

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

Floor Debate  
March 30, 2007

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SPEAKER FLOOD: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fifth day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Pankonin. Please rise. []

SENATOR PANKONIN: (Prayer offered.) []

SPEAKER FLOOD: Thank you, Senator Pankonin. I call to order the fifty-fifth day of the One Hundredth Legislative, First Session. Senators, please record your presence. Senators, we will be proceeding to Final Reading today. Please check in. Mr. Clerk, please record. []

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

SPEAKER FLOOD: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SPEAKER FLOOD: Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Revenue, chaired by Senator Janssen, reports LB496 to General File. I have the lobby report for this week to be inserted in the Legislative Journal, and a series of reports received in the Clerk's Office will be on file and available for member review. That's all that I had, Mr. President. (Legislative Journal pages 991-992.) [LB496]

SPEAKER FLOOD: Thank you, Mr. Clerk. Senators, we will now proceed to Final Reading. Senators, please take your seats in preparation for Final Reading. Senators, we are on Final Reading. Please take your seats. Mr. Clerk, the first bill on Final Reading is LB25. [LB25]

CLERK: (Read LB25 on Final Reading.) [LB25]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB25 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB25]

CLERK: (Record vote read, Legislative Journal page 993.) 41 ayes, 1 nay, 4 present and not voting, 3 excused and not voting, Mr. President. [LB25]

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SPEAKER FLOOD: Thank you, Mr. Clerk. LB25 passes. We now proceed to LB34. [LB25 LB34]

CLERK: (Read LB34 on Final Reading.) [LB34]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB34 pass? All those in favor vote aye; all those opposed vote nay. Have all senators voted that wish to do so? Record please, Mr. Clerk. [LB34]

CLERK: (Record vote read, Legislative Journal pages 993-994.) 36 ayes, 6 nays, 4 present and not voting, 3 excused and not voting. [LB34]

SPEAKER FLOOD: LB34 passes. We will now proceed to LB67. [LB34 LB67]

CLERK: (Read LB67 on Final Reading.) [LB67]

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

CLERK: (Record vote read, Legislative Journal page 994.) 45 ayes, 1 nay, 0 present and not voting, 3 excused and not voting, Mr. President. [LB67]

SPEAKER FLOOD: LB67 passes. We now proceed to LB106. [LB67 LB106]

CLERK: (Read LB106 on Final Reading.) [LB106]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB106 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted that intend to? Record please, Mr. Clerk. [LB106]

CLERK: (Record vote read, Legislative Journal page 995.) 30 ayes, 12 nays, 4 present and not voting, 3 excused and not voting, Mr. President. [LB106]

SPEAKER FLOOD: LB106 passes. We now proceed to LB136. [LB106 LB136]

CLERK: (Read LB136 on Final Reading.) [LB136]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB136 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB136]

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CLERK: (Record vote read, Legislative Journal pages 995-996.) 43 ayes, 0 nays, 2 present and not voting, 4 excused and not voting. [LB136]

SPEAKER FLOOD: LB136 passes. The Legislature would like to recognize the state senator serving District 12, as he celebrates 50 years of service to eastern Nebraska. His birthday will be this Sunday. Please congratulate Senator Lathrop. (Applause) Senator, we are on Final Reading. Please remain in your seat. (Laughter) (Doctor of the day introduced.) We now proceed to LB143. [LB136 LB143]

CLERK: (Read LB143 on Final Reading.) [LB143]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB143 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB143]

CLERK: (Record vote read, Legislative Journal pages 996-997.) 45 ayes, 0 nays, 0 present and not voting, 4 excused and not voting, Mr. President. [LB143]

SPEAKER FLOOD: LB143 passes. We now proceed to LB160. [LB143 LB160]

CLERK: (Read LB160 on Final Reading.) [LB160]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB160 pass? All those in favor vote aye; all those opposed vote nay. Have all those senators voted that wish to do so? Record please, Mr. Clerk. [LB160]

CLERK: (Record vote read, Legislative Journal page 997.) 45 ayes, 0 nays, 0 present and not voting, 4 excused and not voting, Mr. President. [LB160]

SPEAKER FLOOD: LB160 passes. We now proceed to LB192. [LB160 LB192]

CLERK: (Read LB192 on Final Reading.) [LB192]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB192 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB192]

CLERK: (Record vote read, Legislative Journal page 998.) 44 ayes, 0 nays, 1 present and not voting, 4 excused and not voting, Mr. President. [LB192]

SPEAKER FLOOD: LB192 passes. We now proceed to LB203. [LB192 LB203]

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CLERK: (Read LB203 on Final Reading.) [LB203]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB203 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB203]

CLERK: (Record vote read, Legislative Journal page 999.) 45 ayes, 0 nays, 0 present and not voting, 4 excused and not voting, Mr. President. [LB203]

SPEAKER FLOOD: LB203 passes. We now proceed to LB223. Mr. Clerk, the first vote is to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB203 LB223]

CLERK: 38 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB223]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB223]

CLERK: (Read title of LB223.) [LB223]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB223 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB223]

CLERK: (Record vote read, Legislative Journal page 1000.) 46 ayes, 0 nays, 0 present and not voting, 3 excused and not voting. [LB223]

SPEAKER FLOOD: LB223 passes. (Visitors introduced.) We will now proceed to LB255E. [LB223 LB255]

CLERK: (Read LB255 on Final Reading.) [LB255]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB255E pass, with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB255]

CLERK: (Record vote read, Legislative Journal page 1001.) 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting. [LB255]

SPEAKER FLOOD: LB255E passes. We now proceed to LB286, where the first vote, Mr. Clerk, will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB255 LB286]

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CLERK: 43 ayes, 1 nay, Mr. President, to dispense with the at-large reading. [LB286]

SPEAKER FLOOD: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB286]

CLERK: (Read title of LB286.) [LB286]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB286 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB286]

CLERK: (Record vote read, Legislative Journal pages 1001-1002.) 48 ayes, 0 nays, 0 present and not voting, 1 excused and not voting, Mr. President. [LB286]

SPEAKER FLOOD: LB286 passes. We now proceed to LB292. [LB286 LB292]

CLERK: (Read LB292 on Final Reading.) [LB292]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB292 pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB292]

CLERK: (Record vote read, Legislative Journal pages 1002-1003.) 48 ayes, 0 nays, 0 present and not voting, 1 excused and not voting, Mr. President. [LB292]

SPEAKER FLOOD: LB292 passes. We now proceed to LB292A. [LB292 LB292A]

CLERK: (Read LB292A on Final Reading.) [LB292A]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB292A pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB292A]

CLERK: (Record vote read, Legislative Journal page 1003.) 48 ayes, 0 nays, 0 present and not voting, 1 excused and not voting, Mr. President. [LB292A]

SPEAKER FLOOD: LB292A passes. We now proceed to LB349. [LB292A LB349]

CLERK: (Read LB349 on Final Reading.) [LB349]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB349 pass? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Please record, Mr. Clerk. [LB349]

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CLERK: (Record vote read, Legislative Journal pages 1003-1004.) 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting, Mr. President. [LB349]

SPEAKER FLOOD: LB349 passes. We now proceed to LB374E. [LB349 LB374]

CLERK: (Read LB374 on Final Reading.) [LB374]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB374E pass, with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB374]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1004-1005.) Vote is 47 ayes, 0 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB374]

SPEAKER FLOOD: LB374E passes with the emergency clause attached. We now proceed to LB389E. [LB374 LB389]

ASSISTANT CLERK: (Read LB389 on Final Reading.) [LB389]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB389E pass, with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB389]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1005.) 46 ayes, 0 nays, 2 present and not voting, 1 excused and not voting. [LB389]

SPEAKER FLOOD: LB389E passes with the emergency clause attached. We now proceed to LB464. [LB389 LB464]

ASSISTANT CLERK: (Read LB464 on Final Reading.) [LB464]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB464 pass? All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB464]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1006.) 46 ayes, 1 nay, 1 present and not voting, 1 excused and not voting, Mr. President. [LB464]

SPEAKER FLOOD: LB464 passes. We now proceed to LB497E. [LB464 LB497]

ASSISTANT CLERK: (Read LB497 on Final Reading.) [LB497]

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SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB497E pass, with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB497]

ASSISTANT CLERK: (Record vote read, Legislative Journal page 1007.) 48 ayes, 0 nays, 0 present and not voting, 1 excused and not voting, Mr. President. [LB497]

SPEAKER FLOOD: LB497E passes with the emergency clause attached. We will be skipping over LB537 today, given the introducer's absence, and at her request, LB537 will not be considered. We now proceed to LB568. [LB497 LB568]

ASSISTANT CLERK: (Read LB568 on Final Reading.) [LB568]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall the bill pass, with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB568]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1007-1008.) 47 ayes, 1 nay, 0 present and not voting, 1 excused and not voting, Mr. President. [LB568]

SPEAKER FLOOD: LB568 passes with the emergency clause attached. We now proceed to LB638. Mr. Clerk, the first vote this morning will be to suspend the at-large reading. All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB638]

ASSISTANT CLERK: 38 ayes, 3 nays, to dispense with the at-large reading, Mr. President. [LB638]

SPEAKER FLOOD: The at-large reading has been dispensed with. Please read the title, Mr. Clerk. [LB638]

ASSISTANT CLERK: (Read title of LB638.) [LB638]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB638 pass? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB638]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1008-1009.) Vote is 39 ayes, 8 nays, 1 present and not voting, 1 excused and not voting, Mr. President. [LB638]

SPEAKER FLOOD: LB638 passes. We now proceed to LB661E, Mr. Clerk. The first

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vote will be to dispense with the at-large reading. All those in favor vote aye; all those opposed vote nay. Please record, Mr. Clerk. [LB638 LB661]

ASSISTANT CLERK: 39 ayes, 4 nays, to dispense with the at-large reading, Mr. President. [LB661]

SPEAKER FLOOD: The at-large reading is dispensed with. Please read the title, Mr. Clerk. [LB661]

ASSISTANT CLERK: (Read title of LB661.) [LB661]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB661E pass, with the emergency clause attached? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB661]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1009-1010.) Vote is 48 ayes, 0 nays, 0 present and not voting, 1 excused and not voting, Mr. President. [LB661]

SPEAKER FLOOD: LB661E passes with the emergency clause attached. (Visitors introduced.) We will now proceed to LB681. Mr. Clerk. [LB661 LB681]

ASSISTANT CLERK: (Read LB681 on Final Reading.) [LB681]

SPEAKER FLOOD: All provisions of law relative to procedure having been complied with, the question is, shall LB681 pass? All those in favor vote aye; all those opposed vote nay. Mr. Clerk, please record. [LB681]

ASSISTANT CLERK: (Record vote read, Legislative Journal pages 1010-1011.) Vote is 43 ayes, 2 nays, 3 present and not voting, 1 excused and not voting, Mr. President. [LB681]

SPEAKER FLOOD: LB681 passes. Before we move to General File and while the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB25, LB34, LB67, LB106, LB136, LB143, LB160, LB192, LB203, LB223, LB255E, LB286, LB292, LB292A, LB349, LB374E, LB389E, LB464, LB497E, LB568, LB638, LB661E, and LB681. Mr. Clerk, any reports or announcements or motions? [LB25 LB34 LB67 LB106 LB136 LB143 LB160 LB192 LB203 LB223 LB255 LB286 LB292 LB292A LB349 LB374 LB389 LB464 LB497 LB568 LB638 LB661 LB681]

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

SPEAKER FLOOD: We will now proceed to General File, 2007 senator priority bills in



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the Friend Division. Mr. Clerk, the first bill, I believe, where we left off yesterday is LB457. [LB457]

CLERK: Mr. President, LB457, a bill by Senator Hansen. (Read title.) The Judiciary Committee heard the public hearing, conducted the public hearing on the bill, Mr. President. The bill was advanced to General File. When the issue was left yesterday, Senator Hansen had...I'm sorry, Senator Flood had pending AM792. Senator Chambers had filed a priority motion, that being to bracket the bill until May 15 of 2007. [LB457]

SENATOR LANGEMEIER PRESIDING [LB457]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hansen, would you give us a brief reopening on LB457. [LB457]

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. LB457 is an attempt to strengthen the intent of Nebraska's foster care system. It seems to me that it's only logical that the most accurate picture of how a child is doing and that child is managing a life, you should ask the people who live with that child on a day-to-day basis and ask how that child is doing. These caretakers are the ones that get up in the middle of the night and ask when the child is sick or have a bad dream, and they take that child to the doctor or the dentist, take them on shopping trips, the movies, and knows what they like to eat for dinner and attend the parent-teacher conferences. And they are the ones that tuck them into bed. These are the people that know the child best; the caretakers, the guardian, the foster parent, the preadoptive parent. And we think that those feelings, those ideas, those...just the well-being of the child is best known by that group of people. Yesterday we talked about quite a few things and Senator Chambers has a bracket date on this bill. I assume we need to take care of that too. And during the course of discussions, we did come up with a list of questions that a Sarpy County judge actually came up with. Part of the program of the eyes through a child...Through the Eyes of a Child Program was initiated by the Nebraska Supreme Court and Chief Justice Heavican's office. I think that it's a great program. I just thought that we needed legislation at the same time to make it more effective. We knew that changing the word from "may" to "shall" was a big change and asked the judge to ask questions in court. I have come up with a suggested amendment, don't have it in ready form yet, but I've passed it around to the principals that spoke on this yesterday and trying to get feedback from them. That's about all I have at this time. Thank you, Mr. President. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Hansen. The floor is now open for discussion on the bracket. Senator Chambers, would you give us a brief introduction on your motion to bracket. [LB457]

SENATOR CHAMBERS: Yes. Mr. President, members of the Legislature, as a result of

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the discussions yesterday, Senator Hansen, I, and others had concluded that there is a different way to present to the court the kind of information that most of us seem to think that the court needs. The bone of contention was the methodology by which that information would be procured by the court. Under the amendment as proposed, there would have been a mandate on the judge to ask questions of a specified category of persons at the particular hearing. Senator Hansen explained the approach that we have agreed will be taken so in view of that, I am withdrawing that bracket motion. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Chambers. The motion to bracket is withdrawn. That puts us back to AM792 offered by Senator Flood. Senator Flood, would you give us a brief opening on your amendment. [LB457]

SPEAKER FLOOD: Thank you, Mr. President. This does add guardians into the statute that was being amended. Given the work that Senator Hansen and Senator Chambers are doing and the work that I've seen already presented, I'm comfortable that we're going the right direction with guardians. And I would ask that my amendment be withdrawn at this time to give these two folks the opportunity to work out and present the compromise that they brought to the floor. Thank you, Mr. President. [LB457]

SENATOR LANGEMEIER: Thank you, Speaker Flood. AM792 is withdrawn. We return now to discussing LB457, the bill itself. Senator Chambers, you are recognized. [LB457]

SENATOR CHAMBERS: Mr. President, members of the Legislature, in order to give Senator Hansen time to think of how he would like to proceed, I'm going to have a few words to say. But it looks like he is in a position to answer a question or two, so I would like to ask them, if he will yield. [LB457]

SENATOR LANGEMEIER: Senator Hansen, would you yield to a question? [LB457]

SENATOR HANSEN: Yes, I will. [LB457]

SENATOR CHAMBERS: Senator Hansen, would you like to present your amendment while we're on General File or would you rather just let the bill go and then make sure that we have it in the form that's desired and attach it on Select File? [LB457]

SENATOR HANSEN: I would be in favor of putting it on Select...passing it now and we will have this in a better form by Select File time. [LB457]

SENATOR CHAMBERS: Fine. Mr. President, I'm taking Senator Hansen at his word because he has shown that his word is good. His word is sounder than the dollar because the dollar is diminishing. But in reality, Senator Hansen has shown good faith. He has done work overnight to put together the language and the substance of the amendment. But as I indicated earlier, we want to be certain that it's in the form that it

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ought to be. So rather than hastily put something on the bill now that may have to be amended further on Select, I'm not going to have any more to say on the bill on General File. And I will support sending the bill forward in its present condition, knowing that we're going to get it right on General File. Thank you, Mr. President. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Nantkes, you're recognized. [LB457]

SENATOR NANTKES: Mr. President, members of the Legislature, I rise this morning to thank Senator Hansen for the hard work that he's done on this bill to address this issue. And while I'm still kind of reserving the right to look at the new language that he's proposed, and I still retain some of the underlying concerns that I mentioned on the floor yesterday, I also want to let Senator Hansen know and the other members that I think working together we can achieve positive outcomes for foster parents and foster children as we work through the child welfare system. So thank you, Senator Hansen. With that, I yield the balance of my time. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. Senator Johnson, you're recognized. [LB457]

SENATOR JOHNSON: Well, Mr. President, I just rise also to commend Senator Hansen and the senior member of the Legislature to agree to work on this. This is an important, if not one of the more important things that the state of Nebraska just has to do better on than what we have been, and that is the care of our foster children. So I won't belabor the subject other than encourage them to work together to come to a successful conclusion. Thank you. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Johnson. Seeing no lights on, Senator Hansen, you're recognized to close on LB457. [LB457]

SENATOR HANSEN: Thank you, Mr. President. There are 5,038 children in Nebraska in foster care and this is a very important issue. I said yesterday that this is not a foster parents' bill. This is really not a judges' bill. This is a foster care bill of children and this should be our major concern. There is a great turnover of caseworkers that deal with foster children. These children are in limbo all that time. Over 60 percent of these kids move around from home to home and they don't have the attachment, they don't have the constancy that they need in their life. So by this legislation, hopefully we will ask the caregivers some questions and the judges will see that list of questions that they answered and maybe call on those caregivers and make a better permanency for these children. With that, I'd ask that you vote positive for LB457. Thank you. [LB457]

SENATOR LANGEMEIER: Thank you, Senator Hansen. You have heard the closing on LB457. The question is, shall LB457 advance to E&R Initial? All those in favor vote yea;

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all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk.  
[LB457]

ASSISTANT CLERK: 37 ayes, 0 nays on the motion to advance the bill, Mr. President.  
[LB457]

SENATOR LANGEMEIER: LB457 does advance. Mr. Clerk, next item. [LB457]

ASSISTANT CLERK: Mr. President, next bill, LB415 offered by Senator Harms. (Read title.) The bill was read for the first time on January 16 of this year, referred to the Transportation and Telecommunications Committee. That committee reports the bill to General File with committee amendments. (AM624, Legislative Journal page 871.)  
[LB415]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Harms, you are recognized to open on LB415. [LB415]

SENATOR HARMS: Thank you, Mr. President and colleagues. LB415 simply takes the present law and begins to make some adjustments in this in regard to the graduated driver's license program that we now presently have. Let me give you a little background about the GDL. It was passed in 1998. In fact, I think Senator Pat Engel was the author of this particular bill that was passed on this floor. Since 1998, we have had less deaths occurring in Nebraska by teenage drivers. We've had less accidents where young people are injured. But it's not far enough. It has not gone far enough. One out of four accidents that occur in this state are done by teens. We kill 35 to 40 teens annually in this state by driving. Let me give you a little bit of national background that will set the stages for the provisions that I'm asking for you to give consideration to. Forty-one percent of the teen motor vehicle deaths in '03 occurred between the hours of 9:00 p.m. to 6:00 a.m. The factors that you have to take into place in regard to these accidents occurred because driving is more difficult at dark, less practice, fatigue, and this is where high-risk behavior usually takes place with too much drinking or other drugs. The National Highway Traffic Transportation Association reports that the states with nighttime driving restrictions have slowed down their crashes by 60 percent, have reduced their crashes by 60 percent. Fifteen percent of the miles driven at night are by teens, only 15 percent, but 40 of the fatal crashes occur at night by teens. Forty-two percent of young teens die before midnight. For teenage passengers, one passenger in a car almost doubles the fatal crash risk. Two or more passengers raise it five times. Let me now give you, just keeping some of that information in regard to the background, let me now tell you the recommendations I'll make to this body for the changes. Number one, extend the nighttime driving restrictions from 10:00 p.m. to 5:00 a.m., still allowing exemptions for work and school if accompanied by an adult. Two, for the first six months of holding the provisional permit, the driver may only have one passenger who is under 21 years of age and who is not a family member. It does not eliminate family

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members. Three, the driver may not obtain a provisional permit unless he or she has successfully held a learner's permit for at least six months. No convictions of traffic violations can occur during this time. And four, to obtain an unrestricted license before the age of 18, the driver must have successfully held the provisional permit for one year and again, no moving violations. Five, add ten hours of nighttime driving to the 50-hour rule. Currently teens must either complete a driver safety course, which includes driving experience, or complete a log of at least 50 hours of driving with an adult. And six, make it illegal for a teen to use a wireless electronic communication device while driving during any stage before the unrestricted license stage. This change would include school permits as well, Mr. President. And Mr. President, there are also an amendment to this. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. As the Clerk has stated, there are committee amendments offered by the Transportation and Telecommunications Committee. Senator Fischer, as Chair of that committee, you are recognized to open on the committee amendments. [LB415]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM624, makes several changes on the restrictions imposed in LB415. The amendment returns to current statute and allows for the accumulation of three points or less in the 12-month period before a provisional operator permit holder is prohibited from obtaining his or her Class O license. The same three-point standard is applied to an LPD or a learner's permit for a six-month period before obtaining his or her provisional operator permit. The amendment reverts back to the current 50 hours required driving time for an applicant who provides an affidavit signed by a parent or guardian in lieu of a driver's education course. The amendment also reverts back to the prohibited hours of operating a motor vehicle for this provisional operator permit holder during the period beginning at 12:00 a.m. and ending at 6:00 a.m. and lowers the age of the passenger restriction to under 19 years to stay consistent with minor status in Nebraska. The school permit's validity is also extended for three months after an individual's 16th birthday to cover the gap between a person's 16th birthday and the time when a provisional operator permit is issued. Currently a school permit expires on an individual's 16th birthday regardless of what day that falls upon. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Fischer. You have now heard the opening on LB415 and the opening on the committee amendments offered by the Transportation and Telecommunications Committee. The floor is now open for discussion. Senator Harms, you are recognized to address AM624. Senator Harms, you are recognized. [LB415]

SENATOR HARMS: I do...this is not exactly what I wanted when I first introduced this legislation, these amendments, but I do support them. And if we get past this particular

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segment of the discussion, most likely on Select I will introduce an adjustment in the time. I'm getting a lot of phone calls from parents and from people across the state of Nebraska that says they'd like to see that curfew dropped from 12:00 to 11:00. Mine was lower than that but I'm going to try to hit the middle road. But as it stands now, I support these. That's what I told Senator Fischer when it came out and I keep my word. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Gay, you are recognized. [LB415]

SENATOR GAY: Thank you, Mr. President. I'd like to ask Senator Harms to yield to a few questions. [LB415]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? [LB415]

SENATOR HARMS: Yes, I would. [LB415]

SENATOR GAY: Thank you. Senator Harms, I'm going to prove my ignorance on this subject. I don't have a teen driver. But I guess a few things. Can you explain, quite honestly, the provisional permit, how that works, and also the nighttime driving restrictions? [LB415]

SENATOR HARMS: Yes, I can. This is a three-tier program. It's a graduated driver's license program, Senator Gay. You get a driver's permit, you hold it for a certain period of time, then you get a provisional or what sometimes they refer to as intermediate. You hold that for a certain length, period of time--and my recommendation is for six months because the research is showing us the longer you stay in a controlled environment, the less opportunities you're going to have for accidents. Ours presently, I think, is just too short. And then the second...what was your other question? [LB415]

SENATOR GAY: Well, the nighttime driving restriction hours. [LB415]

SENATOR HARMS: Oh, the nighttime driving, that's a good question and I appreciate that because the data that we have and the research that we see, that the majority of the accidents that we have today by teens occur at night and they occur on Fridays and they occur on Saturdays on the weekends. And the percentage of teens that are killed are 41 percent of the teenagers are killed from the time of 9:00 p.m. to 6:00 a.m., 41 percent nationally. In the state of Nebraska, what they will tell you in the state is that the majority of our kids and teenagers are killed at night. And so all the data and all the research, not only in our state but nationally, are leading us down this line and that's the reason why, because most of the fatalities occur between the time of 9:00 through 12:00 and then afterwards. But my point here is that I really want us as a state to begin to take a good hard look at the fact that we're losing too many teens. When you lose 35

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to 40 teens annually in the state, there's something wrong here. We need to address the issue. Thank you. [LB415]

SENATOR GAY: Thank you, Senator Harms. I guess the reason I ask, I'm looking forward to the debate on this and finding out more about it because I had experiences, we probably all have, where teen drivers...well, all drivers, I think, could improve. But some of the times you get these teen drivers on the cell phones and it's a little bit scary. So I'm looking forward to the debate and thank you for answering those questions. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Erdman, you are recognized. [LB415]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I was wondering if Senator Harms would yield to a question. [LB415]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? [LB415]

SENATOR HARMS: Yes, I will. [LB415]

SENATOR ERDMAN: Senator Harms, as we look at making these changes to this area of law and these provisional permits, can you tell me now how the provisional permit process is enforced? [LB415]

SENATOR HARMS: How it is now enforced? [LB415]

SENATOR ERDMAN: Right. How do we... [LB415]

SENATOR HARMS: And how we're going to enforce it in the future? [LB415]

SENATOR ERDMAN: Right. [LB415]

SENATOR HARMS: That's really what your question is, isn't it? Yeah, I've talked to law enforcement. It's no different than it is today. If you are speeding or if you're out and they feel like there's a need for you to be stopped, they will do that. And I think that's exactly what we've got today and that's exactly what we'll have tomorrow if this bill is passed. And I have not seen any conflict at all with law enforcement. In fact, they would like to have the opportunity to be able to stop teens to ask them whether or not they should be out or not. I do not see this as an issue. I see this as a way to say, Senator, that we have some standards that are important. Let me lead you on to another issue. Probably what's more important is that the parent sit down with the teenager and outline exactly what they expect as they go through this tier process. That's part of the problem that we have. Parents are paying no attention to their own teens and we need to have

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that and we need to be involved in that and they need to sit down with teens. And that's part of the issue. [LB415]

SENATOR ERDMAN: Thank you, Senator Harms. Can I ask you specifically about Section 3 of your bill? [LB415]

SENATOR HARMS: Pardon me? [LB415]

SENATOR ERDMAN: Can I ask you specifically about Section 3 of your bill? [LB415]

SENATOR HARMS: Sure, go ahead. [LB415]

SENATOR ERDMAN: Section 3 refers to the interactive wireless communication device, which is a mobile cellular phone, text messaging device, personal digital assistant that sends and receives messages, audio-video player that sends and receives messages, or a laptop computer. Is it your understanding that the same enforcement mechanism that you outlined in which an individual is stopped would be the same one here? And that is that you wouldn't simply have police officers sitting on the side of the road trying to make a judgment call whether somebody is 20 or 19 or 18 and the fact that they're using their cell phone itself isn't a violation of law but they would have to be pulled over for something else. Or would you envision this to be a primary enforcement provision of the law, that if an individual was caught using a cell phone, that that would be grounds for law enforcement to pull them over and to possibly give them a citation? [LB415]

SENATOR HARMS: Well, I think, quite frankly, if a teen is at this age, is driving, and they're using a BlackBerry or they're using some type of text messaging or they're using a cell phone at this age, they ought to be pulled over. Quite frankly, this does not eliminate them from having these in their car, does not eliminate it for having emergencies. That's what you want. They can carry those. They just don't them using it while they're driving. And I see nothing wrong with that. In fact, according to the national data that I have here on text messaging and what you're seeing taking place now, that the majority of the accidents today are occurring over telephone use, over text messaging. And we simply have got to begin to correct that. [LB415]

SENATOR ERDMAN: And I appreciate the background, Senator Harms. Can you give me the simple answer as to whether or not an individual who is using a cell phone under this scenario, is that a primary enforcement issue? In other words, can you be pulled over simply for that action? Or is it a secondary issue in which you are cited for something else...in other words the seat belt law in the state of Nebraska is a secondary enforcement issue. You cannot be pulled over simply for not wearing your seat belt. If you're pulled over for speeding and you're not wearing your seat belt, you can receive a citation for both. Is it your understanding that the way that the bill is written, that an individual who is using an interactive wireless communication device under a provisional



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operating permit... [LB415]

SENATOR LANGEMEIER: One minute. [LB415]

SENATOR ERDMAN: ...would be guilty of a primary offense and would be pulled over simply for that violation? [LB415]

SENATOR HARMS: Yes, I do. [LB415]

SENATOR ERDMAN: Thank you, Senator Harms. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Wightman, you are recognized. Senator Wightman, you are recognized. [LB415]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I do rise in support of Senator Harms' bill. I think there may be some questions in rural America with regard to, rural Nebraska with regard to one or two of the items, certainly limiting the number of passengers. But I also think that when there are a number of passengers in a vehicle and they're underage or under the age as provided in the act, that it does multiply the accident probability substantially. Whether or not it should be set at exactly that level, I'm not sure. But I'm generally supportive of the bill. I think the use of the cell phone and perhaps text messaging, BlackBerrys or whatever, probably would add to those numbers of accidents substantially as well. I do want to applaud Senator Harms for bringing that bill to the attention of the Legislature and will listen to debate. But right now would certainly intend to support it and think that it is a way to protect teenagers from themselves. And sometimes we need to do that, particularly out in rural Nebraska where they're frequently driving on gravel roads, which in and of themselves for an inexperienced driver can be a real risk. So until they learn to handle a vehicle, I think we do need to place some limits on their driving and I think this is a step in the right direction. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Harms, you are recognized. [LB415]

SENATOR HARMS: I'd like to give a little more data if I can, because I think it's important for us to understand some things here, primarily about Nebraska. Some of the things I gave you were national. I'd like to focus on the state of Nebraska, if I may, and this information comes from the Nebraska Office of Highway Safety. According to the Nebraska Office of Highway Safety, teens driving in Nebraska represent 8 percent of the licensed drivers, yet 26 percent of all reported crashes are teenagers, 31 percent of all crashes occur between 9:00 p.m. and midnight, 21 percent of all crashes between midnight and 3:00 a.m., and 46 percent of crashes in which speeding was the major cause, and 30 percent of all single vehicle rollover crashes are teenagers, and 38

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percent of the teen drivers are fatally injured or actually killed. When you look at the data and you look at the research, I think it's time that we begin to tighten this law up. And my recommendation is that that's exactly what we do. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Erdman, you are recognized. [LB415]

SENATOR ERDMAN: Mr. President and members of the Legislature, I have some strong concerns about how this law will be enforced, notwithstanding the studies and the information that Senator Harms has provided with us. If it is true as has been explained to me--and I think Senator Harms has said this and I've confirmed it with the committee staff of the Transportation Committee--if it is a primary offense, that if you are using a cell phone under a provisional operating permit and that is a ground for being pulled over, are law enforcement sincerely going to be able to make a determination between somebody who's 18 and somebody who's 20 who's operating under an operating license O as opposed to a provisional operating permit? I mean, those are the practical applications of this law. And I think what has to happen in this discussion is that we figure out what's possibly attainable. I'm not necessarily saying I'm opposed to what Senator Harms is trying to accomplish here. But we also have to be realistic. In certain parts of the state, contrary to some of the wireless providers that are out there would tell you, you can't get cell service. So maybe we should ban radios. I mean, at some point it has to be enforceable. And if it's not enforceable, then there has to be some protections or realities placed into the law. Again, I'm not saying that what Senator Harms is trying to accomplish here is somewhat, hasn't been thought through, it's just something that we have to weigh into the actual ability to enforce it. I don't know that we have law enforcement wasting a lot of their time sitting around saying, hey, I think I am going to make judgment calls on whether somebody is 18 or 19. Maybe I'm wrong, but the law enforcement I visit with don't tell me that. But I am interested to hear the discussion. I think at a minimum, at a minimum this should be a secondary offense in this area. And to go to a primary offense, I think, causes a bunch of problems as far as judgment on age and other things that may be improper. And I'm interested, I'm going to continue to read through some of these proposals. I understand the Transportation Committee's amendment doesn't go as far as what Senator Harms' bill would have done. But I do think we should proceed cautiously. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator Chambers, you are recognized. [LB415]

SENATOR CHAMBERS: Mr. President, members of the Legislature, on one of my bills this morning, the only bill I had on Final Reading, I read Senator Erdman's mind and I did exactly what he was going to do before he did it. In this instance, Senator Erdman read my mind and expressed some of the points that I intended to express. So I say to my young colleague, touche. Members of the Legislature, I am always concerned about

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creating laws which allow police officers to harass anybody. Police officers, contrary to what some people want to believe, do harass people. Also they lie. One police officer a few days ago was fired in Omaha for harassing some people in traffic, which included pulling his gun and pointing at them and others. When he was being investigated by internal affairs, he did in that investigation what he does in all investigations and what cops do in all investigations--he lied. He said, I wasn't at that place at that time, I wasn't even driving my vehicle at that time. Well, they established ultimately that he was because there was back and forth conversation between the motorists involved and the 911 operator. So here's what I imagine that officer said during the investigation. I lie, you lie, all of us cops lie, lying is a part of being an officer. When I lied when citizens brought other complaints, you didn't do anything to me. When you lied, nothing was done to you. The courts have acknowledged that cops can lie. We lie on the stand, we lie everywhere. So if a cop wanted to mess with somebody or wanted to take some time away from his patrolling or her patrolling if it's boring, they'd stop my young friend, Senator Rogert, and say, oh, I thought you were underage and I saw this cell phone, or I thought I saw a cell phone in your hand, so that's why I stopped you. So this is an investigatory stop. Well, he didn't intend to give the man a ticket anyway. But he achieved his end while saying he had the cover of the law. That is a pretextual stop. There's a pretense, there's not a legitimate reason. So I'm in agreement with the position Senator Erdman is taking. And as this bill is drafted, I'm not going to support it. But I'll tell you something else. When you talk about the accidents caused by teenagers, a lot of accidents are caused by adults doing the very things that we're going to drop the hammer on these teenagers for. But we dare not go after adults. Attempts have been made to do something about people talking about the cell phone, but it affected adults. The phone companies came in and said we don't want it. So the Legislature didn't do it. Young people have no lobby. They don't own phone companies. They're often the victims of police harassment. They are easy targets. I don't think Senator Harms is selecting them as easy targets. I take at face value everything he said about his motivation and it is noble. He's trying to avoid accidents which he feels are avoidable. And they can be avoided by putting in place some of the provisions he's offering to us. But I disagree with the approach as it exists in this bill. And I also disagree in this instance, as I have when they were dealing with other conduct that they were going to criminalize. They put it on young people. But old people do the same thing. Look, if I sneeze hard, Senator Carlson, I'll be 70 years old. Why don't you put it on me? [LB415]

SENATOR LANGEMEIER: One minute. [LB415]

SENATOR CHAMBERS: Old people have accidents. There are old people who meant to hit the brake but instead they hit the gas and they would plow into groups of people, killing people. But nobody came up with a law and said we're going to have to do something about these old geezers and codgers, "geezeresses" and "codgeresses" who are out here endangering the public because their reactions are not good. So when we target young people and there is a legitimate compelling reason to do so, I can go along

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with that. But if we're talking about a certain phenomenon, namely accidents that occur and are caused by people driving, then we ought to look at whether or not that prohibition that is being considered should not be expanded across the board to include all drivers. I have been behind adults... [LB415]

SENATOR LANGEMEIER: Time. [LB415]

SENATOR CHAMBERS: Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Wallman, you are recognized, followed by Carlson, Harms, Stuthman, and others. Senator Wallman. [LB415]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I think we all care for our teenagers. And putting more restrictions on them, is that good or is that bad? It's parental control. And I appreciate Senator Chambers' remarks about there is some policemen like to pick on teenagers. And as far as talking on cell phones, maybe that should be for all people and not just teenagers. Some teenagers have a lot better reaction time than us old folks. And I know I do talk on the road going down the highway on my cell phone. (Laugh) And I'll be honest with you, I probably shouldn't be doing it. But I do. So these amendments are good amendments, I feel. But restricting parents' rights, really what we have here is parents' rights. And it's hard to control teenagers if they're out of the house, if they're going to college, if we're having here and there and everywhere. We have to teach responsibility. And 99 percent of them, I feel, do have responsible, are very responsible for their actions. And so we try to make a law that everybody is responsible for 2 percent, 3 percent, 4 percent. And as far as having accidents, talking on cell phones or with the text machines and BlackBerrys, some studies have shown there's more accidents going down the highway, people that are picking up fast food, eating, dropping a sandwich on the floor or--I hate to mention that word--drop your cigarette. And so, you know, we can't fix everything. We can try. We can have a good message out here. But we can't have laws for everything and change laws for everything. And thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Wallman. (Visitors introduced.) We have Senator Carlson, Harms, Stuthman, Chambers, and others. Senator Carlson, you are recognized. [LB415]

SENATOR CARLSON: Mr. President, members of the Legislature, I stand in support of LB415 and AM624. In trying to make a point here, I'd like to address a question to Senator Erdman. [LB415]

SENATOR LANGEMEIER: Senator Erdman, would you yield to a question? [LB415]

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SENATOR ERDMAN: Yes, Mr. President. [LB415]

SENATOR CARLSON: Senator Erdman, for a moment let's suppose that I'm a police officer and you are a 19-year-old that's driving and using your cell phone and I pull you over. I ask for your driver's license and I look at it and find that you're 19 and so I simply thank you for giving me your license and release you on your way. What's wrong with that? [LB415]

SENATOR ERDMAN: Senator Carlson, I would imagine that there's nothing wrong with that other than the fact that it was unnecessary stop. [LB415]

SENATOR CARLSON: Well, it's not an unnecessary stop if this becomes law. But I don't consider that harassment if I pull you over because you're using your cell phone and I think you might be 17 and I find out you're 19. Is that harassment or did that present you with a difficulty? [LB415]

SENATOR ERDMAN: Well, I think it would present you with a difficulty in this regard, Senator Carlson. That if I'm obeying the law and you stop me for obeying the law, you're harassing me. I would consider that to be some form of harassment. Would it rise to the level of harassment in which Senator Chambers has pointed out? Probably not, it would be an innocent stop. Law enforcement is simply trying to enforce the law in which we as a state have required them to do. My humble observation this morning is whether that's an appropriate use of their time in regards to all the other responsibilities that they have. [LB415]

SENATOR CARLSON: Okay, thank you, Senator Erdman. I simply wouldn't agree with you on the assessment of whether that's harassment or not. Senator Chambers brings up the fact that there are police who look for reasons to harass people. Senator Chambers, I believe you called yourself this. You're an old geezer, I'm an old geezer. You are an old geezer who's in pretty good shape, I think I'm an old geezer who's in pretty good shape. And when you and I drive, realistically we're operating a computer in our brain. And many times, I've thought about all the things that we subconsciously do as we drive that, with years and years of experience, there's a computer running. And we do things and most of the time we do the correct thing because we've got experience. And your computer and my computer still has most of its parts and will function well, I believe, for years to come. But on the other end of the spectrum, we look at what is good public policy. Our young people, they've got a lot of assets and attributes. But one of them, they don't have that computer fully developed. And until they do, I think some restrictions are in order. That would be one of the reasons I support LB415. Another thing is that in our society, too often parents do not accept their responsibility and take it seriously. And so sometimes for good public policy we have to put things in place that perhaps encourage them to take greater responsibility in what their young people do. And with that, I will listen to the rest of the debate on this issue.

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Thank you for your time. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Harms, followed by Senator Stuthman. [LB415]

SENATOR HARMS: Mr. President, thank you, and colleagues. Senator Chambers, will you yield? And I will ask you a question this time. [LB415]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB415]

SENATOR CHAMBERS: (Wheezing voice) Yes...I will. (Laughter) [LB415]

SENATOR HARMS: Okay. I'm glad that you're young. (Laughter) Senator Chambers, today at whatever your age might be, are you more mature than you were when you were 16? [LB415]

SENATOR CHAMBERS: I certainly hope so. [LB415]

SENATOR HARMS: Okay. Are you more mature than you were when you were 19? [LB415]

SENATOR CHAMBERS: Yes. [LB415]

SENATOR HARMS: Were you...you know where I'm going. Were you more mature now than you were when you were 21? [LB415]

SENATOR CHAMBERS: Yes. [LB415]

SENATOR HARMS: That's my point. What I'm making here is, the simple fact is that our teenagers are not mature. Mentally and emotionally they cannot handle some of the distractions that take place. And when you put them in an automobile and you put them in with one teenager, two teenagers, or three, I'm telling you now it's the beginning of a tragic accident. And my point here is, and I hope this body understands, what I'm really trying to tell us is that when we're losing 35 to 40 young teenagers annually, there's something wrong with this. And a lot of it's just simple maturity, not understanding. Yeah, they go through a driver's ed class. But the problem with the driver's ed class, folks, is that they are not good and the research and the data shows us very clearly that when they go through driver's ed, it does not reduce the number of accidents that occur. What reduces the accidents is the amount of time that you stay under a supervised basis or a graduated driver's license program, like we have here. But greater length of time under supervision is what teenagers need to have and that's what helps prevent accidents. I don't know how we can look at this and think about the fact that we're worried that somebody is going to stop you and harass you. As a parent, I would be

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happy if my son or daughter were at that age, that they were stopped and in violation of the law. Quite frankly, we need to do something here. Thank you, Mr. President.  
[LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Stuthman, you are recognized. [LB415]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have a great interest in this bill but I don't know whether I can totally support it. My main interest is that we're talking about the youth driving. We're talking about law enforcement and pointing the finger at the youths if they happen to be doing something wrong. I've got some information here on teen drivers, 16-year-olds' accident rates was three times greater than a 17-year-old, 17-year-olds' was five times greater than an 18-year-old, and an 18-year-old's accident rate was two times greater than those at 85 years old. We're looking at the 16-year-olds. What do we do in our education programs at the present time in the school system? Do we have kids learning at a younger age in school? Yes, I think they are. They're learning a lot more. Preschool, you know, day cares, preschool, kindergarten, and then to the elementary school. We're pushing these kids a lot more now than we ever have before. What would...in my opinion, we've got this data on 16-year-olds. What if we had some education and education, the more education and experience an individual has, the better the end result will be. I'm looking at a possibility of, why don't we decide that maybe these kids should be driving with their parents at 13 and a half or 14 years old, getting some driving information, some driving experience. You can see by this, the younger the driver the greater the accidents. But if they had some experience when they were 13-, 14-year-olds, and I will tell you, when a young child like that gets behind the wheel, they have a fear of the vehicle. When a 17-year-old drives for his first time, he doesn't have that fear anymore. He feels that he has the power to overpower the vehicle and can about do anything. And that's what gets him in trouble. I think we should take a serious look at programs that we should take some leadership in in trying to develop some programs that would teach the responsibility, teach the kids at a younger, younger age of the effects of driving. And I do know that there are a lot of families where the child turns 16 or 16 and a half and all of a sudden they say, well, I guess you can get a driver's license now, provisional operator's permit. And they take them to get that license. Just scares me to death. But had they been driving with a parent or with some supervision, you know, years before that, I would feel more comfortable. I think we should take a role in trying to educate these people more of the responsibilities of driving. I don't like to see more laws being put into place. We have to get the law enforcement, you know, to possibly stop these people for doing something wrong. They don't have the time to be doing that. And if they have the time, they're going to find some reason why they want to stop someone. I really think that we should take a serious look at what we could do to educate these people more. And the main thing with the driving is experience. In my opinion, that's the only way that you can develop driving skills... [LB415]

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SENATOR LANGEMEIER: One minute. [LB415]

SENATOR STUTHMAN: ...is with experience. Thank you. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Chambers, you're recognized. [LB415]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Harms may be on the premises. If he is, I would like to ask him a question or two. [LB415]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? [LB415]

SENATOR HARMS: Yes, I would. [LB415]

SENATOR CHAMBERS: Senator Harms, your intent in bringing this legislation is to protect young people as well as the other public. Is that part of your reason also? [LB415]

SENATOR HARMS: That's correct. [LB415]

SENATOR CHAMBERS: So do you believe the state has the authority to pass laws that look after the interests of young people? [LB415]

SENATOR HARMS: Yes, I do. [LB415]

SENATOR CHAMBERS: Do you think that the state, and I know what your answer is because you're bringing a bill, should exercise that authority for the purpose of seeing to the interest and well-being of young people? [LB415]

SENATOR HARMS: Yes, I do. [LB415]

SENATOR CHAMBERS: Thank you, Senator Harms. And I take Senator Harms at his word and I think we would have answered the same way. But we are not consistent. When we come to a bill that the political subdivisions want because they want to escape liability, they want to allow a division of government to create and produce an inherently dangerous activity and not have any liability on that political subdivision if a child is injured. I'm talking about the skateboarding and bicycle things where you know and it's been established that young people are going to get broken bones, they may get concussions. But the political subdivisions want to do that despite the fact that when people look at something made available by the government, they feel entitled to believe that if their child is injured, that governmental entity is going to be liable. But a



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bill is going to come out here, not a protect the young people bill, but to protect the political subdivisions. It will be acknowledged when we talk about that bill that the cities and other entities are providing these dangerous, known to be dangerous instrumentalities that it's of their very nature to be dangerous. It is known in advance that children are going to be hurt but there will be no liability. So today as on other days, when we want to criminalize conduct and punish young people, then we say we want to exercise the power of the state to look after the interests of these young people. How? By criminalizing conduct or by taking away some privilege or otherwise punishing them. So we'll exercise that power to punish but we won't exercise it to protect. And I'm going to watch how the people vote on this bill. And I'm going to listen as they vacillate and shift from foot to foot and explain why nevertheless, because the political subdivisions are more important than these children, that we should let these political subdivisions provide activities that are known to be dangerous, where you know the children are going to be hurt, but the political subdivisions are not accountable and they're not liable. And when you say something like, well, if there's gross negligence or something like that, that's nonsense. I think they should be held to strict liability. If they put a dangerous instrumentality out there and they know children are going to be hurt, then when a child is hurt they should have to pay. The political subdivision should be held accountable. [LB415]

SENATOR LANGEMEIER: One minute. [LB415]

SENATOR CHAMBERS: But I don't think Senator Carlson is going to go my way on that. I don't think Senator Harms is. I know Senator Lathrop is not. And a lot of others who are going to vote for this bill to put pressure on the youngsters and bring them into the clutches of the law, they'll vote for that. But when it comes to applying that principle across the board as I attempt to do, looking genuinely at what is in the overall best interests of our children, then they can compartmentalize their concern. Punishment, yes; protection, no, if the political subdivisions don't like it. So in the weighing, the political subdivisions come out ahead and the children take the back seat. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Avery, you are recognized, followed by Senator Rogert. [LB415]

SENATOR AVERY: Thank you, Mr. President. I'm inclined to support this amendment and the main bill. Evidence, I think, is overwhelming that these kinds of restrictions save lives. There are a number of organizations that have found particularly that limiting passengers in a car driven by teens may be the most important restriction and make the biggest contribution to saving lives of teenagers. An organization called Advocates for Highway and Auto Safety, which is a coalition of consumer health and safety groups and insurance companies, has compiled evidence that is compelling in support of this legislation. I might add that I have a son who is 15 years old and currently has a driver's

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permit. And that puts fear in the hearts of every parent. He does not like this legislation, Senator Harms. But at his age, he doesn't like a lot of things and he has made that very clear to me. As a 15-year-old, he's convinced that he alone is the best judge of how he ought to behave and that he should be able to decide for himself how he should drive, under what conditions, and when. Of course, his wisdom always convinces him that he knows better what is best for him than does his parents. I suspect that this sounds familiar to many of you who have been through this. His mother and I have developed a driving contract that he will be required to sign and follow to keep his driving privileges. That contract has many of the same elements proposed in this legislation. I believe that we in this body have an obligation to the safety of our children to support this legislation. I am in sympathy with some of what Senator Chambers has talked about. But I believe that if we get this passed into law and we can achieve substantial compliance, then we can reduce teen traffic deaths and I certainly have a vested interest in that as a parent. So I thank you, Senator Harms, for bringing this legislation forward and I will vote for it. Thank you. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Rogert, you are recognized. [LB415]

SENATOR ROGERT: Thank you, Mr. President, members of the body. I agree with almost every principle that's in this bill and the reasoning behind it. And I realize that it wasn't that long ago that I was a teenager and I was driving. And we didn't have cell phones. Thank goodness, because we did enough things that we shouldn't have without it. And I see kids driving around on cell phones all the time and with four or five kids in the car and it's bad, it's scary. And that's how wrecks happen. But I also see older folks, I see myself, I see everybody in this room driving around with cell phones. And that's also not good. As I look around the floor here today, I see seven or eight of us that, at 10:00 at night can be pulled over for using our cell phone because we look like we could be a teenager. Senator Fulton, Senator McGill, Senator Gay, I'll give you the help. Senator Pirsch, if his hair gets any longer, he's going to look like any high schooler there is in Omaha. It's no different. And myself and Senator Erdman. And this portion of it doesn't have anything to do with maturity, it has to do with the fact that...I agree that young minds are not developed and they make bad decisions as teenagers and they shouldn't be using their cell phones and we can give them a ticket for that but we can't pick them up for it because we're going to be picking up people everywhere. And it's just going to give law enforcement another confusing possibility to pull people over and, as Senator Chambers would say, harass them. And if I'm driving through town at 10:00 at night, I'm on my cell phone and I get pulled over, I'm going to be pretty ticked off. And so I can't support this until we make it a secondary offense and then I'll fully support it because I do agree that we should be able to hold those guys accountable and penalize them for using their wireless devices or whatever it is. But I can't support it if it's a primary offense. Thanks, Mr. President. [LB415]

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SENATOR LANGEMEIER: Thank you, Senator Rogert. Senator Hansen, you are recognized. [LB415]

SENATOR HANSEN: Thank you, Mr. President. I yield my time to Senator Harms. [LB415]

SENATOR LANGEMEIER: Senator Harms, 5 minutes. [LB415]

SENATOR HARMS: Thank you, Senator Hansen. Senator Chambers, would you yield, please? [LB415]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB415]

SENATOR CHAMBERS: Yes, I will. [LB415]

SENATOR HARMS: Senator Chambers, do you believe that we need to create a safe environment for our teenagers to live in? [LB415]

SENATOR CHAMBERS: Yes. [LB415]

SENATOR HARMS: Do you believe that we should have rules and regulations that teenagers should follow? [LB415]

SENATOR CHAMBERS: Yes. [LB415]

SENATOR HARMS: Do you think that some rules and regulations should be placed in law if their life is in danger and they're not mature enough to handle the environment that they're in? [LB415]

SENATOR CHAMBERS: In general, I'll say yes. But before I would agree to a specific law, I would have to see the terms. But as a general principle, that under some circumstances should be done. [LB415]

SENATOR HARMS: Thank you. Do you believe that we should put our teenagers through a driver safety program that provides them the structure and the understanding about the safety and the responsibility they have every time they get in that automobile? [LB415]

SENATOR CHAMBERS: That's desirable. But being practical, I'd have to understand who's going to give it, the qualifications, the circumstances such as that. And I'm being serious because they've had what they call safety driving courses for youngsters before and when these courses were examined, they were shams from top to bottom. So that's why...I'm not vacillating in terms of what you're suggesting, but the reality has not

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always been what you and I would want if we talked about such a program. [LB415]

SENATOR HARMS: I would agree with that and I believe that our driver ed, you are absolutely correct when you talk about the driver ed and safety because it has proven not to be helpful. It only works when you have a three-tier program like Nebraska has with restrictions. Let me ask you this. Do you believe that this state should provide laws that protect our teenagers from harming themselves? [LB415]

SENATOR CHAMBERS: I'd have to know what the harm is. [LB415]

SENATOR HARMS: Well, let's talk about... [LB415]

SENATOR CHAMBERS: Here's why I say that. We know that there's too much obesity in the schools, among young children, but there are products sold by commercial enterprises which will contribute to obesity. But a law that would prohibit those things from being sold in the schools would not be enacted. But I think a law such as that which goes directly to the health of the children should be enacted by the state. [LB415]

SENATOR HARMS: Let's be more specific then. Let's talk about driver safety. Do you think that we should have laws that are designed to keep our kids safe... [LB415]

SENATOR CHAMBERS: I think we should have... [LB415]

SENATOR HARMS: ...and that we can look at...go ahead, I'm sorry. [LB415]

SENATOR CHAMBERS: We should have laws that govern the way vehicles are to be operated on the highway and they should apply to everybody who's operating a vehicle on the highway, regardless of their age. [LB415]

SENATOR HARMS: Do you believe that, at the age of 16 years old, that you and I were mature enough to handle the kind of driver environment we find that we're in today? I don't think I was but maybe you were. [LB415]

SENATOR CHAMBERS: Well, there are a lot of youngsters today, Senator Harms, who develop a kind of physical dexterity, manual--by that, I mean physical--coordination, eye-to-hand coordination because of the way they work with computers and computer games. So their reactions are a lot better and sharper than those of, say, people our age. [LB415]

SENATOR HARMS: Yes, but where we go astray is the simple fact, is that when you put one teenager in that automobile, when you put two teenagers in that automobile, when you put three teenagers in that automobile, we have a real problem. They are not mature enough in many cases to handle that. And you know, as you read the paper,

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you see death after death in this state with more than just one teenager. And that's what I'm driving at. We've got to find a solution to this. And I know that your heart... [LB415]

SENATOR LANGEMEIER: One minute. [LB415]

SENATOR HARMS: ...is in the right place... [LB415]

SENATOR CHAMBERS: Except that I don't have a heart. But if I had one, I would accept what you say. [LB415]

SENATOR HARMS: (Laugh) Well, now we both know that's wrong. Okay, thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms and Senator Hansen. Senator Erdman, you are recognized and this is your third time. [LB415]

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I'm going to rise in support of the committee amendment, first of all, and recognize that the provision that I'm mainly concerned with is actually in the green copy of the bill. And so in respect to the committee, I want to make sure it's clear that I think the committee amendment is an improvement and I do plan to support AM624. I have also filed an amendment and there will be another amendment that will follow that to help catch the other sections of law that I think need to be addressed if we do amend Section 3. It may not be a surprise, but those of us that come from rural Nebraska probably have more driving experience than those that come in from urban Nebraska. As Senator Harms was going through the questions with Senator Chambers about experience, with age comes experience. But it's not simply with age, it's with actual experience. Generally the older you are, the more experience you have at something. The longer you've been here in the Legislature, the better you'll know the rules, the more you'll know the process. And as been pointed out here yesterday and before, the more insight you'll have on whether to introduce certain bills. That's experience, it doesn't simply come with age, it comes with actually being on the ground, it comes with actually being involved in that process. First time I drove a vehicle, I was six years old. That would probably just scare a bunch of you. And according to some of the comments this morning, you know, it was probably some type of irresponsible act that I was allowed to do that. We were on the farm. We had two pickups in one field, we had to get them both home. I was with my dad, we were irrigating, he said follow me home. A mile and a half, two miles, got home safely. So it's a matter of perspective. And if we go through this process about we're going to write into law what the parents' responsibilities are and what common sense is, then we don't probably have enough pages in the world to contain that. But if we're going to have processes in place and laws that need to be enacted, they have to be enforced. We're not going to go out and set the speed limit on Interstate 80 between here and western Nebraska at 25 because we know that can't be

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enforced. And under some of the analogies here this morning, we're going to put this in law and hope that it gets enforced when, in reality, it may not be able to be enforced. Now Senator Chambers is right, we would not do this to people over the age of 18 because we tried to do this to people in the state of Nebraska on seat belts. We made it a primary enforcement. The people, by referendum, said no, thank you. We now have it as a secondary offense. There are certain realities that we have to take into account. Again, I think Senator Harms has a sincere interest in doing the right thing here and I wholeheartedly appreciate his interest and his efforts that he has undertaken. I practically don't think you can accomplish, at least in my opinion, the area on the wireless phones because there's the other side of that. Cop pulls you over, and under Senator Carlson's example, say the kid was 17 years old, pulls him over. Says, hey, you were on a cell phone. The kid put it in his pocket from the time the cop turned around to pull him over, says no I wasn't. So now you go to court. So now it's the officer's word against the young person's word. And maybe the young person has an attorney. You have to be able to prove that in court that he was. When you get a speeding ticket, you've got the radar gun, you've got other evidence that's admissible for you to be able to prove your case. Did you take a picture of that young person using the cell phone if he disputes it? It's a reality here. Now I'm not saying that what we have before us isn't something we should consider. But if we are going to do it, let's be realistic. And we'll have that discussion later on with an amendment I filed to LB415. But for the sake of where we stand this morning, I think AM624 is a good amendment. I think it should be adopted to LB415 and then we'll have an opportunity to debate further. But to the philosophy, I think that's important for us to have this discussion, to understand what the laws are and why we don't apply them broader and whether or not there are other tools out there, as Senator Harms has pointed out, that need to be utilized in order to ensure that young people are able and ready for the responsibilities that we, in law, give them. And to Senator Avery's scenario, you're his parent. You're not his friend. I have a daughter. That's a different scenario. I believe my responsibility is different than if I was someone's friend. And it is a part of education. It is a part of accountability. And I didn't need a law to tell me what I could and couldn't do because my restrictions in my house when I was growing up were probably more restricted than any law you could ever pass. And not everybody has that. But in trying to find that happy medium, you have to find something that can be enforced. I'm not sure we're there with LB415 and I hope that at the end of the day we can find that area and we can move on. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Mr. Clerk, items for the record? [LB415]

ASSISTANT CLERK: Thank you, Mr. President. A series of items. Motion to LB53 from Senator Erdman to be printed in the Journal. I have a series of reports on confirmations by the Judiciary Committee. That committee also reports LB112, LB214, LB260, LB280, LB424, all to General File. I have a corrected report by the Enrollment and Review

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Committee regarding LB405. And the bills that were read on Final Reading this morning were presented to the Governor at 10:50 a.m. And Senator Johnson would offer an amendment to LB236 to be printed in the journal. Thank you, Mr. President. (Legislative Journal pages 1011-1014.) [LB53 LB112 LB214 LB260 LB280 LB424 LB405 LB236]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Returning now to discussion on AM624, we have Senators Fulton, Chambers, Carlson, and Lathrop. Senator Fulton, you are recognized. [LB415]

SENATOR FULTON: Thanks, Mr. President and members of the Legislature. I probably don't...I don't have enough experience in law enforcement to know whether the arguments of enforcement are persuasive. But they are persuasive to me. I do have some concern about how this can be enforced. I want to talk a little bit though about the generalization, why it is that we are, would be willing to apply this law to young drivers but not to all drivers. And it's been argued anyway that that's not reasonable. And I'd like to address that, at least. That's something I think I can clarify. While we do paint with a broad brush for those 18 years and younger, there is a reason for that generalization and that reason is that there's a lack of experiential and cognitive development. They haven't enough experience, they haven't enough time for the mind to be able to develop in such a way as able to do two or three things with friends in the car and drive at the same time. That generalization doesn't apply quite as well for older drivers because there has been time, experiential knowledge, as well as a development of the mind. Now that can come to some by way of intuition, just looking and knowing, yeah, that's probably a reasonable argument. But we do have empirical data. I didn't hear all of it but Senator Harms did go through some studies, professional actuarial studies that ostensibly are not disputed, which indicate that the generalization he is applying by way of this bill to young drivers is reasonable. So to single out young drivers I don't believe is unreasonable because we have data to indicate as much. So at least the principle of the bill seems, to me, reasonable. Where I run into a little hiccup is what Senator Chambers and Senator Erdman say about how this can be enforced. So, for me anyway, those are persuasive arguments against the bill but they're not persuasive enough such that we shouldn't advance the bill. I wonder if Senator Chambers would yield to a question. [LB415]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB415]

SENATOR CHAMBERS: Yes, I will. [LB415]

SENATOR FULTON: Am I correct in summarizing what the argument you were making against applying this to a specific population of the driving community? Are you saying that ought to be applied...if it's going to be applied, it ought to be applied throughout those who can drive? [LB415]

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SENATOR CHAMBERS: Yes, you are accurate. [LB415]

SENATOR FULTON: Okay. Do I pose an argument, a reasonable argument as to why there should be some focus with this law to younger people? Just younger people right now. [LB415]

SENATOR CHAMBERS: On an issue such as this, Senator Fulton, I'll agree that reasonable minds can differ. So your argument is not unreasonable simply because you see it differently from the way I do. [LB415]

SENATOR FULTON: Okay. Do you have any ideas as to how this could be reasonably enforced? [LB415]

SENATOR CHAMBERS: First of all, I agree with the amendment. I agree with much of what Senator Harms is doing. I'm focusing on the telephone aspect of it. Senator Rogert suggested making it a secondary offense. I believe Senator Erdman's amendment will remove that reference. That's what I think ought to be done to make it a better bill and an enforceable bill. [LB415]

SENATOR FULTON: Thank you, Senator Chambers. I'll just close by saying the principle, while reasonable minds can disagree, I think that the principle is sound and it's backed by empirical data that has been brought forth by Senator Harms. The application, as is the case in most legislation, seems to be the place where there's a rub. [LB415]

SENATOR LANGEMEIER: One minute. [LB415]

SENATOR FULTON: But I hope that we can at least agree that the principle behind this bill is worthy of advancing. So with that, thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Chambers, you are recognized. [LB415]

SENATOR CHAMBERS: Mr. President, members of the Legislature, what would you expect from an engineer other than the use of the term "empirical," hard quantifiable data? I'd like to ask Senator Harms a question, since he is our datameister. [LB415]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? [LB415]

SENATOR CHAMBERS: Senator Harms, of the accidents involving people using these cell phones, what percentage are involving people above the age of 18? [LB415]

SENATOR HARMS: I can't give you that answer. [LB415]



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SENATOR CHAMBERS: Then if you can't tell me what percentage is involving those above, you can't tell me the percentage of those below, right? [LB415]

SENATOR HARMS: Well, I did earlier. We talked about the number of accidents, the percentages of deaths that are occurring. [LB415]

SENATOR CHAMBERS: Well, here's what I want, because if you tell me the percentage of those under, then I can calculate the remaining percentage. Here's what I'm asking. The percentage of accidents that I'm looking for are accidents involving people using cell phones. [LB415]

SENATOR HARMS: Okay. I don't, to be honest with you, I don't believe that they have really got that nailed down. I think that one of the things that... [LB415]

SENATOR CHAMBERS: But that's all I will ask because my time will run. [LB415]

SENATOR HARMS: All right, all right. [LB415]

SENATOR CHAMBERS: Thank you. Senator Fulton, we haven't had any data showing that people in the age being targeted are responsible for more of the accidents caused by people using this device. If the device is deemed to be a primary contributor to accidents, we should aim at the larger number of persons involved in those accidents. But to avoid having to quantify something that we may not be able to because no data have been kept, ban the use of these phones by everybody while driving. But that's not going to be done. Here's what we're facing, Senator Carlson. If we are going to say we want to know how rabbits behave in such and such a set of circumstances and we look only at rabbits, we can come up with details but those details apply only to rabbits. If we try to extrapolate and apply the same data to wolves, foxes, hounds, or people, there's going to be a disconnect and it won't work. Senator Fulton knows that water, the formula for water is H<sub>2</sub>O. Whatever the H is, there's one of those, two of those; and whatever the O is, there are one of those. But under different circumstances when you have that same formula in play, the substance can be a gas, like steam, it can be a solid, like ice, or it can be a liquid. But you don't change the formula simply because the way it's manifested differs. So if the cause of these accidents is the utilization of these phones while driving, then it doesn't matter if the person is below the age of 18, right smack dab on the age of 18, or over the age of 18. The cause of the accident, the main contributing cause, is this device being used by a person driving. But it's easy to attack the young people. Senator Fulton was correct when he made the assertion that younger people lack the experience and the developed cognitive ability. So they're treated differently, except when you want to punish them. When these young people who lack the experience and the cognitive ability commit crimes, we treat them like adults. [LB415]

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SENATOR LANGEMEIER: One minute. [LB415]

SENATOR CHAMBERS: We say, oh, well, for every other reason, you're a kid. But in this, you're an adult and we're going to lock you up for the rest of your life even though that, for you, is a much longer sentence than if Ernie at his age did the same thing and was locked up for life. Somebody my age has lived most of his life, should have this experience, this cognitive ability. So a greater culpability attaches to wrongful acts committed by me. But when it comes to children, we ascribe to them the same level of experience, cognitive ability, and even motive so we make them equally culpable. But when you have two people who commit the same act, you determine the moral quality of that act and the culpability of that act by looking at the individual who committed it, his or her circumstances, his or her ability to understand, experience, and all these other things that we utilize... [LB415]

SENATOR LANGEMEIER: Time. [LB415]

SENATOR CHAMBERS: ...as a justification for treating youngsters differently from older people. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Returning to the floor discussion on AM624, Senator Carlson, you are recognized. [LB415]

SENATOR CARLSON: Mr. President, members of the Legislature, I'll yield my time to Senator Harms. [LB415]

SENATOR LANGEMEIER: Senator Harms, you are recognized. [LB415]

SENATOR HARMS: Mr. President and colleagues, Senator Chambers... [LB415]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB415]

SENATOR CHAMBERS: Yes, I will. [LB415]

SENATOR HARMS: I would like to correct. There is data and there is statistics that shows exactly what you're talking about. I just don't have those here and I was in error. And I will present those... [LB415]

SENATOR CHAMBERS: Fair enough. [LB415]

SENATOR HARMS: ...at a later time. It's there, it's very clear, and I'd be very happy to share those with you. I just stand here before you to tell you that it is here and I wanted to correct that. I just don't have it with me. Okay? [LB415]

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SENATOR CHAMBERS: Very good. Thank you. [LB415]

SENATOR HARMS: Thank you. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Lathrop, you are recognized, followed by Friend, Pedersen, and Gay. [LB415]

SENATOR LATHROP: Thank you, Mr. President, colleagues. I am in support of LB415, at least the concept of LB415 and the idea that we need to provide some restrictions to the driving privileges of young people. The one thing that we haven't talked about much today, we talk about the enforceability of this bill, if it should become a statute. But I think we've ignored what this statute or this bill would do if it were law with respect to the relationship between the parents and the children. I happen to agree with Senator Rogert that this should be a secondary offense and I'll talk about that in just a minute. But if it is the law in the state of Nebraska, we will have the assistance of parents who will say no, you can't have that many kids in the car with you; no, you can't use the cell phone. These are the restrictions, you need to be home by 10:00. And I think those are...I think we can look at this as something not as a law enforcement issue exclusively, but as providing some direction, setting down the law, and allowing parents to be partners in enforcing that. Senator Rogert and, I think, Senator Erdman have suggested that this could be problematic as a primary offense. I support the idea of making it a secondary offense and I'll tell you why. If you have law enforcement trying to guess whether somebody is 18 or 19, what you will have is a pretext that law enforcement can use anytime they want to stop somebody and question them. And that's a dangerous thing for us to enshrine in the statutes. I think the seat belt offense as a secondary offense has worked well for the state of Nebraska. It has improved the use of seat belts. And I think in this instance making the requirements or the mandates of LB415 a secondary offense where law enforcement can issue tickets if they're involved in an accident and they're out at night past when they should be or if they're involved in an accident or they stop them for some other reason. So the secondary offense will still allow us to improve safety on the roads, get the message to the young people and to their parents. And with an amendment making it a secondary offense, I would support LB415. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Pedersen, you're recognized. [LB415]

SENATOR PEDERSEN: Thank you, Mr. President and members of the Legislature. I have not spoke on this bill but you might notice on the committee report that I was not one who supported it out of committee. The main reason is the cell phones and I'm just going to say a couple words. I got a 13-year-old granddaughter who got a cell phone for her birthday. It's a good issue to talk about and it's a good item, after talking about that

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issue, that I thought maybe safetywise that it's all right for her to have a phone. But we give these young people these phones and then put them behind a driving wheel and the telephone rings and expect them not to answer it. I think we all know better than that. We were all teenagers. Most of us have had teenagers. And to make this a crime is absolutely ludicrous. Thank you. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Pedersen. Seeing no other lights on, Senator Fischer, you are recognized to close on AM624, the Transportation and Telecommunications Committee amendment to LB415. [LB415]

SENATOR FISCHER: Thank you, Mr. President and members. If you remember, the committee amendment makes a few changes from Senator Harms' original bill. Senator Harms did agree with those changes. It would put the time frame from 12:00 a.m. to 6:00 a.m., which is what it currently is for the provisional driving operator's permits. Senator Harms was gracious enough to do that. We also changed the age from his original bill for a passenger in the vehicle down to 19 because that is consistent with minor status in Nebraska. With that, I would urge you to support the amendment. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Fischer. You have heard the closing on the committee amendments, AM624. The question is, shall AM624 be adopted to LB415? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB415]

ASSISTANT CLERK: 31 ayes, 1 nay on the adoption of the committee amendments, Mr. President. [LB415]

SENATOR LANGEMEIER: The committee amendments are adopted. Mr. Clerk. [LB415]

ASSISTANT CLERK: Mr. President, Senator Erdman would offer AM895. (Legislative Journal page 1015.) [LB415]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM895. [LB415]

SENATOR ERDMAN: Mr. President and members of the Legislature, AM895 would do one thing to the bill. It would remove any reference to the interactive wireless device from the bill. In the event that the amendment is adopted and Senator Harms would want to come back with a different idea as far as the secondary offense, I would be sure that there would be members willing to have that discussion. Every provision as I understand it in this operating permit law is a primary offense, even the driving after 12:00. And so it would probably require a little more work than just simply stating one

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thing or another in law. But here's what it does. It strikes original Sections 1, 2, and 3, 6 and 7. Those references are only amended for the purposes of the interactive wireless device. And on pages 6, lines 24 and 25, and page 7, line 1, it strikes that new language. I think the discussion on the committee amendment covered the rationale as to why this is problematic. And again, if there is an attempt to look at this from a standpoint of another vehicle or another mechanism to enforce this, whether it's secondary or otherwise, I think that's appropriate. I wholeheartedly disagree with making this a primary offense. I think Senator Chambers has pointed out the discrepancy between the younger drivers and the older drivers and why we wouldn't do this to them, but also from the standpoint of enforcement. And I will offer the amendment to the body. Again, I would welcome any comments that you may have. I hope that my comments earlier weren't misleading to you. It was not my intent to make it a secondary offense but that I would be offering this amendment. And if this amendment is adopted, there would be plenty of opportunity, I would hope, to have the discussion between now and Select File and we would advance LB415. I think it's a more appropriate place to start from; offering this amendment, getting it adopted, and then moving the bill and trying to work it out because I think there are problems with this bill and it may not advance otherwise. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on AM895. The floor is now open for discussion. Senator Chambers, you are recognized. [LB415]

SENATOR CHAMBERS: Mr. President, members of the Legislature, there may be another offering. But until that is before us, I am supporting what Senator Erdman is suggesting. Let me give you all some concrete information that won't happen in white communities. There is a law that says you cannot have anything that obstructs your windshield. Well, now when white people have a cross sitting on their dash and it obstructs part of the windshield, they're not stopped. When there is a crucifix hanging from that mirror, they are not stopped. In the black community, if there's one of these air fresheners, one of this Christmas tree looking things, you're stopped and ticketed. That's what the white police do to us. You all don't want to believe it because it doesn't happen to you and that proves the selective and inappropriate enforcement of the law. I don't want to give these cops any other excuse, not just to mess over black people and poor white people in the urban area where I live, but any young people. It is generally known that teenagers often become the target of police harassment. Some people are afraid to use that term. But they are harassed because they're young, and let's get away from complexion. Maybe they wear their hair the wrong way or they wear a hat that's turned sideways or the bill is turned to the back in the way that Andy Roddick wears his hat when he's playing tennis. So I'm not going to support any law that gives law enforcement individuals more excuses to harass people by inappropriately enforcing the law. As a primary offense, there is too much opportunity for mischief. Even as a secondary offense the mischief can be there but there has to actually be a secondary

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offense, so if they're going to...a primary offense, if they're going to stop somebody for the purpose of harassment and they see a cell phone in operation, they still cannot ticket the person because there is no underlying primary offense. If this were a primary offense, other than the officers who are petty, vindictive, racist, or hostile toward young people, most are going to put the enforcement of this provision, if it's a primary offense, way low on their radar screen. If they see a kid they don't like, then they can use that as a pretext to mess with that kid. But it's not going to be everybody's kid. So dealing with what we have before us, I'm in support of Senator Erdman's motion, his offered amendment. Whatever is before us that I may agree with, I've got to go along with until something better comes along and something better or more palatable, more practical may be in the offing. But that failing, I would agree to support Senator Erdman's amendment. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Erdman, you have the next light. There are no other lights on. Do you wish to use your time or close? [LB415]

SENATOR ERDMAN: Mr. President, members of the Legislature, I will... [LB415]

SENATOR LANGEMEIER: Senator, there is a light on behind you now, so you're recognized for your time. [LB415]

SENATOR ERDMAN: Well, that's fine. They can speak on the bill because I intend to withdraw this amendment. Here's what's going to happen as I understand it and I'm willing to accommodate Senator Harms in this endeavor and will yield to him my time in the event that he is the last light. But I understand what Senator Harms wants to accomplish. In the green copy of the bill, I think that's unrealistic. He has a different idea that he would like to offer to the body. And because of that, I will withdraw AM895 and offer it as an amendment on Select as a placeholder so that we have the opportunity to have discussions between now and the time the bill would come back. I believe what Senator Harms is attempting to come up with is making the entire law a secondary offense, which it's currently a primary offense. I think that's better and I think we can have that discussion between now and Select File. And with that, Mr. President, I would ask that AM895 be withdrawn and filed as an amendment on Select File. And I would yield my remaining time to Senator Harms. [LB415]

SENATOR LANGEMEIER: Senator Erdman, your AM895 is withdrawn and refiled on Select File and that would end your time. Senator Harms, you have the next light on. You're recognized. [LB415]

SENATOR HARMS: Thank you. Thank you, Senator Erdman. I visited with Senator Chambers and Senator Erdman and I think we're agreeable to move this bill on. And I will introduce an amendment to this legislation that moves everything from primary to

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secondary. And that seems to be where people want to be and I think it's probably a fair way to go. I just am interested in whatever we can do to make the teenagers safer and I will bring that forth on Select, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. We return now to...that was discussion on LB415, the bill itself. Senator Chambers, you are recognized. [LB415]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, despite the fact that even with what Senator Harms is suggesting I have some concerns about the bill, I think that is such a huge step in the right direction that, unless I see something in the way of a better way to frame the amendment once it's offered, I'm going to agree with the amendment that he is proposing. I will agree to vote to advance the bill in its present form in the same way I did in my discussions with Senator Hansen. When you're formulating an amendment of the kind that we're discussing here, the language is very crucial and we have to get it right. So rather than try to hastily put something together, Senator Harms is an honorable man, but more than that, Senator Fischer is going to help me ride herd on him so we know that the right thing that we've agreed to will be done. So I'm in support of moving the bill. I would support the amendment making these secondary offenses. And after that is done, I will support the bill. Thank you, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Carlson, you are recognized. [LB415]

SENATOR CARLSON: Mr. President and members of the Legislature, as this bill goes forward and is being worked on, if it ends up a situation where the problem or the circumstance of cell phones is completely removed, I think it's taking a very important part out of the bill. And I just received a message from my wife, who is very diligent and persistent in watching the proceedings here. And if I get stopped by an officer and I'm speaking on my cell phone and I put it in my pocket and tell him that I wasn't talking, the phone records are going to indicate whether I was telling the truth or not. So I don't believe that's an insurmountable obstacle to this bill and I wanted to relate that. Thank you. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Carlson. There are no other lights on. Senator Harms, you are recognized to close on LB415. [LB415]

SENATOR HARMS: Mr. President and colleagues, thank you very much for the discussion. It was good. I think it's a good thought to address these issues and I appreciate Senator Erdman and Senator Chambers' views and the rest of you. I think the compromises that we've made are good. We will definitely bring back in Select File the kind of language that we need. And I will also share that in advance to Senator Erdman and to Senator Chambers and to Senator Fischer to make sure that it's exactly

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what we want so that we don't have a long-term debate here and we can move this along. So I'd ask that you advance this bill, Mr. President. [LB415]

SENATOR LANGEMEIER: Thank you, Senator Harms. You have heard the closing on LB415. The question before the body is, shall LB415 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB415]

ASSISTANT CLERK: 26 ayes, 4 nays on the motion to advance the bill, Mr. President. [LB415]

SENATOR LANGEMEIER: LB415 does advance. Mr. Clerk, LB415A. [LB415A]

ASSISTANT CLERK: Mr. President, LB415A, introduced by Senator Harms. (Read title.) [LB415A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Harms, you are recognized to open on LB415A. [LB415A]

SENATOR HARMS: Thank you, Mr. President, colleagues. This will be short. This bill is, A bill is the \$45,000. It's simply adjust the mainframe and costs for the printing. And of course, this would be subject to what we do as we advance the main bill, if we make any changes. So I would urge that you just support it and what happens when we have it on Select will determine what we want to do with this. So I'd ask that it be advanced, please. [LB415A]

SENATOR LANGEMEIER: Thank you, Senator Harms. You have heard the opening on LB415A. The floor is now open for discussion. Is there anyone wishing to speak to the A bill? Seeing no lights on, Senator Harms, you are recognized to close on LB415A. [LB415A]

SENATOR HARMS: I thank you for your support and, as I said, we'll bring the amendment in and this is a good bill. I think we're moving in the right direction. If we can save one teenager, for me it's worth it. So I'd ask that you advance this bill. [LB415A]

SENATOR LANGEMEIER: Thank you, Senator Harms. You have heard the closing on LB415A. The question is, shall LB415A advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Has everyone voted that wishes to? Record, Mr. Clerk. [LB415A]

ASSISTANT CLERK: 25 ayes, 5 nays on the motion to advance the A bill, Mr. President. [LB415A]



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SENATOR LANGEMEIER: Thank you, Mr. Clerk. LB415A does advance. Mr. Clerk, items for the record? [LB415A]

ASSISTANT CLERK: Mr. President, I do. Your Committee on Judiciary reports LB564 to General File with committee amendments. Amendments to be printed: Senator Janssen to LB334; Senator Preister to LB395; and Senator Synowiecki to LB328A. An announcement: the Ag Committee will have an executive session upon adjournment in Room 2022; that's the Agriculture Committee meeting in Room 2022 at adjournment. Priority motion, Mr. President, Speaker Flood would move to adjourn until Monday, April 2, 2007, 10:00 a.m. (Legislative Journal pages 1015-1024.) [LB564 LB334 LB395 LB328A]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. You have heard the motion to adjourn until Monday, April 2, 2007, at 10:00 a.m. All those in favor say aye. All those opposed say nay. The ayes have it. We are adjourned. []