't want to hit somebody on a motorcycle and have them go flying into a tree and post and kill themselves. Overwhelmingly, every survey you've ever seen, the public is in favor of the helmet law. So if almost all nonriders are in favor of a helmet law, and someplace between a third and half of riders are in favor of the helmet law, I'm questioning how many people out there really are against the helmet law. With that point, I think I will end until my next time, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler and Senator Price. Senator Erdman, followed by Senator Stuthman.

SENATOR ERDMAN: Thank you, Mr. President, and members of the Legislature. I rise in opposition to Senator Beutler's FA149, and I'll leave it at that. I do have some interesting observations that were brought up this morning, and I would like to follow up on what Senator Schimek spoke of from her visit to

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Charleston. She mentioned in her comments about being careful what you wish for, and I believe that's a direct quote, and that refers to those motorcyclists coming to town in Charleston. Senator Schimek, if you would look to your right and see that gentleman that sits next to you and picture him in maybe some leather jacket, maybe hasn't shaved for a couple of days, and possibly could be positioned on a motorcycle, those are the type of people that you're telling us not to invite to our communities. And I know that because just this last fall we went to Mt. Rushmore and, of course, Mt. Rushmore is near Sturgis and it was at the time when Sturgis was being held, the rally there. And we asked people what their occupations were because it was just kind of a good perspective to see what people did for a living. And a majority of the answers were not "I'm unemployed," "I don't have insurance." It was "I'm a doctor," "I'm a lawyer," "I'm a professional," whatever. And so I think it's important that as we frame the discussion, that we don't get off on things that actually are irrelevant, and you may say, well, that's what you're doing. But I think for the sake of the argument, the individuals that you're seeing travel to these places that are willing to spend the money aren't people who are destitute, aren't people who are irresponsible, and I think you would agree with that and you know that. But from the standpoint of what you're talking about, you bet. The reason why there are people that travel to Sturgis and go to places like Charleston for rallies is because they're individuals who, on their day job, may be a surgeon. They may work at Regional West Medical Center, they may work at some other healthcare facility, and they also then enjoy the opportunity to travel by motorcycle, knowing the risks that go with that. But I just thought that was an interesting perspective and something that was relevant here. With that, Mr. President, I would yield any remaining time to Senator Smith, if he would use it.

SENATOR CUDABACK: Senator Smith, about 2, 30.

SENATOR SMITH: Thank you, Mr. President and members. I stand in strong opposition to Senator Beutler's amendment. If he would like to negotiate something off the floor, I'm more than happy to discuss those matters. But to gut my bill in such a

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manner I think seeks only to harass the bill and not really offer much for resolution to the issue. But nonetheless, if there's an amendment we have to discuss, sobeit. Senator Beutler suggested, and he was using numbers, and again, I won't necessarily question those numbers, but I would ask the body to look with skepticism on numbers presented by physicians for physicians, for the purpose of physicians setting their own salaries. These are numbers that are there, and so there is a bias. But I think we need to look at the most obvious bias in front of us today. The most obvious bias is probably the fact whether or not we ourselves ride a motorcycle or we don't, because it's always much easier to regulate someone else than ourselves. And there's a saying, don't tax me, don't tax...and don't tax you, don't tax me, tax the man behind the tree, meaning let's push it off on someone else. And it disturbs me when...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...when the profile of a motorcyclist is mentioned, such as Senator Schimek did this morning. I mean, I was approached by someone who said, oh, it's going to cost us so much money. And I said, now wait a minute. We could bring literally thousands of people through our community, at least one week in August, and her response was, we don't want people like that in our community. I said, doctors and lawyers? This happened to be a physician's wife who said, we don't want people like that in our community. Now it's the health professionals who ride bikes, who ride motorcycles, who have brought this issue to me. That speaks for itself. There's room to offer a little bit of freedom, especially when we couple that with responsibility. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. (Visitors introduced.) On with discussion of the Beutler amendment, Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'm in opposition to Senator Beutler's amendment there. I think it really, truly, you know, totally guts the bill, and if we do pass that part of it, then the bill is totally

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worthless. I did some little bit research as far as vehicles are concerned, different types of vehicles, different sizes of vehicles. SUVs are a pretty heavy vehicle, you know; 18 wheelers are very heavy vehicles. If there's a multi-vehicle accident with an SUV, the one in the other vehicle has a...the death rate is four times greater in the smaller vehicle than the SUV. So this is an instance where, you know, vehicles are different, weights of vehicles are different, and you know, a motorcycle is very, very small. You're right out in the open and, you know, if there is an accident, there's a good chance there's going to be a major fatality. But the thing that really concerns me also is that, you know, the education part of it is very important. That was passed. But we have the instance also where, you know, is there a lot of difference in insurance costs with convertibles? Do people that are in convertibles, do they have to wear a helmet? Maybe they should. So this is what I'm concerned with also, but I think, you know, the size of the vehicle, the smallness of a motorcycle, and if they're involved in an accident, it is not going to be a good sight. And I don't think it's going to make a lot of difference whether they have a helmet on or not, but I think realistically, you know, they possibly should wear a helmet but that's the individual's choice. And I would like to give the balance of my time to Senator Smith, if he wants it.

SENATOR CUDABACK: Okay. Senator Smith, about 2, 50.

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Stuthman. We've heard a lot about insurance companies this morning, and I don't sell insurance but I am licensed to do so. Have never sold it, but I am familiar with insurance policy in terms of public policy. And it's interesting to see over the last few years the transit insurance companies and their behaviors in various markets. There have been all sorts of homeowners insurance companies--property and casualty, I should say--insurance companies pull out of hail-prone western Nebraska--too great a risk, too great a risk. They choose not even to rate up those areas but they just pull out as a whole and it actually reduces competition. But we've heard about insurance companies and, oh, this makes rates go up. I haven't seen any proof of that. And yet, I don't know of a single

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insurance company, and perhaps I'm wrong, perhaps I'm wrong, but I don't know of a single insurance company who has pulled out of South Dakota, from insuring motorcyclists in South Dakota, or insuring unhelmeted motorcyclists in Wyoming, or unhelmeted motorcyclists in Colorado, Kansas, Iowa and, as a whole, a majority of the states across the nation that allow the freedom to decide whether or not to go with a helmet. Actually, LB 70 is more restrictive...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...than our neighboring states, in terms of the education requirement. So let's set the emotion aside. I've been in a motorcycle accident myself, and I've seen a couple and, believe me, I don't like that. It's given me second thoughts to the policy as a whole, but I'll guarantee you that the safety training will do more to prevent an accident from even occurring in the first place than any helmet would ever offer. In fact, I would argue that if you wanted to wear a helmet in a car right now, with the current state statutes banning headphones because it obstructs hearing, you could not wear a helmet in a car if you wanted to because it would be obstructive to hearing. So let's set the emotions aside, let's look at the freedom as it's associated with responsibility,...

SENATOR CUDABACK: Time.

SENATOR SMITH: ...and we can have a win-win scenario. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith and Senator Stuthman. Senator Mines, followed by Senator Engel and others. Senator Mines.

SENATOR MINES: Thank you, Mr. President. Give my time to Senator Beutler.

SENATOR CUDABACK: Senator Beutler, about five minutes.

SENATOR BEUTLER: Senator Mines, thank you. I hope I don't get too humdrum with you, but there are a whole large number of

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studies that have been done on this question, and they say significant things. And I want to get those out on the floor. I wanted to give everybody an opportunity to hear them and make what they will of them and ask questions about them because if you think about this in its totality, there are this load of studies out there that says it makes some significant difference to require helmets, and there aren't, as far as I can find so far, any studies of significance that says otherwise. And then you have this whole load of organizations out there, almost every hospital and every doctor's organization of any kind saying, with regard to the interpretation of these studies, that are almost on one side...all on one side anyway, that, yeah, they make sense. So before we ignore all that, I want to be sure you're aware of at least some of it, as I've tried to acquaint myself with at least some of it. But again, going back to the GAO information that I was giving you earlier, they have a section on what is the price of not wearing helmets: hospitalization and related medical expenses are higher for unhelmeted riders because of brain injuries. That makes sense. Here's what the data tells us. The average charge for inpatient care of motorcyclists who sustain a brain injury is more than twice the charge for motorcyclists receiving inpatient care for other injuries. The average savings for prevented brain injuries in Hawaii, Maine, Missouri, New York, Pennsylvania, Utah and Wisconsin was \$15,000 in inpatient costs for each incident in the first year. The average hospitalization costs for unhelmeted riders were one-third greater than those of helmeted riders. This is an Illinois study of motorcyclists. Who pays the price? A large number of studies have focused on this issue, and although the percentages vary, one central point remains clear. Whether it's taxpayers or insurance customers or medical customers, we all pay. For example, a privately conducted California study put the average cost of hospital admissions for a nonhelmeted rider at \$17,704. Of this initial amount, 72 percent of the costs for hospitalization were paid by the state of California, with another 10 percent being paid by other tax-based sources. Another study found that 57 percent of the patients listed a government program as the principal payor of inpatient hospital costs resulting from motorcycle crashes. And by the way, there...I'm not going to repeat this because I tried to make this point earlier, but there is also a National

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Highway Transportation Safety Administration study on what percentage of motorcyclists themselves support a helmet law--62 percent. Now the evidence in some of the states that have repealed their helmet laws is not that 62 percent of the people still wear their helmets,...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...but at least with respect to this survey, 62 percent of those motorcyclists...of all motorcyclists thought there ought to be a motorcycle helmet law. The study then goes on to address several of what it calls the common myths. Helmets cause neck or spinal cord injury; that was one myth. Research has proven this untrue. Five studies reviewed by the GAO all reported a higher incident of severe neck injuries for unhelmeted riders. An Illinois study found that helmets decrease the number of significant spinal injuries. Next myth: helmets impair hearing and sight. The helmet affects my peripheral vision and I can't hear as well are two common myths, neither of which is supported by scientific data, and I will go on about that the next chance I have to speak.

SENATOR CUDABACK: Time.

SENATOR BEUTLER: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Engel, followed by Senator Schimek.

SENATOR ENGEL: Mr. President and members of the body, over the years I have talked on this bill many, many times. This time what I would like to mention is that the education portion of the bill I certainly approve of because, in most cases...I was in the insurance business for many, many years. In most cases when there's a motorcycle accident, the motorcyclist himself was legally in the right, and so therefore, by requiring education and teach them defensive driving, if this bill goes through...I'm not going to support the bill, but if this bill would go through, I think the education portion of it is so, so important because...to teach them defensive driving, because only they can prevent the accidents because they are not seen

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when...by the vehicles in making turns, et cetera, et cetera. So another thing, like years ago before seat belts...we have five children, you know; they'd be riding in my lap. The little one would be riding in my lap, another one next door standing up, and I...you know, several years after seat belts come out, I'm still going here with my right arm to keep them from hitting the windshield. In fact, my wife said, stop that, because she is the only one sitting in the car. But that was before they came out with these safety features. Now they just come out with these safety features for a reason. Now I'm appalled when I see someone doing what we did automatically many, many years ago. I'd like to stop that car and give them a ticket myself but...so anyhow, things have progressed to the point that we are responsible for our own safety. One way to remain safe in our driving habits is seat belts, air bags, et cetera, and I think in the...if you're riding a motorcycle or machine like that, that education is so important. Now Senator Smith was asking me earlier about the insurance. Now I checked with the company I used to work for, and the most medical insurance that we wrote on a motorcycle was \$1,000 per person. What that does, the medical pays regardless of liability, up to that limit, and that's all we could buy. On an automobile, you could buy up to \$50,000 to \$100,000 per person riding with you in your vehicle. So that \$1,000, that's probably pretty well takes care of the ambulance fee. Now you can buy the same amount of public liability--that's to take care of injuries or damages you do to the other party--plus you can also buy uninsured and underinsured coverage up to those same limits, usually a maximum of \$250,000, one person, \$500,000 per accident, if you buy the maximum insurance that you can buy. And so if you are legally in the right, that would be a claim you would have against your own policy if the other person was...did not have insurance and/or did not have enough. But the portion of this bill I totally support is the education portion of it, and because that is so important if you are going to ride one of these vehicles. And other thing as far as the helmets, I wouldn't want to wear one of them either because I think they're hot and they're cumbersome, but I do not ride a motorcycle. I'm dangerous enough on a bicycle. With the...I think, as far as design, I don't know much about their...the helmets and so forth, but evidently they're certainly...these aerospace engineers and so

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forth certainly should come up with something that's comfortable and yet safe. So I return the rest of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Engel. Senator Schimek, followed by Senator Baker. Mr. Clerk. First, Mr. Clerk, did you wish to read something into the record?

CLERK: Senator, thank you. Amendments to be printed, Mr. President: Senator Beutler, LB 542, LB 454; Senator Chambers, LB 454. New resolution, LR 79, a study resolution by Senator Howard. That will be referred to the Executive Board. That's all that I have, Mr. President, thank you. (Legislative Journal pages 1217-1221.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President and members. Senator Engel, I was getting a good chuckle out of your story about your arm going out like that, because that's...I think we all went through that experience, so that was a reminder, I guess, of the kind of safety that we didn't used to have. Also, Senator Engel, I would say that you said you couldn't support this bill but, if you voted for Senator Beutler's bill and that got a...or amendment, and that got attached, then the bill essentially would be the education piece, so maybe at that point you'd probably change your mind. Just suggesting that. I am standing in strong support of the Beutler amendment. I think it's a good amendment. I think it clearly will give us some guidance about how this body feels about the entire bill. I'd just like to follow up with a few comments. Senator Chambers isn't on the floor right now but I don't dispute his argument about the fact that many who are in accidents while riding a motorcycle wearing helmets will not be saved by their helmets. That's...I think all of us would concede that, just as we would also concede that not everybody who is wearing a seat belt will be saved by that seat belt. There are still going to be some fatalities regardless. But the preponderance of evidence, as Senator Beutler has been so clearly articulating, is that both seat belts and helmets do help. Also, I would like to respond to some things that Senator Chambers said by saying that we do have a system of traffic laws which are meant to create order and

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protect our citizens. I mean, we have stop signs, we have speed limits, we have driver's tests. Who likes to go take a driver's test, for instance? I would rather enjoy my freedom and not have to go take the driver's test. But it's for our own good that we periodically test knowledge of people's ability to be behind the wheel. I do have a question or two of Senator Baker, if I could. And, Senator Beutler, this is a follow-up on some of your comments earlier.

SENATOR CUDABACK: Senator Baker.

SENATOR BAKER: Yes.

SENATOR SCHIMEK: Senator Baker, I'm looking at the committee statement, and maybe this has been discussed already and I missed it. But the only organization that came in, in favor of the bill, was ABATE. Is that correct?

SENATOR BAKER: I don't have that on my screen right now, Senator Schimek, but I believe you if that's what it says.

SENATOR SCHIMEK: That's what it says. And it does give ABATE and then it mentions one other individual. Now I don't...or one individual. I don't question that there are probably many, many individuals who didn't come in to the hearing because probably they were members of ABATE and they didn't want to be repetitive.

SENATOR BAKER: I'm having a hard time hearing you but I think Senator Smith and I had discussed before the bill was heard that we...the committee, at least the members who have been on it before this session heard this issue and we tried to keep testimony to the minimum.

SENATOR SCHIMEK: And I understand that, and I...we all do that with our committees. We try to keep it within reason. But the fact of the matter is that no other organization appeared in favor of this. You have a large number of organizations, some of which have already been mentioned on this floor, that came in, in opposition. So if you're just looking at that kind of thing, it's puzzling to me that the committee would send it out

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to the floor. The other thing that you mentioned during your remarks...

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: ...were that there...you didn't have anything at the hearing that talked about the data, if I understood you correctly, that would make the argument that we should have a helmet law. And I can't see you right now, Senator Baker, but could you respond to that? Thank you.

SENATOR BAKER: I'm having a hard time hearing you and our vision is blocked. I can't read lips when the vision is blocked, but the question was what? Can you repeat it?

SENATOR SCHIMEK: Well, you were articulating something that maybe I didn't quite catch about you didn't hear during the hearing about data that would support the proposition that wearing the helmet is definitely an advantage. Am I...

SENATOR BAKER: We heard data to that, and I have the transcript of the hearing. There...not so much data, I think; it was just simple statements that helmets save lives, I think. I'd have to look through the transcript. I do have it here.

SENATOR SCHIMEK: Well, I have a letter here from a doctor at UNMC,...

SENATOR CUDABACK: Time, Senator Schimek.

SENATOR SCHIMEK: ...and I'll continue later. Thanks.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. I think we're making some progress here this afternoon. I do think the body understands how important education is in the case of anyone driving any vehicle, whether it's a commercial truck driver who has to have extensive education or just a Class O driver's license, but we have no education requirements when it comes to motorcycle. I think everybody is in agreement,

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or at least the vast majority of the body. We've heard various motorcycle helmet bills ever since I've been in the Legislature in the committee, I think every year. And this is a compromise. It says we are willing to require a strict education program in order to go without helmets in exchange for those few people...and Senator Beutler brought this up, I really doubt there's going to be "anywheres" near...I'm just sure there's not going to be a majority of motorcycle riders in this state go without helmets, even if they're permitted to go without them. They just won't do it. There is that element of freedom, though, involved, and the issue that Senator Smith has made that we do have people, and I'm on a border area out there with the Colorado Highway 385 not far from us; bikers will stay out of the state of Nebraska, and I believe him. I have a doctor friend and a lawyer friend, both from Topeka, who avoid Nebraska. They go around Nebraska to get to Sturgis. They go east going up and they go west coming back. And I have no reason to not believe what they're telling me, and they're professional people. That's one instance I know of personally. I honestly think that what we have faced here is whether we want to make a decision to adopt a stringent education requirement to get a Class M motorcycle license in exchange for allowing a few people who would ride without a helmet in exchange. I pointed out, as Senator Beutler reiterated, I have a brother-in-law who took the course, lives in Colorado, does not go without a helmet. Neither does my sister who rides with him occasionally. I don't think that you'd see a majority...I'm sure you wouldn't see a majority of people go without a helmet just because they could. I think we also have to recognize that the helmet law we have in place in Nebraska now, I honestly challenge anyone on the floor to say I can tell you a friend who was ticketed for having an illegal or a noncompliant helmet on. Somebody else brought that up. I don't remember which senator. A lot of these little beanie-type things that they claim are helmets, although they aren't; that question was brought up in the committee. They have to be approved by the National Safety Transportation Board (sic) or some such matter, should have that stamp on them. I've never known of anyone be ticketed with that, so enforcement of the current law, I think, is rather sketchy at best, and it's not a priority, obviously. But I think where we are, we're going to have to make a decision here

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whether we want to increase...or not increase but to adopt a strict training requirement in exchange for some exercise of personal freedom. And I think it would be worth the time and effort we're taking to do just that. I encourage people...I can't support Senator Beutler's amendment, quite frankly. With that, all we have left is a training bill and I don't think that's what we're going to adopt. I don't...can't speak for Senator Smith but I think, after having heard testimony...I also want to address Senator Schimek's questions about proponents. We specifically met with some of the proponents and agreed that we'd have some very direct and to-the-point testimony in exchange for not having a roomful of people who wanted time to testify at the bill, proponents. We could have...I'm sure we could have overwhelmed the opponents with sheer numbers if that's what we wanted to do, but we did not. We had some very effective proponents who provided us with the training issues. I think that the ABATE training program, if you want to see a copy of it, we have that in the office. It was to the point, very direct, and good testimony by the proponents. And as you've noted,...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...there were a lot of opponents testify. But quite frankly, after reading through the testimony, it is...certainly refreshes my memory what all we had come through the committee that day. It was basically a repeat, one after another. Senator Schimek, you've been through that in your committees, not much new. I asked several questions dealing with the statistics. I think maybe we ought to quit focusing on statistics because no one is going to believe the other folks' statistics. They're all going to be skewed one way or another, according to your position. And there was questions raised in the committee several times about why the other states with...not met...did not have mandatory helmets had lower fatality rates, and it typically came back to education. That was the one current issue that remained constant in there, was education was important and, as I have said on before on the mike, the people that I know who have gone through the training course continually tell me that's the best course they've ever taken of any kind.

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SENATOR CUDABACK: Time.

SENATOR BAKER: Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Senator Hudkins, followed by Senator Smith.

SENATOR HUDKINS: Thank you, Mr. President. I would like to give my time to Senator Smith, if he would like to have it.

SENATOR CUDABACK: Senator Smith, you have almost five minutes.

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Hudkins. To suggest that the number of proponents versus opponents in a committee hearing should determine the outcome of the vote in a committee hearing, I think, defies our purpose of being here, but I won't dwell on that. I will dwell on the fact that the probability of death...I'm reading a study here composed of...from a Ph.D., college professor...even on the East Coast--wow--that for the average rider involved in the typical accident, it is found that the probability of death increases from 2.1 percent to 11.3 percent when the rider's blood alcohol level increases from .0 to .1. And in Nebraska, .08 is legally intoxicated. Even more telling is that an increase in the crash speed from 40 to 60 miles per hour increases the probability of death from 7 percent, approximately, to 36 percent, a 500 percent difference with 20 mile per hour difference in speed. Now, I was amazed when I talked to someone a couple weeks ago who was actually going 70 miles an hour, unhelmeted, on a motorcycle, survived without any head injury whatsoever; quite a bit of road rash, but that was overcome. What's very telling is my most recent experience driving along the interstate in Iowa, maybe it's because they drive so slow, but on interstate in Iowa, most of the motorcyclists that went around us, passed us, more than likely speeding, had helmets on. Helmets will still be used even when given the personal decision whether or not to. Senator Jensen very capably pointed out the fact that there are a lot of parents who dictate to their children to wear helmets when they are on their bicycles. That doesn't need to be in state law; neither does it need to be in

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state law that a football team wears a helmet. That was brought up the last time this bill was debated, but it doesn't need to be in state law. Now, when we talk about public safety and protecting us from ourselves, the seat belt issue has been interjected here and there. But the fact is we have a more relaxed seat belt policy, much to Senator Byars' chagrin, but we have a more relaxed seat belt policy in Nebraska than we have a helmet law. And yet, we look to helmets, and why is that? Because politically it's possible. It's possible politically to narrow down motorcyclists and pick on them even though they're very responsible, every bit as responsible as the average car driver. But yet when the Legislature, I believe I'm correct on this, passes a mandatory seat belt law, primary offense, the voters repeal it and the Legislature then settles for a secondary offense, but politically it's harder to get a mandatory seat belt law here in Nebraska, even though it could leverage more public safety, or should I say leverage...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...lesser injuries than otherwise. But...and Senator Schimek pointed out that, you know, we have law and order and it's our job as policymakers to bring about law and order and, after all, we have stop signs, we have speed limits; therefore, we have a mandatory helmet law. And I believe I'm next and I'll continue my comments when I'm recognized. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Smith, you may continue. Your light is next.

SENATOR SMITH: Thank you, Mr. President and members. To continue on the fact that law and order does not come about by requiring a helmet be on the head of a motorcyclist. That affects that person. Senator Beutler is trying to say that insurance rates go up, taxes go up, and otherwise, when I have not seen the proof of that. Perhaps I'm wrong, perhaps I'm naive to say that...or to want more evidence of the tax issue, of the insurance issue to be proven, because I would argue that it's insignificant. Of course, any insurance claim is paid for by other policyholders, Senator Johnson, any insurance claim,

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whether it's hail damage on a house or a fender bender in the Safeway parking lot. That will affect rates. But I would look at the general policy of how motorcyclists are treated in the insurance sector, and you'll find that when they want to, they can narrow that cost, but they generally don't. When we hear the numbers being tossed about in terms of the likelihood of death without a helmet, are those studies reflective of the speed of the accident? Are they reflective of the blood alcohol level of the accident, other conditions of riding the motorcycle? There are all sorts of variables out there, and so far the most common numbers utilized by those who want to mandate helmets are the fact that we had X number of deaths before the helmet law and X number of deaths after the helmet law, which is misleading when you do not consider for the registration of motorcycles and otherwise. We've seen a high number of motorcycles in the early 1980s. It went down, bottomed out in the mid-1990s, and it's on its way back up. It's still not as many as 1982. Right now we're at about 32,500 registered motorcycles for 2004, compared to 1982's 47,900. And the bottom point was 1996 with just over 18,000. So we had half...less than half the number of motorcycles on the roads, conceivably, during the low point of fatalities and yet those who want to mandate helmets are using those numbers. It's clearly without fact, and we can do a lot better than that in our public debate here, and I would certainly rather look at raw data rather than something that is construed by those with a bias. We have a bias. I mean, believe me, I could prove to you that there's a bias by the number of letters that I...or should I say the tone of letters that I get from one physician in Omaha. Believe me, I do not look to him to give me an objective viewpoint, nor would I ever. But we're all entitled to our opinions and he's entitled to write me letters that, I guess, would do well to go through a Dale Carnegie Training Course. But we all have a bias, and I want for us, if we need to err because of our bias, let's err on the side of personal freedom with responsibility, rather than control, control, control. I mean, I've heard...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...I've heard Senator Jensen say, well, you

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know, I'd be more than happy to mandate the course as long as we keep mandating helmets. That's all about control. Let's step back a little bit. Let's step back and say we want for you to be more highly trained because you're going to be better at avoiding an accident to begin with, and dodging the irresponsible car driver that is generally the case, and then we can exchange that personal freedom, that personal decision which, as Senator Beutler has alluded to, I would say more than a majority of folks are still going to wear a helmet, even though they're not required to, and I have a lot of correspondence to back that up. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. (Visitors introduced.) On with discussion. Senator Byars, followed by Senator Chambers and eight others.

SENATOR BYARS: Thank you, Senator Cudaback. I would like to have Senator Baker yield to a question. He's at Senator Thompson's desk. I'll wait for him to get back. But in the meantime, I wanted to thank Senator Smith for offering to put mandatory seat belts into this bill, but I told him it just probably wouldn't be acceptable, even though Senator Chambers encouraged us to do that. I'm being facetious. Senator Baker, we (inaudible) process that have been here for a while try to limit those people who come in, in favor or opposed to various forms of legislation, and you and Senator Smith have both alluded from time to time about limiting those number of people to come in and I think that's great. The question I have, however, the opponents represented a huge list of organizations in opposition, and you talk about these people you limited to come in, but you didn't...haven't told us any organizations. Now we could have brought in hundreds of people from PRIDE and from MADD and from the medical association, the hospital association, the same as you, if we wanted to do that. Can you tell me the organizations who were in favor of this legislation other than ABATE?

SENATOR BAKER: I would say the majority of the motorcycle riders in the state of Nebraska, whether an organization or not, are probably in favor of this bill, and not organized like these other groups, though.

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SENATOR BYARS: Okay. So they're individuals and, of course, you will also admit that we could have done exactly the same thing if we chose to pack the room with hundreds, if not thousands, of individuals. But they were definitely representing very credible organizations, not just one. Isn't that correct?

SENATOR BAKER: No, you're correct.

SENATOR BYARS: Okay. I appreciate that, and thank you, Senator Baker. I think the crux of the argument of the opponents of Senator Beutler's amendment, and I stand in favor of it, I think, Senator Smith, this is a wonderful compromise. You know, the whole basis, the whole basis of your argument in favor of the bill is education. That's where it comes down to every time. We all agree. Let's get education. What we can't agree upon is eliminating those motorcycle helmets and, you know, I don't think we're going to, and I think probably the motorcyclists of this state are going to be better off if they would take this compromise because I think probably it's all they're going to get in this legislative session. I think it's a good compromise and I support Senator Beutler's amendment, and I'll yield the balance of my time to Senator Beutler.

SENATOR CUDABACK: Senator Beutler, about 2, 30.

SENATOR BEUTLER: How much time, Senator Cudaback?

SENATOR CUDABACK: Two, thirty-two; two, thirty-one.

SENATOR BEUTLER: Senator Byars, thank you for the time. There was a study done with respect to Kentucky, Louisiana, Arkansas and Texas when they, back in the years 1998, 1999 and 1997, repealed their motorcycle helmet laws. And in those years, by those years, remember the registrations were going back up as far as the trend line was concerned. And before I read to you the conclusions of that particular study, let me also read you or recite to you this little portion having to do with the use of helmets once the laws were repealed in Kentucky and Louisiana. In Kentucky, before they repealed their law, there

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was 96 percent compliance with the law, as you would more or less expect. Then in the years after repeal, it eventually dropped down in the year 2001, the last year that they had here, to 56 percent of the people were using helmets. So still, even with no requirement, more than half of the people were using the helmets. In Louisiana, where they had 100 percent compliance with the law when it was the law, it dropped down to, in the year 2001, to 52 percent...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...were wearing their helmets. So you know, even if you're thinking of this in terms of majority rule of the people who are affected, it would be interesting to know what the majority of motorcyclists in Nebraska feel about this. I'm not sure they would be in favor of repealing the helmet law because close to a majority of them are choosing to wear their helmets. They're choosing to wear them because they know it's safe, and they are basically reinforcing what you and I...or what I'm at least arguing on this floor, that they are a safety factor, a significant one. People choose to use them. And it is not unreasonable to ask the others to use theirs also.

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: We ask people who drive cars, the rest of us who don't ride motorcycles...

SENATOR CUDABACK: Time.

SENATOR BEUTLER: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Chambers, followed by Senator Jensen.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I'm going to start in the way that I have before. Statistics mean nothing to me whatsoever. Nobody is going to be persuaded by statistics to move from his or her position to a different one. However, there might be the opportunity to cause people to think a little bit about what it is we're trying to do

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when the state is going to force people to wear a helmet. First of all, I would like to hear anybody on this floor stand up and tell me that all helmets that motorcyclists wear, and are not stopped by the police, meet the same high standard which the one who on this floor would defend helmets would say that they're required to meet. Everybody knows that is not the case. You are dealing with a sham. When the Legislature puts a sham in place, it causes a loss of respect for all of the law. Senator Beutler and others have mentioned some of these various agencies, especially of the government. They mentioned that adjunct to Hell. I don't mean that as a bad word, but the place where all the wicked things go and live. That's what the insurance industry is. They suddenly are going to invoke the insurance industry, and they want to ask us what ulterior motive could they have in being in favor of mandatory helmets. The question I would ask is this. Why are not those institutions insisting that a certain level of quality be maintained for every helmet that a motorcyclist wears? You know what some people will say? Well, the police can't stop everybody; you can't enforce that. If you can't enforce it, get rid of it. It's not a law. A proper law is one that's enacted in accord with the requirements laid down by the constitution for the enactment of laws. But in a broader and deeper sense, it must be a statement of a principle which is handed down by one who has the authority to use force, if necessary, to compel obedience and compliance. Now when you say a law cannot be enforced by the state, it means that the law is a "nonlaw," it is a sham, and you all are shamming here. You're making good talks. You're giving splendid arguments, but you are ignoring the reality. What we do should address an existing evil which the law that we put in place will address and remedy or at least mitigate. By requiring people to wear helmets, you're not doing anything that is worthy of a Legislature because the quality of the helmet is not taken into consideration. You might put something in the statute, so you feel good, about how the helmet must be structured. But the law is not going to be enforced. It cannot be enforced, so why do you put it on the books? Who are you trying to make feel good? I don't care what anybody thinks of me because I am opposed to mandating the wearing of helmets while riding a motorcycle. Yeah, I'm agin it and I will fight agin it every time I have the opportunity, again and again

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and again. I'm agin it. So we have people standing on the floor, people who I respect, who ordinarily show good judgment, but at this juncture it merely shows that people with good judgment do not exercise good judgment in everything they do. Not one of them can...

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: ...stand on the floor and deny the truth of what I'm saying. If the crux is the helmet and the helmet itself does meet a high standard, why do you want to put a sham on the books? That's all that Senator Smith is doing. He's saying, bring some honesty to the law, take away the sham. But you all don't want to do it. "Sam the Sham" and "Samantha the Sham," that's what we have on the floor this morning...this afternoon. I wish I knew a song by Sam the Sham. Does anybody know a song by Sam the Sham? Oh. Who's that walking through these woods? Why, it looks like Li'l Red Riding Hood. (Singing) Hey there, Li'l Red Riding Hood, ...you can sing with me, if you choose. It will do more good than what we're doing with this bill. Brothers and sisters,...

SENATOR JANSSEN: Time.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR JANSSEN: Time. Senator Jensen.

SENATOR JENSEN: Thank you, Senator Janssen, members of the Legislature. First of all, I do support Senator Beutler's amendment. I think it makes sense. And if we're really interested in safety, it makes great sense. But there's an issue I want to talk a little bit about that has been referred to many times. Why is this bill before us? Because there are some individuals who feel that their freedom is being denied. That I don't understand. There's no incarceration. There's nobody here who's being restricted. There is no restriction of access here. There's no release. There's no slavery here. How can we be talking about freedom? I don't understand that issue.

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It's not a freedom issue. It is a cosmetic issue, in that some people don't want to get their hair messed up by wearing a helmet, Senator Stuthman. (Laugh) But that's really where it is. And when I was young and in construction business, I did not want to wear that hard hat, because I had a crew cut that was absolutely perfect, and I didn't want that helmet crushing my crew cut. That's what it's about--that, and letting the wind blowthrough your hair, or ears, or whatever it is. But there is not a restriction of freedom here at all. Senator Chambers, you know about freedom. You know what slavery is. And so I don't think that we need to talk that this is a freedom issue. It's a cosmetic issue. You don't look as good with a helmet on your head. That's all it is. But it would seem to me that if we really believe in safety, that Senator Beutler's bill...amendment makes perfect sense. Now, whether you're wearing a helmet or not, does it really help in an accident? I know a young man, 22 years old. He was driving his motorcycle, hit an oak tree. He had a broken arm, broken femur, broken pelvis, broken jaw, two collapsed lungs, broken shoulder, and yes, a head injury, because he was not wearing a helmet, and was in a coma for three weeks. Twenty-five years later, still suffers from short-term memory. And I don't know what will happen in the future, because I said that they have found that 15-20 years later, after accidents, that there is scar damage, many times, from...particularly in the frontal lobes, from injuries, that cause behavior problems. We're trying to address also mental health and behavior problems. Also, there's a greater increase of tumors from that same head trauma. It would just seem to me that there is...if we want to be sensible about this whole thing, that we're talking really about two issues--we're talking about safety; we're talking about dollars. It is going to cost more dollars if we repeal this. And I don't know who said it earlier in the day, but that if we repeal this law, that we better look at all of the healthcare costs going up, because it will. It...you cannot deny that. Then I also take a little bit of offense when you talk about a doctor that has written many times on this issue. And I think that doctor would be Dr. Manion. He works at Creighton, he works at Immanuel. He's been a stalwart for many, many years for the helmet law. Why? Because he sees young people, young men, young women, come into that emergency room, beat up, all...and

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with head injuries that wouldn't have happened if they had a helmet law. And is that a bias? You know, he makes the same amount of money whether that emergency room is full or not.

SENATOR JANSSEN: One minute.

SENATOR JENSEN: But it just...he's taken this on because he has a passion, because he's seen young lives, young bodies that were absolutely perfect except for a head injury, and what occurs from that point on. I support him, and I hope that he continues to write letters, not only now, but far into the future. Thank you, Mr. Chairman.

SENATOR JANSSEN: Thank you, Senator Jensen. Senator Johnson.

SENATOR JOHNSON: Mr. Lieutenant Governor, members of the body, a couple of things here first. One is, I had a conversation with Senator Chambers after we recessed, and I found a few things that were a little bit pertinent to the subject. This is from the American College of Surgeons, Trauma Committee. Dr. Margaret Knudson is the chair of the subcommittee on injury prevention and control. She is the chief of surgery at San Francisco General Hospital, I believe it is. Yes. At any rate, Senator Chambers, here was the numbers that you might be interested in. Head injury is the leading cause of death in motorcycle crashes, and wearing a helmet is the single most important factor in surviving these crashes. A statewide study in California showed that motorcycle fatalities decreased by over 37 percent within one year of the enactment of the motorcycle helmet law. And there were decreases in both the number and severity of head injuries. The other thing here is they quote a study from Washington State that, although helmet...unhelmeted motorcyclists were only slightly more likely to be hospitalized, they were three times more likely to have severe head injuries, and nearly four times more likely to have severely head injured than the unhelmeted...than the helmeted riders. So if that's helpful, the numbers are there. The helmets might not be as good as what they should be, but you and I are both old enough that we remember football helmets made out of leather, too, and they are getting better. One of the things that maybe should come out of this discussion today is that we

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press the safety officials for better helmets. Now, I was hoping to give Senator Hudkins an answer to some questions that she asked Doctor...or, Senator Smith. I keep wanting to demote you back there. At any rate, what I was going to tell Senator Hudkins was this. Same article; this is the national report from last year, from the American College of Surgeons, Trauma Committee. And I might tell you that this is the worldwide trauma committee. Although initial examination of the raw data on deaths associated with motorcycle crashes suggests that the motorcycle fatality rates are higher in states without helmet laws, a more complete evaluation, controlling for multiple variables, demonstrates that the opposite is true. By controlling for intervening effects such as population, weather, alcohol consumption, urban versus rural roads, they were able to demonstrate the the death rates in states with full helmet laws were lower than death rates...

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: One minute.

SENATOR JOHNSON: ...in states without full helmet laws. Sadly, as demonstrated, Arkansas and Texas' repeal of the universal helmet law is associated with an increase in both fatalities and serious head injuries. In Florida, scenes...deaths from motorcycles, riders, doubled after repeal of the law. In summary, they say this, the world's premier organization: In conclusion, society incurs enormous direct and indirect costs when nonhelmeted motorcyclists are involved in crashes. Helmet laws increase helmet uses, and decrease the rate of fatal and serious injuries and costs. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Johnson. (Visitors introduced.) Senator Beutler, you're recognized to speak on FA149, followed by Senator Erdman and Senator Howard.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, when I left off, we were talking about Kentucky and Louisiana and Arkansas and Texas, who in the years of 1997 through 1999 repealed their motorcycle helmet laws. And again I repeat, these were years when registrations were on the upturn.

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And here are the conclusions that this particular study, by Ulmer and Preusser did on those helmet laws. They said, the 1998 universal helmet law repeal in Kentucky and the 1999 repeal in Louisiana produced effects similar to one another. Observed helmet use dropped from nearly full compliance under the law to 50 percent range without the law. Motorcyclist fatalities increased in the near term by sizeable amounts, by over 50 percent in Kentucky, and over 100 percent in Louisiana. Now, believe me, motorcycle registrations didn't go up nearly, nearly that amount in either of those states in that time period. The rates of fatalities per registered motorcycle increased in both states following the helmet law repeals, plus 37 percent and plus 75 percent. The experience in Kentucky and Louisiana is also similar to what occurred in Arkansas and Texas, two other states that have repealed universal laws in recent years, 1997, leaving little doubt that such repeals have demonstrable negative safety consequences. The weight of the evidence is that helmets reduced injury severity, that repeal of helmet laws decreases helmet use, and that states that repeal universal helmet laws experience increased fatalities and injuries. I want to go back just a second to the GAO study, the federal government study. They at one point addressed what they called the myth that helmets impair hearing and sight. What they found was that normal peripheral vision in a human being is between 200 and 220 degrees. Federal safety standards require that helmets provide 210 of vision. Over 90 percent of crashes happen with a range of 160. In other words, they're pretty much in front of you. So it's clear that helmets do not affect peripheral vision or contribute to crashes. Hearing is not affected either, they concluded. Helmets reduce the loudness of noises, but do not affect the rider's ability to distinguish between sounds. The University of Southern California conducted 900 on-scene, in-depth investigations of motorcycle crash scenes, and could not uncover a single case in which a rider could not detect a critical traffic sound. Some studies even indicate that helmets are useful in reducing wind noise and protecting hearing. Down in Oklahoma...and you don't have to listen to all this if you don't want to, but I want you to know that these things are out there.

PRESIDENT SHEEHY: One minute.

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SENATOR BEUTLER: And there is value to information, and there is value to statistics. And it's coming to understand them and trying to make sense out of them that helps us make sense out of public policy issues. In Oklahoma, a study of motorcycle crash injuries conducted in Oklahoma in 1994 found helmets were 60 to 75 percent effective in reducing moderate, severe, and fatal head injuries. Nonhelmeted riders, compared to helmeted riders, were two and a half to five times more likely to suffer a fatal head injury; one and a half times more likely to require hospitalization, and associated medical costs were also higher; two times more likely to suffer a nonfatal head injury. Spinal cord injuries did not differ by helmet status.

PRESIDENT SHEEHY: Time.

SENATOR BEUTLER: It goes...

PRESIDENT SHEEHY: Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. I'd yield my time to Senator Smith.

PRESIDENT SHEEHY: Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. Again, I urge a bright red light on Senator Beutler's amendment. I believe the amendment is intended to harass the bill. And certainly, if he wants to go into a discussion of how to encourage the education requirements in a good faith effort to arrive at a compromise, that's fine. But so far, I have...I see no evidence to say that it's nothing more than to harass the bill. And I can appreciate a lot of the information that's being given. But we have to ask ourselves the question, why did the federal government get rid of the requirement of the states adopting helmet laws because of it being tied to highway funds? The feds got rid of that. Now, they...we hear about the General Accounting Office, the federal government, speaking up. And we have to take all that information into consideration. But again, to simply remove Section 7 from the bill, as Senator Beutler is seeking to do, gets rid of the compromise of, we'll

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grant you freedom as long as it's applied in a responsible fashion via the education and experience. Seeing Senator Jensen get probably more fired up about this issue than I've ever seen him fired up about any other issue is perhaps telling. But you know, I know that I call this freedom; he doesn't call it freedom. I will call it a restriction. And I think most people would agree that it is a restriction. Now, I've heard a lot of senators in here stand up and rail against restrictions. I've heard Senator Jensen rail against restrictions in committee, out of committee, and otherwise. And it generally has to do with the business world. And that's fine. He offers a business perspective, and maybe some of those restrictions affected him. I don't know. And that's fine if they did. But let's, again, stand back, take a good look at the issue at hand, throw aside the emotions. I'd ask you to throw aside any biases you might have, but that's humanly impossible. We all have a bias. I guess even though I don't ride a motorcycle right now, I'm biased in the opposite direction of most nonmotorcyclists. I hear the surveys that Senator Beutler cites. And there are a lot of surveys out there one way or another, and there's speculation, and there are price tags of injuries that are set by physicians and hospitals, with a bias, again. And Senator Jensen spoke well of the physician that chose to write me some letters that were, you know, less than professional. I asked him if he spoke up and represented...or, if he was indicating the position of Creighton University. He said yes, and I found out otherwise. So he was either misinformed or misleading, intentionally so. So let's just stand back, take a good look at all the issues, and find out that the biggest determiner of deaths is the number of motorcycles on the road. There are a lot of activities that are inherently dangerous, a lot of activities. Horseback riding, a lot of head injuries associated with horseback riding. Shall we try to mandate helmets on horses? Talk about cosmetic, Senator Jensen. We couldn't pull that one off, I'm sure. Do we mandate helmets on big wheels?

PRESIDENT SHEEHY: One minute.

SENATOR SMITH: Or if you really want to save lives, you'd ban tobacco altogether, ban saturated fat altogether. No. Let's step back. Let's allow the freedom and responsibility of

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individuals to prevail, because most of the time common sense will prevail. I can't say every single time. I can't say every single time, but I will say most of the time common sense will prevail. We'll have a lot of happy citizens out there. Because I certainly can't say that we've achieved lower taxes and lower insurance rates by having a helmet law on the books. And I would ask for information that could support otherwise. Again, I strongly urge you to vote against Senator Beutler's amendment, and we can move on to the subsequent amendments, and hopefully come to a vote today. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Smith.      Senator Howard, followed by Senator Mines.

SENATOR HOWARD:      Mr. Lieutenant Governor and members of the house, thank you. The unexpected happens. And you don't have to ride a motorcycle to know the devastation of the loss of a loved one or a family member. And having said that, I would like to offer the remainder of my time to Senator Beutler. Thank you.

PRESIDENT SHEEHY:      Senator Beutler.

SENATOR BEUTLER: Thank you, Senator Howard. I wanted to go on with these statistics a little bit. But I think we all understand that we're trying to find a balance here. Nobody wants to put helmets on everybody. Nobody wants to prohibit what is a dangerous activity, riding motorcycles. But we're trying to find a balance that honors freedom and individuality, but at the same time makes reasonable requirements, in order to protect, in a financial sense, society, to protect families, to protect the several different interests that are societal in nature, not the least of which are the kinds of devastating emotional costs that a family bears when a loved one is lost. Kids without parents are one of our most significant problems. But again, looking at the statistics, helmets matter. Helmets make a difference. And you know, as I think about this, Senator Smith offers very little in terms of significant statistics or information that would argue for his side. He argues with respect to the voluminous matters that are on the side of those who would require helmets that the information is not precise

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enough, that the information is not agreed upon. Maybe the correct course for this bill would be to adopt this amendment, to move the bill on to Select File, and then to gather up all the statistical information of one type or another, from one side or the other, and see if we can reach agreement on the facts, see if we can sort through all this information and agree upon what it means, and then act accordingly, or then come back to the Legislature next year with the information sorted through, and give a report to the Legislature on what we found, and let the Legislature decide next year whether they want to put a repeal of the helmet provision back in the law or not. We obviously are not going to reach agreement this year. I don't know if Senator Smith has even 25 votes, but he may have. But from what I've heard on the floor, he doesn't have much more than that. This is going to continue to hold up our agenda. I'm thinking that the best course is to take that helmet provision out, move the bill along, and give the Legislature and the legislative staff and the public time to get together and sort through the information and see...

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: ...where we really are on those issues. Because I do think that most of us, including myself, want to act on the facts. I am troubled by one set of information that Senator Smith has given us that I can't entirely explain. But even though I can't explain that, I see numerous other pieces of evidence that suggest the contrary. And so it seems to me that we shouldn't be acting on this bill, at least without further, additional, valid, tested, and considered information. If you feel like you have a lot of good information, I...you know, I think I would just ask that to every person that wants to vote on this. Do you really feel like you have adequate information to say that helmets should come off? I don't think you can say that, from what I've heard on the floor.

PRESIDENT SHEEHY: Time.

SENATOR BEUTLER: Thank you.

PRESIDENT SHEEHY: Senator Mines, followed by Senator Redfield

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and Senator Schrock.    Senator Mines.

SENATOR MINES:    Thank you, Mr. President.    I call the question on FA149.

PRESIDENT SHEEHY:    The question before the body is, shall debate cease?    Do I see five hands?    The Chair recognizes five hands.    The question before the body is, shall debate cease on FA149?    All those in favor vote yea; opposed, nay.    Senator Mines.

SENATOR MINES:    Call the house, Mr. President.    Oh, waive the house, waive the house.

PRESIDENT SHEEHY:    Please record, Mr. Clerk.

CLERK:    26 ayes, 6 nays to cease debate.

PRESIDENT SHEEHY:    Senator Beutler, you're recognized to close.

SENATOR BEUTLER:    Mr. Lieutenant Governor, members of the Legislature, let me simply remind you, first of all, what the amendment would do.    It would not take out of the bill any of the education provisions.    All of the argument today on the floor has been in favor of the education provisions.    I would certainly vote for this bill all the way through the process with its education provisions.    Those provisions can be nothing but helpful.    What it does take out of the bill is the one section that would take away the requirement to wear helmets.    Everything, almost everything, the large predominance of what is out there and what you have heard today, in terms of attempts to make meaningful information, to make meaningful information related to this issue, reaffirms what everybody's common sense would tell them, that some kind of helmet between the tissue of the head and the pavement is probably going to make some kind of difference.    Will it make a little bit of difference or a lot of difference?    We can argue about that.    But when people talk about commonsense legislation, I think that's what they're talking about.    Everybody understands that it can make some difference.    You have heard very little that would tell you it makes no difference.    And so I suggest to you, if this Legislature and what we do is going to be based on our

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intelligence and what our intelligence can make of the material out there in our world, the information that we have, if this is an information society, what good is the information if we don't use our intelligence to mold it in the best way that we possibly can? The information that's out there tells you that helmets help. If you vote for this amendment, then Senator Smith will obviously have the choice of moving this bill forward. Nobody would object to the bill with the education provisions in there. Then he can choose to take it through to Final Reading, and have a bill that does a lot of good with education requirements. Or he can hold the bill and we can sort through information and see what everybody thinks a year from now when there's been an opportunity to sit down together and pick out what means something and what doesn't mean something. And both of those alternatives are to the benefit of the Legislature, both in terms of getting to other legislation this session, and in terms of making an intelligent decision on this very difficult issue. And so I would recommend to you, for a variety of reasons, that this section be taken out of the bill, and that we move forward from that point on. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Beutler. The question before the house is, shall FA149 be adopted to LB 70? All those in favor vote yea; opposed, nay. Have all voted who wish to? Senator Chambers.

SENATOR CHAMBERS: I would ask for a call of the house and a roll call vote.

PRESIDENT SHEEHY: The question before the body is, shall the house be placed under call? All in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call.

PRESIDENT SHEEHY: The house is under call. All unexcused senators please report to the Chambers. All unauthorized personnel please remove from the floor. We'll have a roll call vote on FA149, for its adoption. Senator Smith.

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SENATOR SMITH: In reverse order, please.

PRESIDENT SHEEHY: Please record, Mr. Clerk. Senator Brashear, Senator Connealy, Senator Engel, and Senator Synowiecki. All members are present. The question is...please proceed with the roll call, reverse order.

CLERK: (Roll call vote taken, Legislative Journal pages 1221-1222.) 16 ayes, 25 nays, Mr. President, on the amendment.

PRESIDENT SHEEHY: FA149 is not adopted. The call is raised.

CLERK: Mr. President, the next amendment, Senator Jensen, AM1106. (Legislative Journal page 1140.)

PRESIDENT SHEEHY: Senator Jensen, you're recognized to open on AM1106.

SENATOR JENSEN: Thank you, Mr. Lieutenant Governor and members of the Legislature. AM1106 strikes Sections 6 and 7 from LB 70. Section 6 speaks directly to the changes made in our current helmet law. And Section 6 essentially acts as a harmonizer to that provision in Section 7. However, one other significant change that AM1106 addresses is training. I've heard from my colleagues, I've heard from all of you, that training is good, and we should promote more motorcycle training in our state. I happen to agree with that. Part two of the amendment, AM1106, will strengthen the motorcycle training requirements in Nebraska. Under this provision, individuals that are attempting to obtain a Class M, that's a motorcycle license, in Nebraska, will have to, one, successfully complete an examination, including the actual operation of a motorcycle; and two, present proof of successful completion of a motorcycle safety course within the immediate preceding 12 months. An examiner can waive these requirements if the applicant has had no traffic violations from the date of the applicant's Class M license that was last issued. What this does is ensure that those people riding motorcycles will have the proper license...or, proper training requirements. It's one thing to buy a motorcycle. It's another thing to know how to ride a motorcycle. And I've

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talked to individuals who have gone through training courses before. And as a matter of fact, one of them who's a friend of mine had a new Harley, and so he wanted to go through and take the proper course. And after he had taken the course--and, yes, he passed his license--and within a week, he sold his motorcycle. In other words, the training was more than what he anticipated, and also, the requirements of driving a motorcycle was more than what he anticipated. And if we are to have individuals riding motorcycles, I think the best thing we can do is ensure that they have the proper training. It's not all that strenuous to do. It requires a little time. And it's certainly...the safety factor does improve. And I don't think there's anybody that I've heard here today who said that training shouldn't be required, that training shouldn't be strengthened. And as a matter of fact, we heard that Iowa's training is better than what Nebraska's is. But I think if we had proper training, we would certainly also see fatalities, we'd see injuries drop. For those reasons, I would certainly ask your approval to AM1106. Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Jensen. We'll now recognize Senator Redfield, followed by Senator Schrock and Senator Schimek.

SENATOR REDFIELD: Thank you, Mr. Lieutenant Governor, members of the body. I am not going to support Senator Jensen's amendment, because, again, it strikes a portion of the bill. And I believe it's an important portion of the bill. It's interesting, in the discussion, you would think that LB 70 banned the wearing of a helmet when you ride a motorcycle in Nebraska. In fact, it does not. It says that if you have jumped through all the hoops and you've received the training and the license, that then the choice will be up to you. And if you're smart, you probably will still wear a helmet. If you're smart enough to take the course, you're probably smart enough to put the helmet on. I think the issue here is whether or not we actually think the people of Nebraska are smart enough to make a choice for themselves. If we don't think people are smart enough, then we're going to create all kinds of rules and regulations, and we're going to say, you can't do this and you

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can't do that, unless you do this, unless you do that, because in fact government is smarter than you, and we can make the decisions and tell you what to do. That's not what the bill does. The bill says that there are some choices to be made. There's a trade-off. I think it's a reasonable one. One of the things that is in Section 7 is actually another mandate--and I find that instructive, considering the discussion--and that is about eyewear. And if you adopt Senator Jensen's amendment, you will actually strike the requirement that says you have to be wearing the eyewear. And I'm going to give the remainder of my time to Senator Smith, because I can feel his comment...or, hear his comments in the back. And perhaps he can instruct me better on why eyewear should be worn and how that might help the safety of riders.

PRESIDENT SHEEHY: Senator Smith.

SENATOR SMITH: Thank you, Senator Redfield. And I want to point out that, currently, a helmet is mandated; not a full-face helmet, not a helmet that accommodates eye protection--a helmet, I think DOT approved, perhaps; those that are tested to a speed of...an impact speed of 14 miles per hour, less than 14 miles per hour. So very conceivably, we have a situation of an object coming into the eye of the motorcyclist and veering off into the other lane of traffic. But, hey, as long as they have a helmet on we're saving on insurance and taxes. Haven't quite seen the evidence of that and, hopefully, Senator Jensen can bring us more evidence of the savings over time, and where insurance companies have guaranteed this savings, and Health and Human Services perhaps hasn't asked for as much money, because of our helmet law. But when we look at the big picture, our current policy is lacking. And Senator Jensen wants to create more mandates, but not in exchange for anything reasonable. And I seek to offer the give and take along the way of the balanced approach, of restoring some freedom, or removing a restriction, as Senator Jensen may prefer to call it, and also saying, you know, you better have experience, have education, wear eyewear, be 21 years of age. We're talking about mandating responsibility here; obviously, we are. But I heard earlier where Senator Johnson talked about some statistics...

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SENATOR CUDABACK: One minute.

SENATOR SMITH: ...dropping in California 37 percent. Their registrations went down by 50 percent. They were reduced by 50 percent, their registrations were. So accidents and injuries are bound to be reduced, they're bound to fall by...when there are fewer motorcycles on the road, sure, there will be fewer accidents. If there are fewer vehicles, cars on the road, there will be fewer car accidents, fewer deaths due to car accidents. That's logic. Let's move forward with LB 70. It's a compromise. And we can make a large number of people happy, all across Nebraska. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Redfield and Senator Smith. On with discussion. Senator Schrock, followed by Senator Schimek and others.

SENATOR SCHROCK: Mr. President, members of the Legislature, I wasn't going to speak on this issue. But I thought, well, I'd just as well add my two cents worth. I do support Senator Smith. And when you look at the map, you see that Nebraska is about the only state that requires people to wear helmets. And there probably isn't a community in this state that wouldn't like to have an event like they have at the rally in Sturgis, South Dakota. And I do believe motorcyclists do avoid this state. I happened to be in South Dakota one weekend when the rally was going on. And we would love to have that many people come to Nebraska. Now, I believe it's not just Sturgis, South Dakota. They go there because of the Black Hills, also. But one thing that hasn't been brought up, I was successful a few years ago in sponsoring a bill on organ donors. And if we are going to have motorcyclists ride these motorcycles without helmets, why not make them carry a donor card? I carry a donor card. And there's always room for...we always need more body parts. There's a lot of recipients that could use body parts. And if we're going to allow people to ride...and I do support Senator Smith in this. But if they're going to ride a motorcycle without a helmet, let's make them carry a donor card. It just makes sense. We can harvest the parts. And for those

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of you who are so concerned about safety, where were you when we increased the speed limit on the interstate to 75? I can tell you this--I heard on this floor, time after time again, we're going to enforce it. It's going to be 75; it's not going to be any faster. Well, I can drive 75 coming to Lincoln, and half the traffic will pass me. And some of them aren't doing 76; they're doing considerably more than that. And I...supporting Senator Smith on this is a little different for me, because I've always supported Senator Byars on seat belt laws. So maybe it's a little different this time. But I do believe when you're 21, you make an adult decision that this is a decision you should make; the education. Give the people a choice, and they suffer the consequences. So for what that's worth, that's my opinion, and I'm going to continue to vote for the bill. Probably the reason I'm going to vote for it, because the ABATE people were the first people that talked to me when I came in the Legislature. And would I support a...it sounded like...it sounded okay to me, so that's why I support it. And they got to me first. So sometimes, if you want me to support your bill, if you're the first one to talk to me, you'll probably get my support. Because I go pretty easy with whatever direction the wind blows. And so that's where I am today. And thank you for your time.

SENATOR CUDABACK: Thank you, Senator Schrock. Senator Schimek, followed by Senator Landis.

SENATOR SCHIMEK: Thank you, Mr. President and members. Senator Schrock, Senator Jensen and I would like to go on record that we both voted against the 75-mile-an-hour increase. And...well, no, it wasn't a 75-mile-an-hour increase; it was an increase to 75 miles per hour. There are probably others in the body who are arguing on the safety aspects of this bill. But we at least wanted that in the record. I just turned on my light a long time ago. There are a lot of people who are certainly wanting to speak on this bill. I just have a few loose ends I wanted to tie up, and then I'd be happy to give the rest of my time to Senator Jensen or whoever wanted to use it. One of the things that I want to go back to is that committee statement, and the number of people...number of groups that came in on the bill. I don't believe that that's the total number of groups in

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support...or, in opposition. In fact, I want to recall your attention to the Jim Jensen list that came out earlier. Has 47 groups that are opposed to the helmet law. That...those are significant numbers, and they represent people of varying kinds of professions, mainly medical and insurance. But those are the people who should know. I'd also like to go back to that committee hearing. And I'd like to call your attention to a letter that I think you probably all got, I certainly got, from a doctor at UNMC, Dr. Stothert. And he mentions in the letter that at the hearing he did present the data within the state, as well as from across the United States, clearly indicating that allowing motorcycle riders to not wear a helmet significantly increases their risk of death and disability. He goes on to say that he strongly urges us to vote for (sic) LB 70, which, if passed, will result in the death of more individuals. And then he signs his letter, and he lists all his professional kinds of activities: professor of surgery at UNMC; director of trauma, University of Nebraska Med Center; medical director of the Omaha Fire Department; statewide medical director for trauma. I mean, this fellow is eminently in a position to know about these safety issues. But the clincher that does it for me is right at the very bottom of the letter, where it says, motorcyclist, 1994 to 2004. He is a motorcyclist, and he says that we would be making a large mistake if we pass this bill. With that, Senator Jensen,...you got your light on? With that, I'll return my time to the Chair. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Schimek.

SENATOR SCHIMEK: Oh. Oh, one other thing I forgot to mention, if I might, since I haven't used it up. I do wish to clarify, for the record, that when I was talking about Charleston, South Carolina, this morning, I wasn't talking about anything to do with the bikers themselves. I was talking about the loud amount of racket and confusion that all those motorcycles in town caused. And I don't want anybody to think that I have some kind of stereotypical picture in my mind of motorcyclists.

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: I know they come from all professions and from

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all walks of life. And I just don't want that left on the record the way it was. Thank you. Sorry.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, tempted as I am to call the question, perhaps the time isn't exactly right. So I'm going to use this opportunity to make about two minutes of argument. I think that a debate about sources and data is fruitless. Who can't tell that wearing a motorcycle helmet isn't safer than not wearing a motorcycle helmet? That is...now, in the very limited number of cases...and slow learner that he is, perhaps Senator Chambers is quick to say that he can't figure it out. I can figure it out. We all know that fact. You hit the curb with a helmet, you're going to have a little bit less damage than hitting the curb without a helmet. And is it going to cost money? Absolutely, it's going to cost money. Is there a social cost to danger and risk? Absolutely, there is. I think the body of evidence is essentially indisputable. I think Senator Thompson hit it right when she said, look, those things really aren't the controversy here. The question is how much we value, or not, the cost, the social impact of allowing the risk of the freedom to ride. For many of us, it's not great enough. That is to say, the cost is too great, the social impact on the rest of us is too great, the misery from those who are left behind is too great, the loss of life is too great; and for others of us, it's not. I'm going to come down on the side...as I seem to grow older, being more libertarian, and I'm going to come down on the side of stupidly exercised choice, again. The one little wrinkle I'm going to add is this, that this session we have been relatively quick at identifying the stupid acts of minorities to condemn. The majorities who don't smoke want the nonsmokers to take it someplace else. Now, we have a rule that's essentially the same thing as the helmet, and that's the seat belt law. And for those of us who are in the majority who drive cars, our rule is, you know, if we do it, it's not a real violation of the law until we do something else. For the rule for the majority, we get a king's X when it comes to telling us what to do. We've given ourselves a little place in our back pocket where, unless we're doing something else wrong, it's not really a violation of

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the law if we don't have our seat belts on. Because you know why? That would be telling a majority what to do, and we've given the majority a way out. Do we do the same thing for a minority of motorcycle drivers? No. We say, we'll be happy to tell you what you have to do. And it's an offense, no matter what happens. It doesn't make a difference if you're doing something else. You are in violation of the law, pulled over and ticketed, if you don't have your helmet on. We don't do the same for us when we're a majority, but we'll do it to the minority. It is a wrinkle that makes me uncomfortable in deciding when we will tell people what to do and when we won't, that we treat the majority better than we treat the minority, and that we don't seem to have a sensible principle going on back and forth, other than, we are generally treating majorities better than we're treating minorities. That makes me a little uncomfortable. That's one of the reasons that I'm going to oppose the Jensen amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Landis. Senator Baker.

SENATOR BAKER: Thank you, Senator Cudaback and members. I could substitute, I think, everything--and Senator Landis brought this up--substitute everything he said for alcohol, tobacco. If we want to save lives, we're nibbling around the edges here. We've got to be talking about alcohol use as a menace to society, tobacco, the health costs of tobacco use. Let's just ban those things. What we're talking about here is, we have a statute that, in my mind, is flawed. We've heard this bill time and again, and it keeps coming back. We have more people killed per registered motorcycle in Nebraska. And I don't want to argue the figures, but it's higher than the states around us, because we require no education. This bill is a compromise. Came out of our committee, the Transportation Committee. It's a compromise. I keep pounding on that. It's a compromise. If you want to put a strict education requirement and finally eyewear, protective eyewear was discussed, that's in the bill. Right now, if somebody is silly enough to go down the road without eyewear on, there's no statute says you have to have it. So we have that added in. The education requirements...after looking through the ABATE manual and so on, this is a comprehensive course, done on...and some of it,

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on...in training on motorcycles and so on. I think it's been repeated...I know it's been repeated a number of times, it's a good course. Right now, we have a problem with the statutes. If you want to get education in, though, I suggest that we allow some judgment, personal judgment here to those few people who will take the course, or those experienced riders who say, I don't want to wear a helmet, for whatever reasons. And there are reasons that we've heard over the years. It restricts your vision, restricts your hearing, it's hot, it may mess up your hair more than having nothing on. I don't know about that. I'm not worried about it, the hair problem. But right now, our statute is flawed. When you compare it with what's going on in other states around us with lower motorcycle fatality rates per registered motorcycle and so on, we have a problem. And I keep harping on education. We all agree education is a major issue in this bill. But if we're going to get education and stipulate that people take this course, then we're going to have to allow some flexibility afterwards. With that, I believe...well, I obviously do not support Senator Jensen's amendment. It...instead of striking Section...only Section 7 of Senator Beutler's amendment, it strikes Section 6 and 7, and all these other things. I don't think it would be wise to adopt that. We do have the eyewear in there. It would strike that from the bill, as I try to fit the amendment into the bill. I think that's an important facet of the bill, that we do require eyewear, protective eyewear, and so on. So I think in order to correct a wrong here, the statutes as they are now, no requirement of education, we're going to have to compromise. If you don't want education in the bill, fine, we'll probably vote the whole bill down. But I think that would be making a major mistake. With that, I would return my time to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. Mr. Clerk, items for the record, please.

CLERK: Mr. President, Senator Raikes, an amendment to LB 407; Senator Don Pederson to LB 673A. Senator Smith would like to add his name to LB 114 as coinstructor. (Legislative Journal pages 1222-1223.)

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And I do have a priority motion. Senator Byars would move to adjourn until Wednesday morning, April 20, at 9:00 a.m.

SENATOR CUDABACK: You've heard the motion of Senator Byars to adjourn, Wednesday morning, April 20, 9:00 a.m. All in favor say aye. Opposed, nay. Ayes have it. We are adjourned.

Proofed by: J. Hurlbut