

**APRIL 21, 2005**

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Roxie Sullivan, First Presbyterian Church, Falls City, Nebraska; Senator Heidemann's district, District 1. Pastor.

PASTOR SULLIVAN: (Prayer offered.)

SENATOR CUDABACK: We thank you, Pastor Sullivan, for being with us this morning. Appreciate your being here. I call the sixty-fifth day of the Ninety-Ninth Legislature, First Session, to order. Senators, please record your presence. 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: Just one item, Mr. President, a communication from the Douglas County Board of Commissioners. That will be on file and available for member review in the Clerk's office. That's all that I have, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to General File, 2005 senator priority bills, the Bourne division. Mr. Clerk, LR 8CA.

CLERK: LR 8CA is a resolution offered by Senator Schrock proposing an amendment to Article I by adding a new Section 28. The resolution has been discussed, Mr. President. I do have amendments pending.

SENATOR CUDABACK: Thank you, Mr. Clerk. Before we go on with amendments, Senator Schrock, would you like to take a minute to update us on the contents of LR 8CA?

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SENATOR SCHROCK: Mr. President and members of the Legislature, I did hand out a document yesterday that shows the initiatives that are being...that have taken place in other states. It's not the Legislature that's going to do something to this, it's the initiative process that we have to worry about, and well-intended people. And so that's why putting this in the constitution would stop that type of activity. And so you can take a look at it and see what's happening in other states, and it is our duty, I think, to remain vigilant. I would also say the constitution does not belong to the Legislature, it does not belong to the elitists of this state, it belongs to the people. And you know, if you want to criticize the constitution, there's a lot of things that have been put into it that maybe the elitist or the purist would say is not appropriate. But I maintain that it belongs to the people and the people have indicated to me that they want a chance to vote on that. And evidence says in other states when it's put on the ballot, it passes by 80 percent, more than any other ballot initiative or constitutional amendment put on any ballots in any states anywhere. This is the one that people want to vote on and they do so overwhelmingly in a high majority, and so I would encourage you to stay the course. We'll get through this and in November of '06, the people of this state will have a chance to put this in our constitution, and it will make it certainly more difficult for people who would oppose the type of activities that most of us grew up with, still enjoy and our families enjoy, would be preserved. So with that, I would close my...I would stop my remarks and turn my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Schrock. Mr. Clerk, first motion.

CLERK: Mr. President, the first amendment I have this morning, Senator Chambers, FA36. (Legislative Journal page 628.)

SENATOR CUDABACK: Senator Chambers, to open on FA36 to LR 8CA.

SENATOR CHAMBERS: Thank you, Mr. President, friends all, and I mean that sincerely. I'm pleased to be here this morning. The temperature is moderate. The air is moving in the Chamber. I believe my colleagues will be able to maintain attention for at

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least three or four minutes. But I came today to rescue the constitution, and my intent is to present material for the record. I am not going to persuade my colleagues to do anything different from what they intended to do when they found out this measure of Senator Schrock would be placed on the agenda for consideration. There are several hours available for debate, discussion, monologues, colloquies, soliloquies, whatever. And I decided to make use of this time that I can take to talk in detail and at length about the U.S. Constitution, make allusions to the Nebraska Constitution. The reason I'm going to take that approach is because far more has been written about the U.S. Constitution than all of the state constitutions put together. Most of them are pale reflections of the U.S. Constitution, and I say that because they have become diluted with so much nonsense, so much boilerplate, so much that represents the narrow parochial views of special interests that happen to have made a blip on the radar screen at a specific point in time in that particular state's history. Many provisions are in state constitutions which are found to be embarrassing by the people who live today. Jokes are made about them, little blurbs are put in the newspaper when they want to talk about the peculiarities of how people function. Warren Buffett had even written, when he was putting out one of his homespun notices or statements to his investors, how the Indiana Legislature had behaved in such an asinine fashion. You all know what the number for pi is, p-i, and you know what it represents. I'm not going to tell you. Read Buffett's document or look it up in the dictionary or hark back to when you were in high school. Because that number ends after the decimal point in digits that could go out eternally, the Indiana Legislature decided to simplify it, so they defined pi as the what is in front of the decimal point and, following the decimal point, the digit 2. The Indiana Legislature redefined pi. That shows the idiocy of legislatures and legislators. But before I proceed with my amendment which I will read into the record, I want to say something about former Senator Mossey and his latest problems. My amendment, after the word "hunting," would say "for a way to defend and protect the constitution of Nebraska from frivolous amendments that would clutter, demean and trivialize it." I would incorporate that into an amendment which is designed to do that very thing. And I would put that

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into this amendment that Senator Schrock is trying to add to the Nebraska Constitution so that it would be a self-condemning element, be a red flag to the public, notify them that they should read what they're being asked to put into their constitution, a constitution which is designed to exist beyond the fad of the moment, the concern of some politicians, apparently, who are going to be term-limited that if they don't vote for this thing, they may not be returned to the Legislature. Why should they even be here if they're going to demean, trivialize and clutter the constitution? That is my view. I said I was going to comment briefly on Senator Mossey's latest problems, ex-Senator Mossey. He was to appear in court on a motion his lawyer had made to suppress the evidence to be used in his drunken driving case, after which would follow the trial on that charge. Rather than showing up, he was in the hospital. Based on a report in the newspaper, he was driven to an unnamed hospital at an undisclosed location for a condition which his lawyer characterized as "an internal problem" but did not elaborate. It could be a mental breakdown, it could be an attempt at suicide, it could be a drug overdose, it could be an overdose from alcohol or a combination of alcohol and drugs. There is much speculation. When Mossey was still a member of the Legislature and campaigning for the office and receiving compensation from the state, I did a series of rhymes about him, and I explained that as long as he was a member of the Legislature and his conduct had brought such shame to the Legislature--by the way, he's now facing a felony trial on those drug charges. He had been placed in a pretrial diversion program by the Douglas County Attorney. Because of his status as a senator, because he was given consideration by the Douglas County Attorney, also a "Repelican" as was Mossey who was appointed by a "Repelican" Governor, Johanns, at the instigation of a "Repelican" Attorney General, Jon Bruning--all the "Repelicans" lumped and clumped together--I felt he was being given consideration based on his politics that would degrade the pretrial diversion program as well as the Legislature. As an aside but relevant observation, the "Repelicans" in Congress are saying they would agree to have Tom DeLay's investigation carried out by the Senate Ethics Committee if the Democrats would agree to weaken the rules so that the "Repelicans" could then cancel out the investigation. That's the way "Repelicans"

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are. They're self-righteous, they talk about the party for the family and all this nonsense, but when you look at their conduct, it's exactly opposite. I've been asked why no more rhymes have been written by me about Mossey, especially because of his drunk driving and all of these other calamities. I had made it clear that if he were not a member of the Legislature, I would have no interest in anything he did. He would just be a malefactor to be handled by the system. Since he no longer is a member of the Legislature, he has been dumped from the pretrial diversion program. To me, he is just an unfortunate, tortured, tormented soul, trying to find a way to survive. That is not the kind of person who is the subject of my rhymes. Now I might have an inkwell full of poisoned ink into which I dip my pen, but that pen is directed against those who are able to defend themselves, who have done and are doing bad things to harm others, and they're doing it of their own volition. Mossey is not in that category. I do not believe in kicking somebody who is down. He has taken himself off the face of my target. And if there are people who feel compassion for their fellow creatures who have stumbled, who have strayed, who have even deliberately sinned and placed themselves in a set of circumstances which are hellish, and if they believe in those kind of prayers that are uttered down here every morning, Mossey is one who should be a recipient of your prayers. You all have heard of him, even if you don't know him. Since he is a high profile individual, he is perfect to use as an...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...example to call attention of the people to him who claim to believe in all of these compassionate, religious bromides which I think are a lot of nonsense and hypocrisy. Nevertheless, if people believe those things make any difference, don't just say a prayer for the common foot soldier, think about your former colleague and toss some of those words his way. As I always say, they may not help but they shouldn't hurt. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA36. Open for discussion on that amendment. Senator Beutler, followed by Senator Schrock and Senator

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Chambers. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I have stayed out of this debate almost entirely up until this point in time, and I feel a little bit shamed by Senator Chambers, in the sense that I also don't believe that this should be in the constitution. And I ought to just at least get up a couple of times and explain why, so that's what I intend to do. The reason that I have not been speaking so far, I think, really has to do probably with the wrong reasons. The reasons are I like Game and Parks, I like all of the people I've met associated with hunting and fishing. I don't mind those activities at all. I engage in them myself. I think there's a lot of good family intercommunication that comes from joining in on these kinds of activities in various families. I think it's all...truly is a valued part of our heritage. I value it. But having said all of that, I don't think it is the type of right that rises to the level of the constitution. And when we start putting things like this in a constitution, all we do is invite others to come in and want other small rights to be put into the constitution. All we do is to invite litigation, to open up broad new landscapes for the lawyers to frolic in, and probably in the end it's all ineffectual anyway, because it's going to come down to the question of what is a reasonable restriction. So I want to go back and just outline why I'm against the bill and why, hopefully, you will be against the bill. And I think it's worthwhile to read the language of the bill again and to remind ourselves at the beginning of the debate exactly what it says. It's very short. It says: Fishing, trapping and hunting are a valued part of the heritage of the people and will be a right forever preserved for the people. And then it has the limitation: but subject to reasonable restrictions as prescribed by law. So you and I can make reasonable prescriptions...restrictions. Now this particular provision is sought to be put into that part of our constitution which we call the Bill of Rights. And in the Bill of Rights there are now about 28 or 29 provisions. But one of the most important provisions in the Bill of Rights is this one which says: The enumeration of the rights--that is, the rights that are being set out here--this enumeration of rights shall not be construed to impair or to deny others retained by the people, and powers

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not herein delegated remain with the people. So in other words, if there's not something in the constitution that says you can, for example, do away with hunting and fishing ipso facto, I think you have to read this to say that that is a power that remains to the people and is subject only to the police power of the state. Nowhere in the constitution does it give the government the right to do away with hunting and fishing unless it is a matter of the police power, and that when you get back to the police power then, the government has to have a rational basis. And what is a rational basis? Well, it's kind of the same as what's in the constitution for hunting, fishing and hunting, a reasonable restriction, restrictions that have a rational basis. So I would argue first of all that, basically, this is not at all necessary because all powers not enumerated in this Bill of Rights and not otherwise given to the government remain with the people, remain with the people. And throughout the constitution, there are little bits and pieces that indicate that hunting and fishing are important, that they're not going to be treated lightly. The right to bear arms mentions the lawful common defense; it also mentions hunting and recreational use. So,...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...recreational use is mentioned in that context. In another part of the constitution it says that the Legislature shall not pass local or special laws in any of the following cases, and it explicitly sets out the protection of game and fish. So you can't make special laws or local laws in that particular area. So the first main point I wanted to make to you is that this is, as far as I can see, in the constitution. Hunting and fishing and trapping are a right retained by the people and are, as such, protected by the constitution against the power of the unrestricted power of the state. So that is...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...the first reason why I would be against the bill. Thank you.

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SENATOR CUDABACK:      Thank you, Senator Beutler.      Further discussion, Senator Schrock followed by Senators Chambers, Kopplin, and Landis.      Senator Schrock.

SENATOR SCHROCK:      Mr. Chairman, members of the Legislature, Senator Beutler, I appreciate what you're saying. I would like to remind this body that one of the states of the 50 had the wisdom to put this in the constitution over 200 years ago, and it was the state of New Hampshire. I'm...they put it in their original constitution. And in light of the fact that we have people throwing paint at people who wear furs, and you have this radical element out there that will stop at no ends to try and detract what we have been doing for over a hundred years in this state and 200 years in other states, I think it's right that we send a message, give the citizens of the state the opportunity to have a say on this issue. PETA, yes, they do intend to stop what we're doing. And it's interesting that they are now engaged in the practice of trying to affect people who are elected to the board of this Sierra Club and they're trying to turn the Sierra Club against this type of activity. And I guess there are people on the Sierra Club that are rather concerned about this. And I am not one who necessarily agrees with what the Sierra Club does all of the time. Matter of fact, I probably would disagree with them most of the time. But it concerns me when there is trying to be a takeover in an organization like this by a radical organization like PETA. And people who will throw feces in your face when you're trying to attend a convention at a Pork Producers Association in Iowa, do anything they can to disrupt agricultural activities, hunting activities, they are here, and they had the audacity to ask the Governor to stop fishing on the channel catfish in this state, something you or I or anybody else, Senator Beutler, would be ashamed to do. I'm not afraid of the internal body here. I think we need to be more concerned about the petition process and what some well-intended people who don't understand what's going on in this state would try to do in the future. And I'm not concerned about this is going to happen next year, but I think as time moves on and we all have this "Bambi" attitude towards our wildlife, that this is going to become more and more real. And so that's the reason I have brought this to the body. I have brought it at the request of the sportsmen's associations

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in this state. About 130 organizations have endorsed this, are part of the sportsmen's associations, and I would remind the body that Farm Bureau and the Cattlemen's Association have both discussed this in their annual meetings and have passed resolutions in favor of what we're trying to do here. So, Senator Beutler, you're an attorney. I appreciate what you had to say. I respect that. I don't think this defiles the constitution. I think it's something very appropriate. It's been done in other states, and it's going to be done more and more as we are up against people who are not reasonable, people you can't work with, you can't reason with, who would come out here and disrupt what we try to do. And as I told you yesterday, we were the 49th state to pass an anti-hunter harassment bill. Are we going to be the 49th state to put in our constitution the protection for the hunting and fishing and trapping of this state? I hope we're not the 49th state. I'd rather see us somewhere in the teens. And so with that, I will...that will conclude my remarks.

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

SENATOR CHAMBERS: Mr. President and members of the Legislature, be still, Belevedere...okay. Members of the Legislature, this is another Belevedere, a black-tailed prairie dog. He is well trained, he is very polite and obedient. In fact, he will not even move unless I provide the motive force. There is one of his kind moving on a keelboat that has to do with the Lewis and Clark celebration. Senator Loudon has put, he hopes, all of Belevedere's relatives on a Nebraska "killboat," k-i-l-l. These lovable, delightful creatures are to be destroyed. But what I'm dealing with today is the constitution of Nebraska which, contrary to what Senator Schrock continues to say, is going to be sullied. I said yesterday and I've said it before, there are things currently in the Nebraska Constitution which ought not to be there. But to make better the state constitution, similar nonsensical things ought not to be placed there. Senator Schrock talks about some people and said they would throw feces at somebody who is wearing furs or wants to attend some kind of convention. He totally ignored these antiabortion people who are "Repelicans" and Christians who murder doctors, who put on

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the Internet the names of doctors with a recommendation and suggestion that they be murdered also. He doesn't even talk about that because he agrees with their particular philosophy. There are all kinds of violent things abroad in the land being done to human beings and he wants to talk about protecting trapping, fishing and hunting, which is not a matter that is threatened or menaced in this state. Senator Schrock,...I don't see Senator Combs so I will address this to Senator Schrock, not as a question. Senator Combs had asked if those people at the Constitutional Convention were faced with the existence of organizations such as PETA, would they have laughed as they did when a nonsensical provision similar to this was presented to them for inclusion in the U.S. Constitution. She said she didn't think so. Well, what Senator Schrock and Senator Combs ought to be doing, if they see this as such an ominous threat to their way of life, their culture, their traditions, let them get the Legislature to pass a resolution petitioning Congress to convene a convention to amend the U.S. Constitution to put this there. But you know why they won't do that? Nebraska would be held up as such an idiotic, stupid, "hickified" state that they even know it and will not do it. I can hear the talk shows, although I don't listen to them, figuratively speaking, Nebraska, the home of football and nothing else now want to try to amend the U.S. Constitution to protect hunting, fishing and trapping. What do those rubes have to do? They need a life when football is not...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...in season so they won't come up with such nonsensical things. They could do that but they're not going to. They're not that foolish. And Senator Schrock might let these hunters and anglers and others ask this Legislature to be foolish, but he's not going to put himself in a position to be ridiculed and mocked throughout the country, and he knows that's what would happen, so you won't see him doing that. I'm going to go into more specific detail on my amendments as time wears on because we have plenty of it. But there are digressions I must make to comment on statements made by those who support this thing that constitutes LR 8CA. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Senator Chambers. Further discussion, Senator Kopplin.

SENATOR KOPPLIN: Senator Cudaback and members of the Legislature, I love to fish. I've been enjoying the streams and rivers of Nebraska since I was just a youngster. It's not so much the catching of the fish, I love the isolation, the bright pink of the morning sky, the mist on the waters. I love the anticipation, that wonderful orange of a setting sun. I never had a dad, so an uncle taught me how to fish. Our equipment was no more than a hook and a bobber on a line that we tied to a branch we cut off the tree, but that's good enough to catch bullheads. We fished because we enjoyed it. We fished because sometimes the only food we had was what we caught. And while we fished, he taught me many things. He taught me to love the earth and he taught me to respect life. And when I turned 16 and started to hang around with Mary Lou, I taught her to fish. She says it was either go fish or stay home. But she came to love the sport, and I remember with great fondness and pride watching her pull master angler drum out of the Missouri River below Gavins Point Dam. And I taught my children how to fish. We spent many hours on the banks of the Nemaha in Johnson County. We'd watch the wildlife, we'd talk, and we'd catch a few catfish. And I taught my grandchildren how to fish. The thrill of watching a child wrestle a four or five pound carp out of a lake stays with you a long time. And when I see my 16-year-old grandson leave in the boat with his dad to try to tease a few bass out of the brush, I'm thankful, thankful that he's fishing and not doing one of the other hundred things that teenagers get in trouble for. Last summer I went to my camper one day and there was my rod and reel at the door. It had the biggest old tangle in it you ever saw. It seems my five-year-old granddaughter had a few problems with it when she was fishing for bluegill off the dock. She wouldn't let her daddy take the tangle out because her grandpa knows how to fix these things. And I'm looking forward to teaching my two-year-old grandson how to fish. I think I'll take him maybe to Two Rivers or someplace like that and help him catch a trout or two. And while we're there, I'll teach him to respect the water and I'll teach him to leave the place cleaner than when we got there. There are those who would like to see experiences

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such as mine end, people who don't understand relationships, people who don't understand nature, people who will spend all afternoon protesting my fishing but then turn around in the evening and plop down \$35 for a \$3 piece of red snapper. Do we need a constitutional amendment to protect these experiences? Probably. How else are old guys like me supposed to protect our interests? Will it mess up the constitution,...

SENATOR CUDABACK: One minute.

SENATOR KOPPLIN: ...defile it? I don't think so. The constitution already says people can own and carry a gun to...for hunting and recreation. This amendment simply says they can use it. And if you're going to have that in the constitution about hunting, why not fishing? But then, this isn't about the actual amendment, this is about moving this bill along so that people can express their opinions. It's time to do that. Let's let the people vote. Thank you, Mr. President.

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

SENATOR LANDIS: Mr. Speaker, members of the Legislature, kind of a quiet day today, not much going on. It's a nice quiet period and it allows it to have a reflective speech like Senator Kopplin just gave us, with a little bit of poetry in it in its imagery. I was thrilled with that. Thank you very much, Senator Kopplin. The known evil that we are confronting with this is a self-described by Senator Schrock radical element. For the radical element to succeed, they would have to overcome this body. They would have to persuade the 49 of us to do a radical thing. Let's look up at that vote board. Senator Hudkins, being persuaded by crazy nudnicks that they wanted her to do some radical things, or Senator Burling or Senator Erdman, Senator Synowiecki, Senator Stuthman. Tools of a radical element? I doubt it. I'm looking up there on the board and I'm saying, well, except for two or three of us, I can't think of very many other people that they could...you know, that there are possible votes up there that they could think we might just crazy enough to go for it. I'm sure I'm on the short list. But it is a pretty darn short list. And the majority still rules, which means that if these elements were to have any success,

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they'd have to persuade a majority of us to go along with it. I just don't see that having any possibility in the living memory or future that I can imagine in this body. It is so remote. I will tell you an area of law, however, that I wouldn't want to make more difficult, and that this language might. There is a potential clash between fishermen and hunters and landowners, in the area of trespassing, in the area of easements, in the area of the management of habitat perhaps, in which it is possible that the continuing oversight of what the hunters' rights are and what the landowners' rights are would be the kind of thing that this body should be called upon to decide. I wouldn't want to complicate those problems by adding a constitutional provision that somehow trumps or could be argued to trump the right of landowners or property owners. And that is the kind of thing that this body would want to be able to have. By the way, I see no failure in what we've done so far to protect the fact that this is still trespassing if you don't have the consent of the landowner. That's our current status right now. I think we had a recent example up in, was it Fremont? Where in the search of morel mushrooms just a weekend ago we had a discharge of a firearm because of people coming onto property, out searching for mushrooms against a previously posted area that said, no trespassing. I mean, we do have these conflicts of rights in which, perhaps, the Legislature might want to have a voice and we might not want to make more complicated by this situation. So here's how I look at the whole situation. The fear...what it is that I think the proponents of this bill fear is incredibly unlikely. And the biggest wall from ever happening is the existence of this body and hopefully the sense of this body as to what is a radical idea. I don't foresee a body populated by such folks as Senator Kopplin going to make a significant change. However, there is a body of law that we do have some experience with which may need our continuing oversight that we don't want to have made more difficult by a constitutional provision like this, and that is parsing between the rights of landowners and hunters and fishermen. And so, I think there's almost nothing to be gained since I think the Legislature can...

SENATOR CUDABACK: One minute.

SENATOR LANDIS: ...control the radical element and is not

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likely to fall into their clutches. And yet, I think there is a downside risk about a real need for ongoing continuing legislative oversight in the relationship of hunters to landowners, something that we should be able to have our fingers and pulse on and be able to act on without unintended consequences of an unnecessary amendment. I'm going to vote no on the amendment because I think it's frivolous, and I'm going to vote no on LR CA...8CA.

SENATOR CUDABACK: Thank you, Senator Landis. Further discussion, Senator Schrock.

SENATOR SCHROCK: Mr. President, members of the Legislature, Senator Landis, I do have to respond. The constitutional amendment that I am proposing creates a higher standard, and it's not the body, it's not this legislative body that I'm concerned about now, 10 years from now or 20 years from now, it's the petition process. And they will not start with hunting and fishing. They will start with trapping and they will start with archery hunting. And is the threat real today? Probably not. But I think now is the time to put it in the constitution. Is it urgent? No. But let's do it before it's urgent. And so...and I don't think this impairs the property rights of any person out there who owns land, but this does create a higher standard for someone who would want to circulate a petition and put a proposal on the ballot, and in this case let's say to ban trapping or to say we don't want people shooting deer with bows and arrows. Archery is a pretty popular sport in this state, for those of you who aren't aware of it. So I do think it's prudent, we need to be vigilant and we need to do this. So, Senator Landis, I respectfully disagree with your assessment of what takes place. I would agree with you, it's not this body 10 years or 20 years from now that I'm afraid of. It's the well-intended petition process that misunderstands the situation, and we have...if you saw the handout I gave you yesterday, and if you don't have it, I will furnish you with a copy and you can see what has been attempted in other states. And that's what I don't want to happen in this state. And so, with that I'll conclude my remarks. Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. Senator

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Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I want to ask Senator Schrock a question before I begin. Senator Schrock, how would putting this into the constitution set a higher standard that must be met by people circulating a petition to do away with hunting, fishing and trapping?

SENATOR SCHROCK: Well, the courts would have to take a look at the petition and see if it would be in a conflict with this constitutional amendment that's part of the constitution. And...

SENATOR CHAMBERS: Senator Schrock, are you aware that a petition can have the purpose of repealing a provision of the Nebraska Constitution, and it doesn't have to meet a higher standard? If it is in conflict, then it's clear that the intent is to repeal the existing part of the constitution, and that's what will be done. Were you not aware that a petition can be used to repeal a provision of the Nebraska Constitution?

SENATOR SCHROCK: Senator Chambers, this would not change that.

SENATOR CHAMBERS: Right. So why is the Legislature doing this? First of all, you're not worried about the Legislature. If you put this in the constitution, a petition drive by these radical groups, if they got enough of the public to agree with them, could wipe it out of the constitution anyway. Isn't that true? Isn't that true? That's all right. I won't ask him. He's getting advice from somebody who doesn't apparently understand what the processes in Nebraska are, so I will just make assertions. And I know what I'm talking about. I even had a letter from a Supreme Court judge that certifies my knowledge, although if people were aware of history and these things themselves, they wouldn't need certification from anybody else. Their own information and understanding would tell them. If people get enough signatures to put a proposition on the ballot to repeal a part of the Nebraska Constitution, that proposition will go onto the ballot. If the requisite majority of voters vote in favor of that proposition, it will repeal the part of the constitution it was aimed to repeal and replace it with

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something else or simply repeal it. The Nebraska Supreme Court has pointed out that...well, I'm not even going to waste my time going into all that. But to touch on something Senator Landis brought up about conflicts between the rights of hunters, anglers and trappers and the rights of landowners, if Senator Schrock and certain other people from the western part of the state who don't read the constitution, don't read history and get advice from people who don't do either one, they would have seen that in this provision that was mocked by the delegates at the first Constitutional Convention that was going to write the U.S. Constitution, this is language that they put anticipating what Senator Landis saw as a problem and they did, too. It would have affirmed that Americans would retain the liberty to fowl and hunt in seasonable times and on lands, first of all, that they hold, and in like manner to fish in all navigable waters and others not private property. They put into their ridiculous provision the requirement that private property rights be respected. That is nowhere in this provision that is being offered. Senator Schrock accepted it from some nut up in Minnesota, and because they accepted it up there, he thinks it ought to be accepted here. There are very real conflicts that would arise between property owners and hunters. The animals on that property belong to the state. The constitution will have said...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...those who hunt will have the right to do so, so they can go on property where these animals are if they have a license from the state to hunt them. And they don't need the permission of a property owner because the constitution gives them that right. Senator Landis is absolutely right in his analysis. And if, instead of dismissing things that they don't like, Senator Schrock and others had looked at this information I gave them from this book called Original Meanings, they would have seen that when such a proposition was presented before, even though it was laughed to scorn, they at least had tried to draft it in such a way that private property rights would be respected, which is not the case under this proposal that exists in LR 8CA. And I don't know whether Senator Howard is going to get into the fray, but if she'd give me some of her

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time, I would appreciate it.

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

SENATOR SCHROCK: Senator Chambers, if this is put in the constitution, it creates a higher standard that people have to come...overcome to be...and I wouldn't say it couldn't be overcome. Anything could be done. But I do have to respond to the "nut from Minnesota" comment that you made, and I assume you're referring to Fred L. Morrison who is considered the author of the constitutional amendment in Minnesota which was the first one put on the ballot. I just have to tell you that Professor Morrison received his AB degree at the University of Kansas, his jurisprudence and MA degrees at Oxford University, his MA and Ph.D degrees from Princeton University, and his JD degree from the University of Chicago. He has been both a Rhodes scholar and a Fulbright professor. And I think referring to him as a nut probably...who is considered the author of the situation up in Minnesota is probably inappropriate. I will tell you this. You and Senator Landis and Senator Beutler are probably considered much more intellectual by this body and by the citizens of the state than I am, but I don't think you could...I don't think your comments about Professor Morrison, who I think could probably go toe-to-toe with any of you if he were here, and certainly I'd like to have him here and have him explain some of these things to you, would work. And so, it becomes a question of opinion, and so if you would like to have his bio, I will make a copy of it and give it to you, and the reasons he thought it should be an appropriate part of the Minnesota Constitution. So with that, I would give the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Schrock. Further discussion, Senator Howard.

SENATOR HOWARD: Thank you, Mr. President and members of the body. I have a great deal of respect for the constitution of our great state, and I would like to have more reflection on this, so I would like to offer the remainder of my time to Senator Chambers. Thank you.

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SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, "Lady Howard." Mr. President, friends all, I know how to make my colleagues rise to the bait, and since we're talking about fishing, that's appropriate. And one of my colleagues sitting in the front row on the far right-hand side will be aware of what I'm talking about because he had kind of raised that issue this morning back here in the "culture corner." Senator Schrock, I did not give the name of anybody when I used the term "nut." If I give a description and Senator Schrock applies it to somebody, he must feel that that is the person to whom it ought to be applied. Did I call the name of anybody? No. But let me show you why I did that. Senator Schrock and others have talked about PETA, animal rights groups and use very disparaging, derogatory terms about them, accused them of all types of inappropriate shameful behavior, and they think that's all right. But then when I mention, give a description of somebody who doesn't live in this state, he's going to take issue with that and feel it's inappropriate, after he is one of the ones who has defamed an entire group of people who might have to...happen to belong to an organization and not agree with everything that the organization does. So he and his ilk can give it but they can't take it. Hunters are used to being the ones with the guns, doing the shooting, and the victim never shoots back. So my purpose was accomplished this morning. I now know the name of a nut, which name I did not apply. But let me get into what we're talking about here. There was something else that Senator Schrock had commented on. He said that he does not find an urgent need to do this. If Senator Kopplin was an educator, and I think that's what they said that he was, he certainly learned somewhere along the line that the constitution should not be changed for light and trivial reasons. If the educators don't know, how do we expect the children to know? When they jump into this rough-and-tumble discussion, they're going to get their comeuppance and they're going to have issue taken with what they say. He can go out and fish with whomever he wants to. He can untangle as many lines as he chooses. He can talk about anything he wants to to his grandchildren, his children or children in the neighborhood who want to learn how to fish and he is able to teach them. He can

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do all of that. That is not going to be touched. He knows it. And if he didn't, Senator Schrock told him there's no urgent need to do this. So after having acknowledged that there's no urgent need, how can you argue that there is a rational basis, then, or a plausible reason to put this into the constitution? There is no imminent danger. There's no impending harm. We have people who want to cheese up to certain groups and organizations who might participate in political campaigns, and Senator Schrock made that clear yesterday and today. And for that reason, the constitution is to be trivialized, cluttered and befouled. That's what is designed to happen. They can prettify it any way they want to.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Now they might stand on the floor next time and try to bring themselves into the modern century by saying, we're not trying to prettify the constitution, we want to give the constitution of the state of Nebraska some "funkification." We want to "funkify" the Nebraska Constitution. It still will be nonsense. I thought I was listening to Garrison Keillor when I heard Senator Kopplin. So what he gave as a homily was very interesting, but it was totally irrelevant to the merits of what it is we're talking about. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion. Senator Beutler on the Chambers amendment to LR 8CA.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I'm going to be a little bit technical again, but I think it's important technical things, and then I want to move just to some of the practical questions a little bit. But I spoke earlier of Section 26 of the Bill of Rights which indicated that the enumeration of rights that is within our current Bill of Rights is not to be construed to impair or deny others that are retained by the people but not mentioned in the Bill of Rights. And then it goes on to say, and I remind you of this again, all powers not herein delegated remain with the people. So government just can't go out and end the right to do this, the right to do that, all of the rights that we have. They have to

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have a...it has to be a valid exercise of the police power. It has to be rationally related to a legitimate government purpose. It is not a legitimate government purpose to take a right away from the people without some rational basis. And if you cannot now take a right away from the people without some rational basis, isn't that exactly the same thing this amendment is saying, that you can't regulate hunting, trapping and fishing except reasonable restrictions? I mean, to me that gets down to and points out the utter lack of necessity for this provision and the suggestion that maybe you get to the same end anyway. You get very close to the same end anyway. But what's concerning about it is that you already have this in the constitution, yet you're putting additional language in, which will be confusing, and which will cause lawyers to look at this provision and possibly instigate lawsuits, more lawsuits, more litigation, based on this language. And, Senator Schrock, just to get into the record, I'd like to ask you some questions about this language "reasonable restrictions," what are "reasonable restrictions, if you could respond.

SENATOR SCHROCK: Yes, Senator Beutler. What is the question?

SENATOR CUDABACK: Senator...

SENATOR BEUTLER: Let me start out with this question. Is there any current restriction in law or any type of restriction, either by statute or by rule and regulation, that is currently unreasonable?

SENATOR SCHROCK: I don't believe there is, Senator Beutler.

SENATOR BEUTLER: Okay. So wouldn't...it's not your intent that this would be the basis for contesting any existing rule or regulation or law?

SENATOR SCHROCK: Absolutely not. And I think those decisions are best left to probably this body but, more importantly probably, the details, to the Game and Parks Commission.

SENATOR BEUTLER: Okay. But isn't it true, with respect to all of our existing laws in the Game and Parks area, that if any

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particular individual thought the duck hunting season was too short or the pheasant season was...deer season was too restrictive in one area of the state or whatever, they could come in and argue with respect to anything in current law, that it's not a reasonable restriction under the constitution? Isn't it opening up all of our laws to this argument?

SENATOR SCHROCK: I don't believe so because it states that it is subject to reasonable rules and regulations. I don't think we open that up. I think that's...

SENATOR BEUTLER: Well, in your opinion, there's no current rule or regulation, and you don't intend it to apply to any,...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...but it is the kind...but you are putting it in the constitution.

SENATOR SCHROCK: And anybody can.

SENATOR BEUTLER: So somebody could argue that something currently is not reasonable. Isn't that the possibility?

SENATOR SCHROCK: That's a possibility. Anybody can bring litigation, Senator Beutler, on any ridiculous point they want to make.

SENATOR BEUTLER: Sure, sure, but you don't want to give them a basis for bringing litigation if it's not necessary. Wouldn't you agree with that?

SENATOR SCHROCK: It's the other side I'm worried about, not the side you're referring to.

SENATOR BEUTLER: Okay. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. (Visitors introduced.) Senator Beutler, and this will be your third time, Senator.

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SENATOR BEUTLER: Senator Schrock, let me explore a little more if I could, the whole idea of reasonable restrictions and a valued part of our heritage. Again, the amendment reads: Fishing, trapping and hunting are a valued part of the heritage of the people. So if we pass this law in the year 2005, we're making the statement that these things are today a valued part of our heritage. Right?

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: That is correct, Senator Beutler.

SENATOR BEUTLER: Okay. It may or may not be true that in the year 2050 it would be...it may or may not be a valued part of our heritage. Right?

SENATOR SCHROCK: I would say it would be a valued part of our heritage, but you can disagree with me on that.

SENATOR BEUTLER: Well, who knows?

SENATOR SCHROCK: Yeah, who knows?

SENATOR BEUTLER: I mean, it wasn't a valued part of our heritage that women voted in the year...when Thomas Jefferson was president. Right?

SENATOR SCHROCK: No, but we changed that.

SENATOR BEUTLER: Now, it's a pretty valued part of our heritage.

SENATOR SCHROCK: I would say, yes.

SENATOR BEUTLER: Our values change dramatically from time to time, even on such essential things as the right to vote. Wouldn't you agree?

SENATOR SCHROCK: And the constitution changes.

SENATOR BEUTLER: All right. So it's quite conceivable with

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regard to trapping, for example, that it may not be a valued part of our heritage in the year 2050. Wouldn't you agree?

SENATOR SCHROCK: Reasonable people could disagree on that, but I would probably say I would think trapping would still be...I would think it could still be a valuable part.

SENATOR BEUTLER: Okay. But you would at least admit theoretically in the year 2050 trapping may not be a valued part of our heritage.

SENATOR SCHROCK: And maybe there's some kind of technology that would replace that. I don't know.

SENATOR BEUTLER: Okay. Now we move on to the part that says "reasonable restrictions." Are we determining what's reasonable today in the year 2025, or are we going to determine what's reasonable to the people who live in 2050 and whose values, let's say hypothetically, they do not any longer value trapping? Reasonable in whose mind?

SENATOR SCHROCK: I would say in this case the Legislature would have control over what's reasonable and what isn't reasonable.

SENATOR BEUTLER: Okay. So you would say that in the year 2050, if 80 percent of the people didn't like trapping, that it would be a reasonable restriction on the part of the Legislature at that time to prohibit trapping entirely? Wouldn't you agree?

SENATOR SCHROCK: I would say that it's a slippery slope that we start there and we...and then we go with hunting and then we go with archery hunting and on down the line. That's the slippery slope that I think those of us who enjoy this type of activity are somewhat afraid of.

SENATOR BEUTLER: Okay. But I...I appreciate the consistency of your thought, and part of what you're saying is what is reasonable is what the people of the state believe at a particular point in time. Is it not?

SENATOR SCHROCK: That's true. And I would say the people of

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European ancestry probably started to settle this state about 150 years ago, and I would say trapping was an important part then. I think it still is. I think it's still viable.

SENATOR BEUTLER: Okay. Well, let's say trapping in 2050 was not a part of our...was not what people thought was reasonable at that point in time. What about the year 2025? If they thought that in the year 2025, would it be okay for the Legislature to prohibit trapping altogether?

SENATOR SCHROCK: I'd say there's going to be some people out there that are going to be very concerned about that. And the problem is...

SENATOR BEUTLER: But I'm just saying hypothetically. If in fact the people in 2025 thought that trapping...a strong majority of them thought that trapping was inappropriate for our civilized point...at that civilized...at that point in time for civilization, whatever we define civilization to be, and I'm obviously...

SENATOR SCHROCK: And then I'll answer that with a question, and then let's say 2050, they determine that hunting is not a reasonable activity.

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: One minute.

SENATOR BEUTLER: Well, let's answer the questions first and then I'll answer your question, Senator Schrock.

SENATOR SCHROCK: All right.

SENATOR BEUTLER: In 2025, 80 percent of the people are against trapping. Can the Legislature reasonably prohibit trapping altogether?

SENATOR SCHROCK: I have concerns, if that's the case. You know, they tried to pass...

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SENATOR BEUTLER: Well, in the year 2050, it was okay, but in the year 2025, it's not okay?

SENATOR SCHROCK: I don't think those...I don't think things change that quickly, Senator Beutler, but they do change, I would admit to that.

SENATOR BEUTLER: Okay. You're...so what you seem to be saying is that you don't think you could change that fast by 2025, but if it did, that would still be...that would be reasonable in the view of the Legislature.

SENATOR SCHROCK: Then there would have to be something put on the ballot to change...

SENATOR JANSSEN: Time. Senator Howard, your light is on next.

SENATOR HOWARD: Thank you, Mr. President. I would like to offer my time to Senator Beutler if he would like that.

SENATOR JANSSEN: Senator Beutler.

SENATOR BEUTLER: Thank you, Senator Howard. All I'm trying to explore, Senator Schrock, and I'd like to continue this conversation with you, is the difference between...is the relationship of values to our concept of reasonableness and how that might change over time. Let's say instead of fishing, hunting and trapping being a valued part of our heritage, that it said football, baseball and boxing. First of all, would that be...would it be a reasonable addition to our constitution to say football, baseball and boxing are a valued part of the heritage of the people?

SENATOR SCHROCK: Senator Beutler, when this...

SENATOR BEUTLER: I mean, the answer to that so far is yes, isn't it?

SENATOR SCHROCK: I don't agree with you there. I don't think the answer is yes.

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SENATOR BEUTLER: Pardon me?

SENATOR SCHROCK: I don't...football, baseball and boxing?

SENATOR BEUTLER: Well, do you want to put basketball instead of boxing?

SENATOR SCHROCK: No, no, no, no. I don't agree with putting that in the constitution, to be quite honest.

SENATOR BEUTLER: You wouldn't agree with putting that in the constitution?

SENATOR SCHROCK: I don't think so, Senator Beutler.

SENATOR BEUTLER: Well, does Senator Kopplin...I mean, for myself, even though I enjoy hunting and fishing as well as going to the Husker football games, probably in the last few years I've spent more time with my kid going to the football games and the before and after than I have hunting and fishing, and so I would say a more valued part of my heritage is going to Husker football games. Now, why is it that that's not as valuable...in fact, I think if you ask the people of the state what was a more valued part of their heritage, they would...they might well outvote hunting and fishing in terms of...in exchange for football, basketball and baseball.

SENATOR SCHROCK: I think you underestimate the people in the state of Nebraska, Senator Beutler. I don't think they would do that.

SENATOR BEUTLER: You think they would vote for hunting, trapping and fishing over baseball, football and basketball?

SENATOR SCHROCK: Well, I don't think they feel the...

SENATOR BEUTLER: Do you think it's close?

SENATOR SCHROCK: Oh, I think they're both in...I think they're equally important to a lot of people, but I don't think people feel like those activities are being threatened.

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SENATOR BEUTLER: Well...

SENATOR SCHROCK: Now if you're...now boxing might be a little different because there's that move probably to ban boxing because of head injuries and because of...and so on and so forth, and it's considered to be violent.

SENATOR BEUTLER: But if they're being threatened, it doesn't make any difference if we're using the reasonable standard, does it, which we're using already?

SENATOR SCHROCK: I'm not quite tracking here with you here, Senator Beutler.

SENATOR BEUTLER: Okay. Your rationale for having fishing, trapping and hunting is because they are more at risk than football, baseball and basketball. Is that the reason that you've chosen to put these in the constitution?

SENATOR SCHROCK: Well, I've had some ladies approach me and say they'd like to see shopping put in the constitution, and I've resisted that, so you should be proud of me there.

SENATOR BEUTLER: Well, I am. That's great. There are some limits then, huh?

SENATOR SCHROCK: But I don't think that activity is threatened because they outnumber us, as you know.

SENATOR BEUTLER: See, what I think is going to frustrate everybody ultimately is that what is reasonable is based on our values, and when our values change, our decisions are going to change. And you can't stop that with this constitutional provision. And the kind of constitutional provision that you would like to put in, you know better than to try to put in. So when you say there can be reasonable restrictions, and when those restrictions relate to the values of the people, I think you're doing almost nothing at all with this amendment except...

SENATOR JANSSEN: One minute.

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SENATOR BEUTLER: ...cluttering the constitution, creating conflict...potentially conflicting provisions which will make it easier for lawyers, harder for the simple people, and in the end, not doing the people who want this so bad any particular great favor. Thank you.

SENATOR JANSSEN: Thank you, Senator Beutler. Senator Schrock, your light is on next but you have already spoken three times on this amendment. Senator Flood, your light is on.

SENATOR FLOOD: Thank you, Mr. President and members. As I got a lesson in constitutional law this morning and I thought I would stand up and contribute to the conversation that Senator Beutler and Senator Chambers were having with Senator Schrock. And I guess maybe a quick review of the three levels of constitutional scrutiny would be in order because I think, Senator Beutler, you shared some of your concerns about the level at which a court would interpret a statute or a regulation from Game and Parks and its bearing on hunting, fishing, trapping. All this legis...or all that LR 8CA attempts to do, by putting this in the constitution, is to change the burden that a court would interpret a rule or a statute--when I say rule, I mean regulation--from a rational to a reasonable level of scrutiny, not strict level but rational to reasonable. And the difference that I think you were attempting to articulate, and we will probably disagree on the merit of LR 8CA, but we go from a legitimate government interest to an important government interest. And that's significant to me because across this state, and in my legislative district, I can reasonably say that the right to hunt, fish and trap is an important interest of my constituents, so important that they have voiced support for a constitutional amendment, raising that level of constitutional scrutiny from a rational to a reasonable basis. In the early 1980s, protecting the family farm was that important that Nebraskans raised the constitutional scrutiny by putting I-300 in our constitution. Today, Nebraskans are looking at the efforts of some groups that have organized across the United States in an effort to protect animal rights, and they see those groups' efforts as a threat to a Nebraskan's right to fish, hunt or trap. I think those concerns are legitimate, and I know that

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Senator Schrock would not stick his hand in a meat grinder if he did not see the benefit of protecting the right of Nebraskans to hunt, fish and trap. Putting this on the ballot makes sense. Putting this on the ballot gives Nebraskans an opportunity to tell us, as the Legislature, and our...and the Nebraska Constitution what we value. And this right to hunt, fish and trap is valued by Nebraskans. Let's have this debate in Omaha, let's have this debate in Scottsbluff, in Norfolk and Grand Island, in the rural areas. Go out to the coffee shops and ask people whether this belongs in the constitution. Explain to them what this does in the constitution. And I'm confident the answer would be, it belongs there. That's why I support it, and I'm sure that I'll be subject to some questions about, you know, what else should we put in the constitution? The right to fish, hunt and trap, I think down the road, does face serious opposition or efforts by groups to put something on the ballot. What would this do to a petition? Well, a petition would not be successful to ban hunting of any certain animal unless the petition first in its only issue would directly repeal any constitutional amendment that was adopted by the people of Nebraska. The second step for a group, if they were successful in repealing this, that's assuming this is already in the constitution, would be to restrict...

SENATOR JANSSEN: One minute.

SENATOR FLOOD: ...whatever type of hunting, fishing, trapping that they wanted. That's how I would read it. That's how I see it. Legally, I think that's how it would proceed. If I'm incorrect, I would appreciate your insight and correction, but I think that's the goal of this and that's why at this point I support it. Maybe there's another way to do this. Maybe there's another way to provide some protection, but I think that the efforts of Senator Schrock are geared at addressing the protection of the right to hunt, fish and trap, and raising that from a rational to a reasonable standard by our courts is a legitimate end to a future problem that Nebraskans are very concerned about. I return the balance of my time to the Chair.

SENATOR JANSSEN: Thank you, Senator Flood. (Visitors introduced.) Senator Wehrbein, your light is on next.

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SENATOR WEHRBEIN: I'd like to yield my time to Senator Schrock.

SENATOR JANSSEN: Senator Schrock, you have four minutes and fifty-two seconds.

SENATOR SCHROCK: Well, you know, I respect those of you in this body who are trained in the law. I respect you immensely. In all cases, you have contributed to the Legislature, you've contributed to the process, you've contributed to people who might want to frivolize the process, you scrutinize bills and you're educated in a way that I cannot...that I cannot relate to. I'm fortunate enough to have two attorneys on staff. As a farmer, I have an attorney who happens to be married to my cousin, who happens to come from the East Coast, educated at Georgetown University. And I have found out, when I have not taken advice from an attorney, that I'm usually wrong. But we can disagree on this issue, and I want you to know I do appreciate Senator Flood jumping into the foray this morning because he said it better than I could say it, and I think he's speaking for a lot of people in this state. This would raise the standard, and I think that the people in the state of Nebraska...by the way, of all the things I've done in the Legislature, some of them I thought were very visible, this has become the most visible thing I've ever done in the Legislature, for the general population. And with a few exceptions, most of them say, you know, we would like to see this voted upon and we're worried these issues, we're worried about the future of some of these activities. And so they would like to see it put in there, and Senator Flood said it best, it does raise the bar a little bit. And those of you who are opposed to this, what's wrong with putting it on the ballot? Why should we be the 49th state to do something? Why should we force the people of the state of Nebraska to circulate a petition to put something like this on the ballot? With that, I give the rest of my time back to the Chair.

SENATOR CUDABACK PRESIDING

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

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SENATOR SCHIMEK: Yes. Thank you, Mr. President. I'd like to yield my time to Senator Chambers.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Schimek. Mr. President, members of the Legislature, I've got to keep my little friend with me here so that I can give a reminder of what the Legislature did yesterday that I think was wrong when they clotured that bill which would allow people to kill prairie dogs. But I was talking so I'd give Senator Flood time to return to his desk. Senator Flood, I want to pursue just briefly with you the area of constitutional law. If this provision were to become a part of the constitution, and any group got enough signatures on a petition to have a provision put to repeal this from the constitution, and the people voted in the requisite majority to do so, would this provision then be repealed from the constitution?

SENATOR CUDABACK: Senator Flood.

SENATOR FLOOD: Yes, Senator Chambers.

SENATOR CHAMBERS: Thank you. Senator Flood is correct. I knew he would know the answer. Senator Schrock was getting some bad information back there. The people, by petition, can put anything into the constitution they choose. They can eliminate anything from the constitution they choose. The thing which puts a check on the foolishness and mischief that can be wreaked by people in a state doing things to their specific constitution is found in the U.S. Constitution, U.S. Supreme Court decisions and federal enactments by the Congress. So you might get some of these racists out in western Nebraska, eastern Nebraska, central Nebraska, northern Nebraska, southern Nebraska to collaborate and decide that since they were able to get term limits and put me out of the Legislature, they may be able to amend the constitution to abolish the restriction against slavery and put me into slavery, being so ignorant that they don't realize that slavery was abolished by the U.S. Constitution, so that's off the table. They don't

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understand how laws in this country interact with each other and what the supreme law of the land is. I'm glad that Senator Flood gave a direct answer. Now I have a question for Senator Schrock to see if he's going to be Andrew Jackson and give a straight answer or if he's going to be Fred Astaire and tap dance around it. Senator Schrock, are you available?

SENATOR CUDABACK: Senator Chambers, I'm not sure Senator Schrock...

SENATOR CHAMBERS: He's on his way. That's why...

SENATOR CUDABACK: Yes, he is. I'm sorry. He is.

SENATOR CHAMBERS: ...I gave a little commentary. Senator Schrock, if Oklahoma were going to play Nebraska at the stadium in Lincoln, or any team were going to play Nebraska at the stadium in Lincoln, and a person was offered a ticket to go to that football game or to go hunting, which ticket do you think the person would accept when the two activities conflict?

SENATOR SCHROCK: Senator Chambers, I would first tell you I am not Fred Astaire, but I will tell you this. That doesn't make me Andrew Jackson, by the way, but I'm not Fred Astaire. There's a lot of people who give up the first...give up football tickets on the first day of deer season. I would dare say, certainly in my family, the first day of deer season is much more important than Nebraska...

SENATOR CHAMBERS: Oh, we're not just talking about your family because your amendment says "the people." Now if that term "the people" refers to your family, then you've escaped, and I want to touch on that phraseology, too. Here's the question I'm asking and maybe I should make it more precise. If a majority...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...of the people in Nebraska were offered a ticket to go to a Nebraska football game or a ticket to go hunting, where do you think the majority of the people in

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Nebraska would choose to go?

SENATOR SCHROCK: They'd probably go to the football game on Saturday and they'd probably hunt on Sunday.

SENATOR CHAMBERS: And there's no conflict there; I mean when they conflict. So thank you. Senator Schrock stated what everybody knows and what Senator Beutler was pointing out. To many people, football is more important. Now I have another question to ask of Senator Flood if he's around.

SENATOR CUDABACK: Senator Flood, are you on the floor?

SENATOR CHAMBERS: Then I will ask Senator Schrock.

SENATOR CUDABACK: Senator Schrock, would you yield?

SENATOR CHAMBERS: Senator Schrock, where your bill, your proposal, says "the people", "the heritage of the people," that really should read the heritage of some people to be accurate. Isn't that true?

SENATOR SCHROCK: I won't argue that point with you, Senator Chambers.

SENATOR CHAMBERS: So would you be willing to change that to "some" rather than "the"?

SENATOR CUDABACK: Time, Senator.

SENATOR SCHROCK: No, I would not, Senator Chambers.

SENATOR CHAMBERS: So rather than be correct, you want to be rigid...

SENATOR CUDABACK: Senator, your time is up.

SENATOR CHAMBERS: ...and in step with the guy in Minnesota.

SENATOR CUDABACK: Thank you. Senator Preister.

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SENATOR PREISTER: Thank you, Honorable President, brothers and sisters. I like that when you say that, Senator Chambers, brothers and sisters. Ninety percent, and the question is what is the margin of victory the LR 8CA will get at the polls by Nebraska voters. And that's probably conservative. I think it'll probably get higher than 90 percent voting in favor of it. That's not even a question to me. I think the vast majority of Nebraskans are going to see it if it's on the ballot as a nonevent. The media... I'll be Nostradamus here. The media will see there's nothing to even report. Everybody in Nebraska supports it. In this discussion, I've yet to hear anybody say we shouldn't have fishing or hunting except perhaps Senator Chambers may want to arm the prairie dogs so they can fight back more fairly. But I haven't heard anybody say that hunting and fishing isn't a part of our heritage. I have yet to hear anybody say we shouldn't hunt or fish or trap. I don't see it even as an issue, and I don't think the media is going to see it as an issue. I think this is going to pass. I think if it needs to get to that, we'll get cloture, it'll be on the ballot, it'll pass. It will be a nonevent, and because of that, I don't think we even need it. This is Nebraska, this is where we're always going to have these things as a part of our heritage, whether it's in the constitution or in statute. We aren't going to change even the state laws in the future except for needed minor modifications because this is so much a part of the attitude and the mentality of Nebraskans. We will be putting in constitution the right to trap and it's almost carving out special legislation because the last time I checked with Game and Parks, there were just over 200 people who even were legally trapping in the state of Nebraska. It's not happening because of PETA, it's happening because who wants to go out there and walk those trap lines in the winter? You've got to be pretty dedicated to even participate in that part of hunting. And I've trapped, I have hunted, I've fished and done so legally, and I don't have a problem with doing those things legally and I think most people in Nebraska do them legally. Most of my family members still go out and actively enjoy these pastimes and I agree with their right to be able to do them. But I have to agree with Senator Beutler and Senator Chambers and others that the constitution is not the place where we put this as a guarded and privileged part of our constitution, particularly in light

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of, as I say, I don't know what current numbers are, but the last time I checked it was just over 200 people that even bothered to get permits to trap in Nebraska. That's a pretty small percentage of people that we're enshrining in the constitution who already have the right to do it, who I can't see anybody taking that right away, and who are going to keep doing it legally and we're going to get those who do it illegally, as well as people's right to hunt and to fish. And for that reason, I support what Senator Schrock is attempting to do and the organizations that are attempting to support him in doing it.

SENATOR CUDABACK: One minute.

SENATOR PREISTER: But I really don't see the need to put it in the constitution. If it were put there, as I stated in my opening, overwhelmingly people would support it. It won't even be an issue. It won't even be talked about because everybody is in agreement across the state. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Preister. Senator Chambers, there are no further...Senator Preister, your light did come on.

SENATOR PREISTER: Thank you, Honorable President. I would yield my time to Senator Chambers, if he would like it, because I think Beveledere I or II is just itching...

SENATOR CUDABACK: Senator Chambers.

SENATOR PREISTER: ...to have something to say.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Brother Preister. Members of the Legislature, friends all, I do think sometimes these expressions can have a calming effect. There's a certain inclusiveness about those introductions. I'd like to ask Senator Schrock a question,...

SENATOR CUDABACK: Senator Schrock.

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SENATOR CHAMBERS:      ...which may lead to one or two others. Senator Schrock, do you agree with the principle with which I agree, by the way, that the people, by petition, can put anything into the constitution that they choose?

SENATOR SCHROCK:      Yes, I do agree with that.

SENATOR CHAMBERS:      So my amendment could be put into the constitution if we placed it on the ballot and enough people voted for it, my amendment being hunting for a way to defend and protect the Constitution of Nebraska from frivolous amendments that would clutter, demean, and trivialize it. That could be put into the constitution, couldn't it?

SENATOR SCHROCK:      No, because I don't think you have 33 votes and I don't think the petition people are going to do that.

SENATOR CHAMBERS:      Here's the point I'm trying to get at. That's why I said if it was put on the ballot and a sufficient majority voted for it, that could be put into the constitution, couldn't it?

SENATOR SCHROCK:      Yes, you are right.

SENATOR CHAMBERS:      So, Senator Schrock, should everything that can be put into the constitution be put into the constitution?

SENATOR SCHROCK:      Probably not.

SENATOR CHAMBERS:      Thank you. And I knew the answer that he would give, and that brings us right to a consideration of what we have before us today. This is one of those feel-good pieces that can be used as a basis to campaign for a political office when those who will use it cannot be here any more than eight years. And maybe if people really knew what their attitude was toward the constitution they wouldn't get here in the first instance, and it wouldn't be necessary to defend the constitution against unnecessary frivolous amendments of the type that is proposed in LR 8CA. It is frivolous. That means it has no substance, no basis, no need. Senator Flood knows

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that and he also knows, as does Senator Schrock, that if this proposal that they are defending, LR 8CA, were to be accurate, the number one statement that these things are a part, a valued part, of the heritage of "the people" would have to be changed to "some people." You notice that Senator Flood restricts it to the coffee shops in his area. Senator Schrock restricts it to the area where he lives. You all have heard me say many times, and I've supported issues which will demonstrate that, I'm a state senator. I don't say that the guys in the barbershop in north Omaha have this particular idea and that's why I want to put it in the constitution. See, I'm a teacher and I try to raise the level of understanding of the people that I represent, and I explain what the constitution is and after that explanation they would readily say, you're right, that doesn't belong in the constitution. Obviously, Senator Flood and Senator Schrock deal with a different constituency and they're here representing that constituency. I repeat again, I believe in the right of people to send a mule skinner to this Legislature to represent them, if that's what they choose, because they know that a mule skinner has what it takes to see to their interests in this Legislature. That's why each district is allowed to send whom the people in that district please, until Senator Flood's and Senator Schrock's and other constituencies of their ilk decided they didn't want the people in the 11th Legislative District to send a person of their choice. So they clumped together...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and ganged up to deprive the voters in my district of the right to send whom they please. You know why it's not going to affect the other districts? It's not difficult to replace any other senator in here in any district. They can go through the phone book and pick the sixth name and they'll have somebody just as good. That's why they don't mind sacrificing the other 48 to get rid of that 1, who is of more consequence than not only those other 48 serving with him, but all of those who will come after him. When they want to talk this stuff about doing what the people tell us we ought to do, they are failing in their job as representatives. They're not to be echoes. They are to be leaders, teachers, and improvers

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of the intellect and understanding of the public, and an echo does not achieve that. All an echo is, is a reverberation. Whatever sound is made, the echo gives it back; maybe enhanced as far as volume, but not improved as far as quality.

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, there are no further lights on. You're recognized to close on FA36.

SENATOR CHAMBERS: Thank you, Mr. President. I didn't realize we had new visitors, but some may wonder what I'm doing cuddling my little friend. This is a black-tailed prairie dog. His name is Belevedere and he was given to me by a lady who likes black-tailed prairie dogs and appreciates the fact that I want to rescue them from being killed. So I'm letting him know that as long as he's in my protective care, nobody can harm him. And he has never been this still or this relaxed before in his lifetime. Now, there is a prairie dog who lives in a center in Nebraska City and his name is Peedee, P-e-e-d-e-e, and he is the one on the keelboat that is a part of the Lewis and Clark festivities, so there is still a living one in this state who is going to hold a position of honor. My amendment, for the record, is designed to show the frivolity and uselessness of LR 8CA. I regret that Senator Kopplin has not given us a second installation of his reminiscences. They are very interesting and there are parts of what he said that all of us can relate to. I have grandchildren. Never took them fishing. Will never take them fishing. I've never gone fishing myself. Senator Kopplin, giving a somewhat humorous presentation, whether it was designed to be humorous or not it was lighthearted, reminded me of something that was happening in the nature of a quarrel between a man and his wife. She didn't like to go fishing, so the man would try to get her to go. One time she went. The mosquitoes ate her alive and they didn't catch anything. So one day they were having an argument and she asked him, because she knew he loved to fish: Now there's something that has bothered me every time you took me fishing; how in the world can you sit

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in a boat all day long, catch nothing and say you've been fishing? Well, he was waiting for that because fisher...anglers are sharp people. He said: In the same way you can go shopping all day and buy nothing and call it shopping. So, when there are disputes, there will always be a comeback in the form of an answer. When you're dealing with an issue as serious as the constitution and a frivolous attempt to amend it, those who support the frivolous attempt to amend it are going to reach very far afield to try to find a justification. Nowhere in all of my reading of material presented by and about the so-called founders who were dealing with the constitution--and Senator Landis and others can give you the name of the person who kept a journal because they didn't have a secretary of...and that's how we know most of what goes on there--none of them talked about these kind of rambling reminiscences to show why hunting, trapping, and fishing should be put in the constitution, but some of them laughed to scorn the proposal by a minority of the Pennsylvania delegation to put it into the constitution. They said, you don't realize why we're here. When they decided to write a constitution, the conservatives, people who called themselves that, obviously don't know the history of their country. The most radical thing done in the history of this country was writing...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...a constitution that overthrew the existing form of government. They were sent there simply to amend the Articles of Confederation, which had been ineffective because the central government that was created under those articles lacked the power to carry out those national duties which the national or central government was to discharge under those articles. I'm going to talk more about that next time. I am going to take a vote on this and, because I want to see how many people are here and other reasons, I'm asking for a call of the house, Mr. President, if you please. Thank you.

SENATOR CUDABACK: Been a house call requested. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

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CLERK: 20 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The motion was successful. The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. The house is under call. Unexcused senators please report to the Chamber. Senator...Senator Kruse. Senator Kruse. I'm sorry, you are here. Apologize. All members are present or accounted for. Senator Chambers, how did you wish to proceed?

SENATOR CHAMBERS: Machine vote.

SENATOR CUDABACK: Machine vote has been requested on FA36 to LR 8CA. All in favor vote aye; opposed, nay. Voting on the Chambers amendment, FA36, to LR 8CA. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 3 ayes, 14 nays, Mr. President, on the amendment.

SENATOR CUDABACK: Motion was not successful. The amendment was not adopted. I do raise the call. Mr. Clerk, you have items for the record, please?

CLERK: Mr. President, a Reference report referring certain gubernatorial appointees to the appropriate standing committee for confirmation hearing. Your Committee on Business and Labor, chaired by Senator Cunningham, reports LB 738 to General File. New resolution: Senator Smith offers LR 83. And your Committee on Enrollment and Review reports LB 689, LB 689A, and LB 709 as correctly engrossed. (Legislative Journal pages 1252-1253.)

Mr. President, the next amendment I have to the resolution is by Senator Chambers, FA37. (Legislative Journal page 629.)

SENATOR CUDABACK: (Visitors introduced.) On with FA37, offered by Senator Chambers to LR 8CA. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Bevedere, my friend here, told me, Ernie, you didn't do so good on that last one. I accept that, when I

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looked at the vote, but what Belevedere doesn't realize, because he wasn't here yesterday, I did better on that than I had done yesterday. Sometimes you have to put these little critters in their place, which is not in the prairie dog cemetery, by the way. Members of the Legislature, this amendment is what I call the Amelia Earhart amendment. On page 1, line 8, after "hunting" would be "for the wreckage of Amelia Earhart's airplane." So that would be in the Nebraska Constitution. That would be deemed to be an important part, a valued part, of the heritage of the people. And it is a part of the heritage of the people, not just of Nebraska, maybe not just of this country, but of people everywhere to be aware of and to hunt for or to hope that somebody will hunt for and be successful in finding the wreckage of Amelia Earhart's airplane. I should not offer a proposal without giving some background information, so I did a bit of research and I have some crib notes. Amelia Earhart was born July 24, 14 days before my birth date, however, the year was different, 1897. I was born in 1886. (Laughter) She was born in Atchison, Kansas. She disappeared July 2, or around that date, 1937 near Howland Island, central Pacific Ocean, and Howland is spelled H-o-w-l-a-n-d. She was one of the world's most celebrated aviators, the first woman to fly alone over the Atlantic Ocean. Earhart worked as a military nurse in Canada during World War I, and as a social worker in Dennison House, Boston, after the war. She achieved fame on July 17 and 18, 1928, as the first woman to cross the Atlantic, although she was only a passenger. She married the publisher George P. Putnam in 1931, but continued her career under her maiden name, and I'm proud of her for that. She kept her maiden name way back there in the 1930s. Determined to justify the renown that her 1928 crossing had brought her, Earhart crossed the Atlantic alone on May 20 and 21, 1932. This soon led to a series of flights across the U.S. and drew her into the movement that encouraged the development of commercial aviation. How many knew that about Amelia Earhart, that her work and her activities led or helped bring about the development of commercial aviation? Women have done some spectacular things, as have black people, but the history books, not written by women or black people, by and large, will not have these exploits and achievements given the play they deserve. And I say we're supposed to be teachers. I want to give some information that people may not have. She

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also took an active part in efforts to open aviation to women and end male domination in the new field. And when she sought to end male domination, she didn't realize, brothers and sisters, friends, enemies, and neutrals, that across her head was written her death warrant and the ink provided by Satan. Men are not going to tolerate being unseated. Frederick Douglas said power yields nothing without a struggle. Continuing, in January 1935 she made a solo flight from Hawaii to California, a longer distance than from the U.S. to Europe. Earhart was the first person, not just a female, the first person to fly that hazardous route successfully. All previous attempts had ended in disaster, and guess the sex or gender of the pilots who attempted to do what Amelia Earhart successfully did for the first time. All of them were males and what they attempted ended in disaster. They hated the woman. They thought she ought to be at home cooking, baking cookies and doing other things. Amelia set out in 1937 to fly around the world with Fred Noonan of the United States as her aviator in a Twin Engine Lockheed Electra. Electra is a name from the Greek days and has been associated with disasters. There are other planes, ships and whatnot carrying that name that met with disaster. After completing more than two-thirds of the distance her plane vanished in the central Pacific, near the International Date Line. Although her mysterious disappearance has since raised many questions and much speculation about the events surrounding it, the facts remain largely unknown. A biography by her husband, titled Soaring Wings, appeared in 1939. Because of what this woman achieved and because of the fact that human beings, especially in places like America, relate more to physical objects than the ideas behind them, if the wreckage of this woman's plane were to be found and established conclusively to be the wreckage of her plane, it could become somewhat of a shrine. Old women who were denied opportunities to do the things that they knew they had the ability to do but were denied the opportunity, middle-aged women who were disheartened because the ones who went before them had not done things and they felt they were doomed to follow the same drudge path, and young women who, because they still have a degree of rebelliousness and unwillingness to be roped in and tamed and made to feel that they've got to do what somebody else has done just because they did it, could go to that shrine. They could span the

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generations and realize that this huge pool of talent and ability is exemplified by what this woman had done, and she lost her life, apparently, in trying to do more. But the wreckage of this airplane proves that at one period in the history of the world a woman, who had done something before any other man had ever done it and was trying to accomplish something else that no woman had done, lost her life. But this wreckage proves that that really happened. So all of the women of whatever religion, political persuasion, race, language group, ethnicity, sexual orientation, and if somebody...if some people knew that Willa Cather was probably a lesbian, they'd be wanting to take her out of the Nebraska Hall of Fame. They didn't know that; a lot of things Nebraskans don't know. That's why I said sexual orientation. They should go there. They could light candles. They could write notes and leave them there. They could bring dolls, bouquets of flowers, articles of clothing, pieces of jewelry, anything that they felt they wanted to leave at that shrine to recognize what this woman had done and to try to keep alive the spirit that she manifested and walk away from there refreshed in their spirit, stirred in their minds, inspired in their hearts, and determined to show what women, as a united force, can do. Comprising a majority of the population of this country, there is no reason why women cannot seize political power and change this country; and by changing the most powerful country...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...in the world, changing the entire world; and by changing the world, altering the course of history. And it would be altered for the better because it cannot be any worse than it is now under the dominance of white men. Amelia Earhart is somebody who ought to be remembered and what I'm offering here is far less frivolous, even whimsical, than what the original LR 8CA would propose. So I hope you'll adopt my amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) On with discussion of the Chambers amendment, FA37. Senator Schrock, followed by Senator Chambers.

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SENATOR SCHROCK:      Mr. President, members of the Legislature, first of all, I commend Senator Chambers for bringing this and talking about all the wonderful things about Amelia Earhart and she was more of my parents' generation. I can remember, growing them up, them talking about her and how the plane wreck was...and she was never found again. But I'm going to oppose this. I don't think it's appropriate subject matter to be part of LR 8CA. But I do have to tell you, Senator Chambers, I have a little furry critter back here and I've not named it and...but it does say it's a baby prairie dog and it makes little funny noises, and I'm not going to do that on...but, you know, you and I can be...now, is that...that's Belevedere? This could be Belevedere Junior, then? But what I do want to ask you...and I don't know of anybody that doesn't like stuffed animals. My grandkids like stuffed animals. I took my granddaughter to the IMAX theater in Hastings this fall and I was coerced into buying her a stuffed animal before we went home and it was a...we went and saw the lions of the...some...it was a movie on lions, African lions, and so...and it was a rather realistic IMAX presentation and there were some things in there that were disturbing the young people because the lions killed and there was an old lion that died. But I just want to ask you, I hope that you don't equate what you're holding there to a real life animal. Do you equate that to a real life animal? Senator Chambers, if you would respond?

SENATOR CHAMBERS:      I don't understand the nature of the question.

SENATOR SCHROCK:      Senator Chambers, that stuffed animal you're holding there, do you equate that as being a real...being similar to a real prairie dog?

SENATOR CHAMBERS:      Well, I think he's exactly similar to a real prairie dog.

SENATOR SCHROCK:      Well, you probably wouldn't be holding a real prairie dog. I would guess you can make a pet out of a prairie dog if you wanted to, but they would take a lot of time and care and effort and they could do some things when you're holding them that you wouldn't maybe be prepared for them to do,

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so...but I think that's part of the problem in this state, in this country, in this world, is we equate what goes on in nature, we equate what's going on in wildlife to stuffed, furry, cuddly animals, or, as like I said, the Bambi, the Disney...the Disney type of thing. And so nobody wants to kill, maim or hurt furry, cuddly things, cute things, whatever, and so that is part of the problem, because hunting, fishing and trapping to some people seem contrary to that, and the real life is we know that isn't the case. And so I, you know, you are...I hate to say this, but you are cute standing there with your stuffed animal. And I applaud your empathy for the prairie dogs. Hey, I'm with you there. Most of us in Nebraska like wildlife and we like animals. When it comes to some rodents and pests we don't, and I consider the prairie dog a rodent, although I would say a very cute rodent. And so I just had to ask you if you equated that stuffed animal that you're holding to a real animal, and apparently you do and I don't criticize you for that, but therein kind of lies the perception problem that we sometimes have when we're dealing with...when we're dealing with real life and dealing with nature. Thank you.

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

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature, friends all. Senator Schrock, animals seem to have an affinity for me. Human babies and infants have an affinity for me. I went to the hospital one time with a lady that I knew because her niece, who was an infant, was in the hospital. And when we got there the little girl was just crying her eyes out, crying, crying. Nobody could comfort her. Her mother would pick her up and she'd cry. Her aunt picked her up and she'd cry. So I say, well, let me pick her up. I picked her up and held her in the way that I'm holding Belevedere; the crying stopped. She began to coo. She looked up at me and I say she smiled; other people might say she laughed. An infant, and that was the soothing effect that I had. I was in the copy room here two or three years ago, and it was memorialized by a picture in that publication put out by the Legislature, and some people came in and asked me would I agree to take a picture with three little infants, and I said sure. So when I went out into the

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hallway, the little babies were on the floor and I just squatted down by them, and they took the picture. There is one man who watches a program that I do in Omaha every Tuesday night and he has an infant son, a little bitty fellow, and that child watches my program with his father every Tuesday night. It puts him to sleep, which doesn't bother me, because comfort is what is needed. There is a person who works here as a staff member of a committee Chair who, when her little boy was small and still in a crib, said that he would be crying and the Legislature would be turned on and when my voice began to come forth, he would pull himself up, because he couldn't stand, I presume, and he would just rock from foot to foot, not cry and not fret. So with animals I have an affinity, with very young children I have an affinity--some cynics would say because neither of those categories know better--but also with very old people, and some people say they're probably back into their dotage or their...when they were little children so they don't know any better. But nevertheless, animals, young children, old people I get along with very well. I don't know what it is. They do, and they haven't told me. But when I say I equate what I'm holding here with something exactly similar to, I meant it just the way I said it. Senator Schrock, because of the kind of teeth we have--our incisors, our canines and our molars--and the digestive system we have, it's clear that human beings are to consume animal protein. If we were to consume vegetation alone, we would have a much longer digestive tract because it would take longer to digest those substances, get the nutrients, eliminate what's left, than it does to digest and make use of animal protein. I have never been opposed to people procuring whatever form of animal life they wanted to procure for food, just as I don't object to them...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...eating any kind of vegetation they want to eat. But when they slaughter animals for fun to put their heads on walls and make rugs on the floor, just for their vanity, I am totally against that, and if PETA or any other organization could cut that out, so much the better. This is why lowland gorillas were almost annihilated. It's why the African and the Indian elephant are in trouble. By the way, the Indian elephant

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has smaller ears than the African elephant and they both have large ears so that they can have blood vessels very near the surface of their skin and it helps cool them, and as huge as they are they need that. Compared to their volume, they have less surface than a mouse, so they need to have a cooling mechanism. I don't mind people studying animals, making appropriate use of them, but the misuse of them is what I am opposed to and I wanted to make that clear for the record. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion of FA37. Senator Combs, followed by Senator Chambers.

SENATOR COMBS: Thank you, Mr. President and members of the body. Just making a couple of observations here, since we are...we're in a learning mode this morning. I don't know if Senator Schrock could see the TV and see that Belevedere, B-e-l-v-i-d-e-a-r (sic), Senior has a onesie on. Course, I'm a mother. I noticed that right away. Belevedere Junior is butt naked. Look. Where's Belevedere Junior? He had him there a minute ago. Yeah, you got to...and you're not holding him right. You're holding him like a stick. The proper way to hold Belevedere is like Senator Chambers is holding him--respectfully. And he has a onesie on. I don't know what else he has on underneath it. I hope he has a little more on. But you don't hold the prairie dog like a stick and you need to put some clothes on him. Yours is buck naked. His at least has some clothing on. So I just wanted to draw that to Senator Schrock's attention, that if he is going to have a Belevedere Junior, he could take a lesson from Senator Chambers into how to properly care for him. Again, just a mother's perspective, but that's all I had to say and I'll allow Senator Schrock to have my time, if he would like to reply. If not, I'll give it to the Chair.

SENATOR CUDABACK: Senator Schrock.

SENATOR SCHROCK: Senator Combs, if you would like to help me shop for clothes for Belevedere Junior or whatever he is here, I'm agreeable. Thank you. Give the rest of my time back to the

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Chair.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, there are different ways to spell names. Belevedere is spelled B-e-l-e-v-e-d-e-r-e. There be Belevederes many, and many ways to spell it, but as I said the other day, if I had prairie dogs, every one of them would be named Belevedere so I'd only have to call out the name once and all of them would come. They would be trained and that way they wouldn't have to be killed. Senator Combs always makes some comments, at least one of which will cause me to struggle to maintain my composure, because I have to get up and speak again and I want to not seem that I'm just making jokes. I want to talk, as I said, a little bit about the U.S. Constitution and its coming together to try to give a notion of the significance of the constitution and its importance to the country and, by extrapolation, the importance of a state constitution to the health of the particular state. There were 55 delegates at the Constitutional Convention, but only 38 wound up signing. Some of them had signed the Declaration of Independence. And that convention lasted 115 days from May 25 to September 17, in the very hot summer of 1787 in Philadelphia. For the period before then, 1781 to 1787, the Articles of Confederation loosely put together the 13 colonies. They wanted a confederation because they were fighting to overcome what had happened when they had a foreign power, namely mother England, dictating what was going to happen with the colonies. So when they started trying to put together a government they wanted to make sure it was fragmented, was not too powerful, and could not reduce the colonies to absolute despotism, as they alleged in the Declaration of Independence had happened under England. They wanted a kind of congressional form of representation so that they could select whom they would send to the federal government, wherever it gathered, to see after their interests. Because they adopted Rousseau's idea of the social compact or contract, as some people say, that in a presocial setting every individual had absolute freedom and liberty to do as he or she felt, but because there were things, especially in the nature of security, that the individual could

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not provide, each decided and agreed to give up a part of his or her liberty in order to all clump together and form a social framework as a result of which their security would be maintained. But they still wanted to hold onto as many rights, privileges, as much liberty as possible, so there had to be a balance struck between governmental security and power, the power needed to maintain security, and individual rights. So governments that have written constitutions, at least in their constitutions, try to strike this balance. Because there were things that the colonists wanted the central government to do that individual colonies could not do, it became clear that under the Articles of Confederation the concept of a centralized government was a sham, a farce, like many of the bills...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...that are enacted here, such as those that will give \$25,000 to a prairie dog management program when it couldn't achieve anything. Back to the discussion, the monologue. These people were supposed to meet in Philadelphia to draft amendments to the Articles of Confederation, but something took place that made them run to Philadelphia because there was a reluctance for...on the part of most people to go because they thought it would be another meeting about meetings and nothing would result. I'll put my light on, Mr. President, and then continue. Thank you.

SENATOR CUDABACK: Thank you, Senator Chambers. And that was your third time, Senator. Senator Schrock.

SENATOR SCHROCK: Mr. President, members of the Legislature, I made some comments earlier about the Sierra Club. I hope they weren't taken negatively. But I did say that there is an attempt by PETA to get control of the board of directors of the Sierra Club by infiltrating their elections. The Sierra Club is...I consider them to be an environmental organization which I sometimes agree with; sometimes I disagree with. But I do respect them and I can tell you that they do have a letter of support for LR 8CA. So it's always nice when someone is on your side rather than against your side, but the Sierra Club does support it. I'm not going to circulate it, but I do want to say

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that I respect what Sierra Club stands for, what they try to do. Don't always agree with them, but they have a presence and they do testify in front of the Natural Resources Committee hearing on a regular basis, and I appreciate that. So I just wanted to make that clarification. Senator Chambers, you can have the rest of my time if you want it.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Schrock. I'm going to read something from a book called, 1787: The Grand Convention by Clinton Rossiter, and he is considered to be an historian...a historian of the first order and a first-rate constitutional scholar. And this is from page 56. They were trying, some of the people, to get delegates to Philadelphia, and they weren't going. Then something very fortuitous happened. This was, of course, the celebrated Shays' Rebellion, one of the few events in American history that was as important in fact as it has become in legend. The rebellion, perhaps too strong a word, had become...oh, but Captain Shays and his men are stuck with it forever. It was an uprising in the fall of 1786 of hard-pressed rural debtors in western Massachusetts. Before they were finally routed by the loyal militia under General Lincoln early in 1787, some 2,000 of the most desperate, or merely adventurous, of them managed to raise the largest fuss of its kind since the affair at Alamance in 1771. They called impromptu conventions to demand changes in the state constitution, resisted payment of taxes and fees, used force to prevent county courts from sitting, and finally rose in arms to march hither and yon in search of justice, which proved elusive, and excitement, which became too much for almost everybody when an assault was launched on the arsenal at Springfield. Although the Shaysites were not Jacobans, and although they collapsed quickly when force was mustered and applied, the news from Massachusetts spread alarm throughout the Union, for every state felt the unsettling effects of the persistent drain of specie and had its share of debt-ridden farmers...farmers will take arms and do things; let me continue...had its share of debt-ridden farmers who might take it into their heads to appeal from the courts to the streets and camps. When people see similar things happen in inner cities and other locations where

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people are found, if they read a little history they would see that this tactic or methodology was one that many people in dire circumstances had been forced to resort to, but all that is conveniently forgotten. Let me continue. Even George Washington, who did not frighten easily, was worried about, quote, the combustibles in every state, unquote,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...waiting for a spark and breeze to set them afire. Quote, I feel infinitely more than I can express for the disorders which have arisen, he added. Good God, what besides a Tory could have foreseen or a Britain have predicted them, unquote? Of all the incidents that persuaded Washington to leave home once again and put his reputation in hazard, none had quite the impact of the news that an officer in the late Continental Army had brought the celebrated state of Massachusetts to the brink of civil war. During my closing, I will continue. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Your light is next, but you have spoken, as you know. Senator Schrock. This will be your third time, Senator.

SENATOR SCHROCK: Mr. President, members of the body, this may come as a surprise to you, but I don't sit home at night reading the constitution. I don't consider myself a scholar when it comes to the Nebraska Constitution. I just want to read Section 1 to you and how many of you would object to Section 1 now if we were to try to put that in the constitution now? Section 1 says: "All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, and the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense, hunting, recreational use, and all other lawful purposes, and such rights shall not be denied or infringed upon by the state or any subdivision thereof. To secure these rights, and the protection of property, government are instituted among people, derive their just powers from the consent of the governed. Section 2 deals with slavery. This was written in 1875.

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Section 3 deals with no person shall be deprived of life, liberty, and property. What point I'm trying to make here, the constitution is very broad, it's not specific, and I think what we're trying to do here with LR 8CA is very broad. And I would just encourage you to stay the course with me and hopefully we can bring this to a successful conclusion...some conclusion at some time down the road. Thank you.

SENATOR CUDABACK: Thank you, Senator Schrock. Senator Chambers, there are no further lights on. You're recognized to close.

SENATOR CHAMBERS: Thank you. Mr. President, I'm going to continue reading. Whatever, quote, the cause of all these commotions, unquote, then a new quote, licentiousness, British influence or real grievances admitting of redress, the time had come to, quote, look to our national character and find a national solution, said Washington. If Washington was, quote, mortified beyond expression, unquote, other men were now sufficiently concerned, even in doubting New York and reluctant Maryland, to act on the suggestion of Congress and name delegates to the convention. By early May only obstinate Rhode Island, a state from which no good news for the Union had ever been heard, had failed to respond to the call from Annapolis and New York, and most of those 55 men who were to win, if not necessarily deserved, the accolade of "framers" were on their way to Philadelphia. They came with a will because they felt and saw the troubles of the United States as the trouble of a nation and because, as one of them was later to put the matter in behalf of all, quote, a nation without a national government was an awful spectacle. So they assembled in a very hot room in 1787 from May 25 to September 17. They wrote the constitution. They had all kinds of compromises, which I'm not going to take time to go into now, but on September 28 of 1787 their handiwork was submitted to the states for ratification. Some states were very skeptical. They still feared the idea of a national government. Even though some of the smaller states had been pacified by being given exactly the same amount of representation in the upper house, or the Senate as the largest state, they still were not happy. Even though the southern states managed to get the constitution to protect not only

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slavery but to protect the slave trade, to protect that particular activity from being touched by any amendment to the constitution before 1805, they had some questions. So the lords of the lash in the south, the lords of the loom in the north, both of which exploited the labor of those who could not help themselves, did manage to come together and put a constitution out there that was full of contradictions, compromises, immoral, unethical positions because they thought having a unified, more or less, national government under the direction of a written constitution was worth the effort. So it was submitted for ratification and in June of 1788 nine states ratified and the congressional election, the first one, took place later that year. Congress said that in 1789, March 4, the government would commence. So the United States government opened shop March 4, 1789. The promise had been...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...made to a number of states that a Bill of Rights would be immediately put together by Congress and proposed to the states so, true to their promise, in September of 1789, 12 proposals constituting a Bill of Rights was submitted. Ten of them were ratified and on December 15, 1791, they were certified by Congress and the Bill of Rights became a part of the constitution. So, between 1787, when the convention got together, to 1791, when the Bill of Rights had been certified, America went from the Articles of Confederation to a constitution which people are familiar with today. It had seven original Articles. It had ten amendments, known as the Bill of Rights.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. I would ask for a call of the house.

SENATOR CUDABACK: You've heard the closing on FA37. Been a request for a call of the house. All in favor of the house going under call vote aye; those opposed vote nay. Record please, Mr. Clerk.

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CLERK:      13 ayes, 0 nays to place the house under call, Mr. President.

SENATOR CUDABACK:      The house is under call. All unauthorized personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. The house is under call, members. Unexcused members please check in. Senator Don Pederson, would you please check in? Senator Johnson, Senator Hudkins, Senator Burling, Senator Howard, Senator Louden, Senator Connealy, Senator Bourne. Senator Connealy and Senator Kruse, would you please check in? The house is under call. Did you say a machine vote, Senator Chambers?

SENATOR CHAMBERS:      Yes.

SENATOR CUDABACK:      Request for a machine vote on FA37. All in favor of adoption of amendment FA37 to LR 8CA vote aye; those opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK:      2 ayes, 16 nays, Mr. President, on the amendment.

SENATOR CUDABACK:      The amendment is not agreed to. Mister...I do raise the call. Mr. Clerk, do you have any announcements, please?

CLERK:      Mr. President, Education Committee will meet in Executive Session at 11:30 in Room 2022.

SENATOR CUDABACK:      Mr. Clerk, next.

CLERK:      Mr. President, the next amendment, Senator Chambers, FA38. (Legislative Journal page 629.)

SENATOR CHAMBERS:      Thank you, Mr. Clerk. Mr. President, members of the Legislature, from the airy heights where Amelia Earhar literally flew, I'm going to bring us back down to earth with a more mundane amendment. On page 1, after the word "hunting" we would add "running, jumping and sweating." And the amendment, as proposed by LR 8CA, would then read: Fishing, trapping, hunting, running, jumping and sweating are a valued part of the

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heritage of the people. Mr. President, members of the Legislature, as everybody knows who keeps up with the news, there is a new food pyramid which has been certified, endorsed or ratified by the U.S. government. In addition to a different categorization of foods that are deemed healthful, exercise is included as one of those activities that will contribute mightily to the maintaining of physical health, and I would say mental health. And there is nothing that is so readily available to everybody, even if they happen to be in a confined area, as running, jumping and sweating. Now, in a sense, there's some running in the Legislature--running away from issues. There is some jumping, for sure--jumping on the bandwagon when the lobbyists and others make it safe to do so. And sweating occurs when people are called to account for their conduct when it is contrary to what they told their constituents they were coming here to do. But I mean the running, jumping and sweating in the ordinary, popular sense of those words. If they can take on additional profound meaning, I allow that, too. As a matter of fact, if I was going to describe it in the way that some people would, they would say the...this is a profoundly profound profundity, and they would think that they had said something really great. There's another story I could tell you about that misuse of language, but I'm not going to do it because I want to deal with something serious while talking about this particular amendment. I have disposed of that amendment by giving the explanation that I think is necessary, but I may elaborate on it later. The very serious thing that I want to put into the record, and it would be uncomfortable for my colleagues of the Caucasian persuasion, whose ancestors enslaved my ancestors, so I don't mind if people want to excuse themselves from this reading. Why would I read from Clinton Rossiter when I could find more words off the top of my head to describe this hellish activity? Because I want to put into the record what a white man who is recognized as a scholar wrote about it. Reading on page 31 of The Grand Convention, which is the title of this book written by Rossiter, are these words: They come, after he explained the stratification of society in America--the very rich, those in the middle who are poor, and then those at the bottom who are mired in grinding abject poverty and who were considered to be apathetic because they didn't want to participate in governmental activities. If you

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don't have the wherewithal to feed, clothe and shelter your family, it's difficult to get involved in theoretical or academic discussions about political theories. But this is what Rossiter wrote, beginning on page 31: Below the bottom of the class system of the new Republic, "Republic" capitalized, in legal status, if not always in economic condition, was that vast group of, "strangers in the land"--the Negro slaves, who were an important component of the American economy, a presence, if not a power, in American politics and a challenge to the American conscience. I don't believe there as a conscience. That the challenge had never been taken up, that only a handful of Negroes had been set free and only a handful of white men had accepted such Negroes as even second-class citizens in a country proclaiming the natural rights and equality of "all men" has been attributed to many causes. Four of these bear particular mention because they are so often and easily overlooked: number one, inertia, by which I mean that slavery flourished in the new Republic primarily because it had flourished in the old empire, and that to legislate it out of existence in any state south of Pennsylvania would have called for an economic, political, and cultural revolution far greater than that of 1776. Freeing my people would have led to a revolution greater than the one America, through its colonies, levied against England. Second, apprehension, by which I mean the suspicions voiced by even the most decent men. Decent? Humbug! Preposterous! Voiced by even the most decent men that American society could not absorb so numerous and culturally alien a people without changing its own ways for the worse. They brought us here. Y'all came here running from England. You ran here. They dragged me here in chains. And I'm the alien? I'm the one who will change this country for the worse and you built it on my back with my blood, my sweat, my tears, raping my women? Why do you think I'm the color that I am? Not because black men jumped over the fence and bedded down with white women, although there were white women who came over the fence. We were victimized, a whole race of people, vulnerable. A man came to this country from England. I'm not going to tell you his name, but he's a Frenchman. He's quoted all the time by people who can't pronounce his name. He said when he went on these plantations he was amazed when he heard all the racist and white supremacist type comments made, the degradation verbally heaped upon the Africans. But then,

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when he got on these plantations, including Thomas Jefferson's and the others, they saw all these little children running around of every shade, hue and complexion, and the only thing they had in common was that they looked alike. They had a common father. So what do these white women who were the wives of these men, who were making babies with black women down in the slave huts because they were vulnerable, and children being raped by the fathers of this country, how did the white women feel? I have no way of knowing, but I can speculate. The man said it was like bread, brown bread and white bread. The only difference between them is in their complexion. The slices look the same. They're all cut from the same loaf, based on their appearance, except for color. But to continue: America, American society could not absorb so numerous and culturally alien a people without changing its own ways for the worse. The next reason for not doing anything about slavery--lack of imagination, by which I mean both the ability of ordinary Americans to look right through the Negroes around them and the inability of leading ones to devise even small-scale schemes to give emancipated slaves the substance as well as the appearance of freedom. Look right through us, they do that today. We are the invisible people. That's why we work in white people's homes, take care of their old people, work in their hospitals. And if we were what they say we are and if we responded to them the way they would respond to us, the way they responded to England, all we would do when we're in those hospitals is change labels on medication, change the names on some of these prescriptions, these charts, and when medication was administered it would be something that would kill rather than cure. But black people were so trusted, they were so loyal, and that confidence was justifiably placed.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Because, unfortunately, that was the reaction of many black people to our enslavement. Instead of taking up arms and, as Shakespeare said, putting an end to the degradation, to the enslavement, slaves were better than those who purportedly owned them. Ideology, by which I mean the rising American commitment to the principle of equality. And I will stop until I'm recognized because my light is on. Thank

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you, Mr. President.

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

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I just wanted to point out a couple of ironies about what we're doing here today. When we put this provision with respect to hunting and fishing into the constitution and then say it's subject...that those areas are subject to reasonable restrictions, when we do that, of course, we take out of our own hands the determination of what is a reasonable restriction and we put it into the hands of the judiciary, so we're actually shifting the power to make these decisions from ourselves to the judiciary. A short time ago the subject of term limits came up and many of us were critical, most of us were critical, that the people themselves would take away from themselves the right to vote for whoever they pleased. We criticize that, and then we turn around and take away from ourselves the right to determine what is reasonable with regard to hunting and trapping. Why would we do that? Because we don't trust ourselves? How can we be critical of the people not trusting themselves to vote for the right person and turn around and not trust ourselves to make reasonable restrictions with regard to hunting and trapping? I don't think anybody explained and, Senator Schrock, I would like to hear your explanation of why the judiciary is more trustworthy with regard to the question of reasonable restrictions than the Legislature is. In fact, I will ask you that question, Senator Schrock. Could you respond to that?

SENATOR CUDABACK: Senator Schrock, would you yield to a question?

SENATOR SCHROCK: Yes, I will.

SENATOR BEUTLER: Senator, the language you're putting into the constitution is that hunting, trapping and fishing shall be subject to reasonable restrictions as prescribed by law. Now, who determines whether those restrictions are reasonable or not?

SENATOR SCHROCK: Well, if a lawsuit was filed, whether this was

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in the constitution or not, it would be determined by the courts. Now, I'm a layperson. You're educated in law so this may not be a fair fight but I'll certainly...or fair debate,...

SENATOR BEUTLER: Well,...

SENATOR SCHROCK: ...but I'll certainly answer the best I can.

SENATOR BEUTLER: Okay. But I'm just getting to the point that I think you recognize that we can make regulations in here with regard to these items, almost without limitation, some limitations. But when you put it into the constitution, then the question of what is reasonable becomes a question that the courts decide. Right?

SENATOR SCHROCK: I think that's probably already there, Senator Beutler.

SENATOR BEUTLER: Yeah. Okay. Thank you, Senator Schrock. And the other thing that I wanted to point out relating to kind of current issues that have been before us, we have argued, most of us, that legislative pay, legislative salary should not be in the constitution; that that's not the type of item that should be in the constitution; that the constitution should deal with broader concepts and with concepts that are...that go to the very fundamentals of government. But if we are going to start putting in provisions such as this into the constitution, it's going to be very hard for us to argue that legislative pay should not be in the constitution because we're legitimizing...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...a process of putting...of changing our constitution on a fairly regular basis. It seems like every two years now there's one or more...one or more changes proposed to the constitution and changes made to the constitution. The federal constitution has only been changed 17 times since the eighteenth century, and yet we go changing our constitution every two years. I think that we ought to have more confidence in ourselves that we will do the reasonable thing. I think we ordinarily do do the reasonable thing, and I see no reason for

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putting something into the constitution and then asking the courts whether what was done is reasonable or not reasonable. Why involve the courts in a process when we, ourselves, have the power to make the distinction...

SENATOR CUDABACK: Time, Senator Beutler.

SENATOR BEUTLER: ...and the decision as to whether something is reasonable or not reasonable? Thank you.

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

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to continue my reading of the reasons given by Clinton Rossiter as to why he thinks the issue of the slavery...the enslavement of black people was not addressed by these supposedly good people drafting a constitution to protect the rights of all human beings, but it was not even to protect all Americans. White women were not allowed to vote either and, in fact, as shameful as it is...well, I'm going to go into that later, but they didn't get the right to vote until 1920, 1920, by the Nineteenth Amendment to the U.S. Constitution. But let me continue. The final reason that he gave of the four--ideology, by which I mean the rising American commitment to the principle of equality. If whites in the new Republic were to think of blacks as men at all, they were bound by the articles of their republican fate to think of them as equals, which was an impossible thought for all but a handful of eccentrics to entertain about persons who did not seem to be even potentially Americans. We were American enough to dig ore from their mines, to tend the crops in disease-infested areas of the South, to be sexual objects to be exploited but not good enough to be even potential Americans. Continuing, an America less dedicated to the principles of liberty and equality might, like the more status-conscious and caste-bound societies of Latin America, have had less trouble taking the first step toward emancipation of slaves and their incorporation as citizens of a free society. Since the first step seemed to command every other step to the end, few Americans could bring

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themselves to take that first step. Negroes were Africans, and that was that. The fact that they had not come to America of their own will and could never leave it was one with which few white men were willing to grapple courageously. Whatever the causes of this unhappy situation, the facts are clear. At the time of the convention there were perhaps 650,000 Negro slaves in the United States. Well over nine-tenths of them lived in the five southernmost states, and in those states they made up more than one-third of the total population. In one northern state, Massachusetts, emancipation had taken place. In four--New Hampshire, Connecticut, Rhode Island, and Pennsylvania--it had begun. In two it was being pushed--New York and New Jersey. And in all, except Negro hungry Georgia, the slave trade had been halted or at least heavily discouraged by law. Although men of good will in many parts of America professed to be sure in their hearts that slavery was on the way to extinction, their minds held no timetable for the vast resolution and they protected slavery in this constitution. And I'm going to continue discussing these issues so that I can point out graphically the irony of a black man having to defend the concept of a constitution which enslaved his people and treated us like cows, pigs, chickens and property, and which Roman Catholic Supreme Court Justice, Chief Justice of the U.S. Supreme Court Roger B. Taney, declared a black man has no rights which a white man is bound to respect. So much for Roman Catholicism. And it was a priest that helped introduce and justify the enslavement of black people into North and Latin America. America...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and churches have a bloody and shameful history which is not taught to their children in school, so they think that those of us who were victimized and whose forbearers were treated as property just suddenly sprang up of a morning and said, I don't like America, like they wonder why people around the world hate America. When you don't know what your country has done and you don't know the people to whom your country has done these things, you are amazed, shocked and flabbergasted when those people don't just open their arms and welcome you and call you brother, sister and savior. Thank you,

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Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Chambers, you are recognized to speak, and this will be your third time, Senator.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I look at the Constitution of the United States like I do the "Holly Bible." The "Bible" has an Old Testament and a New Testament. The "Chrishians" see the Old Testament as containing what they call the law, and their writers and Jesus said, the law brought death and bondage. The New Testament brought grace and freedom from the law. And Jesus said he came to fulfill the law and the law would not pass away till every bit of it had been fulfilled. So the Old Testament, in the minds of "Chrishians," represents the Dark Ages and the hard, overbearing oppressiveness of the detailed law that Jews still accept. That's why Cardinal Ratzinger is not going to be able to bring unity among all the religions of the world. The New Testament is where the good guys took over. Things kind of lightened up. People could smile. Jesus even chuckled on occasion. God never laughed, although there was a place in the "Bible" when he said, I will laugh when your calamity cometh. So it's interesting the kind of things that would make God laugh. The first part of the constitution protected slavery. When you get to the Thirteenth Amendment and the abolition of slavery for black people, it's an approach toward the New Testament. And with the lifting of the bottom of the barrel, everything in it basically had been lifted except females when it came to the right to vote. After the Thirteenth Amendment to abolish slavery came the Fourteenth Amendment, which included the rights and privileges, it included due process, equal protection of the law. And although that amendment was put in place a long time ago, 1868, in May of 1954 the United States Supreme Court got around to ruling that equal protection of the law was denied to black children in states where they were segregated and discriminated against in the schools based on race. It took from 1868 to 1954 before it was recognized that the right of black children in school to be free from segregation and discrimination imposed by law violated the constitution. The provision in the constitution had not changed

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since 1868; something else did. Constitutions are adaptable. They are elastic. They are modified through interpretation by courts, through Congress using what's called the elastic clause in the first article of the constitution to enact all laws necessary and proper to carry out the powers and duties accorded to the central government. The actual scope of the constitution as far as the powers of the central government were expanded. Although the U.S. government, acting through Congress, is a government of enumerated or granted powers, it has many more and much more powers and power than those specified in the amendments. That elastic clause was recognized by a chief justice named John Marshall in a case called McCullough v. Maryland, and he talked about the implied powers of Congress. He also was the one who created the concept of judicial review where courts had the power to look at enactments of Congress and strike them down if they violated the constitution. That was in Marbury v. Madison in 1803,...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...which everybody who's ever been to law school read or heard of and may have forgotten. So when people today who call themselves conservatives want to say that a privacy right found in the constitution which guarantees a woman the right to make the determination of whether or not she will carry a pregnancy to term, that's condemned because they say it's not mentioned in the constitution, well, one of the most powerful forces in this country, judicial review, is not mentioned in the constitution. The constitution does not bestow on the U.S. Supreme Court or the federal courts the power to nullify congressional enactments. That was created by one strong man--Chief Justice of the U.S. Supreme Court John Marshall in 1803, Marbury v. Madison. So people need to read their history, study what is available, and before they start criticizing and condemning the court for being people by activist judges,...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...look at what some of the judges they call conservatives have done. Was that my third time, Mr. President?

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SENATOR CUDABACK:    That was, Senator.

SENATOR CHAMBERS:    Thank you.

SENATOR CUDABACK:    And there are no further lights on, so the Chair will recognize you to close on FA38 to LR...

SENATOR CHAMBERS:    Thank you. I can continue to roll. Before I go into some of the specifics, I'll do that the next time I get an opening, I want to touch on some of the amendments to the U.S. Constitution that I think are of significance. I'll start with the actual language in the Bill of Rights, because that's when, I think, things began to reach the New Testament status in the political "Bible." Article XIII, Section 1, enacted in 1865: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." That meant even Nebraska, when it became a state, and it's lucky for me that this is here or you know where I'd be. And if white people had known what I would be when I was birthed from my mother, they'd have drowned me in a bucket of water. Some people say, I think I heard, it's not too late for that now but a bucket might be too small. Article XIV, enacted in 1868: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." So, despite this protection enacted in 1868, made a part of the constitution, it took until 1954 before our children were granted equal protection of the law to some extent in the public schools. Article XV, 1870: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." Notice they say "or previous condition of servitude," and that's how they could keep the vote from white women, because they were in virtual servitude still.

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They didn't get the right to vote till 1920, despite the Fifteenth Amendment. The XVII, 1913, that called for the direct election of senators to the U.S. Senate, because current...before that they were chosen by legislatures and there was so much corruption that the public insisted that this change be made. No more needs to be said about that. Nineteen twenty came the Nineteenth Amendment: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have the power to enforce this article by appropriate legislation. Nineteen fifty-one, that restricted the President of the United States to two terms. If that person served more than two years of a previous President's term, he or she could be elected only one more time; limited to two terms. There was one other that I think is worthy of note. All of them are, but these are of particular note in my mind. Amendment XXVI, 1971: "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. The Congress shall have power to enforce this article by appropriate legislation." You know what? If people would read the U.S. Constitution, if they would read the Nebraska Constitution they would laugh to scorn like they did...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...at the original U.S. Constitutional Convention, something like this on fishing, hunting and trapping to be put into that document. I've conceded that the people can put anything into it they want to, anything, but that doesn't mean any and everything ought to be put there. And when it's filtered through us, the Legislature, we should set a higher standard and let people know we are not flunkies. We don't do everything just because you tell us to do it. If you gave me a bucket of warm spit and told me to drink it, I'm not going to drink it. Or if it was cold spit, I'm not going to drink it. You cannot reduce me to the level of a nincompoop, a jackass or a fool. Despite the fact that you voted for me, you don't own me and you don't cause me to put in abeyance my ability to think and exercise my judgment. I'm being asked to become a fool and be foul the constitution with LR 8CA, and you might get it done

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in terms of getting it through the Legislature, but you're going to have a hard, long struggle, and I won't get tired and I haven't even begun to talk. And they're going to become "Captain" and "Captainess Lunch-hunter"...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...and want to leave here by noon. Was that my closing, Mr. President?

SENATOR CUDABACK: It was. It was, Senator.

SENATOR CHAMBERS: Ah, parting is such sweet sorrow.

SENATOR CUDABACK: You've heard the closing on FA38. Question before the body is...Senator Chambers.

SENATOR CHAMBERS: I want a call of the house and a roll call vote.

SENATOR CUDABACK: Been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 13 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unexcused senators please report to the Chamber. Unauthorized personnel please leave the floor. The house is under call. Senator Jensen, Senator Byars, Senators Kopplin, Louden, Howard. Senators McDonald, Burling, Stuhr. Senator Raikes, Senator Kremer, Senator Baker. Senator Bourne. Senator Louden. Senator Synowiecki. Senator Bourne, would you check in, please? Thank you. Senator Hudkins, the house is under call. Senator McDonald, would you check in, please? Thank you. Senator Hudkins. Senator Louden. Senator Chambers, did you wish to wait for the remaining two that have not checked in?

SENATOR CHAMBERS: Are you calling loud and clear for Louden? (Laugh) I'll wait.

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SENATOR CUDABACK: A roll call vote has been requested. Mr. Clerk, please call the roll on the question.

SENATOR CHAMBERS: No, I want to wait.

SENATOR CUDABACK: I'm sorry, I thought you...I'm sorry.

SENATOR CHAMBERS: No, I asked had you called loud and clear for him. So if you can get him, I want him here.

SENATOR CUDABACK: I thought you said...I'm sorry.

SENATOR CHAMBERS: And Belevedere wants him here too. (Laughter)

SENATOR CUDABACK: Senator Louden. Senator Louden, the house is under call. Please check in; Senator Hudkins as well. Senator Chambers, his office does not know where he is at the present time.

SENATOR CHAMBERS: Somebody knows where he is, but I'll let us proceed.

SENATOR CUDABACK: All present or accounted for. Mr. Clerk, please call the roll on the question.

CLERK: (Roll call vote taken, Legislative Journal pages 1253-1254.) 1 aye, 20 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment is not agreed to. I do raise the call. Mr. Clerk, items for the record, please.

CLERK: Just...I have no items, Mr. President. I do have a priority motion to recess until 1:30 p.m.

SENATOR CUDABACK: You heard the motion to recess till 1:30. All in favor say aye. Opposed, nay. We are recessed. (Gavel)

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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 record your presence. Senators, please check in. Members, please check in. The afternoon session is about to reconvene. Members, please check in. Please record, Mr. Clerk.

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

SENATOR CUDABACK: You have any items for the record, Mr. Clerk?

CLERK: New resolution by Senator Foley, Mr. President; that will be laid over. (Re LR 84) That's all that I have. (Legislative Journal page 1255.)

SENATOR CUDABACK: Thank you, Mr. Clerk. It is 1:30 p.m. As the agenda states, General File, 2005 senator priority bills, the Combs division. Mr. Clerk, LB 70.

CLERK: Mr. President, LB 70, a bill offered by Senator Smith, relates to motor vehicles. It adopts the Motorcycle Safety and Training Act. It changes and eliminates provisions related to motorcycle safety and helmets. Bill was discussed...well, the bill was introduced in January, discussed on April 19 on the floor, Mr. President. At that time, there was an amendment from Senator Smith to the bill that was adopted. Senator Jensen had opened and presented to the Legislature AM1106. Mr. President, I do have a note that Senator Jensen would like to withdraw AM1106 and offer, as a substitute therefor, AM1286. (Legislative Journal pages 1255-1256.)

SENATOR CUDABACK: With no objection, it is so ordered. Before we go to that amendment, why don't we let Senator Smith give a quick review of the contents of LB 70? Senator Smith.

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SENATOR SMITH: Thank you, Mr. President and members. I watched a video last night on statistics and hope that I can more accurately portray the statistics today, but that's just a joke. Anyway, the LB 70 is before us. We had a Jensen amendment that had mandatory training without Section 7, which is the exchange training versus the choice to go without a helmet or not, and obviously Senator Jensen has just replaced that amendment with basically a task force. I have just seen the amendment and I hope to enter further discussions with Senator Jensen so that we can come up with something here. But I think that would be a sufficient update. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. We just had unanimous consent to substitute AM1286 for AM1106. Senator Jensen, to open.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. After adjournment last night, Senator Smith and I had a brief conversation and to decide if there was any way that a compromise could be reached on this issue, and when we left there was not any compromise reached. However, this morning, after one of those nights where you wake up at 2:30 in the morning or so, they talk about how many hours does a senator spend in this position and I know many of you have that same thing where you wake up in the middle of the night and your mind is racing about different things. But anyway, I thought that perhaps that we could come to some sort of a compromise and, with that, I offer this amendment to you. And, by the way, we got this down just before lunch and there are some things in this amendment even that needs to be changed. And I did briefly visit this morning with Senator Smith about what I was intending to do and there was some agreement, not total agreement, but let me just kind of take you through this. Certainly during the debate we had yesterday, we had a lot of statistics, and a lot of figures were given out and a lot of statements were made, with the proponents saying that some of the statistics were wrong and with the opponents saying some of the economic figures were wrong, and so how do we resolve that? And particularly I know that the body is looking for some sort of an answer, and I don't know that we can come up with that at this point in time. There are some amendments that are filed, other amendments that

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could be filed. And if we go down this road, why, certainly cloture would have to be invoked, in other words, to get to the opportunity to vote on this issue. And I think any time that we can work out a compromise without going to cloture that's certainly worthwhile. This does set up a task force and I will tell you that we've already asked Bill Drafters to make a couple changes in that this task force would consist of ten individuals appointed by the Governor. What I was...really had in mind, that there would be ten individuals, half of which would be appointed by the Health Committee, half by the Transportation Committee, and I haven't even visited with the Chairman of the Transportation Committee to see if this would be all right. And then that the members shall include, but not be limited to, a representative from the insurance companies licensed to sell insurance, representative from the Department of Motor Vehicles, a representative of individuals licensed to practice medicine/surgery in Nebraska, a representative of the Department of Economic Development, a representative of the University of Nebraska with expertise in statistics, a representative of the Department of Roads, and a representative of the Nebraska State Patrol. That says they shall include. That's not, however...doesn't say that others cannot be brought on. And then the task force shall examine, but not be limited to, the following: the most recent information and studies related to helmet laws, the relationship between the repeal of existing laws and occurrence of injuries, the economic effects of having helmet laws versus not having a helmet law, and the task force shall report its findings then to the Transportation Committee and Telecommunications. I would like to have that Transportation and the Health Committee of the Legislature on or before December 30. In other words, so that we can look at this at the next coming session. The task force would terminate in December 31 of 2005. Section 2, a kind of unusual provision but it says, this section, with respect to motorcycle and moped protective helmet violations shall not be enforced during the month of August 2005. We heard testimony that individuals wanted to go to Sturgis, wanted to drive through Nebraska, and they don't want to...they will...will not go through the state if we have a helmet law in this state, so for one month, actually when I suggested a period of time Senator Smith said six weeks, I said a month, then he said, well, we need time

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before and after, maybe it should be two months. I'll listen to the...certainly, the body on this. Now, is this unusual to have a moratorium, if you would, on an issue like this? I don't think it is setting precedence. We have had moratoriums on everything from library books from the libraries, from traffic tickets and penalties to, that you could do that, and then also we even have in the state of Nebraska, I believe, a road race or rally held out in western Nebraska where we take, actually, a public road, shut it down for a race. So those things are done. This would do two things. First of all, it would allow people to come through the state on a one-time basis, and this would be a one-time basis until another bill is introduced, but to see what the economic impact of that might be, to see how that might work. The proponents of the repeal feel that perhaps the injuries might go up. This might be an opportunity to look at that. Can you do that in that short a period of time? I don't know, but I think it opens up a window that we can look and see how that works. Now this is a very simple, then, amendment and, no, it doesn't include everything that was in LB 70. It doesn't include training. It doesn't include all of those other issues that I think next year we need to introduce a bill that would do that. I think everybody in this body feels that training is very important, training, education, and so that needs to be part of that. But all I'm saying is this gives us an opportunity to do a study so that we will have accurate figures, facts, statements to look upon before we make a decision, and then we can go with that at that time. I'm sure that Senator Smith would like to make some changes, perhaps, in this, but I want to at least throw this out to let the body comment on it and to see if this is something that we could enter into. I haven't visited, again, with all of the people who were opponents of the repeal. Some might be happy with this. There might be a great deal that are not pleased with this approach. But, to me, one, it takes a bill that is very confrontational, that is going to cause us to go to cloture, and allows us to take a good long look at this, and it also allows for a period of time that we can reflect then on that information before we go on. Senator Smith has brought this issue, now this is the second year. He's had two priority bills that he might say are wasted. I don't think so. It has caused us all to think more about this issue. Next year does this have to be a priority

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bill? I don't know. Perhaps either the committee or we could work out another way so we can still have a priority process. But I think this will get us off dead center, allow us the time to really examine this whole issue before we change our statutes completely. This is not indicative or not totally removed from what we did in LB 724 prior to introduction of LB 1083. It's not all that much different to, to tell you the truth, our Medicaid study that we are doing right now. So I would offer that to the committee. I'd be glad to answer any questions...or, not to the committee, but to this body and be glad to answer any questions that any of you might have as to whether we could go at this time and look at a task force that would come back with some defining information. With that, Mr. President, I'll return the rest of my time back.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the opening on AM1286, offered by Senator Jensen to LB 70. Open for discussion on that amendment. Senator Smith, followed by Senator Beutler. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I appreciate Senator Jensen's filing this amendment. I've digested it a bit and I would like to comment on that, subsequently. And while I don't think we were on dead center (laugh), I was kind of appreciative of the way things were moving along and appreciate the positive feedback that I've been receiving. Any time something is put before me that is to be a compromise, I believe, at least it's my style, that I'll take a look at that and give you my candid response, and my candid response is that it's a bit of a loaded deck, Senator Jensen, at least given the debate on the issue because we've heard about various groups and so forth, which I would contend otherwise. But with the...with the membership of this task force being insurance companies, DMV, physicians or individuals licensed to practice medicine and surgery in Nebraska, a representative of Department of Economic Development, a representative of the University of Nebraska with expertise in statistics--I'd be curious to know what those qualifications are--but nonetheless, and a representative of the Department of Roads and the Nebraska State Patrol, I don't see anyone on the list such as the volunteers who are advocates of a little different policy than

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we currently have in Nebraska. I've spent some time with interested individuals over the last couple of days saying, you know, do we have to have LB 70 in its current fashion? What can we look for? And so I would like the opportunity to sit down and speak further with Senator Jensen. It's kind of hard on the mike here. I will comment candidly on the 30-day issue contained on page 2 of the amendment that the provisions of subdivision (13) of Section 60-4,182 with respect to motorcycle and moped protective helmet violations and Sections 60-6,278 to 60-6,282 shall not be enforced in the month of August. Actually, that, the month of August, is a bit problematic because it misses half of the economic opportunity that exists the first week in August, August, with those folks traveling to South Dakota in late July. I would rather have July 15 to August 15, if it's a 30-day period. Perhaps a 60-day period commencing on July 4 would be appropriate as well, but I won't get into that. Nonetheless, I think there are other ways of compromising that also include the safety mechanism that I am proposing in LB 70. That is not a fabricated, fictitious or less than genuine effort to get a softened helmet law in Nebraska. That is a very strident effort on my part. Volunteers behind the glass, unpaid volunteers, not to be redundant about volunteers, but these are folks who have worked hard on this, literally for about eight years, that the education component to the bill is important. We have people waiting in line to take the course, to take the safety training course, and that is something that I would like to get going right away. I don't want to go to...I think Senator Beutler had an amendment; Senator Jensen had a similar amendment that mandated that without any exchange at all.

SENATOR CUDABACK: One minute.

SENATOR SMITH: So that is something that I think, with the safety training, I want to...I want to encourage that. The current Jensen amendment, AM1286, strikes from the bill the safety training enhancement that we currently have. Most recently, if you look in the packet that I handed out with the blue and white map on the front that I handed out two days ago, you will see later on in the packet, toward the back, that we have an increasing number of individuals receiving training and

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we still are not meeting the demand of those wanting to take the course, and we need to make available the course even more so than it is now, and the provisions in LB 70 would do that. So those are some of my candid thoughts and I look forward to further discussion on the bill and hope that we can move forward. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with discussion of AM1286. Senator Beutler, followed by Senator Johnson and others.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I think some creative thinking is going on now and I hope they will have an opportunity to work through this a little bit and see if they can make something of it. I'm looking at Beveledere in front of me here and he's obviously taking an interest in other bills because he's smiling approvingly at this idea of some kind of compromise on this bill, Senator Jensen. I think, you know, if you're in a court of law you bring evidence in and the other lawyers can object to the evidence, and you kind of filter through the evidence until whatever evidence is put on, on either side, if you have good lawyers, is good evidence and it's factual stuff and it's not hearsay and it's not hypothetical. And in this legislative process, unfortunately, because we go so fast and because we don't have any evidentiary rules, information just kind of comes in and we don't have a real good ability to sort through it quickly, especially on this particular issue because there's such a volume of evidence and there are such differing opinions. I think the most valuable thing that could come from this study--and I don't think a whole lot else is going to come from it, but this is, in and of itself extremely valuable--that is, to have a fairly representative group of people and I think ABATE should be on that, on that task force, Senator Jensen. They've been...they've been doing their best for their side and making an honest job of it. But I think it should be a good, broad representative group and they should look through all these studies and come back to us and tell us what is fact and what is fiction and what we really know about whether helmets serve a legitimate function. So I'm hoping Senator Smith takes an interest in this. A couple of small things: If you're fooling around with the language, I'd

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rather see the provisions of those sections of law suspended rather than not enforced, because that kind of strikes of having law in place that's not being enforced. And instead of saying in the month of September, I would say for the month of...or in the month of August, I'd say for the month of August, so that it's clear you're talking about one month and it just doesn't start in August and go...and go on. But I'm hoping also that we can get some of the provisions in that Senator Smith wants with regard to training and put them in permanently, hopefully, because he has convinced me, at least, and a couple of the studies convinced me, that that probably does make a significant difference. And the only last thought I had is I also agree with Senator Smith's suggestion that the eyewear is an important item and, to the extent that he is willing to start incorporating the eyewear provision in, that might be...that might be very valuable for us to see what positive effect that can have, although, again, I'm not sure we see that in a short period of time. But anyway, if that could be worked in, that would be great. Just wanted to lend my support to the idea of getting together on this matter. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Johnson, followed by Senator Jensen and Smith.

SENATOR JOHNSON: Senator Cudaback, members of the body, Senator Jensen asked me about this compromise as well, since I've been quite opposed to this bill. I have told him that, reluctantly, I would agree. If we're talking about a compromise, we both need to give a little bit in order to succeed. One of my main concerns is that, with this window that we create in August, I don't think that there's any doubt that the people that wish to get rid of the motorcycle helmets will inundate our state to show you...to show us what a difference taking off the helmets will be to our state. It will present a rosier picture than probably what will actually occur. But, like I say, if we're going to compromise then I will go along with that. Why do I support it? Let me tell you how we started the other day, last Tuesday. One of the things that I insisted upon, and it's been my training throughout my life, to insist on accurate statistics. You cannot make decisions in the profession where I was if you don't have accurate statistics. A common one that

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all of you will be familiar with as soon as I mention it is the placebo effect. You can give anybody a pill, give this pill to 100 people, 20 out of the 100 will get better even though it is a sugar pill or essentially have nothing in it. You have to include those type of decisions. I happen to be involved in a thing called a double-blind study. We hear all the time about how wonderful vitamins are, which ones, and how much, and so on. No one really knows. For the last nine years, I've been involved with a Harvard University study where they give me pills to take every day. I don't know whether they're vitamins or sugar pills. The guy who supplies them to me doesn't know. Then a statistical analysis is done on a yearly basis of whether I've had more strokes or pneumonia or whatever, and then you come up with some accurate statistics. This is what I'm used to. This is what I was talking about the other day. We have to have accurate statistics or, you know, no statistics at all. The...what I'm concerned about is that when we do this study that we look at things like unbiased numbers for accident rates, injuries, the significance, costs, who pays. Then, with these type of informed statistics, we can make informed decisions. A couple more things: I think the studies, to be accurate statistically,...

SENATOR CUDABACK: One minute.

SENATOR JOHNSON: ...we have to include studies from other states as to what happened pre- and post-helmet laws. We can't just study and project what Nebraska might be. We have to look at the big picture. Two last things: Yes, Senator Smith, let's get going right now with a training bill. Let's find a way of starting now. Everybody in this assembly is agreed to that. Let's throw in the protective eyewear while we're at it. Thank you.

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

SENATOR JENSEN: Thank you, Senator Cudaback. And again, I appreciate the comments that I've heard. We have...I delineated in this amendment seven individuals and we're talking about...or seven categories, but we have ten on the task force. And certainly, members of ABATE or of the motorcycle enthusiasts

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should be part of this committee. Otherwise, it would be one-sided and we don't want that, and that's why I just thought that five members who were appointed from the Transportation Committee, and five members from the Health Committee that perhaps we could come up with a group that certainly could work together and come up with a determination. And I also would look at the eyewear issue, the training issue, if we could start those fairly soon. There is another issue, Senator Chambers referred to it yesterday, that the helmets are a sham. That's absolutely true. I heard, matter of fact just today, that there are some new motorcycle helmets that are light, that are cooler, that also the sound can come in, which just may make for a lot more comfort and better. But all those things can be included and looked at through this study, and I just think that it could be a way for us to get some information that we wouldn't obtain any other way, that we could, again, move forward with the many issues. Certainly a week from today the budget comes out. I think that's going to be the topic that we'll be discussing for some time. And if this is an issue that we could get taken care of before that, it would certainly be advantageous. And we also have, as you look at the agenda, many other issues to follow this that deserve discussion and I hope that we have time to give them that proper discussion on those issues. So, again, everything that's been mentioned I'm certainly happy to take a look at, but I would urge the body to move ahead with this amendment, a study to look at these issues. I appreciate using the word "suspended" rather than "not enforced." That is not good terminology, so it would sure be better to include that also. With that, I'll return the remainder of my time back to the Chair.

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

SENATOR SMITH: Thank you, Mr. President and members. Further review of the amendment, again I appreciate the intent and some discussions with some other members. I think that Section 2 of the amendment, that being the enforcement moratorium, if you will, is somewhat problematic and I think there would be a better way of achieving a compromise than this particular approach. Again, I want to emphasize, and I think Senator Beutler pointed to this, that we are, with this current concept

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even, not necessarily even the exact wording, but the concepts contained in AM1286, we're lacking the comprehensive approach of bringing the safety mechanism, the eyewear. Right now, there is no eyewear required. The hard shell around your head is all that is required. And talking to enthusiasts and so forth, they really feel that eyewear is actually...is actually more effective, and so I think we need to include that. I think we need to include the concepts that I have proposed in LB 70, the green copy, and amended by my amendment on this first round that's already been adopted, so that we can have the comprehensive approach. I think I have...the work that I've done and those who have helped me, we've moved forward in good faith and this training mechanism is not just a distraction from the relaxation of the helmet law. And I don't speak for myself only. I speak for a lot of enthusiasts and others who really look to the safety training as an effective tool. And, as I said before, we have folks waiting in line to take that training and I believe that we should do what we can to accommodate them. The makeup of the task force...and I'm not opposed to a task force forming to look at the numbers. I am concerned if it's just a delaying tactic, but I think that we could improve the makeup of that task force a great deal so that it would be more balanced, and I offer those advocates from both sides of the issue and make sure that if they aren't advocates from both sides of the issue and they offer an objective viewpoint (laugh), I would like to almost go through a jury selection process to make sure that these folks are not activists cloaked behind a diploma of some sort because that's what I've been finding oftentimes, is that they say they're unbiased, but they truly do have a bias. And some of the numbers that have been tossed around...and I agree with Senator Johnson that we want to take an accurate look at statistics and we need to look at that big picture. And a lot of these, even on the Health and Human Services web site, the numbers that are given there indicate a bias right up-front because they withhold some very important information, that being the registration numbers that dipped throughout the late eighties, before the helmet law came on the books; continued to decline after the helmet law came on the books; leveled out and it's on its way back up. But it still has not achieved the same point, same as that point in 1982. So there are a lot of things that we need to look at. Again, I...

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SENATOR CUDABACK: One minute.

SENATOR SMITH: ...I'm not...one minute, Mr. President, did you say? One minute? And that I'm not opposed to a task force, if that's what we want, to gather some more information. That's fine, but let's make sure it's a balanced membership and that we have some language. And I don't think it's fair to just move forward with a task force only, because there needs to be some exchange, and I think that it would be very fair to make this more parallel with seat belts, perhaps. That would be something that I think would be a good policy, easy to understand, easier to enforce that way. The language contained in this amendment, in Section 2, of not enforcing a law for the month of August 2005 is...2005 only, by the way...is a concern to me and I think we could have something that is a little better public policy rather than just basically shelving the bill for the time being. Thank you, Mr. President.

SENATOR CUDABACK: On with discussion. Senator Stuthman. Senator, would you mind if I introduced some of your guests before you talk?

SENATOR STUTHMAN: That would be fine, Mr. President.

SENATOR CUDABACK: Fine. (Visitors introduced.) You may proceed, Senator Stuthman.

SENATOR STUTHMAN: Thank you again, Mr. President and members of the body. I would like to discuss and engage in a little bit of a conversation with Senator Jensen, if I may.

SENATOR CUDABACK: Senator Jensen, would you respond to a question from Senator Stuthman?

SENATOR JENSEN: Yes.

SENATOR STUTHMAN: Senator Jensen, in your amendment you have, and you did state you have a...that there's a possibility of getting ten people on a board to look into the possibility and conduct a study for this.

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SENATOR JENSEN: Yes.

SENATOR STUTHMAN: You have got seven of them identified. What would you have in mind as far as the other three positions would be...

SENATOR JENSEN: Well,...

SENATOR STUTHMAN: ...or what organizations or what groups of people?

SENATOR JENSEN: Yes, thank you, Senator. And I have another amendment which is now down. It says that a task force shall consist of ten individuals, five appointed by the Chairman of the Transportation Committee and five appointed by the Chairman of the Health and Human Services. And then we list these seven, but the remainder can be appointed by their discretion, certainly. So certainly there should be a member of the ABATE or at least the motorcycle enthusiasts group on this task force.

SENATOR STUTHMAN: Yes. Thank you, Senator Jensen. This is a concern that I had. I thought, you know, you know, realistically, what we're talking about is what affects the people that are in an organization that riding motorcycles and that group of people, and I felt that there realistically should be somebody, you know, that is with that organization that has the knowledge of the reasons why they would not want a helmet law, the reasons why we should have a helmet law, and I think there would be a real value to have one or two individuals, you know, appointed on that. But you don't have any problem, Senator Jensen, with having one or two individuals from the motorcycle group or moped group or of that organization of what this bill really affects?

SENATOR JENSEN: (Microphone malfunction) Certainly I'd have no objections to that (inaudible)...

SENATOR CUDABACK: Senator Jensen.

SENATOR JENSEN: ...said whatever those individuals would come

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up with, who they should recommend by those two committees is certainly acceptable to me, whatever that might be.

SENATOR STUTHMAN: Yes, I truly think that there should be individuals on there that this bill affects, if we go that route and if we can reach that agreement. Because I think, you know, when you're...when you're dealing with the effects of legislation that we're going to try to enact or repeal, then I think that individual group needs to be and be available and have some input into the decision and into the discussions. I do not want it dominated by that group of people, but I think there needs to be someone that it does involve. So, you know, I would work very hard, if we adopt this amendment, you know, to try to get some of those individuals involved into that task force. So that was my concern, because I had looked at the amendment and just saw there was only seven of the ten and I was trying to...the main emphasis I saw in there was insurance companies, doctors, surgeons, Department of Roads, Department of Motor Vehicles. You know, that was really the emphasis there and I just felt, you know, we need to have...the ones that are affected by it need to also have a voice in that. So I hope that is taken into consideration if, in fact, that we would adopt this amendment. But I am not sure whether I can support the amendment. So with that, I'll give the balance of my time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion on the Jensen amendment, AM1286, to LB 70? Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, (makes motorcycle revving sound) I knew that would get your attention. If I reduce my presentation to a level where people can understand it, they pay attention. Now I...thank you. Senator Stuthman was looking out for Belevedere here. It was a little loud and he jumped, so Senator Stuthman gently covered Belevedere's ears so he would not be disturbed. Members of the Legislature, I'd like to ask Senator Smith a question or two.

SENATOR CUDABACK: Senator Smith, would you yield to a question from Senator Chambers?

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SENATOR SMITH: Yes.

SENATOR CHAMBERS: Senator Smith, as you know, I've jumped ship on this bill, but I still have an interest in it. I'm curious to see how successful you're going to be. Are you going to accept this amendment?

SENATOR SMITH: Not in its current form. That's for certain.

SENATOR CHAMBERS: What form would you be amenable to accepting it in?

SENATOR SMITH: (Laugh) One that...

SENATOR CHAMBERS: That's not an answer; that's a sigh.

SENATOR SMITH: That's correct, actually. I would...there are too many variables, Senator Chambers. I would have to see something before I would approve or give my consent to it.

SENATOR CHAMBERS: What about the change that Senator Jensen said he's going to have made in the makeup of the committee or task force or whatever this conglomeration of miscellaneous people who are opposed to motorcycle helmets would be?

SENATOR SMITH: I only caught part of what he had to say and we haven't had the opportunity to discuss it one on one, Senator.

SENATOR CHAMBERS: And let me correct what I just said. They're opposed to eliminating motorcycle helmets. Why don't you accept this amendment...

SENATOR SMITH: I'm opposed to eliminating motorcycle helmets, too, Senator Chambers.

SENATOR CHAMBERS: Say it again.

SENATOR SMITH: I'm opposed to eliminating motorcycle helmets as well.

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SENATOR CHAMBERS: You're opposed to eliminating them?

SENATOR SMITH: Absolutely.

SENATOR CHAMBERS: So you want to keep motorcycle helmets.

SENATOR SMITH: Sure. A motorcycle helmet, anyone can and should have.

SENATOR CHAMBERS: You mean if it's voluntary.

SENATOR SMITH: That's right.

SENATOR CHAMBERS: Okay. Senator Smith, why don't you accept this, declare victory and go home?

SENATOR SMITH: Because it's poorly drafted. (Laugh)

SENATOR CHAMBERS: Say it again.

SENATOR SMITH: It's poorly drafted.

SENATOR CHAMBERS: When has that made much difference to the Legislature?

SENATOR SMITH: Senator, I won't go there.

SENATOR CHAMBERS: Well, you're going to Congress. Why can't you go into this?

SENATOR SMITH: You've far exceeded the two questions you said you were going to ask.

SENATOR CHAMBERS: Did I say two, or a couple, or a few?

SENATOR SMITH: You said one or two, but I'll grant you more time.

SENATOR CHAMBERS: You're so kind. I appreciate that. But I'm not going to belabor this with you, because I did get your answer that the way the amendment is drafted you're not for it.

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Thank you, Senator Smith. I'd like to ask Senator Jensen a question.

SENATOR CUDABACK: Senator Jensen, would you yield?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Senator Jensen, you know you're standing nose to nose with a potential member of the U.S. House of Representatives, don't you, with your amendment? You're aware of that?

SENATOR JENSEN: Whatever. Yes.

SENATOR CHAMBERS: And you're not shaking or fearful of that?

SENATOR JENSEN: I like representatives of the Congress.

SENATOR CHAMBERS: If he were to get there and seek retribution against the state of Nebraska for your recalcitrance on this issue, would you accept the blame for that fallout?

SENATOR JENSEN: I've accepted the blame for a lot of things, but I don't know that that would happen.

SENATOR CHAMBERS: This is a yes or no answer, please. Are you going to vote for him for Congress?

SENATOR JENSEN: You know,...

SENATOR CHAMBERS: No, that...one word, and you...

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: ...the only one I got that I understood was "know."

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: You're going to?

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SENATOR JENSEN:    You know, I'm not in that district.

SENATOR CHAMBERS:    That's not the question. There are people who are dead who vote. (Laughter) Are you going to vote for him, yes or no?

SENATOR JENSEN:    (Laugh) I'm not dead yet. I would vote for Senator Smith.

SENATOR CHAMBERS:    Not would; are. Are you going to vote for him?

SENATOR JENSEN:    No, I cannot.

SENATOR CHAMBERS:    Okay. Oh, you added a word; you cannot?

SENATOR JENSEN:    No.

SENATOR CHAMBERS:    You said you cannot?

SENATOR CUDABACK:    One minute.

SENATOR JENSEN:    Cannot.

SENATOR CHAMBERS:    Why can you not?

SENATOR JENSEN:    Well, because that he's of another district.

SENATOR CHAMBERS:    Haven't you heard of people falsifying addresses and registering as though they live some place when they don't?

SENATOR JENSEN:    I have. I have.

SENATOR CHAMBERS:    So you are able to vote for him if you choose. Isn't that right?

SENATOR JENSEN:    Not legally.

SENATOR CHAMBERS:    You add words. "Can" means able. You are able to vote for him if you choose, aren't you?

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SENATOR JENSEN: I suppose that's correct. I can...

SENATOR CHAMBERS: But you're not going to go through that inconvenience in order to vote for your colleague so he can go to Congress and get out of here, huh?

SENATOR JENSEN: No, I wouldn't vote for Congress and send somebody out of here.

SENATOR CHAMBERS: Okay. I'm glad that Senator Smith can see what you think of him. Members of the Legislature, I'm going to have fun on this bill. Senator Smith told me yesterday that killing prairie dogs is more important than killing off the requirement to wear helmets, so I'm going to get with the program. Anybody who will...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...delay this bill in any way, I'm with you and I'm going to work with you and...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...I'm going to talk on this. Thank you, Mr. President.

SENATOR CUDABACK: Uh-huh. Thank you, Senator Chambers. On with discussion. Senator Smith. This will be your third time, Senator.

SENATOR SMITH: Thank you, Mr. President and members. I...this is interesting. I am kind of finding out that perhaps I'm more negotiable than the other side and I, quite frankly, don't want to, how do I say this politely, don't want to be taken advantage of. And so that is a concern that I have. I'm willing to draft an amendment that I think is a compromise. Keep in mind there (laugh)...if I were not negotiable whatsoever, I would have insisted on LB 69 coming out of committee and, quite frankly, I think I could have gotten the votes for it--that's a clean repeal, no safety, no safety mechanism--if I were the side that

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was nonnegotiable. Now, I believe that legally the concept of a window of nonenforcement is problematic. I'm not willing to throw that out the window, but it's problematic and I have very casually suggested another way, another approach that would definitely be a compromise that we can do that and, quite frankly, I am quite confident I'd pick up even more votes with that. Of course, we never know until the votes are cast, but I...it so far looks like I'm more negotiable than the other side, and I don't want to get taken advantage of and I'm going to make sure that I don't get taken advantage of on that and so that we can...we can move on. If the other side wants to take this to the mat, require 33 votes, we can go ahead and do that. But I hope that we can negotiate in good faith and I think that I've...am doing my part in that. Hope that we can move forward. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Schimek, followed by Senator Chambers. Is Senator Schimek on the floor? She is. She waives her time. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the only one who can move for cloture is the introducer of the bill. Senator Smith said something about not taking...not needing...doing...let me ask him a question. Senator Smith, would you yield to a question?

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Yes.

SENATOR CHAMBERS: Senator Smith, this is just to be clear on what you had said about 33 votes. Could you repeat that?

SENATOR SMITH: If the other side chooses to take it to 33, take that threshold to 33 instead of 25, that's what we'll have to do. But I...I think...

SENATOR CHAMBERS: Okay.

SENATOR SMITH: ...that we can negotiate that, hopefully, to accommodate some softening from both sides, not just one side,

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that being my own.

SENATOR CHAMBERS: Okay. I just wanted to be sure of what you said about the 33. Members of the Legislature, I don't believe Senator Smith has 25 votes. The only way the issue will be brought to 33 is if he moves to invoke cloture. Nobody else can do that; only if he's the introducer of the bill. Only the introducer of the bill can do that, so he's the one who will determine if he's going to get knocked down trying to get a cloture vote. If he moves for cloture and he doesn't get it, which he won't, the bill is off the agenda until such time as the Speaker brings it back. Then it has to go at least two hours. But with the new regime in place, it probably will have to go the full eight again if it gets back on the agenda. He has not got 25 votes. He certainly cannot get 33 if he hasn't got 25. But when you consider the way this Legislature operates, what I just said may not be correct after all. There's an illogic sometimes that sweeps through this place. But now that Senator Schimek is back on the floor I can make a comment addressed to her, because she was reading off a very impressive list of people and organizations who oppose Senator Smith's bill, and until yesterday I was among those who supported it. Now I will join that august list of hers on the opposition side. I've been pushed over there by Senator Smith. He, in so many words, told me, Chambers, I don't need your support, and he kicked me out of...kicked me off the train or the bandwagon. But at any rate, whatever the vehicle was, he kicked me off. Senator Schimek I would like to remind of this. The one they pray to every morning, or almost every morning, said, woe unto you when all men speak well of you. Senator Schimek, I have a question to ask you.

SENATOR CUDABACK: Senator Schimek, would you yield?

SENATOR SCHIMEK: Yes.

SENATOR CHAMBERS: Senator Schimek, were there any women or women's organizations on that list that you read off, if you know offhand?

SENATOR SCHIMEK: I don't have that list right in front of me,

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but I have a bigger list that includes all of that and, yes, for instance, the...now, this is maybe a sexist slant on it, but I think the American Nurses Association is still predominantly a women's group, but it's, of course, composed of many more males than used to be. But a women's group specifically, like the Women's Commission or something like that, I don't see it on here.

SENATOR CHAMBERS: But there probably are some women who are among the membership of some...

SENATOR SCHIMEK: Oh.

SENATOR CHAMBERS: ...of those groups.

SENATOR SCHIMEK: Oh, absolutely. The county and city health officials, the...

SENATOR CHAMBERS: Okay. So here's my question, Senator Schimek.

SENATOR SCHIMEK: Yeah.

SENATOR CHAMBERS: If it's woe to you when all men speak well of you, if women do too then it's double woe. Would you agree? Woe, woe, right?

SENATOR SCHIMEK: Yes, yes.

SENATOR CHAMBERS: Hey, out of sight. Thank you. That's all I have to ask.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: Senator Smith's bill has no chance because this is one time when those people on the other side have it their way. They didn't win me to their side. I was rejected. They say there is nothing worse than love to hatred turned nor hell...nor hell hath fury like a woman scorned. They have never taken the time to look at a man who has been scorned, rejected, humiliated, thrown aside, Senator Combs, as Senator Smith did me

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yesterday. He was the 33rd vote in the group who were nailing the nail into the coffin of my extended debate, and that's something I can't get over. At least I haven't gotten over it yet. And I want him to know that I discussed it with...

SENATOR CUDABACK: Time, Senator.

SENATOR CHAMBERS: ...my compatriot Belevedere here, and Belevedere told me I'm on my own on that one, because he just got here today and he's not very familiar with Senator Smith.

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President.

SENATOR CUDABACK: You're welcome. Senator Baker.

SENATOR BAKER: Thank you, Mr. President, members. I am a little bit hesitant on the 30-day moratorium, I guess, on enforcing the helmet provisions in our statutes right now. I don't know how many people realize that there are literally hundreds of thousands of people travel to Sturgis during that month, the last part of July, the month of August, to and from, and I'm... hopefully that doesn't skew our study, I guess, those particular...that 30-day time frame there. There literally are hundreds of thousands of bikers go to Sturgis. So that would be a concern I think we'd have to take into consideration when we look at statistics, if that's what we're going to do. And I would yield the rest of my time to Senator Smith.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you, Senator Baker. Mr. President, I would encourage the body, and I'm trying to get the specifics of what Senator Jensen is proposing to change within this amendment, to bring some balance and then some, with all due respect, some logic to the last section of that. Because right now it proposes a one-time, 30-day relaxation, if you will, that (laugh) is the wrong 30 days, to get an accurate or a more accurate economic impact. And so we have a real issue here that I think lacks some legal standing, not to mention some of the

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other biases. But I fully understand that it would be my motion to require the 33 votes. Apparently, (laugh) and from my calculations, I would speculate that there's a pretty solid 25. Otherwise, we wouldn't have this extended debate. But nonetheless, if we want to see if it only takes 25, I'm willing to do that, and I'd even pull that amendment that I have on my own bill in looking to do that. I doubt that that will be the case, but if there's going to be a compromise, I have to be convinced that it's not just a delaying tactic. Right now, it's just a delaying tactic and I cannot support that. So we will continue to discuss this and go from there. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Chambers. This will be your third time, as you know.

SENATOR CHAMBERS: Yes, my third time on the present version of Senator Jensen's amendment. Members of the Legislature, I'm going to engage in extended debate, not because I think Senator Smith has 25 votes or doesn't have 25. Personally, I don't care whether he has 25, 35, 48; he just won't get mine, and I'm responsible only for me. But I want to assure Senator Smith, before he gets the big head and his ego becomes unmanageable, your bill is not the exclusive one that I intend to give time to, Senator Smith, so don't think that you are getting special treatment today. Others are on the line for the lizard, to use an expression, also. Senator Jensen was hoping that his amendment might be adopted, some accord could be reached and the body could move on. I don't want the body to move on. I want the body to stay right where it is. I wanted them to stay where they were when they were trying to kill off Belevedere and his family. But Senator Smith said, no, so now Senator Smith is my stopping place and he dare not move for cloture. He will not get it. I'll tell you what. To encourage you all to give Senator Smith cloture and to put me in my place and show that I'm just beating my gums and full of hot air and shooting blanks, I don't have a lot of money, but I will reduce the small amount of money I have by \$1,000 that I will give to the charity of you-all's collective choice, but not you as individuals, if Senator Smith gets cloture on this bill. In other words, I'm betting \$1,000 that he cannot get cloture. And if he thinks he

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can, after the eight hours he ought to move for it. But he's not going to do that because he can't get it. I've observed this body. People will stand up here and say, I'm not going to do this, I'm not going to go for that, but as time passes their resolve weakens. Their knees get shaky and pretty soon that which they said so strongly and forcefully they would not accept, they come limping and whimpering and say, I'll accept it, and sometimes the stakes have been raised higher. So Senator Smith had better accept what he's got. He can save face and say, had he not accepted this, he would have gotten nothing. And the people who represent his constituency may say, I would rather you got nothing. I don't see Senator Schrock, so I'm going to have to go ahead and make this point. Yesterday he was mentioning that if Senator Smith's bill is accepted there might be people who would come to Nebraska, certain parts of it, like they go to one of the Dakotas, but he mentioned that in addition to everything else they have the Black Hills and people want to come for that purpose. If Senator Smith had not been so unwise, they'd have the black-tailed prairie dogs here and the scourges of Sturgis could then come to Nebraska, and some people do consider bikers to be scourges. You don't want them to just stay up there in Sturgis. What have they got that Nebraska hasn't got? That would take too long, so I'm not asking for an answer from anybody. But it is so nice for a change to talk at length on a bill about which I care nothing either way. Senator Smith happens to have the first bill offered by a "cloturite" that I have the opportunity to deal with, and there are others on there I'm going to deal with, and there's nothing anybody can do to stop me. What I would like to see, so that I can facilitate movement of bills through this Legislature, although you won't get many of them done, is you all get together at the next lobbyist feed...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and that can be set up, and while you all are sitting around, sucking up to the lobbyists, eating the free food and drinking whatever they give you to drink, form a pact that to put me in my place you will vote cloture on every bill remaining or, at any rate, every bill that I attempt to delay by way of extended debate, and I'll bet you can't get it done. Now

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here's where Senator Smith shows he's not a good negotiator. He gave away everything yesterday and got nothing for it. What he lost was a strong ally. And I said they would gain a little, but they wouldn't consider that they lost a lot. He just happens to be the first one. He knows he hasn't got 25 votes, and I'm going to give him a way to get a straw vote pretty soon. Thank you, Mr. President.

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

SENATOR THOMPSON:      Thank you, Mr. President, members of the body.      I support Senator Jensen's attempt at compromise here. Actually, I'm not one who would normally do this. I think he's made a good faith effort, but if Senator Smith doesn't want to do this then I guess we'll just go on and on with this bill. I think having this kind of information collected, as Senator Jensen, as Chair of the Health and Human Services Committee, working with the Transportation Committee, would at least ease the minds of those of you who have gotten so much information from such a variety of sources. I guess I'm a little concerned that Senator Smith is worried about the scientific groups and the government people collecting the statistics. He wants to have advocates of helmet removal or the helmet law being eliminated from our statute as part of that. I think it's really important that we get the people who aren't there with a bias. So I'm very supportive of university faculty, of having independent folks who have that kind of background which we have in government who keep those statistics, who have that information to do that kind of analysis. I think it's important we take the political element out of that, that putting lay people in trying to interpret statistics has on these kinds of bills. So I support that study for that purpose. I really don't think Senator Jensen...if I were Senator Jensen, I guess, as Chair of the Health and Human Services Committee, I'd just wait this thing out. I think he's offered Senator Smith a reasonable proposal that he's willing to work with him on and I heard him talk at the beginning and now the last time he talked I get the impression he doesn't want to negotiate. And so I just want to clarify what I heard from the first time to the last time he spoke. Senator Smith, are you willing to work with

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Senator Jensen on the two concepts that he has in this amendment?

SENATOR CUDABACK: Senator Smith, would you reply?

SENATOR SMITH: Can you tell me how you view the concepts? Can you...

SENATOR THOMPSON: One is a study, and one is...

SENATOR SMITH: I'm not opposed to a study.

SENATOR THOMPSON: ...one is...okay, you're opposed to study, and one is...

SENATOR SMITH: I said I'm not opposed to a study.

SENATOR THOMPSON: Oh, you're not opposed to the study. And then the...finding some window of time to allow this year a lifting of the helmet law for a period for economic development purposes. I understand your argument that it maybe needs to be the last week of July and a couple weeks of August, but...

SENATOR SMITH: Right. And, Senator Thompson, I appreciate your concern here. With the...and if you don't mind my using...

SENATOR THOMPSON: No.

SENATOR SMITH: ...some of your time. Right now, the 30 days of August...it will not give an accurate picture. Now, if we want an accurate picture of the effects, a one-time, half-baked approach is not going to give us an accurate number. And...

SENATOR THOMPSON: Okay. I have a question then for Senator Jensen. Senator Jensen, is your purpose in allowing the 30 days to allow people to not have helmets on for statistical purposes, or is it as a compromise to Senator Smith?

SENATOR CUDABACK: Senator Jensen.

SENATOR JENSEN: It really was a compromise that was suggested

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that we allow individuals to travel through Nebraska to Sturgis for that event, and certainly if there's some statistical...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...information that could come from that, that would be available, too. But it really was more than a...it was more of a compromise. You know my feeling on helmets and I have great concern during that period of time of perhaps some deaths, some injuries that I would feel burdened with if it occurs.

SENATOR THOMPSON: Thank you, Senator Jensen. I guess that was my feeling on that, too. I didn't think that that is the...as the amendment is written, it's a separate section just saying that there's a repeal, and then the study is a separate piece of that amendment. So I see those as two different things. I thought it was for purposes of compromise. And, as Senator Jensen said, I think the first thoughts I had was I feel very badly for the people and their families who would suffer because we suspended that law,...

SENATOR CUDABACK: Time, Senator Thompson.

SENATOR THOMPSON: ...and it is a burden. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. On with discussion. Senator Schimek.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I took a large part in this discussion yesterday, haven't spoken today, but thought that I would like to at least go on record and say some of the same things that Senator Thompson said. And if I could, Mr. President, just a moment. When I first saw this Jensen amendment, I wasn't very excited about that one-month or six-week or whatever suspension of the motorcycle helmet law, but decided finally that maybe I could swallow that if we could, indeed, find some way of resolving this issue at least for this year. And I think that there were others of us who swallowed to think that we might be able to accept this idea as well. And so I guess what I'm thinking is if Senator Smith really doesn't think that we're doing this in good faith, that's his option,

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and I'd say let's just drop the amendments, let's go ahead and vote on the bill, and let's see if there are the votes for cloture or not. I'm willing to gamble on that, I guess. I feel real strongly about LB 70, but I know that Senator Smith felt...feels very strongly in just the opposite direction. I do agree that a study could be very valuable. I do agree, Senator Smith, that some of the information that I've heard this year, for instance, about the motorcycle helmets themselves, leaves me room to think that maybe we need to look at that particular issue, too. I mean, you've raised some very good questions on the floor. I still don't want to do away with the motorcycle helmet law, but I also want us to have the best information that we can. And if we get to the end of that trail and it's apparent that the studies and the statistics and whatever it is that I've relied upon and made my decisions upon, if they're wrong then at that point, you know, I'd be willing to say so and let's move forward. But, yes, I will let you say something, because I did say something about your not thinking that we were sincere, and I bet that's what you want to respond to.

SENATOR SMITH: Right.

SENATOR CUDABACK: Senator Smith.

SENATOR SMITH: Thank you. Now, just reading the last part of the sentence of the amendment on page 2, with respect to motorcycle and moped protective helmet violations, they shall not be enforced in the month of August 2005. Number one, that wasn't what I had originally thought was going to happen. But in further discussion with those with more legal experience than I have, it's problematic, and not to mention the fact that this will be...

SENATOR SCHIMEK: Okay. Okay.

SENATOR SMITH: Okay.

SENATOR SCHIMEK: Let me stop you right there, and you turn your light on. But I agree, maybe this amendment isn't the right one. Maybe even the one that's coming up next isn't the right one. Then let's just bracket the bill for a few days and come

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back to it after you and Senator Jensen have had a chance to sit down and have the discussion about the details of how this would be done. I really think that that would work to everybody's advantage and that we ought to move forward by doing that, and I think I do see you maybe possibly agreeing with that.

SENATOR SMITH: Like I said, I have been more flexible on this issue for seven, eight years than...

SENATOR SCHIMEK: No, no, no. No, no, no. (Laugh) Okay.

SENATOR CUDABACK: One minute.

SENATOR SCHIMEK: I know that you have made some accommodations, yeah.

SENATOR SMITH: Right.

SENATOR SCHIMEK: I agree. All right. Well, then I have only a minute left. I would like to encourage us to perhaps, if Senator Smith, and he can talk about it, if we can move off of this, move it off the floor and do some work off the floor. And maybe, Senator Smith, there won't be agreement and then we'll have to come back and finish what we've already begun here with the language of this bill. But if we could do that and could find agreement, it would save us all a lot of heartache, perhaps.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Smith, you have spoken three times on this particular motion. Next speaker, Senator Beutler. Senator Beutler waives his opportunity. Senator Jensen.

SENATOR JENSEN: Yes. Mr. President, I would ask that this amendment be replaced with AM1289.

SENATOR CUDABACK: We have a request for substitution. Any objection? Seeing none, so ordered. Mr. Clerk.

CLERK: Mr. President, Senator Jensen would move to amend with AM1289. (Legislative Journal pages 1256-1257.)

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SENATOR CUDABACK: Substitution amendment, AM1289, to open on.

SENATOR JENSEN: Thank you, Senator Cudaback, members of the Legislature. What this amendment does, it just clarifies, as I said when I introduced the last amendment. We didn't have quite time in drafting this and it came down that the Governor would appoint. Now what this amendment says in section (sic) (2), "The task force shall consist of ten individuals, five appointed by the Chairperson of the Transportation and Telecommunications Committee of the Legislature and five appointed by the Chairperson of the Health and Human Services Committee of the Legislature." The rest really reads the same as it was before. I certainly would hope that this amendment could be adopted. I think the study would be very good. We would have some factual information rather than some of the information that different individuals do not trust. I think certainly perhaps somebody from the insurance company, you could say, was...might be biased. I don't think that a representative from the Motor Vehicles would be; should be unbiased, anyway. Department of Economic Development should be unbiased. Representative of the University of Nebraska should be unbiased. And of the seven that we delineated here, that allows for three more that can be individuals from the advocacy groups that are out there, ABATE and any other organization. But, again, five from each committee and, to me, that makes...I think would be a well-balanced committee to take a look at this situation. And if we don't do this, well, yes, this bill will carry on. I even...I guess sometimes I'm a little grandiose in expectations, but I thought we were pretty close to an agreement and even called Senator Bourne and I said perhaps that your methamphetamine bill might come up early this afternoon and are you ready, and he said, I certainly am. But it would appear that at this point in time, unless we can come to agreement here very quickly, that won't happen. And certainly we do have some other amendments that are already posted and others that can be filed, and I would certainly feel that this is a compromise that I think could be acceptable to this body. With that, I'll return the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Jensen. You've heard the

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opening on AM1289. Mr. Clerk, a motion on the desk?

CLERK: Senator Chambers would move to amend Senator Jensen's amendment. (FA179, Legislative Journal page 1257.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment to the Jensen amendment.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I have to act with dispatch because I don't want anything to take place without me having had the opportunity to participate. So, having been put in a position to anticipate what Senator Jensen's amendment would be that he was substituting, I'm offering an amendment to his. On page 1, I would strike lines 3 through 24, and in line 2, I would strike the word "sections" and insert "section." Then, on page 2, I would strike lines 1 through 4, and I think we would have, if this is acceptable to the body, we may have something going here. I'd like to ask Senator Smith a question.

SENATOR CUDABACK: Senator Smith, are you available for a question?

SENATOR SMITH: Yes.

SENATOR CHAMBERS: And he's at Senator Jensen's mike.

SENATOR CUDABACK: Senator Smith.

SENATOR CHAMBERS: Senator Smith, have you had a chance to look at my amendment?

SENATOR SMITH: Yes.

SENATOR CHAMBERS: Would you accept my amendment?

SENATOR SMITH: With the understanding that it gets rid of AM1289 and then we can move on with the green copy?

SENATOR CHAMBERS: Well, it retains part of AM1289.

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SENATOR SMITH: Okay. I didn't...

SENATOR CHAMBERS: I have a compromise. I have to take some from Senator Jensen and give you something.

SENATOR SMITH: I did not notice which part you left.

SENATOR CHAMBERS: I'm taking away all of lines 3 through 24 on page 1.

SENATOR SMITH: Okay.

SENATOR CHAMBERS: Then, on page 2, I'm removing everything except lines 7 through 10, and that's all that would be left.

SENATOR SMITH: Well, I still have problems with the wording and actually the concepts in how that moratorium of enforcement would be carried out, so I...

SENATOR CHAMBERS: Would you rather have what I'm offering, or what Senator Jensen would have without what I'm offering?

SENATOR SMITH: Well, I'm not intimidated by the task force. I'm not opposed to the task force, so that's really not a deal breaker for me.

SENATOR CHAMBERS: If my amendment were adopted, would you be in favor of it, of what's left?

SENATOR SMITH: I think that it would violate what I think Senator Jensen and I are trying to negotiate out.

SENATOR CHAMBERS: Violate?

SENATOR SMITH: Pretty strong word, eh?

SENATOR CHAMBERS: Thank you, Senator Smith. Violate? I'd like to ask Senator Jensen a question.

SENATOR CUDABACK: Senator Jensen, would you yield to a question from Senator Chambers?

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SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Senator Jensen, what are the two of you talking about over there? (Laughter)

SENATOR JENSEN: We did not have enough time to talk about anything, Senator Chambers.

SENATOR CHAMBERS: Then how does he know my amendment would violate what you two are working on?

SENATOR JENSEN: Oh, I didn't say violate.

SENATOR CHAMBERS: No, I know, but what might lead him to...well, you talked about enough for him to have an idea what you're talking about. So up to that point what had you talked about?

SENATOR JENSEN: Senator, I guess I got a short-term memory problem. I don't think we talked about really anything. He came over to chat with me and then he started chatting with you and now I'm chatting with you.

SENATOR CHAMBERS: So he knows what you all are going to work on but you don't know yet.

SENATOR JENSEN: I think that's correct.

SENATOR CHAMBERS: Okay. Thank you, Senator Jensen. Senator Jensen and I are at a disadvantage. He's not a member of Psychic Friends, and if I am, I'm not telling. But none of us know what they were talking about which my amendment would "violate." I told you all that Senator Smith is in a position where he's going to have to accept something, swallow spit, declare victory and run home. He knows he hasn't got 25 votes. He knows I don't shoot blanks. I told him he hasn't got 25 votes. He knows it. Some of you all may be doubtful, but I'm not. I look at Senator Smith over there and I think of something attributed to Caesar--I came, I begged, I groveled. (Laughter) The one who's got the cards in his hand is the one

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to whose territory the supplicant comes. Senator Jensen didn't go to Senator Smith to talk to him; Senator Smith went over and talked to Senator Jensen, begging, pleading, asking for a way to save face and get out of here. Can you imagine running for Congress and the number one bill that you had going with a chance to get 25 votes and you blew it because you were more interested in killing prairie dogs? Why, those people out there in western Nebraska will say, you mean we have to fall from Tom Osborne who won all those football games, to Senator Smith who couldn't win a bill that he had won? His tactic was the one exemplified by that satirical comment--he snatched defeat from the jaws of victory. Had victory in his hands and he traded it for defeat. Now, what you could say is that he is a man of high principle, on the other hand. Now I have to speak as though I were an advocate for Senator Smith. His principles are so deep-rooted that he was not going to be bullied or intimidated by Senator Chambers or anybody else, and to think for a moment that Senator Smith would take low and not vote cloture simply because Senator Chambers, he said he'd go after Senator Smith's bill, would show that Senator Chambers had woefully misjudged Senator Smith. And Senator Smith showed everybody that he'll stand up to Senator Chambers. That's the spin he ought to put on what happened. And he should hope that nobody sees him over there begging and groveling to Senator Jensen. Senator Jensen is even sitting down, and Senator Smith is leaning over the desk. If you look at the posture and the body language, which one is in charge? All I know...I've never done it, but if I'm sitting in the surrey with the fringe on top, and there's another critter that is not sitting, I'm in the driver's seat, and the other one is pulling, the other one is doing the work. Senator Smith can take this. If he goes to Congress, he's going to run into things much more difficult than this. I'm just trying to prepare him, in a gentle, friendly, collegial manner. When you get training for anything, there is an attempt to try to replicate the actual conditions you will be facing. That's what Senator Smith is taking now--basic training. I'm curious to see what we're going to have when "Aristotle and Plato" get through with their high-level conference. Now, Aristotle was one of those people who believed that you started from the standpoint of observation. You looked at individuals that make up a category, and then you drew generalizations. Plato started

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from the opposite end. He came up with an idea and then tried to impose that on the reality around him. And that's why he was so out of it. That's why they refer to love that means nothing and is going nowhere as Platonic. It's got nothing, no substance. So if somebody tells you they want to have a Platonic relationship, you get away from that person as quickly as you can. So I think it's going to remain to be seen which is Plato and which is Aristotle. But if they come up with something that Senator Smith accepts, it's not going to be a compromise; it's going to be a capitulation. And if Senator Jensen agrees that the law which is for safety is to be held in abeyance, that means he is in favor, for political reasons, of letting people ride these motorcycles and get the bloods and guts smashed out of their heads, for political reasons, for a period of time. He's willing to let people get smashed. What kind of compromise is that? It's what they call the perfect compromise in politics, because both shed, or shred, their principles, and meet somewhere in the middle where neither gets much but both of them loses a bit of what his or her principles...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...were purported to be. Oh, I feel so good about this discussion. (Laughter) But if Senator Smith bugs out and gets bludgeoned into submission, sacrifices his principles, and the bikers would say, we no longer consider you a biker, but a tricycler, then we're going to see what will...what we will see. But I want us to stay on this bill. I'm trying to provoke Senator Smith so he will not sacrifice his principles. I'm trying to provoke Senator Jensen so he will not sell out his principles. Because if he sells them out on this bill for a period of time, there are other bills he has that I'm going to look for the same kind of conduct from him on. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard Senator Chambers open on amendment FA179 to the Jensen amendment, AM1289, to LB 70. Open for discussion. (Visitors introduced.) Discussion of the Chambers amendment. Senator Thompson, followed by Senator Smith.

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SENATOR THOMPSON: Thank you, Mr. President. I'm just back on the mike in case other people need time to visit. They apparently aren't visiting, but I'll throw my two cents' worth in here on this amendment. The argument that...a lot of arguments have been made, and they all kind of fall into a couple categories. One category is, what do the statistics, what do the studies say? And it's hard to believe that we can argue about whether if you land on your head on the pavement without a helmet, whether that's a problem or not. But argue about those things if you want. The other is economic development. And...well, and the obvious one of, should people ride free at the expense of the taxpayers? So we have three arguments. The one about economic development, which is, let people ride through the state on their way to and from the rally, is the one that Senator Jensen made the compromise on. And I think Senator Chambers said it well--if you want to trade whatever cost there may be, and hopefully, people coming through the state, if they get head injuries, will be taken back to their home states and we won't end up paying for them here. So maybe there's some economic spin to this that it won't be just Nebraskans who we have to pay for. Hopefully, these people would be taken care of by their families in their home states, and wouldn't become part of our Medicaid rolls. But if you want to trade those ideas off, I think that's what the compromise is. Go to what the arguments have been on this bill. I sat on the Transportation and Telecommunications Committee for a few years, and have been on Appropriations since then, so I've been on...I've heard the hearings on this. The arguments haven't changed since I first got to the Legislature in 19...I was appointed in 1997. So we get down to the basic issues. I think Senator Jensen, almost surprisingly, has come up with a proposal. And if Senator Smith has decided to accept that, I imagine we'll hear when he speaks next. I'd yield any time that I have to Senator Jensen, if he would like it.

SENATOR CUDABACK: Senator Jensen, about two-and-a-half minutes.

SENATOR JENSEN: Thank you, Senator Cudaback, and thank you, Senator Thompson. This is an issue that, yes, I would have never thought about the moratorium until actually somebody else

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in the body mentioned that, you know, maybe we should allow that period of time in there for one year, since this was such a big economic issue that was portrayed. So...and yes, Senator Chambers, it is against my principles to do that. But in the spirit of compromise, that's one thing I have learned since coming here, is that hopefully compromise will bring solutions. Sometimes it does, sometimes it doesn't. But I wanted to at least offer that out there. We've also done some checking, and we do have an opinion, anyway, that perhaps the language in that second section is valid. Now, again, if somebody has a better description on that, I would certainly be glad to take a look at that, where we say, shall not be enforced. That...the opinion that we have said that that language is acceptable. But I certainly would listen to somebody else's argument on that particular issue. This was done in the spirit of trying to reach a compromise, so that we can move on...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...to other bills. And like I said, I really had thought that perhaps that this could be done. And if we do reach a stalemate on this, why, then we go to the plan A, which was to file some amendments on the bill. It's certainly not the direction I would like to go. I've always tried to seek a compromise and to seek at least some collaboration within the body. We did that on LB 1083. I think that has worked well in the past, and would like to continue that line of thought and that line of area. If I understand Senator Chambers' amendment, the only thing left in, really, would be Section 2, which would allow for a 30-day, one month, the month of August, period where that we would not...

SENATOR CUDABACK: Time, Senator.

SENATOR JENSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen and Senator Thompson. Further discussion. Senator Smith, followed by Senator Chambers and Senator Johnson.

SENATOR SMITH: Thank you, Mr. President and members. I would

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point to the amendment. And I appreciated Senator Jensen's discussion that I had with him this morning. And quite frankly, (laugh) the one-time thing was not part of our discussion this morning. Perhaps it...we lacked the specificity in communicating that one-time thing. But if we're wanting accurate information to use in a study, we're not going to get it. And so that's why I would suggest that AM1289, the Jensen amendment, is not what I would consider a good-faith effort in negotiation. I don't want to say that Senator Jensen is acting in bad faith. But it's lacking some very important points there that are...I think would be beneficial to gathering information. If the intent is to gather information, then we need to move in the effort to gather good information, solid information, rather than just delaying this and trying to get around this. Because again, it's not a good thing. I mean, throw crumbs at me, throw pennies at me, and it's about the same as the one-time thing in the amendment. That's, to me, not a good thing. It was my understanding that it was going to be different. That's why I was even open-minded enough to read down through the amendment. But for this to say...for others to say that this is a good compromise, there's a bit of a bias there. And certainly, I don't want to belabor the point. But if there is the intent to not accommodate some other ideas that I suggested, then so be it. But we'll just have to wait and see, I guess. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Chambers, on your amendment to AM1289.

SENATOR CHAMBERS: Mr. President, members of the Legislature, is Senator Jensen...oh, he is in the Chamber. I'd like to ask him a question.

SENATOR CUDABACK: Senator Jensen, would you respond to a question from Senator Chambers?

SENATOR JENSEN: Yes.

SENATOR CHAMBERS: Senator Jensen, just so you'll note my demeanor, I had said the other day, if I could stop the bad bills I want to stop and get enacted the good ones that I'd like

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to have enacted by smiling, I'd smile my way through the entire session. Well, what's happening this afternoon is keeping a smile on my face and a song in my...if I had a heart. But keeping a song in my gizzard, at any rate. After listening to you speak on the mike and Senator Smith speak on the mike, I'm left in a set of circumstances where I have to ask you, have the two of you worked out anything?

SENATOR JENSEN: I thought that we were pretty close this morning.

SENATOR CHAMBERS: No, I mean based on what you did this afternoon, just a few minutes ago, when I was kind of kibitzing.

SENATOR JENSEN: No. No, we have not worked out anything.

SENATOR CHAMBERS: Were you close to working out something?

SENATOR JENSEN: No.

SENATOR CHAMBERS: You were not willing to give him something, after the way he came over there, groveled and prostrated himself before you in front of everybody? You still wouldn't give in, huh, Senator Jensen?

SENATOR JENSEN: I'm willing to give in what I think is reasonable.

SENATOR CHAMBERS: And what he offered, despite his supine position before you, struck you as being unreasonable. Is that true?

SENATOR JENSEN: We haven't reached a compromise, yes.

SENATOR CHAMBERS: Well, I heard him say that after something you were doing, he couldn't say it was being done in good faith, but he wouldn't say that you were acting in bad faith.

SENATOR JENSEN: Yeah.

SENATOR CHAMBERS: Well, if it's not in good faith, all that's

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left, from the way I look at it, is bad faith. So can you tell me what's in between good faith and bad faith?

SENATOR JENSEN: A difference of opinion.

SENATOR CHAMBERS: Hey, out of sight. Thank you, Senator Jensen. Members of the Legislature, I think we should press right on this afternoon. This is a thorny issue. And I certainly don't think Senator Smith ought to jump off his motorcycle while it's careening down the highway at 110 miles an hour. He should stay the course. And I'm going to be here this afternoon. Unlike my colleagues, who, when I have something of interest to me, many of them bug off the floor, so to speak. I'm going to stay right here on a bill in which I have no direct interest because I'm a member of the Legislature, and I find it quite interesting to observe my colleagues as they battle their way through this bill. I'd like to ask Senator Smith a question.

SENATOR CUDABACK: Senator Smith, would you respond?

SENATOR SMITH: Yes.

SENATOR CHAMBERS: Now, Senator Smith, if, instead of the amendment I have up there, I would go...do you have a copy of Senator Jensen's amendment?

SENATOR SMITH: Yes.

SENATOR CHAMBERS: If--whatever happens to that amendment, it will probably not be successful--I were to strike what's in lines 6 through 10...no, 7 through 10, leave all...

SENATOR SMITH: Page 1?

SENATOR CHAMBERS: Page 2. Leave all the stuff about the task force in, strike lines 7 through 10, and say that the appropriate parts of--and the amendment would be drafted correctly--subdivision (13) of Section 60-4,182 and Sections 60-6,278 to 60-6,282 are outright repealed, would you accept that amendment?

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SENATOR SMITH:    If your amendment were only to strike that and leave the rest of the amendment in?

SENATOR CHAMBERS:    Yes.

SENATOR SMITH:    No, I couldn't, because of lines 1 and 2 on page 1.

SENATOR CHAMBERS:    So you would not accept the replacement of your bill with the task force, and my striking, outright repealing the sections...

SENATOR CUDABACK:    One minute.

SENATOR CHAMBERS:    ...that relate to motorcycle or moped protective helmet violations? If we strike those sections completely, they're not there. There's not just a temporary suspension; they're gone. Isn't that what your bill is trying to do? Or is it?

SENATOR SMITH:    I'm not sure I'm clear on what you're saying, Senator Chambers.

SENATOR CHAMBERS:    Okay. I won't push you, because I just brought it to you. It's not in writing. So I won't press you on that. Mr. President, you said I had one minute? I think my time is probably up, so thank you.

SENATOR CUDABACK:    Twenty-four seconds, Senator.

SENATOR CHAMBERS:    Thank you.

SENATOR CUDABACK:    Thank you, Senator Chambers. On with discussion of the Chambers amendment, Senator Johnson, followed by Senator Thompson and others.

SENATOR JOHNSON:    Mr. Chairman, members of the Legislature, when I got up before, I really did it with great reluctance. I think the...what Senator Jensen was proposing was that we really gave more than what we were going to receive in this proposed

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compromise. Here was an opportunity for the other side to demonstrate that their statistics were accurate, to an unbiased group. They were not willing to do that. They had their chance to show that the statistics that we were presenting were biased. What did we offer? We offered them one of the primary things that they mentioned in the bill originally, was economic development. Here was a chance to showcase what economic development could be. I don't know what more we could have offered. Let's go back to the third reason why this bill was introduced. Freedom. One of the things that this has got me thinking about is, what in the world is freedom? If you had to write a paper on this, what would freedom be? Well, I thought of four freedoms. Not the same ones that FDR mentioned. But I think the primary freedom is freedom of speech. I don't think any of us can detract from the fact that our ability to speak openly is our number one freedom. And yet, there's restrictions there. You can't yell "fire" in a crowded theater or restaurant. There are restrictions on freedom of speech. One of the things that concerns me about freedom of speech is what our news media is doing, particularly television, national television. About 1960, at his retirement dinner, Edward R. Murrow, probably the greatest newsman on TV that there's ever been, warned that he saw in the future that TV was thinking that they were the news, rather than reporters of the news. How true that has become, when we see that a major commentator times an undocumented story to influence the presidential election of the United States. What...about what would you put for your second freedom? Freedom to vote. A few years ago, I was at the colonial Virginia senate. There were about 30 of us in the room. The guide...

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: One minute.

SENATOR JOHNSON: ...categorically went through the list of the things or the people that would have been allowed to vote in this hallowed chamber. First he had all the women sit down, then all the Catholics sit down, all the nonlandowners sit down. When we got done with the 30, there were only 2 of us allowed to vote. I hate to mention this, but we had a discussion in this

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Chamber not very long ago about restoring voting rights to those who had served their prescribed time plus two years. Who led the discussion against letting people vote? Might ask you, how did you vote?

SENATOR JANSSEN: Time.

SENATOR JOHNSON: I will continue at another time. Thank you, sir.

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

SENATOR THOMPSON: Thank you, Mr. President, members of the body. I support the Chambers amendment. I really don't think any more studies are going to make any difference, even though I respect Senator Jensen in wanting to get all the information. The fact is that there is a lot of research on whether it's a good idea or not a good idea for a helmet law. There is peer review of that research. There are compilations of the research, reviewed by researchers. It's out there. I think if you went to any person--maybe there are a few supporting this bill who wouldn't agree--and said, so, if people have to wear helmets, and they land on the ground with the helmet, are they less likely to have a head injury that will result in a trip to the hospital or emergency room that are going to...might result in long-term care, I mean, there's nothing to argue about. We...if we do the research, actually I think Senator Smith is in a worse spot than if he...than he is today, by having a legislative study with the scientific evidence. It's not going to be there. So I really don't care about the study one way or the other. But Senator Chambers' amendment says, is, we should have just the one-month thing, which is Senator Jensen's offer of a compromise, which some of us are going to have a lot of trouble with. But I guess as a compromise, so be it. And I agree entirely with Senator Smith--you can't do research on one month of statistics. In fact, you need the research that's already out there. And so I agree. I don't see that that would be pertinent. And if he wants to say, if this amendment isn't adopted, and for the legislative intent of this, from what's been said on the floor, I don't see that this is part of what the study is doing. The study is using the research that's out

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there, the statistics that are out there. You can't draw conclusions from a few weeks of data, anyway. So you could do it over a 10-year period, but you can't just do it from the month of August of this year, and have any validity to it. So I agree with Senator Smith. And just for...because we're just arguing around this afternoon, I agree with Senator Chambers. Thank you.

SENATOR JANSSEN: Thank you, Senator Thompson. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I appreciate the fact that Senator Thompson basically said that this study is pointless, but anything to make the bill go away. And I'm not going to fall for that. And so that's why I will say as very little as I possibly can. And I would even yield the balance of my time to Senator Jensen.

SENATOR JANSSEN: Senator Jensen, you have 4 minutes and 32 seconds. He waives. Senator Chambers, your light is on next.

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I'm enjoying this afternoon immensely. I'm enjoying Senator Smith's discomfort. I'm sure he had no notion that when he was the 33rd vote for cloture, that he'd be in the situation he's in this afternoon. But I knew it. That's why I could be of good cheer yesterday, because it opened the door for me to do what I was wanting to do anyway. But unless provoked, I will not do certain things. Well, when they gave cloture yesterday, I was provoked. Now, Senator Loudon, who got cloture yesterday, and got Senator Smith to be the 33rd vote, is not even in the Chamber. I know he's here someplace. I've seen him on occasion. I don't know if I see 33 people on the floor now. Senator Smith does not believe that the 32 other people he joined in giving Senator Loudon cloture yesterday are going to support him on his bill. Senator Smith has not yet learned the art of negotiation. They've been negotiating with Senator Smith the way people have wanted to negotiate with poor people forever. I usually use business and labor. Business will have these experienced, well-suited, coiffed, manicured negotiators, with pinstripe suits and violin cases that carry an implement

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that plays a different kind of music from that done by a violin. Steely-eyed, unsmiling, unwavering, eyes don't even blink. And Senator Kopplin, their eyes are so close together, you can take one finger and stick it in both of their eyes at the same time. They sit across the table from these naive workers, and they tell the worker, I've got a dozen eggs, you've got a dozen eggs; we're going to negotiate till I've got two dozen eggs and you've got none. And when they've reached that result, they say to the working people, whose heads are spinning, when you get some more eggs, come back and we'll negotiate again. That was Senator Smith yesterday. He doesn't want this bill. He's really helping me to punish the rest of you all. He knew his bill had no chance whatsoever, so he's helping me to be in a position to put you all in the position he was in. It is a solace to the wretched to have companions in grief; or, misery loves company. And Senator Smith is experiencing a bit of discomfort, if not misery. And he's going to wait, sit back, and see if you all take it when it's dished out on your bill, as he's taking it while it's dished out on his. But there will be a significant difference. There are others opposed to Senator Smith's bill. I don't care about his bill. When I get to some of these others that are on the agenda, I'm sure I'll be the only one speaking against them. And if there are other people who disagree with them, they'll basically sit back, generally sit back and let me go forth and battle, because they know that I will. I pace myself for the session. I will be going stronger, the closer we get to the end,...

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: ...than I was at the beginning. At the beginning, there was no need to expend much energy, because not much was going on that required the expenditure of energy. I have plenty of venom stored. But I use it prudently. Senator Smith's bill doesn't require any venom. It doesn't have much life force. It's not going anywhere. A-n-n-i-e-w-h-a-i-r-r-e, "anniewhairre." And I'm enjoying it. In fact, I'm just going to turn around and look at my young colleague, who's on his way to Washington, D.C., as the new congressman for the 3rd Congressional District of the state of Nebraska. I wonder if Senator Smith is going to endorse Tom Osborne for Governor.

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That would then nullify...

SENATOR JANSSEN: Time, Senator Chambers.

SENATOR CHAMBERS: ...and offset...

SENATOR JANSSEN: See no further lights, Senator Chambers, to close on FA179 to AM1289.

SENATOR CHAMBERS: Thank you, Mr. President. I can finish it. If Senator Smith would endorse Tom Osborne for Governor, it would offset the endorsement of Hagel for Heineman. Look at those two now. "H and H." That doesn't even sound right. He could have some of his spin doctors work with that. But if you had Mr. Smith for Coach Osborne, there's a nice ring to that. "Smith" is an all-American, acceptable name. I bet there's not a motel anywhere in America where you can go and not find the name "Smith" written several times. (Laughter) Good name. So if only the Smiths who signed into these motel rooms would vote for Senator Smith, he would become President Smith of the United States. So I would recommend that Senator Smith endorse Congressman Osborne for Governor. That would then move Osborne out of the way, so Senator Smith could win the election out in the 3rd Legislative...I meant, Congressional District. And I will tell Senator Smith, although if I lived out there I wouldn't vote for him, he probably has a better chance than most of the people out there who would decide to run. And something else he ought to do. He ought to start standing up to me more on the floor. Kate Witek used it to help get to be the Treasurer. Some people running for Congress did it to win their positions. They run against others, but campaign against me. And out in your neck of the woods, Senator Smith, if you can just show them that you stand up against me, you can get slaughtered, it doesn't make any difference. All they will see is that Senator Smith stood up to Senator Chambers. And after the 18th wheel rolled over Senator Smith, he wasn't kicking, but he was still breathing a bit, and he's going to come back and fight again, no matter how many times he gets run over. That will play well in the 3rd Congressional District, and he knows it. And because I will understand why Senator Smith is doing it, I will not even take offense. I will even make it easy for

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him. I read in the paper something that I thought was really touching, genuinely so. There was a champion young wrestler in high school. There was a youngster who was mentally challenged who liked to be with the wrestling team. And his coach asked this champion wrestler to wrestle him, because the young kid wanted to wrestle him. He said, now, give him a chance to stay on the mat a while before you pin him. So the kid agreed. And he didn't tell people what he was going to do. When they got on the mat, not only did he toy with the kid for a short period of time; he let that kid pin him. And he had never been pinned by anybody. Now, you tell me that is not something of tremendous consequence. And not everybody in the state is aware of it. Now, I'm not going to let Senator Smith pin me, but I wouldn't do anything to hurt his chances of winning the House seat from the 3rd Congressional District. But he's going to have to find a way to declare victory on this bill and go home. If all he got was a study, he can say that's all he could get, that the bikers know how they are in Lincoln, but you got to get the nose of the camel into the tent before you can get the body of the camel into the tent. And speaking from a better platform in Washington, D.C., he might be in a better position to try to get rid of helmets all over the country. He's got...that's his campaign right there. Will he accept it? Certainly not. Will he win without it? Certainly not. Will he win with it?

SENATOR JANSSEN: One minute.

SENATOR CHAMBERS: Possibly. A possibility always beats a certainly not. Mr. President, I'm going to take a vote on my amendment. It would strike the task force, which everybody recognizes is of no value. That then brings us to the issue of this suspension of enforcing the law for this 30-day period. And that can be discussed, along with the whole idea of whether or not you're going to get rid of the helmets. If you're going to suspend the enforcement of the law, you ought to go ahead and get rid of the requirement to wear helmets altogether. But that provision about the task force complicates it. Accept my amendment; get that off the table. Then we can focus on that which is of much greater consequence and of greater relevance to what this bill is about. Thank you, Mr. President. But I will ask for a call of the house.

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK:      You've heard the closing on FA179. Been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK:      25 ayes, 1 nay, Mr. President, to place the house under call.

SENATOR CUDABACK:      The house is under call. All unauthorized personnel please leave the floor. Unexcused senators, report to the Chamber. The house is under call. Members, please check in. Senator Pahls, would you check in, please? Thank you. Senator Cornett, Senator Langemeier, Senator Brown, Senator Raikes, Senator Kruse, and Senator Landis. The house is under call. Senator Langemeier, Senator Landis, Senator Brown, Senator Kruse, and Senator Raikes. Senator Brown. Senator Brown, the house is under call. Please record your presence. All members are present or accounted for. Senator Chambers, how did you wish to proceed? Senator Chambers, how did you wish...?

SENATOR CHAMBERS:      Oh, I'll take a machine vote.

SENATOR CUDABACK:      Thank you. Request for a machine vote on FA179 to the Jensen amendment, AM1289, to LB 70. All in favor vote aye; opposed, nay. The question before the body is FA179, offered by Senator Chambers. Have you all voted on the issue who care to? Have you all voted who care to? Been a request for a roll call vote. Mr. Clerk, please call the roll when you have the time.

CLERK:      (Roll call vote taken, Legislative Journal pages 1257-1258.)      15 ayes, 13 nays, Mr. President, on the amendment.

SENATOR CUDABACK:      The motion was not successful. And I do raise the call. Mr. Clerk. We're back to the Jensen amendment, AM1289. Open for discussion. Senator Jensen.

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SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. Michigan voted to repeal their motorcycle helmet law in the senate. And this is from...I'm reading from an article in the Detroit News. And I just think it's very telling. Detroit News says, some things should be too obvious to need debating, such as whether motorcyclists should be required to wear helmets. Yet, the state senate has passed a bill repealing the state helmet law. If motorists...if motorcyclists do not wear helmets, most of them...or, more of them will die, and more will suffer massive brain injuries. This will increase the cost both to the families of the killed and severely impaired cyclists to the medical care system that must cope with the treating of the injury. This is not rocket science. Senators should know better. They have chosen to ignore the evidence that sent the bill ending the helmet requirement to the house, amid some foolish talk about preserving freedom, preserving freedom, as anti-helmet forces watched from the senate gallery. When opponents brought up potential costs both to the cyclists and society, supporters of the bill added a requirement that cyclists carry \$10,000 personal injury insurance policy. Oh, please. I'm reading this. Oh, please. If the bill makes it out of the house, it is expected to be vetoed by Governor Jennifer Granholm, as well as it should be. Just for the record, a study conducted by the National Highway Traffic Safety Administration noted that when Texas and Arkansas repealed their motorcycle helmet laws in 1997, helmet use declined 66 percent from 97 percent in Texas, to 52 percent from 97 percent in Arkansas. Not surprisingly, death and injuries, both rates increased. In Texas, for example, motorcycle crashes increased 31 percent from 1996 to 1998, from 132...to 132 from 101. Both number of brain injuries and the cost of treating them also increased in Texas. And it does...you know, it would appear that what I had hoped to be as a compromise to move this forward is not going to happen. And so I suppose we need to talk about statistics once more. And the statistics that I see, and from all of the organizations that support helmets, tells us that to repeal this law would cost lives and it would cost injuries. It would be expensive also to the hospitals and to the providers that pick up these individuals and have to care for them, to the taxpayers of Nebraska who have to pay for those costs that go far beyond what

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any individual family can participate in. And then, yes, it goes on our Medicaid rolls. You know, I had really thought of introducing an amendment that would have said this bill should be bracketed until we had the opportunity to get the findings of our Medicaid study. Perhaps I'll still introduce that amendment. But here we are, looking at Medicaid costs, looking at what causes those costs to go up and up. And yes, not entirely, but there's a certain portion of the Medicaid costs that are from motorcycles. Now, Health and Human Services doesn't...

SENATOR CUDABACK: One minute.

SENATOR JENSEN: ...track that at this time. But I think we can track it, and I think we will track it in the future. I do know that we have institutions in this state that their primary function is for brain injury. Brain injury, many of them that are...come from those motorcycle accidents. I've been there. I've visited those institutions, walked down their hallways, talked to some of the recipients. And I'm pleased that here in the state of Nebraska we have places for those individuals. But I'm saddened that have happened, because many of them were riding motorcycles without helmets. So as we move on through this bill in the future, I have again filed a few more amendments. It will require a cloture vote, if that is what Senator Smith wants to do. But it would appear at this point in time that we have not reached a compromise. I'm still open to do that. But until that time, I'll speak out opposing...

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Time.

SENATOR JENSEN: ...LB 70. Thank you.

SENATOR JANSSEN: Mr. Clerk.

CLERK: Mr. President, I have a priority motion. Senator Chambers. Senator, and I'm assuming I'll treat this as a motion?

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SENATOR CHAMBERS: Yes.

CLERK: Senator Chambers would move to bracket the bill until May 17, 2005.

SENATOR JANSSEN: Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I say again, I don't care about this bill. I don't know what we will have on the agenda tomorrow, but it probably won't be this bill. But this is an opportunity to give Senator Smith his straw vote. If you favor his bill, and if you'll vote for it, you ought to vote against the bracket motion. I can't tell you what to do. I'm making a suggestion, to give him something that might let him know where he stands. If you're against his bill, you can vote against the bracket motion also, and mislead him. Based on that, we won't know what the vote means when it comes up there now. But if people are tired of the bill, this is a way out. I'm not tired of it. I don't feel anyways tired. There were people whining and griping about the fact that we don't stay here long enough. If you vote against the bracket motion, we can stay here till the cows come home, provided they don't step into a hole made by some of Belevedere's relatives and break a leg before they get home. But why don't we test a number of things today, see whether or not I'm willing to be here? And it would be ironic if we stay tonight and "General" Friend is not here because he said he was going to be here. So that's another reason why you ought to let us stay here tonight and talk. I think we're really getting to know each other. (Laughter) You hear the...see the cheerfulness? People laughing, smiling. And it's late in the day. Mr. Smith is not smiling, however. I wouldn't expect him to. Senator Jensen has expressed the kind of resolve that I think a person would have to show if he is as strongly opposed to doing away with the helmet wearing requirement as Senator Jensen has shown himself to be. I offer this bracket motion to give the squeamish, the weak, a way out; to give those who support Senator Smith's bill an opportunity to make it known without having to actually put the bill to a vote and watch it fail to get 25 votes and fall off the agenda. I would like it to stay on the agenda. It gives me something else to talk about, to take time with, and I

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don't have to waste any thought on it whatsoever. I made it clear prior to Senator Smith kicking me off of his bandwagon that I'm not offering statistics, I'm not making comparisons. I am voting--I was speaking in the present tense at that time--I am voting for his bill, I stated, because I have always opposed the mandatory helmet law. I spoke against it down through the years. I pointed out that even when the federal government had said they would withhold road funds if a mandatory helmet law was not in place, at that time I believe I was able to point out that Illinois and California had none, at that time. I said, now, those are two states whose money the federal government is not going to take. There are too many electoral votes there. And sure enough, they were not touched. The federal government began to soften its policies, and now there is no punishment from the federal government if a state does away with the mandatory helmet law. I was quoted in the paper, the first time we had a debate on this. And I had pointed out that if a person is a fool to ride a helmet without...ride a motorcycle without a helmet, a person has a constitutional right to be a fool. Which is the way it was then, which is the way it is now. My position on that score has not changed. Politics has entered into the equation. And Senator Smith dared me to get off his bill yesterday. And I'm accepting his dare, and I'm off his bill. I was one of the 25 votes that was cast against Senator Beutler's amendment which would have stricken the part that did away with the mandatory motorcycle helmet wearing. And I explained to Senator Smith why I wanted the roll call vote. I'm sure he may have had a feeling of relief when he saw the 25 votes go up, even though there was no guarantee that those would convert into votes for his bill. At least he had one vote taken where 25 votes were cast in a way that he preferred. He won't get that again. He doesn't have me helping him. Now, if there are some people who think I'm getting too arrogant, you will now help him, and my leaving will be replaced by three others joining him. Except, I don't think that will happen. The people who are opposed to allowing people to ride motorcycle without helmets...motorcycles without helmets, are not going to come over to Senator Smith's side just to make up for the fact that I have left him. They're probably glad. Now, Senator Smith can speak against the bracket motion, and there may not be 25 votes to adopt it. But we're going to have the opportunity to see

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where we are. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Chambers.  
Items...Mr. Clerk, items for the record.

CLERK: Mr. President, your Committee on Enrollment and Review reports LB 38 as correctly engrossed, LB 682 as correctly engrossed. I have a new resolution. Senator Brown offers LR 85. And I have a series of amendments to LB 70 to be printed, and an amendment to LB 161 to be printed. (Legislative Journal pages 1258-1260.)

Mr. President, I do have a priority motion. Senator Byars would move to adjourn until Friday morning, April 22, at 9:00 a.m.

SENATOR JANSSEN: You've heard the motion. There's been a request for a board vote. A roll call vote has been asked for. And a call of the house. In reverse order. Anything else, Senator? (Laugh) The motion is, shall the house go under call? All those in favor...there has been a call...request for a roll call vote. Okay. All those in favor, signify by voting aye; those in favor (sic), nay. Record, Mr. Clerk.

CLERK: 18 ayes, 2 nays to place the house under call, Mr. President.

SENATOR JANSSEN: The house is under call. All those absent please return to the Chamber and please record your presence. Senator Schrock, the house is under call. Senator Kremer, Senator Stuhr, Senator Beutler. Senator Cunningham, the house is under call. All members are present. Mr. Clerk, the question before you is whether we should adjourn. Mr. Clerk, call the roll in reverse order.

CLERK: (Roll call vote taken, Legislative Journal pages 1260-1261.) 22 ayes, 16 nays to adjourn.

SENATOR JANSSEN: We are adjourned.

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